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Differentiation between developed and developing countries still relevant, say developing countries

Paris, 4 December (T Ajit) — The world has not changed since 1992 and differentiation between developed and developing countries continues to be relevant through common but differentiated responsibilities, the bedrock of the United Nations Framework Convention on Climate Change (UNFCCC).

This was the resounding message from several developing countries in a rich exchange on differentiation on 3 December at the contact group of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

The contact group saw deep division in views over differentiation and how the Paris agreement should reflect differentiation in each of its elements (mitigation, adaptation, finance, technology, capacity building, transparency).

Developing countries underscored the importance of historical responsibility of the developed countries in causing climate change and called for the agreement to be based on equity and common but differentiated responsibilities (CBDR). Developed countries also said that they are for differentiation, except that it must be reflected in a 'dynamic' manner since the world has changed.

Developing countries gave a strong counter to the argument that the world has changed since 1992 (when the UNFCCC came into existence).

Speaking for the **Like-Minded Developing Countries (LMDC), Malaysia** said some things have not changed. "Historical responsibility and historical debt has not changed," it said. Referring to the developed countries, Malaysia said, "You grew to this level of prosperity because you burnt fossil fuel at an unabated rate. You created that situation which has created this problem for us. You created the problem and now you say that we want you to share—on an equal basis—the responsibility."

"The division of the world in terms of poor and rich has not changed. We represent half the world. We (the LMDC) have two-thirds of the poor in our part of the world. That has not changed. If this has not changed, we have to look at the Convention, which looks into these realities," stressed Malaysia.

Continuing with its powerful intervention, Malaysia added, "You are trying to freeze the development pace of developing countries. This is the message we want to give you. We don't want to persuade you. You won't be persuaded. You talk of countries like India, China. Do people stop industrialization that meets the needs of the country? Do people stop eating? These are the hard truths. There has been no change in the world."

Malaysia also said that developed countries were resiling from their commitments. "You signed on these agreements. You signed on the Convention. It was in 1992. You acknowledged historical responsibility. You acknowledged differentiation. You acknowledged a way out of the situation, but now you are resiling from your obligations. You assumed legally binding obligations, which you have not fulfilled. You took on obligations under the first commitment period of the Kyoto Protocol, but you did not fulfill them. You refused to commit to the second commitment period of the Kyoto Protocol. You committed to the US $100 billion (a year by 2020), but where has the commitment been realized? It has not been realized. When you took on these obligations, the world had not changed, but you say the world has changed now when we want to do the Paris agreement. Is this to deflect the responsibility you took upon yourself?" asked Malaysia.

"You have taken up all that space and asking us as developing countries to reduce emissions to fulfill the remaining space. There are serious consequences; we have to continue with our growth and if we want to do that we have to cut back on industrialization. We are prepared and committed to do that, but it is conditional upon support. That is differentiation too, especially since there is an obligation upon the developed countries to provide funds. That is Article 4.7 of the Convention. It has not been fulfilled.

In response to developed countries' claims that they are pro-differentiation, Malaysia said, "You are not prepared to take on the obligations. Everywhere, where there is differentiation and means of implementation (in the negotiations text), you have introduced brackets. We see obstructions everywhere. You say developed countries must take the lead, but developed countries bracket this in the text. Means of implementation is always bracketed. Where is the sincerity?"

Malaysia then referred to a recent review of INDCs (Intended Nationally Determined Contributions) by a group of civil society organisations and said, "CSOs have done a review. It shows that developing countries are doing their fair share, while developed countries are far away from the fair shares from the historical responsibility and equity perspective. You are not even meeting your obligations now. So, we have this situation where we have to meet the obligations." It called for having the obligations very clear, that there are obligations of different nature and of a different order for developing countries. "Yes, you determine yourself, but what is the nature of your obligation? This obligation we are going to craft has to be based on equity and historical responsibility," it emphasised.

Malaysia also raised the issue of observer participation in negotiations that the LMDC has been persisting on since the October Bonn session of the ADP when observers were excluded from spin-off groups. "That is why we want them (CSOs) to be inside, because they are an invaluable source of assistance, especially to developing countries. But you have for one reason or the other not included them," said Malaysia to the ADP Co-Chairs.

Malaysia's intervention drew a huge round of applause in an overflow room where the contact group was being televised to observers and government delegates.

Venezuela said it is annoying to hear that the world is not the same and presented arguments to support its statement. "It is the same world in that it still does not agree on historical responsibility. It is the same world where developing countries lack support on finance from the developed countries. It is the same world where the will to get away from the Convention has not changed. Besides, the needs of developing countries for development have also not changed," it said.

