

AWG-LCA: Heated exchange at informal consultations

Doha, 29 November (Chee Yoke Ling) – In what was described by a delegate as an exchange that can be considered “unbecoming of the Annex I Parties” several developed countries led by the United States and Japan attacked efforts by the Chair of the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) to guide the completion of the work under the Bali Action Plan.

This took place at the first informal consultations by the AWG-LCA Chair Aysar Tayeb (Saudi Arabia) on 28 November that was scheduled to discuss agenda items 3 to 5 (on an agreed outcome of the AWG-LCA, review of the long term global temperature goal, and certain situations of some Annex I Parties), with a focus on technology. This is work under the UN Framework Convention on Climate Change (UNFCCC).

To many in the room this appeared to be an organised move among some developed countries as part of the determination of all developed countries to terminate this track of negotiations in Doha even though there are still unresolved issues, many of which have been identified by developing countries as critical.

The issues include ensuring a comparability of efforts among developed countries consistent with the science for emissions reductions, intellectual property rights (IPR) and technology transfer, unilateral measures, long-term finance, and whether ongoing discussions on the linkages between the Technology Executive Committee and Climate Technology Centre and Network are in accordance with the Bali Action Plan mandate.

The IPR issue has been contentious throughout with the US rejecting any discussion in the AWG-LCA, not even a workshop. Other developed countries also do not want this to be addressed, at best saying other fora such as the World Trade

Organisation and World Intellectual Property Organisation should deal with this, or at worse that IPR is not a problem for technology transfer.

The entire 90 minutes for the discussion were taken up with procedural objections and repeated comments and questions directed at the Chair, particularly by the US, Japan and Switzerland. Delegates and observers in the meeting room next door later remarked that they could hear US chief negotiator Jonathan Pershing’s distinctive voice that was raised on several occasions.

No substantive discussion took place.

Many developing countries and observers were left with the distinct impression that the Umbrella Group (Australia, Canada, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation and the United States) in particular does not want any more substantive work to be done by the AWG-LCA.

In his opening remarks at the 28 November informal consultations to focus on technology transfer, Chair Tayeb said that technology is one of the issues that need further work by the AWG-LCA. He recalled the different reactions at the opening plenary of the AWG-LCA on 27 November regarding text and the basis for discussions. (See TWN Doha News Update No. 5: **“AWG-LCA: Developed countries oppose Chair’s overview text”**). Tayeb had prepared an informal overview text referred to as Conference Room Paper 3 or CRP3 for the Doha session, which he said was to “facilitate discussions among Parties on the different ideas and proposals presented”. This is based on Parties’ submissions and interventions at the Bonn and Bangkok meetings earlier this year.)

He reiterated that Parties have an informal overview text comprising mainly from various submissions and proposals from Parties. He then

said that we can put that aside for the minute, and first exchange views on the technology issue itself. He explained that he had looked carefully again at all the submissions and all the views, and would classify all these into 4 categories:

1. Acknowledgement of the ongoing work and the existing bodies that the Parties have created under the Convention, for example the TEC, CTCN. (Tayeb noted that many Parties in their interventions and even in written inputs acknowledge this.);
2. Substantive agreement on further actions required;
3. Substantive issues that need further guidance which identifies specific tasks that can be forwarded to existing institutions such as the TEC or the CTCN;
4. Further work where basically the Party submissions or proposals identify tasks to take place at some point in the future.

Tayeb said it would be helpful for him to know from Parties if there should be an outcome, and in general what that should be.

Pershing of the US hurled the first strike by insisting on first dealing with procedural issues. "At the plenary we asked you how to proceed. You said go into work. There was no answer to our question. How do you intend to make a distinction between mandated work and other suggested work?" he asked. "What we are left with is ambiguity," he added.

Switzerland also wanted clarification on the work setting, whether it was a spin off group or informal consultations by the Chair in the context of a single Contact Group of the AWG-LCA.

