

What countries agreed to under the Paris Agreement (Part 4)

Penang, 22 December 2015 (Meena Raman) – In Part 4, this article on what countries agreed to under the UNFCCC's Paris Agreement, focus is on highlights in relation to transparency of action and support, global stocktake and facilitating implementation and compliance.

(See TWN Updates [18 \(Part 1\)](#), [20 \(Part 2\)](#) and [21 \(Part 3\)](#) for previous parts of this article.)

Transparency of action and support (Article 13)

With a 'bottom-up' system in place for countries to nationally determine (not multilaterally determined) their contributions to climate change efforts under the Paris Agreement as advanced primarily by the United States, there was a push by developed countries to have a common and unified system in place (which is not differentiated between developed and developing countries) on 'transparency of action'- which is a 'top-down' rules-based system in providing clarity on the content and information regarding those efforts.

Developing countries on the other hand were pressing for a transparency framework, which is differentiated between developed and developing countries and better rules on 'transparency of support' which relates to information from developed countries on the means of implementation (finance, technology transfer and capacity-building).

The main bone of contention therefore was whether such a transparency framework should be differentiated between developed and developing countries.

Options included a differentiated framework between developed and developing countries building on existing arrangements (proposed by the Like-Minded Developing Countries); a unified system with built-in flexibility to take into account

Parties differing capacities and applicable to all (proposed by the US and New Zealand); a tiered system based on self-differentiation with no backsliding (proposed by the Arab Group) and a framework, building on existing arrangements that takes into account Parties different capacities (a proposal from Brazil and the African Group).

In the Agreement, what was agreed to is as follows:

- "1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.*
- 2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.*
- 3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties."*

By the above sub-paragraphs, it appears that what has been agreed to is a transparency framework with flexibilities taking into account the different capacities of countries and builds on the existing transparency arrangements (that is currently differentiated between developed and developing countries):

Sub-paragraph 5 states that *"The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2, including clarity and tracking of progress towards achieving Parties'*

individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14."

Sub-paragraph 6 states that *"The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14."* (Article 4 relates to 'mitigation', Article 7 to 'adaptation', Article 9 to 'finance', Article 10 to 'technology transfer' and article 11 to 'capacity-building').

Sub-paragraph 7 relates to the mitigation contributions of Parties and states that *"Each Party shall regularly provide the following information: (a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement; (b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4."*

Sub-paragraph 8 relates to adaptation and states that *"Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate."*

In sub-paragraph 9 which relates to the means of implementation, it is provided that *"Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Article 9, 10 and 11."*

What is problematic in this sub-paragraph is the reference to information from "other Parties that provide support" who "should" also provide information on such support.

Under Article 9 on 'finance', the support provided by "other Parties" (referring to developing countries) is supposed to be voluntary but the provision of information under this sub-paragraph in the 'transparency' section appears to change the notion of the voluntary support.

Moreover, under Article 9 (5), the Agreement provides that *"Other Parties providing resources are encouraged to communicate biennially such information on a*

voluntary basis."

Clearly, based on the above, the provision of such information is on a voluntary basis. In the coming years, intense debates can be expected on this issue of whether the information by "other Parties" should be provided or if it is to be purely voluntary and up to the countries to decide. Whether in fact, "other Parties" will provide information on their voluntary support remains to be seen. In issue will be how "such information" will be used and for what purpose, when the resources provided are purely voluntary and not linked to the UNFCCC obligations.

Sub-paragraph 10 states that *"Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11. "*

According to sub-paragraph 11, *"Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution."* (Article 9 relates to 'finance').

In sub-paragraph 12, *"The technical expert review...shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information... taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties."*

Sub-paragraph 13 states that *"The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support."*

This sub-paragraph is expected to generate further debate on what is meant by "common modalities, procedures and guidelines" when it is to be built on the experience from current arrangements under the

Convention, which is differentiated between developed and developing countries.

Sub-paragraph 14 provides that *“Support shall be provided to developing countries for the implementation of this Article;”* sub-paragraph 15 states that *“Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.”*

In the COP 21 decision, there are lengthy provisions on transparency and for further work to be undertaken by the Ad Hoc Working Group on the Paris Agreement, pending entry into force of the Agreement. Paragraph 85 of the decision states that Parties have decided to *“establish a Capacity-building Initiative for Transparency in order to build institutional and technical capacity, both pre- and post-2020. This initiative will support developing country Parties, upon request, in meeting enhanced transparency requirements as defined in Article 13 of the Agreement in a timely manner”*.

