

Deep divide over how Adaptation Fund will serve Paris Agreement

Kuala Lumpur, 29 May (Jade Chiang) – Deep disagreement emerged among Parties of the UNFCCC in the discussion on the Adaptation Fund (AF) serving the Paris Agreement (PA).

The diverging views were expressed at the informal consultations during the first week of the Ad Hoc Working Group on the Paris Agreement (APA) that was held between 8 and 18 May in Bonn, Germany.

The matter is listed under agenda item 8 of the APA and a total of six informal consultations were held which were co-facilitated by **Maria del Pilar Bueno (Argentina)** and **Pieter Terpstra (the Netherlands)**.

The differences in the views of between developing and developed countries surfaced when Parties had lengthy discussions based on three guiding questions posed by the co-facilitators: (i) What are the **governance and institutional arrangements** that need to be addressed for the Adaptation Fund (AF) to serve the Paris Agreement (PA)?; (ii) what are the **operating modalities** of the AF that need to be addressed for the AF to serve the PA? and (iii) what issues related to the AF's **safeguards** that should be addressed for the AF to serve the PA?

Developing countries were of the view that the discussion should be procedural as per the mandate from paragraph 11 of decision 1/CMA.1 and Parties could aim for a draft decision at the conclusion of the talks in Bonn and the procedural decision can be taken at the Conference of the Parties serving as the meeting of the Parties to the PA (CMA) that will take place in Nov. later this year and that the existing operational modalities of the AF shall apply *mutatis mutandis*.

(Para 11 of decision 1/CMA.1 11 decided that the AF should serve the PA, following and consistent with decisions to be taken at the CMA, to be convened in conjunction with the 24th session of the meeting of the UNFCCC's Conference of the Parties [COP 24 to be held in 2018], and by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol [CMP] that address the governance and institutional arrangements, safeguards and operating modalities of the AF.)

Developing countries were of the view that the architecture of the AF could be discussed later, pending the on-going 3rd review of the AF (scheduled for completion in Nov. 2017).

Developed countries in response said that “it is not that simple” and insisted on further discussions on the institutional arrangements and governance, operating modalities and safeguards of the AF and support, with a co-facilitators' reflections note.

On the source of funds for the AF, developed countries noted that the share of proceeds from activities of the mechanism under Article 6 could be a possible source of funding, while developing countries referred to the existing revenue source through the share of proceeds from the Clean Development Mechanism (CDM) under the KP, given the uncertainty around the mechanism currently being negotiated under Article 6.

(Article 6.4 deals with a mechanism to contribute to the mitigation of emissions and support sustainable development and Article 6.6 provides that the CMA “shall ensure that a share of the proceeds from activities” under the said mechanism is used to assist developing countries in meeting the adaptation costs. Parties however, are still negotiating on what mechanism is.)

Parties also deliberated on where to place the AF

under as to whether it should be the Convention, the Kyoto Protocol (KP) or the PA and who is to provide the guidance to it. There was reference to this issue by several developed countries as being the “elephant in the room”, which drew several responses.

At the start of the second week, co-facilitators presented a ‘draft snapshot’ document which was their attempt to informally capture the views expressed by Parties thus far. Parties’ deliberation on the document resulted in a second iteration of the ‘draft snapshot’.

Parties’ submissions and views on the guiding questions were captured by the co-facilitators in an [informal note](#) as ‘options and elements that could be addressed’ in annex I that is ‘non-exhaustive’ and ‘not meant to be definitive’.

At the final consultation on 16 May, Parties agreed to rename the ‘draft snapshot’ as an informal note of the co-facilitators, which is ‘under their responsibility...with no formal status’.

Parties also requested the Legal Affairs Programme of the Secretariat to provide a legal explanation, which was summarised and presented in annex II to the informal note of the co-facilitators.

Highlights of some of the exchanges

Bahamas representing the **G77 and China** said the current construct of the Fund is sufficient for it to serve the PA and decision 5/CMP.2 had laid out the operational modalities.

Philippines said the AF has an operation modality that is useful for developing countries with direct access which has shown to be working. Given the amount of sources of information provided by Parties in their submissions, it believed that by the end of the (May) session, Parties can come up with textual suggestions ‘that will move us forward to a decision to be taken by the CMA in 2018 in order to have the Fund serve the PA’.

On funding sources, it pointed out that Parties do not know what is in store for the mechanism under Article 6.4 of the PA yet; hence the revenue stream of the AF is unclear under the PA. It also pointed out that as adaptation activities are not revenue-generating, direct access is absolutely essential to avoid high costs in the transfer of funds.

