

## Working document

Version of 2 September 2015 at 23:55<sup>1</sup>

### [Section A - Preamble]

#### *Main observations:*

- Parties highlighted the importance of the Preamble in framing the context of the draft Agreement. Many noted that preambles set underlying philosophy and serve as a tool for implementation.
- Most Parties agreed that the Preamble of the draft Agreement should be concise. At the same time, it was noted that it should set out key ideas and critical issues.
- Some Parties emphasised that the full scope of the Preamble could be more effectively discussed once the scope and context of the draft Agreement itself is clearer. In this regard, it was noted that whether or not some of the elements would need to be reflected in the Preamble would depend on the extent to which they are addressed in the operative provisions of the draft Agreement. Other Parties noted that it was important to flesh out conceptual ideas already at this stage. Such ideas could subsequently be reconsidered in light of further clarity emerging on the content of the operative parts of the draft Agreement.
- Some noted that it could be also premature to address preambular language of Part II (draft Decision 1/CP.21) and that more clarity would be needed on the content of the possible draft Decision 1/CP.21 as well as on the number of other relevant decisions that may be adopted at COP21.
- The Co-Facilitators noted that a range of preambular provisions reflected in Part III of the Co-Chairs' Tool were referred to by Parties in their interventions. With regard to some of these provisions certain convergence of views was emerging.
- The Co-Facilitators invited Parties to consult among themselves on the broader concepts between Monday and Wednesday. They informed Parties that space would be provided on Wednesday<sup>2</sup> for informal consultations for all interested Parties to discuss further the concepts, in particular those where some consolidation of provisions could be made, with a view to merging these, where possible, and finding acceptable formulation or elements.
- While Parties could choose the key preambular concepts on which they wished to engage in the informal setting, the Co-Facilitators identified the following possible areas for consideration and consolidation in the informal consultations on Wednesday:<sup>3</sup>
  - Reference to the Convention: as a whole/ principles/objective (Part I, Pp1, Pp2; Part III, Pp1);
  - Global nature and urgency of climate change (Part III, Pp8), AR5 of IPCC (Part III, Pp9), Science (Part III, Pp10);
  - Rio+20 Conference (Part III, Pp5), Post-2015 development agenda (Part III, Pp31); Sustainable social and economic development (Part III, Pp33); Health (Part III, Pp34);

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<sup>1</sup> This version of the compiled working document does not contain updates from facilitated group meetings of [Section D. Mitigation], [Section H. Capacity-building] and [Section L. Procedural and institutional provisions] on 2 September 2015. These updates will be included in the next version of the compiled working document.

<sup>2</sup> The timing of the consultations will be announced in advance.

<sup>3</sup> Numbering of provisions refer to the numbering used in the Co-Chairs' Tool of 24 July (ADP.2015.4.Informal Note, Annex II - available at <http://unfccc.int/6911.php?preref=600008595>).

- Equality, environmental integrity and rights (Part III, Pp30);
- Role of private sector in capacity-building (Part III, Pp28); Action by non-State actors (Part III, Pp32);
- Challenges faced by SIDS and LDCs (Part III, Pp29);
- Adaptation as a global challenge (Part III, Pp18), Relationship between adaptation and mitigation (Part III, Pp19), Relationship between adaptation, mitigation and loss and damage (Part III, Pp20), Loss and damage and adaptation (Part III, Pp21);
- Means of implementation (Part III, Pp25).

## [Section C - General/Objective]

### Discussion on Objective

#### *Main observations:*

- Many Parties considered that it would be preferable to refer to Article 2 of the Convention without reproducing it in full or translating it in specific contexts.
- Many Parties considered that the objective should include a reference to the limitation of temperature increase, with some noting in addition that such references must respect the context of that aim.
- Some Parties considered that the objective of the draft Agreement could be captured through a preambular reference to Article 2 of the Convention without a specific operative provision in the draft Agreement.

