



Proposals on decision-making process and UNFCCC amendments referred to COP 23

Marrakech, 17 Nov (Zhenyan Zhu) – Consideration of a proposal related to decision-making in the process of the United Nations Framework Convention on Climate Change (UNFCCC), and two others on amending specific provisions will continue at the next session of the Conference of the Parties.

These three proposals, that were tabled several years ago, were addressed in informal consultations at the 22nd session of the UNFCCC Conference of the Parties (COP 22) that is taking place in Marrakech, Morocco from 7 to 18 November. Parties have agreed to refer them to the COP 23 in 2017 for discussions to continue.

Below are the highlights of the informal consultations on 12 and 14 November.

Decision-making in the UNFCCC process

This is item 17(c) in the agenda of COP 22 and was dealt with in the informal consultations on 12 November.

[At COP 19 in Warsaw in 2013, the Russian Federation had proposed a new sub-item on “Decision making in the UNFCCC process” under the agenda item on “Administrative, financial and institutional matters”. In the 39th session of Subsidiary Body for Implementation (SBI) in Bonn before COP 19, a similar proposal to include this matter on agenda item of SBI was also made by the Russian Federation, Belarus and Ukraine.]

The Russian Federation first took the floor and said that compliance with the rules of procedures is essential to the legitimacy of the legal standing of the COP and CMP (COP serving as the Meeting of Parties to the Kyoto Protocol) and in the future for CMA (COP serving as the Meeting of Parties to the Paris Agreement) decisions.

It said that in the past years, many Parties were dissatisfied with the procedural issue and poor

transparency, and many actions and non-actions either by the Secretariat or by the presiding officers caused lots of problems. It gave a few examples to illustrate this point. One example was the incident that in May 2016 during the 44th session of SBI where the closing plenary was carried out and some Parties requested to speak from the floor before adopting the decision but the floor was not given; there was unnecessary delay to the closure of the SBI because of the unwillingness of both the Secretariat and the presiding official.

Another example was the preparatory process for Marrakech. The Russian Federation stressed that it is clearly said in the rules of procedures that the provisional agenda in the official language should be delivered at least 6 weeks before the opening of the conference. “At our ministry of foreign affairs, the agenda for the COP was not available in our official language as of 15 October; it was only posted on the 17 October, 3 weeks before the COP, which is a clear violation of rules of procedures”, it said, adding that, “we need safeguards to avoid those inappropriate happenings.” It said the item is still valid and it is a prerequisite and legitimate to maintain the legitimacy of the system.

Belarus said in the past we face ‘untransparency’ and undue decision-making, and “we think this issue is important and support the Russian Federation and others who are striving to improve the rules of decision-making process.” It stressed that it becomes more relevant for the future decision-making process under the CMA.

The European Union (EU) said it found the informal consultation a useful dialogue on the conduct and responsibilities of the (COP) President or presiding officers and the Secretariat, and a good format to look into the principles of openness and transparency and the possibility for

further improvement. However, the EU also opined that this process has its set of complexities and needs to adapt to circumstances and the informal consultation is living up to inclusiveness and openness and transparency. The EU preferred not to have a conclusion on this item at the current COP 22.

Ukraine said the decision-making is very important, especially considering that we are now in the Paris Agreement and all Parties agreed that the lessons learnt in previous experiences should be taken into account for transparency and smooth work to be continued.

The Russian Federation again took the floor and said that there is necessity for the continuation of the discussion though we have the version of what would ideally be the outcome of the decision; the common ground gives us the possibility to discuss the issue of transparency. “It is our firm belief that we have to continue; we are quite mindful that we need to focus on the substantive work to be done to elaborate the rulebook of the Paris Agreement to make it operational; we would like to suggest that we take into account the exceptional situation and this time we don’t envisage the consultation for Bonn (at the next SBI meeting in 2017) but continue this item at the next COP,” it said.

As no further request came from the floor, the Chair took it that Parties agreed to the Russian Federation suggestion and he will report to the COP President to continue consultations at COP 23.

Proposal from the Russian Federation to amend Article 4 paragraph 2(f) of the Convention

The proposal from the Russian Federation to amend Article 4, paragraph 2(f) of the Convention is agenda item 5(a) of COP 22 and it was addressed in informal consultations on 14 November.

