

The contentious issues at COP 27

New Delhi, 24 Nov (Indrajit Bose) — COP 27 convened from 6-20 Nov in Sharm el-Sheikh and saw deep divergences on nearly all the issues under negotiations, with several differences in the positions of developing and developed countries. This update presents the contentious issues that arose during the informal consultations on the final hours (which were closed to observers) on loss and damage finance, the mitigation work programme and the cover decision.

Among these contentious issues revolved around who are vulnerable countries, reflection of the principles of equity and common but differentiated responsibilities (CBDR), fossil fuel phase out, peaking of emissions by 2025, use of terms like 'major emitters' and 'major economies' etc. TWN spoke to sources who disclosed what transpired at these sessions on these matters.

LOSS AND DAMAGE FINANCE

Parties to the UNFCCC decided to establish a fund for responding to loss and damage whose mandate includes a focus on addressing loss and damage, which was a big win for developing countries. Arriving at a decision was fraught with controversy, with a compromise arrived at eventually.

The issue of funding arrangements for loss and damage had been contentious from day 1 of the COP when the **G77 and China** had proposed the issue to be included in the provisional agendas of the COP and the CMA (Parties to the Paris Agreement). Following its inclusion on the agenda, there was huge resistance by developed countries to agree on setting up a new fund on loss and damage. Developed countries resorted to proposals that seemed intended to fracture the unity of G77/China by insisting that big developing countries should also contribute to loss and damage finance. However, under the leadership of **Pakistan** that helmed the group, solidarity and unity prevailed. During discussions, the group spoke in one voice through the Chair rather than as sub-groups during Presidency consultations. (See also related articles - [TWN Update 2](#), [TWN Update 11](#) and [TWN Update 12](#) on how the issue of loss and damage evolved at COP 27.)

Early morning on Sat. 19th of Nov, a day past the scheduled closing of the talks, the Egyptian Presidency convened consultations on loss and damage finance with Parties on a draft text proposal prepared by the Presidency.

According to sources, developed countries led by **Norway** and the **European Union (EU)** had issues with the draft text issued around the

eligibility criteria as to who should receive funding for loss and damage, as well as the need to recognize funding initiatives outside of the UNFCCC. The issues raised by the **EU** and **Norway** were around paragraph 2 of the draft decision text proposed which read as follows: *“Decides to establish new funding arrangements for assisting **developing countries** in responding to loss and damage, including a focus on addressing loss and damage by providing and assisting in mobilizing new and additional resources, and that these new arrangements **complement** the existing arrangements for financial support from other sources, funds, processes and initiatives, including outside the Convention and the Paris Agreement.”* (Emphasis added.)

The **EU**, said sources, was open to a loss and damage fund, but wanted to ensure that funding is channeled to those “particularly vulnerable” and said the draft text was a non-starter since it did not see references to vulnerability “in an operational manner” and the only way the EU would see itself as a “donor” was by giving particular focus on that issue.

Pakistan for **G77/China** was reported to have said that the group did not want the fund to be exclusive and highlighted that there is no definition of vulnerability, adding that if a fund is established which excludes Pakistan and other countries like it which do not fit in the UN groupings such as Small Island Developing States (SIDS) or Least Developed Countries (LDCs), such countries could not be part of the decision. It also gave the example that some organisations outside of the UN system classify Pakistan as among the 10 most vulnerable countries in the world, but not everyone may accept such reports because there is no definition of vulnerability.

The **United States (US)** said sources, suggested to take note of recent events in the preamble and give the example of the floods in Pakistan. In response, **Pakistan** responded that it was just an example and many other regions in the world were suffering climate disasters and it would not be possible to list all the countries and the disasters in the preamble, which the US agreed.

Colombia for the **Independent Alliance of the Latin America and the Caribbean (AILAC)** was

reported to have said that even though they were “middle-income” countries, their climate vulnerabilities were “tremendous” and they did not have the fiscal capacity to deal with disasters and therefore should not be excluded from loss and damage funding.

Norway responded that it understands that countries like the Philippines and Pakistan must not be omitted from funding and suggested the following language: *“Decides to establish new funding arrangements for assisting developing countries, **taking into account particularly vulnerable countries**, in responding to loss and damage...”*. (Emphasis added). The **EU** also suggested to include “particularly vulnerable countries and communities” but this proposal was not accepted.

