

## **Submission on Elements of the 2015 Agreed Outcome**

8 March 2014

The Kingdom of Saudi Arabia, the Republic of Ecuador, the Republic of El Salvador, and the Republic of Mali have the honour of jointly making this Submission on behalf of the Like-Minded Developing Countries in Climate Change (LMDC)<sup>1</sup> with respect to the elements of the 2015 agreed outcome for post-2020 enhanced action under the Convention.

This Submission builds on the submission made by the LMDC during Warsaw on “Views on Identification of Elements in ADP Workstream 1” dated 18 November 2013.<sup>2</sup>

### **I. Preliminary Comments on Guiding Principles**

- The developing countries of the LMDC, comprising more than 50% of the world's population, including a large share of the world's most vulnerable and poorest, share common interests, priorities and aspirations for social and economic development in a sustainable manner and poverty eradication.
- Efforts of Parties should take into account the protection of the integrity of Mother Earth.
- The work of the ADP “shall be guided by the principles of the Convention”, as stated by Decisions 2/CP.18 and 1/CP.19. Hence, the agreed 2015 outcome in Paris must be in accordance with the principles and provisions of the UNFCCC, integrating in one document all the elements contained in paragraph 5 of Decision 1/CP.17.
- Equity is a central element of the mandate for the ADP. Art. 3.1 of the Convention states that all Parties shall act to protect the climate system for the benefit of present and future generations of humankind on the basis of equity.
- Equity is defined in the preamble and integrated in provisions of the Convention:
  - The preamble of the Convention notes that the largest share of emissions of historical and current emissions has originated in developed countries; and that the share of global emissions originating in developing countries will grow to meet their social and development needs;
  - The objective of the Convention, in Article 2, provides that the ultimate objective of the Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve the stabilization of GHG concentrations in the atmosphere. It further provides for the parameters of the timeframe in which this ultimate objective should be achieved, that is, to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner;

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1 Including Algeria, Argentina, Bolivia, Cuba, China, Democratic Republic of the Congo, Dominica, Ecuador, Egypt, El Salvador, India, Iran, Iraq, Kuwait, Libya, Malaysia, Mali, Nicaragua, Pakistan, Philippines, Qatar, Saudi Arabia, Sri Lanka, Sudan, Syria, Venezuela.

2 See [http://unfccc.int/files/documentation/submissions\\_from\\_parties/adp/application/pdf/adp2-3\\_lmdc\\_workstream\\_1\\_20131118.pdf](http://unfccc.int/files/documentation/submissions_from_parties/adp/application/pdf/adp2-3_lmdc_workstream_1_20131118.pdf)

- The principles of the Convention, in Article 3.1 states that in accordance with their common **but** differentiated responsibilities and respective capabilities, developed country Parties should take the lead in combating climate change and the adverse effects thereof;
  - Art 3.2 provides that “the specific needs and special circumstances of developing country Parties should be given full consideration ... especially those that are particularly vulnerable to the adverse effect of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention” and Art. 3.4 recognizes that sustainable development is essential for adopting measures to address climate change bearing in mind that “the specific conditions of each Party and should be integrated with national development programmes”;
  - Art. 3.3 recognizes, inter alia, the principles of cost-effectiveness and comprehensiveness with respect to policies and measures dealing with climate change;
  - Art. 3.5 stresses, inter alia, that measures to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade;
  - Article 4 on commitments clearly makes the differentiation on these commitments that reflect equity. The heading (chapeau) of Article 4.1 for all Parties refer to their common and differentiated responsibilities but does NOT refer to “respective capabilities”. Article 4.2, 4.3, 4.4 and 4.5, then lay out the commitments of developed country Parties (Annex I Parties); The key to the balance of common but differentiated responsibilities that underlie equity is found in Article 4.7 which provides that “**the extent to which the developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology**, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities by developing country Parties.”
- Equity is therefore a cornerstone of the Convention. All provisions of any agreement that will be adopted in 2015 shall have to ensure equity.
  - The development gap between developed and developing countries continues to persist – in 1990, the richest 20% of the global population (1 billion people predominantly living in developed countries) had 87% of global GDP, leaving the remaining 80% of the global population (4.2 billion people mostly living in developing countries) to share the remaining 13% of global GDP; in 2007, the richest 20% of the global population (1.36 billion people mostly in developed countries) had 82.8% of global income, while the remaining 80% of global population (5.8 billion people mostly living in developing countries) shared the remaining 17.2% of global GDP.<sup>3</sup> It was, in fact, only through the domestic socio-economic

