

Ministers to address difficult issues

Durban, 8 Dec (Meena Raman) – With less than two days left for the conclusion of the Durban climate talks, Parties are still far apart on many critical issues that remain unresolved at the level of negotiators. These issues are now expected to be addressed by Ministers.

The provisional agenda of the Conference has yet to be adopted, following informal consultations by the South African COP Presidency on three agenda items raised by India relating to equitable access to sustainable development; unilateral trade measures and intellectual property rights (IPRs). In an unusual approach, Parties agreed to continue work on the other agenda items, pending informal consultations on these outstanding issues.

According to sources, these three issues are still being strongly resisted by developed country Parties and a few developing countries from being addressed in the negotiations. This is done through efforts to defer them from being considered here in Durban or to say that these issues are better dealt with in other fora such as the World Trade Organisation (in the case of unilateral trade measures) and the World Intellectual Property Organisation (in the case of IPRs).

Meanwhile, several informal consultations are being held by the COP Presidency on the “bigger picture” under a process called the ‘Indaba’ to address the deadlock over the second commitment period for emissions reductions under the Kyoto Protocol and the push by developed countries for a new legally binding mitigation treaty under the Convention which will replace the Protocol, with the inclusion of all “major economies” to reflect the “changing economic circumstances and different social and economic development priorities and opportunities”.

As of late Wednesday night (7 December), negotiators were in intense talks in efforts to finalise a decision over the Green Climate Fund (GCF), with the issue of whether and how the Fund is to have legal personality and capacity. According to sources, the United States is resisting efforts by the COP to confer legal personality and capacity to the GCF.

Under the Ad-hoc Working Group on Long-term Cooperative Action under the Convention (AWGLCA), the Chair, Mr. Daniel Reifsnyder from the US provided Parties with an update of the amalgamation of draft texts at the contact group which met on Wednesday (7 December).

He also provided an overview of the state of the negotiations and suggested possible ways on moving forward, including the need for Ministerial consultations on several issues.

Shared vision

The AWGLCA Chair said the ‘shared vision’ is an example of an issue that Parties may not be able to resolve in further work in the informal group. He said several suggestions have been made by Parties on how to take this work forward. Some Parties urge that all the issues contained in this section be forwarded for further work next year – possibly in a dedicated, more focused process. Others urge that Parties reiterate in particular the need to agree on a long-term global goal (for greenhouse gas emissions reduction) and a time frame for global peaking (of emissions). He believed that this is an issue that would benefit from consultations led by Ministers to help determine the best way forward.

Mitigation

1) Mitigation by developed country Parties: The text on developed country mitigation addresses three areas: biennial reports, international assessment and review, and matters relating to paragraphs 36-38 of the Cancun Agreements (relating to the pledges, level of ambition, accounting rules etc). The Chair said that on matters related to paragraphs 36-38 of the Cancun Agreements, there are several issues arising from the three texts where guidance from Ministers will be required.

The first of these issues relates to clarification of pledges, and a related question of whether these pledges should be translated into other forms. While views differ on the specific activities and timeframe for completion, there is convergence around the need for a continuing process to clarify pledges. However, there is no convergence on translation of these pledges. Some Parties wish to recognize and quantify the ambition gap, while others see no such need.

The AWGLCA Chair believed the way forward may be additional work next year, but Ministerial guidance will also be required on the timeframe for completion and whether this work should focus on the actions of one group of Parties or more broadly. Similarly on the matter of accounting, he said some Parties call for the development of common accounting rules to guide reporting and assessment of progress toward mitigation targets. Others consider that accounting of targets should be based on national policies and circumstances. His assessment is that a way forward may be found through a work programme to examine specific aspects of accounting for targets, drawing upon ongoing work to clarify pledges.

In the area of biennial reports, his understanding is that the two biggest remaining issues are whether to adopt guidelines at this session, or to defer adoption to next year, and the date of submission of the first biennial reports. He believed that these issues as well as remaining unresolved technical issues can be resolved in our ongoing work in the informal group and do not need to be referred to ministers.

On international assessment and review (IAR), Reifsnnyder said there were two major stumbling blocks. First, whether the process involves a compliance assessment and second the accounting framework for the IAR. There are also unresolved technical issues in the text. He believed that work should continue as follows:

On matters related to paragraph 36-38 of the Cancun Agreements, questions related to clarification of pledges, accounting for targets and ambition should be taken up in a consultation led by Ministers. A way forward in each of these areas may be found through elaboration of elements and timeframes for a work program. He recommended that work to finalize text on biennial reports continue under the guidance of the co-facilitators, with the goal of reaching agreement on guidelines that can be adopted at this session. Delegates should proceed with the understanding that the biennial reporting guidelines can be revised in the future to reflect any decision on accounting.

