



Understanding the Lima Climate Conference *A Proxy Battle for the 2015 Paris Agreement*

By Martin Khor
Executive Director, South Centre

I: Reaching agreement on the Lima outcome, after a near collapse

The annual United Nations climate conference, held in Lima, ended early on Sunday morning, 14 December 2014, after over two weeks of intense negotiations and the trauma of an almost total collapse of this round of talks that was supposed to be an important step towards a new climate change agreement scheduled to be adopted in Paris in December 2015.

If the 20th Conference of Parties (dubbed COP20) of the UN Framework Convention on Climate Change (UNFCCC) had ended without an outcome on its most important issue, the “Durban Platform”, it would have sent a negative signal that the world is unable to come to grips with its most important challenge – tackling runaway climate change.

At the time the conference was scheduled to close, on Friday night (12 December), the majority of developing countries told the plenary session that they could not accept a draft decision that had been prepared by the Co-Chairs of the Durban Platform working group. They found the draft did not contain the issues that were important to them, and that it was skewed in favour of the developed countries.

Accepting such a draft would put the developing countries at a serious disadvantage when the negotiations resume this year. There will be intensive meetings in 2015 that will climax with the signing of the Paris agreement in December.

One by one, the developing countries and their groupings spoke up in criticism of the Co-Chairs’ draft. They included the Africa Group, the least developed countries, and the like-minded developing countries (LMDCs) whose diverse members include India, China, Pakistan, Sri Lanka, Malaysia, Vietnam, Egypt, Saudi Arabia, Algeria, Jordan, Kuwait, Iran, Iraq, Qatar, Sudan, Mali, Democratic Republic of Congo, Argentina, Bolivia, Ecuador, Venezuela, Cuba, Nicaragua, and Dominica.

The Co-Chairs, Artur Runge-Metzger (Germany) and Kishan Kumarsingh (Trinidad and Tobago), had to concede that their draft could not be passed by the house, and handed the task of finding a solution to the President

of the Conference of the Parties, who was the Environment Minister of Peru, Manuel Pulgar Vidal.

It was already 4 a.m. on Saturday, 13 December. The conference should have ended on Friday 6 p.m. The conference had thus moved into “extra time”, and with a new referee. Could the President salvage an agreement which could not be reached after two weeks of fierce contest under the Co-Chairs?

The Minister quickly got into the act on 13 December morning, meeting with all the groups with their different views, and with the Ministers of key countries like the United States, European Union, China and India. A breakthrough came when a critical demand of the developing countries seemed to be accepted by the President, and more importantly, by the United States.

It was the issue of “common but differentiated responsibilities” (CBDR), a term that is prominent in the Climate Change Convention denoting that all countries have to act, but the developed countries have to undertake greater emission-reduction commitments because of their role in creating the climate crisis (they are responsible for most of the cumulative emissions in the atmosphere) and of their higher economic status. Developing countries also have to act, but their actions are to be supported by finance and technology transfer. In fact, a key provision of the Climate Change Convention (article 4.7) states that the extent to which developing countries take climate actions depends on the extent to which developed countries meet their commitments on providing financial resources and on technology transfer to developing countries.

This basic CBDR tenet of the Convention is being challenged by the US, European Union and other developed nations. They want to end the “differentiation”, so that developing countries take on similar obligations as the developed nations, and moreover they want to cut the integral link between the finance they provide and the extent of actions of developing countries.

They obtained an advantage when the terms “equity” and “common but differentiated responsibilities”, which are prominent in the Convention itself and in major decisions of the UNFCCC, were conspicuously left out when the decision (known as the Durban Platform) was adopted in 2011 to launch negotiations for a new climate agree-

ment in 2015. That decision does mention that the 2015 agreement will be “under the Convention”, which the developing countries have clung to, in order to argue that the agreement will have to be in accordance with the principles of equity and CBDR; while developed countries led by the United States have counter-argued that the new agreement will not have differentiation between the developed and developing countries.

Since then, the developing countries have fought hard to get the CBDR term back on the agenda. It was not included in the previous 12 December draft, which was a reason that draft had been rejected. When they met the COP20 President, Minister Vidal, the developing country groupings, especially the G77 and China, the LMDC and the Africa Group, insisted that CBDR and “differentiation” be referred to in the final draft.

When the final plenary meeting was convened at 11.30pm on Saturday, 13 December, delegates found that a separate paragraph had been added, that the Conference of Parties “underscores its commitment to reaching an ambitious agreement in 2015 that reflects the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances.”

This is an important paragraph. The mention of CBDR and especially the reference that it be reflected in the 2015 agreement was seen by many developing countries as a significant victory. The developing countries generally were also pleased with a paragraph in the preamble, “Reiterating that the work of the ADP shall be under the Convention and guided by its principles”, since equity and CBDR are among its principles. However, some countries (particularly in the African Group) were unhappy with the accompanying phrase “in light of different national circumstances”, which they felt diluted the CBDR principle or conditioned its use, opening the door to differentiation among developing countries and the argument (which the developed countries can be expected to make) that some developing countries should no longer be eligible to be treated specially as developing countries.