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3 See Isabel Ortiz and Matthew Cummins, Global Inequality: Beyond the Bottom Billion – A Rapid Review of Income Distribution in 141 Countries (UNICEF Social and Economic Policy Working Paper, April 2011), pp. 11-12, at [http://www.unicef.org/socialpolicy/files/Global\\_Inequality.pdf](http://www.unicef.org/socialpolicy/files/Global_Inequality.pdf), based on market exchange rates in constant 2000 US dollars, using data from World Bank (World Development Indicators, 2011), UNU-WIDER (World Income

development efforts of developing countries, including those in the LMDC, that hundreds of millions of people in these countries got out of poverty in the intervening years but the pace of development continues to be very slow. The poorest 40% of the global population (virtually all of them living in developing countries) saw only a very small change in their economic fortunes between 1990 and 2007.<sup>4</sup>

- Any enhanced action on the implementation of the Convention, which is applicable to all, should be achieved on the basis of equity and reflecting and implementing the principle of CBDR and must be at the foundation of the 2015 agreed outcome.
- Likewise, any enhanced action of developing countries must be accompanied by a corresponding equivalent in scaled-up provision of new and additional, adequate and predictable financial resources, including for the transfer of technology, as provided for the Article 4.3 of the Convention, and in accordance with its Article 4.7, and must be measured, verified and reported as has been agreed in the decisions adopted by the COP at its 19<sup>th</sup> session.
- The 2015 agreed outcome must ensure that the gaps in the implementation by Annex I and Annex II Parties of their respective commitments under the Convention are effectively addressed and remedied. The seriousness and gravity of the climate change challenge would have been much lessened had such Parties fully implemented their treaty commitments since 1992 under the Convention to take the lead in reducing emissions and to provide finance and technology development and transfer to developing countries. Developed country Parties must commit in the 2015 agreed outcome to take the lead in fully implementing the Convention in the pre- and post-2020 periods.
- Applicability to all does not mean uniformity but differentiation in application according to the provisions and principles of the Convention. Universality does not mean uniformity. The current Annexes to the Convention must remain, as they are a reflection of responsibilities for historical emissions which caused the concentrations of greenhouse gases in the atmosphere, which in turn must be stabilized for the achievement of the ultimate objective of the Convention.
- Success in Lima in 2014 should be marked by positive, comprehensive, and balanced treatment of all the elements in one draft negotiating text based on the Convention and identified in decision 1/CP.17, through a balanced, focused and formal mode of work. These elements are mitigation, adaptation, finance, technology transfer, capacity building, and transparency of action and support.
- Contact group establishment should be performed at the first session of 2014, focusing on post-2020 enhanced actions that developed and developing countries would undertake respectively under these core elements. Themes, topics and questions to be discussed are crucial aspects of the terms of reference of the ADP negotiations, which should be determined by Parties in a party-driven and consensus-building manner.
- All elements of the 2015 agreed outcome should have the same legal nature, consistent with any other related legal instruments that the COP has adopted, and may adopt under the Convention.

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Inequality Database, 2008), and Eurostat (Income, Social Inclusion and Living Conditions Database, 2011).

