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Parties Commence Work to Produce Negotiating Text for Paris Agreement

Geneva, 9 February (Indrajit Bose and Meena Raman) – Parties to the United Nations Framework Convention on Climate Change (UNFCCC) commenced their work in Geneva, Switzerland, on Sunday, 8 February, with the task of producing the negotiating text for a new climate agreement that is to be concluded in Paris in December this year.

This work is being done by the UNFCCC's Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), which is set to meet for six days in Geneva.

At its last session held in Lima, Peru in Dec. 2014, the ADP elected two new Co-chairs, who are Ahmed Djoghlaif (Algeria) and Daniel Reifsnyder (United States).

At the opening plenary of the resumed session of the ADP on Sunday, Reifsnyder reminded Parties that in Lima, they had agreed that the ADP 'intensify its work with a view to making available a negotiating text for a protocol, another legal instrument or an outcome with legal force under the Convention applicable to all Parties before May 2015'.

Since the Geneva session is the only negotiating session planned before May 2015, the ADP Co-chair said that the objective is to make available on Friday, 13 February, the negotiating text of the Paris agreement.

Reifsnyder said that the work of the ADP contact group will focus on converting the 'Elements for a draft negotiating text', which was annexed to the decision adopted in Lima (in decision 1/CP.20), into a negotiating text for the Paris agreement. He stressed that the main task of the contact group will be to ensure that the negotiating text fully reflects the positions of all Parties. He added that the task was also to streamline language and eliminate redundancies, better present alternatives and divergences and clarify and complement the proposals and concepts.

According to the ADP Co-chair, the contact group will also endeavour to identify elements that are of a durable nature and that need to be enshrined in the Paris agreement, and aspects that are more suitable to be included in an accompanying decision of the Conference of Parties (COP) that would allow for further adjustments over time through subsequent decisions.

Day one of the ADP meeting convened with an opening plenary, which was then followed by the meeting of the contact group, where discussions focused on two sections of the elements text viz. the general/objective section and the mitigation section. (The elements text comprises the following sections: the preamble, general/objective, mitigation, adaptation and loss and damage, finance, technology development and transfer, capacity building, transparency of action and support, timeframes and process related to commitments/contributions/other matters related to implementation and ambition, facilitating implementation and compliance, and procedural and institutional provisions.)

The contact group saw the relevant sections of the elements text being projected on the screen, as requested by several developing country groupings during their pre-session bilaterals with the ADP Co-chairs. (This practice of placing text on the screen began only in Lima last year, after much insistence by developing countries.)

At the opening plenary, COP20 President, Manuel Pulgar-Vidal (the Minister of Environment of Peru) asked Parties to sustain the spirit generated in Lima and to maintain the same momentum in Geneva with a view to getting an agreement by the end of the year. He also asked of Parties for clarity on pre- and post-2020 pathways on finance and to consider voluntary intended nationally determined contributions (INDCs) on adaptation and for 'political and practical parity' to be achieved between mitigation and adaptation. He reiterated the

expectation of some Parties to give the issue of loss and damage a specific place in the agreement and urged countries to ratify the Doha Amendment to the Kyoto Protocol.

Pulgar-Vidal also reminded Parties of the need for urgent action as he referred to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change and the recent findings of the World Meteorological Organisation that 2014 was the warmest year in recorded history. He urged Parties to work with responsibility to achieve ambition and work efficiently and in the spirit of compromise. ‘We need a document that is concise and more articulate. We need a document that focuses on the issues. We need to find innovative solutions,’ he said. He also said that all the actors in the process must work as a team with no sense of competition. He further said Parties must explore pragmatic compromises on elements with particular attention on the needs of developing countries.

On process, Vidal said that the ADP process must be open, inclusive and create an atmosphere of transparency and trust and warned against negotiations behind closed doors and for it not to exclude anyone, especially the smaller delegations. ‘It must be a Party-driven process all the way through,’ he said.

He also asked of Parties to use the consensus language arrived at in Lima on differentiation, which is common but differentiated responsibilities and respective capabilities (CBDR-RC), in light of different national circumstances.

