

## Summary of roundtable on workstream 1

### Note by the Co-Chairs

#### I. Introduction

1. Decision 1/CP.17 launched a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, through the Ad Hoc Working Group on Durban Platform for Enhanced Action (ADP).

2. At its first session the ADP adopted its agenda<sup>1</sup> and initiated two workstreams, one on addressing matters related to paragraphs 2–6 of decision 1/CP.17 and another addressing matters related to paragraphs 7–8 of the same decision.

3. In preparation for an informal session of the ADP, held in Bangkok, Thailand from 30 August to 5 September 2012, we prepared an information note that outlined our proposals for the informal session that would facilitate a substantive and meaningful discussion under both work streams. In particular, we proposed to use a roundtable format to allow for an interactive dialogue between Parties. This note summarises the work of the roundtable under workstream 1, addressing matters related to paragraphs 2–6 of decision 1/CP.17, and has been prepared under our own responsibility.

4. To facilitate the work of roundtable under workstream 1, we posted on Tuesday, 29 August, on the UNFCCC website, two initial questions to focus the first round of discussions. The roundtable considered these questions at its first, second and third meeting. On the basis of these discussions, we posted a series on follow-up questions, which were posted on the UNFCCC website on Sunday, 2 September. These questions formed the basis of discussion at the fourth meeting of the roundtable. The questions posed are listed in the annex to this summary. In addition, Parties raised a number of questions during the session and we encouraged Parties to inform us of any further questions for exploration.

5. A key objective of the Bangkok session was launch the substantive work under the Durban Platform, and to discuss how to continue that work in Doha and beyond. Accordingly, Parties outlined their respective visions and aspirations for the ADP, the results of its work and how these results are to be achieved.

#### II. Visions and aspirations for the ADP

6. Many Parties initiated the discussion on visions and aspirations for the results of the work of the ADP by recalling decision 1/CP.17 and basing their vision on the different aspects on this decision. In particular, many Parties articulated their vision by exploring different aspects of decision 1/CP.17, especially surrounding the terms ‘under the Convention’ and ‘applicable to all’.

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<sup>1</sup> FCCC/ADP/2012/2, paragraphs 9–13.

Many Parties saw the Durban Platform as a transformational shift and stressed the need for urgency and ambition in taking forward these outcomes.

7. In relation to ‘under the Convention’, Parties stressed that the process and results of the work of the ADP are under the Convention. In this regard, many Parties emphasized that the principles, provisions and structures of the Convention would apply to the process and results of the work of the ADP. Many Parties stressed that there should be no rewriting of the Convention; with some Parties noting that the Convention was broad and flexible enough to provide the framework for future action. While Parties touched on all aspects of the principles of the Convention, particular emphasis was placed on the principles of equity and common but differentiated responsibilities and respective capabilities in the discussion. Many Parties also highlighted the importance of historical responsibility, with some Parties noting that this should be a key determinant of future commitments. However, Parties emphasized that the principles should be applied in a contemporary context and noted that while the principles were enduring they were also dynamic. Parties stressed the importance of principles in relation to sustainable development, noting that the overriding priority of developing countries was poverty eradication and sustainable development. Parties emphasized that the principles need to be discussed in a context. Parties indicated that there was a need for a deeper understanding of what each Party understood by the statement that the principles should be applied to the process and results of the ADP and that this warranted further exploration.

8. There were calls to develop ideas to capture dynamic differentiation in a changing world. However, some Parties stressed that the differentiated structure as it stands today must be retained while capturing any dynamism. In this regard, some Parties stated that the current Annex structure of the Convention should continue in order to ensure equity based on historical responsibility. Other Parties stated that going forward on the basis of the current binary structure, for example, Annex I and non-Annex I, would not be consistent with the changing nature of circumstances, responsibilities and capabilities. Some Parties suggested that different approaches could be considered, for example the use of a discrete number of lists, that are dynamic and fluid enabling graduation of increased action or the use of national schedules.

9. In relation to the phrase of ‘applicable to all’, there was a general understanding that universality of application does not mean uniformity of application. In this regard, there was recognition that differing national circumstances would need to be accommodated in the results of the work of the ADP. There were a number of emerging views on how such an accommodation could be achieved, as well as an acknowledgement that this would be a key area for future discussion.