At the final plenary, Malaysia, representing the like-minded developing countries, stated that the inclusion of the paragraph on CBDR and also another paragraph in the preamble that the work of the Durban Platform is guided by the principles of the Convention, “together suggests to us cumulatively that the CBDR principle has been restored and it has been given its rightful place in the context of the Convention and the work that we are going to continue in relation to the new agreement.” The Indian Minister of Environment and Climate Change, Prakash Javadekar, stated that Parties had achieved consensus on differentiation and the continuity of the Convention.

Other demands of the developing countries that were met in the new text were that the contributions to be made by each country could be balanced between mitigation, adaptation and finance and technology

transfer, and that the text should not be “mitigation-centric”; “loss and damage” caused by climate change was given due mention in the new draft, which was interpreted by least developed countries that it could be considered as a component in the 2015 agreement; there would not be an officially-sanctioned process of assessment of each country’s intended contributions prior to COP21 in Paris; and the terms and information linked to the “contributions” that each country will provide would not be as onerous on developing countries as originally promoted in the earlier draft.

There were, however, still major deficiencies in the Decision, including that there is only a very weak reference to the provision of financial resources. Developed countries are only urged to provide and mobilize enhanced financial support to developing countries for mitigation and adaptation actions.

These factors persuaded the developing countries to go along with the decision put forward by the COP President. The developed countries also agreed, although most of them were disappointed that their attempts to overload the Decision with issues and procedures of their interest, did not succeed. The conference ended at 2.00 am on Sunday, 14 December, 32 hours after its scheduled end.

In fact, as critics pointed out, there is not much new in the adopted decision, except perhaps that the CBDR principle would be reflected in the 2015 agreement. That this is seen by developing countries as a gain shows how disadvantaged they have become in the negotiations, since CBDR has all along been recognized as a key principle that is in fact put into practice in the structure and differentiated obligations of the Convention, and it should thus have been accepted and explicitly mentioned right from the start of the Durban Platform process in December 2011.

The proceedings in Lima show how difficult the negotiations will be throughout 2015. If it took two whole weeks to reach consensus on a simple text in Lima, how much more contentious and difficult the negotiations will be for an entire new agreement this year.

II: Issues of substance and process that dominated the Lima Conference (and that will dominate the 2015 negotiations)

The most important and most fought over outcome of the UN Climate Conference in Lima was a decision adopted by the Conference of the Parties (COP) which the Peruvian Minister in charge of the conference termed ‘*The Lima call for climate action*’.

The crisis that developed in Lima that almost caused the collapse of COP20 had its roots in the fight over the substance and the process of the negotiations in the ad-hoc working group on the Durban Platform (ADP), which is the track in the UNFCCC that leads to the new climate change agreement in 2015.

This COP20 decision would normally have been prepared and agreed to by the ADP and then the COP itself

would simply endorse the draft thus prepared.

But what was significant at Lima is that the ADP could not agree on the draft decision. Indeed, a supposedly final draft produced by the Co-Chairs of the group met with widespread criticisms and outright rejection by a majority of developing countries, and had to be abandoned on the last night of the Conference. This forced the COP President himself to take over the process and eventually to obtain an approval of his own draft, that was different in some significant points from the Co-Chairs' final draft and even more so from their earlier drafts.

Perceived biases in the Co-Chairs' drafts

The Co-Chairs' drafts, and the process they had overseen since March 2014, had met with opposition from a large number of developing countries, which perceived them as biased in favour of positions of most developed countries. For example, earlier drafts of the Co Chairs made it mandatory for countries to include mitigation in their contributions, whereas adaptation, finance and technology transfer were optional. The 8 December draft says intended mitigation contributions of each country should represent the highest level of ambition; and the contributions should reflect efforts that they are to make "unilaterally." Taken together this means that developing countries would have to commit to high mitigation actions without conditioning this on obtaining adequate finance and technology transfer from developed countries. It also mentions CBDR in the light of "evolving" national circumstances, and agrees that "parties with greatest responsibilities and those with sufficient capability" are to take on absolute economy-wide mitigation targets, implying that some developing countries are to be treated similarly with developed countries. Moreover, developed countries starting in 2019 should consider annual quantitative contributions on means of implementation to support developing countries' actions. (This is extremely flexible for developed countries on their finance commitment, with a very late deadline, especially compared with the mandatory mitigation actions developing countries have to submit by an early 2015 deadline). The 11 December draft says that developed countries and "other Parties in a position to do so" will provide support for developing countries. Taken together, the texts proposed by the Co-Chairs would make developing countries (or at least some of them) take on similar obligations as developed countries, thus obliterating the "differentiation" between the two sets of countries.