The opening plenary also heard brief statements by groupings of Parties. Speaking for the **Group of 77 and China (G77 and China)**, **South Africa** said, ‘Any attempts to redefine, rewrite, renegotiate or reinterpret the Convention and its principles and provisions that would result in watering down or weakening of the Convention will not be acceptable and will only complicate and delay the process.’

Other developing country groups such as the **African Group**, **Alliance of Small Island States (AOSIS)**, **Least Developed Countries (LDCs)**, **BASIC countries (Brazil, South Africa, India, China)**, **Like-Minded Developing Countries (LMDC)**, **Coalition for Rainforest Nations**, **Bolivarian Alliance for the Peoples of our America (ALBA)**, the **League of Arab States** and the **Independent Association of Latin America and the Caribbean (AILAC)** supported the statement by the G77 and China and refrained from reading out their statements in the interest of time but posted their statements on the UNFCCC website.

Speaking for the **Umbrella Group** of countries, **Australia**, referring to the decision reached in Lima,

said Parties underscored their commitment to reflect the principle of CBDR-RC in light of different national circumstances in the Paris agreement. ‘Neither an extreme of retaining the current binary fixed approach (of developed and developing countries), nor an extreme of no differentiation will be acceptable,’ said Australia.

(Highlights of some of the statements by Parties are reflected below.)

Following the opening plenary, in the ADP contact group, Parties focused on section C of the elements text on ‘General/Objective’. A range of interventions followed through the two-hour-long session, where the Co-chairs asked Parties to add proposals that were not reflected in the section. A discussion ensued over whether the objective should be an elaborate one or short and succinct, with a range of views being expressed.

To a suggestion by the Co-chairs to have a focused and facilitated discussion to consider the text in this regard, several countries such as India, South Africa, Saudi Arabia and the EU were of the view that while the idea of having a facilitated discussion was not a bad idea in itself, it would be more productive to have such a discussion after Parties had gone through a round of discussion on all the elements in the text, as it was currently premature to do so.

Section D of the elements text on ‘mitigation’ was also taken up for discussion in the afternoon of Sunday, where Parties presented proposals to be included in the text.

Negotiations on streamlining the text will begin after Parties have completed adding all their proposals to all of the sections of the elements text from 10 February onwards, said ADP Co-chair Djoghlaif, who presided over the discussion on ‘mitigation’.

The contact group ended its meeting earlier than expected at around 4.30 pm, after exhausting the list of speakers who took the floor to introduce new text.

Highlights of interventions/statements at the opening plenary

Speaking for the **G77 and China, South Africa** said that the process leading up to Paris should be open, transparent, inclusive, Party-driven and consensus building in order to arrive at a comprehensive, balanced and equitable outcome. It recalled that the objective of the ADP is to enhance action and promote full and effective and sustained implementation of the Convention through the strengthening of the multilateral rules-based regime

under the Convention. ‘Any attempts to redefine, rewrite, renegotiate or reinterpret the Convention and its principles and provisions that would result in watering down or weakening of the Convention will not be acceptable and will only complicate and delay the process,’ it said.

It added that the tasks of the ADP session here in Geneva are very clear in light of the decisions Parties have committed themselves to since Durban and that the elements paper is an expression of multiple views, which must be considered in light of the decisions adopted in Lima. It said that Parties had agreed that the ADP would make available a negotiating text before May 2015. It said to deliver on the task, trust and mutual reassurances from all Parties, as well as necessary political will and determination to find solutions for key issues, are essential. ‘Any streamlining of the options should be based on consensus among Parties collectively and constructively, with Parties’ views to be reflected in a balanced and comprehensive manner in the negotiating text,’ it said.

South Africa added that the 2015 agreement must be under the Convention, applicable to all Parties and based on its principles and provisions, in particular the principles of equity and CBDR-RC. ‘Any agreement without equity and CBDR-RC is not in accordance with the Convention,’ it said. The 2015 agreement must be comprehensive in dealing with all the agreed elements, inter alia mitigation, adaptation, loss and damage, finance, technology development and transfer, capacity building and transparency of action and support from developed country Parties to developing countries in a balanced manner.