There is a lack of understanding on the part of the developed countries of developing countries' needs that got the world where it is, said Venezuela adding that the developed countries' lack of engagement had not changed. "The INDCs show that we will head to 4°C, which does not serve the purpose of the agreement. The purpose is to contain the temperature (rise). We have 17 per cent of the population consuming 80 per cent of the energy. Differentiation is at the core of our right to carbon space to fight poverty and to develop. Equity is about the distribution of the carbon space to develop. The few that ruled the world have consumed what was supposed to be consumed by everyone," said Venezuela.

Strengthening its case for differentiation, Venezuela said further that this is not an approach for just cooperation. "This is a binding approach. You are being forced by law to provide support to developing countries for this purpose. This is not about countries in a position to do so," it said.

(In the negotiations text, the finance section is peppered with terms such as 'countries in a position to do so'. According to some developing countries this dilutes differentiation since the developed countries have a legal commitment to provide means of implementation to developing countries.)

India said that Parties should be cautious with phrases such as 'willing to do so or in a position to do so' because it is difficult to identify with these. "Plus, in the articulation of annexes, historical responsibility cannot be negated," it said.

China added that they did not want new ideas such as 'Parties in a position to do so' or 'willing to do so'. "If you look at the Convention, developed countries are the ones in a position to do so, but they are not willing to do so," it said.

Developed and developing countries were also divided over how differentiation should be reflected in each of the different elements (mitigation, adaptation, finance, technology, capacity building, transparency) of the agreement.

Developed countries were of the view that for mitigation, there was no need to reflect differentiation as the INDCs had established self-differentiation and countries would take action as per their national circumstances. **The United States** for instance said that in mitigation, the context was nationally determined and no one was telling the other what to do. **New Zealand** added that it did not see the need for differentiation in adaptation, since it is a national issue.

According to the **European Union (EU)**, for mitigation, the agreed concept was self-differentiation, which was implied in the INDCs. It said that the agreement must give a top-down component to the bottom-up approach and countries move towards an economy-wide target over time. On finance, those in a position should do more than what they are required to do under the Convention, it said. On transparency, the regime had to reflect the different capability of countries, which was why they were in favour of a common system "with flexibility around the kind of methodologies". "It was a common system that reflects different national circumstances," the EU added.

China counter responded by saying that the Convention itself contains the principle of CBDR and also reflects the provision through annexes. "The only way we can reflect the CBDR principle is to implement the Convention by our enhanced actions," it said, stressing that to anchor and reflect CBDR in the text, we need to reflect CBDR at the very beginning. "We have to ensure that the purpose of the agreement is to enhance the implementation of the Convention. That's why the LMDC made a very good proposal for the general part, the very famous 2*bis* provision, where we highlight the very important provision of Article 4.7 (of the Convention). We need to reflect Article 4.7 throughout this agreement. We agree differentiation should be treated differently in the different elements of the agreement. That is because in the Convention, we have different provisions for mitigation, adaptation and means of implementation."

China elaborated that for mitigation, although Parties are doing their INDCs, which are comprehensive, it should be reflected as developed countries and developing countries in different types of commitments. For adaptation, support should come from developed to developing countries. For finance, technology and capacity building, it is important that developed countries commit to provide means of implementation support to the developing countries. "We cannot accept new phrases such as Parties willing or able to do so," said China.

"For transparency, we don't see a common or unified transparency system. Differentiation between developed and developing countries should continue to be there. Flexibility should be with developing countries, not to all Parties. There should be no common principle of general guidance on accounting. On compliance we should have a differentiated compliance regime. The legally binding should not be mitigation centric and it should be legally binding for all the elements. For pre-2020 action, we expect developed countries to take the lead, in particular under the Doha Amendment (on Kyoto Protocol's second commitment period of emissions reduction) and Bali Action Plan," China added.

Sudan for the African Group clarified that national circumstances and self-differentiation do not mean the same. "National circumstance means a Party does what is nationally determined. That should not equate to self-differentiation," said Sudan.

Highlights of the exchange

Speaking for the **African Group, Sudan** proposed a structure for paragraphs pertaining to obligations by Parties, where articles on mitigation and finance define the level of precision and legal rigour appropriate for developed countries, framed as 'all'. In the same paragraph, provide for the flexibility (in a position/willing/national circumstance) for developing countries. There needs to be further flexibility for Africa, LDCs and SIDS. This is in the context of no backsliding and progression.

It also said that the Group does not find it useful to engage in a toxic discussion on the annexes (of the UNFCCC). "Let's leave them as they are. The solution we are looking for is not doing away with the annexes, but in implementing the annexes. Since the agreement is under the Convention, its principles and provisions apply. A world with no classification will not keep the world safe," it stressed.

