

## Smooth transmission of text for agreement - but far from consensus

Paris, 7 December (Hilary Chiew and Meena Raman) – Negotiations of the Paris agreement under the United Nations Framework Convention on Climate Change (UNFCCC) has moved to a process under the Presidency of the Conference of Parties.

Four years of work by the Ad Hoc Working Group on the Durban Platform on Enhanced Action (ADP) was formally ended on Saturday, 5 December. The ADP was tasked with producing “a protocol, another legal instrument or outcome with legal force” under the Convention. However divergences among Parties remain deep so the draft agreement text is far from a consensus stage.

On 5 December the ADP transmitted the text titled “Draft agreement and draft decision on workstreams 1 and 2 ... contained in annex I” to the Conference of Parties (COP). It also transmitted the text contained in annex II, the reflections note of the ADP Co-chairs that reflects the textual suggestions made during the contact group meeting on 4 December. The draft agreement is 21 pages while the accompanying draft decision is 20 pages.

(Workstream 1 worked on the draft agreement for the post-2020 period and an accompanying decision, and workstream 2 worked on pre-2020 action.)

At the COP plenary on Saturday evening, French foreign minister Laurent Fabius who is the COP21 President set out the process for the next phase of work, starting on Sunday, 6 December. He proposed to Parties that it will be one single open-ended body to carry out the consultations to make progress of the text of the agreement and to facilitate compromise; the body will come out with a document which will go the COP for adoption on 11 December respecting strictly all the procedures.

He will preside over this group which is called the Comité de Paris (Paris Committee).

Fabius said that he will convene this committee at least once a day, if necessary more often than that. Ambassador Laurence Tubiana could represent him as necessary and each delegation can be represented there at whatever level they wish.

He said that the draft agreement would be the basis on which Parties will begin work in the COP. He also stressed inclusion and transparency, saying that the Comité de Paris proceedings will be transmitted to the screen of the conference site so everyone can follow unless the committee will decide to do otherwise.

(Developing countries have been persistently calling for civil society observers to be present in informal meetings or be able to view these on screen. In the COP process proposed by Fabius, only the Comité de Paris will be open for viewing.)

There is considerable work to be done in the next few days but Parties were comfortable with the transmission from the ADP. The controversial Copenhagen COP session in 2009 that did not respect United Nations procedures continues to haunt Parties, and there have been previous COP experiences whereby the chairs of some working groups had transmitted text 'under their own responsibility' that were not Party-driven text despite protest from Parties. This time in Paris, Parties were assured that what they view as a Party-driven text which is owned by all, with all the positions in place, was transmitted to the COP for further work.

The following Minister-led informal consultations under the Comité de Paris took place from Sunday afternoon (6 December):

- Support: means of implementation (finance, technology, capacity building)
- Ambition, including long-term goals and periodic review
- Differentiation, in particular with regard to litigation, finance and transparency
- Acceleration of pre-2020 action (Workstream 2, excluding pre-2020 Finance).

According to sources, it was unclear how the process will bridge differences and ensure a Party-driven process. Many in the corridors were wondering who is actually drafting the new text that is supposed to be made available to ministers on Wednesday, 9 December.

Minister-led informal consultations will continue on the support cluster all day today (7 December). Listed in the daily programme are also meetings titled “Facilitators conducting bilaterals” on all four clusters.

The Comité de Paris will meet in the evening at 7 pm and is expected to shed more light on the clarity of the process. With just a few more days left, there is great anxiety as to whether the outcome will be balanced and acceptable to all.

The COP21 session is meeting from 30 November to 11 December.

### **Highlights from COP plenary (5 December)**

At the COP plenary on Saturday evening, COP21 President Fabius proposed a process for the next phase of work under the Comité de Paris which was accepted by Parties.

In his opening remarks he said that during the short week that began on Sunday (29 November) all Parties had worked enormously to come up with more concise wording to reduce a number of options and as a result there is a new negotiation basis accepted by everyone and which contain many compromise solutions. This draft represents progress but everyone will acknowledge we still need to go into depth and need to make things concrete by Thursday (10 December).