The developing countries felt that if the Co-Chairs' drafts were adopted, they would give an early and undue advantage to the developed countries in the design of the elements and framework of the 2015 Paris agreement itself, and indeed would already determine key aspects of the agreement and against their interests.

Lima, a proxy fight for the Paris agreement

The wrangling over the Lima decision between devel-

oped and developing countries was a proxy fight for what would be the core elements of the Paris agreement, without a direct negotiation on these elements themselves. An underlying issue is whether Parties would be treated in a differentiated manner in their obligations, as clearly set out in the Climate Change Convention, or whether (as desired by developed countries), the Parties would all be treated in a similar manner in the agreement for post-2020 actions; another issue is whether the INDCs (and by extension, the elements of the Paris agreement itself) would be only or mainly be on mitigation, while neglecting the other issues.

This proxy fight took place through the issue of 'intended nationally determined contributions' (INDCs), a term that was adopted a year earlier at the 19th Conference of Parties in Warsaw. Countries are required to submit the climate change actions they are prepared to undertake, with these being called "contributions."

Scope of issues in the INDCs and the Paris agreement

All countries have also agreed that the 2015 agreement should contain provisions on mitigation, adaptation, finance, technology development and transfer, capacity building and transparency of action and support. The developing countries insist that all these topics should be given equal status and treatment. While they agree with the importance of mitigation, they consider adaptation as equally important, and that finance and technology are critical to their ability to implement the new obligations in a 2015 agreement. They are concerned that the developed countries want a "mitigation-centric" agreement, with prominence given to mitigation, or even an agreement with only mitigation, thus marginalizing adaptation. They are also concerned that the developed countries would like to very significantly downgrade their commitments to provide finance and technology to developing countries, and that they want to de-link the actions that developing countries put forward from the extent of finance and technology that is provided. These concerns are justified, because of the pronouncements and proposals that the developed countries have been putting forward in the past two years since the Durban Platform negotiations began. These countries have also tried to eliminate the "differentiation" in the obligations of developed and developing countries that are contained in the Convention, with the aim of pushing more of the overall obligations onto developing countries, particularly the middle-income countries.

Throughout the Lima meetings, the developed countries continued to make many proposals to reduce or eliminate the differences between their own commitments and the obligations of developing countries. These included:

- Doing away with the distinction between the types of commitments on climate actions to be made by developed and developing countries.
- Removing the link between the actions by developing countries and the funding and technology support they are to get from the developed countries.

- Introducing the concept that “major economies” and “emerging economies” should be treated in the same way as the developed countries in reducing their emissions and even in providing funds to poor countries.

- Removing or diluting references to “common but differentiated responsibilities” and “equity”, which are key principles of the Climate Convention.

If these attempts succeed, they would undermine the main features of the presently balanced Convention and pave the way for a new agreement in 2015 which would be unfair to the developing countries.

However, the developing countries put up a stout defence of their interests. They were insisting on maintaining the “differentiation” between developed and developing countries, and on rejecting new categorization of countries such as “major economies”, “emerging economies”, “countries with the greatest responsibility” and “countries in a position to do so”, which are not recognized in the Convention. They particularly insisted on the importance of finance and technology and on maintaining the link between these and the level of actions by developing countries.

The issue of correct sequencing of issues: elements, contributions, information

This proxy fight over substance was accompanied by a fight over the process that was used during the ADP negotiations. A very significant component of the process fight was over the sequencing of issues for discussion and for reaching agreement on.

The 2013 Warsaw COP decision in fact laid out three major tasks for 2014: for the ADP (the Durban Platform working group) to elaborate the elements of the 2015 agreement; for countries to prepare their INDCs; and for the ADP to identify the information that countries should provide when putting forward their INDCs.

The like-minded developing countries argued, starting in March 2014, that there must be proper sequencing of these three tasks. First, the elements of the agreement should be negotiated, including the scope, the principles, the various topics that constitute the provisions, and the defined roles of the different Parties. When the elements are clarified, this would then also clarify the nature of the “contributions” (obligations on climate actions) that countries should make, and in which differentiated manner. Following this sequence, secondly, countries could then prepare their specific contributions; and then thirdly the information that should accompany the “contributions” can be decided on. However, the developed countries wanted the opposite sequencing. They wanted to focus on INDCs and the information accompanying them; to define INDCs as only in relation to mitigation; and to have all countries treated in the same way with regard to the contributions they put forward. By getting agreement first on INDCs, and in this interpretation, they would *de*

facto be determining that the 2015 agreement would be mitigation-centric and that there would be little differentiation between developed and developing countries in mitigation, as well as a delinking of developing countries’ actions from finance and technology. The Co-Chairs, through their draft texts, were going along with the developed countries’ approach.