10. A number of Parties understood that the term ‘applicable to all’ refers to the coverage of global emissions. While other Parties noted that ‘applicable to all’ is not a new concept in that all Parties to an agreement would be required to implement its provisions, in accordance with international law. As such, it would be important to have a clear meaning of the substance.

11. Some Parties began to identify specific aspects of the term ‘applicable to all’, such as context, constraints, contributions and explained what it means to them. A view was expressed that each Party has a different context and is subject to

different constraints, and that contributions should be defined according to those characteristics. In response, it was proposed that instead of constraints, it would be more fruitful to discuss potential. It was also proposed that the agreement must advance sustainable development for all Parties. Other aspects identified included coherence, balance, differentiation, reaffirmation of the Convention, content, coverage, compliance, and consequences as key elements of an agreement.

12. Parties also shared their visions and aspirations of how ‘applicable to all’ could be articulated in the results of the work of the ADP. It was asserted that the meaning of ‘applicable to all’ should be based on equity and on the principle of common but differentiated responsibilities; while other Parties focussed on how to accommodate national circumstances. However, some Parties cautioned about focussing on national circumstances at the expense of other dimensions of the principles of the Convention, especially equity.

13. In this context, there was a recognition that the results of the work of the ADP would need to differentiate the types of commitments. Many Parties stressed that a ‘one size fits all’ approach would not be appropriate in the new agreement, rather that Parties would take differing actions depending on their national circumstances. Some Parties linked national circumstances to the principles, noting that differentiated responsibilities could be reflected through different commitments depending on common but differentiated responsibilities and that the notion of national circumstances is already captured in the principle of common but differentiated responsibilities. In particular, some Parties stressed the historical responsibilities of developed countries and their responsibility to take the lead in combatting climate change, while other Parties noted that Parties that were capable of doing so would need to take on obligations. Some Parties reiterated that while there could be differentiation in the types of commitment, the legal form of the commitments should be the same for all. Several Parties noted that there is a need to explore in more detail various options for differentiation in the new agreement.

14. The discussion of ‘applicable to all’ also generated a discussion on participation, with many Parties stressing that the results of the work of the ADP should be sufficiently attractive to encourage broad participation. A number of views were expressed as to how broad participation could be achieved, including through the design of the new instrument by making it flexible to accommodate national circumstances, incorporation of incentives and benefits to participation so that it is beneficial to all, as well ensuring fairness, and the provision of support. Several Parties noted that encouraging broader participation could also support energy security, access to sustainable energy, job creation and economic growth. It was noted that broader participation is already occurring in mitigation, with recognition that many Parties were already increasing domestic action. However, concerns were raised about what broad participation meant and the breadth of its scope. A number of Parties also cautioned against unilateral action and so stressed the need for a multilateral response that is fair and enjoys the confidence of all the Parties.

15. Parties also began to exchange views and explore the possible characteristics of the results of the work of the ADP. Many Parties stressed the critical importance of having an ambitious and robust agreement, that would result in a high level of ambition at the outset and incentivise increasing ambition over time both in relation to action, including mitigation and adaptation, as well as on the support, including

finance, technology and capacity building, as well as transparency of both actions and support. Some Parties stressed that technology will be a key element for increasing mitigation ambition and that the ADP should address issues related to intellectual property rights and access to climate friendly technology. Other Parties stressed the need to establish a robust mechanism to address loss and damage and increase adaptation ambition. Many Parties spoke of the need to have an effective outcome that would meet the objectives of the Convention and would ensure the outcome is sufficiently ambitious to meet the target of holding temperature increases below 2 or 1.5 degrees. Some Parties noted that the process of the ADP provides for enhancing actions to achieve the objective of the Convention and that the principles of the Convention, particularly the principles of equity and common but differentiated responsibilities and respective capabilities, should guide this process. Regarding the principle of equity, Parties also stressed that results of the work should be fair and promote equitable access to sustainable development.

16. There were many calls to incentivise action and for an agreement that was designed to achieve an upward spiralling of ambition, including by rewarding early and bold action. In this context, there was a call to support frameworks for domestic action, such as the use of carbon markets. Some Parties also spoke of how the means of implementation could be best used to support countries that were taking early action. There was also a call to learn lessons from the Kyoto Protocol to ascertain what incentives are required for deeper targets and for developed countries to make a larger contribution to bridging the ambition gap. There were also questions seeking to better understand what Parties meant by incentivising action.