[The UNFCCC Secretariat received a letter from the Government of the Russian Federation on 24 May 2011, which sets out a proposal for an amendment to Article 4, paragraph 2(f), of the Convention. The Russian Federation proposed that to add a new sentence after the words “*with the approval of the Parties concerned*” in the sub-paragraph concerned, that reads: “A further review of amendments to the lists contained in annexes I and II shall be conducted on a period basis as determined by the Conference of the Parties until the objective of the Convention is achieved”.

Article 4.2(f) reads: “*The Conference of the Parties shall review, not later than 31 December 1998, available information with a view to taking decisions regarding such amendments to the lists in Annexes I and II as may be appropriate, with the approval of the Party concerned*”.

Annex I is the list of developed country Parties and Parties undergoing the process of transition to a market economy that has UNFCCC obligations to undertake mitigation actions. Annex II is the list of developed country Parties and other developed Parties that have financial obligations, including for transfer of technology, to developing countries for the latter to implement key UNFCCC obligations.]

The **Russian Federation** was of the view that the proposal and the agenda item is still relevant but it understands the real situation in Marrakech that a number of informal consultations, contact groups, meetings and plenaries under the five bodies are meeting, so it suggested that the Chair report to the COP President that the Russian Federation made a proposal to hold this agenda item in abeyance.

There was no objection from Parties and the Chair will accordingly report the President to refer this agenda item to the next COP and concluded the informal consultation.

Proposal from Mexico and Papua New Guinea to amend Articles 7 and 18 of the Convention

The proposal from Mexico and Papua New Guinea to amend Articles 7 and 18 of the Convention is agenda item 5(b) of COP 22. The informal consultation was held on 14 November.

(Article 7 of the Convention deals with the role and functions of the COP which include adopting decision-making procedures such as the majorities required for adoption of particular decisions. Article 18 is about the right to vote.)

At the beginning of the informal consultations when the proponents of this agenda item, Mexico and Papua New Guinea, were not present in the meeting room, the Chair asked Parties whether to wait for the proponents or put this agenda item to the next COP but the Chair needed to check with the proponents.

Saudi Arabia requested the Chair to have consultations with the proponents and said if proponent Parties do not insist, then maybe we do not need to discuss this agenda item again and therefore take out the agenda item. **Egypt** suggested that the Chair have consultations with the proponents but said it is wise to put this item on the agenda of the next COP.

The Chair then proposed to put it in the agenda of COP 23 but needed to check with Mexico and Papua New Guinea and take their views.

Saudi Arabia responded that, we would not say we will not accept your suggestion but you need to consult with the proponents on two things: whether they continue to have serious discussion on the item and whether to consider to take this agenda item out, because the Parties who proposed the item are not in the room, which might be a signal that (the issue) is not important any more. Therefore it requested the Chair to also consult with the proponents that there is a proposal from Parties to take the agenda item out.

When the Chair announced to have another meeting on 15 November, a Mexican delegate came into the room and expressed that they want to have the item on the table but explained that this is a technical issue and she was waiting for her lawyer.

Venezuela agreed with Saudi Arabia to take this item out of the agenda.

Mexico said it is important to remind ourselves that rules of procedures as to how to move forward is an important topic, and stressed that it is not something to be delayed or something for the next COP. **Colombia** supported Mexico's position.

Saudi Arabia responded to Mexico by referring to previous experiences of the COP, saying that we have successive COPs, like Paris where consensus was achieved and we are also optimistic that this COP would have a good outcome, so we do not see a need for such an interruption in the process.

Mexico insisted that since the proposal was presented with Papua New Guinea, the item should be moved to COP 23 until delegates of Papua New Guinea are with them.

Given that Parties have different views on this agenda item and are not ready for another informal consultation during this week, the Chair referred to Rule 16 of the Draft Rules of Procedure of the Conference of the Parties and its Subsidiary Bodies that provides "any item of the agenda of an ordinary session, consideration of which has not been completed at the session, shall be included automatically in the agenda of the next ordinary session, unless otherwise decided by the Conference of the Parties". The Chair concluded that the item should be included to the agenda of the next COP.

(The rules of procedure of the COP and its Subsidiary Bodies are still in draft form due to lack of consensus on the voting majorities in Rule 42.)

Edited by Chee Yoke Ling