He said we must find the political agreement that we can build on the formula that we all use which is ‘ambitious and balanced agreement’.

Fabius said that the Comité de Paris will respect 3 principles: (1) Nothing will be agreed until everything is agreed; (2) Inclusion of all Parties; (3) the rule that he believes will be

‘unprecedented’, where proceedings will be transmitted to the screen of the conference site so everyone can follow unless the committee will decide to do otherwise.

He said further that the committee will determine when the text can be transmitted to a review group that will revise the legal points and language, adding that it is essential to have this review carried out so that that text can be finalised within the deadline.

In order to go forward to make headway, Fabius proposed four informal working groups to be set up on the cross-cutting issues from which the results are very important for obtaining agreement. To make swift progress, he said, a number of ministers have been asked on behalf of the Presidency to lead on those topics.

On Monday (7 December) he will open the first meeting of the Comité de Paris and the first facilitators will be able to put forward their first conclusions and after that exercise the political agreement will be translated into concrete text proposal. The committee will ask the facilitators to prepare text that they are responsible for.

To ensure transparency of the entire process, Fabius said, he will have regular check up on where things stand, there will be opportunity to see where we stand, what progress has been achieved, and can be pragmatic and adapt and have regular stocktaking.

On the group for legal and language, he proposed a main team of 11 representatives, two from each regional group of the UN and one to represent small island developing states, with two co-chairs. This group will recommend text to the committee; their deadline will be Thursday; and if accepted their changes will be incorporated into the text which will be submitted to the COP on Friday. Parties were invited to put forward their nominations for this group before Sunday, 5 December.

Fabius stressed in closing that this agreement is something that we simply cannot postpone; there is exceptional momentum for many reasons that we manage to secure here in Paris; while we talk, greenhouse gases are still being emitted so we must succeed and succeed here. He added that it is not a question of the (COP) President on one side and Parties on the other side; we must move in one direction and pull all our efforts in order to succeed.

Parties were then invited to make their statements.

**Speaking for the Group of 77 and China (G77-China), South African Ambassador Nozhipo Mxakato-Diseko** while acknowledging that the ADP has now concluded its work with a text that is Party-owned and that is now the basis of further negotiations, she pointed out that submissions made by members of the Group on missing elements of the draft Paris Outcome were not reflected in the revised document (FCCC/ADP/2015/L6/Rev.1/Add.1).

“We would therefore appreciate it if these proposals could be included in the reflections note and released as a Rev.2 text (of the Paris Outcome) with those comments and proposals included,” she requested.

She said Parties now enter the next and final phase of work under the guidance of the COP Presidency and the Group is ready to engage, stressing the importance of clarity and predictability of the process.

Acknowledging Minister Fabius’ proposal on the way to move forward for the new phase of negotiation, Ambassador Mxakato-Diseko noted that the process, therefore, should be clear and transparent, inclusive and Party-driven.

“The format you suggested is similar to the one followed in Durban, which proved to be a useful format that will enable us to have the much needed and urgent discussion on cross-cutting issues that we have been calling for. These cross-cutting and highly political issues will need Ministerial discussion. We also need a central place where there can be an overview of progress made across all areas.

“We remain open to the Presidency’s suggestions how we can use different modalities for different issues. However, we note that the utilisation of facilitation, spin-off and informal, informal groups, although with varying degrees of effectiveness, proved to be useful tools for the development of text and we should use such tools,” she added.

Ministers, she said, must engage on political issues and make the necessary policy decisions. On the basis of these discussions, they should instruct their negotiators to develop text reflecting their instructions.

“As Ministers start working, we must ensure that there are no parallel processes. There cannot be a

situation where negotiators and Ministers are working on the same issues at the same time in parallel,” she cautioned.

Underscoring that at this historic moment where all Parties will take a significant step forward in the fight against climate change, she said Parties must remain focused on what they agreed in Durban.

