

Other key COP21 decisions, some issues deferred to COP22

Kuala Lumpur, 29 December (Hilary Chiew) – In the shadow of the Paris Agreement, several decisions of the 21st session of the Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC) were adopted in two plenary sessions.

COP21 was held between 30 November and 11 December 2015 in Paris, France along with the 43rd session of the Subsidiary Body for Implementation (SBI 43) and the Subsidiary Body for Scientific and Technological Advice (SBSTA 43), as well as the 12th part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP2-12).

ADP2-12 work came to a close on 5 December and the Draft Paris Outcome was transmitted to the COP for continued work under the COP21 Presidency, which culminated in the adoption of the Paris Agreement around 7:15pm on 12 December.

The bulk of the decisions were adopted in the afternoon of 10 December while the remaining were adopted later in the evening of 12 December after the adoption of the Paris Agreement.

(i) Proposals by Parties for amendments to the Convention under Article 15

Russian proposal

The proposal from the Russian Federation to amend Article 4, paragraph 2(f) of the Convention was dealt with in a contact group setting on 5 December.

China urged the proponent of the agenda item to withdraw the proposal while other Parties in the Umbrella Group such the United States, Japan, Canada and Australia “see merits with the proposal as the world has changed since 1992” and preferred to wait for the outcome of the Paris COP on a new agreement.

The United States said “we are in the process of negotiating the Paris outcome to reflect the world today ... (so) we are inclined to wait and see what would happened in Paris”.

However, Parties could not reach agreement and the matter was referred to informal consultations facilitated by French Ambassador Xavier Sticker. At the COP21 plenary on 10 December, the COP decided that due to divergence of views, rule 16 would be applied and the matter would be included in the provisional agenda of COP22 in 2016.

[In May 2011, the Russian Federation informed the UNFCCC Secretariat about its proposal for the amendment to Article 4.2 (f) of the Convention. The Russian proposal states that a “periodic review and, where appropriate, updating of the lists of countries in annexes I and II would be the most appropriate and fair way to allocate the burden of obligations among the Parties to the Convention, so that the objectives of the Convention may be achieved as promptly and efficiently as possible.”]

Mexico and Papua New Guinea proposal

This sub-agenda item was once again deferred to the next COP for the third time in a row due to divergent views of Parties following informal consultations led by Ambassador Sticker (France).

[By a letter dated 26 May 2011, Papua New Guinea and Mexico transmitted to the UNFCCC secretariat the text of a proposal for amendments to Articles 7 and 18 of the Convention. A revised proposal was received at COP17 (in Durban in 2011) and the matter (related to the right to vote) was first raised at COP19 (in Warsaw in 2013) with no agreement and rule 16 of the draft rules of procedure was accordingly applied.]

(ii) Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts

On 10 December, COP21 adopted the draft decision on this joint agenda item of SBI 43 and SBSTA 43. Paragraph 5 of the 8-paragraph decision “*Notes with concern* the limited progress made in the implementation of the initial two-year workplan of the Executive Committee owing to the late nomination of members as referred to in paragraph 3 above; ...”

Paragraph 6 “*Acknowledges with appreciation* that the Executive Committee plans to schedule at least three meetings during the course of 2016; ..”

Paragraph 7 “*Urges* the Executive Committee to explore modalities of work in order to fulfil its mandate in accordance with decisions 2/CP.19 and 2/CP.20; ...”

Paragraph 8 “*Also urges* Parties to make available sufficient resources for the successful and timely implementation of the initial two-year workplan of the Executive Committee in view of the ambitious nature of that workplan.”

(iii) Development and transfer of technologies and implementation of the technology mechanism

On 10 December, COP21 adopted the ‘*Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network*’.

Of the 6-paragraph decision, those of significance are:

“4. *Welcomes* the interim report of the Technology Executive Committee on guidance on enhanced implementation of the results of technology needs assessments,³ noting that the report should be considered final;

5. *Notes* that the Technology Executive Committee is to elaborate the outline for guidance on the preparation of technology action plans, contained in the annex to the report referred to in paragraph 4 above, and make it available in early 2016 to developing countries for use in informing the technology needs assessment process;

6. *Invites* the Climate Technology Centre and Network to use the guidance referred to in paragraph 5 above when responding to requests from developing countries regarding the provision of

assistance to enable the implementation of the results of their technology needs assessments.”

On 12 December, the decision on the sub-agenda item ‘*Linkages between the Technology Mechanism and the Financial Mechanism of the Convention*’ was adopted.