### Discussion on Principles

#### *Main observations:*

- Parties highlighted the need for the objective of the draft Agreement to be guided by principles.
- Specific principles referred to by Parties were equity and CBDR&RC, the special circumstances of the most vulnerable, human rights and gender equality and the integrity of Mother Earth.

### Discussion on General Obligations

#### *Main observations:*

- Some Parties stated the importance for the overall flow of the draft Agreement to have a general statement on the obligations of Parties under the draft Agreement based on paragraph 4 of Part III of the Co-Chairs' Tool.<sup>4</sup>

#### *Further observations and notes by the Co-Facilitators:*

- The Co-Facilitators noted that objectives were also contained in other sections of the Tool and that the evolution of these discussions may impact on the development of any overall objective.
- The Co-Facilitators announced that they would consult with the Co-Chairs on next steps. The Co-Chairs requested the Co-Facilitators to proceed by consulting bilaterally with Parties with a view to the development of bridging proposals for the meeting on the issue scheduled for Thursday, 3 September at 19:00.

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<sup>4</sup> Numbering of provisions refer to the numbering used in the Co-Chairs' Tool of 24 July (ADP.2015.4.Informal Note, Annex II - available at <http://unfccc.int/6911.php?preref=600008595>).

## [Section D - Mitigation]

### Work on provisions for the draft Agreement<sup>1</sup>

#### *Main observations:*

- Parties completed a round of views as to which provisions in the mitigation section of the Co-Chairs' Tool should be represented in the draft Agreement.
- In relation to placement, many groups/Parties wanted a complete picture of all obligations linked to mitigation to be placed in the mitigation section. The Co-Facilitators confirmed to Parties that they would convey this to the Co-Chairs and noted that these issues would be discussed in the section in which they are currently placed during this session of the ADP.
- Many groups/Parties expressed the view that the following should be represented in the draft Agreement:<sup>5</sup>
  - Collective Efforts and Operationalizing the Long-term Mitigation Goal (while some groups/Parties indicated that the Long-term Mitigation Goal should be moved to section C (General/Objective), others expressed the view that the Collective Efforts provision should be the operationalization of the Long-term Mitigation Goal);
  - Individual Efforts (including design features (e.g. Features of Individual Efforts));
  - Ambition and Progression;
  - Implementing Jointly;
  - Flexibility for LDCs/SIDS.
- Parties also expressed views on other provisions in the Co-Chairs' Tool that could be represented in the draft Agreement. The views varied but included:
  - Response Measures and Economic and Social Issues;
  - Actions in the Land Use Sector and International Transport;
  - “Non-markets” (Joint Mitigation and Adaptation Approaches and Cooperative Mechanism (Sustainable Development));
  - Use of Market Mechanisms;
  - Low Emissions Strategies.

### Work on provisions for the draft Decision 1/CP.21

#### *Main observations:*

- Parties expressed views on how the draft Decision 1/CP.21 should be developed, with the following issues raised by a number of Parties:
  - The need to identify which substantive decision provisions would be needed, including follow-up action in relation to intended nationally determined contributions;
  - The need for work programmes to elaborate provisions of the draft Agreement and develop further guidance.

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<sup>5</sup> Note that terms used are as per the short descriptors in the Co-Chairs' Tool.

## Next Steps

### *Main observations:*

- Parties agreed to work on the following three specific topics in view of the need for further clarity as identified by the Co-Facilitators:
  - Differentiation;
  - “Non-markets”;
  - Implementing Jointly.
- The Co-Facilitators invited Parties to engage with them through bilaterals.
- The facilitated group received the reports from the informal meetings (spin-off groups) on differentiation in the context of Article 4 of Part I of the Co-Chairs’ Tool (Individual Efforts) and on non-market mechanisms.
- It decided that the informal meeting on differentiation in the context of Article 4 of Part I of the Co-Chairs’ Tool (Individual Efforts) should meet again, with the objective of concretizing differentiation (if possible textually) with regard to that article. To this end, the informal meeting may also draw upon elements addressed in other articles and paragraphs of the Co-Chairs’ Tool, such as Article/paragraph 7 of Part III or Articles 6 and 7 of Part I.
- A table prepared by the Co-Facilitators with an overview of all articles and paragraphs on mitigation contained in the Co-Chairs’ Tool will be made available online.
- The Co-Facilitators will make a proposal on how to proceed with work on this section on the basis of bilateral meetings with Parties.

