

APA begins substantive work in facilitated groups

9 November, Marrakech (T Ajit and Meena Raman) — The Ad Hoc Working Group on the Paris Agreement (APA) began substantive discussions by launching informal consultations on 8 November.

The annual year-end climate talks under the UN Framework Convention on Climate Change (UNFCCC) are taking place in Marrakech, Morocco from 7-18 November.

On the morning of 8 November, the APA convened a contact group, where the **Co-chairs Sarah Baashan (Saudi Arabia) and Jo Tyndall (New Zealand)** provided Parties with additional details on the organization of the work as well as work of the informal consultation groups.

(On November 7, the APA Co-chairs had taken Parties through the organization of the work during the opening of the APA. See [TWN Marrakech News Update 2: Parties provide views on work of Ad Hoc Working Group on the Paris Agreement](#).)

Tyndall said since the time available to APA was limited, it was critical to initiate focused discussion on the outset about what Parties want to achieve at APA and reach common understanding of scope and deal with broad issues by the end of the APA work at Marrakech. She informed Parties that the APA would convene the second contact group on 10 November, where the APA would consider all the items, including crosscutting issues, and the direction of the technical work (to the informal consultation groups) would be adjusted as necessary. The contact group would also discuss the outcomes of the session, which would depend on how the discussions were proceeding in the informal consultations.

Tyndall further said that the APA would convene additional contact group meetings if the need arose. The plan for the co-facilitators is to

finish work by 12 November. The APA closing plenary is scheduled for 14 November.

On the outcome of the session, Tyndall said APA needed to demonstrate tangible progress. She said she hoped to have all the items under the agenda to be fully scoped along with the key questions to resolve and agree on a way forward to progress on APA's work. She said that the informal consultations were scheduled for an hour each and that there would be at least four such informal consultations for each of the agenda item. She added that there may be room for a little more but that would depend on the outcomes from these sessions.

She also said that given the substantive content of the different items under discussion, facilitators may need to use different approaches to capture the outcome and the outcome would be according to the will of the Parties. In providing guidance to the co-facilitators, Tyndall said that the co-facilitators should use Parties' submissions, the scenario note and any further ideas from the Parties as a starting point for discussions. She also said that the second set would be to have a set of questions. The co-facilitated sessions are expected to capture progress of work and the facilitators should remain clearly guided by the PA and the COP21 decision that adopted the PA (decision 1/C.P.21).

Responding to some Parties requests that the APA continues its work in the second week, Tyndall said that making space to allow for technical level discussions during the second week was logistically feasible, but with the consideration that the approach would be to coordinate with the subsidiary bodies of the UNFCCC and enable all Parties' participation. "There is an absolute need to conclude formal work by end of Monday, 14 November. The APA closing plenary will be held on Monday.

Any further consultations or discussions would not have any formal output. If technical experts are ready to work post-Monday, we could consider such informal technical expert meetings or informal technical expert dialogues. We will discuss this further at a bureau meeting later today,” she said.

Following the contact group, informal consultation sessions on various issues started. Below are some highlights of the informal consultations.

Nationally determined contributions – features, information and accounting

The session was co-facilitated by **Sin Liang Cheah (Singapore)** and **Gertraud Wollansky (Austria)**. Wollansky said they wanted to seek clarity on the understanding of Parties on the issues that needed to be resolved.

Differences arose during the discussions among Parties related to the scope of the nationally determined contributions (NDCs) and on differentiation between developed and developing countries.

China for the Like-minded Developing Countries (LMDC) said the starting point was not to renegotiate the delicate balanced achieved in Paris. It said that any further guidance must be based on the implementation and operationalization of the provisions of the PA and not to reopen discussions on the provisions themselves. China also said that there is a need to address and identify – not resolve – two crosscutting issues. First is the issue of the scope of the NDCs, and the second issue is differentiation, said China.

China added that the scope of the NDC is very crucial and it would determine the scope of transparency as well. On differentiation, it said reflecting differentiation in the features, information and accounting is very important because that would decide Parties’ future common journey. China added that a clear understanding of these two issues would enable an easier entry into technical discussions.

China also said that there were three very clear features: full scope as outlined in Article 3 of the Paris Agreement (PA), differentiation as in Articles 4.4, 4.5, 9 (finance), 10 (technology), 11 (capacity building) of the PA; and the nationally determined nature of the NDCs.

