

## AWG-LCA concludes its work in Doha

Doha, 11 Dec (Hilary Chiew and Meena Raman) – After five years since its launch in 2007 to advance an agreed outcome under the Bali Action Plan, the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) ended its work with the forwarding of the outcome document prepared by its Chair, to the 18<sup>th</sup> meeting of the UNFCCC's Conference of Parties (COP 18) on Friday, 7 December.

The outcome document of the AWG-LCA was not adopted by Parties at the working group level, but there was agreement to forward the text of the outcome of its work to the COP for further consideration, as suggested by its Chair, Aysar Tayeb (Saudi Arabia).

Tayeb informed Parties at the conclusion of the plenary held on 7 December that ministers of Singapore and Germany will conduct consultations on matters under the AWG-LCA.

In the 22-page proposed text by the AWG-LCA Chair which was a clean text with no brackets and options, the page on finance was blank with a note that read: "*Pending the results from the ministerial consultations*".

On 4 December, the COP President Abdullah Hamad Al-Attiyah launched ministerial consultations by appointing the ministers of Switzerland and Maldives to conduct bilateral consultations to find solutions on matters related to finance.

The closing session of COP 18, initially scheduled for the evening of 7 December was postponed while bilateral informal consultations between ministers and Parties proceeded behind the scenes throughout the night on the AWG-LCA text.

When the revised document was presented by the COP President in the morning of 8 December (called "revised proposal by the President"), there was text on finance, which urges all developed country Parties to scale up climate finance to the

joint-goal of mobilising USD 100 billion per year by 2020 and for developed countries to further increase their efforts to provide resources of at least to the average annual level of the fast-start finance period for 2013-2015.

This revised proposal by the President of the AWG-LCA outcome of work was adopted by Parties as part of the Doha package.

In the area of technology transfer, the final text had no explicit reference to the issue of intellectual property rights (IPRs). The earlier text from the AWG-LCA Chair's document provided for the Technology Executive Committee (in paragraph 64), "in elaborating its future workplan, to initiate the exploration of options for implementing the following activities ... with a view to recommending appropriate actions for consideration by the Conference of the Parties at its twentieth session: (a) Examining effective mechanisms that promote access to affordable environmentally sound technologies, reward innovators and increase the dynamic of global innovation; ..."

Developed countries including the US and EU, had during the closing AWG-LCA plenary objected to the language in paragraph 64, as referring to the IPR regime and wanted its deletion. The final text adopted by Parties has reference to "the exploration of issues relating to enabling environments and barriers including to those issues referred to in the report of the Technology Executive Committee (TEC)."

[Paragraph 35 – in sub-para (g) of the TEC report states that IPRs were identified as an area for which more clarity would be needed on their role in the development and transfer of climate technologies based upon evidence on a case by case basis. Thus the link to work on IPRs was made in a circuitous way to avoid the use of the term in the AWG-LCA outcome document]

On unilateral measures, the earlier text of the Chair was watered down. The Chair's text in paragraph 57 requested "the Chairs of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to convene, at their thirty-eighth sessions, a joint round-table discussion on unilateral measures in the context of Article 3, paragraph 5, of the Convention."

The final decision in paragraph 54 welcomed "the progress made in the work of the forum on the impact of the implementation of response measures being convened under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation" and invited "Parties to continue to participate in the forum, including the sharing of views on policy issues of concern, such as unilateral measures." Developed countries during the negotiations were resistant to having any text on unilateral measures.

On cooperative sectoral approaches and sector specific actions, the final decision adopted had no text on this matter. In the earlier version of the AWG-LCA's Chair's text, there was reference to paragraph 42, which several developing countries in the Like-minded developing countries wanted deleted, as it was not consistent with Article 2.2 of the Kyoto Protocol.

(Para 42 of the document states: "*Also agrees that the limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from international aviation and maritime transport should be pursued in a multilateral manner, working through the International Civil Aviation Organisation and the International Maritime Organisation, respectively*". Article 2.2 of the KP which only applies to developed countries in Annex 1 states that "*The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively*".)

During the final plenary of the AWG-LCA, both developed and developing countries registered their dissatisfaction with the 7 December text from the outset, and called for improvements with the former actively seeking ministerial intervention.

The smooth closing plenary of the AWG-LCA caught many Parties by surprise in the afternoon of 7 December with no objections to the Chair's proposal to forward the final document of the working group to the COP 18 for consideration

and adoption. Hesitating for a minute, Tayeb jokingly asked the Secretariat's staff if he should go ahead to gavel the decision before he brought down the gavel.