Based on their logic on correct sequencing, during last year’s negotiations in the ADP, the like-minded developing countries insisted on the sequencing of completing the negotiations on elements first, and they put forward their own detailed proposal on elements, which they invited other delegations to engage with as a matter of first priority. However at the meeting of June 2014, the Co-Chairs tabled their own version of a draft Decision on contributions, while they conducted the discussion on Elements in the form of countries continuously giving their views and which were not based either on Members’ draft texts nor on the Co-chairs’ texts. The message was clear: the issue of “contributions” was to be given priority, with text-based negotiations, while the issue of elements were treated only generally. And in the discussion on contributions, the developed countries made it clear that they considered only mitigation to be the subject of these contributions, thus wanting to eliminate adaptation, finance and technology.

The developing countries perceived these procedural steps as suiting the developed countries’ tactics of avoiding a direct negotiation on Elements first. During such an Elements negotiation, the key issue of whether CBDR applies, or whether all Parties have to undertake the same type of commitments, and the key issue of whether finance, technology and adaptation are to be given their proper status in the 2015 agreement, were bound to occupy front-door and centre stage status. These issues could be avoided through focusing first instead on “Contributions” and “Information on Contributions”, and through these side doors, usher in a mitigation-centric 2015 agreement, with no differentiation made between the mitigation obligations of developed and developing countries, and no mention of adaptation, finance or technology.

The 19th COP in Warsaw in 2013 adopted a decision which invited “all Parties to initiate or intensify domestic preparations for their INDCs without prejudice to the legal nature of the contributions”, in the context of adopting the 2015 agreement. The Warsaw decision did not prescribe the scope or nature of the ‘contributions’, whether these contributions relate to mitigation, adaptation, finance, technology transfer and capacity building, which are the items for the Paris agreement, or only to one or some of them.

Developed countries, in the course of discussions last year, wanted to confine the scope of the INDCs to only mitigation, while developing countries wanted all the elements to be covered, including on what developed countries will provide as regards their contributions for finance and technology transfer to support the developing coun-

tries' mitigation and adaptation actions in the post 2020 period.

Throughout the four meetings of the ADP in 2014, there were concerted attempts by developed countries to make use of the issue of INDCs to shape the larger issue of the nature of the mitigation component of the 2015 agreement, even before the mature negotiation or conclusion of negotiations on this mitigation issue per se. The developed countries insisted that INDCs are only about mitigation contributions and that all countries will have to forward their INDCs together with the up-front information accompanying them, by early 2015.

Ex ante assessment issue

Some developed countries also proposed a system by which these intended contributions would be assessed and reviewed (referred to as a process for an 'ex-ante assessment') in mid-2015 June, to see if they would be adequate in the aggregate to limit temperature rise to below 2 degrees Celsius.

Though some developing countries supported an ex-ante review, many others (especially the LMDC) were against it. The latter viewed the push by developed countries for an 'ex-ante assessment' ahead of Paris as being outside the Warsaw mandate. They also considered this to be prejudicial to the negotiations to be conducted for the 2015 agreement, in Paris, especially as regards how the mitigation element of the Paris agreement is to be approached; how the principle of CBDR would be applied across all the elements of the Paris agreement, including that relating to the contributions that Parties will make, as well as the up-front information relating to the contribution for the purposes of transparency.

They pointed out the imbalance of having developing countries' mitigation "contributions" assessed (and subjected to pressure for upgrading) whereas there was to be no assessment (or even information) on how much financial and technological support the developed countries are to provide. How could developing countries be expected to submit what they can do on mitigation when they do not know whether financial support is forthcoming and if so, how much?

In the October 2014 session of the ADP, China had stated that there can be no 'early harvest' by focusing only on mitigation when all elements of the 2015 outcome are "a package". It said that INDCs cannot be focused only on 'mitigation', isolated from the consideration of the provision of finance, technology transfer and capacity building support. Otherwise, it stressed, this would lead to a rewriting of the Convention. This view was widely shared by other developing countries, and reiterated in Lima.

Besides the ex-ante assessment issue, a major issue of basic importance was that of "differentiation". Developing countries across the board wanted assurances in the decision that the CBDR principle would be applied

in the Paris agreement and in the INDCs. They insisted on this as a "red line."

Clash of approach on negotiating method

Another major issue of contention, that had consequences at the Lima COP, was over the method of negotiation being used at the ADP. Developing countries wanted the negotiations to be directly among the Parties. This is normally done in the UN system, at which Parties put forward texts which are then commented on and amended by other Parties, usually in real time and on a screen in the hall. This is the essence of a "Party-driven and transparent system of negotiation." However the developed countries preferred a process that was left in the control of the ADP Co-chairs, to produce draft texts, without clarity or transparency on how they were arrived at. The Co-Chairs themselves insisted on the latter method, to the frustration of the developing countries. This was perceived by developing countries as a negotiating process that unfairly gave the advantage to developed countries, especially since the developed countries' views were seen to be given more prominence in the successive versions of the Co-Chairs' drafts on the ADP/COP decision.

