

What to expect at the Marrakech climate talks

Marrakech, 7 Nov 2016 (Meena Raman) – The annual year end climate talks under the United Nations Framework Convention on Climate Change (UNFCCC) will kick off in Marrakech, Morocco, on 7 Nov. and is expected to end 18 Nov.

The two-week talks will see the convening of the Convention's twenty-second session of the Conference of the Parties (COP 22), the twelfth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 12) as well as the forty-fifth sessions of the Subsidiary Body for Implementation (SBI 45) as well as the Subsidiary Body Scientific and Technological Advice (SBSTA).

Following the adoption of the Paris Agreement last year, a new body was established called the Ad Hoc Working Group on the Paris Agreement (APA), which began its work in May this year. The APA will also resume its work in Marrakech to continue the tasks assigned to it by the COP.

A new development is the early entry into force of the Paris Agreement (PA).

The PA entered into force on 4th Nov, which was the 30th day since 5 October when the double threshold for entry into force of the Agreement was achieved, (which was the requirement for at least 55 Parties to the Convention, accounting in total for at least an estimated 55% of the total global greenhouse gas emissions, have deposited their instruments of ratification or acceptance).

As a result, the first session of the Conference of the Parties serving as the meeting of the Parties to the PA (CMA 1) will also convene in Marrakech on 15 Nov. As of now, 97 of the 197 Parties to the Convention have ratified the PA.

As Parties celebrate the early entry into force of the PA, the Doha Amendment to the Kyoto Protocol (KP) that is supposed to give effect to

the second commitment of the KP (2CP) for emissions reductions by developed countries for the period 2013-2020 has yet to come into effect.

Parties had agreed in 2012 in Doha, Qatar, to amend the KP to incorporate the 2CP where developed countries who are Parties to the KP will undertake aggregate emission cuts that would be at least 18 per cent below 1990 levels. They also agreed that developed countries will revisit their emission reduction commitments by the end of 2014, with a view to increasing their ambition level.

Regrettably, neither has the 2CP come into effect, nor has there been a revision of the ambition level for the emission cuts of developed countries thus far. To give effect to the Doha Amendment, and for the 2CP to come into effect, a total of 144 countries have to ratify it, including developing countries. Thus far, only 71 countries have done so.

The Marrakech talks are happening against the backdrop of a newly released 'Emissions Gap Report 2016' by the United Nations Environment Programme (UNEP), which says that the world is still heading for a temperature rise of 2.9 to 3.4°C this century, even with "Paris pledges" and that in 2030, emissions will be 12 to 14 gigatonnes above levels needed to limit global warming to 2°C.

(The 'Paris pledges' refer to the intended nationally determined contributions [INDCs] that Parties have communicated to the UNFCCC secretariat that will take effect only from 2020 onwards).

The UNEP report also states that "the need for urgent action has been reinforced by the fact that 2015 was the hottest year since modern record keeping began. Although high temperatures were exacerbated by the effect of El Niño, it is notable that 10 of the warmest years on record have

occurred since 2000, and the trend continues, with the first six months of 2016 all being the warmest ever recorded.”

Given the need for urgent action, COP 22 has been touted as a “COP of action” or an “implementation COP”, which promises not only to focus on issues relating to the rules for the implementation of the PA for the post 2020 timeframe but also on pre-2020 actions which deal with the existing commitments under the Convention and the KP, including on delivering the finance commitment of US 100 billion per year by 2020 from developed to developing countries that was agreed to in 2010.

Below are some highlights of what can be expected at the Marrakech climate talks.

CMA 1: EARLY ENTRY IN FORCE AND CONSEQUENCES

At the last COP in Paris (COP 21), various tasks were assigned to the subsidiary bodies of the Convention and other constituted bodies including the APA related to the implementation of the PA.

Work on these tasks and mandates have only just begun in May this year and there is a long way to go to agree on the various rules for implementation (referred to as modalities, procedures and guidelines).

An issue which has arisen with the rapid and early entry into force of the PA and with the convening of the CMA is how all Parties, including those who have yet to ratify the PA, can be included in the process of crafting the rules related to the implementation of the PA.

