

## Intense wrangling over COP 25 finance decisions

23 Dec, Kathmandu (Perna Bomzan): The COP 25 decisions on climate finance matters saw intense wrangling between developed and developing countries until the final hours of the closing plenary that ended on Sunday, 15 Dec, two days later than its original schedule.

Several decisions on matters relating to finance were considered for adoption, at the joint closing plenary of COP 25, as well as the second session of the Conference of Parties to the Paris Agreement (CMA 2) and the 15<sup>th</sup> session of the Kyoto Protocol Parties (CMP 15) in Madrid.

All finance matters, pertaining to long-term climate finance (LTF), the Standing Committee on Finance (SCF), the Green Climate Fund (GCF), the Global Environment Facility (GEF) and the Adaptation Fund (AF) were contentious between developed and developing countries, with intense protracted negotiations, with no clarity on the process forward or the possibility of any agreement in sight, until final closing day of the talks.

During the latter part of the first week (that began on Dec 2), and the week that followed, consultations were predominantly carried out in Party-only 'informal-informal' settings, closed to observers. However, at the negotiations on the AF under the CMP, the **United States (US)**, although an observer Party to the Kyoto Protocol (KP), was allowed to actively engage on the decision-making issue of membership of the AF Board which drew heavy criticism and opposition by developing countries (See TWN Update 8).

Although negotiations were launched on all finance matters at their respective first contact group at the start of first week, there was a glaring absence in the convening of a final contact group

to close arrive at conclusions on all matters besides the AF, which was the normal practice, according to a senior negotiator close to the process.

Parties, therefore, did not have a final say on the proposed "bracketed" (not agreed) draft decision texts on all matters developed by the respective co-chairs who were facilitating the consultations, which then got transmitted to the COP 25 Presidency for further work. The highly contested co-chairs' draft texts were eventually transmitted in the evening of Thursday, 12 Dec, well past the deadline of 9 Dec.

Several developing country delegates who were following in the negotiations told TWN that the process to arrive at any consensus draft texts was "extremely flawed and lop-sided", as only developed countries' proposals got included in the evolving iterations of the texts, while those of developing countries were ignored and not reflected. They complained that the co-chairs' draft texts were therefore imbalanced, and were contested by developing countries. According to a delegate, the entire process was designed to accommodate primarily the interests of the **US**, followed by the **European Union (EU)** and other developed countries. Requests by developing countries for their amendments to texts were apparently ignored.

On the morning of Thursday, 12 Dec, Parties were requested to arrive at "compromised" texts, by working in two parallel sessions: one on the LTF and SCF decisions and the second on the guidance to the GCF and the GEF.

The Presidency-led consultations after 12 Dec onwards were also driven to accommodate the **US**, shared many developing country negotiators with TWN, who further expressed much frustration,

and viewed the process as being “totally unfair” given that the US is already in the process of exiting the Paris Agreement (PA). This, they said “was a dent on multilateralism”.

On Friday, 13 Dec, (when the talks were initially scheduled to end), Parties were provided with draft texts proposed by the Presidency, on all finance matters for consideration. Concerns and repeated red-lines of developing countries were again not reflected. In the late afternoon of Saturday, 14 Dec, the Presidency proposed texts were shared with Parties, followed by an informal consultation where divergences continued, limiting any progress forward. Finally, in the morning of Sunday, 15 Dec, a couple of hours before the joint closing plenary, final draft decisions from the Presidency were circulated and published online for the consideration and adoption by Parties.

According to developing country delegates, although the decisions were watered-down and highly imbalanced especially for developing countries, they were adopted on matters relating to the SCF, the GCF, the GEF (both under the COP and the CMA) and the AF (which was a decision under the CMP). The proposed draft decision text on the LTF (which was under the COP) could not be adopted due to disagreements over what was actually agreed to in the previous night consultations and this played out during the closing plenary with strong statements from developing countries. Rule 16 of the UNFCCC Rules of Procedure was applied, and the LTF matter will now be considered at the next COP in 2020. (See TWN Update 19 in this regard). In addition, draft conclusions on the AF (under CMA) were also postponed for consideration next year. (See further details below).

## Decisions under the COP and CMA

### *Matters relating to the Standing Committee on Finance (SCF)*

Key contentious issues revolved around the “common” definition of climate finance; the synthesis report to the COP for setting a new collective quantified goal on finance from a floor of USD 100 billion per year in accordance with decision 14/CMA.1; reference to the Warsaw International Mechanism on Loss and Damage (WIM) in relation to inputs by its Executive Committee to draft guidance; and participatory liaison between the SCF and constituted bodies going beyond the appointed focal points.