## [Section E - Adaptation and loss and damage]

### *Main observations:*

- Parties engaged in a productive discussion in a positive spirit and further clarified a set of narratives on adaptation and loss and damage. This positive exchange of views was a useful start to the substantive discussion for enhancing the understanding of key concepts included in the current text and priorities of different Parties and groups.
- All Parties expressed the importance of loss and damage and their willingness to explore how it can be addressed in the Paris outcome.
- The facilitated group on adaptation and loss and damage met in two parts on 1 September. At the first part of the meeting (10:00-11:00), Parties concluded the first round of the discussion on the narratives on adaptation and loss and damage which started at the first meeting of the facilitated group on 31 August. At the resumed meeting (15:00-16:30), Parties engaged in a focused and interactive discussion on the global goal on adaptation / long-term vision for adaptation / collective efforts, as well as on loss and damage.
- Regarding the global goal on adaptation / long-term vision for adaptation / collective efforts, Parties discussed the similarities and differences between these concepts. They considered, among other things, possible elements of a global goal or a long-term vision, the relationship between collective and individual efforts, as well as links between mitigation, adaptation, loss and damage and support.
- Regarding loss and damage, Parties elaborated on the role of loss and damage in the Paris agreement, and on proposals for various institutional arrangements, including the importance of durability in the process. All Parties reiterated the importance of the issue and their willingness to explore how it can be addressed in the Paris outcome.
- The facilitated group on adaptation and loss and damage met today from 10:00 to 11:30. Parties continued work with an interactive discussion similar to that in the second meeting of the facilitated group, held on 1 September, considering issues related to collective and individual commitments / contributions / actions by Parties, communication and means of implementation.

- Regarding commitments / contributions / actions, Parties discussed the principles, scope and characteristics of individual commitments, and the linkages to collective commitments. There was also an exchange of views on the characteristics of communication and reporting. Parties further considered the linkages of commitments / contributions / actions, communications and reporting to means of implementation, and requests were made for joint consideration of the issue of adaptation finance.
- Parties agreed to undertake further work in informal meetings (spin-off groups). An informal meeting on what countries do on adaptation – including communication, facilitated by Mr. Julio Cordano will take place on Thursday, 3 September, from 15:00 to 16:30. On the same day, an informal meeting on what countries do on adaptation – support, facilitated by Mr. Gottfried von Gemmingen will also be held.

## [Section F - Finance]

### *Main observations:*

- Parties continued to engage in in-depth and fruitful discussions, particularly during three informal meetings of the facilitated group on the following issues: the notion of scale, scaling up and commitments/obligations/actions. During these discussions, Parties further clarified some of the concepts that, from their perspective, need to be addressed in the draft Agreement and/or draft Decision, including specific proposals for the placement of text, building on existing language already contained in the Co-Chairs' Tool. In addition, Parties engaged in conceptual discussions on various issues in an attempt to reach further clarity and a better understanding on some of the proposals that have been put forward.
- The Co-Facilitators reported back to Parties on the response of the Co-Chairs regarding where to discuss issues related to transparency/MRV of support, adaptation finance and thematic funding. It was announced that a session on adaptation and finance would be organized on Thursday, 3 September 2015.
- A submission was received from a group of Parties on the issue of institutional arrangements on finance in the core agreement.<sup>6</sup>

### Work on the notion of scale, scaling up

- Parties engaged in discussions on the notion of scale, scaling up during two informal meetings of the facilitated group on finance. A brief oral report was provided by a representative of a Party designated by the Co-Facilitators during a meeting of the facilitated group in between the two informal meetings.
- A full report will be provided to the facilitated group on Thursday, 3 September 2015, the content of which will be reproduced in the working document of that day.