4 Ibid.

## II. General Framework for the Elements of the 2015 Agreed Outcome

- In light of the guiding principles above, the 2015 agreed outcome should have **substantive provisions that reflect and flesh out the elements outlined in decision 1/CP.17 for the 2015 agreed outcome – i.e. mitigation, adaptation, finance, technology transfer, capacity building, and transparency of action and support.**
- The “contributions” that all Parties are to provide should be consistent with the Convention. “Contributions” including commitments and/or actions would refer to contributions by Parties with respect to the various elements, consistent with the provisions of the Convention (including Art. 4 and annexes) and reflecting CBDR and equity. It does not refer only to mitigation. To be consistent with the Convention, “contributions” have to be understood in a differentiated manner that distinguishes between Annex I commitments and non-Annex I actions (see below):
  - Annex I parties should have “nationally determined” economy-wide mitigation commitments (based on Art. 4.2, linked to meeting the Art. 2 objective of the Convention, and sufficient to show that they are taking the lead in reducing emissions) and Annex II parties should continue to have commitments to provide the finance and technology support under Art. 4.3, 4.4, 4.5, 4.7) to developing countries. Therefore, Annex II parties should make their domestic preparations in particular on their commitments on finance and technology support to developing countries in addition to their commitments on emission reductions.
  - Non-Annex I parties would have contributions in relation to adaptation (including loss and damage), mitigation actions subject to provision of support from Annex II parties, capacity building, implementation of relevant sustainable development actions (including food security). Non-Annex I actions will be “nationally determined” and their ambition levels depend on the extent of the finance, technology and capacity building support by Annex II Parties – non-Annex I Parties can therefore list different scenarios or levels of action based on: no/low/medium/high level of Annex II Parties’ support. Each non-Annex I Party will have its own priority and options to choose the types of actions (adaptation, loss and damage, mitigation (including avoided emissions), sustainable development, food security, etc.) in accordance with their special circumstances and specific needs as well as development priorities.

Developed countries	Developing countries
Contributions	
Commitments	Actions
1. Mitigation  2. Timely provision of finance to developing countries 3. Timely provision of technology to developing countries 4. Timely provision of capacity-building support to developing countries	{ 1. Adaptation (plus loss and damage)  { 2. Mitigation  { 3. Capacity building  { 4. Sustainable development



- The concept of “nationally determined contributions” must not be read as departing from the context and structure of commitments under the Convention. This means that “national determination” of “contributions” cannot be totally open ended nor allow for any loosening of existing commitments under the Convention.
- For Annex I Parties, the concept of “nationally determined” has to be guided by the Convention principle of developed countries taking the lead and in a comparable manner, consistent with their commitments under Art. 4.2, in order for them to reduce their emissions to aggregate levels that are comparable and consistent with what the scientific community has indicated developed countries should do. The pre-2020 mitigation gap would not even exist if Annex I Parties had committed to an emission reduction of 40% below their 1990 levels by 2020. Therefore, Annex I Parties should increase their pre-2020 ambitions firstly, with a view to setting the ambitious starting point and reference level for determining their post-2020 contributions.
- For non-Annex I Parties, “national determination” of the extent of their contributions with respect to adaptation, mitigation, capacity building, and sustainable development, should reflect the diversity of their respective national development conditions and circumstances. It should also take into account that as they continue to pursue their overriding priority of socio-economic development and poverty eradication, as recognized in Art. 4.7, their emissions will most likely grow. In this context, the implementation by Annex II developed country Parties of their respective commitments relating to finance and technology transfer under Art. 4 of the Convention will be an essential condition and foundation for enhancing the actions and contributions of developing country Parties to avoid or reduce their emissions and to adapt to climate change even as they pursue sustainable development and poverty eradication.