“The G77-China wishes to re-emphasise its position that the Paris outcome must be under the Convention and in full accordance with its principles and provisions, in particular the principles of equity and common but differentiated responsibilities and respective capabilities.

“The purpose of the Paris Outcome is to enhance the implementation of the Convention and must not replace, rewrite or reinterpret the Convention and it must also be fully in accordance with the Durban mandate,” she added.

She also said the core elements mandated by the Durban decision (mitigation, adaptation, finance, technology development and transfer, capacity-building and transparency of action and support), as well as loss and damage and response measures must be addressed in a comprehensive and balanced manner, both in the agreement and in the COP decisions.

She further said adaptation and mitigation must receive the same priority. These must be supported by finance, technology development and transfer and capacity-building by developed country Parties on a scale that matches the level of action required to achieve the objective of the Convention as set out in Article 2 of the Convention.

In this regard, Ambassador Mxakato-Diseko said, “we urge developed country Parties to take the lead through undertaking ambitious emission reduction commitments and providing enhanced finance, technology development and transfer and capacity-building support to developing country Parties for their ambitious mitigation and adaptation actions.”

“We also wish to reiterate our position that a fair and ambitious outcome of our work here in Paris must address both pre-2020 ambition of actions and support, as well as the post-2020 agreement,” she said, adding that the Group is ready to negotiate and work as fast as possible on the basis of the text produced by the ADP.

**Malaysia representing the Like-minded Developing Countries (LMDC)** responded to the refrain of the Umbrella Group that ‘the world has change’ (see Umbrella Group’s intervention below) and cautioned that this could jeopardise the success of the Paris COP.

Expressing deep disappointment with the repeat of the refrain in the open plenary, the LMDC spokesperson Professor Gurdial Singh Nijar said the Group looked upon its (negotiating) partners to engage in a spirit of mutual respect for developing countries’ concerns.

“Our concerns are real. For that reason, Mr President, we will be placing a great deal of confidence in you to ensure that this refrain that the world has changed ... this refrain must be changed because this is very critical to the success of a Paris Accord, Paris Agreement, Paris Protocol and what have you,” he appealed.

Referring to his intervention at the ADP closing plenary in the morning in which he had laid out clear statistics that showed that developing countries are racked by extreme poverty, he said the refrain of ‘the world has changed’ is intended to change the basis upon which the Convention has been founded on, i.e. equity and historical responsibilities.

“I think we are being set upon to change our economic pathway and the way we deal with our poverty eradication. We have extreme poverty. For example, China and India’s per capita income is very low. For them not to proceed on the pathway of progress and industrialisation means the per capita income has to be reduced even further.

“We cannot accept starvation as a price for the success of this agreement. I think our partners have to begin to understand that and we had laid forth the statistics and I can provide more and current statistics ... we asked that as much as we agree to abide by best available science in understanding the long term global goal and individual efforts to deal with climate change, we ask our partners to listen to our concern,” he added.

The LMDC’s spokesperson said developing countries have extended their hands and laid out their cards. “Our pathway will be affected ... don’t you hear? Don’t you read and internalise those statistics? So we appeal once again and hope this has been significantly shown through our conduct in this week, that we are genuine in addressing climate change but at the same time, it has to be

done in the context in which the Convention itself is framed.”

He said developing countries have submitted Intended Nationally Determined Contributions (INDCs) and shown that they are prepared to do emission reduction, noting that some have a huge unconditional component and there are conditional components that would require support on the basis of common but differentiated responsibilities.

“My comment is taunted by the fact that some of our partners see it fit in this public fora to say again that the world has change ... yes, the world has changed but not in the way you intended to use it perhaps as a subterfuge to undermine the basic precept of the Convention,” he said, “We cannot accept that because to accept that is to destroy our society. And that we cannot do.”

He said the Group which represented at least 50% of the world’s population is happy to see the COP Presidency take charge, noting that in the short interactions, Minister Fabius has shown himself to be extremely amiable.

“You listen to us and you respond to us. Even in the short accidental meeting that we had in corridor, you showed yourself to be open and amiable in a fashion that inspires confidence in our group that you will lead us to success,” said Prof. Gurdial.