According to sources, it appears that Parties are in general agreement that the process has to be inclusive that enables all Parties of the Convention to be at the table in drawing up the rules, and not only Parties to the PA.

It can therefore be expected that the CMA 1 will convene and take a decision to allow the various bodies to continue and complete the work assigned to them under the COP. The CMA is then expected to be suspended and to resume at an agreed timeline.

In issue is when the CMA will resume its meeting. It appears that most Parties prefer 2018 to be when the CMA should meet again, while there are some Parties who are calling for its resumption in 2017.

Another matter that is expected to receive attention is the issue of the provisional agenda of the CMA. According to the provisional agenda, apart from the usual organisational and procedural matters, the agenda item related to substance is item 3 on “matters related to the implementation of the Paris Agreement”, which has a footnote saying that this item will discuss the modalities, procedures and guidelines (MPGs) that the CMA at its first session is expected to consider and take decisions on in accordance with the mandates contained in the PA, as well as the draft decisions to be recommended by the subsidiary bodies through the COP to the CMA 1 for adoption.

The issue here is whether there will be a lengthy procedural discussion over the agenda of the CMA as to whether it would be comprehensive, covering all the issues or if it will be a simple agenda as proposed in the provisional agenda with all the issues contained under agenda item 3. Also in issue could be whether the footnote to item 3 is comprehensive enough in reflecting the key articles of the PA.

How developed and developing countries interpret the various mandates from Paris and the articles of the PA will continue to underline some of the issues that are likely to emerge in Marrakech.

THE APA ISSUES

The APA Co-chairs, Sara Baashan (Saudi Arabia) and Jo Tyndall (New Zealand) have issued a scenario note to guide Parties. The note is unusual, in that it has a long section in part IV called ‘moving forward on agenda items’ which set out the reflections and impressions of the Co-chairs from the submissions of Parties on the various agenda items “to help initiate discussions in Marrakech rather than represent a comprehensive summary of the views expressed by Parties”.

On the organisation of work, the Co-chairs state that APA will work in a single contact group which will meet at least 3 times and that the contact group will conduct technical work for each of the 6 substantive agenda items through informal consultations to be facilitated by 2 co-facilitators.

The facilitated groups are expected to finalise their work by 11 Nov. and the APA closing plenary will be on 14 Nov.

The 6 substantive agenda items of APA relate to (i) guidance on features, information and accounting of nationally determined contributions (NDCs); (ii) guidance related to the adaptation communication; (iii) modalities, procedures and guidelines for the transparency framework for action and support; (iv) matters relating to the global stocktake; (v) modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance and (vi) further matters related to the implementation of the PA.

Some of the issues that can be expected to arise under the APA agenda items are highlighted below.

- ***NDCs–FEATURES, INFORMATION AND ACCOUNTING***

On the issue of the ‘features’ of NDCs, since there is no definition term or negotiations about it in Paris, the submissions of Parties define ‘features’ in various ways, sometimes understanding them as ‘elements’ or ‘aspects’ of NDCs or ‘characteristics that NDCs have’. Many Parties use the PA as the basis for defining the ‘features’ of NDCs in their submissions.

For the Like-minded developing countries (LMDC), the ‘features’ are gleaned from the PA itself and is set out as follows: that they are nationally determined; contain the full scope of NDCs as defined by Article 3; progression and ambition on all elements and not just mitigation; have mitigation co-benefits from adaptation actions; response measures taken into account and differentiation reflected. (See LMDC submission). Similar views are also expressed in the submissions of the African Group, and the AILAC (Independent Alliance of Latin American and the Caribbean).

The LMDC and Brazil stress that the mandate is not to define new features. However what the further guidance on features mean has different understandings.

The LMDC view is that the further guidance on the features is to collect and compile the agreed features contained in the PA for clarity. For Brazil, the mandate is not to develop new features but that the guidance on the features relates to the information Parties shall provide on the features when communicating their NDCs.

For the European Union (EU), on the further guidance on features, it wants focus on how the

guidance can ensure the common characteristics of NDCs are reflected in future contributions.