Following further discussions, Parties agreed to using agreed language *“...assisting developing countries, that are particularly vulnerable to the adverse effects of climate change...”*.

(Early on 20th Nov, a new version of the text was circulated, replacing the wording “that are particularly vulnerable” to “especially those that are particularly vulnerable”. However, following consultations, the language agreed during the presidency consultations was restored, and the words “*especially those*” were dropped.)

On the issue of funding initiatives outside of the UNFCCC, sources said that **Norway** wanted very clear recognition that funding for loss and damage could not be confined to “one single fund under the UNFCCC”. It said that being one of the major donors of loss and damage finance, it was very important to Norway that its efforts and funding is recognized as part of the loss and damage funding arrangements as well, and the current text did not provide the “necessary assurance”, saying that the decision must recognize support channeled outside of the UNFCCC initiatives.

Pakistan for the **G77 and China** responded to Norway saying the decision text reflected the word “funding arrangements”, which should take care of its concerns and that “a fund” was being established rather than “the fund” in the context of the funding arrangements.

Norway, however, suggested changing “*these new arrangements complement the existing arrangements for financial support from other sources, funds, processes and initiatives, including outside the Convention and the Paris Agreement*” to “*includes sources, funds, processes, funds, processes and initiatives, including outside the Convention and the Paris Agreement*”.

Following further discussions, Parties agreed on “*these new arrangements complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement*”. The paragraph adopted in the decision reads: “*Decide to establish new funding arrangements for assisting developing countries **that are particularly vulnerable to the adverse effects of climate change**, in responding to loss and damage, including with a focus on addressing loss and damage by providing and assisting in mobilizing new and additional resources, and that these new arrangements **complement and include** sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement.*” (Emphasis added).

The decision adopted also agreed to the establishment of a Transitional Committee on the operationalization of the new funding arrangements for responding to loss and damage, and the fund. Parties decided that the Transitional Committee shall have 24 members, to be nominated no later than 15 December 2022, comprising 10 from developed countries and 14 from developing countries, including 3 from Africa, 3 from Asia-Pacific, 3 from Latin America and the Caribbean, 2 from SIDs, 2 from LDCs and 1 from a developing country not included in the categories listed above. The 1 from a developing country not included in any of the other categories was added following the Environment Integrity Group’s proposal to provide space to a member from the Eastern European region.

Parties also decided that the 1st meeting of the Transitional Committee would be held no later than 31 March 2023.

MITIGATION WORK PROGRAMME

Discussions on the mitigation work programme (MWP) were highly contentious around many issues such as: the mention of the principles of

equity and common but different responsibilities (CBDR) in the scope of the work programme, which was opposed largely by **Switzerland**; proposals of introducing “major emitters” in the text by developed countries; whether the timeline of the work programme should be one year, as was proposed by the **Like Minded Developing Countries (LMDC)** and the **Arab Group**, or continue until 2030, a proposal of the developed countries and **AILAC**, the **Alliance of Small Island States (AOSIS)** and the **LDCs**; whether or not to mention ‘highest mitigation potential by sector’ in the text; the role of the MWP vis-à-vis the global stocktake (GST), with the LMDC and the Arab group stressing that the MWP should not duplicate the GST process which will take place next year (on assessing the collective progress of Parties in achieving the goals of the Paris Agreement).

According to sources, during the discussions, the **developed countries** along with **AILAC**, **AOSIS** and the **LDCs** wanted to introduce text on ‘fossil fuels’ in the decision text and said that discussion on fossil fuels is paramount and that countries need to get “the fossil fuel energy out of our systems”, as espoused by Norway. However, they did not want to have this discussion in the context of equity and CBDR.

Similarly, for the restricting temperature increase to 1.5°C, there was huge resistance by the developed countries to discuss it in the context of equity and CBDR, with **Russia** stating that it still did not quite understand “what equity means”.