This clash over the method of negotiation had been brewing over the whole year, and finally it came out in open and dramatic fashion mid-way through the first week of the Lima conference. The Co-Chairs continued to insist that they be the ones to write the texts of the ADP decision. But many developing countries were increasingly disgruntled because their views were not or were poorly represented in the Co-Chairs' drafts and they lost confidence that fair representation would ever be made. Their fear was that the Co-Chairs would keep producing drafts which eventually would have to be accepted by all, and that the final draft would be biased against the developing countries. The battle over process or procedure was thus also a battle over substance. Many developed countries, which were happy with the Chair-driven process, countered that time should not be wasted on procedural issues and should instead be spent on substance. But substance and process are in fact inter-twined in the ADP.

Towards the end of the first week at Lima, several of the developing countries asked the Co-Chairs to stop the discussion at the ADP and insisted that the proposals and texts of the countries be put on the screen in the room and also be compiled in a paper which would be the basis for detailed negotiations towards the final decisions.

In the face of this "rebellion", the Co-Chairs had to reluctantly agree to change the negotiating method. Then, for several days after, the different proposals and texts of various Parties were put on the screen during the discussion on specific issues, in the normal UN way, and the Parties were then talking to one another and not only through the Co-Chairs. However since this Member-driven process started so late, the lengthy document compiling the various positions became unmanageable as the limited time left would not allow a consensus to be reached. Two days before the scheduled end of the Conference, the COP President directed the Co-Chairs to

again produce their draft text of the Decision. They produced two drafts, on 11 and 12 December. However, though welcomed by the developed countries, these drafts were rejected by the developing countries, which led to the crisis of a near collapse and to the COP President taking over the drafting process.

This clash of approaches over the negotiating method and decision-making process may recur when negotiations resume in 2015. Developed countries are likely to argue that leaving the Co-chairs to draft is more efficient and takes less time, while developing countries are likely to argue that if the transparent Member-driven process had been adopted from the start of 2014, and been given the proper opportunity, it would have worked better and that this is the best way for inclusiveness, transparency and eventually ownership of the outcome.

The final Co-Chairs' 12 December draft were viewed by most developing-country groupings as not acceptable. On Saturday, 13 December, when the ADP convened, many developing countries and their groupings criticised and rejected the draft on grounds it was imbalanced and did not reflect key issues such as differentiation between developed and developing countries, the principles of equity and CBDR; that there was lack of any financial contribution for the post 2020 period; the draft on INDCs was mitigation centric with adaptation downgraded; there was a failure to include the issue of 'loss and damage'; and a very weak reference to pre-2020 climate action.

With the clock ticking beyond the closing time of the conference, many developing countries appealed to Vidal to help resolve the deadlock, as the talks were clearly on the brink of collapse. The ADP closed without adopting a text, and the COP Presidency then took over the process. The President's draft decision, which was finally adopted on Sunday at 1 a.m., was viewed by developing countries as being more balanced as it dealt better with the issues of concern to them. The principle of CBDR was mentioned (it had been absent at the original decision launching the Durban Platform at COP17 in 2011); the scope of the INDCs is now open-ended; there is no provision for an ex-ante review of the INDCs; and there is reference in the preamble to the Warsaw Mechanism on Loss and Damage.

Thus was the Lima COP20 saved from a collapse, and a much simpler text adopted as a Decision, with a lot of the over-loaded paragraphs and an Annex discarded. The adopted decision does not settle in advance some key issues that earlier drafts would have, and thus allows for more options when negotiations resume on the contents of the 2015 agreement. At the same time, the issue of differentiation and CBDR is now more firmly grounded.

III: Looking ahead to 2015

What happened at COP20 is a prelude to the bigger battles that can be expected in the meetings scheduled

in 2015 (February, June, August, October and December) to negotiate the new climate agreement.

The developed countries can be expected to give mitigation a higher status, perhaps proposing that it be in an agreement with greater legal standing while the other issues of adaptation, finance and technology be of a different category of legal-bindingness, perhaps even contained in a different document. They will probably try their best again to marginalize the finance and technology issues and de-link their commitments under the Convention on these issues from the "contributions" or obligations of developing countries on mitigation. Above all, they will insist that "the participation of all Parties" in the agreement (as mentioned in the Decision launching the Durban Platform) should mean the jettisoning of "differentiation", and that developing and developed countries take on similar obligations, perhaps with some flexibility only for LDCs.

The developing countries are likely to counter this by insisting on a balanced agreement with all issues on board, and with finance and technology linked to developing countries' actions, as well as the maintenance of differentiation in accordance with CBDR and equity.