On the scope of the NDCs, most of the submissions focus on the features of the mitigation component of the NDCs (MCNDC), unlike the LMDC and the African Group. Hence, the guidance on the features is mainly about information relating to the MCNDC in most of the submissions. For the LMDC and the African Group, the focus is on the broad scope of the NDCs and on what information is therefore needed.

The APA Co-chairs in their reflections in the scenario note from the submission of Parties actually state that the boundaries between the features, information and accounting of the NDCs are not always clear cut.

Among the questions that the Co-chairs pose in their note is: “Given the nationally determined nature of the contributions, is how directive should be the guidance on features, information and accounting (as for example whether the outcome might take the form of a ‘best practice’ guide for NDCs?”

They also state that “it will be useful to clarify how to achieve the purposes of NDCs without impacting national sovereignty and also to determine what further guidance would be necessary drawing upon existing arrangements under the Convention and KP.”

- ***ADAPTATION COMMUNICATION***

Article 7(10) of the PA states that “each Party should, as appropriate, submit and update periodically an adaptation communication...” and Article 7(11) states that the communication “shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a NDC...and/or a national communication.”

From the submissions of Parties, there are serious divergences on the role/objective/purpose of adaptation communication between Parties, particularly between developed and developing countries.

Most countries see the adaptation communication as an instrument to enhance and/or maintain the profile of adaptation both domestically and internationally, and to catalyze adaptation action.

The developed countries stress that the adaptation communication should be a summary of the

National Adaptation Plan (NAP) and communicate forward-looking components for adaptation actions, such as plans and priorities. They basically define the adaptation communication as a sharing or communication instruments for knowledge, experience, best practices on how to prioritise and strengthen adaptation actions.

Some developing countries, for example the LMDC, regard the adaptation communication as a tool to facilitate the provision of finance on adaptation, while the Alliance of Small Island States (AOSIS) emphasise the role that the adaptation communication may play for a global overview of support and finance provided for adaptation actions.

For Argentina, Brazil and Uruguay, they regard the adaptation communication as a source of information for the recognition of adaptation efforts.

The United States (US) has reservations on choosing the NDC as the reporting vehicle for the communication of adaptation efforts, as they fear that this would obscure the mitigation contribution of Parties. The African Group on the other hand stressed that the NDCs should be recognized as the primary tool for Parties to articulate their adaptation communication in order to achieve the parity between adaptation and mitigation

• **TRANSPARENCY FRAMEWORK**

Under the PA, Parties agreed in Article 13(1) for “an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties different capacities ...”

(The transparency framework relates to the measurement, reporting and verification of information provided by Parties, both as regards their climate actions as well as that of support which relates to the provision by developed countries of finance and receipt of these resources by developing countries).

The APA Co-chairs have stated in their scenario note that “the submissions from Parties touch upon considerations that are of both a political and a technical nature.” They state further that “while all issues are equally important and warrant full consideration, there are a few particular issues that have potential to impact the overall outcome of the work on the development of the MPGs.

On the overall structure of the enhanced transparency framework, the Co-chairs state that “some Parties propose MPGs common to all Parties with built-in flexibility, while others see the MPGs themselves to be differentiated”.

From the submissions of Parties as viewed by TWN, it is clear that while the latter is the LMDC position, Parties who support the former approach for common MPGs are developed countries including the EU and the US.

The US says that the transparency framework was not divided into ‘developed’ and ‘developing’ countries but focuses on capacity to carry out the specific transparency MPGs.

The LMDC position is that the PA establishes an ‘enhanced’ transparency framework rather than a ‘common’ or ‘unified’ framework; that it shall be based on differentiated obligations and recognises the different capabilities and capacities of developed and developing countries; that there should be differentiation in the operationalization of the framework and that flexibility has to be accorded to all developing countries.

The Indian submission states that the existing arrangements under the Convention have shown that a common but differentiated transparency framework on action and support can be developed and implemented effectively, while preserving and reflecting equity and the principle of common but differentiated responsibility (CBDR).