It said that if this is not a single thematic group exploring issues but an informal consultation by the Chair then the heads of delegation should be here, and the meeting should not be in parallel with the ADP (Ad Hoc Working Group of the Durban Platform for Further Enhanced Action) which is discussing the future of the climate regime.

[Developed countries were almost all represented by senior delegation members or in the case of the US, its chief negotiator. The ADP roundtable on workstream 2 was taking place at the same time where developing country chief negotiators were at.]

Chair Tayeb responded that meetings of the spin off groups were scheduled that same day and they

have always been marked in the schedule so there was nothing new there. If Parties see it as necessary the Secretariat can add the words "spin off". He confirmed that they are meeting as a single Contact Group to look at additional work that they may be able to agree to, but that they are meeting informally at this point.

Developing countries – Bangladesh, China India, Nicaragua, the Philippines, Saudi Arabia and Uganda – spoke in support of the Chair's proposed organization of work, strongly stating that there are unresolved issues that are substantive and without a proper resolution there cannot be a successful agreed outcome for the AWG-LCA.

China for the Group of G77 and China said the Group has identified some unresolved issues and expressed appreciation at the opportunity to discuss the unresolved issues of the LCA that need to be resolved.

The US raised a point of order that there is a procedural issue on the floor so it did not think they should go into substantive discussion.

Japan then came in and said that in addition to points raised by the US and Switzerland it wanted an explanation on why Kuni Shimada was "removed" from being a technology facilitator for the AWG-LCA.

To the surprise of many in the room Japan bluntly asked if it was because of Shimada's nationality, as a member of the Umbrella Group.

Russia entered the foray and said that as with other colleagues, it is confused about the process.

The EU also said, "Before we enter into substance we need to enter into procedures and setting".

Australia followed up on the concerns of Japan on the facilitator issue and voiced confidence in the abilities of Shimada from Japan. Pershing of the US joined in to strongly support Shimada as an appropriate facilitator and a colleague whom he holds in high esteem.

Switzerland came back again repeating that in Bangkok there was a single contact group and today the meeting is called "informal consultations by the Chair", and again pressed for explanation of the Chair's organization of work. It also joined in the chorus about the facilitator. Mexico also weighed in with its views over the facilitator issue.

The US spoke again about the work setting, repeating its earlier comments.

The atmosphere in the room was tense by this stage.

Chair Tayeb had earlier given a clarification when Japan first raised the issue of the facilitator, that he and the UNFCCC Secretariat had taken into account the heavy workload of the Doha meetings and not wish to overload individuals that are assisting the Chairs in the 7 tracks of negotiations. He also offered to further discuss the matter with Japan.

With the persistent questioning, he now emphasized that “Of course there is nothing against any part individual or country and I think all of us here are above that and beyond that. I am sure we can all respect that. I assure you that it was an attempt of the whole team (including the Secretariat) to assure that no one would be overloaded”.

In response Japan said that if in its last statement there was any inappropriate words, it apologised. “Since you are a very busy person as LCA chair, it is not a very efficient way to run this group. So I would like to ask you to reinstate Mr. Kuni,” the delegate said.

Switzerland took the floor again on the same issue at which point the Chair said that this discussion should stop, attempting to take the meeting back to substance.

But the US intervened once more, asking yet again about process persisting that it was still not clear.

Tayeb said that he had looked at the organization of the work from a time management perspective. He will be chairing discussions as much as possible. There are facilitators for spin offs, and issues that are not in spin offs will be here (in the group as a whole) and he will have facilitators to help him. He stressed that there is nothing new as this is the way they have been working from the beginning.

He added that they should be in an informal setting so that they can achieve the agreed outcome of the LCA. He stressed that Parties have all expressed to him that they are willing to go straight to work. “I will kindly request you to have a greater exchange on the issues at hand. I will continue to talk with Japan after this meeting ... With that I go back to what we have on these proposals and on the four categories. Is the acknowledgment of the existing institutions useful to us in doing our work?”