Of the 10-paragraph decision, those of significance are:

“5. *Recognizes* the importance of and the need for defined, mutually beneficial and functional linkages between the Technology Mechanism and the Financial Mechanism, through its operating entities, the Global Environment Facility and the Green Climate Fund;

6. *Also recognizes* that the definition and elaboration of linkages between the Technology Mechanism and the Financial Mechanism has the aim of ensuring financial resources for, and scaling up action on, technology development and transfer;

7. *Underlines* the need for the Technology Executive Committee, the Climate Technology Centre and Network and the operating entities of the Financial Mechanism to enhance cooperation and collaboration with a view to enhancing the fulfillment and implementation of their respective mandates effectively, in accordance with Article 12, paragraph 4, of the Convention;

8. *Requests* the Technology Executive Committee, the Climate Technology Centre and Network and the operating entities of the Financial Mechanism to continue to consult on and further elaborate, including through an in-session workshop at the forty-fourth sessions of the subsidiary bodies (May 2016), the linkages between the Technology Mechanism and the Financial Mechanism;

9. *Also requests* the Technology Executive Committee to include, in its annual report, the findings arising from the activities referred to in paragraph 8 above for consideration by the Conference of the Parties at its twenty-second session, taking into consideration the recommendations referred to in paragraph 4 above;

10. *Invites* the Board of the Green Climate Fund, in line with paragraph 38 of the Governing Instrument for the Green Climate Fund, to consider ways to provide support, pursuant to the modalities of the Green Climate Fund, for facilitating access to environmentally sound technologies in developing countries, and for undertaking collaborative research

and development for enabling developing countries, to enhance their mitigation and adaptation action.”

(iv) The 2013-2015 Review

On 12 December, COP21 adopted the decision on this agenda item.

During the first week in Paris, Parties were unable to reach a conclusion on this joint agenda item of SBI 43 and SBSTA 43. Hence, the matter was included in the ministerial consultation under the Paris Committee (set up by the COP21 Presidency to manage the negotiations of the Paris Agreement).

The consultations led by Ministers James Fletcher of St Lucia and Tine Sundtoft of Norway addressed Article 2.1 (a) of the Paris Agreement which is linked to the adequacy of the long-term global goal and a draft decision was produced.

Paragraph 4 of the draft decision includes the same language as Article 2.1(a) of the Paris Agreement. It reads:

“*Decides*, in relation to the adequacy of the long-term global goal, and in the light of the ultimate objective of the Convention, that the goal is to hold the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; ...”

The 12-paragraph decision also includes:

“5. *Also decides* that, in the light of the overall progress made towards achieving the long-term global goal, including consideration of the implementation of the commitments under the Convention, Parties should act urgently and ambitiously under the Convention while recognizing the technological, economic and institutional challenges;

6. *Notes* that, although some progress has already been made by UNFCCC bodies in scaling up financial, technological and capacity-building support, significant gaps still exist in terms of both the scale and speed of such progress;

7. *Also notes* that there continue to be information gaps in relation to the areas covered within the scope of the 2013–2015 review as set out in decision 1/CP.18, paragraph 79;

8. *Encourages* the scientific community to address information and research gaps identified during the structured expert dialogue, including scenarios that limit warming to below 1.5 °C relative to pre-industrial levels by 2100 and the range of impacts at the regional and local scales associated with those scenarios;

9. *Recalls* that the next periodic review should be conducted in accordance with decision 2/CP.17, paragraph 167, and *agrees* that the next periodic review should be conducted in an effective and efficient manner, avoid duplication of work, and take into account the results of relevant work conducted under the Convention, its Kyoto Protocol and the subsidiary bodies;

10. *Requests* the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to consider the scope of the next periodic review, referred to in paragraph 9 above, with a view to forwarding a recommendation for consideration by the Conference of the Parties by no later than 2018, as appropriate;

11. *Agrees* to reconvene the structured expert dialogue in conjunction with the next periodic review; ...”

(v) Impact of the implementation of response measures

Forum and work programme

At the second contact group meeting on 3 December for this joint agenda item of SBI 43 and SBSTA 43, Parties agreed to forward the draft conclusion and draft decision to the COP for consideration. The draft decision contained in the annex to the draft conclusion was the one that was forwarded from the 42nd session of the Subsidiary Bodies from Bonn in June.

At the first contact group on 2 December, the co-facilitators proposed that the draft decision be forwarded for adoption but this was resisted by the Umbrella Group and the European Union which made the link to the then on-going negotiations of the Paris Agreement. The contention was around whether the decision is limited to addressing the issues in the pre-2020 period. On the contrary, in the spirit of compromise and towards an agreement on response measures, the G77 and China was prepared to go along with the co-facilitators’ proposal to forward the draft decision without brackets for its

adoption by the COP, although the Group stated that the draft decision was not perfect.

Singapore said “we should be careful not to conflate the structures needed to address pre-2020 and post-2020.”

Argentina representing the G77 and China and Ghana speaking for the Africa Group lamented that the Annex I Parties are holding hostage the matter to the final result of the ADP.

The EU replied that “it is not about if we get an agreement but how we get one”, noting that nowhere in the draft decision text does it say that it is only to address the issues in the pre-2020 period.

After the objection by Annex I Parties to the first co-facilitators’ proposal, the co-facilitators made another proposal to forward the draft decision for consideration and adoption by the COP. This was finally accepted by Parties, though the G77 and China expressed its disappointment to the initial objection by Annex I Parties to make progress in the SBs on response measures, linking a result to the overall ADP negotiations.

Finally, COP21 adopted the draft decision, what meant that the SBI and SBSTA have been able to conclude its work on this joint agenda item, after being unable to do so since the 39th session of the two subsidiary bodies held alongside COP 19 in Warsaw in 2013.