### Work on commitments/obligations/action

- The informal meeting of the facilitated group on finance in the afternoon of Wednesday, 2 September 2015, covered the issue of commitments/obligations/actions as agreed in the facilitated group on finance.
- With regard to commitments and obligations, Parties referred to the existing commitments and responsibilities under the Convention. Some Parties pointed out the link between the commitment to provide financial resources and the enhanced implementation of the Convention, other Parties indicated that this would also require effort and action by all in order to mobilize the financial resources required to this end, while fully acknowledging the commitments of developed country Parties as defined by the Convention. Specific concepts that were mentioned included: the scaling up of support, the enhancement of existing commitments, the need for periodicity and review of commitments, the need for increasing ambition over time, and the need for predictability and adequacy.
- Concerning the notion of actions, various concepts were identified by a few Parties, including: cooperation to promote the mobilization of climate finance from a variety of sources; prioritization of the poorest and most vulnerable countries in the provision of grant-based assistance; mainstreaming climate change in development processes; improving of enabling environments; scaling down support to high-carbon

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<sup>6</sup> Available at: <<http://unfccc.int/bodies/awg/items/9158.php>>.

investments; making voluntary contributions in the form of actions taken by developing countries without support, for example, in the context of South–South cooperation; and increasing transparency on support.

- In particular, the concept of enabling environments was discussed at a more in-depth level since various Parties had pointed out that more conceptual clarity is needed on this issue. There were divergent views on the need to capture the concept of enabling environments in the draft Agreement. Some Parties emphasized the need to capture a collective effort by all Parties to enhance enabling environments in the draft Agreement as they perceive this more in terms of an enabler contributing to, for example, overcoming existing barriers in order to access financial resources, rather than as conditionality for support. Other Parties expressed concerns regarding a perceived conditional aspect intrinsically linked to the concept of enabling environments, as well as regarding a lack of clarity on this concept. Another notion raised by a few Parties in the context of enabling environments was the need for enabling environments not only at the domestic level, but also at the multilateral level, for example, through commitments on financial resources and the provision of adequate and predictable resources.
- The concept of investments was also briefly discussed, with some Parties seeing the enhancement of low carbon investment and the transformational shift related to that end as an important concept to be captured in the draft Agreement, while others were of the view that this concept may transgress the scope of climate finance discussions, and that more clarity on the implementation of anchoring this concept in the draft Agreement may be needed.
- Some Parties indicated that they will provide textual proposals on the issue of commitments/obligations/actions, others indicated specific textual elements contained in the Co-Chairs' Tool on the basis of which the current text contained in the draft Agreement and the draft Decision could be enhanced and/or added to. Various Parties indicated that they will continue to engage also on a bilateral basis on some of the concepts identified.

#### Work on institutional arrangements – Financial Mechanism

- Parties initiated informal deliberations with discussions focusing on the issue of institutional arrangements (Financial Mechanism), as agreed on in the facilitated group. Two Party representatives were invited by the Co-Facilitators to report back on the outcome of the informal meetings, which was shared with the facilitated group on finance in the evening session, with the following issues having been identified:
  - The Financial Mechanism as described in Article 11 of the Convention is to serve as the Financial Mechanism of the new Agreement, as Parties saw no need for the creation of a new Financial Mechanism;
  - The existing funds will remain in place, but there is no convergence on whether and how such funds should be reflected in the draft Agreement/Decision, so more discussions on this issue may be necessary;
  - There is a need to continue to provide guidance to the operating entities of the Financial Mechanism, but the question of the channel for such guidance remains (e.g. Agreement, Decision or regular COP agenda item);
  - There was an agreement that the Standing Committee on Finance will continue to assist Parties with regard to the Financial Mechanism, including with regard to increasing the coherence and coordination of the Financial Mechanism;
  - An opportunity to create new institutional arrangements may be needed, should Parties see the need for this;
  - Issues such as importance of predictability and accessibility were also raised.
- More detailed notes on the discussions will be provided to the Co-Facilitators by the designated delegates.

