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COP 25 was a mix of unresolved issues & some significant decisions

19 Dec, Madrid (Prerna Bomzan): The climate talks under the UNFCCC in Madrid that began on Dec 2 and ended on 15 Dec, have been hailed by many as the longest COP to date; and could only conclude with the adoption of several key decisions that were procedural in nature, for the further work to be continued next year, kicking the can down the road to COP 26.

There were also several significant and positive decisions of importance to developing countries which were also adopted. (See further details below).

Thus, COP 25 and the meetings of Parties to the Paris Agreement and the Kyoto Protocol, was therefore a mixture of unresolved important issues (to be worked on later), with also some significant decisions that were finally adopted.

The joint closing plenary of COP 25 also included the 2nd session of the Conference of Parties to the Paris Agreement (CMA 2) and the 15th session of the Kyoto Protocol Parties CMP 15).

The main reason for the delays in arriving at decisions was over the deep divide between developed and developing countries on several key issues such as finance, the Warsaw International Mechanism on Loss and Damage (WIM), Article 6 of the Paris Agreement (PA) on markets and non-market approaches and the overarching cover decisions of the COP, CMA and the CMP. (Please see TWN Update 17 https://twnetwork.org/climate-change/climate-conference-ends-amidst-major-north-south-differences).

Until the morning of 15 Dec, there was little clarity on whether the talks would result in conclusive outcomes or whether it will end without any agreement among Parties. Several sticky issues remained until the final hours. Closed-door ministerial-led informal consultations on these issues continued through the nights of 13 and 14 Dec, even as the COP Presidency convened stocktakes to apprise delegates of the state of progress of the negotiations and to urge Parties to find common ground.

During the last two days of the COP, a senior negotiator lamented that the process was unclear with "no transparency at all". According to the delegate, the Presidency and ministers who were facilitating the consultations were cherry picking Parties for discussions, and some delegations did not even have access to the rooms where consultations were taking place.

Another developing country delegate complained that his government "had very little idea of what was going on," and that it appeared that "a concerted effort was being made to accommodate the interests of the United States (US), even though it was on its way out of the PA"

Several observers likened the process to the "green room-style" negotiations in Copenhagen, where only a selected set of delegations were consulted, which led to the collapse of the Danish talks in 2009.

In fact, at a stock-taking plenary convened by the Chilean COP President close to mid-night on Sat, 14 Dec, the delegate from **Papua New Guinea** voiced his concerns and lamented that "in order to reach consensus, the process has to be transparent and with 90 per cent of the countries not actively involved in the last six hours, that will not lead to consensus", adding that "this is a global problem which needs a global solution and every country present here needs to feel that they can

contribute". The delegate urged the Presidency for the process to be open and transparent involving every country and stakeholder.
As the days and hours went by well over Sat, Dec 14, and spilling over to Sunday, Dec 15, and with no announcement as to when the COP would close, there was a sense of crisis over the process, with concerns over whether there would be any outcome at all, and that if there were outcomes, whether they would be weak once again to accommodate the interests of the US in particular, and to save the multilateral process.

COP 25 was also loosely referred to by some delegates as a COP of 'Rule 16', referring to the UNFCCC Rules of Procedure, where if an item on the agenda of a session's consideration has not been completed at the session, it shall be included automatically in the agenda of the next session.

Rule 16 was applied to 15 important agenda items that included the following: long-term climate finance; common time frames for nationally determined contributions (NDCs); report of the Adaptation Committee; rules for the operation and use of a public registry relating to NDCs as well as adaptation communications; revision of the UNFCCC reporting guidelines on annual inventories for Parties included in Annex 1 to the Convention; several issues related to the PA transparency framework; procedures for the Clean Development Mechanism; and report on the high-level ministerial round-table on increased ambition on the Kyoto Protocol commitments.

As regards Article 6, a procedural decision was adopted that tasks the Subsidiary Body on Scientific and Technological Advice (SBSTA), to further consider and recommend draft decisions to be adopted at CMA 3 next year, on the basis of the proposed texts by the Presidency in Madrid (recognizing that there was no consensus on these texts).

Perhaps, the most positive and notable outcome of the talks was on the matter of the WIM, largely to due to the strong unity of developing countries under the G77 and China.

Also significant and important are the decisions adopted on the 'Scope of the 2nd periodic review of the long-term global goal under the Convention and of overall progress towards achieving it' and the 'Workplan of the Forum on the impact of the implementation of response measures'. (See below for further details).