On the mode of work prescribed by the COP Presidency, he sought clarification if Parties will be making text changes, debate and finalise text up to a point in the informal groups before the text gets to the main group which has been referred as the Paris Committee, the Paris Group and the Central Group at different time (of Minister Fabius’ statement) and if these nomenclature or technical terms refer to the same thing.

He asked if there will be further discussion and negotiation of the text when it goes to the Paris Group (Comité de Paris), noting that this is small but significant matter that requires some reflection and the COP President can clarified them before the start of the process on Sunday (6 December).

He also assured that the LMDC will cooperate entirely as it has done in the past four years and generate as much goodwill as possible.

He recalled that not long ago, there was great deal of publicity in the press that the Group was not willing to move, adding that the press is controlled

by press barons that do not come from the developing countries.

However, he hoped that the COP Presidency has been appraised of the fact that actions speak louder than words, adding that the Group has always tried to engender a spirit of goodwill, participated in actions that urged for the text to be provided and negotiations can begin.

(At the closing plenary of the ADP earlier in the day, Prof. Gurdial urged Parties to look at the best available social science evidence on whether the world has or has not changed. Citing a UN report, he said inequality among countries has persisted and in some cases amplified. He said that countries and peoples are being left behind ... participating at the margin of the global economy. Many developing countries are confined to be trapped in low or middle income level.

“In 2010, high income countries accounted for 16% of the global population that enjoyed 55% of global income. Low income countries accounting for 1% of global income contained 72% of the global population,” he pointed out.

On absolute per capita income, he said the gap is quite incredible in that the per capita income gap between high income and low income countries increased from US\$18,000 in 1980 to close to US\$32,000 in 2014.

He further said over 1 billion people continue to live in poverty. Even the foremost developed among the developing countries like Brazil, South Africa and China accounted for 39% of the 1 billion extreme poor.

Looking at climate change figures, Prof Gurdial said the carbon space and vulnerability space depict the same figure where countries that are least responsible are the most affected and bear the brunt today like flooding, storm and drought.

He said according to a rating agency analysis of climate vulnerability of nations, North America and Western Europe are least vulnerable but most of South Asia and Southeast Asia are highly vulnerable.

“The modern day reality has not changed and yet you urge upon us to bear equal responsibilities in terms of finance and response to climate change.

Therefore, he said the LMDC suggested that Parties navigate away from this dangerous zone where Parties tried to fit the so-called modern day

reality through nice-sounding words like ‘Parties in a position to do so’ that sound acceptable but has to be in the context of historical responsibilities and equity so Parties can really move ahead to meet this global response in a responsible manner.

“While we speak about the age of unprecedented prosperity, we also speak of unspeakable deprivation around the world and the principle of CBDR as a collective enterprise must remain a bedrock that is the fulcrum upon which the Paris agreement must be based,” he stressed.)

**Representing the Alliance of Small Island States, Maldives** is pleased with the ADP text but noted that there is considerable work ahead.

“It has been proven many times in this process that maintaining transparency in the final week is essential. At every point, every Party must feel ownership of the text if we are to succeed.

“Now that we are embarking in political discussion, Ministers must be afforded opportunities to engage with each other as much as possible and ensure that parallel process does not interfere with their engagement,” it cautioned.

It recalled that Parties has the historic opportunity before us but mindful that chance like this has slipped away before and stressed that effectiveness and fairness must not be sacrificed for the sake of political expediency.

The Paris agreement must be a balanced package that include meaningful outcome of workstream 2 and all the six elements of the Durban mandate and that loss and damage is a separate and distinct issue.

It sought clarification on where the orphan issue of adaptation and loss and damage will be addressed. It also wanted to ensure that there is space to discuss the outcome of the 2013-2015 Review which it deemed is appropriate in the context of the ambition discussion, in particular a space to anchor the below 1.5 degree Celcius goal that many hold so dear.

