

COP 19 establishes Warsaw international mechanism for loss and damage

Beijing, Nov 27 (Zhenyan Zhu) –In the final hours of the Warsaw climate talks, on Saturday, 23 November, Parties decided to establish the Warsaw international mechanism for loss and damage associated with climate change impacts, after wrangling between developing countries and the United States over one word in the text.

Following ministerial-led consultations, paragraph 1 of the final draft decision text established the Warsaw international mechanism for loss and damage, “*under the Cancun Adaptation Framework (CAF)*” which did not find comfort among the developing countries, led by the Group of 77 and China.

The G77 and China had insisted that the mechanism be established as a third pillar of the Convention, noting that loss and damage is beyond adaptation. (Adaptation and mitigation are the current two pillars of the Convention) and rejected a framing under the CAF.

However, keeping any mechanism for loss and damage under the CAF was a very strong red line for the United States, which is concerned about the financial and legal implications of establishing a third pillar.

At the closing of the loss and damage agenda item, during the final COP plenary, opening comments centered on the word “*under*” and a compromise was found between the developing countries and the US with the addition of the following words after the CAF, “*subject to review at the twenty-second session of the Conference of the Parties (November-December 2016) pursuant to paragraph 15 below,*” and other modifications. (See below for further details.)

With this decision, many Parties believe that a third pillar of the Convention has indeed been clearly established. Parties have agreed that adaptation contributes toward addressing loss and damage, but that loss and damage “in some cases involves more

than, that which can be reduced by adaptation” in preambular paragraph 4. With the images of the destruction caused by Typhoon Haiyan on the mind of every delegate, it would have been difficult to conclude otherwise.

This decision to establish an international mechanism for loss and damage represents the culmination of many years of work by developing countries to build on the Bali Action Plan mandate (decision 1/CP.13) to consider means to address loss and damage, as well as earlier proposals by the Alliance of Small Island States (AOSIS) dating all the way back to 1991.

After slow but steady progress during the first week under the UNFCCC’s Subsidiary Body for Implementation (SBI), negotiations on loss and damage were carried into the second week of the agenda of the 19th session of the Conference of Parties (COP 19), after the issue had been transferred to the COP agenda during the closing of the SBI. The negotiations under the SBI were facilitated by Ambassador Ana Lindstedt (Sweden) and Ambassador Robert Van Lierop (St. Kitts and Nevis). Ministers Edna Molewa (South Africa) and Lena Ek (Sweden) formally took over the facilitation role once the issue was transferred to the COP, with continuing assistance from the ambassadors.

Parties worked hard over the course of the second week, with many late nights, and on Friday, 22 November, the co-facilitators launched their first version of a final compromise text. COP 19 was supposed to end on 22 November but spilled over to the evening of the following day. Bilaterals between groups of Parties continued overnight Friday, as Parties exchanged views on what improvements were still necessary to enable groups to accept the final decision.

As a result of the overnight bilaterals and consultations with the co-facilitators, Parties received a final “take it or leave it” text, issued as document L.15, at around 11:00 am on Saturday, 23 November. It was clear at that point that the gap between the positions of the G77 and China and the United States had not been completely closed in the crafting of the compromise text.

Fiji on behalf of G77 and China reminded the COP plenary that vulnerable developing countries had been advocating for the issue of loss and damage over almost two decades. It agreed to every single word in the draft text except the word “under” because “the most vulnerable people from developing countries cannot find comfort to live with the ‘under’, it said. It requested the (COP) President for more time to go over the “under” word and find another word instead.

The Philippines, led by its climate change Commissioner Naradev Sano, supported the position of G77 and China and pointed out that a preambular paragraph acknowledging the difference between adaptation and loss and damage contradicts the paragraph 1 reference to the CAF. There is an acknowledgement that loss and damage is more than adaptation – that loss and damage associated with the adverse effects of climate change is more than those that can be addressed through adaptation.

He said that one word “under” will forever mean the difference between two paths we may take – towards a spiraling of distrust in this process or a bold step towards building trust. This is a mechanism that is very important to vulnerable developing countries, real people, and real lives and it is now boiled down to one word. This is a defining moment and the Philippines requested to get that “one word out of the way”.

The President said we are close to the compromise and urged Parties to search for such compromise.

Bangladesh responded that it had reservations on several paragraphs, but that it could give concessions in the spirit of compromise, and in return it requested the deletion of the word “under” in paragraph 1. It quoted Charles Dickens’ novel ‘A Tale of Two Cities’ saying that “this is the best of times and this is the worst of times.” It said let us make this the best of times and make a prudent decision and see the light at the end of the tunnel.

Bolivia said the adverse effects of climate change resulted in prolonged threats, that all countries must be committed to protect Mother Earth, and

that countries causing the effects of climate change must display greater financial commitment. It said that loss and damage is beyond adaptation, and that the consequences of some extreme events will lead to permanent losses, which we must prevent. Addressing loss and damage can only be done by technology transfer, building information systems through an international mechanism, and finance from developed countries due to their historical responsibility. It said that we are now in the final stretch, and for developing countries, we cannot wait any longer and we cannot waste all the work over one word.