Other decisions which were adopted with substantive outcomes, although weak in some instances included: the; the enhanced Lima work programme on gender and its gender action plan; National Adaptation Plans; guidance to the Global Environment Facility; guidance to the Green Climate Fund; the report of the Standing Committee on Finance; and the report of the Adaptation Fund Board.

Long-term climate finance

One of the most crucial and protracted issues of the negotiations to which Rule 16 was applied was on long-term climate finance (LTF).

When the COP Presidency presented for adoption the draft decision on the LTF under the COP, **Egypt** on behalf of the **Africa Group** pointed out "an inconsistency" in the proposed decision text (in relation to para 13). Egypt said that Parties "are seeing two different documents for the same agenda item" referring to the first document which was available online in which para 13 read as "*Affirms* the importance of climate finance and *decides* to continue discussion on this matter under the COP".

However, the first document was mysteriously "updated" with another latest version for adoption in which para 13 contained much weaker language and reads as "*Notes* the importance to the COP of continued discussions on LTF and *decides* to consider the matter at its 26th session".

Egypt asked the COP President for clarifications on the matter, stressing that the earlier version of para 13 which "affirms" and "decides" the continued discussion of LTF was the "agreed" language in the informal consultations held during the previous night and which was initially presented to Parties morning of Sunday. The Secretariat responded that "the file that was uploaded earlier was a "technical error" and that "the correct file is that which was uploaded now" and was the document at hand for consideration.

Switzerland for the **Environmental Integrity Group (EIG)** thanked the Secretariat for the clarification and was "happy to go along the lines after clarifications". The **United States (US)** echoed Switzerland and clarified that its understanding of para 13 of version for adoption was "simply that the COP will continue to discuss issues of climate finance and not that this (LTF) agenda item will continue in the next session".

The **Africa Group** took the floor again reiterating that this text (para 13 of the version for adoption) "is not the language that we understand was agreed". It further made the case that previous intervention (of the US) "specifically speaks to the same language" of "affirming" the continued discussion on climate finance and called for the earlier language to be reinstated in the document. **Nicaragua** spoke in support of the **Africa Group**, calling "to revert to the language which we negotiated and which we saw previously and not this last minute change of language". **Malaysia** for the **Like-Minded Developing Countries (LMDC)** also took the floor in support of the **Africa Group.**

Switzerland came back again appealing not to start changing "the agreed text" and drew attention to the fact that the plenary was fast losing quorum (as delegates were already leaving Madrid). It was backed by **Canada, Japan** and the **US**. **Japan** said that "there was no conclusion last night" and that the "draft text reflects exactly the argument of last night".

Noting the differences in understanding of agreed language in this regard, and with no conclusion in sight, the **COP President, Carolina Schmidt,** decided to apply Rule 16 stating that "this would be an agenda item for the next COP".

Egypt for the **Africa Group** delivered a highly impassioned response remarking that "it is a very unfortunate and disappointing decision and this is not the first time during this COP. The Africa Group has highlighted concerns and disappointment on items related to finance, capacity building and technology transfer which are the means of implementation that countries will need, to implement the PA and the Convention". "We are not even agreeing to affirming the importance of climate finance and this is really becoming worrisome for a lot of countries", it said and reiterated that "we are very worried about not even affirming a very benign language of affirming and continuing discussions" on the crucial issue.

Egypt further said that "colleagues who cannot agree with affirmation to consider that when they ask Parties to raise their ambition, when they ask Parties to take more actions, when they ask developing countries to be more transparent (in their reporting), when they ask developing countries to pay more from their pockets for adaptation, when they ask Parties to join the markets because it's much easier mitigation for some" that "it is very unfortunate the message that we are sending in a COP that is calling for ambition and that we are not even able to affirm or even decide to continue discussions on climate finance".

It added that "we fully ratified the PA, and we did not walk out of the PA" elaborating that they were "committed to the PA and the Convention and we are not backsliding on the commitments but it seems this is not the same from all Parties". It also underlined further that "colleagues and Parties who are calling for more ambition, who are saying environmental integrity is the core and that are calling for climate emergency, if you are not in line with discussion on climate finance or not in line with affirmation of climate finance, please relook at your positions".