17. Many Parties also stressed that their vision was of a multilateral rules based instrument that could provide a degree of predictability. A number of Parties emphasized that the agreement should strengthen rules-based multilateralism and that there is no place for unilateral measures. There were also many views expressed about the need for a dynamic, flexible, durable agreement that is able to adjust to national circumstances, including socio-economic and environmental factors, both in 2015 and beyond. It was noted that the new agreement should be designed to endure. Parties noted that flexibility would also be required to meet the new and changing scientific information to ensure that actions kept pace with the demands of science.

18. Parties also raised the importance of the outcome being balanced, comprehensive, fair and realistic, meeting the requirements of environmental integrity, respectful of mother-nature and that it should continue to strengthen mutual trust among Parties.

19. In terms of the elements of the results of the work of the ADP, Parties referred to paragraph 5 of decision 1/CP.17, which list a number of elements that should be addressed in the planning of work. Some Parties stated that the work of the ADP would build on the Bali Action Plan (decision 1/CP.13). Some Parties also stated that all the pillars of the Bali Action Plan must be addressed by the ADP once the AWG-LCA concludes its work.

20. Parties stressed the importance of mitigation, adaptation and the means of implementation. Some Parties stated that mitigation should be at the centre of the new agreement.

21. Parties stressed the need to close the pre-2020 ambition gap, with some Parties calling for comparability between targets of developed countries under the Convention with those inscribed in the second commitment period of the Kyoto Protocol. Many Parties called for responding with clear action to close the mitigation gap and required greater clarity on financing between 2012 and 2020. Parties noted the need to scale up climate finance and mobilize global investment in the context of the workplan on enhancing mitigation ambition. Some Parties noted that progress in bridging the ambition gap would significantly influence the design of the agreement, particularly its emphasis of adaptation, including loss and damage mechanisms. Some Parties called for a common accounting framework, robust measurement, verification and review system and a strong compliance mechanism.

22. Regarding ways to determine commitments, many Parties would like commitments to be nationally determined, while others recognised that nationally determined commitments would unlikely sum to a level of ambition that would meet the objective of the Convention or the global temperature goal. Parties recognised that the ADP would need to consider design elements and processes that could anticipate and avoid such a gap in ambition.

23. In terms of the type of commitments some Parties envisaged a model based on the Kyoto Protocol, while other Parties saw a spectrum or continuity of commitments. Clarity was requested on what a spectrum of commitments would mean in practice. Many Parties emphasized that the different types of commitments could be incorporated to meet the principle of common but differentiated responsibilities and/or to accommodate national circumstances. In this context there was some discussion of a top down versus a bottom up approach and how the benefits of both approaches could be combined. Proponents of a pledge and review system were requested to explain how such an approach could be made consistent with the principles of the Convention or effectively deliver on emission reductions.

24. A debate also emerged about the role of the existing institutions and processes under the Convention in the agreement, including those developed under the AWG-LCA. Many Parties spoke of the importance of building on or borrowing the existing institutions and processes. In this context, it was acknowledged that there should not be duplication of effort. It was also noted that these existing institutions could become the institutional backbone of the results of the work. However, it was recognised that the existing arrangements should be allowed to deliver results. There was also a call to assess some of the current institutions and processes under the Kyoto Protocol, such as the market-based mechanisms and the compliance mechanism, to ascertain their effectiveness.

25. Parties also discussed aspects of legal form. Many Parties saw the results of the work of the ADP being captured in a legally binding agreement, with many calls for a new protocol under the Convention. However, some Parties saw a need to focus first on the substance and further explore what the outcome would look like before concluding on the legal form. Some Parties cautioned that the legal form of the agreement should not be prejudged. Other Parties considered that the outcome could encompass both legally binding and non-legally binding instruments and so be envisaged as a cluster of instruments. Many Parties emphasized that the work towards a protocol, another legal instrument, or an agreed outcome with legal force must be based on the principles of the Convention.

26. The discussion also touched on the issues relating to ratification of the agreement, such as suggestions for a racing start on entry into force with the need for prompt implementation action in the post-2015 period.

### **III. Process**

27. There was also an exchange of views on how to take to the work of the ADP forward, with suggestions on the planning of work, including how we can take into account of lessons learnt from other processes, working modalities and expected deliverables at Doha.