Early on 19th Nov, during the presidency consultations, it seems that differences arose over the nature of the work programme with the **LMDC** and the **Arab group** calling for the work programme to not result in “new targets or goals beyond those agreed in the Paris Agreement” and its explicit mention in the draft text, with developed countries opposed to reflecting such language in the draft text.

The **United Kingdom (UK)** wanted to introduce sectoral targets “to keep 1.5°C alive”, and for the nationally determined contributions (NDCs) to be adjusted “annually”. Sources said that the interventions received a lot of applause by those present in the room. The **US** it seems even said that the “applause” represented consensus.

However, the issue of whether or not to mention “new targets or goals beyond those agreed in the Paris Agreement” dragged negotiations till the early hours of 20th Nov, in closed door ministerial consultations convened by the Egyptian Presidency. Parties also discussed bridging proposals on the timeline of the work programme, sources said.

During the ministerial consultations, sources said that the **UK** misreported to the Egyptian Presidency that Parties had reached agreement on the MWP, which was followed by “applause” in the room. The **LMDC** clarified that applauding did not represent consensus and that no agreement had been reached. Sources also said that developing countries asked **UK Minister Alok Sharma** why he was opposed to mentioning CBDR in the text, even though CBDR was mentioned in Glasgow. It seems Sharma had no response to the direct question.

(The Glasgow Climate Pact [GCP] “*reaffirms the Paris Agreement temperature goal of holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels*” [paragraph 20]. The GCP also “*recognizes that limiting global warming to 1.5 °C requires rapid, deep and sustained reductions in global greenhouse gas emissions, including reducing global carbon dioxide emissions by 45 per cent by 2030 relative to the 2010 level and to net zero around midcentury, as well as deep reductions in other greenhouse gases*” (paragraph 22). Further, the GCP “*also recognizes that this (limiting global warming to 1.5°C) requires accelerated action in this critical decade, on the basis of the best available scientific knowledge and equity, reflecting common but differentiated responsibilities [CBDR] and respective capabilities in the light of different national circumstances and in the context of sustainable development and efforts to eradicate poverty*” [paragraph 23]).

Developing country negotiators told TWN that when developed countries talk of “advancing the GCP”, they mean “dropping references to equity and CBDR, which are also mentioned in the GCP” and wish to paint “us” (developing countries) as being against ambition, which “is not true”. “All we are saying is stick to decisions we have agreed without any selective picking and choosing. You

cannot just pick 1.5°C and decide to leave equity and CBDR out of it,” a senior developing country negotiator told TWN.

During the ministerial consultations on the MWP, sources said that the **US** suggested to include in the text that the MWP would not “impose targets”, which was reflected in the Presidency’s subsequent proposal and which got adopted.

The decision adopted reads that “*the work programme shall be operationalized through focused exchanges of views, information and ideas, noting that the outcomes of the work programme will be non-prescriptive, non-punitive, facilitative, respectful of national sovereignty and national circumstances, take into account the nationally determined nature of nationally determined contributions and will not impose new targets or goals*”.

Compromise was reached on the timeline of the work programme as well. Parties decided that implementation of the work programme will start immediately after CMA 4 and “continue until its eighth session (2026), with a view to adopting a decision on the continuation of the work programme at that session”.

COVER DECISIONS

Discussions on the overarching decisions, also called cover decisions, were contentious until the very end of the COP. The Presidency convened several consultations with Parties on the cover decisions throughout COP 27, and issued a compilation of Parties’ views, a non-paper comprising a summary of possible elements put forward by Parties for inclusion in the overarching decisions and draft text. However, Parties stuck to their positions, reflecting a wide variety of differences.

Developed countries and developing country sub-groups such as the **LDCs, AILAC and AOSIS** stressed that the cover decision must reflect the latest science from the Intergovernmental Panel on Climate Change (IPCC), advance the GCP, especially on the fossil fuel phase out and coal phase down, advancing the 1.5°C agenda, and methane pledges by Parties. This was however without the reflection of equity and CBDR principles. The **UK** even suggested that they want

to go a step further and speak about a “coal phase out” and not a “coal phase down”.