"We are not here for nice statements and nice words but to work and make sure that we deliver the right package to enhance the ambition and have things moving forward and it is obvious that when it comes to technology transfer, capacity building and finance, we have very limited space (in the process) to even discuss it or even affirm it", Egypt underscored strongly and requested to "put on record" that "we will engage in this agenda item again but not with very benign language just calling to 'affirm' or a simple 'request' to continue discussion but with very strong language and we will make it very clear in the coming discussions that when we talk about adaptation finance and markets, it has to be done and when we talk about climate finance in general, it should be done. It is as important as mitigation because it is the core component for any ambition, particularly for Africa", Egypt concluded.

Saudi Arabia, speaking for the **Arab Group** also expressed disappointment, stressing that when addressing the issue of ambition, it cannot only be about ambition in mitigation, but must also be about ambition in adaptation and on the means of implementation. It added that it was unfortunate that "developed countries talk the talk but they do not walk the walk" and do not deliver on their commitment in providing finance, recalling that they have a "historical responsibility" for doing so, as a "debt" to be paid to developing countries to adapt, enhance their resilience and to contribute to mitigation if there are sufficient, adequate and predictable finance provided to them. It also said that it was unfortunate that the LTF decision was being contested and developing countries do not get anything in return on climate finance although they have agreed to a para on raising ambition under CMA decision, adding that this is not being genuine about climate action, and was not the right message being sent.

Argentina, speaking for itself **Brazil** and **Uruguay** also expressed disappointment. **Uruguay** expressed concerns that Parties cannot talk of enhancing ambition without finance, a message also expressed by **Malaysia** for the **LMDC. Maldives** said that "a COP of action without finance is a COP of inaction". **Bhutan** for the **LDCs** and **Belize** for the **AOSIS** also expressed disappointment over the application of Rule 16 and that not enough attention was being given on finance.

The **European Union (EU)** said that "in this decision about whether or not to have a conversation on LTF, that conversation will continue under the Convention as well as the PA, and that "we will continue to have the conversation without the need for having it right now".

Egypt for the **African Group** welcomed the EU statement "in confirming that the discussion will continue," on "the importance of climate finance be it under the Convention or the PA" and also expressed appreciation for those developed countries who have "doubled their climate finance".

Warsaw International Mechanism for Loss and Damage (WIM)

The draft decision on WIM and its 2019 review was adopted both under the COP and the CMA, with pending conclusions on the governance of the WIM (on whether it is under the authority of the COP or the CMA or both), which was a contentious issue. The decision in this regard is for the consideration of the governance issue to be taken up at COP 26 next year.

Both the COP decision as well as the CMA decision carries a footnote which reads as follows: "It is noted that discussions related to the governance of the WIM did not produce an outcome; this is without prejudice to further consideration of this matter".

Egypt for **Africa Group** made clear and asked to "put on record" that "this decision (under the CMA) does not prejudge the discussion that is happening on governance (under the COP)" and that "this does not mean the issue of authority is a done deal" and that the discussion on governance will continue and it also expects that the "same decision" under the COP as would be adopted under the CMA as these decisions come in a "package" stressing that "our adoption of this (decision under the CMA) is conditional on the adoption of the same under the COP".

Palestine for **G77 and China** echoed Egypt on the outstanding issue of governance and further highlighted concerns over para 32 of the CMA decision (which reads: "*urges* the scaling-up of action and support, as appropriate, including finance, technology and capacity-building, for developing countries that are particularly vulnerable to the adverse effects of climate change for averting, minimizing and addressing loss and damage …"). Palestine clarified that in previous iteration of the draft decision, there was specific reference to "developed countries" as in "*urges* developed countries….." which was now revised to the current adopted text that only contains a generic language without reference to where financing comes from.

The G77 stressed that "both the Convention and its PA specifically commits developed countries to provide finance and other support to developing countries, and this will be our understanding of this paragraph", it underscored. Furthermore, it also made sure that the "same decision" under the COP be adopted.

Tuvalu requested to "put on record" it's "clear understanding" that in adopting the CMA decision, this does not suggest that the COP does not have an ongoing role in the operation of the Executive Committee of the WIM and its implementation of the work programme. "The COP established the WIM and nothing has extinguished this role", it underlined, further clarifying that both the COP and the CMA "will have joint responsibility" to address loss and damage "hereafter".

Tuvalu also made another "observation" in an apparent reference to the US that "during the consultations over the last two weeks, we have had one Party who has been insisting that the WIM operates solely under the PA. Ironically or strategically, this Party will not be a Party to the PA in 12 month's time. This means that if they get their way with the governance of the WIM (as being only under the CMA), they will wash their hands of any actions to assist countries which have been affected by the impacts of climate change. This is an absolute tragedy and a travesty on those affected by impacts of climate change. There are millions of people all around the world who are already suffering from impacts of climate change. Denying this fact could be interpreted by some to be a crime against humanity", said Tuvalu to a loud round of applause.

