

## What to expect at the Bonn climate talks

Bonn, 30 April (Meena Raman)

### *Introduction*

The intersession climate talks under the UN Framework Convention on Climate Change (UNFCCC) will kick start in Bonn, Germany, from April 30 to 10 May. The two-week session will witness the convening of the meetings of the forty-eighth session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 48), the forty-eighth session of the Subsidiary Body for Implementation (SBI 48) and the fifth part of the first session of the Ad Hoc Working Group on the Paris Agreement (APA 1.5).

A key focus of the three bodies will be in making progress related to the completion of tasks concerning the implementation of the Paris Agreement (PA), known as the Paris Agreement Work Programme (PAWP). Various decisions regarding the modalities, procedures and guidelines necessary for the implementation of the PA are expected to be adopted later this year in December, in Katowice, Poland by the Conference of Parties meeting as the Parties to the PA (known as the CMA), which will also see the convening of the 24<sup>th</sup> session of the UNFCCC Conference of Parties, known as COP 24.

At COP 23 last year, the groundwork was laid for what will be intense and difficult negotiations on the PAWP this year on the road to COP 24. At the heart of the matter is how developed and developing countries view the PA. While Parties from both sides of the divide say that the PA must not be reinterpreted when developing the 'rules' for its implementation, there is no common understanding on how the PA must be viewed and operationalised.

What has clearly emerged in the last two years since the adoption of the PA are differences in

interpreting what are nationally determined contributions (NDCs) (whether they are only about mitigation or if they also cover adaptation and the means of implementation) and therefore, the information that is required to be communicated flowing from the components of the NDCs.

Another big difference is how the principle of common-but- differentiated responsibilities and respective capabilities (CBDR-RC) is operationalised in the operational details for the PA implementation. While some developing countries take a firm view that the operational details must differentiate between developed and developed countries, developed countries are generally of the view that the rules for implementation should be common, with flexibilities for developing countries provided for those who need it.

How and in what way differentiation between developed and developing countries is treated will continue to be the subject of much wrangling this year in the negotiations.

Hence, the battle over the interpretation of the PA will continue this year and how it resolves will be watched very closely.

### *Progress in the PAWP – transition from 'informal notes' towards negotiating text*

A major task and challenge at the current Bonn session of the APA is for Parties to agree on steps towards the production of a draft negotiating text to be prepared for the various issues under the PAWP.

In the conclusions adopted under the APA in November last year, progress was noted with the production of 'informal notes' prepared by co-

facilitators under their own responsibility, which were annexed to the conclusions.

The informal notes, which are about 266 pages in length, cover the six agenda items of the APA which are nationally determined contributions (NDCs), adaptation communications, transparency of action and support, global stocktake, committee to facilitate compliance and matters related to the implementation of the PA. These informal notes contain the positions of all Parties on the various issues and will form the basis of further work at the current session.

The PAWP not only includes the work of Parties under the APA, but also some issues which are handled by the SBI, the SBSTA and the COP, especially in relation to issues related to finance, technology transfer and capacity-building. In this regard, the APA reiterated last year the “...recognition of the need to progress on all items in a coherent and balanced manner, and to ensure a coordinated approach to the consideration of matters relating to the PAWP by the SBI, the SBSTA and the COP.”

In a ‘reflections note’ issued by the APA Co-chairs on 10 April this year, the Co-chairs (who are from Saudi Arabia and New Zealand), state that “...given the breadth and complexity of the topics being addressed, we need to significantly increase the pace of work. For that, another transition is needed now: from the identified substantive points/elements to **full textual narratives for the proposals and options** on the table...To complete the work on time, we need to collectively produce an agreed basis for negotiations that Parties could work on, through iterations, up to the end of the APA’s allotted time at COP 24... Our clear aim is the delivery of operational guidance on all issues, with the necessary level of granularity to ensure the Paris Agreement can function.” (Emphasis added).

