

Observers barred as negotiations finally begin



Bonn, 20 October (Indrajit Bose) — Japan has objected to observers' presence in spin-off groups that will negotiate the Paris climate agreement, even as 134 countries in the Group of 77 and China (G77 and China) stressed that negotiations must remain transparent and open to observers.

After an intense exchange on the second day of the ongoing Bonn climate talks the Co-Chairs of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) decided that the negotiations would take place behind closed doors and if the issue remained contentious, consultations with Parties would continue.

During the contact group session in the morning of 20 October, Co-Chair Daniel Reifsnyder (USA) said that spin off groups would be closed to observers when he explained how negotiations would unfold for the remaining days of the ADP session in Bonn, which is to conclude on 23 October. Reifsnyder made this statement despite the call made by Malaysia on 19 October to Co-Chair Ahmed Djoghla (Algeria) that the spin off groups should be transparent and open to observers. Djoghla had responded that they would need more time to consider Malaysia's proposal.

(The Co-chairs relied on an SBI report in Para 167 of document FCCC/SBI/2011/7 as the basis for their decision.)

On 20 October, South Africa on behalf of the G77 and China reiterated to the Co-Chairs that the spin off groups should be open to observers. "The Group of 77 and China requests that all the spin-off and other groups where negotiations on this text take place be open to observers," said Ambassador Nozipho Mxakato-Diseko of South Africa.

But Reifsnyder said their proposal on closed-door sessions was following the previous approach where spin-off groups were closed to observers and added that the issue needs further consideration. Diseko responded saying that according to their understanding, if no Parties object to their proposal, the rules allow observers to have access to the spin-offs. "As G77, we propose they be allowed in," she stressed.

Speaking to Third World Network after the session, Diseko said that observers are an integral part of the process. "You will have to live with the decisions we make. We are accountable to you," said Diseko.

Japan, the only Party to openly object, had earlier intervened to say that they have serious

doubts about the effectiveness of opening spin offs to observers. “We have short time for very serious negotiations. Every diplomat knows real negotiations cannot happen in front of the public. If we have spin offs open to observers, we will need another group to do the real negotiations. This is not the time for show, but real negotiations,” said Hideaki Mizukoshi, Deputy Director-General of the Ministry of Foreign Affairs. Mizukoshi incidentally is also tasked as ‘Ambassador to non-governmental organizations’ in Japan.

Responding to Japan, Diseko retorted that those in G77 who want observers to be present are real diplomats and they are for transparency.

Malaysia supported G77 and China and said it has a completely opposite view to Japan and that transparency is not a question of including a clause in climate change negotiations but it is also about the process by which Parties arrive at the text and negotiate. “Don’t be afraid of civil society. We are accountable to them. The civil society organisations have invested a great deal of time, money and intellect. On what basis do we exclude them?” asked Malaysia.

Referring to the negotiations of the Nagoya Protocol on access and benefit sharing under the Convention on Biological Diversity, Malaysia said the negotiations were done in the full view of CSOs. “We urge Japan to have an open mind on this and follow the Nagoya example,” said Malaysia.

When the contact group resumed after a short break, Reifsnnyder justified the decision to keep observers out by reading out the Doha SBI decision as follows: “The SBI noted the existing practices with regard to informals. In the event that there is no contact group for an agenda item, the SBI recommended that at least the first and the last meetings of the informals may be open to observer organizations, recognizing the right of Parties to keep informal meetings closed.”

Reifsnnyder added that he had heard concerns on the issue of including observers and had heard additional concerns on the issue in their bilateral meetings.

In response, Malaysia read out a decision taken at the fourth meeting of the Conference of the Parties in Buenos Aires (decision 18/CP.4) as

an analogy in support of observer participation in contact group meetings.

Referring to Japan, Malaysia added that it had appealed to the delegate who was the only voice objecting to observer participation. To the Co-Chairs, Malaysia said that it did not know who else had raised objections to the Co-Chairs (in the bilaterals) and why those objections could not be raised in the open. “It was only one distinguished delegate who spoke out in the open and we had appealed to him to reconsider. We don’t know the outcome of that appeal,” it said.

Malaysia then said that “We are talking about attendance in informal groups and you have quoted a decision and if we use as analogy attendance in contact groups, refer to the decision 18/CP.4, which deals with intergovernmental and non-governmental organisations.”

(The decision reads: “ ... *the presiding officers of Convention bodies may invite representatives of intergovernmental and non-governmental organizations to attend as observers any open-ended contact group established under the Convention process, unless at least one third of the Parties present at the session of the Convention body setting up that contact group object, and on the understanding that the presiding officers of such contact groups may determine at any time during their proceedings that they should be closed to intergovernmental and non-governmental organizations; ...*)

Malaysia added that the COP decision provided some form of inspiration to Parties to reconsider the Doha decision that the Co-Chairs had read out. Malaysia further said that Co-Chair Djoghlaif as executive secretary of the Convention on Biological Diversity (CBD) had concluded protocols and would know that the practice (of open meetings) worked very well. “This is integral since climate change involves the whole world and not just diplomats. It concerns humanity at large,” said Malaysia.

Mexico too said that observers are an important part of the process and “we would not be doing what we are doing without them”.

Reifsnnyder, however, concluded that while the issue of observer participation was important, Parties were in a different phase where “we have to move briskly as we have only three-and-a-half days left”. “We have to move

forward resolutely. The rules of the Convention are clear. We don't see how we can open spin offs to observers. If contention remains, we will follow the rules and continue consultations with Parties," said Reifsnyder.

Youth delegates from Young Friends of the Earth-Europe and Earth in Brackets immediately staged a protest in the premises against the decision to exclude observers from the negotiations. They carried banners that said "*No secret negotiations*" and

"Secret negotiations leads to bad deals" and *"What have you got to hide?"*

Observers are frustrated that at the behest of Japan and perhaps a handful of other developed countries, the Co-Chairs have imposed this ban. This issue has spread over social media and a protest petition titled:

"Civil Society Demands: #KeepUsIntheRoom" has been launched.