Developed countries on the other hand stress the importance of having a common transparency framework, with flexibilities for developing countries who do not have capacity. The EU has identified the common MPGs in the areas of reporting guidelines; guidelines for technical expert review and for the facilitative and multilateral consideration of progress. It also has an annex listing the possible structure for the reporting guidelines and review of the guidelines.

On the issue of ‘flexibility’, the Co-chairs state that “while all submissions highlighted the importance of providing flexibility to developing countries that need it, they contained different ideas on how such flexibility could be defined and applied to the MPGs.”

For the LMDC, flexibility is for all developing countries as they have insufficient capacities in areas of statistics, institutional arrangements, necessary resources etc. The LMDC submission

makes clear what aspects are not flexibilities such as choosing different categories of information for reporting progress of NDCs, choosing different tiers of IPCC inventory methodology etc.

The Indian position is that it is most important to ensure the continuance of the provision of flexibility to developing countries, through ensuring the continuity of differentiation while developing the MPGs. The submission also stresses that flexibilities should also be provided to developing countries in a systemic nature, meaning that it is integrated into the entire transparency regime. The flexibilities should be reflected in terms of scope of reporting, frequency and level and detail of reporting.

The African Group state that the flexibility provision is only applicable to developing countries and that the scope of the flexibility is applicable to information that will be reported, the technical review and the facilitative multilateral consideration.

The US has in their submission provided key elements that need to be considered in developing the common MPGs, including on flexibility, and where it can apply and what areas do not need flexibility. It also refers to the evolution of the system where most countries have sufficient capacity to fully implement the common MPGs.

THE FACILITATIVE DIALOGUE

Parties agreed in Paris “to conduct a facilitative dialogue” at COP 22 “to assess the progress in implementing decision 1/C.P. 19, paras 3 and 4 and identify relevant opportunities to enhance the provision of financial resources, including for technology development and transfer and capacity building support, with a view to identifying ways to enhance the ambition of mitigation efforts by all Parties, including identifying relevant opportunities to enhance the provision and mobilisation of support and enabling environments.”

The dialogue is being held in two parts, on 11 Nov and 16 Nov. It relates to commitments and actions in the pre-2020 timeframe.

Paras 3 and 4 of decision 1/C.P. 19 relates to what Parties agreed to in Warsaw in 2013 to accelerate the full implementation of the decisions as agreed to under the Bali Action Plan and in relation to the provision of means of

implementation, including technology, finance and capacity-building support for developing country Parties, recognizing that such implementation will enhance ambition in the pre-2020 period.

Developing countries will be expected to stress the unfulfilled obligations by developed countries including in relation to raising their ambition level on mitigation as well as in the provision of the means of implementation. Developed countries are expected to stress on how they have met or are meeting their obligations including on the mobilisation of the USD 100 billion per year by 2020.

2ND BIENNIAL MINISTERIAL ON CLIMATE FINANCE

The Ministerial Dialogue on climate finance will convene on 16 Nov. In Paris, Parties agreed that the dialogue will focus on the issues of adaptation finance, needs for support to developing countries, and cooperation on enhanced enabling environments and support for readiness activities.

A key input for the dialogue will be the recommendations by the ‘Summary and recommendations by the (UNFCCC’s) Standing Committee on Finance on the 2016 biennial assessment (BA) and overview of climate finance flows.

The 2016 BA reports that mitigation focused finance represented more than 70% of the public finance, and that adaptation finance provided to developing countries accounts to about 25% of the total finance.

The BA also highlights that the flows of finance from developed to developing countries as reported in the biennial reports of developed countries is USD 25.4 billion in 2013 and UD 26.6 billion in 2014.

It is expected that the developed countries will use their recently launched *Roadmap to the USD 100 billion*’ and project that US 62 billion was mobilised in 2014 and based on an OECD (2016) analysis, “pledges made in 2015 alone will boost public finance from an average of USD 41 billion over 2013-14 to USD 67 billion in 2020 – an increase of US\$26 billion.”

This report is expected to draw much criticism and flak from developing countries.