### **III. Substantive Provisions on the Elements for the 2015 Agreed Outcome**

#### ***A. Enhanced Action on Mitigation***

The mitigation provisions should reflect the provisions of the Convention relating to mitigation, specifically the structure of Art. 4.1(b) and (c) and Art. 4.2. All Parties agree that Art. 4.1(b) and (c) implementation needs to be enhanced as a common responsibility, and that Art. 4.2 implementation needs to be enhanced by Annex I Parties as their differentiated responsibility. The Convention provisions should then be reflected in the 2015 agreed outcome as follows:

#### **Annex I Parties**

- Enhanced mitigation commitments under Art. 4.2 by developed countries must be central to the post-2020 period. Annex I Parties, in accordance with Art. 3.1, should take the lead through emission reductions undertaken domestically so that it would not result in developing countries doing mitigation on behalf of developed countries.
- There must be comparability of efforts among all Annex I Parties with respect to their mitigation commitments, on the basis of common units such as timeframe, gases, base year, etc. that enable effective comparability.
- These efforts should be in the form of specific enhanced comparable quantified economy-

wide limitation and reduction commitments (QELRCs) under Art. 4.1(b) and 4.2, to be in the context of a top-down, historical responsibility- and science-based aggregate Annex I target that go beyond the Kyoto Protocol 2<sup>nd</sup> commitment period targets for Annex I Kyoto Protocol Parties and the Cancun pledges of those who are not Annex I KP Parties.

### **Non-Annex I Parties**

- Enhanced mitigation actions should be determined nationally by non-Annex I Parties or should also manifest as adaptation co-benefits, and are subject to, enabled and supported by finance and technology from Annex II Parties under Art. 4.3, 4.5, 4.7 of the Convention. There will be variety and diversity in the type and content of actions or contributions (e.g. enhanced NAMAs) by non-Annex I Parties. Consequently, actions of non-Annex I Parties should be nationally determined in accordance with and appropriate to their specific needs and special circumstances as set out in Article 3.2 of the Convention, and taking into account Art. 4.7, 4.8, 4.9, and 4.10, provide a big part of the context for non-Annex I Parties' enhanced actions on mitigation.
- Furthermore, in addition to differentiation, there must appropriate sequencing in terms of mitigation under the Convention. Developed countries should take the lead on mitigation (as well as other pillar elements) under the Convention. Developing countries may follow with enhanced actions to implement the Convention on the basis of support from developed countries under Article 4.

### **Mitigation Means of Implementation and Sustainable Development**

- A provision should be include that would enhance the implementation by Annex II Parties of their commitments for the provision of financing and technology to address impacts on developing countries of the implementation of response measures under Art. 4.8, 4.9, 4.10.
- There should be a provision that strengthens Art. 3.5 of the Convention against the use by Parties of unilateral climate change-related trade measures that constitute arbitrary, unjustified, or disguised trade restriction.
- Parties should work effectively to avoid or minimize the effect of mitigation response measures on developing countries under Art. 4.1(g) and (h), 4.8, and 4.10.
- It is important that based on the principle of common but differentiated responsibilities, the mitigation mechanisms promote and finance mitigation and adaptation actions to avoid or prevent GHG emissions in order to achieve a net decrease in overall emission levels in the context of the United Nations Framework Convention on Climate Change.
- There should be a provision on the MRV of support provided by developed county Parties to developing countries for all climate change activities.

### ***B. Enhanced Action on Adaptation***

- Adaptation is a key priority for developing countries. Art. 4.4 defines the basis for international cooperation in this regard, under which Annex II Parties committed to support the costs in developing countries to address the adverse effects of climate change, and enable developing countries to enhance their actions to adapt to climate change in order to

achieve sustainable development.

- A process to support the formulation and implementation of National Adaptation Plans in all interested developing countries must drive adaptation action, with the adequate support in accordance with Art. 4.4 of the Convention.
- Existing adaptation-related institutions under the Convention should be strengthened and fully financed. This should include provisions that specifically commit Annex II Parties, through the Green Climate Fund, to deliver adequate and predictable funding for adaptation in developing countries, in particular for the implementation of the Cancun Adaptation Framework; and address the historical imbalance in the provision of financing between mitigation and adaptation by having a significant share of multilateral funding for adaptation flow through the Green Climate Fund. National and regional institutional arrangements need to be strengthened to address the specific context and needs of developing countries.
- The need of a provision to reflect enhanced national and international actions on adaptation including economic diversification to build resilience taking into account the urgent and immediate needs of developing countries that are particularly vulnerable to the adverse effects of climate change, response measures and international trade.