Given the “breath and the complexity” and the linkages between the various issues and the work across the bodies, ensuring balanced and even progress on all the issues will prove to be a major challenge for Parties.

To compound matters, developed and developing countries do have divergent interests on which issues are important for them, where progress is needed, and also as to what constitutes the PAWP package of decisions to be adopted at the first session of the CMA (known as CMA1).

Developed countries are especially interested in

work related to the mitigation component of NDCs, the transparency framework dealing primarily with the mitigation aspects of the framework and matters under Article 6 of the PA relating to ‘cooperative approaches’ including what some countries see as ‘market-mechanisms’.

Developing countries on the other hand, want to see more progress on issues relating to the means of implementation (viz. finance and technology transfer) necessary for mitigation and adaptation actions. Also important to them is the full scope of NDCs, which not only includes mitigation but also covers adaptation and the means of implementation.

While developing countries are expected to stress the importance of a single package of decisions at COP 24 which are balanced on all the issues of the PA implementation, developed countries are likely to emphasise that there is no need for a single package approach but for decisions to be ready for adoption according to their level of maturity in the process, leading to the early harvest of some issues.

This wrangling of a single package approach versus some early harvest of decisions can be expected to surface at the Bonn talks.

#### *Finance issues expected to be problematic*

At COP 23 last year, the issues which proved to be most contentious between developed and developing countries over what should be in the PAWP especially for CMA1 related to the finance issues. The United States in particular, was opposed to the finance issues in the PAWP.

Even though the US notified Parties that it does not intend to remain in the PA, it remains a Party until it legally withdraws from the Agreement in Nov. 2020. Last year, at COP 23, the US was opposed to the reflection of some issues as part of the PAWP which included ‘modalities for biennially communicating information on the provision of public financial resources to developing countries’ under Article 9.5 of the PA and the launch of a process for the setting of a new collective quantified goal on finance from a floor of USD 100 billion per year, which is to be agreed to by 2025.

The US view is also shared by other developed countries as well, including the European Union.

The US was of the view that there was no need to include these matters in the PAWP for CMA 1. Developing countries on the other hand wanted

these issues to be included, as for them, they are integral to the implementation of the PA.

Sources said that the US disagreed with developing countries and maintained that there was no clarity that these additional matters were part of the PWAP or that they needed to be addressed at CMA 1. After lengthy deliberations, the final decision adopted at COP 23 was only possible after the addition of a footnote in the decision which reflected that there was no consensus on the matters to be addressed under the PAWP and therefore, the footnote read as follows: *“Different views are expressed by Parties on whether possible additional matters should be added to the work programme under the PA for the first session of the CMA, ....”*

Hence, what issues constitute additional matters to be addressed at CMA 1 can be expected to resurface again at the current session in Bonn under the APA.

Given the divergent contentions, complexities and the need to address these challenges between the April/May and December sessions, it can be expected that there will be calls from several Parties to have an additional session to enable Parties to make progress on all the elements of the PAWP.

#### *Some key issues to watch out for in Bonn*

- **The Article 9.5 issue**

As pointed out earlier, the issue of addressing modalities for the provision of ex-ante information by developed countries on public financial resources to be provided to developing countries under Article 9.5 of the PA was a major contentious issue at COP 23.

Article 9.5 essentially provides that *developed countries “shall biennially communicate indicative quantitative and qualitative information” related to the provision and mobilisation of financial resources “including as available, projected levels of public financial resources” to be provided to developing countries.*

South Africa on behalf the African Group was the first to raise the point that Parties need to begin to discuss the modalities for communicating the information that is required under Article 9.5. In a formal submission at the COP on how to operationalise Article 9.5, the African Group called for the establishment of a process under the APA to define the modalities for biennially communicating information on the provision of public financial resources.

The African Group proposal was supported by the G77 and China but there was strong resistance from developed countries including from the EU, the Umbrella Group including the US. The G77 and China fought very hard for the issue to be addressed and stated repeatedly that ex ante information on public financial resources from developed countries to be provided to developing countries would help the latter plan and implement their NDCs.