In the final plenary at Lima, Bolivia (speaking for the Group of 77 and China) stressed the importance of five key issues for the Group in the 2015 agreement. One, it underscored the importance of principles and provisions of the Convention in the 2015 agreement, in particular equity and CBDR, and for the agreement to be under the Convention. Two, the agreement should be consistent with the Convention, including differentiation among developed and developing country Parties. Three, adaptation and loss and damage are key to the 2015 agreement and should be given their due space. Four, technology and capacity building are essential for the 2015 agreement and it must be clear that developed countries shall provide finance, technology development and transfer and capacity building support to developing countries. Five, the agreement must have an ambition to achieve sustainable development and poverty eradication.

There is clearly a paradigm clash between what the developed countries and the developing countries envisage for the new agreement.

Another major problem is that in the 2015 agreement, the need for an ambitious overall mitigation outcome that adequately addresses the climate change crisis is going to be sidelined, due to the "bottom-up approach" that seems to be implicitly accepted in the way countries are asked to submit their "contributions", which are to be "nationally determined" and can be explained according to their "national circumstances." This is in contrast to the top-down approach which for the initial three years (2008-2010) of the Bali Road Map and the Bali Action Plan (the predecessor to the Durban Platform) had been the approach favoured by the majority of members, including most of the developed countries especially the European Union. In the top down approach, the extent of global emission reduction which is required according to the

conclusions of scientific analysis, is taken and then the overall effort required is shared out among the Parties, with developed countries taking the lead and also supporting developing countries' actions with finance and technology. Developing countries had insisted that the global effort should be within the framework of equity, or "the equitable access to atmospheric space" and the "equitable access to sustainable development." However the bottom-up approach, otherwise known as "pledge and review", whereby each country chooses to put forward what it can do, according to its own circumstances, was championed by the United States. It emerged in the Copenhagen COP in December 2009 (in a draft decision that was however not adopted), became legitimized in the Cancun COP in 2010 and entrenched in the Warsaw COP in 2013 through the "intended nationally determined contributions" concept and then more deeply established in the Lima COP in 2014 through the procedures for submitting the INDCs.

According to the IPCC's latest reports, finalized in 2014, future global emissions have to be restricted to a total of 1,000 billion tonnes of carbon dioxide if there is to be at least a 66% chance of limiting global warming to 2 degrees Celsius above pre-industrial levels. But global Greenhouse Gas emissions are running at about 50 billion tonnes a year, and in 20-25 years the "atmospheric space" available to absorb the Greenhouse gases would be exhausted. Unless an equitable way is found and agreed to on how to share this remaining atmospheric space, especially between developed and developing countries, the 1,000 billion tonnes limit is going to be exceeded soon, and significantly so. To design a new agreement that incorporates the ambitious global target and that is also equitable and seen by all to be so, and to get this accepted as a package, is the greatest challenge for reaching a 2015 agreement.

The developing countries are increasingly worried that the developed countries are trying to escape from their previously agreed roles of cutting emissions deeply and quickly, and of providing funds and technology to developing countries to support their climate actions.

The US has announced its plans to cut its emissions by an equivalent of about 3% by 2020 and around 14% by 2025 as compared to 1990, a far cry from the 20-40% by 2020 that the scientists in IPCC (the panel on climate change) had said the developed countries have to do. Japan, Canada, Russia and Australia have indicated they no longer prioritise climate change in their national agendas, with the first three of these countries withdrawing from the second commitment period of the Kyoto protocol. Even the European Union, usually the global leader in climate actions, has slackened, having put forward targets that are less than ambitious.

The developed countries have also pledged about US\$10 billion for the Green Climate Fund to help developing countries. This is however for four years, so

there will be \$2.5 billion a year. Although there are also funds through other channels, this is far below the US\$100 billion a year that in 2009 they had pledged to mobilise by 2020. Estimates for the annual costs of mitigation and adaptation actions in developing countries are multiples of this \$100 billion level. Though the developing countries have regularly called for a "finance road map", with targets from now to the \$100 billion in 2020 as to how the financial resources for climate change will be scaled up, this has met with silence so far by the developed countries.

Given these trends, and what transpired at the Lima COP, deep and fundamental differences exist, especially between the developed and developing countries, so the prospects of an agreement that is both ambitious and equitable are not bright.

Another issue that has to be confronted early in 2015 is the method of negotiations. The procedure of the Co-Chairs listening to the views of Parties and then deciding themselves what should be put in a text has not been workable. The Chairs should facilitate negotiations among members and not take on the role of being the oracle of the truth, to which Members must petition and hope to get their prayers answered. Although the inclusive and democratic process appears to take more time, in the end it saves time by allowing the members to negotiate among themselves and get to grips with their areas of differences and convergence. A lot of time was spent in 2014 with members asked to air their views, without getting to grips with negotiating with one another. The near collapse in Lima, using the Chair-led process, is a warning that a genuine Member-led process is required in 2015.

