

Durban Platform work to be guided by principles of the Convention

Geneva, 11 Dec (Meena Raman) – The 18th session of the UNFCCC Conference of Parties (COP 18) adopted a decision on 8 December acknowledging that the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) “shall be guided by the principles of the Convention.”

A number of developing countries led by India, China, Argentina, Egypt and Uganda wanted the principle of equity and common but differentiated responsibilities (CBDR) to underpin the work of the ADP and advanced this position at the final plenary of the ADP held on Friday, 7 December.

Their calls were met with resistance from developed countries, led by the United States. Parties could not arrive at a consensus over the draft decision which was tabled by the Co-chairs of the ADP, Jayant Mauskar (India) and Harald Dovland (Norway) on 7 December.

In the version of the draft decision text which was presented to Parties by the Co-chairs in the evening of 7 December, the language in the final preamble was only to note the UN General Assembly resolution 66/288 entitled “The Future We Want” (which is the outcome document from the June 2012 Rio plus 20 Summit). Several developing countries including India and China wanted specific reference to paragraph 191 of the Rio outcome document which reads: “*We recall that the UNFCCC provides that parties should protect the climate system for the benefit of present and future generations of humankind on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.*”

This reference to the Rio plus 20 outcome document was resisted by the United States and others including Norway and Mexico during the closing plenary of the ADP held on 7 December.

The US said that the Rio plus 20 Summit was a “political declaration” while the UNFCCC is a

“treaty body,” and hence, very strongly opposed any reference to the Rio outcome document.

On the other hand, Uganda, supported by China, proposed that there be language in the decision that the ADP’s work be guided by the principles of the Convention.

Given the lack of consensus mainly over this issue, the draft decision presented by the Co-chairs to the final plenary of the ADP (on 7 December) could not be adopted and was therefore transmitted to the COP for further consultations with Ministers.

At the ADP closing plenary, Parties could only agree to the draft conclusions proposed by the Co-Chairs on the planning of work and not the draft decision text. (See below for further details).

When the Qatari COP President, Abdullah bin Hamad Al-Attiyah, convened the informal plenary of COP18 at 8 am on Saturday, 8 December, to present the draft decisions for Parties to consider, the decision text of the ADP contained the following final preamble: “*Acknowledging that the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall be guided by the principles of the Convention.*”

The informal morning plenary was then adjourned to allow Parties to consult on the draft decisions presented by the COP President (relating to the work of the ADP as well as the outcomes of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention and the Ad Hoc Working Group on the Kyoto Protocol).

When the formal closing plenary of COP 18 was convened in the afternoon of Saturday, 8 December, the United States, commenting on the draft decision for the ADP, firmly opposed reference to the principles of the Convention as the basis of negotiations under the ADP.

Although the US did not block the adoption of the COP 18 decision, Todd Stern, the US head of delegation, referring to the preamble, said that the principles of the Convention had no effect on the mandate of the decision reached in Durban and will not be the basis for negotiations under the ADP and rejected any attempt to invoke the principles.

According to sources, the US had approached the Qatari COP President to delete the controversial preamble before the final formal plenary convened but was not successful.

(Parties had agreed in Durban last year “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, through ... the ADP”. The US had in Durban, opposed references to the principles of the Convention, especially Article 3.1 and did not want any reference to “equity” and “CBDR” in the decision.)

Some highlights of the final decision adopted at COP 18 as regards the work the ADP are as follows:

“The Conference of the Parties, ... Acknowledging that the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall be guided by the principles of the Convention, ...

4. *Determined* to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties at its twenty-first session, due to be held from Wednesday, 2 December to Sunday, 13 December 2015, and for it to come into effect and be implemented from 2020;

5. *Decides* to identify and to explore in 2013 options for a range of actions that can close the pre-2020 ambition gap with a view to identifying further activities for its plan of work in 2014 ensuring the highest possible mitigation efforts under the Convention;

6. *Welcomes* the planning of work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, as set out in document FCCC/ADP/2012/L.4, including, inter alia, on mitigation, adaptation, finance, technology development and transfer, capacity-building, and transparency of action and support;

(The document refers to the planning of work for the ADP, highlights of which are provided below).

9. *Decides* that the Ad Hoc Working Group on the Durban Platform for Enhanced Action will consider elements for a draft negotiating text no later than at its session to be held in conjunction

with the twentieth session of the Conference of the Parties, due to be held from Wednesday, 3 December to Sunday, 14 December 2014, with a view to making available a negotiating text before May 2015.”

Planning of work

On the planning of work of the ADP, conclusions proposed by the Co-Chairs were agreed to on 7 December, at the closing plenary of the ADP. Among the highlights of the conclusions are:

“4. The ADP agreed to immediately advance its substantive discussions in 2013 at sessions to be held: (a) In conjunction with the thirty-eighth sessions of the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA); (b) In conjunction with the nineteenth session of the Conference of the Parties (COP) and the ninth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP); (c) In Bonn, Germany, from Monday, 29 April to Friday, 3 May 2013, and/or from Monday, 9 September to Friday, 13 September 2013.”