One issue of utmost significance was the continued importance of the determination of the climate finance needs of developing countries, to be reflected in the decision, which was highlighted at the outset by **Palestine** on behalf of **G77 and China** stating that it should be “comprehensive”, serving as a “tool amongst others to guide the replenishment process of the operating entities (of the Financial Mechanism under the COP and the CMA)”. In addition, developing countries also wanted the determination to also include “their needs on loss and damage” which was also strongly opposed by the **US** and **Japan**.

The push for a “common” definition on finance (which was in brackets in the draft texts) was led by **India** for the **Like-Minded Developing Countries (LMDC)** and supported by **South Africa** for **Africa Group** and **Malawi** for the **Least Developed Countries (LDCs)**. The **US**, **Japan** and the **EU** were opposed to this proposal citing already “existing” language referring to the different definitions within the Biennial Assessment Report and overview of climate finance flows.

**South Africa** for the **Africa Group** advocated strongly a proposal, (which was also supported by other developing countries), as follows - “requests the SCF to prepare a synthesis report to inform the COP” to inform the CMA 3 (next year) in its “initiation of its deliberations on setting a new collective quantified goal from a floor of USD 100 billion per year in accordance with decision 14/CMA.1”. This proposal was met with opposition from the **US**, **EU**, **Japan** and **Australia**, and the final decisions which were adopted had no text on the preparation of the synthesis report by the SCF.

(In decision 14/CMA 1 adopted last year, Parties had agreed “to initiate [in] Nov 2020, in accordance with Article 9(3) of the PA, deliberations on setting a new collective quantified goal from a floor of USD 100 billion per year...).

The reference to “loss and damage” vis-à-vis needs determination was also removed from the decisions.

As opposed to agreeing on the need for a “common” definition of climate finance, **para 10** of the adopted decisions read, “underscores the important contribution of the SCF in relation to the operational definitions of climate finance, and invites Parties to submit via the submission portal, by 30 April 2020, their views on the operational

definitions of climate finance for consideration by the SCF in order to enhance its technical work on this matter in the context of preparing its 2020 Biennial Assessment and Overview of Climate Finance Flows”.

**Para 13** of the decisions carries a rather weak language on reference to the WIM inputs which reads, “*looks forward* to the inputs that may be provided by the Executive Committee of the WIM.....to the work of the SCF for its consideration in preparing elements of draft guidance for the operating entities”.

**Para 16** of the decisions only “*take note*” of the appointment of SCF focal points to liaise with the other constituted bodies under the Convention and the Paris Agreement”.

### ***Guidance to the GCF***

One of key contentious issues on the GCF guidance was the long-standing issue of the lack of clarity on the status of the provision of privileges and immunities (Ps&Is) for the GCF.

According to developing country delegates, they were concerned that despite the Governing Instrument (GI) of the GCF providing that the Fund “will enjoy such Ps&Is as are necessary for the fulfillment of its purposes”, “the GCF Board has reported that there has been an absence of such privileges and immunities which creates an increased risk that legal action may be taken against the GCF, its Board members and other officials”.

**Palestine** for **G77 and China** clearly stated in the initial contact group that Ps&Is is a critical matter to deal with given that there has been no conclusions even after deliberations on this for a number of years. It referred to the GCF’s GI which clearly articulates the need for Ps&Is under the legal status of the Fund. Elaborating on the designing of the Fund as neither a multilateral development bank nor UN agency and therefore difficult for countries to deal with Ps&Is with some requiring to enact new parliamentary legislation, Palestine urged the GCF Secretariat to explain the lack of success in securing them, with their existing bilateral approach. It also underlined that Ps&Is are “extremely important for the Fund to ensure that it is secure”, not only for recipients and contributors but also extended to the staff for their functions.

**South Africa** for **African Group** echoed the **G77** and **China**, and further called on the Secretariat to report back on their progress since “this is the

third report (referring to the GCF report to the COP) clearly telling us that the bilateral system is not working”. It also pointed out that a number of developing countries will not be able to grant bilateral Ps&Is as it requires domestic legislation. Further, it pointed out that it will be the “COP” which will “clarify” on this outstanding issue as it’s a COP decision which established the GCF.

**Iran** supported previous speakers and also drew attention to developing countries under unilateral sanctions or embargos, which could pose risks and was also a political issue. **Saudi Arabia** for the **Arab Group** and **Liberia** also aligned with **G77** and **China** as well as **Africa Group** with **South Korea** and **Armenia** also stating that this issue needs to be resolved by the COP in a legal way.

**Switzerland** for **Environmental Integrity Group (EIG)** suggested to move forward with the **Africa Group’s** proposal on having a session with the Secretariat to get the “full story” on why its approach did not yield the right results.

The **US** urged the Secretariat to provide “a full analysis” and also called for further bilateral arrangements to be made, and referred to the case of **South Africa**, to which the **South African** delegate responded that it has been engaging with its Parliament since two years and “frankly, it is not as simple as your analysis”.

