

## Working Document

Version of 31 August 2015 at 23:55

### [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>1</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>2</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);
  - 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);

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<sup>1</sup> The timing of the consultations will be announced in advance.

<sup>2</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>).

- 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>3</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>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>).

## [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>4</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>4</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.

## [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.

## [Section G - Technology development and transfer]

*Main observations:*

- Parties recognised the importance of technology development and transfer in the draft Agreement and that the current section could be strengthened.
- A group of Parties introduced a possible narrative of the draft Agreement, consisting of:
  - 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.
- 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 provision 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.

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

- Going forward, the Co-Facilitators offered Parties the option for bilateral discussions and encouraged Parties to undertake consultations among themselves to bridge differences of views.
- For the next meeting, the Co-Facilitators proposed to approach issues from the perspective of “what to be achieved” (draft Agreement) and “how to achieve it” (draft Decision 1/CP.21).

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

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

- The first meeting of the facilitated group on transparency of action and support was held on 31 August 2015 from 19:00 to 21:00 hrs. Parties were engaged in providing their reactions to Section I on transparency of action and support contained in the tool issued by the Co-Chairs on 24 July 2015.<sup>5</sup>
- The speakers list was not complete.
- Discussions will continue at 10:00 am on Tuesday, 1 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 though 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.

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<sup>5</sup> ADP.2015.4.Informal Note, Annex II (available at <http://unfccc.int/6911.php?preref=600008595>).

- 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.
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