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Parties express mixed feelings over Warsaw outcomes

Kuala Lumpur, 28 Nov (Hilary Chiew and Meena Raman) – At the closing of the Warsaw climate talks that ended evening of Saturday 23 Nov, one day later than scheduled, country groupings delivered statements, reflecting their views on the outcome of the talks.

While developing countries in general welcomed the decision to establish an international mechanism on loss and damage, disappointment was expressed over the lack of clear targets and a road-map on long-term finance.

Concerns were also raised by developing countries on the inability of Parties to advance decisions on the Technology Mechanism and rules related to the second commitment period (2CP) of the Kyoto Protocol.

Developed countries were opposed to the Technology Executive Committee (TEC) having an observer status at the World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO) and this issue will continue to be considered by the Subsidiary Bodies next year.

The European Union was pleased with movement forward with a decision under the Durban Platform that paves the way for the new agreement expected to be concluded in 2015 in Paris.

India, represented by its Minister of Environment, Jayanthi Natarajan, said that she had come to participate in this COP with expectation that this will indeed be an "implementing" COP.

However, her expectations seem to be belied. "This COP has become a 'holding' COP where commitments from developed country Parties have been put on hold or, even worse, there has been backsliding. This is a most unfortunate situation," added the Minister.

Referring to negotiations under the Durban Platform, Natarajan said that "many countries talk of fairness but equity is something more than fairness and we must accept equity in all its manifestations".

A joint plenary of the UNFCCC's 19th session of the Conference of Parties (COP19) and the 9th session of the Conference of Parties meeting as the Parties to the Kyoto Protocol (CMP9) was convened by the COP/CMP President, Marcin Korolec (Poland) on Saturday, Nov 23 in the evening.

Korolec, referring to the talks as a marathon run, expressed satisfaction having reached the finished line with results which Parties could be proud of.

Fiji speaking for the Group of 77 and China delivered a short statement expressing the Group's satisfaction with the COP President's conduct of the meetings which delivered transparency and efficiency and Parties had worked hard during this time.

Nauru representing the Alliance of Small Island States (AOSIS) said there were still fundamental divisions among Parties, and chief among them is over the issue of finance. It said threats from the super typhoons are real as had been tragically witnessed and this is an area for more resources. However, it has reason to be optimistic that human solidarity will prevail in incidents of disasters, and is pleased that after 20 years (after the UNFCCC came into being), the international mechanism for loss and damage became a reality.

Nepal speaking for the Least Developed Countries (LDCs) expressed disappointment with the outcomes related to long-term finance where without a mid-term target and a clear pathway, we are unable to understand how we are going to reach the target of US$100bil annually by 2020. It urged developed country Parties to take all necessary steps for the initial capitalisation of the Green Climate Fund (GCF) as soon as possible.

It was pleased with the recent pledges to the LDC Fund by the United Kingdom and others who have contributed to the fund earlier this year. However, it urged for further funds to expedite implementation of the National Adaptation Programme of Actions (NAPAs) and formulation of National Adaptation Plans (NAPs). It also thanked those countries who had enabled the Adaptation Fund to reach its target of US$100mil in Warsaw.

It recalled that at the opening of the COP, the LDC Group stated that it saw COP19 as a stepping stone for urgently needed actions for finance and for loss and damage as well as paving the way to Paris where the world expects to agree on a new agreement.

On the Ad Hoc Working Group on Durban Platform for Enhanced Action (ADP) outcome, it said 'we found ourselves again in a situation where we were forced to accept decisions that are not in favour of our countries. However, we accepted the decisions in the spirit of compromise. The Group believes that it is now urgent to accelerate the process of negotiations for the new agreement, starting from March 2014. The urgency of the issue and inadequacy of the current regime to address the climate change problem must guide all negotiations and we need to ensure that we build on progress achieved so far.'

It further said 'we were disappointed and frustrated about the lack of convergence on important Lima (venue of COP20 next year) deliverables at this session. In the context of adopted decisions this afternoon (Nov 23), in 2014 we need to see progress on the process regarding how to agree on commitments for the new agreement. We urge Parties to put forward their commitments well before the 20th session of the COP – not only those Parties who are ready to do so, but those Parties who are in a position to do so.

It appreciated the hard work and flexibility of all Parties that resulted in the establishment of an international mechanism on loss and damage which is crucial for the LDCs. It hoped that the international mechanism will have adequate support and will soon be able to start working to address loss and damage associated with impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change.

While appreciating the efforts made so far to operationalise the Technology Mechanism, it expressed its disappointment and dissatisfaction at the way issues linked with the World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO) that affect access to appropriate and environmentally-sound technology was addressed.

Swaziland representing the African Group said it was disappointed by signs that some Annex I (A1) Parties intend to renege on their agreement to ratify the 2CP. It is important that all Parties ratify the 2CP and called on those A1 Parties that are contemplating on reneging from the agreement reached in Doha to humbly desist from such thoughts and instead to immediately start ratification processes.