In the next informal consultation, the Secretariat provided its response on the Ps&Is also sent a note later, containing supplementary information. Sources told TWN that a “placeholder” remained on insertion of text on Ps&Is in the decision text until the very end.

In this regard, in the final decision adopted, **para 8** of the text, “*encourages* the Board of the GCF to continue its efforts to ensure that the GCF enjoys immunities and privileges”. **Para 9** further “*takes note* of the engagement of the President of the COP” with the UN Secretary-General on the matter through a “possible institutional linkage” between the UN and GCF and “requests the President to report on this engagement” at COP 26 and **para 10** of the decision provides for the continued consideration of this matter (and refers to para 9) at COP 26.

The other contentious issue was having a reference to the WIM and addressing loss and damage in the decision text, which also had a “placeholder”. According to developing country negotiators, the **US**, **Australia**, **EU**, **Switzerland** and **Mexico** opposed any text on loss and damage with

**Antigua and Barbuda** for the **Alliance of Small Island States (AOSIS)** as the main proponent supported by **Burkina Faso** for the **LDCs** as well as by the **African Group** and the **G77 and China**.

In this regard **para 21** of the decision adopted “invites the Board of the GCF to continue providing financial resources for activities relevant to averting, minimizing and addressing loss and damage in developing country Parties, to the extent consistent with the existing investment, results framework and funding windows and structures of the GCF, and to facilitate efficient access in this regard, and in this context to take into account the strategic workstreams of the five-year rolling workplan of the Executive Committee of the WIM ...”. A similar decision was adopted under the CMA for guidance to the GCF.

Another sticky issue which was challenged by **Palestine for G77 and China** was over the factual reflection of the first replenishment (GCF-1) nominal pledge of USD 9.66 billion as opposed to the “existing inflated figure of USD 9.78 billion” (arrived at with a speculative notional credit of USD 118.47million) by the GCF Secretariat. Palestine expressed that the notional credit figure was “speculative” and “that maybe earned” premised upon the assumption of early encashment by the contributors.

The other related matter which Palestine for the G77 was pushing for was the inclusion in decision text to the unfulfilled commitments of the preceding initial resource mobilisation (IRM) pledges which Parties were urged to “confirm” as a “matter of urgency”.

The decision adopted under the COP managed to successfully capture the fact of the GCF-1 “nominal pledge of USD 9.66bn and a notional credit of USD 118.47m that may be earned in the event all contributors make early encashment”. The decision however did not contain any text on the unfulfilled IRM pledges which had been in brackets throughout the various iterations of the text.

### **Guidance to the GEF**

One of the key concerns as regards the GEF revolved around the “inadequacy of resources” with dwindling amounts in every replenishment cycle and which was evident in the current GEF-7 (seventh replenishment) cycle compared to GEF-6.

At the opening contact group, **Palestine for G77 and China** highlighted the track record from GEF-5 to date with “regression” of over 36% decline in the climate allocation. “Adequacy of resources is important for Convention commitments as well as for the global environment component”, adding that “developing countries were facing difficulties in resources to meet their commitment requirements” and that “there has been no response from the GEF since the last two years”. **Maldives for AOSIS, Malawi for the LDCs, India for LMDC, China and Iran** echoed G77 and China on this matter.

The most contentious issue however was in relation to the “changes” made to the GEF “eligibility criteria” without the consent of the COP, in particular, changes made to the STAR allocation (System for Transparent Allocation of Resources) following the GEF-6 replenishment and the update to the STAR allocation following the GEF-7 replenishment process.

**Palestine for G77 and China** strongly emphasized that the GEF approach was “unacceptable” since the COP was not consulted and did not consent to the changes made and called on to reflect these views in the draft decision text. It made clear that the eligibility criteria is “not determined by contributors’ and further pushed for the GEF to “cease” the application of the updated eligibility criteria and to report to the COP on steps taken in this regard.

**India for LMDC** echoed the G77 and China, while **Brazil for Argentina, Brazil and Uruguay (ABU)** stated that no “new category” (of countries) should be created in line with the “Convention language” vis-à-vis eligibility criteria. The **EU** was of the view that the STAR allocations were “agreed” in Poland last year, to which **South Africa for the African Group** countered this, saying ‘this change is made by the GEF Secretariat which is not acceptable”.

The other sticky issue was the increasing co-financing requirements being imposed, currently being in the ratio of 1:7 which was contested by **Palestine for G77 and China** and supported by **Malawi for LDCs**.

Like in the GCF and in the SCF, reference to WIM and addressing loss and damage was resisted by the **US, Australia, Canada** and the **EU**. **Maldives for AOSIS and Burkina Faso for LDCs** were the key proponents supported by **G77 and China**,

### **Saudi Arabia** for the **Arab Group** and the **Africa Group**.

Sources told TWN that a placeholder on loss and damage text appeared until the last iterations of the text which was eventually dropped with no text in the final draft decision circulated by the Presidency.

