

Durban Platform: Developing countries express 'vision' for post-2020 agreement

Bangkok, 4 September (Meena Raman) – At the roundtable discussions held in Bangkok under the Ad Hoc Working Group on the Durban Platform (ADP), on the "vision" of the new post-2020 climate regime, developing countries stressed that the purpose of the new agreement is to enhance the implementation of the UNFCCC and is not about its rewriting or renegotiation.

They said that the terms "under the Convention" meant the Convention's objectives, principles, provisions and structure, including the principles of equity and common but differentiated responsibilities (CBDR).

Developed countries on the other hand, led by the US and the EU have insisted that the "changed context" of "new realities" required a "dynamic differentiation" among developing countries and that such an approach was not a rewriting of the UNFCCC. (See TWN Update No. 5 in this regard)

(Under paragraph 2 of the Durban Platform (DP) decision (decision 1/CP.17) Parties agreed "to launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties.")

The roundtable discussions under workstream 1 (on the 'vision' for the new agreement) began on Thursday, 30 August, and continued on Monday, 4 September.

The roundtable also saw discussions around the term "applicable to all Parties" with varying views among countries. Many developing countries emphasized that universal application did not mean uniformity of application, with some, stressing the need to take into account the 'national circumstances' of countries within the context of equity and CBDR'. Others cautioned that national circumstances should not lead to

voluntary actions (by developed countries) or be used as an excuse for inaction.

Below are some highlights of the intervention by some countries.

South Africa for the **Africa Group** said that all the principles of the Convention apply to the post 2020 regime, including historical responsibility, equity, CBDR and respective capabilities, prioritization of sustainable development recognizing the development gap in Africa. The Convention also recognized national circumstances. The notion of "applicable to all" is not new and the leadership of Annex 1 Parties is relevant, including on the provision of support to developing countries. The outcome should reflect some key areas of the temperature goal, global goal for adaptation and finance

Gambia speaking for the **LDCs** stressed the importance of CBDR and equity in the new agreement. It said that the Convention recognizes national circumstances with the LDCs being the poorest and vulnerable. On the term "applicable to all" this does not mean uniformity of application. It was open to a broad criterion for participation. It referred to historical and current responsibility for emission reductions. Developed countries need to do bold action and this was not a matter of having flexibility. It was concerned about developed countries calling for a flexible regime (in an obvious reference to the US) which would put the LDCs at risk. There is need to raise the level of ambition and for adequacy of efforts to avoid tipping points.

Nauru, speaking for the **Alliance of Small Island States** the DP is under the Convention and this meant under the principles and provisions of the Convention.

Venezuela speaking for the **ALBA** group, said the ADP is under the Convention which provides

the context and substance to the vision: that the largest share of historical and current global emissions of GHG has originated in developed countries... that is to say we are discussing concentrations existing in the atmosphere now and are responsible for the phenomena that we are living. It acknowledges that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with CBDR and respective capabilities and their social and economic conditions. National circumstances can be accommodated as part of the equity discussion.

Venezuela said that poverty continues to exist in developing countries and has not disappeared since 1992. (It was responding to claims by developed countries that the world has changed since 1992). Indeed 40% of the world's population has access to 5% of the world's income. On the other hand, 20% of the richest people have access to 75% of the income. In 2005, we had 830 million people going hungry. In 2012 we have 1 billion, this mainly due to rising food prices due to, among other factors, the impact of climate change. This is why poverty eradication is an overriding priority for us to reach sustainable development. Poverty is the worst kind of pollution and is a barrier for advancing anything.

It asked how the Convention principles could be translated into the proposed pledge and review system (advanced by the US). Can we deliver the sort of emission reductions that science is indicating are necessary with a pledge and review system? How can we engineer flexibility to reach a goal ethically, asked Venezuela. Measurement of emissions is an essential element in any rules based system. 17% of the world's population uses up nearly half of the carbon budget said Venezuela.