The US responded that they are here to talk generally, and not on technology. Under the Chair’s guidance they had walked through the entire Bali Action Plan (referring to the Bonn and Bangkok meetings earlier this year), and technology was one of those areas that did not have agreement – in this area they have not heard agreement in Bonn or Bangkok. So the idea of a text is premature, according to the US. It said that they should have an exchange of views to see if there is any change. And if there is not then they should move on.

Chair Tayeb said he appreciated the views of the US that the technology discussion is not necessary but there are Parties that have identified issues. That is why he is suggesting to look at what is achieved, and then to proceed from there.

Canada said that categorizations is premature and supported the US – there were some issues that had agreement for further work, and others where there were not. It said the Chair is categorising in 4 areas where there are some not sanctioned for work. A broader discussion needs to be had first, it added.

The US spoke again, telling the Chair that he had not responded to its question, and that categories should not be discussed until the procedural issue is settled.

Developing countries that had listened to this extended exchange, that at times bordered on aggressiveness by some of the developed country delegates concerned, took to the floor one after another.

The Philippines said it commiserated with the Chair in the way he had been treated. To answer your question, we are in your hands and we trust you to find a way to move us forward. Indeed what you are trying to do is to lay out the process. Your proposed way is a good first step – it started in Bonn, it was not so extensively dealt with in Bangkok, and now in the final stretch we need to determine the final outcome. We reiterate our trust in you.

China thanked the Chair for working with the Parties in this session. The technology topic is very important to us – it is part of means of implementation – and without technology support developing countries cannot mitigate and adapt. We do not agree with some other Parties; we do see important issues that are unresolved for the LCA outcome.

It said that we cannot accept that in some issues if we cannot reach agreement then we do not address them; we cannot accept that those issues fall off the table. If we cannot reach agreement we need to find a way to reflect how we are going to in the future continue the discussion.

Saudi Arabia said that, “As usual I am trying to restrain myself from comments as the Chair is from Saudi Arabia. But after Japan (its remarks on the facilitator) I am comfortable to do so. This reminds me of Bonn – of the long time we spent on conceptual and philosophical discussion. The Chair has adequately reflected the positions of everybody on his text, from various submissions on the various issues to ‘no text’, but the no-text position is not acceptable to us. All these need to be addressed. To agree or not agree is not the way to have a successful outcome of LCA. We will not have an agreed outcome if don't deal with these issues.”

On the issue of one country doubting the nationality of those who should be doing the facilitation for Parties, Saudi Arabia said this is a dangerous precedent. “In the previous LCA Chair, we had trust in him and his guidance (referring to the last AWG-LCA Chair from the US) and so it should be for the current Chair. Now people are questioning the composition of the Secretariat. We are in the long haul, and in future we can also ask about non-Annex I facilitators removed,” he cautioned.

Saudi Arabia urged Parties to go directly into the agenda at hand. “For us we must have an agreed outcome of the Bali Action Plan. We are not accepting a dilution of the work of the LCA saying it is already successful when there are still unresolved issues that still need to be addressed,” it said.

Chair Tayeb said that every Party has the right to express concerns that they have. He still sees willingness to work; he sees eagerness from Parties to seek solution and to reach closure as they are mandated to do.

The EU then said that the categories presented by the Chair are pertinent, but it also said that it did not want to enter into discussion of this subject of technology development and transfer.

The Chair replied that if there is any other category that the EU feels is helpful on this topic it should make suggestions.

India spoke next, observing that there was a sense of palpable tension in the room and that was not

good. It felt there has been an exercise of “pick and choose” since Durban as far as technology is concerned. It supported China on the importance of means of implementation, adding that “We have achieved very important progress in Durban but there are other issues of interest to many people; the Chair’s compilation (CRP 3) reflects the views of Parties and it is certainly not the view of all Parties to not have text,” it said.

It said further said that “We need to narrow our differences, but proceeding in a manner where we pick an issue and find agreement on them, and if there’s no agreement it should no longer be on the table is not the way to proceed. We need to discuss where we can find some common ground and that is the helpful way”.