(Paragraph 36 of the GCP reads: *“Calls upon Parties to accelerate the development, deployment and dissemination of technologies, and the adoption of policies, to transition towards low-emission energy systems, including by rapidly scaling up the deployment of clean power generation and energy efficiency measures, including accelerating efforts towards the phasedown of unabated coal power and phase-out of inefficient fossil fuel subsidies, while providing targeted support to the poorest and most vulnerable in line with national circumstances and recognizing the need for support towards a just transition.”* Paragraph 37 of the GCP reads: *Invites Parties to consider further actions to reduce by 2030 non-carbon dioxide greenhouse gas emissions, including methane.*)

Developed countries also suggested including references to peaking emissions by 2025, as well as annual updates of NDCs and long-term greenhouse gas strategies (LTS) in the cover decision.

They also wanted the cover decision to include elements on encouraging the multilateral development banks (MDBs), international financial institutions and the private sector to increase climate ambition and promote the implementation of Article 2.1 (c) of the Paris Agreement, which speaks to the issue of “making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development”.

Further, the **US** suggested including terms such as ‘major economies’ and ‘major emitters’ and was against including references to principles of the Convention in the cover decision.

The **G77/China** highlighted the importance of mentioning “climate justice” in the cover decision. Developing countries led by the **LMDC**, **Arab Group**, **Africa Group** and **ABU (Argentina, Brazil, Uruguay)** were clear that there should be no renegotiation of the Paris Agreement through the cover decisions. **Brazil** articulated that the GCP is a cover decision and not an agreement that Parties have had to ratify and that it should not supersede the Paris Agreement and that Parties

should leave Sharm el-Sheikh with an outcome of its own rather than be an “attachment to a previous decision” (in reference to the GCP).

For the **LMDC**, the mention of equity, CBDR and the equitable sharing of the carbon budget was very important in the cover decision. The LMDC further said that developed countries must not try to shift the burden of climate action to developing countries and their finance obligations to the private sector and the MDBs which have their own decision-making processes and mandates which are beyond the UNFCCC process. MDBs and the private sector are not responsible for climate finance and relying on only them to provide climate finance will increase the indebtedness of developing countries, said the LMDC further.

They said the cover decision must urge developed countries to provide enhanced support, including through concessional and grant-based financial resources, technology transfer and capacity-building, to assist developing countries with respect to both mitigation and adaptation.

The LMDC also said that the developed countries’ proposals contradict the principles and provisions of the Convention and the purpose of the Paris Agreement, which establishes clear obligations of developed countries. It was against any re-classification of countries such as ‘major economies’ or ‘major emitters’ and proposed sticking to differentiation as agreed in the Paris Agreement. The LMDC further added that the findings from the IPCC must be reflected in a balanced manner and across all the elements of mitigation, adaptation and means of implementation.

With reference to advancing the GCP and mentioning coal and fossil fuel in the cover decision, the **LMDC** and the **Arab group** responded that there should be no selective picking and choosing of elements from the GCP. The LMDC said that energy transition is a very important issue and every country has its own energy mix and national circumstances and its own pathway to address emissions. The discussion should focus on emissions and not sources, the LMDC said, adding that all Parties are accountable for their emissions under the Paris Agreement. “We should not be prescriptive on how countries use their resources whether

renewables or any type of fossil fuels but rather focus on addressing the emissions,” said **Bolivia** for the **LMDC** during the discussions.

The groups stressed that like in the GCP, the temperature goal of the Paris Agreement must be reflected in full, rather than cherry picking 1.5°C and that the temperature goal must be in the context of equity and CBDR and the provision of finance support by the developed countries. The **Arab group** was against referencing any fossil fuels in the cover decision and **India** suggested mentioning either all fossil fuels or none. India was against selectively referencing coal. However, as a compromise, India suggested using language agreed to in the GCP.

Developing countries led by **LMDC** and **ABU** were also against references to nature-based solutions in the text and giving consideration to processes outside of the UNFCCC, such as the International Civil Aviation Organisation (ICAO) and International Maritime Organisation (IMO), since not every Party endorsed outcomes under ICAO, and since the IMO negotiations are ongoing.

Following protracted discussions, Parties agreed to the cover decision, titled, “Sharm el Sheikh Implementation Plan”, with some wins and losses for everyone in the text (for highlights of the cover decision, see [TWN Update 12](#)).