Ecuador representing the **Like-minded Developing Countries (LMDC)** said the role of the AF is already recognised and there is no question about it not serving the PA provided that Parties take appropriate decisions in 2018. It said the discussion should not be about the role of the AF and the funding scenario which are already recognised, and that the existing governance and institutional arrangements which applied to the AF shall apply here.

Egypt speaking for the **African Group** disagreed that the matter was complicated. “It is actually quite simple ... we are not here to discuss if adaptation is needed now that we have the PA. Like the KP, it is about ways to enhance implementation ... not get rid of the institution.”

It said discussion should be about creating the space for the AF to serve the PA and need not mean moving the AF from one place to another. As such, there can be an interim arrangement for the AF to serve both the KP and the PA and that the operating modalities can be further developed by the Parties or the Board consisting of Parties to the PA and also the KP so that those Parties who are not members to the PA can also access the Fund.

“The source of the AF revenue comes from the CDM and we still have over 8,000 projects (pending). The discussion under Article 6 (of the PA) is not finalised yet so there is no clarity of the source of revenue coming into the AF. It is premature to discuss about changing the AF Board composition,” it added.

In response to **Switzerland** referring to the three legal instruments (the Convention, the KP and the PA) as ‘elephant in the room’, Egypt retorted that the ‘elephant’ is whether Parties want the AF to serve the PA or not. “... if you say we need to see an evaluation of the architecture of the AF ... that is not what we are supposed to do here. We have three options (referring to the three legal instruments); so let’s be clear yes or no to the AF serving the PA,” it countered.

Belize speaking for the **Alliance of Small Island States (AOSIS)** opined that there are three scenarios: that the AF serves both the KP and PA; that it serves only the PA; that there is a transition of the Fund from KP to PA.

Timor-Leste representing the **Least Developed Countries (LDCs)** said it would like to see the AF serving both the KP and the PA and that the

current governance system should be considered.

On governance and institutional arrangements, **Argentina** speaking for itself, **Brazil and Uruguay (ABU)** said the Fund is under the CMP for as long as the Fund is receiving funding from certified emission reductions activities of the CDM of the KP. It stressed the needs to close the adaptation gap and in providing capacity building to developing countries. It questioned why Parties are using a higher level of scrutiny to analyse this Fund compared to other funds that are already serving the PA, noting that Parties keep adding issues to the matter. It recalled that Parties agreed in Marrakech (COP22, 2016) that the process is procedural on the governance and institutional arrangements. It said the issue of safeguards and operating modalities are being dealt with in the 3rd review of the AF.

South Africa preferred to focus discussion on the mandate of making the AF serve the PA and ‘things are not as complicated as we make them out to be’. It preferred getting into a negotiating text that would allow Parties to take a decision as soon as possible.

India said there is revenue stream for the AF is from the CDM while the market mechanism under Article 6 of the PA is unclear, stressing that direct access of the AF and country ownership are important attributes for the AF to serve the PA.

The **European Union** said Parties need to discuss if the AF has a role under the PA; who is the master of the Fund; the issue of the eligibility of Parties that have not ratified the PA; and the AF’s funding sources.

Canada said there were missing pieces to fully understand how the AF can serve the PA.

Australia disagreed with view that Parties are not here to look at the broader function of the AF. It said any decision has to be consistent with

addressing the governance and institutional arrangements, safeguards and operating modalities of the AF. It said it was not subjecting the AF to a high level of scrutiny but to some level of scrutiny as there are “a few elephants in the room.”

Norway believed that Article 6.4 of the PA is an important link to be explored in the discussion of the institutional arrangements and was of the view that the AF could serve both the KP and the PA during the transition period.

Japan said a major issue is the relationship between the KP and the PA. It suggested seeking legal advice to clarify if the AF should serve both the KP and the PA since the latter has already entered into force.

New Zealand also said that “this is not a simple issue”, adding that Parties need to take the time to work through the big issues which are technical so to have a solution.

The **United States** agreed that “this is not a simple issue”, and noted that it is not best practice to fully negotiate every detail of the operating modality without first having some common sense of what the AF will do. “No doubt that the AF was well negotiated in 2001 but this is not 2001 ... the landscape of public finance and climate finance has changed rapidly since 2001. It is important for our discussion to reflect this as awareness and investment from the private sector is also at an all time high,” it added.

Switzerland said from the comments, Parties are so far apart and said that the biggest elephant in the room is that Parties are stuck with three different sets of legal instruments. It expressed concerns over the role of the Fund in the new finance architecture, referring to accessing of the fund by those non-Parties to the PA.

Edited by Meena Raman