Sudan also said that national circumstances and self-differentiation do not mean the same. National circumstance means a Party does what is nationally determined. That should not equate to self-differentiation.

Speaking for the Least Developed Countries (LDCs), Tuvalu said words such as 'those in a position to do' so would allow evolution in the thinking. It called for dividing the world into developed countries and those willing to do so, while recognizing the special circumstances of LDCs. It said it had problems with self-differentiation in mitigation and called for higher standards for the developed countries. It also said that a unified system in transparency would put significant burden on developing countries and that it sees the need for differentiation in finance.

Speaking for the Independent Alliance of Latin American and Caribbean countries (AILAC), Colombia said that since the world will continue to change, there was a need for dynamic differentiation. The agreement should be collective and reflect differentiation in different articles. It said that the preamble should have the language CBDR and respective capabilities, in light of different national circumstances. In mitigation, there is no need for differentiation as it is self-differentiation through INDCs. Adaptation is inherently self-defined. For means of implementation, the agreement could reflect CBDR along with those willing to do so, which could be defined. For transparency, there was a need for common but flexible framework for those with capacity needs. It also said that there was no need for differentiation in the global stocktake and called for a common facilitative mechanism.

India said the Convention recognizes that developing countries are still growing and their emissions would grow to meet the sustainable development requirements and growth requirements. "Safeguards are there in the Convention, so when we talk about differentiation, we look at how the Convention has articulated it and whether we can start from there. The first starting point is whatever the Convention has provided for should continue and how it can be enhanced in the Paris agreement," it said.

Most developing countries have submitted ambitious INDCs and that is a clear reflection of how developing countries are willing to assume a greater responsibility as they evolve in the timeframe, said India. There is no denying the fact that countries are taking more responsibilities, but that does not negate the leadership role of developed countries. Differentiation must apply to all pillars of the ADP. They have been reflected now but the question is our willingness to engage and see how differentiation will apply, it stressed.

The way forward is that Parties start with what is provided for in the Convention and how countries see their responsibilities, India said, adding that, "We find that the INDCs is the first starting point of how developing countries see their role that they can address combating climate change". India hoped "the global stocktake and various mechanisms will help us in ensuring that enhancement of action within the system is possible and it will ensure we are on a better trajectory to tackle climate change."

China said there is very little money under the (UNFCCC) financial mechanism for developing countries, and that is why we have to do South-South Cooperation. As the analysis of many of the NGOs point out, our INDCs are much more ambitious than that of developed countries," it said. "At this point of time, we don't want new ideas such as Parties in a position to do so or willing to do so. If you look at the Convention, developed countries are the ones in a position to do so, but they are not willing to do so. What do we do? Put them through a compliance committee? No, the Convention does not talk of a compliance committee. Some Parties are not members of Kyoto Protocol, which has a compliance committee," it said.

Saudi Arabia said there is an attempt to change the established fundamental precepts of the Convention. "CBDR is linked to equity. When we talk of capacity, the measure is not the volume or size. The measure is the pinch, the pain and the price to deliver. How much of the pain you have to go through to adapt to climate change. Developing countries are in dire need to secure sustainable development and eradicate poverty. We need to look at these," it said.

"Our INDC showed with good faith what we can do. The argument does not hold when you talk about countries in a position to do so. It is as if you are saying that, 'We don't trust you. We don't believe your INDCs. You are willing to do more but you did not do more. What kind of argument is that? There are a lot of developing countries that can do something as per their national capacity, and what they can do with support. Provision for vulnerable countries and the LDCs are well articulated in the Convention. Look at Articles 4.8, 4.9 and 4.10. All these speak to the vulnerability level."

Referring to the European Union's statement (see below), Saudi Arabia added, "We have been hearing a lot about decoupling. It has a price. It needs know-how. How can you decouple without support? You want us to go buy from the private sector at the market price so that we pay for the responsibility that you should bear?" it asked.

On finances, Saudi Arabia said, "Where is support on the table? We have created institutions such as the Standing Committee on Finance and the Green Climate Fund (GCF). What do we have in the GCF?

I can tell you exactly where it is headed. The CTCN (Climate Technology Centre Network) is a marketing arm for technologies coming from developed countries. We need to disseminate technologies."

"We are ready to engage. If you want to operationalize differentiation, let's take INDCs as it is. Do not count on us to fill the gap. It is your responsibility. As far as MRV (measurement, reporting and verification) and transparency is concerned, you have the capacity to do that. Developing countries don't. We cannot live with anything that is intrusive or prescriptive," said Saudi Arabia.