The Chair believed that co-facilitators should continue to work on IAR, with the exception of references in the text to a compliance procedure. Some Parties consider a process to determine compliance a necessary component of ensuring comparability of efforts (between Kyoto Protocol Parties and developed country Parties that are not Parties to the Protocol but are Parties to the Convention), while others consider it fundamentally incompatible with the nature of their pledges. This is a matter on which Minister-led consultations may be needed. (The US is opposed to any discussions on reviewing their pledges and the need for international rules on compliance.)

2) Mitigation by developing country Parties: The amalgamation draft texts contained four areas related to developing country mitigation: matters related to paragraphs 48-51 of the Cancun Agreements (on the pledges), biennial update reports, international consultation and analysis (ICA) and registry.

Reifsnnyder said more work on all four of these areas was necessary. Under matters related to paragraphs 48-51 of the Cancun Agreement, Parties generally agree on the need to continue a process to understand the diversity of mitigation actions, but do not agree on the steps or inputs. There are also questions regarding how to enhance mitigation efforts and whether a common approach to measuring the effects of mitigation actions is needed.

On biennial update reports, he said there appeared to be three major options: adoption of descriptive guidelines that elaborate on the elements agreed in Cancun, adoption of guidelines that reference relevant sections of the existing guidelines for national communications of Parties not included in

Annex I (developing countries), and deferral of work to next year.

On ICA, key issues are scope, frequency, clarification of the process, and the flexibility accorded to developing countries. The registry text is quite mature, with very few substantive issues remaining, he added.

He believed that matters related to paragraphs 48-51 of the Cancun Agreement should be taken up in Minister-led consultations. His assessment was that co-facilitators should continue with their work on reporting guidelines in the informal group. To ensure balance with progress on developed country biennial reports, the focus should be on agreeing on elements of descriptive guidelines that can be adopted at this session. Although there were a number of unresolved issues that remain under ICA, he believed that co-facilitators should continue to work on them in the informal group.

3) REDD-plus finance (Reducing emissions from deforestation and forest degradation in developing countries), there was no change in the text and the Chair urged Parties to continue discussions.

4) On cooperative sectoral approaches and sector-specific actions, he said Parties had made considerable progress in their consultations on the three main areas under consideration – the general framework, agriculture, and international aviation and shipping. In his view, this item may benefit from consideration by Ministers, who may wish to consider whether there is yet room to establish a programme of work on agriculture. At the same time Ministers may wish to consider whether to establish a process for further developing elements of a general framework for cooperative sectoral approaches and sector-specific actions and how it will apply to the various sectors, including international aviation and maritime transport.

5) On various approaches, Reifsnyder said that Parties had made great efforts to progress on the work on various approaches to enhance the cost-effectiveness of, and promote, mitigation actions and believed that the informal group should continue to work to agree on an outcome or to develop clean options that can be referred for further consideration in Minister-led consultations. He asked Parties to also consider how best to reflect issues that should be considered if a work programme can be established in this area.

6) On the issue of 'Economic and Social consequences of Response Measures', he said that the facilitator prepared a consolidated text on the basis of the six proposals from Parties. He said Parties discussed the consolidated text in the informal group and that it received support from some Parties but that it was not accepted by others. Because of this, and despite the strong urging of some Parties there is still only a facilitator's text that was not appropriate to be included in the updated amalgamation texts.

He said that it appeared that there were positive developments in the informal consultations being undertaken by the Chairs of the Subsidiary Bodies (SBI and SBSTA) on the impact of the implementation of response measures, with the objective of developing a work programme to address these impacts, with a view to adopting at the 17th session of the COP, modalities for the operationalization of the work programme and a possible forum on response measures.

(The subsidiary bodies of the Convention are the Subsidiary Body on Implementation and the Subsidiary Body for Scientific and Technological Advice.)

Adaptation

The AWGLCA Chair said that work on the text on the Adaptation Committee advanced considerably and Parties were able to agree to most of the text thus getting one step closer to bringing the Adaptation Committee to life here at Durban. There were still a number of outstanding technical issues relating to the indicative activities for the Adaptation Committee to undertake. In addition, there are two outstanding issues related to the issue of the membership of the Adaptation Committee and to whether it should report directly to the COP or to the COP through the subsidiary bodies. These were issues he believed would benefit from Minister-led consultations.

Finance

The Chair said that work was progressing well in the informal group on finance and believed that work should continue in the informal group before assessing whether any of the issues with which it is dealing should be taken up at a higher level.

Technology

Reifsnyder said that the informal group on technology managed to narrow down options on the selection process of the host of the Climate Technology Centre and Network (CTCN) and the governance arrangement for the CTCN. It has also advanced significantly on the evaluation criteria for selecting the CTCN. The group also elaborated the funding arrangement of the CTCN. On the question of intellectual property rights, he said that consultations were currently being undertaken by the Presidency on that issue, and suggested that Parties focus on completing the necessary technical work to launch the CTCN in Durban while awaiting the outcome of these consultations.