Singapore said that there were two key elements in the DP decision – the terms “under the Convention” and “applicable to all”. “Under the Convention” meant not a renegotiation of the Convention including its principles. The term “applicable to all” means universal participation and there is need to accommodate the different national circumstances which involved 3 ‘Cs’ – context, constraints and contributions. Context refers to the socio-economic, political and geographical of countries and the different conditions of Parties are recognized by the

Convention. ‘Constraints’ refer to structure, economic, financial, geographical etc. which would determine the ability or potential to act. The difficulty of having access to renewable energy was one notion. ‘Contributions’ refers to efforts being done domestically to respond to climate change. Constraints should not be a pretext for inaction. Singapore also stressed the importance of a rules-based multilateral regime in which there is no place for unilateral measures.

In a later intervention on Monday, 3 September, Singapore clarified that the notion of “national circumstances” is underpinned by the principles of the UNFCCC of equity, CBDR and respective capabilities. There emphasized that there is no rewriting of the Convention principles but its reaffirmation. It also said that it was not possible to talk of “contributions” without understanding the context and principles. The 3 ‘Cs’ implied no formulas or one size fits all approach. It added that mitigation actions are determined nationally and not internationally imposed.

Pakistan elaborated on the issue of “national circumstances” must be seen in the context of the term “applicable to all” and does not mean voluntary actions being incorporated into instruments. On the question of how broader participation can be encouraged, it said that if this is about addressing the issue of mitigation, it is different but if it involves having broader participation in finance, then the Convention will be turned on its head. There was need for more understanding, said Pakistan.

Pakistan said there needs to be clarity on the set of objectives, core principles and lessons to be drawn from the Kyoto Protocol. On the objectives, an important objective is the meeting to the below 2 degree C or less than 1.5 degree C. A multilateral rules based system is important to overcome unilateral action. The term “applicable to all” should not override CBDR and equity. There is need to maintain differentiated responsibility. Referring to terms used by developed countries such as “dynamic differentiation”, it said that there is no understanding of this and the issue of “changed circumstances” is still matter of debate.

China said that the DP is under the Convention and this means under the objectives, principles, and structure are automatic to any outcome. We should not rewrite or renegotiate the Convention. The purpose of the DP is to enhance the implementation of the Convention. “Applicable to

all” is obvious that all Parties are bound by a legal instrument. This is not a new invention. The term should not rewrite or denounce CBDR and equity. It is important that the DP to recognize equitable access to sustainable development.

In an earlier intervention, China said that Article 3.1 of the Convention, which deals with the principles of equity and CBDR stems from historical responsibility of developed countries as we are talking about concentrations of GHGs in atmosphere. There is need to close the pre 2020 gap for a positive outcome in the DP process for enhanced actions after 2020. It said the pre 2020 mitigation gap stemmed from low pledges by Annex 1 Parties which are not ambitious and was an “insult” on the word ambition. Referring to the EU target of only 20% emission reductions by 2020 from 1990 levels for the second commitment period of the KP, China said that according to some accounting, the EU has already achieved its 20% reductions. Another gap is the need for Annex 1 non KP Parties who are required to take comparable targets as those in the KP. There was also a gap in the provision of finance and technology transfer to developing countries.

India said that equity and CBDR are key in the post 2020 regime and that all countries must act on this basis. Under the Convention, historical responsibility is most important in dealing with fairness and is relevant in the post 2020 agreement. National circumstances are already captured under the Convention. On the nature and level of actions, this needs to be discussed under the principles of the Convention with differentiated commitments based on historical responsibility. On the issue of ‘flexibility’ India said that historical responsibility is key and actions can be flexible according to capacities, but that the annexes (Annex 1 non Annex 1 differentiation) under the Convention cannot be done away with.

In an earlier intervention, India, referred to the Singapore 3 Cs and said there should be 4 Cs in the vision of ADP- Content, coverage, compliance and consequences. The ADP should raise ambition and enhance the content of actions in all spheres, not just mitigation. It should cover all Parties but be based on the principles of equity and CBDR. It should provide for a binding regime of actions and support that enables all to comply with the targets and obligations in a measurable and verifiable manner. It should ensure that there are no punitive or adverse

consequences for anyone based on unilateral actions of some parties.