#### Next steps

- An informal meeting of the facilitated group on finance will take place on Thursday, 3 September 2015 on the issue of sources.

## [Section G - Technology development and transfer]

### *Main observations:*

- Parties recognized the importance of technology development and transfer in the draft Agreement and that the current section could be strengthened.
- Parties agreed that cooperative action is key to facilitate and promote technology development and transfer, and some Parties were of the view that the current provisions of the text could be enhanced to include other aspects.
- Most Parties expressed the view that the institutional arrangement on technology development and transfer is an important element to serve the draft Agreement, but there are different views on how to strengthen the institutional arrangement.
- Parties discussed the following possible elements of the narrative of the draft Agreement for the technology section:
  - A group of Parties proposed the possible elements as follows:
    - Aspirational (long-term) aspects to enhance technology development and transfer;
    - Cooperative actions;
    - Specific actions by Parties (many elements contained in Part III of the Tool could be used as the basis for further discussion);
    - Institutional arrangement and resource support (funding) to support these enhanced actions;
  - Another Party proposed other possible elements as follows:
    - The role of technology;
    - Recognition of positive developments;
    - Cooperative action, which could include other provisions in the text;
    - Institutional arrangements;
  - Another Party proposed other possible elements as follows:
    - A section on the importance of technology;
    - Developing and strengthening institutions and mechanisms;
    - Reviews and how to update them over time;
    - Restatement of commitment to address barriers and commitment to enhance the deployment of technology.
- Parties discussed the proposed framework on enhanced action on technology development and transfer, trying to identify ‘what to do’ (in the draft Agreement) and ‘how to do it’ (in the draft Decision). The discussion clarified that the framework:
  - Is not intended to create new institutions;
  - Would provide direction and overarching guidance to the work of the existing institutions in the medium and long terms and strengthen them.

### *Notes by the Co-Facilitators and next steps:*

- Going forward, the Co-Facilitators encouraged Parties to continue to undertake consultations among themselves to bridge differences of views.
- Parties agreed to establish an informal meeting (spin-off group) to further discuss the framework on enhanced action on technology development and transfer, to be facilitated by Ms. Sonja Djukic. Two informal meetings

were scheduled to take place on Wednesday, 2 September (from 11.30 a.m. to 1 p.m. and from 7 p.m. to 9 p.m.). The facilitator will report back to the facilitated group meeting on Thursday, 3 September, at 10 a.m.

- The Co-Facilitators noted that some Parties expressed concerns about the mode of work (the discussion circles) and would prefer working on text, while other Parties said that a better understanding between Parties on concepts is needed before textual work can be undertaken. Some Parties also requested the Co-Facilitators to clarify on how progress at the end of the week will be captured.

## [Section H – Capacity-building]

### *Main observations:*

- Convergence among Parties emerged on the following points:
  - Capacity-building has to be reflected in the Agreement;
  - The need to enhance capacity, including in the pre-2020 period;
  - The need to strengthen institutional arrangements.
- Parties had divergent views on the need to establish new institutional arrangements for capacity-building.
- While several Parties indicated their overall satisfaction with the Co-Chairs' Tool, a group of Parties noted a lack of balance in Part I of the Tool. To re-establish a balanced outline of Parties' positions with respect to the Agreement, they proposed that Article/paragraph 75 (new institutions) of Part III of the Co-Chairs' Tool, be moved to Part I.<sup>7</sup> This would address one of the main concerns expressed by that group of Parties, namely the establishment of an international capacity-building mechanism under the Agreement.
- The same group of Parties also proposed placing Article/paragraph 74 (objective, focus of capacity-building) of Part III of the Co-Chairs' Tool, in Part II.
- The Co-Facilitators proposed two informal meetings (spin-off groups). The first was tasked to work on milestones for capacity-building between 2016 and 2020 and it met on 1 September, facilitated by Swaziland. The second informal meeting will be facilitated by Japan and was requested to discuss how institutional arrangements can be enhanced. The second informal meeting will meet after tomorrow's facilitated group meeting. Parties will report back on their exchanges at the next meeting of the facilitated group.

