

AWGLCA Chair transmits report for adoption despite strong protests

Geneva, Dec 14 (Meena Raman) – Despite strong concerns raised by many developing countries over the lack of balance in the report of the outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action (AWGLCA) under the UNFCCC, the Chair of the working group in an unprecedented move, transmitted the report to the Conference of Parties (COP) under his own authority.

Late morning of Saturday, 10 December (as the Durban climate talks were extended beyond Friday), the Chair of the AWGLCA, Mr. Daniel Reifsnyder of the United States, made available to Parties his draft conclusions on the outcome of the work of the Working Group, which comprised 56 pages including annexes.

When the AWGLCA met for its final plenary session late evening the same day, Reifsnyder formally presented the document to Parties (referred to as document L4). He also presented another document reflecting the work undertaken in the informal groups as a note by him, (referred to as Conference Room Paper – CRP 39), which he said was to carry forward ideas and proposals in areas in which continued discussions are envisaged next year.

Many concerns raised especially by developing countries during the final session of the AWGLCA were brushed aside with the unusual procedure of transmitting the outcome document to the COP under the authority of the Chair despite it not enjoying any consensus from the UNFCCC Parties.

Several developing countries raised concerns over many specific issues and the lack of balance in the text, especially in relation to mitigation actions of developed and developing countries, with the breaking down of the firewall between them, and the absence of the recognition of historical

responsibility and the principle of common but differentiated responsibilities (CBDR).

Many countries were unhappy that there was no expression of the level of mitigation ambition needed by developed countries and there was no provision for the comparability of efforts between the Kyoto Protocol (KP) Parties and the non-KP Parties (the US in particular). Some expressed deep concern that a flexible mitigation regime for developed countries was being set up in place of the KP, and that it did not have any compliance regime or common accounting framework.

The US was opposed to any attempt in Durban to have any process to review its pledge or on how to raise the ambition level of greenhouse gases emissions reduction. It also did not want a common accounting framework or a compliance regime, which was called for by many developing countries and the European Union.

There were concerns also over long-term finance where there was no clarity on how the US\$100 billion per year by 2020 as agreed to in Cancun was going to be mobilized or for a roadmap for that to be put in place to ensure predictable and sustainable financial resources to developing countries.

Some developing countries wanted the AWGLCA document to be worked on further to “restore the balance” and proposed that this be done next year and were not ready to support the adoption of the outcome document in Durban.

The life of the AWGLCA was extended for another year through a decision by Parties in the “Durban Platform” document which reads as follows:

“Decides to extend the Ad Hoc Working Group on Long-term Cooperative Action under the Convention for one year in order for it to continue its work and reach the agreed outcome pursuant to decision 1/CP.13 (Bali

Action Plan) through decisions adopted by the sixteenth, seventeenth and eighteenth sessions of the Conference of the Parties, at which time the Ad Hoc Working Group on Long-term Cooperative Action under the Convention shall be terminated”.

The request to carry on further work on the L4 document next year was ignored by the Chair who proceeded to transmit the document to the COP under his own authority.

There was deep frustration among many delegations. The Venezuelan climate envoy, Ms. Claudia Salerno had to stand on the chair with her country's name plate to draw the attention of the AWGLCA Chair after he had gavelled the adoption of the report of the meeting.

Salerno said that the AWGLCA document had serious deficiencies. Yet, it was being transmitted to the COP. She disclosed that there were threats that if Venezuela did not agree to the adoption of the text, there would be no second commitment period under the Kyoto Protocol and that the multilateral system would not be preserved.

The Chair just ignored Venezuela's protest and adjourned the meeting.

At the formal session of the COP plenary, Reifsnnyder informed the COP that Parties were not able to reach consensus. The text, he said, was rich and comprehensive and harvested important progress. He hoped that it could be adopted by the COP as part of the comprehensive Durban package. The document was adopted as part of the Durban package.