Nauru on behalf of AOSIS, in response to the so-called “red line” in paragraph 1, which the US insisted on, said that this is also a very real red line for AOSIS countries. AOSIS had compromised on many elements already and urged the US to show flexibility so that we can take good news back home.

The European Union proposed to have discussions in a ‘huddle’ on this issue as this model had seen success on other issues (referring to the negotiations under the Ad Hoc Working Group on the Durban Platform for Enhanced Action).

Nepal on behalf of Least Developed Countries (LDCs) said it came to Warsaw with high expectations and a loss and damage mechanism is one of the most important expectations for Warsaw. It echoed what the Philippines had said, to let the single word get out of the way, and that loss and damage is beyond adaptation.

Nicaragua said Central America is a highly vulnerable region. Mitigation, adaptation and loss and damage are three distinctly distinguishable categories. It looked forward to the fulfillment of the decision made in Doha (COP 18). It echoed other comments that we are one word away from agreement and appealed for flexibility to those holding up the decision.

Canada called for a motion to suspend for 15 minutes to deal with this issue.

After an hour of huddle, which involved the leader of the G77 and China, Sai Navoti of Fiji, Todd Stern of the US and many others from developed and countries, a compromise was reached as follows:

A new preambular paragraph 4 was inserted into the decision text which read: “*Also acknowledging that loss and damage associated with the adverse effects of climate change includes, and in some cases involves more than, that which can be reduced by adaptation.*”

Paragraph 1 was amended by adding the following words after “*under the Cancun Adaptation Framework*”: “*subject to review at the twenty-second session of the Conference of the Parties (November-December 2016) pursuant to paragraph 15 below.*”

In paragraph 15, after “deciding to review the Warsaw international mechanism”, a phrase more clearly specifying the content of review was added: “*including its structure, mandate and effectiveness.*” (See below for details of the decision.)

Fiji, speaking on behalf of the G77 and China, informed the plenary that there had earlier been one additional amendment to the text, agreed to by all Parties that had not been reflected in the text of paragraph 5 sub-paragraph 3. The phrase “*including extreme weather events and slow onset events*” was then added to the end of the paragraph.

There was a consensus on the language suggestions made by the G77 and China, and Parties adopted the text as amended.

In a closing statement, **the Philippines** stated its interpretation of the term “review” in paragraph 15 of the decision. It said that establishing the Warsaw international mechanism for loss and damage under the CAF, as stated in the paragraph 1, effectively limits the actions to be undertaken in addressing loss and damage to adaptation and risk management, which effectively omits the required actions necessary for the recovery and rehabilitation of lost and damaged livelihoods, communities and eco-systems. As such, the Philippines is of the view that the “review” referred to in paragraph 15 of the Warsaw decision also includes a review of the mechanism’s institutional placement vis-à-vis the CAF.

The COP President stated that the Philippines’ statement would be reflected in the record of the session.

The United States, in its statement on the agreement of final text, said that it recognized the critical implications of loss and damage. The US and other Parties had engaged constructively to establish for the first time an international mechanism to address loss and damage and areas of convergence and consensus had been found.

Bahamas said loss and damage has been the single most important issue for AOSIS. At this meeting we addressed many technical gaps in our understanding of the issue and also bridged the philosophical gap. We had worked very hard to develop a shared understanding on the impacts of climate change, gathering knowledge that loss and

damage is well beyond adaptation and requires an urgent response. In Warsaw, we have achieved success. The spirit of Doha has not been lost and the spirit of reconciliation, though tested, is not damaged.

Highlights of the Warsaw decision on loss and damage

“The Conference of the Parties, ...

Acknowledging the contribution of adaptation and risk management strategies towards addressing loss and damage associated with climate change impacts,

Also acknowledging that loss and damage associated with the adverse effects of climate change includes, and in some cases involves more than, that which can be reduced by adaptation, ...

1. *Establishes* the Warsaw international mechanism for loss and damage, under the Cancun Adaptation Framework, subject to review at the 22nd session of the COP (November–December 2016) pursuant to paragraph 15 below, to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change (hereinafter referred to as the Warsaw international mechanism), and in line with the provisions contained in paragraphs 2 to 15 below;

2. *Establishes* an executive committee of the Warsaw international mechanism, which shall function under the guidance of, and be accountable to, the COP, to guide the implementation of functions referred to under paragraph 5 below;

3. *Requests* the executive committee to report annually to the COP through the Subsidiary Body of Scientific Technological Advice and the Subsidiary Body for Implementation and make recommendations, as appropriate;