(Article 3 of the Paris Agreement reads: *As*

nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.)

China also said that when it comes to elaborating further guidance, there should be two sets of guidance, one for the developed countries and one for developing countries. In the PA, there is clear differentiation between developed and developing countries in a clear and concise manner and therefore, there is need for two sets of information, said China.

Wollansky responded that she would refer the crosscutting issues mentioned by China to the APA Co-chairs.

Saudi Arabia for the **Arab Group** said it is important to first have a common understanding on the scope of NDCs and added that covering the full scope of NDCs (mitigation, adaptation, means of implementation) was really important.

Saudi Arabia also stressed that differentiation needs to be maintained. It said that Parties should be allowed to do as much as they could instead of putting them in a straitjacket. It also said that there are strong links between action and support. Developing countries have submitted that they cannot achieve climate action without support from developed countries. This needs to be clearly reflected and common understanding needs to be arrived at before delving into technical discussions, said Saudi Arabia.

Colombia for the **Independent Alliance of the Latin America and Caribbean AILAC** said that of the NDCs presented, there were 5 or 6 types at best. It suggested the need to develop some questions for each type of NDC to explain and understand the NDCs better. It said that is a good way to start a conversation to see what type of NDCs are out there and how to develop them, said Colombia, referring to the NDCs in the mitigation context.

New Zealand said the scope of the NDCs did not belong to the issue under discussion (referring to the view that the discussion should only relate to the issue of mitigation). It said that everyone knows that the outcome on differentiation under Article 4 was a very fine

balance in Paris. It said that formulations such as “All Parties shall ...” and “Parties shall account for their NDCs ...” already address differentiation and that it is already reflected in the notion of national determination. It also said that a differentiated approach in accounting would not be helpful to bring the PA to life.

The speakers’ list could not be completed due to time constraints and the remaining speakers on the list will offer their reflections when the session resumes on 9 November.

Transparency Framework

The informal consultations on the modalities, procedures and guidelines (MPGs) for the transparency framework for action and support is being co-facilitated by **Gao Xiang (China)** and **Andrew Rakestraw (United States)**.

The Co-chairs presented the following questions to guide Parties: (i) What should be the key elements for the MPGs for the transparency framework? (ii) With respect to elements identified under question (i), how should experience from the existing measurement, reporting and verification (MRV) arrangements under the Convention inform the MPGs and how should flexibility for those developing Parties that need it in light of their capacities be reflected? (iii) How should we organise work in 2017 and 2018 to ensure that the MPGs are finalised on time.

Singapore speaking for the **G77 and China** said Parties should leave Marrakech with a work plan which will guide the work going forward.

Among the points that could be included in the work plan is developing the MPGs for the “shall” and “should” information requirements as reflected in Article 13 (7)(a) and (b), (8), (9), and (10), recognising that only the “shall” requirements under the enhanced transparency framework will be subject to technical review, said Singapore.

It also called for ensuring that work progresses in a balanced manner across all elements of the enhanced transparency framework resulting in comparable outcomes with regard to transparency of action and transparency of support, recognising that transparency of support still needs robust measurement and verification mechanisms comparable to those which are established for transparency of action.

The G77 said that work should be guided by the key principles that includes the following:

(i) The fundamental and most important principle of flexibility for developing countries in light of their capacities. This flexibility will apply to all aspects of the enhanced transparency framework, namely the reporting, review, and multilateral consideration aspects. There is also a distinction between flexibility due to capacity and applicability of guidelines due to national circumstances; (ii) The principle of building on the existing transparency arrangements under the Convention; (iii) The principle of enhancing the existing transparency arrangements under the Convention; (iv) The principle of ensuring support is provided for developing countries to participate in the enhanced implementation of actions to achieve the purpose of the Agreement.

Singapore added further that the modalities of work could entail a call for focused submissions, with technical papers and workshops being prepared and convened accordingly.

Algeria speaking for the **LMDC** said that the mandate is to develop common MPGs “as appropriate” for the enhanced transparency framework for action and support, which does not necessarily mean a single set of MPGs.

The LMDC said separate MPGs for developed countries and developing countries are the current practice, and is a better approach to reflect common but differentiated obligations of developed and developing countries Parties under the PA, and the flexibility to be provided to developing countries. It also said that the current transparency framework under the UNFCCC and its Kyoto Protocol must be kept.