The European Union was prompted to seek confirmation that the decision was to forward the text for further consideration by the COP and Bangladesh said that it had wanted elaboration of the mechanism to facilitate access to climate technology for Least Developed Countries (LDC). Tayeb confirmed that the text was not adopted but only the decision to forward it for further consideration by the COP.

Following statements by groupings of Parties and countries, Tayeb noted the many reservations on the text. He said it was extremely striking that reservations are on the same issues but from opposite direction, adding that Parties were at the last stretch of a journey and that he had done his utmost best. He believed that Parties are close to the finishing line and under the guidance of the ministers, they will be able to cross the line.

Several developing country Parties also recorded their appreciation for the leadership of Tayeb throughout the two weeks of tough negotiations.

**Algeria representing the Group of 77 and China (G77-China)** reiterated that a successful outcome lies in the issue of finance in which there must be clarity and certainty for the coming years to meet the need of developing countries in light of the imposition on them from previous decisions of Cancun (COP 16, 2010) and Durban (COP 17, 2011). In particular, it said clarity is needed for the financial resources gap from 2012 to 2020 besides other issues such as adaptation, mitigation and technology transfer.

Equally important, said the G77 and China is the ability of developing countries to engage first on adaptation then mitigation, expressing wariness at the emptiness of the various institutions set up with no effects on the ground. It further expressed concerns on the lack of progress on adaptation and technology transfer as expressed by several members of the group and is grateful for the advancement of the AWG-LCA work despite the lack of flexibility shown by partners (referring to Annex I Parties).

It remained committed to all outstanding issues to be addressed appropriately in order to achieve a result that will fulfil the mandate of the Bali Action Plan (BAP).

**The Philippines speaking for the Like-Minded Group of Developing Countries** reminded Parties that they extended the AWG-LCA, not merely to close it, but to do meaningful work on all the unresolved issues to reach an ambitious, meaningful and comprehensive agreed outcome. The agreed outcome must comprehensively address all the elements contained in the BAP as an essential element for the success of Doha, which was one of the components of the Durban Package.

Parties must address all the elements under AWG-LCA including ambitious and comparable emission reduction targets by the developed country Parties, adaptation, finance, technology transfer and capacity building.

The creation of institutions for many of these issues reflect excellent progress but does not necessarily close the issues themselves, particularly as the key political issues of operationalizing these institutions remained unaddressed referring to means of implementation for developing countries.

Developed countries, it said, should rise to their historical responsibilities and honour their commitment to provide developing countries with financing, technology transfer and capacity building support and to finance the effective operationalisation of the institutional mechanisms.

As such, it noted that the text that the Chair had forwarded to the COP for its consideration could be further improved. The text, it said, did not reflect the full and equitable and ambitious outcome that it was looking for. In this regard, it flagged the following issues:

- The finance element in the final agreed outcome must be meaningful and substantive, with clear commitments on mid-term financing and a process in place to increase ambition on financing, clarity and assurance needs to be made in relation to the provision of the means of implementation to meet the cost of new responsibilities that are being put on developing countries. There is need for clarity on mid-term finance; need to examine lessons learned from fast-start finance to see it has fulfilled commitments from Copenhagen; need to establish mechanisms for measurement, reporting and verification (MRV) of developed countries financial and technology support for developing countries;

- Mitigation ambition needed to be strengthened, particularly for Annex I Parties, including with respect to ensuring the comparability of their mitigation efforts and to increase their emission reduction pledges;
- The Technology transfer text needs to be strengthened. In particular, the failure of the text to address intellectual property rights (IPR) issues in the AWG-LCA is a serious concern as IPRs constitute a significant obstacle to successful technology transfer;
- On cooperative sectoral approaches and sector specific actions, in paragraph 42 needed to be made consistent with Article 2.2 of the Kyoto Protocol, and should not result in any reinterpretation or changing of the scope of such provision. This paragraph should be deleted;
- On adaptation, there is very weak linkage to climate financing. This gap needs to be addressed;
- The text on capacity building is very weak. The G77 had called for a work programme, but the text does not reflect any strengthened modalities for capacity building.

The Philippines said Parties talk about balance but in its view, it must be the balance among the building blocks of the BAP – mitigation, adaptation, finance, technology and capacity building. It further emphasized that where there is no text, it doesn't equate to agreement or conclusion. Lastly, it thanked the Chair for his guidance and leadership, which had enabled constructive work to be done during the 15<sup>th</sup> session of the AWG-LCA.

**Nauru speaking for the Alliance of Small Island States (AOSIS)** noted that Parties have agreed to the text to be transmitted to the COP for further consideration and that the text is a decent basis to work from. It would like to see stronger call for urgent actions. It lamented the complete absence of ambition in terms of mitigation by developed countries where it has not seen any movement forward since Copenhagen (COP 15, 2009). At the very least, it added, Parties expected to enforce the rules-based approach towards accounting rules particularly in the interests of comparability.

