

## Party-driven process must be ensured, say developing countries

Paris, 3 December (Chee Yoke Ling and Hilary Chiew) – The Group of 77 and China made a detailed proposal on moving forward the negotiations for the Paris agreement at a stocktake session of the Contact Group of the Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP) on Wednesday evening (2 December).

South Africa's Ambassador Nozhipo Mxkato-Diseko, speaking on behalf of the Group, expressed concern over the slow and uneven progress of the negotiations, the proliferation of facilitation, informals and spin-off group meetings that take place concurrently on the same issues, as well as inconsistencies in the work approaches of the various groups. The Group's proposal sets out the next steps for a Party-driven process.

The President of the 21<sup>st</sup> session of the Conference of the Parties (COP21) of the United Nations Framework Convention on Climate Change (UNFCCC), French Foreign Minister Laurent Fabius, attended the stocktake in a packed room that was limited to three negotiators from each delegation. The meeting was televised in an overflow room where observers could join other Party delegates.

Parties agreed to the G77 and China proposal to have a collation text that captures the work done so far, by 8 am today (3 December). This [document](#) is now available: "*Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action – Work of the ADP contact group*".

Mxkato-Diseko said that this collation text could be considered by the Contact Group at 10 am where a very quick reading should take place. The Group suggested that spin-off groups then work further on the text by dealing with issues in a holistic manner to limit the number of spin-off groups that will work at the same time.

It was further suggested that a second collation of the text refined by spin-off groups be made available on Friday morning (4 December) for a next reading in the Contact Group and further work in spin-off groups.

The G77 and China reiterated its proposal that the Contact Group should address cross-cutting issues, such as differentiation and legal form as soon as possible in order to unlock consensus in areas where these issues are encountered under the specific elements. The Contact Group also needs to address the many duplications on the same issue across different issues that can only be consistently addressed if we have a holistic view of the text, Mxkato-Diseko stressed.

She conveyed the Group's sense of urgency when she emphasised that the Group's proposal is made "in the hope that it will assist you (Minister Fabius) in moving our process forward".

Malaysia on behalf of the Like-Minded Developing Countries (LMDC) stressed that "We appreciate the deadline but we cannot sacrifice the content of a durable agreement at the altar of expediency. This will affect developing countries deeply and for a long time. While de jure there is inclusiveness and transparency, but de facto there are countries within (the LMDC) that are beginning to feel left out." Malaysia appealed to the COP21 President to resolve this issue "so that no one leaves this process with a bad taste in their mouth."

Following the exchange of Parties' views on the way forward, COP21 President Fabius outlined the Presidency's plan to begin consultations with all negotiating groups on the best way forward on 3 and 4 December. The consultations will be led by two French ambassadors, Philippe Lacoste and Francois Delattre, and former UNFCCC Executive Secretary Michael Zammit Cutajar of Malta who is Special Advisor to the French Delegation.

Fabius said that the consultations will focus on format, issues, transparency and timeline. Based on those consultations and his assessment, he will then make a proposal on Saturday (5 December) on how to move forward.

(The ADP's spin-off groups are scheduled to complete their work to produce the Paris agreement by 6 pm on Thursday, 3 December followed by the conclusion of the negotiations in the Contact Group by 9 pm of the same day, with 5 December as the target for transmitting the text to the COP. The ADP Co-chairs are Daniel Reifsnyder of the United States and Ahmed Djoghla of Algeria).

In his opening remarks when the stocktake started, Fabius said that, "I wanted to join you tonight because I think that it is useful to take stock of where we stand. We are three days after the opening and a bit less than three days before the Co-Chairs hand over the draft text (to the COP).

"Before I deal with the text, I have to fulfil a promise I gave to you ... I said to you that we have to determine the mode of work once the ADP closes. I repeated recently that there are no surprises. If we want to be legitimate, this process has to be conducted in a transparent, inclusive and open manner," he stressed.

He recalled that at the opening of the COP on Monday (30 November) 150 leaders carried clear messages that success is the only option (for the Paris COP). "We must not lose the momentum", he said, "but we must build on that and be faithful to the messages and the moment has arrived for all to implement the political guidance."

Fabius commended Parties for working hard and some progress been made on some issues, adding however, that, "we heard repeated sentences from co-facilitators that progress is too slow". (He was referring to the reports from the facilitators of the spin-off groups made to the Contact Group.)

"Therefore, we need to speed up ... ADP has to hand over text with a limited number of issues. What struck me in the different reports is that it is difficult in some areas to fully engage in discussion," he added.

Fabius stressed that sometimes there is a feeling that some groups are working without real consideration about time limit and expressed concern that new texts that were introduced might not be bridging proposals but ended up with longer text than the previous one, with more options.