It stressed that phrase “progress made in implementing and achieving its NDC under Article 4” must be interpreted together with Article 3 of the PA, which is not mitigation-centric.

Algeria added that the future MPGs can only be effective and efficient when the transparency of support get as rigorous as transparency of actions. To achieve this, the time arrangement and focus should be given to transparency of support more than transparency of action, because the latter is much more mature than the former. It also said further that the development of MPGs must be under the APA or COP, instead of under the CMA, to ensure the effective participation.

The LMDC was of the view that on the future work, it must be open-ended and inclusive and that any technical paper produced by the co-facilitators, co-chairs or the Secretariat must reflect views expressed by Parties in a balanced manner.

The **Alliance of Small Island States (AOSIS)** said that on the key elements for the MPGs, the first was to identify the overall objective of the MPGs, which is to track progress in relation to the long-term temperature goal; facilitate the understanding of progress and provision and receipt of support as well as the aggregation of information for the global stocktake. It said that the workplan should be complementary to processes being considered in other bodies as well. It welcomed the call for technical workshops and papers.

South Africa for the **African Group** said more time should be spent on technical work. On the issue of flexibility, there is need to build on the existing MRV arrangements and to have clarity on how the principle is operationalised. Flexibility takes into account the capacities and national circumstances of developing countries like data availability. Its preference was to focus work on areas where issues are less mature as on reporting guidance on adaptation and support.

Brazil also echoed the views of the G77 and China, stressing that the key elements are defined by the PA in what are “shall” and “should” obligations. It also said that reporting and review need to go side by side as there cannot be agreement on reporting without knowing what the consequences are for the review.

New Zealand said that work could start with the MPGs for reporting and agreed with Brazil that the review design should also be known before agreeing on the reporting. It said flexibility is for Parties who need it in light of their capacities and there is experience on this in the current system. It said the secretariat could help with technical papers and workshops and called for a sequence in the work.

The **European Union** said it saw convergence on the need for MPGs reporting, technical review and facilitative multilateral consideration. It said there was considerable amount of technical work and would like to see technical workshops and papers. It said there was need to balance discussions on mitigation, adaptation

and finance but said that there was no need to duplicate work that is happening in other bodies.

Many more countries had raised their flag to intervene, which will spill over to the next sessions of the consultations.

Implementation and compliance

Two informal consultation sessions were held on the issue, co-facilitated by **Janine Felson (Belize)** and **Peter Horne (Australia)**. The group discussed one of the questions posed by the APA Co-chairs to facilitate deliberations on the issue.

The question was, “How could the scope of the mechanism for facilitating implementation and promoting compliance address the mandatory elements included in the PA?”

There were clear divergences on scope of the mechanism, especially on the “mandatory elements”. While most developing countries said that the scope of the mechanism extended to the whole of the PA, the United States said the scope of the mechanism extended only to mitigation contribution of Parties.

Iran for the **LMDC** stressed that the scope of the mechanism extended to all the areas of the PA viz. mitigation, adaptation and means of implementation.

China too said the scope of the mechanism was important in the context of operationalization of the PA. China said it was not only about covering the mandatory elements and that the mechanism should cover all the elements of progress under the PA.

The Philippines said the question in consideration could narrow down the scope and added that the scope was the Agreement as a whole rather than the mandatory elements, especially since there is no clarity on what are the mandatory elements.

It referred to Article 15.1 to establish the scope and said that the broad context was the PA and the Convention. (Article 15.1 of the Paris Agreement reads: “*A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.*”)

Saudi Arabia for the **Arab Group** said it did not agree with the implicit notion in the question that mandatory elements would be dealt with more strongly than the non-mandatory elements. It added that the facilitative, non-adversarial and

non-punitive approach should apply to all the elements.

Mali spoke for the **African Group** and said that Article 15.1 had defined the scope. It said it did not quite understand what the “mandatory element” was.

The **EU** said the question in consideration used the word “mandatory elements”. “We never discussed what that means. Broadly, the question might be framed as which provisions of the PA might be addressed under Article 15,” said the EU.

Norway said that for collective obligations, it would be impossible to say whether a particular Party was complying and therefore individual obligations should be under compliance. The Agreement has very few legally binding provisions, which are of procedural character, it added. The individual obligations could be considered wherever the formulation began with, “Each Party shall ...”

