

What countries agreed to under the Paris Agreement (Part 2)

Penang, 22 Dec (Meena Raman)- In Part 2, this article on what countries agreed to under the UNFCCC's Paris Agreement, focus is on some highlights in relation to adaptation and loss and damage.

(See TWN Update 18 for Part 1 of this article at www.twn.my.)

Adaptation (Article 7)

In sub-paragraph 1 of Article 7, Parties agreed to “*establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2.*”

Developing countries had been pushing for a long term goal or vision on adaptation to ensure that there is parity between adaptation and mitigation and to avoid having only a mitigation centric-goal linked to the temperature goal (of holding the rise in temperature to well below 2 degree C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 degree C.). This goal also links the adaptation response to the temperature goal.

In relation to the global goal on adaptation, developing countries had during the negotiations proposed “an assessment of the adequacy of support” from developed countries to developing countries as well as the “recognition of increased adaptation needs and associated costs in the light of mitigation efforts...”

What eventually found way in the adaptation section (in sub-paragraph 14 of Article 7) is the reference to the global stocktake (in Article 14) which states that the stocktake “*shall*” “*review the adequacy and effectiveness of adaptation and support provided for adaptation*” as well as “*review the overall progress made in achieving progress made in*

achieving the global goal on adaptation...”

According to sub-paragraph 3, “*the adaptation efforts of developing country Parties shall be recognised...*”, with the modalities to be developed for such recognition.

Developing countries during the negotiations wanted to ensure that the adaptation efforts they are undertaking with or without international support is recognised as their contribution to climate action.

In sub-paragraph 7, Parties agreed to “*strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to: (a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;*

(b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;

(c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;

(d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices;

(e) Improving the effectiveness and durability of adaptation actions.”

Sub-paragraph 9 provides that: “*Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include: (a) The implementation of adaptation actions, undertakings and/or efforts;*

(b) The process to formulate and implement national adaptation plans;

(c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;

(d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and

(e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.”

Parties also agreed to in sub-paragraph 10 that *“Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.”*

Also noteworthy is sub-paragraph 11 which states that *“The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.”*

According to sub-paragraph 12, *“The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.”* Sub-paragraph 13 provides that *“Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.”*

Loss and Damage (Article 8)

One major victory for developing countries is the recognition of ‘loss and damage’ as a separate article to the Paris Agreement, distinct from ‘adaptation’. Developing countries had been arguing very hard for ‘loss and damage’ to be separately recognised.

(The term ‘loss and damage’ refers broadly to the entire range of damage and permanent loss associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change that can no longer be avoided through mitigation nor can be avoided through adaptation.)

The anchoring of ‘loss and damage’ as a distinct article in the Agreement came at a costly price when

a deal was sealed behind closed doors between the United States (US), European Union (EU) and some Small Island Developing States and Least Developed Countries (LDC) in the final hours, prior to the draft agreement being released to Parties for consideration and adoption.

The compromise reached is found in paragraph 52 of the decision text which provides that Parties agree *“that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation.”*

According to one source, the deal was between the US, EU, Maldives, Saint Lucia, Jamaica, Marshall Islands, and Tuvalu. It seems that most developing countries were completely unaware of the deal being done until it was too late. According to the same source, the deal might have also been linked with getting reference to 1.5 degree C in the long-term temperature goal in the Paris Agreement in Article 2.1 (a).

In a strong retort to this compromise, Nicaraguan Minister Paul Oquist at the closing plenary of COP21 on 12 December after the adoption of the Agreement, called for the deletion of paragraph 52. Referring to the low level of ambition of the intended nationally determined contributions, the Minister said that that *“this would mean giving 3 degree C temperature increase to our grandchildren and they are notable to ask for compensation and we strip them of any legal rights for legal action for the liability of other countries that caused the damage.”*

The Nicaraguan Minister’s call for deletion was of course not heeded and the COP 21 President responded to say that his remarks will be noted in the report of the meeting.

According to several experts who have been following the UNFCCC negotiations, the clause in paragraph 52 on exclusion of liability and compensation does not mean that financial resources cannot be allocated through the Financial Mechanism of the Convention and the Agreement for developing countries to seek funds to address the adverse impacts related to loss and damage.

The sub-paragraphs of Article 8 are as follows:

“1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. *The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.*

3. *Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.*

4. *Accordingly, areas of cooperation and facilitation to enhance*

understanding, action and support may include: (a) Early warning systems; (b) Emergency preparedness; (c) Slow onset events; (d) Events that may involve irreversible and permanent loss and damage; (e) Comprehensive risk assessment and management; (f) Risk insurance facilities, climate risk pooling and other insurance solutions; (g) Non-economic losses; (h) Resilience of communities, livelihoods and ecosystems.

5. *The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.”*

(Further articles will follow on other elements of the Paris Agreement).