Algeria said that Parties are guided by the fundamental principles and provisions of the Convention, in particular CBDR and the historical responsibilities of Annex I Parties. Any modification would mean Parties would have to review and adjust previously adopted decisions. "If we agree on any change, we will need to forget the Convention."

On progression, Algeria said that in submitting INDCs, non-Annex I Parties have shown their willingness and their shared efforts to combat and respond to climate change. How can we commit to a progression concept when it will be the first time for our countries to engage in mitigation? How do we know what our economic development and trends will be in 2025? It is risky to put the concept of progression in the agreement. Progression needs to be affirmed for developed countries since they have the experience. For developing countries we need an assessment of how we implement our contributions.

On legal form, Algeria said that it is of the view that they need a legally binding agreement but they would not be comfortable to have a legally binding agreement that contains some issues that are legally binding and some that are not.

On transparency, it said that a very good system of International Assessment and Review for developed countries and International Consultation and Analysis for developing countries had been decided upon and that the process must be given a chance. It is not wise to have a uniform system. The INDCs of many countries are conditioned on receiving finance and technology. Without this it will be very difficult to comply with the INDCs.

Pakistan sought explanation for the number of brackets in the text around the Convention. It is important to address differentiation but let's not do it in a way that changes the meaning and brings in new interpretations (of the Convention).

Brazil said Parties should refrain from repeating CBDR RC in every paragraph, but that colleagues should not also bracket CBDR RC in places it really belongs. Differentiation should not be seen as an ideological issue. It's the type of global problem we face. It's not abstract. There is no incentive for developing countries to increase their ambition. It's not enough to just state the principle of CBDR. It will be worse if the principle is stated and the provisions of the agreement do not reflect that, said Brazil adding that the agreement should not allow new obligations for developing countries while giving more flexibility to developed countries. We need developed countries to state that they are willing to take the lead but this is bluntly refused each time it is mentioned, it said. This creates insecurity among the developing countries. We are entering a regime where more is expected of us. This is not fair.

Nigeria stressed on differentiation and said countries had different national circumstances. Language such as position to do so meant additional obligation on developing countries. We are saying that we are willing to do so if we have the capability to do so.

Kiribati stressed on urgency and said Paris should incorporate justice, equity and urgency and that was the kind of differentiation it was looking at in the agreement.

Mexico said that Parties were building a durable agreement that is different from 1992 and which would be different for decades to come. It said that for finance and provision of support, developed countries should take the lead but that it is fundamental to invite others too. It is important to ensure that all developing countries receive support, and recognize that there are special circumstances for LDCs and SIDS.

The EU said that a lot of countries have decoupled and that establishes that one could develop significantly without adding emissions. It said that the world was highly differentiated and with very different national circumstances. The world has to reflect this difference in the agreement.

The **US** said it supports an agreement that reflects differentiation and that addressing the issue in an "intelligent" way would allow Parties to craft an agreement in a durable way. In terms of language, it said it supports CBDR RC, in light of different national circumstances. The US added that this is intended to say that countries have different contexts and they should be acting with the different contexts in mind. "We don't intend to backslide or retreat from what we intended to do. We will live up to our obligations and play a leadership role going up to 2020," it said.

The US also said that bifurcation does not address countries' various circumstances, but it does not require they do more than they can. It said that in mitigation, the context was nationally determined and no one was telling the other what to do. In mitigation, developing countries would be eligible for support for implementing their contributions, it said. There are questions on specific formulation, but that is clear. The LDCs can provide contributions when they can and that is clear.

In transparency, there is provision for flexibility for countries to take into account their capabilities and we will come forward with capacity to help countries.

On finance, it said that it would provide "robust finance", developing countries would be the recipients and that it was not seeking to change the paradigm. However, it also said that countries in a position to do so did not mean legally binding arrangements for countries to provide finance. Instead it should be seen as an encouragement and an invitation at best.

New Zealand said the idea of the agreement is to meet the ultimate objective of the Convention and one that is defined by rules and flexibility. It said there is no need to specify differentiation in mitigation, as the mitigation contributions are nationally determined. It said that it is willing to explore provisions on no backsliding. It also said that the agreement must build in provisions for progression to economy wide targets. For transparency, all Parties to the agreement would need to report and be reviewed on progress they are making, which had an implicit idea of no backsliding. It said that while developed countries were not resiling from their obligations and the leadership role they have, "such support also needs to come from those able and willing to do so".

Japan said that Annex I alone could not address the challenge of climate change and the system of annexes did not reflect the reality of the present times. It also called for expanding the donor base with respect to finance.