

Working document

[Section L – Procedural and institutional provisions]

Version of 1 September 2015 at 23:55

Parties agreed to engage on the questions prepared by the Co-Facilitators and posted on the UNFCCC website on 31 August 2015,¹ as well as other questions posed by the Co-Facilitators during the meeting.

Articles 43–45, Part I of the Co-Chairs’ Tool:²

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.
- 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

¹ <http://unfccc.int/meetings/bonn_aug_2015/in-session/items/9167.php>.

² 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>>).

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.