The Group also reiterated the importance of appropriately, effectively and meaningfully addressing adaptation, finance and the need to secure progress of loss and damage in the 2015 agreement. Other issues such as the adverse impacts of response measures and anchoring specific implementation mechanisms and frameworks in the 2015 agreement should be addressed. The 2015 outcome should provide for enhanced financial and technological support from developed to developing countries for ambitious mitigation and adaptation actions after 2020, especially to those developing countries that are particularly vulnerable to the adverse effects of climate change.

On enhancing pre-2020 ambition under workstream 2, the G77 said that it has a direct bearing on the successful adoption of the 2015 agreement (workstream 1) and that the work of workstream 2 should continue until the pre-2020 ambition gap is

closed. Doing that would avoid higher costs and risks associated with adaptation and mitigation in the long run. ‘Through Workstream 2, we must work with the objective that countries increase mitigation ambition in the pre-2020 period and developed countries must take the lead, through enhanced actions, increasing emission reduction targets to at least 40 per cent below 1990 levels by 2020, and the level of ambition providing finance, technology and capacity building support to assist developing country Parties in achieving the pledges that they have made. The speedy ratification of the Doha Amendment would be an important signal to the world that Parties are committed to closing the pre-2020 ambition gap. Scaling up climate finance towards the goal of US\$100 billion by 2020 will also provide the resources required by developing countries to enhance pre-2020 mitigation and adaptation actions,’ it said.

‘As the primary bearers of the impacts of climate change, who have been asked to do so much and have made many concessions in these negotiations through the years, the Group looks forward to see what our partners are prepared to bring to the table. We have heard much talk of action outside this process, now we need all country Parties to bring their positive intentions to this process to strengthen the multilateral rules-based regime under the Convention,’ it added.

In its statement posted online, **Bolivia for the Like-Minded Developing Countries (LMDC)** said that the outcome under the ADP must reflect the agreements reached in Lima ‘without backsliding or reopening the consensus achieved such as the work of the ADP is under the Convention and guided by its principles, provisions, and structure, including the differentiated commitments in accordance with Article 4 of the Convention. The Paris outcome shall reflect the principle of CBDR as it is under the Convention. Concepts or approaches such as “evolving CBDR” or “Parties in a position to do so” are not consistent with the Convention and are not acceptable. There has been consensus among Parties in Lima that such concepts shall be removed from the outcomes of the COP.’

For the LMDC, the agreement ‘must address in a balanced manner all elements’ and ‘shall strengthen adaptation action to address the particular vulnerabilities of developing countries, duly taking into account the relationship between poverty eradication and adaptation actions’. ‘It must also reaffirm the COP’s decisions on the Warsaw International Mechanism on Loss and Damage and make these operational. Developed country Parties

must provide financial, technology transfer and capacity building support consistent with their obligations under the Convention to developing country Parties for ambitious mitigation and adaptation actions before and after 2020, especially to Parties that are particularly vulnerable to the adverse effects of climate change.’ The LMDC statement also states that ‘there will be no ex-ante review’ (of the contributions of Parties).

It also stressed that ‘increasing the level of ambition on pre-2020 mitigation and pre-2020 finance, technology transfer and capacity building support by developed country Parties must be fully implemented and operationalised as essential components of the Paris 2015 outcome’. It expressed concerns that since the adoption of Doha Amendment to the Kyoto Protocol, only two developed country Parties have ratified the amendment.

The African Group’s statement posted online states that ‘in streamlining (the text), Parties shall have the flexibility to draw from their own positions’. It cautioned that ‘insertions and proposals explicitly contradicting either in spirit, or literally, any fundamental principles or provision of the Convention such as CBDR in Article 4 and equity in Article 3’ ‘would only delay and protract our work and not lead us to any constructive engagement’.

On the process of appointing facilitators for focused groups, the African Group states that ‘in the formation of focused groups and the identification of their mandate, a transparent selection of facilitators in contact with their respective sub-groups is warranted. In addition an inclusive approach to the participation of the focused groups should be followed’.

On scheduling, the African Group asks of the Co-chairs to explore possibilities of ending the meetings at 6 pm to allow time for groups’ coordination meetings, and to ensure that the text to be taken forward is circulated to all Parties well before the end of the meeting to allow for the Parties’ endorsement.

