

‘Common but differentiated responsibilities’ principle restored in COP 20 decision

Lima, 17 Dec (Meena Raman and Indrajit Bose) – The Like Minded Developing Countries (LMDC) said that the principle of ‘common but differentiated responsibilities’ (CBDR) has been restored in the Lima decision.

Malaysia, speaking for the **LMDC**, said this when it agreed to the adoption of the final decision on the outcome of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), at the UNFCCC’s twentieth session of the Conference of Parties (COP 20) in Lima on Sunday, 14 December.

Referring to the Lima decision called the ‘*Lima call for climate action*’, Malaysia on behalf of the LMDC at the final plenary of COP 20, said that as regards the CBDR principle, “there is a clear provision (in the decision) in the operational part of the text and this read together with the preambular paragraph which requires the work of the Durban Platform to be guided by the principles of the Convention, together suggests to us cumulatively that the CBDR principle has been restored and it has been given its rightful place in the context of the Convention and the work that we are going to continue” in relation to the new agreement to be concluded in Paris next year.

[Malaysia was referring to a preamble of the decision which reads “*The Conference of Parties ... Reiterating that the work of the ADP shall be under the Convention and guided by its principles*”, as well as to paragraph 3 of the decision that “*Underscores its commitment to reaching an ambitious agreement in 2015 that reflects the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), in light of different national circumstances.*”]

The issue of differentiation between developed and developing countries and how the principle of CBDR will be applied in the new agreement has been a major bone of contention among Parties in the course of negotiations under the ADP, with developed countries calling for the removal of the “firewall” and annexes of the Convention that currently reflect the Annex I (developed countries and countries with economies in transition) and non-Annex I (developing countries) differentiation.

The failure of the initial draft texts proposed by the ADP Co-chairs to reflect the principle of CBDR and equity was a “red-line” for the LMDC.

Malaysia for the **LMDC** at an earlier session of the ADP contact group to consider the draft decision text provided by the ADP Co-chairs on Friday, 12 December (which text was later rejected by many developing countries including the LMDC), said that “for a large number of developing countries, the provisions (in the proposed draft decision) were seen as undermining equity and CBDR and this was another red-line” which should not be crossed, “if we want to move the process forward”. It stressed that the “bifurcation established under the Convention such as Annex I and non-Annex I” has to be respected.

During the informal consultations conducted by the COP 20 President, Manuel Pulgar-Vidal (Environment Minister of Peru) with the various negotiating groups, it seems that the LMDC made clear that its number one key issue was the need to reflect the principle of CBDR and equity in the work of the ADP and its outcomes.

(The final language in the decision text, which refers to the principle of “CBDR-RC, in light of different

national circumstances” is the same as that agreed to by the United States in the US-China joint announcement on climate change on 12 November 2014. China is a member of the LMDC.)

During the final closing plenary of the COP in the early hours of Sunday, 14 December, **Malaysia**, for the **LMDC**, said that it had some worried moments the previous night. “We were presented with a text which was unbalanced. There were fears that it would be adopted on the basis of acclamation and that the ‘ghosts’ of the past would be resurrected,” referring to the previous COP sessions in Copenhagen, Cancun, Durban, and Doha.

Referring to the earlier draft of the ADP Co-chairs’ text, Malaysia said “that text represented an approach that would chip away at the fundamental construct of the Convention itself. We saw it as an attack on the core elements of the Convention. So, we set to work and in a way this provided solidarity (among developing countries) because the reactions were almost in unison (in rejecting the Co-chairs’ text). In that sense, that presentation of that text brought us together and perhaps for that we have to thank those who presented that text because the solidarity was forged and we worked till very late hours of the morning,” it added. “As far as our groups are concerned, we returned home at 6 am in the morning (on Saturday) and came back at 7.45 am (the same day). We understand that as we left, the African Group was still working. So the whole idea was to try and recapture the balance in the text which was lost.”

Malaysia said that it still had concerns with the final Lima decision. It said that there was no reference to Article 4 of the Convention (which refers to the differentiated commitments of developed and developing countries, including for providing finance and technology transfer). On the contribution of finance for post-2020 action, it said, “we asked for information on the annual quantitative targets” for the intended finance contribution of developed countries but “we did not get that.”

On the pre-2020 ambition, Malaysia said that the LMDC had called for the operationalization of paragraphs 3 and 4 of the Warsaw decision through a mechanism but all it got was a reiteration of the paragraphs to accelerate the full implementation of

previous decisions and not their operationalization. (Paragraphs 3 and 4 of the Warsaw decision refer to the implementation of decisions relating to the Bali Action Plan and the Kyoto Protocol.)

Malaysia said that there were “many features” in the Lima decision that “helped” the LMDC “cross our red-lines.” Apart from the reflection of the CBDR principle, on the scope of the intended nationally determined contributions (INDCs), it said there “is expression of a balanced approach” (with the INDCs not being just about mitigation) and also that “the ex-ante approach (in the consideration of INDCs) has been largely done away with.”

(In the earlier draft of the Co-chairs’ text there was a proposal for a dialogue to facilitate the clarity, transparency and understanding of the INDCs starting in June 2015, following the communication of the INDCs. This was commonly referred to as an ex-ante assessment. Many developing countries were concerned that such an assessment was not mandated for a decision in Lima, and that pending a resolution of the scope of the 2015 agreement and INDCs a review that is focused only on mitigation as proposed in the Co-chairs’ draft text would be premature and prejudicial to the 2015 agreement.)