In conclusion, he said he would leave it to the Co-chairs on the working method to achieve the objective but reiterated that the progress was too slow and need

to be accelerated. He expressed confidence that Parties could fulfil the Durban mandate and "adopt in a timely and orderly manner an ambitious and fair agreement".

Below are highlights of the views expressed by Parties during the stocktake.

Expressing concern that there is no clarity on the outcome of work, **Mxakato-Diseko speaking for the G77 and China** welcomed the timely opportunity to make an assessment of where we are and to make the necessary changes to accelerate the progress. She registered the Group's concern with the management of the process and with the progress made so far that need to be addressed.

"We believe that if these are addressed now, we will be in a better position to deliver a strong outcome under the ADP," she said, adding that "it is the Group's intention to resolve as many issues as we can, so that we do not create a situation where the ministers need to negotiate with each other. From our perspective, we need to provide texts with clear options to the ministers for them to make the political decisions. Giving them an unwieldy text would be a reflection of a process that would have failed them."

Mxakato-Diseko said the G77 and China is very concerned with the slow and uneven progress, noting that in some areas, partners do not seem to be willing to engage fully where on many issues, they maintain their 'no options' approach which are not conducive to making progress.

"We assume that this is a strategy to escalate as many of the issues to ministers. There seems to be a reluctance by our partners to engage on many of the issues of key concern to the developing countries," she said.

On the management of the process, she said the proliferation of facilitation, informal and spin-off group meetings that take place concurrently on the same issues, and the multitude of spin-off groups on various aspects of the same subject matter created difficulties for small delegations. She appealed to the COP Presidency, Co-Chairs and the Secretariat to re-look at how meetings are scheduled. (See TWN Paris New Update No. 5: *Delegates under pressure as negotiations reach frenzy mode.*)

With regard to the facilitation and informal groups, she noted that there still appeared to be inconsistencies in approach. The Group, she added, is concerned that the work in some of the groups is not time-bound and too open-ended to ensure a result.

"Some facilitators are apparently allowing new text to be introduced and are referring to old submissions by

Parties, whilst others are not. There is a risk that this could lead to a proliferation of new proposals and the text ballooning.

“The G77-China is showing constraint, we need the Presidency to appeal to Parties not to follow this path. We need to streamline the text and reduce options at this time,” Mxakato-Diseko emphasised.

She warned that the fragmentation and simultaneous convening of groups are putting pressure on the transparency and inclusiveness of the process. The limitation of seating in the Contact Group also raises this question (each delegation is allowed 3 members to be in the room).

Accordingly the Group made the proposal discussed above.

**Malaysia speaking for the Like-Minded Developing Countries (LMDC)** said as an integral part of the G77 and China, the LMDC supported completely the concerns and proposal by Ambassador Mxakato-Diseko on behalf of the Group.

It said the pace of the negotiations is punishing and hectic, giving the example that in that afternoon alone over the one issue of mitigation there were 3 meetings at the same time. Stressing that a durable agreement cannot be sacrificed at the altar of expediency, Malaysia appealed to the COP21 Presidency to ensure that no Party leaves the process with “a bad taste in their mouth”.

Malaysia further reminded the Co-Chairs of the LMDC’s earlier request to allow for observers in the spin-off groups where a lot of the work is taking place. It said that the Co-Chairs had promised to deal with a technical fix so that spin-off groups’ work can be televised in an overflow room (as is the case with the Contact Group) and this promise should not be looked upon as an empty gesture.

To this, Co-Chair Ahmed Djoghlaif (Algeria) said he would never accept that the ADP will close with a bad taste.

He said further that the ADP should endeavour to finish on Saturday (5 December) and he shared the concern of proliferation of meetings.

“We take this opportunity to convey to all of you especially the small delegations our deep gratitude for your understanding. We heard the G77 and China’s request for a compilation and we hope it is not a burden for the Secretariat,” said Djoghlaif.

“On the legitimate concern about observers, we had looked at all possibilities but it is impossible. You would have seen that we made a point to hold a

Contact Group (meeting) every morning and evening. I have never seen such transparency of negotiations of a legally binding document being televised ... everything will continue to be transparent,” he added.

(Many observers familiar with other UN processes in the overflow room were very surprised at Djoghlaif’s statement. Those who had participated in the negotiations of the Nagoya Protocol on access and benefit sharing under the Convention on Biological Diversity noted that in that process observers were present in informal meetings. In the case of the ADP, at issue is the transparency of the spin-off groups as the televised proceedings are those of the Contact Group.)

The **European Union** said prospects for an agreement are very good, alluding to the clear signal from the number of leaders and the more than 180 Intended Nationally Determined Contributions (INDCs) as an unprecedented achievement.