On substance, the key points that the African Group submission includes are: meaningful reflection of adaptation support commitments from developed countries; inclusion of temperature goal, associated emission reduction goals, adaptation goal, with its associated finance and technology support; the Warsaw international mechanism to be anchored in the new agreement and fully operationalised to ensure that developing countries are provided with support—including finance, technology development and transfer and capacity building to address loss and damage; clear quantified targets that link the

level of support to the temperature target and stresses on the linkage of actions of developing countries and support provided to them and in line with their needs as identified by them, with a process to regularly review and update the level of support to be provided to developing countries; clarifying the sources of finance and allowing for transparency and MRV (measuring, reporting and verification) of financial flows from developed country Parties to developing countries; operationalising agreed criteria of new and additional, predictable, sustainable, adequate and burden sharing criteria among developed countries.

The **AOSIS** statement states that the 2015 agreement should be an ambitious, legally binding Protocol capable of limiting warming to below 1.5 degrees. It must address all elements of the Durban Mandate, as well as Loss and Damage and Compliance. It also says that Loss and Damage is distinct from adaptation and that loss and damage and adaptation should be treated as two separate and distinct discussions in Geneva.

The **LDCs** in their statement underscore the importance of Parties taking significant steps to reduce emissions and to ensure there is new, additional and substantial finance to underwrite this effort.

The **BASIC** countries state that the Lima decision clearly underlines that the 2015 outcome should be under the Convention and be guided by its principles and provisions. They underline that the so-called ‘self differentiation’ approach is not consistent with the Convention, nor with the Durban mandate or the Lima decision. The 2015 agreement is a vehicle to enhance the implementation of commitments in accordance with Article 4 of the Convention. This requires honouring and implementing existing commitments and responsibilities by developed countries. Enhanced action will not be achieved by shifting these to developing countries. ‘We note with concern that the pre-2020 ambition gaps exist not only in mitigation but also in adaptation and finance, technology and capacity-building support to developing countries,’ the statement reads.

The European Union (EU) in its statement at the opening plenary spelt out four issues in particular to achieve the objective of working towards adopting a legally binding agreement at COP21: (1) How to ensure dynamism in the 2015 agreement through the regular review of mitigation ambition; (2) How the 2015 agreement would deliver transparency and accountability of Parties against the mitigation commitments they will make in Paris; (3) Ensuring that the 2015 agreement delivers climate resilience

through effective adaptation; and (4) To further consider how the post-2020 regime will provide climate finance to those countries in need. It reiterated the critical importance for all Parties to come forward with ‘ambitious INDCs’ and said that it expects all ‘major and emerging economies’ to provide INDCs in the first quarter of this year.

Speaking for the **Environment Integrity Group (EIG)**, **Switzerland** said ‘the outcome of Paris needs to be a legally binding instrument containing the enduring elements of the 2015 agreement, COP decisions with dynamic and technical elements, and nationally determined contributions for the period from 2020. The 2015 agreement needs to address all relevant areas: mitigation, adaptation, means of implementation and transparency of action and support.’ It hoped ‘to leave Geneva with not only a negotiation text that is acceptable as a basis for the further negotiations by all but also a text which is further streamlined and makes clear which elements should be addressed in the agreement and which in COP decisions’.

Speaking for the **Umbrella Group** of countries, **Australia** said that the first draft text of the agreement must accurately reflect Parties’ proposals.

The text should be streamlined by removing duplication and deleting provisions that have no support and where possible improving the structure; content appropriate for a legal agreement should be distinguished from content more appropriate to decisions – that is more detailed or needs updating, overtime. It should steer away from a one-size-fits-all treatment of mitigation, adaptation, support and transparency. ‘We must give more thought to how the new agreement will interrelate with the Convention and its institutions, ensuring we do not duplicate work that will continue under the Convention post-2020, nor pre-empt how this work will evolve,’ it said.

‘We are cognizant of the decision Parties reached in Lima where we underscored our commitment to reflect the principle of CBDR-RC, in light of different national circumstances in the Paris agreement. Neither an extreme of retaining the current binary fixed approach, nor an extreme of no differentiation will be acceptable. We need to look at specific approaches that treat very different national circumstances appropriately, and encourage Parties to regularly increase their ambition and improve their transparency,’ it said.