



Divergences arise over understanding of Paris Agreement

10 Nov. Marrakech (Meena Raman) – In the second day of informal consultations held on 9 November under the UNFCCC's Ad Hoc Working Group on the Paris Agreement (APA), divergences have emerged on how Parties understand and interpret the Paris Agreement (PA).

While Parties from both sides of the divide insisted that the PA should not be renegotiated as it was “delicately balanced”, how Parties understood the PA was indeed different.

The divergences were most apparent in the informal consultations in relation to guidance over nationally determined contributions (NDCs) in discussing their the features, information and accounting, with differences over what the focus should be and on how to address the issue of differentiation between developed and developing countries in the guidance.

Developed countries and some developing countries were of the view that the focus of the work under agenda item 3 on ‘further guidance in relation to the mitigation section’ of the Paris decision (referred to as decision 1/CP.21) should confine only to the aspect of mitigation and not the full scope of NDCs as referred to in Article 3 of the PA.

(Article 3 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...’. Article 4 includes the mitigation component, Article 7 refers to adaptation, Article 9 to finance, Article 10 to technology transfer, Article 11 to capacity-building and Article 13 refers to transparency of action and support).

(Article 4(2) provides that ‘Each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve. Parties shall pursue domestic mitigation

measures, with the aim of achieving the objectives of such contributions.’)

Several developing countries, led by the **Like-minded developing countries (LMDC)**, the **African Group** and the **Arab Group** strongly emphasized that NDCs do not only include the mitigation component but to its “full scope” while developed countries and some developing countries insisted that NDCs refer only to ‘mitigation’.

Some developed countries like the **United States** said that the issues of adaptation and finance are being dealt with under other agenda items and that the mitigation issue needed focus, or there would be imbalance in the work of the APA.

This brought strong reactions from the **LMDC** who insisted that the whole scope of the NDCs must be discussed and that it could not agree to advancing any technical work if this was not the case.

The session, which was co-facilitated by **Sin Liang Cheah (Singapore)** and **Gertraud Wollansky (Austria)**. Following the exchanges, Wollansky said that there was agreement that Parties must respect the PA and the ‘national determination’ character of the contribution. She added that while Parties had divergent views on the features of NDCs, there is agreement that the features are rooted in the PA. Hence, she concluded that there was some common ground in this regard.

China, speaking for the **LMDC** said that the ‘feature’ of NDCs means what Parties NDCs will look like and Article 3 of the PA has identified what NDCs are and how Parties are differentiated. It said that some Parties say that Article 4 relates to mitigation only but China said that this must be read together with Article 3, stressing that there was a delicate balance agreed to in Paris in this regard. Therefore, the guidance on features must

include the nationally determined character of the NDCs and its full scope as contained in Article 3, with the application of differentiation. NDCs must therefore be comprehensive, it added.

NDCs are not only mitigation and they also have other components, said China. In response to Parties who said that the other components are being dealt with under other agenda items, China said it did not find any space where this is being discussed. On the issue of information, it asked what information is that that relates to technology transfer and capacity building. It said that while Parties talk of accounting related to mitigation, there is no space to talk about accounting in relation to technology transfer and capacity building.

It stressed that the discussion cannot be mitigation centric with no differentiation and that Articles 3 and 4 must be discussed collectively and in a balanced way. China said that it was reluctant to engage in technical work if the approach was mitigation centric.

China said further that the guidance must be useful and practical without causing a burden on developing countries. On the issue of whether NDCs should be quantifiable or quantified, China said it qualitative NDCs are more feasible for developing countries as data is not the only parameter to evaluate ambition.

Saudi Arabia, for the **Arab Group** emphasised that the PA provided concrete guidance on the features and the task of Parties was simply to collect and compile them. It said that national determination was a feature of NDCs and that further guidance should not dictate the national determination character, stressing that NDCs include the full scope and not just the mitigation aspect, as reflected under Article 3. It said the features should reflect differentiation and the different national circumstances of developed and developing countries.

Responding to Parties who insist that the mitigation component of NDCs must be quantified and be quantifiable, Saudi Arabia said that there was no requirement for such quantification in the PA. It said that this does not mean it was against progression or ambition but that developing countries had lots of uncertainties in their future economic and social development prospects and have to address poverty eradication. Hence, developing countries need the flexibility as

to whether to have qualitative information in their NDCs.

Similar views were expressed by **Bolivia, Kuwait, Iran and Algeria**.