### *Further observations and notes of the Co-Facilitators:*

- The Co-Facilitators took note of the interest of Parties in meeting informally during this session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).
- The Co-Facilitators also encouraged Parties to meet with the secretariat and to have an exchange of views on topics to be included on the agenda for the workshop on capacity-building, which was mandated by the Subsidiary Body for Implementation (SBI) at its forty-second session.<sup>8</sup> It was observed that the workshop, scheduled to take place back-to-back with the next ADP session in October, could help to further clarify issues currently under discussion within the negotiations of both the SBI and the ADP.

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<sup>7</sup> Numbering of provisions refer to the numbering used in the Co-Chairs' Tool of 24 July (ADP.2015.4.Informal Note, Annex II - available at <http://unfccc.int/6911.php?preref=600008595>).

<sup>8</sup> FCCC/SBI/2015/10, paragraphs 88 and 94.

## [Section I - Transparency of action and support]

### *Observations and notes by the Co-Facilitators:*

- The Co-Facilitators (CFs), identified what they saw to be several areas of commonality in the views expressed by Parties in their general reactions to the Co-Chairs' Tool. These were presented to Parties at the second meeting of the facilitated group on 1 September 2015 at 10:00 as possible areas of focus when moving into text-based work. They included the following:
  - That some form of differentiation and/or flexibility would be required within the post-2020 transparency framework system in order to cater for the various levels of capacity and national circumstances;
  - Parties envisaged that the post-2020 transparency framework system would need to evolve, building on existing arrangements. Deeper discussion and understanding was needed in order to plan for this evolution and adequately reflect this in the relevant parts of the text in the Paris Agreement and related decisions;
  - That it was necessary to see enhancement in support-related issues with two layers of activity: first, the measurement, reporting and verification (MRV) of action and support needed to be enhanced; and second, support and capacity-building was needed for developing country Parties to participate effectively in an enhanced transparency framework.
- It was also recognized that many concepts and issues within Section I had not been sufficiently discussed and, hence, there was still lack of clarity of understanding. Parties would need time to discuss these issues before they can engage in negotiations in order to determine their treatment within the various parts of the Co-Chairs' Tool. Some examples raised (non-exhaustive list) of such issues include: accountability of actions, accounting rules (including for use of markets and contribution of the land sector) and what kind of transparency activities take place at the individual level and at the aggregate level. The CFs will work with Parties to cover all the issues within Section I without prejudice to their final placement. The CFs will take note of Parties' views on linkages with text in other sections of the Co-Chairs' Tool.
- For the next meeting of the facilitated group on 2 September 2015 at 11:30, Parties agreed to start text-based work on one area suggested by the CFs. Specifically, Parties will consider how the texts in Parts I, II and III of the Co-Chairs' Tool can be improved to achieve greater clarity on the idea that "developing country Parties need support to participate effectively in the transparency framework". Relevant provisions include:<sup>9</sup>
  - Part I, Articles 27, 31–33;
  - Part II, paragraphs 49–53 and 86;
  - Part III, Article/paragraphs 82 and 83.
- At the third meeting of the facilitated group, as previously agreed, Parties considered how the text in Parts I, II and III of the Co-Chairs' Tool could be improved in order to achieve greater clarity on the idea that "developing country Parties need support to participate effectively in the transparency framework".<sup>10</sup>
- The speakers list was not completed and discussions will continue on 3 September 2015.

### Next steps:

- Due to time constraints, Parties agreed to start working in parallel, beginning with informal meetings (spin-off groups) on the following two specific topics:
  - Accounting/accountability;
  - Differentiation/flexibility.
- Parties were reminded that the Co-Facilitators are available for bilateral meetings.