ANNEX: HIGHLIGHTS OF THE LIMA DECISION ON THE DURBAN PLATFORM

By Meena Raman

Some of the key points in the '*Lima call for climate action*' (the decision of 14 December 2014 relating to the Durban Platform) are set out below, together with comparisons to what was in earlier drafts of the issues in the Co-Chairs' texts of 12 December (and in some cases the drafts of 8 and 11 Dec.). Comments are also provided to provide an understanding of the changes that came about and their significance.

Preamble 1 states: "*Reiterating* that the work of the ADP shall be under the Convention and guided by its principles...". This paragraph refers to the principles of the Convention explicitly; this is important for developing countries which point out that among the principles are equity and CBDR.

Preamble 4 states: “Affirming its determination to strengthen adaptation action...” (through the 2015 agreement). This reference to adaptation in the new agreement was insisted on by developing countries as the Co-Chairs’ earlier drafts did not have this reference. This was a major concern of developing countries which saw the developed countries pushing for a mitigation-centric agreement, with the issues of adaptation and the means of implementation being marginalised or omitted.

Preamble 5 states: “Recalling decisions 2/CP.19 and X/CP.20 (Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts) and welcoming the progress made in Lima, Peru, towards the implementation of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.” The earlier drafts had no mention of loss and damage. Developing countries had been calling for ‘loss and damage’ to be part of the 2015 agreement, while developed countries have resisted this. The LDC Group made an appeal to include this issue in the final text. At the final plenary session, **Tuvalu**, speaking for the **Least Developed Countries (LDCs)**, made an interpretative statement that the reference to the Mechanism for Loss and Damage in the preamble and the term “inter alia” in paragraph 2 of the decision made clear the intention that the legal outcome to be adopted in Paris will properly, effectively and progressively address loss and damage.

Paragraph 3 reads: “Underscores its commitment to reaching an ambitious agreement in 2015 that reflects the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances”. The mention of CBDR and especially the reference that it be reflected in the 2015 agreement was seen by most developing countries as a major victory, although some countries were not pleased with the accompanying phrase “in light of different national circumstances.” At the final plenary, the LMDC (represented by Malaysia) stated that this “clear provision in the operational part of the text and this read together with the preambular paragraph which requires the work of the Durban Platform to be guided by the principles of the Convention, together suggests to us cumulatively that the CBDR principle has been restored and it has been given its rightful place in the context of the Convention and the work that we are going to continue” in relation to the new agreement.

Paragraph 4 “Urges developed country Parties to provide and mobilize enhanced financial support to developing country Parties for ambitious mitigation and adaptation actions, especially to Parties that are particularly vulnerable to the adverse effects of climate change; and recognizes complementary support by other Parties”. The 12 December draft, instead of “...and recognises complementary support by other Parties” had the following language: “and invites other Parties willing to do so to complement such support”; while an

earlier 11 December draft had the following words: “developed country Parties and other Parties in a position to do so...” These words in the earlier drafts were seen by many developing countries as diluting the CBDR principle, with developing countries also having to contribute to financing mitigation and adaptation actions, contrary to the provisions of the Convention.

Paragraph 9 “Reiterates its invitation to each Party to communicate to the secretariat its INDC towards achieving the objective of the Convention as set out in its Article 2.”

The Dec. 11 version of the draft text in Option 3, provided that “Parties’ INDCs ...will include a mitigation contribution, and may also include contributions on adaptation, finance, technology development and transfer and capacity-building and that the INDC of each Party will represent a progression beyond the current undertaking of that Party.” The concern expressed by many developing countries over this option was that all Parties had to provide a mitigation contribution which was mandatory, while contributions to the other elements are not so. This signalled a mitigation-centric approach which also did not differentiate between developed and developing countries and did not make it obligatory for developed countries to forward a finance and technology transfer contribution. The formulation that was finally agreed to leaves the scope of the INDC open, without a particular stress on mitigation.

In fact, the 8 Dec. draft states that “Parties that are not ready to communicate their INDCs by the first quarter of 2015” were invited to do so “by 31 May 2015 or as soon as possible thereafter.”

The 8 Dec. draft also provided that “each party shall communicate a quantifiable mitigation component in its INDC which represents the highest level of mitigation ambition, beyond its 2020 commitment and actions...guided by the principles of equity and CBDR-RC, in the light of evolving national circumstances.”

Many developing countries, especially the LMDC and the African Group, took issue with the term “evolving national circumstances” which they said was not a term recognised by the Convention and its use amounted to a redefining of the CBDR principle, which prejudices the negotiations in Paris.