Though political will is there, it feared that Parties are struggling to capture the complex agreement in text and that Parties are going into the second week with too many options. It said the very difficult task increases the risk of a short agreement with modest outcome on issues, stressing that the EU wants a strong agreement on all issues but it does not seem like we are on track for a text to be delivered to the President on Friday for political agreement.

Responding to Ambassador Mxakato-Diseko, the EU said, “From our side, we feel we have engaged constructively. We certainly want a strong outcome on finance. We sometimes found that we have bridging proposals with other groups but we felt lack of engagement. It is incumbent on us to find compromises.”

The EU said it did not hear everything of the proposal of the G77 and China, but it sounded like a helpful step forward. It agreed that compilation text is useful, stressed the role of the co-facilitators, and said that the suggestion for cross-cutting issues to be addressed by the Contact Group was a good one.

**Guatemala representing the Independence Alliance of Latin American and Caribbean (AILAC)** said it fully agreed with the production of a compilation text by Thursday morning but would like to go beyond that to ask co-facilitators to prepare bridging text for further work by Parties.

**Switzerland** in reacting to the G77 and China said sometimes when there is a problem in a partnership, before blaming others, we should look at ourselves in order to strengthen and enhance the partnership.

Each of us have to look at what can we do to speed up the mode of work.

It agreed that the G77 proposal would provide a new text that is clearer with options and that cross-cutting issues could be moved to the Contact Group.

**Sudan representing the African Group** in supporting the G77 and China proposal, said it is very important to give more time to cope with the dynamism of the negotiations with multiple spin-off groups.

The Group said it is important to address cross-cutting issues such as differentiation and legal form, and that these are causing difficulties in the proceedings of the spin-off groups, adding that addressing these will help us unlock consensus.

**Norway** said a compilation text is a good starting point and supported AILAC's proposal for co-facilitators to capture bridging text, noting that co-facilitators could identify the landing zones.

"We have two Co-Chairs who know where our wishes are and they could reflect and send a note to the COP Presidency. That could be one way to capture the good sentiments that we cannot capture in the text," said Norway.

On extending the ADP process beyond Saturday (5 December), Norway expressed caution over opaqueness, and said it is very critical to know who is in charge and when the Presidency will take over.

**Maldives speaking for the Alliance of Small Island States (AOSIS)** fully associated with the G77 and China saying that the Group's proposal is definitely a first step. AOSIS is equally worried about the pace of work and the proliferation of spin-off groups dealing with the same issues, making it difficult for them to engage. Maldives urged the Co-Chairs and COP Presidency to look into this carefully.

**Saudi Arabia speaking for the Arab Group** also supported the G77 and China, and said we came here prepared to work with the text from October, had engaged and had restrained themselves from adding new insertions and brackets. It recalled that in the October ADP meeting, it was agreed that no new text or brackets should be added in Paris. Though it is the right of Parties to do so, the Group had hoped that this would not happen but "we see other Parties put in more text and brackets, dividing the different views further and further. This is not healthy for the process, adding more pressure, psychologically and emotionally. We hope to see the intensity of the negotiations

lowered and substantive progress in the remaining short period of time."

**The United States** agreed that progress is mixed and that it makes sense to have a compilation text in the morning (of 3 December). It agreed to use the insights of the facilitators that were gained from their leadership, to produce bridging proposals and efforts to characterise the options so that over the course of next week these would help in the decisions and solutions to problems that we would like to solve.

In terms of approach, it said there is no time for process fights and we need to engage in substance.

(According to several negotiators, the lack of a credible process and good faith would undermine efforts for a fair agreement. The United States have been inserting considerable new text. Among the most contentious is the proposal of the Umbrella Group, which includes the US, that would turn around the UNFCCC financial commitments of developed countries: "*As part of a shared mobilization effort, Parties should...enhance the scale and effectiveness of climate finance by mobilizing climate finance from a wide variety of instruments and channels, provide, when in a position to do so, support for developing countries in need of support...*"

This would mean that developed countries' commitments are diluted to a 'mobilization effort' and provision of finance will be when they are 'in a position to do so'.)

**Mexico** expressed concerns about the pace of work especially in mitigation and finance, urging the co-facilitators to help.

In response to Norway's proposal to draw on the wisdom of the Co-Chairs for a reflection note, Ambassador Mxakato-Diseko said "we don't think that at this stage that will be useful".

On bridging proposals by co-facilitators, she suggested that they could be captured in a separate document as a tool to assist Parties.

In concluding the stocktake, Co-Chair Djoghlafr congratulated Parties for an intense engagement that was never seen before. He said Parties will have the compilation text at 8 am and the text will reflect the work status as of 9 pm (2 December), and the co-facilitators will assist where they can. The spin-off work will finish at 6 pm and the Contact Group will take stock from 7 pm.

Meanwhile, the COP President's consultations with negotiation groups have begun this morning.