

## Section L [Procedural and institutional provisions]<sup>1</sup>

Version of 11 June 2015 at 08.30

### Output of facilitated meeting

#### *Observations:*

- Parties expressed appreciation for the questions and presentation prepared by the Co-facilitators, including a list of existing institutions under the Convention and Kyoto Protocol contained in the Negotiating Text. The list and questions hold no status and were generated to facilitate the discussion and highlight some of the key issues that Parties might want to consider for their deliberation. Parties indicated that the discussions should help with the next stage of the process in the upcoming ADP session.
- Many Parties stressed the importance to use the existing institutional framework to support the new agreement and to not reinvent the wheel. Some Parties also expressed the view that the governing body of the new agreement should have the authority to establish new institutions.
- Most Parties were of the view that, following the approach of the Kyoto Protocol, the institutions established by the Convention should be specifically anchored in the new agreement, such as the permanent subsidiary bodies, the financial mechanism and the secretariat, as well as the COP.
- With respect to the thematic institutions, some Parties were of the view that these institutions should be specifically embedded/anchored in the agreement in order to give them permanence and certainty, while others were of the view that a general anchoring would be sufficient. Other Parties disagreed with a general anchoring approach for these institutions. Most Parties expressed the view that there should be a conceptual discussion on anchoring of the thematic institutions in each of the relevant sections of the Negotiating Text. Some Parties were of the view that there could be a hybrid approach between the general and specific anchoring of the thematic institutions and that there is no one size fit all solution.
- Some Parties suggested that, for clarity in the Negotiating Text, a footnote could be added next to each institution to indicate how that particular institution was established (such reference would disappear in the final text before adoption).
- A number of Parties suggested that the ADP Co-Chairs could request the secretariat to update the document entitled 'Overview of institutions' (document number FCCC/ADP/2013/INF.2), as this serves as a useful input for Parties' discussions on institutions.
- With respect to the governing body of the agreement, many Parties saw the COP *as* the governing and decision making body of the new agreement. However, a number of Parties were of the view that a decision will need to be made in the future on whether to create a new CMP or whether the COP will serve as the governing body of the new agreement.
- With respect to institutions established under the Kyoto Protocol, some Parties were of the view that anchoring these institutions may pose legal difficulties, as the Kyoto Protocol is a separate international legal instrument with its own membership and governance arrangements. Some Parties were not in favour of anchoring these institutions in the new agreement, while other Parties proposed that a COP decision could decide on these institutions to serve the new agreement. However, other Parties questioned whether other mechanisms might be required.
- An observation was made that discussions must be cautioned against prejudging the legal nature of the agreement, bearing in mind that it could be a protocol, another legal instrument or an agreed outcome with legal force as provided in decision 1/CP.17.

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<sup>1</sup> Sections and paragraphs refer to those in document FCCC/ADP/2015/1.