On the legal options of the DP, at least three distinct options are possible, said India but, the legal shape of post 2020 arrangements must not be pre-judged. Each of these legal forms is adequate as long as it is under the Convention and it abides by the principles and provisions of the Convention. It was open to exploring any and all options, including a combination of these options, at the appropriate juncture in the negotiations, when the substantive content of the arrangements have been agreed on the basis of the principles of the Convention. ‘An agreed outcome with legal force’ is a notion that includes aspirational COP decisions, binding COP decisions, setting up of institutions and bodies covering various aspects of Bali Action Plan and Cancun Agreements with differing degrees of binding-ness under the provisions of domestic and international law under the UNFCCC.

Brazil said that negotiation for a post 2020 outcome is the main focus of the ADP. It is a new phase for an intentional regime under the UNFCCC, allowing for actions by all Parties. If a satisfactory outcome is achieved in Doha (under the other working groups), there could be negotiations under the ADP with mutual trust. .

“Applicable to all” means universal enhanced participation which better reflects national responsibility and capability but not forgetting historical responsibility with a fair share of the global effort. This reflects equity, said Brazil.

“Under the Convention” means under the provisions and principles of the Convention including CBDR and the Annex 1 and non Annex 1 differentiation which reflects equity and is the cornerstone of the regime. This cannot be reinterpreted, it added further.

Barbados said that term “applicable to all” is not at variance with the Convention but the challenge is in defining the types of commitments and how they are differentiated. Universal participation is central and does not imply a race to bottom in terms of legal form. Significant technical work is needed for burden sharing and participation for a truly climate effective regime.

Saudi Arabia said that “under the Convention” means its objectives and principles and did not want its renegotiation. The ADP is to enhance the implementation of the UNFCCC. The

Convention and the Kyoto Protocol already recognised the national circumstances of Parties

Philippines said that the notion of national circumstances is expressed in the Convention. Universal application does not mean uniformity of application. Broader participation can be encouraged through the provision of the means of implementation to developing countries. There should be no rewriting of the Convention with equity and CBDR being key with developed countries taking the lead.

Bangladesh is for a new legally binding protocol, which is effective and robust for environmental integrity. Operationalization of burden-sharing in mitigation should be in the light of historical, current and future emissions. The principle of CBDR is also important.

Japan said that ‘national circumstances’ should not be an excuse not to act. Fairness in the future agreement was important and there was need to strike a balance between a flexible framework and one that is not environmentally effective. The principles of the Convention needed to be interpreted in an evolving context according to a socio economic framework.

The **US** in reference to the term “applicable to all”, the current agreements, the UNFCCC and the KP have commitments for Annex 1 emissions. This will not work. Application is about substantive engagement by all to reduce emissions. It means there is a legal obligation for all. It does not mean that everyone is bound in the same way and that is the differentiation. There is diversity in the actions but Parties are legally bound. There needs to be universal participation due to competitiveness concerns.

On the principles of CBDR and respective capabilities, there should be an artificial divide

between developed and developing countries. This is no longer applicable. CBDR means all have responsibilities for emissions, historically and going forward. This does not apply to some countries.

The **EU** said that it was committed to the principles of the Convention but they needed to be applied to the future regime in a fair manner. There are ways to design a spectrum of commitments so that all countries can do a fair share. There is no silver bullet to accommodate national circumstances. On the term “applicable to all”, this means that all countries will take legally binding commitments. It does not mean that all Parties are the same but there must be a “fair share”. The term also refers to emissions, which involves the coverage of close to 100% of emissions. The challenge is how to define in way fair regime with taking into account evolving responsibilities and capability of Parties. Obligations could vary in the nature of stringency. Those with responsibility and capacity can undertake quantified economy wide measures. “Applicable to all” does not imply one sizes fits all.

The ADP will meet on Wednesday, 5 September among Parties to discuss how to advance its work further in Doha and the first half of next year. A final roundtable discussion was held under workstream 2 on ‘ambition’ on Tuesday, 4 September.

Mr. J.M. Mauskar (India) who co-chairs the ADP with Mr. H. Dovland (Norway) said that they will prepare a summary of the discussions under their own responsibility which will be put on the website. They will also prepare a ‘reflection note’ on the Bangkok session as a whole and how to advance the work in Doha.