4. *Decides* that, as an interim measure, the executive committee shall consist of two representatives from each of the following bodies under the Convention; ensuring that there is a balanced representation between developed and developing country Parties: the Adaptation Committee, the Least Developed Countries Expert Group, the Standing Committee on Finance, the Technology Executive Committee and the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention;

5. *Further decides* that the Warsaw international mechanism shall fulfil the role under the Convention of promoting the implementation of approaches to address loss and damage associated with the adverse effects of climate change, pursuant to decision 3/CP.18, in a comprehensive, integrated and coherent manner by undertaking, inter alia, the following functions:

(a) Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts, by facilitating and promoting:

(i) Action to address gaps in the understanding of and expertise in approaches to address loss and damage associated with the adverse effects of climate change, including, inter alia, the areas outlined in decision 3/CP.18, paragraph 7(a);

(ii) Collection, sharing, management and use of relevant data and information, including gender-disaggregated data;

(iii) Provision of overviews of best practices, challenges, experiences and lessons learned in undertaking approaches to address loss and damage;

(b) Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders by:

(i) Providing leadership and coordination and, as and where appropriate, oversight under the Convention, on the assessment and implementation of approaches to address loss and damage associated with the impacts of climate change from extreme events and slow onset events associated with the adverse effects of climate change;

(ii) Fostering dialogue, coordination, coherence and synergies among all relevant stakeholders, institutions, bodies, processes and initiatives outside the Convention, with a view to promoting cooperation and collaboration across relevant work and activities at all levels;

(c) Enhancing action and support, including finance, technology and capacity-building, to address loss and damage associated with the adverse effects of climate change, so as to enable countries to undertake actions pursuant to decision 3/CP.18, paragraph 6, including by:

(i) Provision of technical support and guidance on approaches to address loss and damage associated with climate change impacts, including extreme events and slow onset events;

(ii) Provision of information and recommendations for consideration by the COP the when providing guidance relevant to reducing the risks of loss and damage, where necessary, addressing loss and damage, including to the operating entities of the financial mechanism of the Convention, as appropriate;

(iii) Facilitating the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity-building, to strengthen existing approaches and, where necessary, facilitate the development and implementation of additional approaches to address loss and damage associated with climate change impacts, including extreme weather events and slow onset events;

6. *Decides* that the Warsaw international mechanism should complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention as well as on that of relevant organizations and expert bodies outside the Convention, at all levels;

7. *Also decides* that, in exercising the functions outlined in paragraph 5 above, the Warsaw international mechanism will, inter alia:

(a) Facilitate support of actions to address loss and damage;

(b) Improve coordination of the relevant work of existing bodies under the Convention;

(c) Convene meetings of relevant experts and stakeholders;

(d) Promote the development of, and compile, analyse, synthesize and review information;

(e) Provide technical guidance and support;

(f) Make recommendations, as appropriate, on how to enhance engagement, actions and coherence under and outside the Convention, including on how to mobilize resources and expertise at different levels;

8. *Invites* the Executive Secretary, in consultation with the President of the COP, to convene the initial meeting of the executive committee by March 2014, the meetings of which will be open to observers, and invite representatives of relevant international and regional organizations having the necessary skills in approaches to addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events;

9. *Requests* the executive committee to develop its initial two-year workplan for the implementation of the functions outlined in paragraph 5 above, including the scheduling of meetings, taking into account the issues outlined in decision 3/CP.18, paragraphs 6 and 7, for consideration at the forty-first sessions of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation (December 2014);

10. *Requests* the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to consider the composition of, and procedures for, the executive committee, and to make recommendations thereon for adoption by the COP at its 20th session (December 2014), with a view to finalizing the organization and governance of the executive committee;

11. *Invites* relevant international and regional organizations, institutions and processes to integrate, where appropriate, measures to address the impacts of climate change and to explore and strengthen synergies in the context of addressing loss and damage associated with the adverse impacts of climate change, especially in particularly vulnerable developing countries;

12. *Also invites* Parties to work through the United Nations and other relevant institutions, specialized agencies and processes, as appropriate, to promote coherence at all levels in approaches relevant to addressing loss and damage associated with the

adverse effects of climate change, including extreme events and slow onset events;

13. *Further invites* Parties to strengthen and, where appropriate, develop institutions and networks at the regional and national levels, especially in particularly vulnerable developing countries, to enhance the implementation of relevant approaches to addressing loss and damage in a manner that is country-driven, encourages cooperation and coordination between relevant stakeholders and improves the flow of information;

14. *Requests* developed country Parties to provide developing country Parties with finance, technology and capacity-building, in accordance with decision 1/CP.16 and other relevant decisions of the COP;

15. *Decides* to review the Warsaw international mechanism, including its structure, mandate and effectiveness, at the twenty-second session of the Conference of the Parties, with a view to adopting an appropriate decision on the outcome of this review;

16. *Takes note* of the budgetary implications of the activities to be undertaken by the secretariat pursuant to the provisions contained in this decision;

17. *Request* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.”