Malaysia said that the “text is something we can accept” and “the unhappiness is something that is sufficiently marginalized as to warrant our applauding the adoption of this text.” Exhorting to developing countries to stand together, Malaysia said “we have forged solidarity of the developing world along the lines we had not seen before. Diverse as we are, we share a culture, we share a history... We ask, all of us, developing countries to come home together, come home to us.”

Commenting on the “process” of negotiations in Lima, Malaysia said that there “has been a restoration of the process”. “We have come back on an even keel and this is the kind of process we should think about, talk about and pursue. We also have a lot of work ahead to establish the 2015 agreement”.

(There is widespread concern over process in recent years, whereby major decisions of a contentious nature have been adopted through “huddles” of selected Parties or “gaveling” by the COP President in the final hours of COP sessions without the full and transparent participation of all Parties.)

To the developed countries, Malaysia urged “our negotiating partners not to be quick to suggest that we are not constructive in the overtures we make; in calling for the use of conference room papers, asking for line by line negotiations, or to ask for texts on the screen.” It said that developed countries should not “suggest that this is a subterfuge to block,” adding that “we are in the process of democratizing ... this multilateral process and let us do it in a spirit of equal partnership. The days of imposition are over. So let us do it in ways that an outcome that is fundamental is not alien to percepts of transparency, inclusiveness and respect. Let us banish, once and for all the ‘ghosts’ of the past and signal a return to multilateral decision-making where countries, large and small, rich and poor, take their rightful place in the community of nations. Perhaps, this is what we take away with us, that we have somewhat restored on an even keel this process of negotiations and this would be the spirit of Lima that has addressed a new dimension to the multilateral decision-making process.”

To the COP 20 President, Malaysia said that he had “ensured that the process is inclusive, transparent process. There were no tricks, no last minute take it or leave it texts. You treated us in language, tone and dialogue with a sense of respect, and we of course reciprocated.”

Bolivia spoke for **G77 and China** and stressed on five key issues for the 2015 agreement. It underscored the importance of principles and provisions of the Convention in the 2015 agreement, in particular equity and CBDR-RC and for the agreement to be under the Convention. Two, the agreement should be consistent with the Convention, including differentiation among developed and developing country Parties. Three, adaptation and loss and damage are key to the 2015 agreement and should be given their due space. Four, technology and capacity building are essential for the 2015 agreement and it must be clear that developed countries shall provide finance, technology development and transfer and capacity building support to developing countries. Five, the agreement must have an ambition to achieve sustainable development and poverty eradication.

Speaking for the **Least Developed Countries (LDC)**, **Tuvalu** made an interpretative statement,

which it wanted reflected in the report of the COP. It said that the reference to the Warsaw International Mechanism for Loss and Damage in the preamble of the Lima decision, and to the term “inter alia” in paragraph 2 of the decision (on the elements of the 2015 agreement) made clear the intention that “the Protocol, another legal instrument, or an agreed outcome with legal force to be adopted in Paris will properly, effectively and progressively address loss and damage in these legal options.” This statement of Tuvalu was greeted with wide applause in the conference hall. (Developed countries have throughout the Lima talks objected to the inclusion of loss and damage as a stand-alone element in the elements of the 2015 agreement, and the last version of the Co-chairs’ text had removed all reference to loss and damage.)

Commending the efforts of the COP President in carrying all Parties together, **Indian Minister of Environment and Climate Change, Prakash Javadekar** hoped that the meeting in Paris will also follow the Lima spirit. Reiterating that Parties had achieved consensus on differentiation and the continuity of the Convention, India said there will always be issues of differences. “The best way to resolve them will be to plan ahead and allocate three to four days for each substantive issue in 2015 and arrive at a working solution or consensus. Let us not leave all the differences for the very end and avoid last minute stretching and huddles,” said the Minister.

Minister Xie Zhenhua, Vice Chairman of the National Development and Reform Commission of **China** said that the Peruvian COP President had shown a “powerful and strong leadership” and that the Lima decision has laid a “good foundation for Paris.”

South African Environment Minister, Edna Molewa, spoke for **BASIC** countries (**Brazil, South Africa, India, China**) and said while some part of the decision could have been strengthened, it managed to strike a delicate balance between very sensitive issues. She also said that the Lima decision had laid a solid foundation for work in Paris next year.

The representative from **France** referring to the climate talks in 2009 that collapsed, said that in Paris, the “haunting ghost of Copenhagen can be

laid to rest”. (France is to host the next COP in 2015.)

Brazil said that the Lima spirit has inspired the route to Paris and that there is a basis for negotiations to begin on the new agreement.

The **European Union** said that the Lima talks were difficult and that it had shown much flexibility in the negotiations, as did other Parties too.

Speaking for the **Environment Integrity Group**, **Mexico** said that it was happy to send a clear signal that the ADP is moving forward.

The United States’ Special Envoy for Climate Change, Todd Stern said that the agreement delivers what is needed to go forward. “First, to put

forward INDCs well in advance of Paris; second, we agree to transparency requirements for the targets countries need to put forward in the first half of next year, to make sure that they put them forward in a clear and understandable manner; third, we agreed that Parties need to communicate their efforts to become more resilient and it would help to integrate adaptation into development planning; and four, we continue to make developments in the elements of the 2015 agreement. We now have a working document from which we can continue our conversations in February next year,” said Stern.

The next ADP session is scheduled to be held in February 2015 in Geneva.