New Zealand said the focus of the mechanism should be on individual legal obligations. It added that the global stocktake was the place to consider collective obligations.

The **US** said the question of scope was a fundamental one and which was linked to what was the added value of the committee to the Agreement. It said it had heard several views on what the scope of the mechanism should be, which ranged from some Parties calling for the individual obligations of Parties to some Parties saying the committee should cover all the provisions of the PA. “Legally, either interpretation works. Article 15.1 does not specify anything. We have to determine it,” said the US.

The US added that the committee should be able to review Parties’ mitigation contributions and the updating of the contributions, which are capable of “objective assessment”. It also said that it is open to look at whether the committee should have other roles.

Colombia for the **AILAC** said there is a scope of the mechanism to be interpreted as being two-fold (facilitating implementation and promoting compliance). It said that with regard to all the provisions of the Agreement, the compliance part could be focused on those provisions that could be assessed in some way or measured. One way could be to identify those provisions that

begin with the “Each Party shall...” formulation. Such provisions should have a clear parameter that Parties can measure in order to be effective in promoting compliance, said Colombia. It added that even though Parties faced difficulties with compliance, they must ensure that the committee does not duplicate what other mechanisms under the PA and the Convention were doing with respect to means of implementation and capacity building.

Antigua and Barbuda speaking for the **Alliance of Small Island States (AOSIS)** said that Article 15 applies to all the provisions of the PA. It said that for the legally binding provisions the committee should focus on compliance, and for the non-legally binding elements the committee should focus on facilitating implementation.

Egypt stressed that the mechanism applied to the whole Agreement.

At this point, **Horne** said the discussion on the scope question had been very interesting and he had heard views on individual obligations and collective obligations to be housed in the global stocktake and for no duplicative arrangements. He proposed returning to Parties on 9 November with some sort of a snapshot of what the co-facilitators had heard.

Several developing countries reacted strongly to the proposal by the Co-chair to have any “snapshot” and it was then agreed that the co-facilitators would not present any snapshot of the discussions.

Global stocktake (GST)

The session was co-facilitated by **Nagmeldin G. Elhassan (Sudan)** and **Ilze Prūse (Latvia)**. Elhassan sought general reflections from Parties on the issue.

Iran spoke for the LMDC and said the final outcome should be broad and comprehensive allowing for positive cooperation among Parties. It said the GST should be comprehensive, facilitative and strike a balance between action and support. It called for the GST process to be kept simple and not resulting in additional burden on Parties. It added that any tailored approach with sources of inputs was too premature to be discussed now. It said the red line for the group was the erosion of the nationally determined nature of climate ambition and action and cautioned against the GST

becoming a political process to apply top-down pressure for action.

China said that before going into the substance of the matter clarity is needed on what is the meaning of GST. China also said that there were very many understandings of the term “collective progress” and it would not help if Parties were thinking of collective progress only in terms of aggregation of emissions. It said that the GST should serve as a location for best practices and technical progress to enhance cooperation. The GST should identify potential barriers and how the developing countries would overcome them. China also said it is important for the GST to serve as a place to identify international cooperation in finance and technology innovation. “We need to reach a consensus on such issues and then get into modalities, inputs, etc,” said China.

Colombia said the outcome of the GST should not only provide information on how Parties were doing, but should also give concrete guidance on how it is that Parties could continue the work to enhance ambition to meet the global goal of the PA.

Marshall Islands said that the GST would be a moment to raise ambition and the purpose of

which is to achieve the long-term goal of the PA. It said it would be good to discuss the separation of the technical phase and the political phase.

The **EU** said that the GST must be designed to handle mitigation, adaptation and means of implementation as per their specificities and that there is a need to know how to balance these in a tailored manner in individual and collective efforts. The EU also said that the GST has a technical and a political phase and that the outputs of the technical phase should include summaries or reports that could be useful for the political discussion.

Canada proposed that even though the GST would not convene until 2023, the work should be completed by 2018 and that Parties must advance the technical work.

The informal consultations will resume on 9 November by taking up the spill over speakers list who could not deliver their interventions due to paucity of time.

Informal consultations have also begun on the agenda item related to further matters related to the implementation of the PA.