It further expressed disappointment by the outcome on matters related to the implementation of Article 5, 7 and 8 of the Kyoto Protocol. It said Parties were close (to an agreement) but one Party changed its mind in the last hour and proposed a new text. It said this cannot be a way of conducting our business here. We urge A1 Parties to engage in good faith and keep to the agreements. It warned that the decision by one A1 Party has an effect of delaying the ratification process by one year.

It expressed concern that some Parties want to include the Clean Development Mechanism (CDM) in the new market mechanism rather than making efforts to improve the CDM in a manner that would lead to projects and programme activities in those areas that up to now have not benefited from the CDM.

It encouraged Parties to embrace the set of implementation decisions that would clearly outline how new rules concerning carry-over of supply units from the first commitment period of the KP and other accounting rules decided in Doha including the amendment to Article 3.7 of the KP.

Scientific findings, it added, continue to warn us to do more and therefore we urge A1 Parties to raise their levels of commitment during the 2014 review such that they align with the latest scientific findings. Under no circumstances do we expect developed country emissions to grow.

India, represented by Minister Natarajan said that she had come to participate in this COP with expectation that this will indeed be an "implementing" COP. Her expectation was that we will indeed be able to adopt ambitious targets in a range of areas. However, her expectations seem to be belied. This COP has become a "holding" COP where commitments from developed country Parties have been put on hold or, even worse, there has been backsliding. This is a most unfortunate situation. The expectation of quick ratification of 2nd commitment period of Kyoto Protocol has been belied. We have not seen the ratcheting up of ambition of Annex 1 Parties; in fact, we have even seen that some countries have reneged on their pledges. How can we work in such an atmosphere of curtailing of ambition?

The Minister was glad however that a mechanism for loss and damage has been set up, and it will address one of the key concerns of the developing countries. Also, the ADP has moved forward towards the 2015 agreement. India looked forward to working together with all Parties in the ambitious task of creating a new arrangement for climate change – a protocol or an agreement or an agreed outcome with legal force, based on the above principles.

The Indian Minister said that we share the common goal to tackle the challenge of climate change. Trust and confidence in each other will enable better response from all of us. That is the spirit we want to see in our engagement at the COP and UNFCCC. We must adhere to the principles and provisions of the Convention, especially equity and common but differentiated responsibility (CBDR) to deliver meaningful results and also ensure pathways for sustainable development and poverty eradication.

The outcomes under the UNFCCC have to be based on equity particularly inter-generational equity. Many countries talk of fairness but equity is something more than fairness and we must accept equity in all its manifestations, said the Minister. Needless to say, the new generation will look up to us with admiration if we hand over a healthy living environment to them. India wished that this process yields a balanced outcome on adaptation, mitigation, finance, technology transfer, capacity building and transparency.

The **European Union** said the Warsaw conference contributed to the legal agreement in Paris (venue of COP21 in 2015) in that Parties agreed to share each other's commitments (the final text under the ADP outcome was changed to 'contributions') in a clear, transparent and understandable manner as early as 2015, adding that Parties will still have to agree on the legal form of the agreement. It noted that the EU has consistently been a major contributor of climate finance where in 2013, it provided Euro5bil to developing countries and it has announced indicative climate finance plan for next year. It however, noted its disappointment that the issues related to Article 5, 7 and 8 of the Kyoto Protocol (on the rules) could not be resolved although the 2CP of the Kyoto Protocol has been tabled for ratification in the member states respective legislature.

Australia, for the **Umbrella Group**, also thanked the COP President for conducting a party-driven process that led to agreement among all Parties building on from the Durban and Doha meetings.

Australia speaking for itself referred to the decisions adopted on long-term finance and the GCF and said that its participation in the decisions did not indicate acceptance of developed countries having to maintain and increase public climate finance as well as ambitious and timely contributions to enable the operationalization of the GCF, including its initial resource mobilization.

Canada in relation to the decision on the COP guidance to the GCF clarified its understanding that developed countries may also provide finance through other channels.

At the CMP plenary

The ratification of the second commitment period (2CP) of the Kyoto Protocol (KP) risked being delayed by one year as Parties could not reach agreement on a critical agenda item. This was revealed at the closing of CMP9 on the evening of Saturday, Nov 23 where deliberation on several remaining agenda items took place.

On Friday (Nov 22) evening, CMP President Marcin Korolec convened the CMP closing plenary to adopt agenda items that had reached conclusions and adjourned the meeting to allow informal consultations on unresolved issues.

The 2CP of the KP for emission reductions by Annex 1 Parties to the KP is to be implemented between 2013 and 2020 to replace the first commitment period of 2008 to 2012.

The main contentious issue was over agenda item 3a: 'Report of the Subsidiary Body for Scientific and Technological Advice (SBSTA) in relation to agenda item 12(a) of SBSTA39 on *Implications of the implementations of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Article 5, 7 and 8 of the Kyoto Protocol.*

(Upon the closing of SBSTA39 on Nov 16, there was no conclusion on item 12(a) and it was transmitted to the COP/CMP for further guidance and consideration.)