#### **Enhanced Action to Address Loss and Damage**

- Additional to but separate from adaptation-related provisions, there should be a provision that incorporates the Loss and Damage mechanism established at COP19 into the 2015 agreed outcome, and which provides for specific commitments from Annex II Parties to provide support for the financing and operationalization of this mechanism. Operational modalities and institutional arrangements for this mechanism should be made part of the 2015 agreed outcome, recognizing that addressing loss and damage is a challenge that is additional to adaptation.
- Enhanced action to address loss and damage requires support for the efficient development and operationalization of approaches to address loss and damage from extreme weather events and slow onset events, including for the establishment of social safety nets and social protection programmes to address damage to or loss of livelihoods associated with the adverse effects of climate change.

#### ***C. Enhanced Action on Finance***

- In Warsaw, paragraph 4 of Decision 3/CP.17 recognized the importance of providing clarity on the level of financial support from developed country Parties to developing country Parties to enable the enhanced implementation of the Convention. The Standing Committee on Finance was also requested to move beyond biennial assessments to the measurement, reporting and verification of support provided to developing country Parties.
- By 2015, the Convention's financial mechanism must be made more robust, with new, additional, adequate, sustained and predictable funding going towards its operating entities particularly the GC on a very significant scale at its initial capitalization by 2014, in accordance with the Warsaw decision on the GCF. In this regard, specific commitments from Annex II parties to provide clarity and a defined pathway for public climate financing to developing countries from developed countries with specific targets, timelines, and



sources, as recognized under COP decision 3/CP.19, should be made operational

- This should include a clear aggregate Annex II public climate financing commitment of USD70 billion per year by 2016 rising to USD100 billion per year by 2020 as a floor of accounting, and leading to further increased commitments on the provision of financial support for the post-2020 period. Any burden sharing for the provision of climate finance, under the Convention, must be done among developed countries, as provided for in Art. 4.3 of the Convention.
- Financing provided by Annex II Parties under the Convention pursuant to the 2015 agreed outcome should be channeled through the operating entities of the Convention's financial mechanism. The levels of financing to be provided by Annex II Parties should be commensurate to the climate financing needs of non-Annex I Parties, and should have an increasing trend over time.
- There are various options that could be considered for enhancing financing by Annex II Parties under the Convention as part of the 2015 agreed outcome. One option could be to have Annex II Parties list, in standardized format and currencies, specific amounts of climate financing by each country over a specified timeframe to be provided to the GCF; with the amounts to be subject to review by the COP every few years for adjustment based on the financing needs of developing countries. Another option is to have Annex II Parties be listed with percentages reflecting their required share of climate financing to be provided to the GCF over a specified timeframe, with the total amount of climate financing to be based on the financing needs of developing countries.
- It is important to develop a mechanism for the measurement, reporting and verification of support provided to developing country Parties. Parties have to address the need for accurate accounting of the provision of funds from Annex II Parties to developing countries and to ensure compliance by Annex II Parties with their financial obligations for mitigation, adaptation, transfer of technology and capacity building in a way that ensures robustness and transparency of the financial mechanism of the Convention. A proposal on MRV that is under work by the SCF may serve as starting point for the development of this mechanism.

#### ***D. Enhanced Action on Technology Development and Transfer***

- Technology development and transfer from Annex II Parties to developing countries is a key enabling element under Art. 4.1(c) and 4.5 of the Convention for ensuring enhanced mitigation actions by developing countries. Effective and enhanced mitigation actions by developing countries depends in many ways on the effective provision of support, including finance, for technology development and transfer from Annex II Parties.
- A provision should be incorporated to enhance action on technology development and transfer under Art. 4.5 of the Convention by having Annex II Parties pursue the removal of barriers, including intellectual property rights (IPRs) through the establishment of an international mechanism on IPRs, and provide financial support (through the GCF) for technology development and transfer to developing countries through a specific window for technology development and transfer under the GCF. Such enhanced action should apply to both mitigation and adaptation related technologies.
- Existing technology-related mechanisms under the Convention (such as the TEC) should be



strengthened with adequate staffing and financing, and Annex II countries should put in place the enabling environment in their own countries that will remove the barriers (such as cost and IPRs) to technology development and transfer and enable them to effectively implement their technology development and transfer obligations to developing countries under Art. 4.5