Workstream 1

“12. Under workstream 1, relating to a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties (hereinafter referred to as the 2015 agreement), the ADP decided to hold in-session roundtable discussions and workshops in 2013 and invited the Co-Chairs of the ADP to set out, in early 2013, the focused questions for those roundtables and workshops, taking into account the submissions referred to in paragraph 13 below.

13. The ADP invited Parties and accredited observer organizations to submit to the secretariat, by 1 March 2013, information, views and proposals on matters related to the work of the ADP, including, inter alia, mitigation, adaptation, finance, technology development and transfer, capacity-building, and transparency of action and support, addressing aspects such as: (a) Application of the principles of the Convention; (b) Building on the experiences and lessons learned from other processes under the Convention and from other multilateral processes, as appropriate; (c) The scope, structure and design of the 2015 agreement; (d) Ways of defining and reflecting enhanced action.”

Workstream 2

“14. Under workstream 2, relating to pre-2020 ambition, the ADP decided to hold in-session roundtable discussions and workshops, including those referred to in paragraph 16 below, and invited

the Co-Chairs of the ADP to set out, in early 2013, focused questions for those roundtables and workshops, taking into account the submissions referred to in paragraph 15 below.

15. The ADP invited Parties and accredited observer organizations to submit to the secretariat, by 1 March 2013, information, views and proposals on actions, initiatives and options to enhance ambition, including through the workplan on enhancing mitigation ambition, with a particular focus on 2013. In their submissions on actions, initiatives and options to enhance ambition, Parties may wish to give consideration to the following aspects:

- (a) Mitigation and adaptation benefits, including resilience to the impacts of climate change;
- (b) Barriers and ways to overcome them, and incentives for actions;
- (c) Finance, technology, and capacity-building to support implementation.

16. Taking into account the submissions referred to in paragraph 15 above, the ADP intends to hold a series of workshops. The workshops will begin in 2013 and may, inter alia, identify, and catalyse the implementation of, initiatives and actions to rapidly, cost-effectively, urgently, and equitably reduce greenhouse gas emissions.”

Other areas of controversy

According to sources, one key aspect that saw much controversy during the informal consultations between the Co-chairs and Parties related to paragraph 16 of the draft conclusions as regards the topics for the workshops.

In an earlier draft, (5 December draft), under workstream 2, the workshops on the following thematic areas were proposed – “The ADP decided to hold a series of workshops, including on the thematic areas of energy, transport, industry, agriculture, forestry and waste management. The workshops will begin in 2013 and will identify, and catalyse the implementation of, initiatives and actions to reduce greenhouse gas emissions as rapidly and as cost-effectively as possible.”

Several developing countries had raised concerns over having workshops based on the above sectors. According to sources, several developing countries from the Like-minded Developing Countries including Argentina, India and China raised concerns that the areas selected for the technical workshops prejudged the mandates and

negotiations which were on-going under “cooperative sectoral approaches and sector-specific actions” under the AWG-LCA, and also that specific discussions were taking place under the UNFCCC subsidiary bodies, such as in the SBSTA, on agriculture. This was one reason why they wanted deletion of references to the specific thematic areas.

The final conclusion that was adopted did not specify the specific thematic areas or sectors for the workshops to be held.

Another bone of contention among Parties over the ADP draft conclusions presented by the Co-chairs during the informal consultations and the final plenary related to paragraph 13 (d) under workstream 1.

In the draft conclusions presented by the Co-chairs on 5 December, paragraph 13(d) was as follows: “ways of defining and reflecting commitments”. In the version of 6 December, it was “ways of defining and reflecting commitments and actions”, following requests by some developing countries led by China and India in making a distinction between the commitments of developed countries and actions of developing countries. In the version of 7 December, the paragraph was changed to “ways of defining and reflecting undertakings”.

During the plenary on 7 December, India said that the word “undertakings” is not consistent with the decision in Durban and preferred reference to “commitments and actions”. This was supported by China and Argentina. South Africa and Brazil preferred reference to “a range of commitments”.

The US did not support references to “commitments and actions” as this was the language used in the Bali Action Plan (BAP). It added that the Durban Platform is not the BAP.

In response, China said that the BAP was not “poison” and that the title of the Durban Platform decision referred to “enhanced action” and it could not understand why the word “actions” could therefore not be used. As a compromise, Egypt suggested the use of the following words: “ways of reflecting enhanced action.” This was then agreed to by all Parties and is what is reflected in the final conclusions of the Co-chairs of the ADP.

The intense and divergent views among Parties in Doha over the interpretation of the Durban Platform decision is expected to continue next year when Parties meet to advance the work of the ADP.