Developed countries were opposed to discussing the “modalities” for the provision of the information, arguing that there was already an existing agenda item under the COP that deals with the *“process to identify the information to be provided by Parties in accordance with Article 9.5 of the PA”*.

Developing countries on the other hand argued that the nature of the discussions under the COP is fundamentally different as it deals only with “process” to identify the information and did not address the issue of the “modalities” for that information which needs to be addressed by the APA. According to sources, the word “modalities” was a red line for the EU.

Given the divergence of views, following intense informal consultations, compromise reached on the issue was that the issue of the ‘process’ to identify the information (which was previously handled by the COP which only meets once a year) would now be handled by the SBI for its consideration at the 2018 April/May session, while under the APA, deliberations will continue on the issue of the ‘modalities’ for that information under its agenda.

How the Article 9.5 issue will play out at the current session of the talks will be keenly watched.

- **Fight over the Adaptation Fund**

Developed and developing countries are divided over the future and nature of the Adaptation Fund (AF) under the PA. The AF is currently under the Kyoto Protocol.

The G77 and China wants the AF to remain in its current form in terms of its operational policies and guidelines, for developing countries to access the Funds when it AF serves the PA. Developed countries on the other hand want to change the nature of the AF from what it is at present, if the AF is to serve the PA. This divergence of views was visible from the inputs provided by the G77 and China and the developed countries during the APA session on the issue.

The EU, in its inputs said that “the current composition of the Board has worked well” but “potential revision of the composition depends on outcome of preparatory work, for instance sources and levels of funding.” It also proposes that Parties have to “decide to what extent the previous guidance to AF ..., including those agreed before adoption of the PA, shall apply *mutatis mutandis* to the AF when it serves the PA.”

In the inputs provided by Australia, Canada, Japan, New Zealand, and the US, on ‘governance and institutional arrangements’, among the proposals made was that “the AF enjoys appropriate legal personality to enable a new or revised relationship with the interim trustee, the Fund's secretariat, and any other contractual arrangements,” and on the operating modalities, “eligibility is restricted to Parties to the PA from the date the Fund begins to serve the PA,” and “prioritisation (is) given to Parties that are particularly vulnerable - especially Small Island Development States and Least Developed Countries.”

Given the proposals of developed countries, developing countries were concerned that the nature of the AF as they know it could change when it serves the PA.

In the final decision adopted last year by the Conference of Parties meeting as the Parties to the KP (CMP), one part of the decision notes “the progress of the APA in undertaking the necessary preparatory work to address governance and institutional arrangements, safeguards and operating modalities for the AF to serve the PA, including sources of funding, to be defined by Parties, and looks forward to the recommendations thereon from the APA in 2018.”

Hence, the work of the APA in relation to the AF in 2018, is bound to be difficult and contentious, as Parties attempt to bridge the current divergence of positions as regards the AF serving the PA.

- *The 2018 facilitative dialogue – Talanoa dialogue*

In Paris in 2015, Parties had agreed to “convene a facilitative dialogue ...in 2018 to take stock of the collective efforts of Parties in relation to progress towards the long-term goal referred to ...in the Agreement and to inform the preparation of NDCs...”.

At COP 23, the Fijian Presidency stressed the importance of the dialogue and referred to it as the

‘Talanoa dialogue’, to reflect what is the “Pacific spirit” of sharing stories. The dialogue was touted by the Presidency and some countries particularly from the island states as a very important event to “ratchet up” the NDCs of Parties under the PA.

Several developing country delegations had raised concerns about the mandate for the dialogue. Their view was that when the decision was taken in Paris in 2015 to convene a 2018 dialogue to inform the preparations of the NDCs, no one had expected the PA to take effect so soon in Nov. 2016. According to these sources, the Paris mandate obviously was to inform the preparations of the first NDCs to be communicated, prior to the ratification by countries of the PA, which was expected to happen after 2018.