28. Parties emphasized that the principles of the Convention, including the principle of common but differentiated responsibilities and respective capabilities, and equity, should guide the work of the ADP.

29. Parties proposed a phased approach to the ADP's work, and emphasized the importance of having the time and space to think on a conceptual level at the early days of the process, before moving into a more structured discussion. They noted the usefulness of the roundtable discussion format used during this meeting and suggested that such a format could be continued. There were also suggestions to utilise other informal meeting formats, such as workshops. The need for working modalities that encouraged innovation and creativity in the negotiating process was also identified.

30. Parties stressed that it would be useful to learn from past experiences, in the context of the work of the Convention and its Kyoto Protocol, including experiences and lessons learned from:

- (a) The subsidiary bodies as well as institutions and processes under the Kyoto Protocol;
- (b) Other international agreements and processes;
- (c) Domestic implementation, for example, understanding the domestic drivers for and constraints to action.

31. Many Parties noted that the ADP should consider and evaluate what has worked well as well as what has not worked so well in order to learn from those lessons. Consideration of lessons learned was suggested as a future theme for a roundtable discussion or workshop. It was suggested that it would be useful if such a roundtable discussion or workshop also had a future focus and explored what the world might look like in 2020 and beyond.

32. A number of Parties emphasized the need for coherence with science and/or with the work of other negotiating groups. Some Parties cautioned against starting negotiations too early noting the need to wait for the successful completion of work under the AWG-LCA and AWG-KP. Some Parties stressed the importance of an ambitious second commitment period under the Kyoto Protocol in this context. The importance of being informed by inputs from the fifth assessment of the Intergovernmental Panel on Climate Change and the 2013–2015 periodic review throughout the process was also noted. Parties also noted the urgency of the work and cautioned against delaying substantive engagement.

33. Many Parties noted that it was critical that the process should be driven by ambition and that progress on work under workstream 2 should be used to inform

the negotiations under workstream 1. It was emphasized that the workstreams should be distinct but mutually reinforcing.

34. Parties also thought it might be useful to look at the function and type of the instrument to assist Parties in conceptualising and designing the outcome.

35. In terms of working modalities, Parties suggested a number of ways in which the ADP could work. The importance of building confidence was highlighted. During the initial exploratory phase of discussions, many Parties suggested continuing the use of informal settings, such as roundtables and workshops. There were specific proposals to hold roundtables, both at official and Ministerial level, at Doha, as well as possibly at the pre-COP. However, some Parties noted that it would be premature to have Ministerial roundtables at the pre-COP or Doha. Parties suggested that Doha should establish contact groups, working groups and informal meetings or a combination of meetings, as needed.

36. There were also numerous suggestions for intersessional work, including inviting Parties and observers to make submissions, preparation of technical papers and studies, convene expert panels, hold workshops (both in-session and/or intersessionally), highlight specific topics such as the term 'applicable to all', types of commitment, decoupling economic development from climate protection, characteristics of a post-2020 world, lessons learnt from UNFCCC and Kyoto Protocol processes, as well as other international regimes and domestic experiences. Parties noted the usefulness of engaging stakeholders and enabling them to make inputs. Many Parties emphasized that the focus should be on looking for innovative ways to tackle problems and ways to encourage fresh thinking.

37. Parties also had an exchange of views on their expectations for Doha. Many Parties recalled decision 1/CP.17 and the need to plan the work of the ADP. Some Parties called for a clear road map with timelines and milestones to be adopted at Doha. Other Parties cautioned against drafting a detailed document noting that it may take time to prepare and stated that there should be flexibility in the arrangements, especially in the early days. Several Parties stated that the planning of work should be streamlined, at a high level and kept under review.

38. Parties also stressed that Doha should signal to the world that the ADP had begun substantive and serious work and was making progress.

## **Annex**

Questions posed by the Co-chairs:

- (a) What is your vision for the main contours and elements of the results of the work of the ADP?
- (b) What work is needed between now and 2015, and in particular in 2013, to achieve these results?
- (c) What do Parties mean by ‘national circumstances’? How could ‘national circumstances’ be accommodated in the results of the work of the ADP?
- (d) How do Parties understand the term ‘applicable to all’?
- (e) How can broader participation be encouraged and ensured?
- (f) How could “flexibility” be incorporated in the results of the work of the ADP?
- (g) How should the principles of the Convention be applied in the context of Parties’ vision for the ADP and the results of this workstream?