This initiative was a proposal advanced by the US.

In Paragraph 90, it is agreed that *“in accordance with Article 13, paragraph 2, of the Agreement, developing countries shall be provided flexibility in the implementation of the provisions of that Article, including in the scope, frequency and level of detail of reporting, and in the scope of review, and that the scope of review could provide for in-country reviews to be optional ...”*

According to paragraph 91, *“all Parties, except for the least developed country Parties and small island developing States, shall submit the information referred to in Article 13, paragraphs 7, 8, 9 and 10, as appropriate, no less frequently than on a biennial basis, and that the least developed country Parties (LDCs) and small island developing States (SIDS) may submit this information at their discretion”*.

The information referred to paragraph 91 above relates to mitigation, adaptation and means of implementation. Except for LDCs and SIDS, all Parties have to submit the information on a biennial basis.

Global Stocktake (Article 14)

During the negotiations, the main issue around the global stocktake was around its purpose and scope. The idea was for a periodic stocktake of the implementation of the Agreement and there were options as to the purpose of the stocktake: whether to assess the overall/aggregate/collective progress towards achieving the objective of the Convention or the Agreement’s long-term goal.

On the scope, for developed countries, the stocktaking was primarily for considering the aggregate effect of the mitigation contributions of Parties in light of the long-term mitigation goal linked to the temperature goal, while for developing countries, it was to consider the overall implementation of obligations of Parties (consistent with the differentiated responsibilities), in relation to mitigation, adaptation and the means of implementation.

For the European Union (EU), the proposal was for a review process every five years to assess if Parties’ mitigation contributions are on track in meeting the long-term mitigation goal and for enhancing (or ratcheting up) the contributions of Parties accordingly.

Many developing countries, especially from the Like-Minded Developing Countries (LMDC) were worried about such a ratcheting up process due to concerns that with developed countries not doing their fair share of the effort (taking into account their historical emissions), the pressure would be on developing countries to plug the emissions gap to limit the temperature rise. They were also worried by any ex-ante process to review the intended nationally determined contributions (INDCs) provided by Parties prior to their communication.

Highlights of what Parties agreed to under the Agreement are as follows.

“1. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the “global stocktake”). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.”

It is noteworthy that the global stocktake is to be comprehensive and undertaken in the light of both equity and the best available science. This will avoid a mitigation-centric process, which also takes into account considerations of equity.

In sub-paragraph 2, it is agreed that the CMA *“shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided ...”*

According to sub-paragraph 3, *“The outcome of the global stocktake shall inform Parties in updating and*

enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as in enhancing international cooperation for climate action.”

In a related matter, it is also vital to note that in the COP 21 decision, under the section on INDCs, paragraph 17 “*Notes with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the INDCs do not fall within least-cost 2 °C scenarios but rather lead to a projected level of 55 gigatonnes in 2030, and also notes that much greater emission reduction efforts will be required than those associated with the INDCs in order to hold the increase in the global average temperature to below 2 °C above pre-industrial levels by reducing emissions to 40 gigatonnes or to 1.5°C above pre-industrial levels by reducing to a level to be identified in the special report referred to in paragraph 21 below.*”

In paragraph 20, Parties agreed that a facilitative dialogue among Parties will be convened in 2018 “to take stock of the collective efforts of Parties in relation to progress towards the long-term goal referred to Article 4(1) of the Agreement (which relates to the long-term temperature goal and the mitigation goal) and to inform the preparation of nationally determined contributions (NDCs) pursuant to Article 4, paragraph 8, of the Agreement (which relates to the communication of the NDCs).

This appears to be an ex-ante process to inform the preparation of the NDCs.

Paragraph 21, invites the “*Intergovernmental Panel on Climate Change to provide a special report in 2018 on the impacts of global warming of 1.5 °C above pre-industrial levels*

and related global greenhouse gas emission pathways”.

Facilitation and compliance (Article 15)

On the issue of facilitation and compliance, the Agreement provides as follows.

“1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.

2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.

3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session and report annually to the CMA.”

During the negotiations, some developing countries had been calling for differentiated mechanism for developed and developing countries, with a compliance mechanism for developed countries and a facilitative mechanism for developing countries. Developed countries, particularly the US, did not want such a differentiated approach.

In the final outcome, as seen from above, there is no differentiation between developed and developing countries in this regard.

(This is the last of the 4-Part series on **What countries agreed to under the Paris Agreement.**)