Parties were reportedly close to an agreement on this item but the conclusion was scuttled by the last minute introduction of a new text (with the insertion of a new paragraph) which was not able to be discussed and therefore deferred to SBSTA40 and is feared to delay the ratification process.

Korolec presented the document FCCC/KP/CMP/2013/L.11 which noted that the CMP continued its work on this matter which was initiated by decision 1/CMP.7 and further developed by decision 2/CMP.8 and agreed to adopt a decision on the reporting of information on anthropogenic greenhouse gas emissions by sources and removals by sinks from land use, land-use change and forestry activities under Article 3, paragraphs 3 and 4 of the Kyoto Protocol (contained in document FCCC/KP/CMP/2013/L.11.Add.1)

However, the CMP was not able to conclude its work on other methodological issues and it requested the SBSTA to continue consideration of this agenda item at SBSTA40 on the basis of the draft text available on the UNFCCC website.

In response, the **European Union** said it regretted that Parties were unable to resolve this matter as this would pose a challenge for the ratification of the 2CP of the KP. It said Parties did achieve the draft decision text (referring to FCCC/KP/CMP/2013/L.11) albeit with a number of brackets remaining. It said the EU will take the uncontested paragraphs into account for further implementation and that it is doing this in good faith to ratify the Doha Amendment to the KP.

Norway, Australia and Switzerland supported the EU, adding that they trust the paragraphs will not be re-opened at the next meeting (of SBSTA next June in Bonn) to enable ratification of the 2CP.

Venezuela, however, said it did not have the same understanding and insisted that as this decision was not adopted by the CMP, we retain the right to come back to this draft text. The ratification of the 2CP does not depend on just a few developed countries that intend to take the paragraphs they want and implement as they want noting that the KP does not belong to a few countries. It stressed that there cannot be two interpretations of the text, adding that it considered the whole text is open and cannot be adopted.

The contested paragraph is paragraph 21 which reads: [*Requests* the Subsidiary Body for Scientific and Technological Advice, to consider, at its fortieth session, whether the reference to assigned amounts in paragraph 25 in decision 1/CMP.8 for a Party included in Annex I undergoing the process of transition to a market economy should be understood as referring to the assigned amount for the second commitment period calculated pursuant to Article 3, paragraphs 7 bis, 8 and 8 bis, adjusted by the number of assigned amount units cancelled in accordance with paragraph 23 ter.]

Both Switzerland and Venezuela wanted their respective statements to be put on record. (It is learnt that the controversial paragraph was proposed by one country that is in the process of transition to a market economy, early in the morning of Nov 23 but was not able to be discussed as the delegate had left to catch his flight.)

The Secretariat clarified that the text that will be forwarded to SBSTA40 as it has not been agreed by Parties.

St Lucia representing the Alliance of Small Island States (AOSIS) said it would be very pleased to support the adoption of this text (referring to FCCC/KP/CMP/2013/L.11) and its entire footnote (referring to the in-session draft text) if the brackets on page 4 (referring to paragraph 21) and page 6 (referring to the cancellation pursuant to Article 3, paragraph 7 ter).

We worked hard with the Group of 77 and China on this matter and we really only have one issue that was raised in paragraph 21 and we appreciate that this issue will be in front of us in the June session (of SBSTA), adding that it is unfortunate that we were not able to clear the brackets of this draft text.

Review of the modalities and procedures for the clean development mechanism (CDM)

During the CMP plenary, Parties adopted the draft decision on this issue with a request to the Secretariat to prepare a technical paper, by 19 March, 2014 on the following issues for revision for consideration by the 40th session of the Subsidiary Body for Implementation as follows:

(a) The membership and composition of the Executive Board of the CDM, including similarities to and differences from other intergovernmental bodies within the UNFCCC process;

(b) The liability of designated operational entities to compensate for the issuance of certified emission reductions (CERs) resulting from significant deficiencies in validation, verification and certification reports;

(c) Provisions for programmes of activities;

(d) Length of the crediting period;

(e) Requirements for the demonstration of additionality;

(f) The further elaboration of the role of designated national authorities of Parties included in Annex I and Parties not included in Annex I;

(g) The simplification and streamlining of the project cycle for certain project categories;

Ecuador expressed deep concern regarding the path of the CDM. It said there has been a surge of technical improvements for (the counting) of certified emission reductions (CERs) but the principle problem is the lack of demand for credits due to low ambition. We are referring to the over-supply (of credits) that lead to the market crisis and loss of confidence. It appealed to Annex I countries to analyse critically their desire to increase CER and ask them to fulfil their commitments under the 2CP. It pointed out that the CDM Executive Board's credibility is seriously affected as its members are made up of Annex I members who are not ratifying the 2CP.

The CMP was then suspended for the final joint plenary of the COP 19/CMP 9 where the Party groupings were invited to make statements (as reported above).