On the contrary, on mitigation by developing countries, it sees clearer reference to efforts. It

warned that finance is a missing element of the Durban outcome and it cannot be left out of the Doha package. It is willing to work on the text at the level of the COP as it is the last chance.

**Representing the African Group, Swaziland**

said the proposed text lacks ambition on mitigation and adaptation as well as the various means of implementation. While appreciating the hard work of the appointed ministers aimed at reaching landing ground on issue related to finance, it reiterated that the proposed text is weak with no indication of commitment from developed countries especially for the mid-term period of 2013 to 2020. It also lamented that the current level of ambition on mitigation is weak and looked forward to a text that would strengthen it.

**Gambia speaking for the LDC** recognised the shortcomings of the proposed text but believed that Parties can still work on it and hope to have time for Parties to engage positively.

**Speaking for the Arab Group, Egypt** said it accepted the decision to forward the proposed text to the COP for further consideration with the belief that Parties will look at the proposed text with overall balance in the three tracks (referring to the negotiation under the Ad hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol and the Adhoc Working Group on the Durban Platform for Enhanced Actions).

It said the AWG-LCA has worked for five years to ensure sustained implementation of the Convention but it has yet to see concrete outcome on financial resources, which is key to a successful outcome in Doha.

It also wanted to see clear comparability of mitigation efforts among Annex I countries in the AWG-KP but yet to see such kind of commitments in terms of numbers (quantified emission limitation and reduction objectives). It said the objective of creating institutions needs concrete time-bound operationalisation and market mechanisms are not an end in themselves but require mitigation ambitions which has remain low.

It also wanted paragraph 42 of the proposed text deleted as there was no reference to the Convention's principles and provisions particularly the principle of common but differentiated responsibilities.

**China** began by conveying its condolences to the people of the Philippines who are affected by typhoon Bopha and expressed its strong solidarity with them to get through this very difficult time and rebuild their homes soon. It then recorded its sincere appreciation to the Chair for his insightful and excellent leadership guiding Parties through these two intense weeks with arduous tasks towards an agreed outcome.

It said it came to Doha with great expectation for a successful and meaningful conclusion of the work of the AWG-LCA, which should address all the elements of BAP, in particular ambitious and comparable emission reduction targets by the developed country Parties, adaptation, finance, technology transfer and capacity building and for Parties not to leave any key issues off the table, such as equitable access to sustainable development, technology related IPR and unilateral measures.

It acknowledged the ups and downs in the past two weeks and even had doubt that the arduous tasks were going to be mission impossible in Doha. However, with Tayeb's strong leadership and collective efforts of all Parties, they are able to walk out of the gloomy and hopeless situation of becoming "desperate housewives" (referring to Tayeb's effort at producing a text for the outcome of the working group).

(During the Bangkok session in September, China said the outcome of the Doha negotiations was analogous to a Chinese proverb, that a good housewife will find it difficult to prepare a meal without the right ingredients.)

China was however very concerned about many important issues including ambitious and comparable emission reduction targets by the developed country Parties, adaptation, finance, technology transfer, market, sectoral approach, equitable access to sustainable development, technology related IPR and unilateral measures failed to come to a satisfactory outcome.

It urged all developed countries Parties to rise to their historical responsibilities and honour their commitment to provide developing countries with financing, technology transfer and capacity building support and to finance the effective operationalisation of the institutional mechanisms. Finally, it said the "meal" prepared by Tayeb is just like the food in the Qatar National Convention Centre that is not so delicious but at

least offering Parties “something to eat”, drawing applause from the floor.

Echoing China, **India** also expressed its appreciation of the Chair’s hard work and patience as well as his vice Chair’s (Marc Pallemerts of Belgium) skilful and insightful steering of the meetings. It reiterated its call for a comprehensive package and that no issue should fall off the table. It too wanted paragraph 42 that is inconsistent with Article 2.2 of the Kyoto Protocol, to be deleted.

**Venezuela** wanted to make clear that it did not approve of the text as there are lots of amendments that needed to be made particularly in sectoral approaches, the use of market mechanisms and paragraph 42 that violates the principle of CBDR. It later came back to add that it had since received instruction from its capital to place on the record that Venezuela has reservation in total and reserved its rights on all substantive issues when it deems appropriate.

**Ecuador** appreciated the important document reached thus far after long hours of work but noted that there are some areas while it would like to see improvement in all subject matters of the text such as REDD-plus, response measures, various approaches and technology.