Paragraph 10 states: “Agrees that each Party’s INDC towards achieving the objective of the Convention as set out in its Article 2 will represent a progression beyond the current undertaking of that Party”. This paragraph is to reflect the call by many developing countries to ensure that developed countries do not backslide on their commitments in the post 2020 time-frame.

Paragraph 12 states: “Invites all Parties to consider communicating their undertakings in adaptation planning or consider including an adaptation component in their INDCs”. This paragraph reflects the call by many developing countries that their INDCs could also be or include

a contribution to adaptation actions, and that INDCs should not solely be about mitigation.

Paragraph 13 "Reiterates its invitation to all Parties to communicate their INDCs well in advance of COP 20 (by the first quarter of 2015 by those Parties ready to do so) in a manner that facilitates the clarity, transparency and understanding of the INDCs".

Paragraph 14 states: "Agrees that the information to be provided by Parties communicating their INDCs, in order to facilitate clarity, transparency and understanding, may include, as appropriate, inter alia, quantifiable information on the reference point (including, as appropriate, a base year), time frames and/or periods for implementation, scope and coverage, planning processes, assumptions and methodological approaches including those for estimating and accounting for anthropogenic greenhouse gas emissions and, as appropriate, removals, and how the Party considers that its INDC is fair and ambitious, in light of its national circumstances, and how it contributes towards achieving the objective of the Convention as set out in its Article 2."

This paragraph relates to the information that is to accompany the INDCs. Given the use of the terms "as appropriate," Parties can decide what information will accompany their INDCs. Concerns were raised by developing countries that the earlier draft texts did not reflect the CBDR principle as to how the information to be supplied by developed and developing countries should be differentiated. Although CBDR is not mentioned in this paragraph, its mention in paragraph 3 is taken by these countries to thus cover paragraph 6 as well.

Paragraph 16 "Requests the secretariat to: (a) Publish on the UNFCCC website the INDCs as communicated; (b) Prepare by 1 November 2015 a synthesis report on the aggregate effect of the INDCs communicated by Parties by 1 October 2015."

Other than the preparation of a synthesis report by the secretariat on the aggregate effect of the INDCs, there is no mention in the final text that relates to ex-ante assessment or review of the INDCs prior to the Paris agreement.

The earlier draft of 8 Dec. made provision for the following "ex-ante" processes (in an apparent accelerated rate) to take place in 2015 after the communication of the INDCs as follows: To provide opportunities for

seeking clarification on the INDCs; for Parties to submit questions to each other and for responses to be supplied within 4 weeks; for a workshop in June next year and at COP 21 for clarity, transparency and understanding of the INDCs communicated; for a technical paper by the secretariat on the existing methodologies relating to land-use and use of market mechanisms; organise a workshop on methodologies in June 2015; technical paper by the secretariat on the aggregate effect of the INDCs; for observers to publicise their analyses of the INDCs on the UNFCCC website.

Developing countries, led by the LMDC, were of the view that these matters were outside the scope of the Warsaw mandate and could prejudice the negotiations for the Paris agreement and were also imbalanced since there was no similar ex-ante process (or even information) on the financial contributions that developed countries would make to support developing countries.

The decision also has other paragraphs on the issue of pre-2020 climate actions.

Note: This Annex was contributed by Meena Raman, senior legal advisor of the Third World Network.

Previous South Centre Climate Policy Briefs

- No. 1, December 2009 – Copenhagen: Key Issues Facing Developing Countries
- No. 2, December 2009 – Copenhagen and After
- No. 3, November 2010 – Cancun Climate Conference: Some Key Issues
- No. 4, December 2010 – The equitable sharing of atmospheric and development space: Summary
- No. 5, March 2011 – Complex implications of the Cancun Climate Conference
- No. 6, November 2011 – Annex 1 pledges, accounting "loopholes", and implications for the global 2°C pathway
- No. 7, September 2012 – Aviation emission norms under the EU-ETS
- No. 8, November 2012 – Identifying Outcomes that Promote the Interests of Developing Countries at COP 18
- No. 9, February 2013 – A Climate Conference of Low Ambitions in Doha
- No. 10, February 2013 – Overview of the Results of UNFCCC COP18/CMP8
- No. 11, April 2013 – Climate Change Financing Requirements of Developing Countries
- No. 12, November 2013 – Integrating a Gender Perspective in Climate Change, Development Policy and the UNFCCC (long and short versions)
- No. 13, August 2014 – Developing the loss and damage mechanism in climate change: The tasks ahead
- No. 14, August 2014 – Loss and Damage Mechanism Set Up for Climate Change
- No. 15, November 2014 – Climate Change, Technology and Intellectual Property Rights: Context and Recent Negotiations



**SOUTH
CENTRE**

Chemin du Champ-d'Anier 17
PO Box 228, 1211 Geneva 19

Telephone: (4122) 791 8050
Fax: (4122) 798 8531

E-mail: south@southcentre.int
<http://www.southcentre.int>