Kenya, for the **African Group** said that NDCs contain other elements besides mitigation that includes adaptation and the means of implementation. It said that there is a diversity of NDCs and the guidance should provide the clarity, transparency and understanding. The issue of features and information are linked and Parties need to elaborate this in relation to the mitigation component of the NDCs under Article 4.

South Africa said that the characteristics of the mitigation component of the NDCs are defined by Article 4, which does not cover the other features referred to in Article 3. It added that features of NDCs are not limited to mitigation alone.

India said since Parties are working under PA mandate, each and every element is important including adaptation, mitigation, finance, technology transfer, capacity building and transparency, which is based on differentiation. The PA is under the Convention and Article 2 of the PA highlights the importance of implementing the Agreement to reflect equity and common but differentiated responsibilities and respective capabilities (CBDRRC) and that this cannot be swept under the carpet but that the discussions must be informed by this.

Under Article 4.1, India said that mitigation actions are to be undertaken on the basis of equity and in the context of sustainable development and efforts to eradicate poverty. It stressed that what is provided for under the PA must be implanted as Parties evolve the modalities.

It added that different sets of guidelines are necessary for developed and developing countries and all the guidance should have some features of flexibility for developing countries, and respect the country-driven nature of the NDCs.

In developing the guidance, India said there cannot be a selective reading of what are essential elements. Under Article 3, information on support is crucial and if the means of implementation is divorced from the national determination of contributions, this is a set-up for failure in the implementation of the NDCs.

Argentina said that the scope of NDCs is reflected in Article 3 and that the main feature of the NDCs is its national determination character.

It said that Article 4 refers to the mitigation component. It also said that further guidance on the features should not undermine the nationally determined character and that it would be helpful to identify specific information in relation to the different types of NDCs and address its diversity and reflect differentiation.

Brazil said that Parties should stay away from the discussion on the scope of NDCs, stressing that NDCs are not only about mitigation. It however felt that the other aspects of the NDCs are being dealt with under other agenda items. It said that there was no agreement on what the features are as there is no reference to features in the PA. In the absence of any reference to the features, Brazil feared that discussions could reopen the negotiations held in Paris about whether NDCs should be unconditional or conditional, a matter it felt which was settled in Paris. It said the guidance was for the preparation of future NDCs and what kind of information is needed from Parties for clarity, transparency and understanding.

Saint Lucia, speaking for the **CARICOM** said that the guidance called for relates to mitigation only and Parties do need the guidance. It stressed the common elements of information relating to coverage of gases and sectors, quantifiability, timeframes etc. and that common information is needed.

Ethiopia for the **LDCs** said that there needs to be clear information relating to emissions reductions.

Bangladesh said that Parties are supposed to discuss the aspect of mitigation and should not get into Article 3 and that the relevant articles of Article 4 deal with how to address differentiation, adding that since NDCs are nationally determined, it was up to Parties to decide how they fulfil their obligations.

Colombia said that NDCs are nationally determined and that the scope of the discussion has to be narrow to discuss the features relating to mitigation.

The **United States** said that there is fundamental disagreement on the scope of NDCs and differentiation. It said that Article 4 is clearly about mitigation and that raising “political issues” will not allow Parties to move to the technical work.

It added the element of mitigation must be discussed as adaptation and finance are being discussed under other agenda items. It said further that there is a fundamental imbalance in the work if mitigation is not the focus.

The US added that differentiation was carefully negotiated in Paris and it was not going to revisit that. It said that the information relating to mitigation has to ensure that it is understandable.

Switzerland said Parties did not have a common understanding of the features. It said that NDCs should be quantifiable without support and cover call sectors (referring to the mitigation aspect). On the scope, it said that while there are inter-linkages between action and support, it did not make sense to look support every time action is looked at.

Norway said that features are the common characteristics of NDCs and this is reflected under Article 4.

Canada said Parties should not renegotiate the delicate balance achieved in Paris and should be cautious and recognise the concessions made.

Japan said that NDCs need to be quantifiable and comparable and those Parties who had conditionalities must also include unconditional NDCs.

The **European Union** said the discussion has to be about the mitigation contribution, and to clarify what the features and accompanying information are.

New Zealand said that it had heard the concerns of Parties and recalled in Paris that there was no agreement in Paris over what the features of NDCs could look like under the PA but the decision refers to this and Parties are now trying to agree on what the features could look like. It suggested to look at what “as appropriate” means (in relation to the information referred to in paragraph 27 of decision 1/C.P.21).

Australia said that Article 4 refers to the mitigation section of the PA and stressed the importance of quantifiability of the mitigation contributions.