

COP 18 outcome on loss and damage opens door for new mechanism

Penang, 17 Dec (Doreen Stabinsky) - On the final day of the UNFCCC talks in Doha on 8 December, Parties adopted a decision on loss and damage associated with the impacts of climate change in developing countries as part of the final package of decisions adopted at the 18th meeting of the Conference of Parties (COP 18).

The decision culminated a year of significant work under the Subsidiary Body for Implementation (SBI) work programme on loss and damage. The decision paved the way for further work under the continuing work programme, including the possible establishment of an international mechanism on loss and damage.

The inclusion of the phrase “international mechanism” in the final decision was highly contested. According to sources, its inclusion was fundamental for developing countries, while the United States was completely opposed to even the mention of a mechanism.

The relevant paragraph in the final decision on loss and damage reads: “Decides to establish, at its nineteenth session, institutional arrangements, such as an international mechanism, including its functions and modalities, elaborated in accordance with the role of the Convention... to address loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change.”

The final wording on this element of the decision was a compromise text tabled by the Qatari COP President, Abdullah Hamad Al-Attiyah, to be taken as part of the entire final package of decisions that included the agreed outcome under the Bali Action Plan, decision on the Kyoto Protocol second commitment period for emissions reductions by Annex Parties and a decision on further work under the working group of the Durban Platform for a new agreement in 2020.

The phrase “loss and damage” was first used in the UNFCCC context in paragraph 1(c)(iii) of the Bali Action Plan. Enhanced action on adaptation was to include consideration of “means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change.”

A work programme on loss and damage under the SBI was established in 2010, as part of the Cancun Adaptation Framework (decision 1/CP.16). In this decision, Parties recognized “the need to strengthen international cooperation and expertise in order to understand and reduce loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events.” (The decision defined slow onset events to include “sea level rise, increasing temperatures, ocean acidification, glacial retreat and related impacts, salinization, land and forest degradation, loss of biodiversity and desertification.”) The work programme was to lead to recommendations for consideration by COP18 (in Doha).

However despite the establishment of the SBI work programme on loss and damage in the Cancun decision, the elements of the work programme were not defined until a year later in Durban (decision 7/CP.17).

In the COP17 decision on the work programme, Parties agreed to hold a series of expert meetings on two of the three thematic areas identified for the work programme: assessing loss and damage and a range of approaches to address loss and damage. Submissions were requested in September 2012 on the possible role of the Convention, the third thematic area established by the Durban decision. A technical paper on slow onset events was a final element of the work programme, although its publication in the first days of COP18 meant it did not make a substantive contribution to negotiations.

Negotiations in Doha began with a pre-session meeting on 24 November, just prior to the opening of COP18. At the 36th session of the SBI in May held in Bonn, negotiators had concluded that agreeing on recommendations in the short time allocated in Doha for the work of the subsidiary bodies would be difficult (the SBI was scheduled to close at the end of the first week of the Doha session), and the government of Norway offered to provide support for the pre-session meeting.

The SBI contact group on loss and damage formally opened on Tuesday, 27 November. At this first session, the SBI chair (Tomasz Chruszczow of Poland) provided delegates with a paper containing a list of possible elements to be included in the recommendations that would be made to the COP. A number of countries at the meeting of the contact group then reflected on the elements proposed and broader objectives for possible recommendations to the COP.

Bolivia, on behalf of the **G77 and China**, said that the outcome of the week could not resemble the status quo. Too much work had been undertaken over the past year and with the level of understanding achieved there was no justification for a decision that recommended to just keep doing what is already being done. It suggested the need for an institutional arrangement in the form of an international mechanism.

The Gambia urged measures to strengthen international cooperation and reiterated the call for an international mechanism. It said that consideration should include impacts on agriculture, water, health, economic and non-economic losses.

Timor-Leste, on behalf of **LDCs**, said that some adaptation cannot solve loss and damage and that loss and damage goes beyond the capacity to adapt. It said it was necessary to now move from knowledge to action, and indicated a need to talk about the modalities and functions of an international mechanism.

Tanzania, speaking on behalf of the **African Group**, pointed to the submission on loss and damage made by the group, and emphasized that it was important to address compensation and rehabilitation of loss and damage.

Norway suggested focusing first on the structure of the discussions, to determine what needs to be

done, and then answer the question of how, and with what modalities. It proposed to not start with a discussion of institutional arrangements. They were supported by **Canada, New Zealand, the European Union, Switzerland, and the United States**.

Switzerland proposed that approaches to address loss and damage could be addressed in existing processes, such as national adaptation plans (NAPs) processes.

The rest of the first contact group meeting was taken up with discussion on specific elements put forward in the Chair's paper.

Informal consultations were held frequently over the next days, led by two co-facilitators appointed by the SBI chair: Lucas Di Pietro of Argentina and Don Lemmen of Canada. On 29 November, a draft negotiating text was tabled, based on text proposed by the G77 and China.

Informal consultations on a draft text continued all the way up to the final evening of 7 December, breaking around 5 am on the morning of Saturday, 8 December. At that time, there was still no agreed text, with major divisions still existing between groups on one key provision – whether or not an international mechanism would be established.

As already noted, the COP President resolved these divisions by issuing his own compromise text, adopted without changes at the final plenary.

Although the establishment of an international mechanism was the most divisive of the issues on the table, it was not the only important element of the final decision that had been intensely debated over the two weeks.

Many countries, in particular LDCs and AOSIS countries, wanted the text to mention both compensation and rehabilitation as a function of the international mechanism.

However, the final decision text only mentions rehabilitation – “how to identify and develop approaches to rehabilitate from loss and damage associated with the adverse effects of climate change” – as an element of further work needed under the ongoing work programme.

For much of the two weeks of negotiations, even the continuation of the SBI work programme on loss and damage was contested, with the United States arguing that the work programme was to

complete its work and terminate with the COP18 decision.

The final decision seems to recognize the work programme as open-ended, and directs SBI 38 to elaborate activities under the work programme “to further the understanding of and expertise on loss and damage associated with the adverse effects of climate change.”

The final decision defines the way forward on loss and damage under the Convention with three main elements. First, as noted above, COP19 will establish institutional arrangements on loss and damage, potentially in the form of an international mechanism, and functions and modalities will be defined.

Second, the UNFCCC Secretariat will carry out three intersessional activities under the work programme, prior to SBI 39:

- An expert meeting to consider future needs, including capacity needs associated with possible approaches to address slow onset events, and a report on this meeting for consideration by SBI39;
- A technical paper on non-economic losses; and
- A technical paper on gaps in existing institutional arrangements within and

outside of the Convention to address loss and damage, including those related to slow onset events. The technical paper is to be considered in the work noted above in establishing new institutional arrangements on loss and damage and defining functions and modalities thereof.

Finally, the SBI is asked to elaborate activities under the work programme on loss and damage at SBI 38, “to further the understanding of and expertise on loss and damage associated with the adverse effects of climate change.” In elaborating new activities, the SBI is asked to take into account further work needed as defined in the decision, including, *inter alia*, work to enhance the understanding of the risk of slow onset events and approaches to address them; non-economic losses and damages; and how impacts of climate change are affecting patterns of migration, displacement and human mobility.

While the decision taken on loss and damage in Doha falls far short of the needs of developing countries for a mechanism to address loss and damage, the breadth of the work outlined for COP19 and the continued work programme goes some way to ensure that the COP19 decision on loss and damage will finally establish the international mechanism.