Belize for the **Alliance of Small Island States (AOSIS)** said that the "AOSIS has been pushing the issue of loss and damage since the beginning of the Convention back in 1992", adding that it was "good to see it is gaining maturity and expects further action under this agenda item in the future". "We also hope that the COP will adopt a similar decision", it said.

Malaysia for **LMDC** also expressed concerns over para 32 of the decision which it said "diluted the original intent and responsibility of developed countries to fund loss and damage" based on the "Convention" which states that "developed countries are responsible for historical emissions and impacts of climate change". It strongly supported loss and damage as being "distinct" from adaptation as it "adds burden to developing countries now being encouraged to increase ambition". Said Malaysia further, "ambition in emissions reductions, without adaptation funds and in the presence of loss and damage, is extremely difficult to do". On the issue of the governance of the WIM, it expected the decision to be taken under the COP as well.

Bhutan for the **Least Developed Countries (LDCs)** highlighted a "strengthened WIM" to respond to loss and damage which is "already being felt in our countries". It stated its understanding that the WIM is "governed by both the COP and the CMA" and hoped that the issue of governance will be taken up in the next session.

After the COP draft decision on the WIM was adopted, **Palestine** for **G77 and China** reiterated its position on the issue of governance being continued to be undertaken at the COP 26 and requested its statement to be put on record. **Tuvalu** also requested to put on record its previously stated position on the WIM governance, and expressed disappointment that a "parallel" decision could not be achieved under the COP.

The COP draft decision that was adopted in this regard only carries two paragraphs, the first one which "*notes"* the CMA decision and the second one which "*also notes*" that the issue of governance will continue to be considered at COP 26.

Article 6 of the Paris Agreement

The CMA President **Schmidt** expressed regret that after all the "hard work" done, "we could not get to an agreement on this important article". The three draft decisions with respective annexes are all in "brackets" (not agreed) pertaining to Article 6.2 (guidance on cooperative approaches); Article 6.4 (rules, modalities and procedures for the mechanism established) and Article 6.8 (work programme under the framework for non-market approaches).

The overarching CMA decision on Article 6 "*notes*" the draft decision texts "prepared" by the CMA President while "recognizing that these draft texts do not represent a consensus among Parties". The decision "*requests*" the SBSTA to "continue consideration" of the matters related to Article 6 at its 52nd session (June 2020) on the "basis" of the draft decision texts with a view to "recommending" draft decisions for consideration and adoption by the CMA at its 3rd session (Nov 2020).

The draft decision texts of the CMA President are contained in a footnote of the decision adopted which refer to "three iterations" of the texts: first iteration of 13 Dec; second iteration of 14 Dec; and a third iteration of 15 Dec.

Egypt for **Africa Group** said a "lot of effort" was put in to operationalise Article 6 but were in vain. It requested to "put on record" the "strong position" of its group and hoped through next negotiations to get a "strong confirmation to the commitment for adaptation finance" especially through the Adaptation Fund (AF). It also wanted all the various iterations of the draft decision texts to be reflected in the final decision to be adopted.

Japan expressed deep regret despite its "constructive proposals to find common ground". It emphasised that "market mechanisms are crucial instruments for raising ambition and promoting actions" and shared its "firm intention" to apply the principles of "enabling higher ambition in mitigation and adaptation actions, ensuring environmental integrity by avoiding double counting through application of corresponding adjustments, enhancing transparency through a robust reporting and review cycle and avoiding the use of pre-2020 units for real, verified and additional global emission reductions".

Malaysia for the **LMDC** highlighted that the AF and adaptation measures have been "historically under-represented and under-funded" and "fully expected that Article 6 will help change this by bringing in much needed adaptation funding to Parties that most need it". It reiterated that participation in Article 6 activities should be "completely voluntary" and should allow both developed and developing countries to achieve their respective NDCs.

Argentina said that though it was disappointed by the outcome, it is the "best decision to find common ground to ensure environmental integrity". It stressed the importance of the AF for the whole Latin American region due to its access without restrictions and further added that "ensuring the share of proceeds from both Articles 6.2 and 6.4 is of utmost is of importance to us".

Brazil expressed frustration that there was no final agreement, but sensed a "real movement" in the negotiations so the "glass is half full". It also stressed the importance of adaptation funding. It also wanted a reflection in the footnote to all the various iterations of the texts, as there was not enough time to "discuss fully and exhaustively all those different iterations".