(The package comprises 4 decisions on: (i) the second commitment period for emissions reductions by Annex 1 Parties under the KP; (ii) a decision on the work of the AWGLCA; (iii) a decision on the Green Climate Fund; and (iv) an agreement that establishes a new ad hoc working group on the Durban Platform for enhanced action.)

When the AWGLCA document was first presented to Parties, many concerns were raised.

Saudi Arabia expressed its concerns in a number of areas. The text puts more emphasis on the mitigation elements for developing countries and weakens those for developed countries. For example, on the modalities on international assessment and review (IAR) of developed countries, the need for unified accounting rules is no longer in the text. (Several countries, both

developed and developing countries had called for common accounting rules for developed country mitigation but the US was opposed to this).

In the case of biennial update reports (BUR) for developing countries, the mandate from the (2010) Cancun decision was for such reports to be submitted consistent with their capabilities and the level of support provided for reporting [paragraph 60(c) of the Cancun decision] but the language in paragraph 41(f) of the AWGLCA document (L4) does not reflect that.

[Paragraph 41(f) states: “That non-Annex 1 (developing country) Parties shall submit a biennial update report every two years, either as a summary of parts of their national communication in the year when national communication is submitted or as a stand-alone update report; Least Developed Countries and small island developing States may submit biennial update reports at their discretion;]

Saudi Arabia said that there was no link to the capabilities and national circumstances (of developing countries), nor is there any reference to the level of financial support.

It did not see the Chair giving the same treatment on issues in trying to become more ambitious, referring to the issue of ‘economic and social consequences of response measures’. In the Cancun decision, Parties agreed to strive to implement policies and measures to respond to climate change in such a way so as to avoid negative social and economic consequences. The language in the document now urges Parties to give full consideration to the positive and negative impacts of the implementation of response measures, which is a downgrading of the Cancun decision. It also attempts to put together some considerations of other issues, which go beyond the scope of the AWGLCA.

On finance, Saudi Arabia asked how the Standing Committee under the COP could just be an advisory group. On long-term finance, in relation to mobilizing climate finance, the AWGLCA document (in paragraph 125) refers to assessment criteria in “the report on mobilizing climate finance for the G20”. This (referring to the UNFCCC) is not a G20 forum.

Saudi Arabia said there were many examples apart from these concerns that show that more work was needed on the document as it was presented for the first time in the morning (of Saturday). It reiterated the need for further work on the document before

it could be adopted and was flexible on the process on how to deal with concerns raised.

Malaysia said that the approach advanced by the Chair was to defer all issues in the CRP 39 document to next year as these issues were controversial with divergent views, which developed countries and some developing countries were opposed to. These related to issues such as intellectual property rights, unilateral trade measures, equity in the shared vision document are some examples. However, in the AWGLCA L4 document, in cases where developing countries had strong views, their proposals have been ignored especially in relation to the mitigation of developed countries, on cooperative sectoral approaches, various approaches including opportunities for using markets, and economic and social consequences of response measures.

The texts in relation to these aspects reflected the proposals of developed countries and do not reflect the positions of several developing countries. In the case of mitigation by developed countries, there are no numbers on the need for the aggregate emission reductions target for Annex 1 (developed country) Parties as called for by some developing countries. This is a problem as the ambition level of the Annex 1 Parties is completely missing. There is only a reference in the preambular section “acknowledging that there is a gap between the aggregate level of reduction to be achieved through global mitigation efforts.” Hence, the attempt here is to avoid any Annex 1 aggregate number but to make it a responsibility of all Parties (including developing countries) to meet the mitigation gap.

The issue of comparability of efforts needed among developed countries between those who are KP Parties and those who are not, which was in paragraph 1(b)(i) of the Bali Action Plan (mandate for the AWGLCA) is really missing with only a weak reference in the preamble about recalling in relation to the comparability of mitigation efforts. In reference to the compliance of developed countries, there is reference in the IAR section but is very weak as it says that “... any revision of the modalities and procedures for IAR and review should take into account any future agreement on a compliance regime for mitigation targets...” This really undermines the existing KP compliance system and puts in place a much weaker regime which is to be negotiated in a future agreement. This is completely unacceptable and allows for a weak mitigation regime for Annex 1 Parties and provides for the “great escape” from the KP.