- There should be a provision establishing operational modalities under the Convention through which Annex II Parties can commit financing and capacity building resources to support endogenous mitigation and adaptation technology development in developing countries. These modalities should incorporate financing from Annex II Parties to facilitate access to and transfer of environment-sound technologies from Annex II Parties to developing countries, and to promote endogenous technology engineering, development and diffusion in developing countries.
- There should be a provision on R&D cooperation and Annex II financing of climate technology development, access, and diffusion in developing countries, particularly for endogenous technology development and diffusion.

#### ***E. Enhanced Action on Capacity Building***

- Under the Convention, enhancing capacity building means that it must be effective and sustained over the long-term until developing countries have acquired the capacity to fully implement climate change actions under the Convention. It should not be focused only on mitigation or enhancing MRV of mitigation, but rather must be with respect to all actions that may be undertaken by developing countries under the Convention. Capacity-building to enable development of technologies must be enhanced. Capacity-building should result in enhancing the readiness of developing countries to implement the Convention. It should be demand-driven and based on the needs of developing countries, and be financed and supported by Annex II Parties.
- Provisions to enhance action on capacity building in developing countries under the Convention should include:
  - Specific and quantified commitments from Annex II Parties to provide adequate and predictable financing and technology for capacity building for developing countries that require it, with the financing to be channeled through the GCF
  - Establishing an international capacity building mechanism to spur enhanced action on capacity building that would be funded by the GCF and whose operations are linked to the work of the TEC and CTCN and the adaptation institutions. Capacity building could focus on enhancing capacity of developing countries to implement mitigation and adaptation actions under the Convention, including human skills training for planning, implementation, and domestic institution building, and technology innovation and development of endogenous technology. There could also be an evaluation mechanism to assess the effectiveness of the delivery of capacity building to developing countries in supporting their implementation of the UNFCCC.

#### ***F. Enhanced Action on Transparency of Action and Support***

- Transparency of action and support will be a key element in the ADP outcome. Under the Convention, Art. 10.2(a), 10.2(b), 12.1 and 12.2 provide the basis for transparency in a manner that is differentiated between developed and developing countries.
- Transparency institutional arrangements with respect to mitigation commitments have been built up under the Convention, including the system for national communications as well as BRs and IAR for developed countries aiming to enhance the comparability and implementation of their commitments and BURs and ICA for developing countries in a manner that is non-intrusive, non-punitive and respectful of national sovereignty (under paragraph 63 of Cancun Decision). Enhancing transparency of the implementation of Annex I Parties' mitigation commitments should be on the basis of enhanced procedures for comparability (e.g. more frequent reporting, standardized format, common accounting framework with common base year and expressed in tons CO<sub>2</sub>eq, projections of emission trajectories/pathways). Transparency of non-Annex I Parties' mitigation actions can be done in accordance with current procedures set up under 1/CP.16 and 2/CP.17, as these involve new procedures and mechanisms that should be given the opportunity to be fully implemented.
- Enhancements are needed with respect to the transparency of the provision of support to developing countries, including financing and technology transfer. Provisions on the MRV of support provided by developed country Parties to developing countries should be an integral part of the 2015 agreed outcome.
- There should be a provision to integrate the established mechanisms for the MRV of the provision of financing and technology from Annex II parties, including enhanced procedures for comparability (e.g. more frequent reporting, standardized format, common metrics including common currency). Such an MRV mechanism for the provision of support is a key element in ensuring that finance and technology commitments are being fulfilled by Annex II Parties and that there is a comparability of efforts between themselves with respect to the provision of support to developing countries under the Convention.