**Bolivia** said it understood that finding an agreement among Parties is difficult but the negotiation is not yet over. On finance, it does not want an empty shell fund which simply cannot be operationalised and an institutional framework that cannot carry out technology transfer. It does not see commitment from developed country Parties but the reverse is true with the hope placed on the market mechanism as replacement to public funding that is not forthcoming.

It warned that Parties must not place their trust on carbon market that is not providing any guarantee. On mitigation by developed countries, it said there is huge imbalance in the obligations placed on developing countries concerning common accounting rules and methodologies. It stressed that there was still a lot of work needed as it does not want to leave with the prospect of more carbon markets and empty promises.

**Indonesia** reminded Parties that in Bali, Parties charted a roadmap and promised that all the building blocks of the BAP will be accomplished. It said the Cancun and Durban COPs established the infrastructure and the task in Doha is to complete the work of the AWG-LCA. It said the

most important element of the AWG-LCA on finance is missing and hoped the ministerial intervention will see Parties showing flexibility.

**Argentina** was pleased with paragraph 2 (in the shared vision part of the document) which acknowledged the equity and CBDR principle but had concerns with the lack of text for finance, technology transfer and capacity building. It said any activities that developing countries must carry out must go hand-in-hand with support by developed countries.

(Paragraph 2 reads: “*Also decides that Parties’ efforts should be undertaken on the basis of equity and common but differentiated responsibilities and respective capabilities, and the provision of finance, technology transfer and capacity-building to developing countries in order to support their mitigation and adaptation actions under the Convention, and take into account the imperatives of equitable access to sustainable development, the survival of countries and protecting the integrity of Mother Earth.*”.)

It also wanted paragraph 42 to be deleted to avoid legal problems. It believed that Parties can still improve on the language to ensure fair transition to allow for inclusion of workers’ welfare and creation of decent jobs which is part of poverty eradication and development agenda of developing countries.

**Nicaragua** said it is important to have real negotiations before the final adoption of the text by the COP. It said funding mechanism that has no transparency is pointless and why the Green Climate Fund when Parties are not able to use it, adding that there is also no point in discussing the mitigation by developed countries under the AWG-LCA if there is still no agreement on finance and an ambitious second commitment period under the Kyoto Protocol.

**Malawi** agreed that the text is a basis for further discussion. It also registered that it is not ready to adopt the text in its current status especially that it is weak in terms on means of implementation.

**Saudi Arabia** said that in the last minute of the lifetime of the BAP, the most challenging task is closing the AWG-LCA. It said some good progress was made but they are insufficient as there were serious concerns that some issues were rejected without logic, pointing to the work programme to address economic diversification of developing countries. It accused developed countries of using the approach of mass destruction, in reference to not everyone will be happy with all paragraphs but for the sake of

working in a constructive manner, Parties only need to stick to their respective redlines and not resorting to mass destructive tactics.

**Brazil** said it concurred with many concerns raised by developing countries and also wanted paragraph 42 (on sectoral approaches) to be deleted.

**The European Union** said the work on the BAP for the last five years has delivered and Parties should be proud to close the AWG-LCA and AWG-KP as well as the various institutional set-ups.

It welcomed the hard work of the Chair in helping Parties to conclude their work and reckoned that the proposed text is an important step to a successful outcome though it believed that it needed changes for the final shape. It said the text should be balanced. Top priorities for EU are pre-2020 mitigation, accounting and transparency across all tracks. It objected to the language on unilateral measures as there is already the forum on response measures and it cannot accept interference with the IPR regime and wanted deletion of that.

**The Environmental Integrity Group represented by Switzerland**, conceded that some areas needed more work and believed the differences can be resolved by the COP.

**Australia** echoed the EU on the achievements of the AWG-LCA and that the Doha deal though imperfect is still deliverable, adding that it is ready to engage but not without the ministers having an opportunity to engage.

**Canada** said further work is needed and compromise is within reach. It called on ministers to seek convergence and that the text cannot be take it or leave it text. If that is the case, Canada will leave it.

**The United States** registered its objection to paragraph 2 (reference to equity and CBDR in shared vision, paragraph 8 in mitigation of developed countries (on comparability of efforts among developed country Parties), paragraph 41 on sectoral approaches, paragraph 47 on various approaches (a work programme to elaborate a framework for such approaches), paragraph 57 and 58 on response measures (to request the Subsidiary Bodies to convene and report the outcome of a round-table discussion on unilateral measures) and paragraph 64 on IPR (in technology development and transfer).

It supported the text to be considered by the COP but stressed that in its current shape it was not acceptable to the US. Echoing the US, **Japan** said it could not accept the text and looked forward to a packaged agreement by the COP.