Malaysia said that to make matters worse, the text has in effect made a decision for new market based mechanisms under “various approaches” when this was an issue of controversy. Instead of this issue being deferred for consideration to next year in the absence of agreement in the informal group, the text calls for new market mechanisms.

Further, on the issue of cooperative sectoral approaches it was concerned that the proposals of developed countries have been taken on board while concerns of developing countries have not been reflected.

In the circumstances, Malaysia could not accept the L4 document as a balanced text and wanted the document not to be adopted but to be transmitted for further work under the AWGLCA next year, along with CRP 39.

The **Democratic Republic of Congo** for the **African Group** was concerned that on mitigation of developed countries, Parties were merely noting and clarifying pledges with no clear process for raising ambition or ensuring comparability of efforts. The decision should go beyond merely urging countries to do more. This view is held by many including for those Annex 1 Parties under the Kyoto Protocol. There was an apparent lack of balanced text on the mitigation of developed countries and that of developing countries. When reading the text, one wonders if it was for developed countries or developing countries and it does not reflect the principle of common but differentiated responsibilities (CBDR).

On long-term finance, there is no clear level of commitment for financing when the so-called fast start finance ends (in 2012). The text had strong obligations for developing countries without similar appropriate provisions for developed country mitigation. The text does not reflect that balance as contained in the Convention.

Thailand also raised concerns over the mitigation chapter and said that there was no number for the aggregate emission reductions needed by developed countries and the ambition level was missing. There was no strong text on the need for comparability of efforts among developed countries who were Parties to the KP and those who were not. It was unhappy that a strong compliance regime was absent and found the document unacceptable and called for further work at the next session of the AWGLCA.

The Philippines said it had difficulties with the output of work. There was grave imbalance in the

text in relation to adaptation. Adaptation has been regarded a poor cousin of mitigation. Securing resources for adaptation appeared to be a distant reality. It said there was opposition to linking adaptation to finance. This was a process of give and take but developing countries have been giving and giving. On the issue of long term finance, the language is very weak in relation to the scaling up of resources.

India said it shared the concerns raised by developing countries. Two issues of concern for India were on agricultural emissions and trade. It said that detailed discussions took place on views within the scope of mitigation in agriculture as this sector involved the livelihood of millions of people in terms of employment and was not merely an issue of CBDR. The agriculture sector still depended on monsoons and was vulnerable to climate change and is excluded from India's mitigation targets. The agriculture issue in the document is not mature enough to receive a direction for a decision at COP 18 (in 2013). It wanted this excluded from the text.

On the issue of trade, India said that this was left out of the section on 'economic and social consequences of response measures' when there were 3 options from developing countries with one option having the support of about 80 countries. This issue was fundamental and further work needs to take place next year as contained in the document CRP 39 for elaboration.

The AWGLCA Chair confirmed that this issue was still on the table and will be forwarded for further work next year.

Pakistan said while there was good work done, progress had not been made to complete the work (of the AWGLCA). As regards the Adaptation Committee, it said that the Committee should have been given the right status as a subsidiary body of the Convention with more prominence. It expressed sadness that there was no consensus in this regard.

On the Standing Committee on finance, the Committee should have had a strong oversight mandate. On long-term finance, it was sad that Parties were not able to achieve anything as there was need for a common understanding on how to scale up adequate and predictable resources.

On mitigation, the document was definitely skewed heavily against developing countries and blurring the distinction between developed and developing country obligations. There was need to insert the

notion of national circumstances in relation to the submission of BURs and there was no link to finance. Pakistan said that it was at a loss on how the process was going to unfold and would like to see a way to work further.

Venezuela said that the process has downgraded the level of ambition in relation to mitigation and the text was seriously imbalanced. It did not see how the clarification and understanding of the emission reduction pledges of developed countries will serve to improve the trust and confidence in Parties when there is no real ambition in the mitigation targets. The delicate balance between the mitigation of developed and developing countries was crossed when the principle of CBDR has been taken out of the text. There has been a redistribution of responsibilities and the commitments of developing countries are higher than that asked of developed countries. The world appeared upside down and this was not acceptable.