<sup>9</sup> The numbering of provisions refers to the numbering used in the Co-Chairs' Tool of 24 July 2015 (ADP.2015.4.Informal Note, Annex II – available at <<http://unfccc.int/6911.php?preref=600008595>>).

<sup>10</sup> <[http://unfccc.int/files/bodies/awg/application/pdf/adp2-10\\_i\\_1sept2015t1900\\_wds.pdf](http://unfccc.int/files/bodies/awg/application/pdf/adp2-10_i_1sept2015t1900_wds.pdf)>

## [Section J – Timeframes and process related to commitments/ contributions/ Other matters related to implementation and ambition]

### *Observations and notes by the Co-Facilitators:*

- Discussions continued in order to allow all Parties to share their initial views on the Co-Chairs' Tool. In particular, Parties continued to discuss issues around scope, timing, communication of commitments/contributions, collective stocktaking and housing of commitments/contributions/actions. With respect to housing, it was recognized that housing did not sit well in this section and would be more suited to other sections, such as section L on procedural and institutional provisions. However, at this session, it would be addressed in the time frames facilitated group.
- As a number of Parties had raised cross-cutting issues, the Co-Facilitators would invite the Co-Facilitators for finance and for transparency of action and support, as well as those for mitigation and for adaptation and loss and damage, to the next facilitated group meeting that is due to be held on Thursday, 3 September 2015.

## [Section K - Facilitating implementation and compliance]

### Establishment clause and related elements

#### *Main observations:*

- Many Parties reiterated the importance of including provisions on the establishment of arrangements on implementation and compliance in the draft Agreement.
- Several Parties identified other elements that in their view should accompany the establishment clause to ensure that a compliance mechanism is in place by the first session of the governing body.

### Nature and purpose of the compliance mechanism

#### *Main observations:*

- Several Parties spoke on the role that arrangements for facilitating implementation and compliance can play in building confidence among Parties to the Agreement by enhancing transparency and accountability.
- There was a general acknowledgment that a compliance mechanism should be facilitative in nature. Some Parties were of the view that the mechanism should also have an enforcement function. These Parties expressed different views on which group of Parties falls within the scope of any enforcement functions.
- The link between facilitating implementation and compliance and enhancing transparency was also noted.

### Differentiation and compliance

#### *Main observations:*

- Some Parties were of the view that differentiation would arise from differences in the substantive contributions and does not need to be referred to in provisions relating to a compliance mechanism. Other Parties were of the view that differentiation should be reflected in provisions of a compliance mechanism, including through its scope and structure, namely through facilitative and enforcement branches.

### Work programme

#### *Main observations:*

- A number of Parties noted that operational details of a compliance mechanism can be elaborated after Paris but would need to be developed before the first session of the governing body. Others were of the view that arrangements should be ready as part of the Paris package in order for their national stakeholders to fully understand the legal nature of the Agreement.

- Some Parties indicated that due to the concise nature of some of the options reflected in the Geneva Negotiating Text, these could be used in their entirety as options to clauses in the draft Agreement. Some Parties recalled that the six elements contained in paragraph 5 of the Durban Mandate (decision 1/CP.17) do not include compliance.
- Other Parties suggested considering the multilateral consultative process under Article 13 of the Convention as a potential example of arrangements for facilitating implementation and compliance.

*Further observations and notes by the Co-Facilitators:*

- Noting Parties' views on the establishment clause, the Co-Facilitators indicated that informal consultations could be conducted on the elements of an establishment clause and the nature and purpose of the mechanism. The informal consultations could explore a range of topics, including discussing a list of components for the establishment clause. The outcomes of those informal consultations would be reported to the facilitated group at its next meeting.
- In light of views expressed on differentiation, enhanced transparency and the facilitative nature of a compliance mechanism, the Co-Facilitators will endeavour to develop questions that could be used as a starting point for discussions at the next facilitated group meeting. A number of Parties made suggestions on the open-ended list of guiding questions that will be communicated to Parties ahead of the meeting.
- Parties were invited to submit bridging proposals that would be published for consideration by other Parties and discussion.