**Sudan speaking for the African Group** welcomed the successful conclusion of the ADP which produced a text that is acceptable to all Parties but noted that it is understood that the draft Paris Outcome is not the best text that Parties had hoped for.

However, it is sure that all Parties could appreciate the sensitivity and complexity of the issues involved in this particular text, noting that the Group has some important issues that been left out but hoped that in the course of negotiation in week two, it will be able to address them.

However, Sudan stressed the need for the process since Durban (COP 2011) to continue to be inclusive, open and transparent and encouraged the COP Presidency to provide further clarification and consult with Parties on possibility to make further improvement, adding that the Group would remain open and constructive to assist the process for a successful outcome.

“We would like to stress the need for ministers to engage in political issues and provide negotiators to reflect on the agreement and understanding that is reached on the text in an efficient interface between ministers that are considering political issues and negotiators that are addressing drafting issue while avoiding parallel processes.

“We would also like to reiterate that the Paris Outcome is under the Convention and is to enhance the implementation of the Convention in particular mitigation, adaptation and finance that is key to success in Paris in addition to technology development and transfer, capacity-building and transparency of action and support,” it emphasised.

**Saudi Arabia speaking for the Arab Group** said Parties are working in a delicate process and the Group endorsed the COP Presidency’s vision and seek his support to maintain balance and parity in the progress of different issues.

“We look forward to your guidance of an inclusive process that all groups of country counts and consultation must include all groups of countries. We need to hear and listen to all Parties,” it said, adding that it hopes that Parties can restrain themselves and refrain from inserting additional text and introduce new concepts.

**Guatemala speaking for the Independent Alliance of Latin America and the Caribbean** said the draft Paris Outcome contained the positions of all Parties and can be used as basis to finalise the negotiation for a Paris agreement that is a legally binding instrument and applicable to all.

It also said the next few days are critical and at the same time could be productive of this lengthy process if Parties maintain focus on an ambitious

agreement to address the challenges of climate change.

“We would like to appeal to all to work according to the principle of transparency and trust which was reaffirmed by both the Presidencies of Peru (for COP20) and France.

“This is our text and it should be our ability to listen and articulate our needs and national capacities based on global objective which makes it possible to reach an ambitious, sustainable and legally binding agreement,” it added.

It is pleased with the modality of work outlined by the French Presidency which allow for dealing with the cross-cutting issues throughout the elements of the agreement such as differentiation and financing.

It said a legally binding agreement that points towards achievement of a long term goal with temperature rise below 2 degree Celcius are the two key concepts to a climate change regime that is lasting and ambitious to ensure global development that is low in emission and ensure climate resilience.

**Representing the Least Developed Countries, Angola** regretted that the composition of the open-ended legal and language committee (proposed by the COP Presidency) was decided based on the rule that decided the composition of the bureau of the COP.

It pointed out that it is common practice to include an LDC representative in the committee. (Angola was referring to the 11 representations in the committee which are allocated according to the five UN regions with one representation each from the Annex 1 and non-Annex 1 countries and one representation from small island developing states.)

Nevertheless, it welcomed the proposal on the way forward and the mode of work outlined by the COP Presidency.

**China** in supporting the statements of both the G77 and China and the LMDC, also supported the statement of LDCs.

It welcomed the ADP Co-Chairs’ work in producing a draft Paris Outcome which will be the basis for further negotiation under the COP next week and reiterated its unreserved commitment to work with the COP Presidency and all Parties to

reach an equitable, ambitious, comprehensive and balance agreement under the Convention.

“An ambitious Paris Outcome should not focus solely on mitigation. It should not be a mitigation Paris Agreement but should also address the other important elements in a balance and comprehensive manner in particular to address the balance between mitigation and adaptation and key issues particularly for developing countries to access the necessary finance, technologies and capacity-building support.

“We support the mode of work suggested by the COP Presidency and believe the work in the following week is crucial for success and that it is fundamental that negotiation process should be open, transparent, inclusive and party-driven.