Also, the Paris Agreement includes response measures in its preamble and in Article 3. In addition, the accompanying decision to the Paris Agreement addresses the matter in paragraphs 33 and 34.

“33. *Also decides* that the Forum on the Impact of the Implementation of response measures, under the subsidiary bodies, shall continue, and shall serve the Agreement;

34. *Further decides* that the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation shall recommend, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session, the modalities, work programme and functions of the Forum on the Impact of the Implementation of response measures to address the effects of the implementation of response measures under the Agreement by enhancing cooperation amongst

Parties on understanding the impacts of mitigation actions under the Agreement and the exchange of information, experiences, and best practices amongst Parties to raise their resilience to these impacts; ...”

(vi) Capacity-building under the Convention

At the resumed second meeting of SBI 43 on 4 December, a bracketed draft decision was recommended to the COP for consideration. However, several Parties took the floor to express their views.

The United States expressed concern with the process in reaching a conclusion to forward the draft decision to the COP. **Australia, Japan and the EU** echoed the US sentiment but all agreed to continue the constructive spirit in consultations at the COP level.

In response, **Swaziland speaking for the Africa Group** said for the past four years of negotiations, the most frustrating aspect is that “we faced resistance and are not given the right rationale for not moving this item forward”. It said the proposal has been on the table for the last four years but Parties failed to reach a conclusion. It reminded partners that a successful outcome is to find a landing zone and it believed the text forwarded is to find that landing zone and looked forward to the COP to deliver the way forward.

Burundi said due to the lack of capacity-building, countries are suffering from the effects of climate change, noting that “if we do not deliver, we simply could not adapt and mitigate”.

“Even if we put all the money in the Green Climate Fund, without capacity-building we cannot work. It is difficult to understand how the entire text is still in brackets,” it lamented.

On 10 December, the COP adopted the 11-paragraph draft decision together with an annex on the terms of reference for the third comprehensive review, which among others said:

“1. *Adopts* the terms of reference for the third comprehensive review of the implementation of the framework for capacity-building in developing countries established under decision 2/CP.7 (hereinafter referred to as the capacity-building framework) as contained in the annex;

2. *Requests* the Subsidiary Body for Implementation to conduct the comprehensive review at its forty-

fourth session (May 2016) on the basis of the terms of reference referred to in paragraph 1 above, with a view to recommending a draft decision on this matter for consideration and adoption by the Conference of Parties at its twenty-second session (November 2016);

3. *Also requests* the secretariat to prepare a technical paper based on the terms of reference referred to in paragraph 1 above as input to the comprehensive review;

4. *Invites* Parties and observer organizations to submit their views on the comprehensive review by 9 March 2016¹ for compilation by the secretariat into a miscellaneous document;

5. *Encourages* Parties to continue to provide information through the appropriate channels, including annual submissions on the implementation of the capacity-building framework, national communications, biennial reports and biennial update reports, on the progress made in enhancing capacity to address climate change.”

(vii) “REDD-plus”

Three decisions on matters related to the agenda item on tackling emissions from forestry activities which was transmitted by SBSTA 42 held in June to COP21 were adopted on 10 December afternoon.

The decisions are related to the methodological guidance for activities relating to reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries or REDD-plus as commonly referred to.

They were:

1. Further guidance on ensuring transparency, consistency, comprehensiveness and effectiveness when informing on how all the safeguards referred to in decision 1/CP.16, appendix I, are being addressed and respected.
2. Alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests.

3. Methodological issues related to non-carbon benefits resulting from the implementation of the activities referred to in decision 1/CP.16, paragraph 70.

(viii) Market and non-market approaches under the Convention

For a third year in a row, Parties failed to make much progress on market and non-market approaches under the Convention. Item 12 of SBSTA 43 yielded a two-sentence draft conclusion that read:

1. *The SBSTA continued its consideration of the work programmes to elaborate the following: a. A framework for various approaches; b. Non-market-based approaches; c. Modalities and procedures for the new market-based mechanism.*
2. *The SBSTA took note of the progress made in conducting the work programmes. It noted the technical work conducted in response to the mandate from the 18th session of the COP to facilitate the discussions under the work programmes, including two technical syntheses, three technical papers, three workshop reports and the views expressed by Parties and admitted observer organisations.*

SBSTA chair Lidia Wojtal (Poland) reported that Parties worked in contact group but were unable to reach a conclusion by the end of the consultations and therefore Rule No. 16 of the rule of procedure is applied. Rule 16 means the issue will be included in the agenda of the next SBSTA meeting (SBSTA 44 in May 2016).

(ix) Issues relating to agriculture

No draft decision was reached but Parties took note of the reports of the two in-session workshops conducted during SBSTA 42 (June 2015 in Bonn) and agreed to continue consideration of the reports together with the reports on the two in-session workshops to be held at SBSTA 44.

At the closing plenary, the **G77 and China** welcomed the progress and look forward to further engagement at SBSTA 44, noting the importance of agriculture to developing countries in light of its relationship to millions of their inhabitants.