## [Section L – Procedural and institutional provisions]

Parties agreed to engage on the questions prepared by the Co-Facilitators and posted on the UNFCCC website on 31 August 2015,<sup>11</sup> as well as other questions posed by the Co-Facilitators during the meeting.

### Articles 43–45, Part I of the Co-Chairs' Tool:<sup>12</sup>

*Main observation:*

- Parties generally agreed that paragraphs 43–45 serve as a sufficient basis for the Paris Agreement, as many of the provisions are standard in other international agreements.
- A number of Parties indicated that language of paragraph 43-45 can build on the language of the Kyoto Protocol, and some Parties requested to identify what language in the Kyoto Protocol can be used for further clarity such the provision of Article 13 of Kyoto Protocol, *mutatis mutandis*.

*Specific observations:*

- Parties generally agreed that the Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to the Agreement, with Parties to the Convention that are not Parties to the Agreement participating as observers and not taking part in decision-making concerning the Agreement (drawing on the CMP model of Article 13 of the Kyoto Protocol). Parties were of the view that the term “governing body” could be changed throughout the text to reflect this approach.
- Parties indicated that further consideration is required with respect to the rules of procedure of the governing body, the application of the financial procedures under the Convention, and additional functions of the governing body.

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<sup>11</sup> <[http://unfccc.int/meetings/bonn\\_aug\\_2015/in-session/items/9167.php](http://unfccc.int/meetings/bonn_aug_2015/in-session/items/9167.php)>.

<sup>12</sup> Numbering of provisions reflects the numbering in the Co-Chairs' Tool of 24 July (ADP.2015.4.Informal Note, annex I, available at <<http://unfccc.int/6911.php?preref=600008595>>).

- A Party made specific proposal to add the provision: “The first session of the Conference of the Parties serving as the meeting of the Parties to this agreement shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties”

#### Article 46, Part I of the Co-Chairs’ Tool:

##### *Main observation:*

- Parties were generally of the view that it would be useful for existing institutions under the Convention to support the Agreement but that this Article may require further consideration.

##### *Specific observations:*

- Some Parties felt that this blanket provision was too broad and not usually found in international agreements (as reflected in footnote 35 to this provision), and suggested that institutions that would serve the Agreement be identified on a case-by-case basis. It was further noted that the current institutions were developed in a specific context with specific mandates that may not be relevant for the Agreement. Some Parties were also concerned to avoid misinterpretations with respect to the use of Kyoto Protocol institutions over which the COP does not have authority to decide upon;
- Some Parties felt that this provision allows for the implementation of the Agreement to benefit from the experience and expertise of the Convention institutions and noted that this is linked to the objective of the Agreement (section C). Some Parties also noted that this enabling provision was required so that the Convention institutions may serve the Agreement, in particular those institutions relevant for means of implementation. Some Parties also suggested that the provision could be revised so that only bodies and institutional arrangements necessary for the implementation of the Agreement serve it. It was also noted that “mechanisms” are not institutional arrangements and would therefore not be included.

#### Article 47, Part I of the Co-Chairs’ Tool:

##### *Main observation:*

- Parties were of the view that the issue of immunity could be justifiable but needs to be addressed on a case-by-case basis, and they raised concerns about whether it should be addressed in the Agreement.

##### *Specific observations:*

- Many Parties were of the view that this provision should not be retained. It was noted that the provision raises constitutional concerns for some Parties. Some Parties questioned the need for this provision.
- One Party, speaking on behalf of the group of Parties that proposed this provision, noted that it will convey the comments of the facilitated group to its group and report back at the next meeting of the facilitated group.

#### Next steps

Parties agreed to continue to engage in discussion on the provisions of this section as well as on the questions posted on the UNFCCC website by the Co-Facilitators.