Capacity Building

The Chair reported that there are very few outstanding points, and believed they could be resolved in further consultations in the informal group.

Review (2013-2015)

On the review, he said there were mainly two outstanding issues which would benefit from consideration in Ministerial-led consultations. First, the scope of the review: whether it should be limited to the adequacy of the global temperature goal and progress toward achieving it as agreed in Cancun or whether it should be defined more broadly. Secondly, the question of who should conduct the review: whether it should be conducted by an expert review body or by the existing Subsidiary Bodies.

Legal Options (on the outcome of the AWGLCA)

Reifsnyder said that the 'legal options' was a difficult issue. He said some Parties noted that they did not see this group as the place to discuss future process issues and saw this conversation happening elsewhere (in an apparent reference to the 'Indaba' process led by the South African COP Presidency). Many Parties also made links between this issue and the outcomes of the work of the working group under the Kyoto Protocol. He said the question of the future of the multilateral rules-based regime was now being taken up in the Presidential Indaba process and he believed that it was indeed in that broader Presidential process where this issue could now be advanced.

Several countries reacted to the Chair's comments.

Venezuela wanted the issue of the level of ambition to be addressed by Ministers, given that the ambition was rather low and was concerned that the new framework for a regime may be legalized with a low ambition level. On cooperative sectoral approaches, it wanted a broader approach and not just on the sectors currently being discussed. It was also concerned with the bad treatment of the element of economic and social consequences of response measures and wanted a full consideration of all the issues raised in its submission, including the social consequences of response measures. On the issue of market mechanisms, it said that this was linked to the issue of the continuity of the Kyoto Protocol and was a political issue and wanted a ministerial discussion on this.

Saudi Arabia also expressed its frustration on the way the response measures were being handled. It said that there is refusal by the developed countries to engage in the development of negotiation texts. It was concerned by the imbalance in the treatment of this issue and said there was no real engagement on substance on this issue. It also did not share the Chair's positive outlook over the matter being dealt with in the Subsidiary Bodies as developed countries were refusing to engage on substance. This, it said, was a matter for Ministerial consultations. Speaking for the Arab Group, Saudi Arabia said that it was unacceptable to have no outcome on this issue. On the sectoral approaches, it said that if this issue was passed on to Ministers, it needed to address the general framework that guides the sectoral issues and without this, it was difficult to reach outcomes.

Bolivia was concerned that the mitigation of developed countries did not address increase in the level of ambition and the need for common accounting rules as well as compliance. It said that the Ministerial consultations need to be open and inclusive. There was need for a decision on compliance and a penalty system.

China said that the intention of referring issues to the Ministers was to seek political guidance on difficult issues that could not be resolved by negotiators and not for the texts to be referred to them. The AWGLCA contact group and informal groups could then act on the guidance given.

On the issues referred to the Ministers, as regards the discussions on the long-term global goal and peaking, it was important to refer to the associated issues of historical responsibility, equity and means of implementation to achieve the global goal and peaking. On mitigation, it agreed with Venezuela on

the need to seek guidance from the Ministers on how to deal with the level of ambition.

India said that Ministerial guidance was useful in unlocking many pieces on mitigation and a lot of work needs to be done to capture the options for the consideration of Ministers. India was concerned that some issues were kicked up to Ministers as in 'shared vision' with no more meetings scheduled at the level of negotiators. It said that interactions with negotiators in this regard was useful and urged not to close this interaction.

Ecuador expressed concerns that the mitigation of developed countries was confined to only the Cancun decision and there was no reference to the Convention. On REDD-plus, it wanted movement on the financial mechanism.

The **Philippines** expressed deep concerns on lack of progress on the element of 'shared vision' and 'review'. Determination of the long-term global goal for emissions reductions must be within the context of issues of survival as well as economic considerations, means of implementation and burden-sharing. It also supported the proposal for a study process in order to guide Parties on the consequences of the decisions being made. On the

review, it was important to strengthen the Convention and to determine the scope of the review and said that the existing subsidiary bodies could advance further work. On the Ministerial consultations, Philippines hoped that the Ministers would have the opportunity to go back to their constituencies to ensure the provision of political guidance.

The **European Union** also stressed the need for a high level of ambition as regards mitigation and was concerned that the amalgamation text was not balanced in relation to the mitigation of developed and developing countries. It also wanted clear options on the establishment of market mechanisms, which is key for the EU to commit to a second commitment period of the Kyoto Protocol.

The **US** said that a number of areas (in the texts) did not reflect its interests and could therefore not participate in its outcome.

Japan stressed the need for parallelism in relation to the mitigation efforts of developed and developing countries and the current text did not reflect this balance.