On 'market mechanisms' there was reference in the text to "building upon the existing flexibility mechanisms established under the KP" and Venezuela was concerned if there would indeed be a second commitment period under the KP. It did not want a link on the use of markets and the undertaking of mitigation actions.

Venezuela was concerned that once again, Parties were in a take-it-or-leave-it situation (as regards the text), which was given in the morning. There was frustration and fatigue and Parties do not have to accept anything just because it was late and people are tired. This (L4) document was not ambitious enough and there was need to address what the planet needs. It could not accept a document that suits just one country (in an apparent reference to the US for not wanting the level of ambition in mitigation for developed countries to be in the text).

Referring to the Durban package, where Parties potentially lose the KP due to a lack of ambition, it did not believe that the document could be taken seriously as the basis of a future legally binding regime with pledges, flexibilities and market mechanisms to serve a few. It wanted the Chair to tell Parties how to move responsibly to resolve the issues.

Egypt also had concerns over long-term finance as there was need for predictable and sustainable support to enable developing countries to undertake mitigation and adaptation actions. The deal was not done in terms of long-term finance and there was need for further elaboration on the needs of

developing countries and on the sources of finance. The Bali Action Plan work was not complete.

Gambia, for the **Least Developed Countries** said a decision on long-term finance was not reflected in the text. However, it was prepared for the Durban package to be adopted.

China shared the concerns raised by other developing countries. It said that the work of the AWGLCA was not expressed in a balanced manner especially that of the mitigation commitments of developed countries as compared to that of developing countries. There is no reflection of historical responsibility and the level of mitigation targets needed. On long-term finance, it was also concerned that there is no clear vision and provision for how the US\$100 billion per year by 2020 was going to be achieved as agreed to in Cancun. No means have been provided in the text to do this. This question needs further discussion.

Saying that this was not the last meeting of the AWGLCA, China added that Parties will need to continue to make efforts to reach the outcome of expectations under the Bali Roadmap (the Bali Action Plan and the determination of the second commitment period under the KP). The important questions were what the next steps are and how to make the arrangements.

China asked the Chair to make clear recommendations to the COP on the need for clear arrangements for the work of the AWGLCA since this has not been made clear and many issues under the Bali Roadmap need solutions. On the (L4) document, China said that concerns have been expressed and there was need to decide how to handle this. It asked how the document was going to be submitted to the COP when it did not fulfill the expectations of Parties and was far from being comprehensive and balanced.

Bolivia also expressed concerns over the lack of balance in the text, as the responsibility of undertaking mitigation efforts was falling on the shoulders of developing countries. As some countries were withdrawing from their commitments under the second commitment period of the KP, a weak and flexible regime was being put in place with no compliance regime. The pledges of Parties are not yet commitments and were unfair to those Annex 1 Parties who remain in the KP and who are upholding the instruments and the KP systems.

It expressed regret that the obligations of developing countries to do their national

communications (reporting every four years), the BURs and participation in the registry were all expected with their own resources.

Bolivia said the principle of CBDR is not expressed in the text. It was also concerned that the text was opening the door to market mechanisms, which needed further analysis on the impacts of such mechanisms. It said that the document was not balanced and could not be adopted as it is but could be part of the discussions next year and wanted its concerns recorded.

Nicaragua said that the AWGLCA document on long-term finance was all about undertaking further studies on options for the mobilization of resources. There was no roadmap for the mobilization of the US\$100 billion per year by 2020. It said that some Parties were proposing no resources during this decade. The Green Climate Fund has been created but it was a Fund with no funds. There is no definition on the sources of finance and it was concerned with references to the G20 report on mobilizing finance when that was an ad hoc forum.