The decision adopted a very watered down language on eligibility criteria with **para 5** reading as, “*urges* the GEF to continue to report to the COP any change or update to the eligibility criteria for accessing the GEF resources, including the STAR country allocation, in its future reports to the COP”.

**Para 6** on co-financing reads as, “*encourages* the GEF, as part of the overall performance study of its seventh replenishment, to analyse any challenges faced and lessons learned by the GEF and its implementing agencies in applying the updated policy on co-financing of the GEF and report back to the COP on the outcomes of the study”.

### **Long-term Climate Finance (LTF)**

The key contentious issue under LTF was a proposal by developing countries, led by the **G77 and China**, in ensuring its continuation beyond 2020 with COP 26 agreeing on its modality, along with a status report on the USD 100 billion per year by 2020 goal.

The first iteration of the co-chairs’ draft text was a long six-pager that was objected to by both developing and developed countries, stating that parts of the text were “not acceptable” and it was “too long to digest” at such a short time (as it was circulated only about half an hour before).

While the text evolved into its third iteration starting second week, developing country negotiators shared with TWN that the discussions on LTF “beyond 2020 along with its linkage to the new collective quantified goal from a floor of USD 100 billion” as well as the “status report on the implementation of the goal of mobilising jointly USD 100 billion per year by 2020” by the SCF remained in brackets (not agreed). Most of the developed country members of the **Umbrella Group** led by the **US** were strong opponents in this regard.

The draft Presidency text shared with Parties on Saturday, 14 Dec contained a very watered-down reflection on the two important issues. Para 7 only “*invites* Parties” for “submission of their views” on

the implementation of the goal of mobilising jointly USD 100bn per year by 2020 for consideration at COP 26 while para 13 “*notes* the importance to the COP of continued discussions on long-term climate finance and *decides* to consider the matter” at COP 26.

Delegates told TWN that in the Presidency informal consultation that followed on the finance texts after its release on 14 Dec, a more stronger and affirmative language on the continued discussion of LTF proposed by developing countries led by **G77 and China** and the **Africa Group** was vehemently opposed by the developed countries led by the **US**. Further, “green-room” style Presidency consultations were carried out well into the morning of 15 Dec, the scheduled extended closing day, to “primarily accommodate the interests of the US”, shared a senior developing country negotiator. (The “green-room” process refers to consultations with selected countries not open to all Parties).

The highly contested draft decision text was eventually not adopted at the closing plenary closing due to difference in understanding of what was the agreed language of para13 on the continuation of the LTF discussion. With “no consensus” on the draft text, the COP Presidency applied “Rule 16” deferring the matter to the next session for consideration in Bonn in 2020 (See TWN Update 19).

### **Decisions for adoption under the CMA and CMP**

#### ***Matters relating to the Adaptation Fund (AF)***

The main contentious issue on the AF was over the proposed changes in membership of the AF Board by developed countries and with the **US** actively engaged in negotiations when it only has observer status to the CMP as it is not Party to the KP having withdrawn in 2001. The AF is currently serving both the KP and the PA, and therefore under the purview of the CMP and the CMA. (See TWN Update 8)

The problematic “para 8” dealing with membership in the proposed decision text under the CMP was opposed by **Palestine** for **G77 and China** as well as **South Africa** for **Africa Group** supported by **India** for **LMDC**, **China** and **Saudi Arabia** for the **Arab Group** while backed by the **EU** and **Canada** who wanted to maintain para 8. However, the **EU** accepted the “deletion” of para

8 eventually and agreed to “continue work” in Bonn in June 2020.

(The controversial para 8 was as follows: “Decides that the AF shall comprise of 16 members representing Parties to the KP or Parties to the PA, taking into account fair and balanced representation among these groups as follows: (a) Two representatives from each of the five UN regional groups; (b) One representative of the small island development States; (c) One representative from least developed country parties; (d) Two other representative from developed country Parties; (e) Two other representatives from developing country Parties”).

The adopted decision under the CMP does not contain paragraph 8.

Under the CMA, when the second meeting of the contact group on 10 Dec was convened to conclude the agenda item on the AF, there was a proposal by the EU to have a similar decision adopted as under the CMP.

This proposal was rejected by the **G77 and China, the Africa Group, India for LMDC, Saudi Arabia for the Arab Group, China and Malawi for LDCs**. The **US** supported the EU proposal backed by **Switzerland** for **EIG**.

At the third contact group convened on 11 Dec, Parties retained their respective positions, which led the co-facilitators to conclude that “it is clear now that there is no consensus on the way forward and there is no agreement on the draft text reached”. Hence, the draft conclusions with the EU’s proposal still on the table and will be taken up at the next session in June 2020.