“We emphasise that the Paris Outcome must be under the Convention and be in full accordance with all its principle and provision in particular the equity and common but differentiated responsibilities and respective capabilities. The purpose of the Paris Outcome is to enhance the full, effective and sustained implementation of the Convention and not to rewrite, renegotiate or reinterpret the Convention,” it added.

China urged developed countries to take the lead in implementing economy-wide quantified emission reduction targets and provide finance, technology development and transfer and capacity-building support to developing countries under the agreement while developing countries will enhance their diversified type of mitigation efforts and adaptation actions.

It also believed that ambition and effectiveness will be achieved with maintaining the difference between developed and developing countries in each elements and the Paris Agreement should provide for Parties to regularly prepare, communicate and implement their enhanced commitments and actions according to Article 4 of the Convention.

It further highlighted the need for increasing the pre-2020 ambition by developed countries to build trust for all Parties and called for a strong, comprehensive and meaningful agreement with a view to lay a solid foundation for post-2020 enhanced actions.

**Marshall Islands** said it came on a mission to safeguard its future and it wants an ambitious, science-based agreement that gives every country

a pathway to survival. To do that, it said the Paris Agreement must deliver five key things.

It must response to the existential threat facing the most vulnerable by anchoring the 1.5 degree Celcius temperature goal, noting that the recent review of the long term goal found that 1.5 degree Celcius is much safer and still feasible to achieve.

It said a strong, long-term decarbonisation goal towards phasing out fossil fuel and carbon pollution by mid-century is needed. The agreement must have a regular five-year political moment for countries to come forward and ratchet up their ambition in which by 2020, world leaders need to be back at the table to revisit their targets or risk putting the temperature goal out of reach.

It also want to see a serious reckoning with longer term and irreversible effect of climate change in the form of ocean acidification, loss of coral reefs and loss of territories. And finally, we need to see some strong commitment and political assurances on long term climate finance.

“As powerful as it was at that time, the US\$100 billion promised in Copenhagen is now tainted for what some feels as creative accounting and failure to prioritise assistance for the most vulnerable. This has continued to scratch away at the bone of trust so our partners need to quickly put their finance card on the table,” it added.

It called for necessary global action and not to see the negotiation as competition against short-term national interests as Paris is much bigger than that.

It also said while Durban mandate is to develop a new legal agreement and not to unravel the principle and provision of the Convention, but at the same time we are not here to point fingers, lay blame, categorise and divide.

**Australia speaking for the Umbrella Group** said it stands ready to work with all Parties and offered its full support to the French Presidency to deliver a strong outcome.

It wanted a new agreement that is ambitious and credible with established strategy to keep global temperature rise below 2 degree Celcius.

“Let us be clear that we stand by our obligation under the Convention but the world has changed since 1992 and our common approach to address the common challenge of climate change must evolved accordingly.

“As developed countries, we will continue to lead but to address the challenge of climate change we must see all Parties act in consistence with their different national capacity. The Paris Agreement must reflect this ... setting a course for all countires to progress in the same direction over time,” it added.

It said the Group recognises many partners’ continued needs for climate finance, capacity-building and technology transfer support.

“Our commitment to ensure this support continues to flow is demonstrated by pledges made in recent weeks. We want to underscore the role that sub-national governmens, civil society organisations and businesses play as part of international climate change response,” it further said.

(Concerns are high among many developing countries and observers that developed countries are regressing from their legal commitments under

the UNFCCC to provide finnacial resources and instead are enbracing voluntary and unaccountable “partnerships” with a strong focus on the corporate sector.)

On workstream 2, the Group is hopeful of an outcome to strengthen the link between Parties’ activities under the Convention and the actions taking place on the ground.

It is pleased with the ADP in delivering a text that is Party-driven and Party-owned and that we have before us major political options for ministers to be resolved in week two and assured that it will work with all Parties to find compromises that will secure an ambitious outcome.

It is also hopeful of reaching positive outcome of negotiation carried over from the subsidiary bodies including on capacity-building, the 2013- 2015 Review and Response Measures.

(Edited by Chee Yoke Ling)