Nicaragua advanced the idea of the use of Special Drawing Rights (SDRs) for climate finance. It said that in 2009, the G20 proposed the issuance of US\$ 250 billion in SDRs of which US\$100 billion was for developed countries. The International Monetary Fund was responsible for its issuance and this was done with great speed. If such resources could be used to save the banking system, it asked why this was not possible to save mother earth.

Ecuador said that on long term finance, it had made a proposal on the issuance of Special Drawing Rights. It also had proposed financial transaction taxes as well as taxes on imports of oil which could provide the sources for financing. It expressed regret that these proposals were not reflected in the document and there was a lack of consistency in the approach. It asked the Chair to find solutions that did not cross redlines.

Paraguay expressed concerns that the principles of historical responsibility and CBDR should not be diluted. It called for the completion of the Bali Roadmap.

Kenya said that the text fell short for Africa and was weak in adaptation and low on ambition in mitigation. It also stressed the importance of comparability of efforts among developed country Parties and the need to reflect a common accounting framework. The submissions of BURs by developing countries needed support and

flexibility in reporting. It called for further improvement to the document before its adoption.

Bangladesh said that the text was watered down and crossed some redlines of the LDCs but it was prepared to accept the text with reservations. It said that the Adaptation Committee was a good way forward.

The **European Union** said it was disappointed with the AWGLCA document as it had weak language on the (emissions reduction) ambition gap and wanted a process to address this but this was not reflected in the document. The BUR guidelines for developing countries were not strong enough. Nevertheless, it did not want to run the risk of re-opening the balance reached in the document and supported its adoption.

Switzerland said that the document was insufficient in a number of chapters. On 'shared vision', it was blind. The paragraphs on ambition level and guidelines for reporting are insufficient. The text on international consultations and analysis (ICA) in relation to developing countries was weak. However, it was prepared to accept the document. The text is something Parties must continue with and develop it further.

The **United States** said that the negotiations were difficult and Parties needed to move forward on what was achieved and supported the adoption of the text. It said that the guidelines on transparency for the targets and actions were not perfect but if there was delay, Parties would be reneging on the Cancun decision and would unravel the Durban package which was significant.

Japan said that the document was not perfect but was a compromise that it could agree to and called for its adoption in its entirety.

Following the reactions of Parties, the Chair of the AWGLCA said that his sense was that there was a great deal of disappointment with the text. A number of Parties were against the adoption of the document and wanted it forwarded for further work next year. Despite this, he was going to forward the document to the COP with a recommendation for its adoption under his own authority.

He asked Parties to consider the report of the meeting of the AWGLCA for adoption and quickly

gaveled, not recognizing Venezuela who had asked for the floor before the gavel.

Venezuela's Special Envoy for climate change, Ms. Claudia Salerno, had to stand on her chair to get the attention of the Chair when her repeated waving of her country plaque was to no avail. She said that she had asked for the floor before the gavel came down. Salerno said that the AWGLCA document had serious deficiencies. Yet it was being transmitted to the COP. She disclosed that there were threats that if Venezuela did not agree to the adoption of the text, there would be no second commitment period under the KP and that the multilateral system would not be preserved.

The climate envoy said that such threats were supporting a weak regime which threatens the world through a flexible system with no rules for mitigation and for developed countries to make pledges as they want and do as they want and when they want.

Referring to the goal of mobilizing US\$100 billion for climate finance and (developed countries) using this as a bargaining chip, the Venezuelan envoy said that there could be no price for the our future and that of our children. She said that the farce has to stop and there must be an end to a bad agreement.

Despite the strong reaction from Venezuela, the Chair of the AWGLCA simply adjourned the meeting.

When the final formal plenary session of the Conference of Parties convened early morning of Sunday, the Chair of the AWGLCA reported that during the AWGLCA session held earlier, Parties exchanged views and many expressed support for the outcome of the work of the AWGLCA as contained in the L4 document, while others said that the document did not have balance. Parties were not able to reach consensus. The text, he said was rich and comprehensive and harvested important progress. He hoped that it could be adopted by the COP as part of the comprehensive Durban package.

The AWGLCA outcome was adopted a part of the Durban package.