India also said, “Surely we do not want to bicker while we move to a 6 degree world. We do feel the need to keep the discussion alive, even if we may not reach an agreement, and we should not waste time on procedure”.

Bangladesh supported China and India. “We have built a house – some elements are there but not all essential ideas are there. The Chair has already put a sequence of discussion and we support that,” it said.

Mexico agreed that technology and means of implementation are very important and that the AWG-LCA has achieved an agreed outcome and that they have to move to implement in order to move forward. It did not see any issue in the Chair’s text. “If people believe that there are real issues on technology not discussed in other bodies then we can do so but we do not see any such issues,” it said.

Norway supported Mexico that they have found home for all the technology issues and do not see need to discuss it. The EU also supported Mexico saying that technology issues have been successfully completed as part of the Durban package and it did not see a need to discuss further under the work of the LCA.

The Philippines responded to that exchange by saying that perhaps the view expressed on a successful outcome is not shared. “This is precisely the folly of those who say that of we don't agree on an issue, we drop it. What China and India are saying is that precisely because there are disagreements that we find areas of commonality and differences. Other countries such as us believe there is still work to be done. We need to discuss

the final elements to close the work. We support the Chair,” said the Philippines.

The US said it did not believe everything has been discussed, that the work of the LCA is done and there are other fora and a series of bodies to discuss remaining issues. It said Parties have divided views from the beginning and they can have discussions in the other fora.

It was at this juncture that the Chair called on a youth representative who had requested to make a statement. She said we need to ensure that the work of the CTC is about community empowerment that goes along the lines of the work of the CTCN; highlighted that the conduct of national technology needs assessments should be done with indigenous peoples; and that the issue of barriers must be addressed, particularly IPRs. There are many issues, let’s get it right, but let’s get it done, she urged.

Uganda said it had been listening very carefully and that this is not helping to move things forward, noting there is slackening will. “The LCA was established for a purpose and we are all working towards achieving the purpose for which the LCA was established. We are also aware that different bodies have been established but there are also some other issues that we need to deal with while we operationalize those establishments and institutions. The LCA is still breathing – there are other accomplishments to achieve before we terminate it,” stressed Uganda. It urged Parties to reconsider their stance, adding that it would even prefer the continuation of the LCA if there are issues to discuss under the LCA.

Nicaragua also supported the Chair’s way forward, adding that, “We have wasted time on issues that are not priority. Let us try to get back to a discussion of the text we have now. We agree with the Chair’s identification of 4 elements. As we get into negotiations we can find common ground. If we do not start negotiations we will not find a path to find agreement.”

The US came back once more on the same point – that what remains is only implementation and there is no more work at the AWG-LCA.

The Philippines disagreed. It said that all these bodies have been created, but are not clear on linkages among the various bodies and institutions. Though it is a matter of implementation, there is also a question of mandate of the Bali Action Plan which the new bodies such as the TEC (Technology Executive Committee) and CTCN (Climate Technology Centre and Network) cannot address; the AWG-LCA has to do it to ensure a successful outcome.

By now the allotted time for the meeting had ended. Chair Tayeb said that Parties should not perceive the discussion with any negativity. Sometimes a slower start results in a faster result. In the desert we drive a lot and we get stuck in the sand, and once we get out of the sand we move very fast, he concluded.

As the meeting dispersed, several delegates remarked on the equanimity with which the AWG-LCA Chair conducted the proceedings.

The continuing refusal of developed countries to address IPR issues was also seen at the joint contact group on technology transfer (a separate process of the 2 subsidiary bodies of the UNFCCC on implementation, and on scientific and technological advice) that met later in the afternoon of 28 November. When Parties considered the report of the 4th meeting of the TEC held in September 2012 in Bangkok, developed countries especially the US, Japan, Canada, Australia and the EU did not want an elaborate set of conclusions but just merely to acknowledge the report and thank the TEC for its work.

On the other hand, developing countries wanted to highlight certain aspects of the work of the TEC, especially the work on the enabling environment for technology transfer including the issue of IPRs, as part of the guidance to the TEC in carrying out its work.