Since Parties who ratified the PA had already communicated their NDCs well before 2018, some developing countries felt that the mandate for the dialogue was rendered futile and there was no further mandate to review or ratchet up the first NDCs that Parties had already forwarded to the UNFCCC.

In addition, some were of the view that ‘any pressure’ on them to ramp-up their NDCs with no indication of any financial support would not be fair to them. Moreover, they were concerned that developed countries were not showing real leadership by enhancing their mitigation ambition in the pre-2020 time frame, and have failed to close the mitigation gap, thus shifting the responsibility onto developing countries to do so.

Hence, there was much discomfort among some Parties on the strong focus of the Presidency on the design of 2018 dialogue and the intention behind this effort. Since the design of the dialogue was not negotiated, how it was to be reflected in the COP 23 decision became a bone of contention. Some Parties especially the small island states wanted to “endorse” the COP Presidency’s informal note on the dialogue while other countries did not want to do so since it was not a negotiated document.

The informal note provided details about the features and design of the dialogue. The dialogue, said the note, will be “structured around three general topics: where are we; where do we want to go and how do we get there.” It consists of a preparatory and a political phase, with the COP 23 President and the COP 24 President (Poland) providing a summary of key messages from roundtables to be held in 2018. The note further

states that “it will be important to send clear forward looking signals to ensure that the outcome of the dialogue is greater confidence, courage and enhanced ambition”.

During COP23, the Fijian Presidency had further consultations with Parties on the dialogue. Sources said that apart from the disagreements on how to reflect the informal note in the decision to be adopted, there were also differences of view on the design elements of the dialogue around the involvement of expert institutions, the involvement of the Presidencies, and the outcome of the dialogue itself.

The US and New Zealand could not endorse the informal note as it “was not negotiated by Parties” and was only a proposal of the Presidencies. The EU said it could accept the design “in the spirit of compromise”. The Like-minded Developing Countries (LMDC) were of the view that the dialogue should be a Party-driven process and that the reports of the dialogue should not left to the Presidencies. They also had concerns about the involvement of ‘expert institutions’.

After further consultations, Parties agreed to only “welcome with appreciation” the design of the dialogue and not to endorse the informal note. The decision also stated that the dialogue will start in January 2018.

At the Bonn session, the first part of the Talonoa Dialogue will take place, with an opening meeting taking place on the 2 May. It can be expected Parties will continue to have concerns over the report and outcomes of the dialogue, given that the process is being driven by the COP Presidency, rather than by the Parties.

- *The Suva Expert Dialogue related to the International Mechanism on Loss and Damage*

Last year at COP 23, developing countries, led by Cuba, representing the G77 and

China, together with the Alliance for Small Island States, pushed hard for a permanent agenda item under the Subsidiary Bodies to ensure discussions on the Warsaw International Mechanism on Loss and Damage (WIM) take place inter-sessionally, so that the WIM can be effective in helping developing countries impacted by climate change. Developed countries strongly resisted the call by developing countries for a permanent agenda item on the WIM at the intersessional meetings of the Subsidiary Bodies.

Following intense negotiations, as a compromise, agreement was reached to have an expert dialogue to explore a wide range of information at the current session of the Subsidiary Bodies, that also requires the secretariat to prepare a report from that dialogue.

According to the decision adopted last year, the UNFCCC Secretariat, under the guidance of the Executive Committee of the WIM and the Chair of the SBI, was requested to organize, in conjunction with the SBI session in April-May 2018, “an expert dialogue to explore a wide range of information, inputs and views on ways for facilitating the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity-building, for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events and the secretariat is requested to prepare a report on the expert dialogue.”

Known as the Suva Expert Dialogue, this important meeting related to loss and damage will take place on the May 2<sup>nd</sup> and 3<sup>rd</sup>.

Given that the outcomes and report of the expert dialogue are a critical step towards the review of the WIM in 2019, the dialogue is expected to draw much attention from developing countries.