The **European Union (EU)** said it was "most disappointed" due to the "collective inability to find the right compromises and the right solutions" but concurred with Brazil and Egypt that enormous amount of work was done. It also supported the proposal for all the iterations of the texts to be reflected and that the "interpretation to be put on record" was that "the use of documents will necessarily have to include reference to the different levels of maturity in the course of the discussions". It also said that the absence of rules to operationalise Article 6 does not prevent the PA from functioning and for Parties to have international carbon markets, adding that "operational rules would make the movement "faster and better organised".

Switzerland for the **Environmental Integrity Group** said that to "enhance mitigation actions, the rules of Article 6 have to be robust and have to ensure environmental integrity". It recalled the 'San Jose Principles' (for 'High Ambition and Integrity in International Carbon Markets') and in the absence of international agreed rules, it commits to applying robust rules that will avoid any form of double counting, ensure environmental integrity and it will also not use pre-2020 units to achieving its NDC.

Costa Rica for the **Independent Alliance of the Latin America and Caribbean (AILAC)** said although it was disappointed, there was progress and highlighted "moves of flexibilities" which had not been seen before. It stressed on AILAC's long history of firmly supporting robust accounting, environmental integrity and ensuring progression of NDCs both in their scope and ambition. It also invited Parties to join the San Jose Principles.

India said that the eluded consensus has been rightly captured in the draft decision and that "substantial progress" was made to enhance understanding of technical issues on the markets, assuring "continued engagement" in a constructive and fruitful manner.

New Zealand said that "real progress" has been made which to some extent has been captured in the reference of the footnote in the decision text.

Belize for **AOSIS** appreciated emphasis on the delivery on overall mitigation in global emissions and was happy to engage in the "last (iteration of the) text" as it may not be helpful to have multiple texts on the table.

Senegal said that the market mechanisms must bring increased ambition in mitigation and financing to meet the adaptation needs of the most vulnerable countries. It stressed on ensuring protection of the environment, sustainable development and avoiding double counting while developing the rules of Article 6.

Bhutan for **LDCs** shared its expectation for robust rules that ensured environmental integrity and overall mitigation in global emissions while providing resources for adaptation.

Tuvalu hoped that it would be given the opportunity to return some language that protects human rights and the rights of indigenous peoples.

South Africa said that it was crucial to have markets that have high environmental integrity and avoids double counting as well as delivers high mitigation and adaptation ambition.

Canada and **Australia** expressed disappointment but said that the current text now provides good basis to continue negotiations. **South Korea** said even though consensus could not be reached it should not discourage climate actions and more efforts are needed for more active and constructive actions.

Scope of the 2nd periodic review under the Convention

On the scope of the second periodic review, in the decision adopted, Parties agreed that it should be "in accordance with the relevant principles and provisions of the Convention and on the basis of the best available science: (a) Enhance Parties' understanding of: (i) The long-term global goal and scenarios towards achieving it in the light of the ultimate objective of the Convention; (ii) Progress made in relation to addressing information and knowledge gaps, including with regard to scenarios to achieve the long-term global goal and the range of associated impacts, since the completion of the 2013–2015 review; (iii) Challenges and opportunities for achieving the long-term global goal with a view to ensuring the effective implementation of the Convention; and (b) Assess the overall aggregated effect of the steps taken by Parties in order to achieve the long-term global goal in the light of the ultimate objective of the Convention."

Parties also agreed that "the outcome of the second periodic review will not result in an alteration or redefinition of the long-term global goal stated in decision 10/CP.21" (which refers to "the goal is to hold the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels).

Developing countries have been insisting on a review of the overall progress and implementation of actions of Parties in the pre-2020 period under the Convention and the Kyoto Protocol, while developed countries have been opposing the need for such a review.

Forum on Response Measures

On the issue of the work of the 'Forum on the impact of the implementation of response measures', there was a successful and positive outcome, following earlier opposition by developed countries in agreeing to adopt a workplan for the Forum.

Parties were able to reach agreement in adopting the workplan to enable the Forum to begin its work. The workplan is contained in an annex to the decision adopted.

In addition, Parties also reached agreement in adopting the 'rules of procedure of the Katowice Committee on Impacts of the Implementation of Response Measures' which is contained in an annex to the decision.

(Further decisions which were adopted in relation to finance matters will be in a forthcoming article).