

Tough negotiations on just transitions and response measures

Dubai, 11 Dec. (Hilary Kung) – Negotiations on the work programme on ‘Just Transition Pathways’ and ‘The Forum on the Impacts of the Implementation of Response Measures’ proved to be tough in Dubai, with two more days left to the scheduled closure of the climate talks in Dubai on 12 Dec.

The work programme on ‘Just Transition Pathways’ and ‘The Forum on the Impacts of the Implementation of Response Measures’ were among the outstanding work carried over from the Subsidiary Bodies (SBs) where bracketed draft text for further work was forwarded from the first week. (See [TWN Update 14](#))

WORK PROGRAMME ON JUST TRANSITION PATHWAYS

Under the guidance from the COP Presidency, the work programme on Just Transition Pathways continued to find consensus among Parties under the new co-facilitators - **Marianne Karlsen (Norway)** and **Simon Cardy (South Africa)**.

The consultations under the Presidency on 8th and 9 Dec were closed to observers but sources informed that the **G77 and China** brought a bridging proposal on the ‘preamble and scope’ of the work programme to the table.

The informal consultations convened in the afternoon of 9 Dec saw a new draft text circulated by the co-facilitators which includes a proposed text in the ‘preamble’ and ‘scope’ sections without any placeholder.

It was learnt that the textual proposal from G77 and China was not reflected in its entirety as an option in the new text. **Zambia** on behalf of the **African Group (AGN)** said in one of its interventions that it would be challenging if the bridging proposal from G77 and China is not listed as an option on the table. The **United States (US)** said it never agreed to the use of G77/China’s bridging proposal as a basis for negotiation as “it would take us backward if we take in new option”.

One of the major changes seen in the entire text is the change in the language from “just transition pathways” to “pathways to just transition”. Sources informed that this language was introduced by the developed countries during the closed-door consultations under the Presidency.

Many developing countries were opposed to the change in the text and wanted to retain “Just Transition Pathways” as per the title of the work programme. When reacting to the change in the

language, **Brazil** for itself, **Argentina** and **Uruguay (ABU)** said the original language of Just Transition Pathways is stronger in linking transition pathways to “justice” and “equity”; otherwise, the current language of “Pathways to Just Transition” misses the “just”.

Bolivia for the **Like-minded developing countries (LMDC)** pointed out that even though pathways to just transitions are mentioned in the previous decision, Just Transition Pathways is the title of the work programme and should be maintained in the text.

India also highlighted that “Pathways to just transition” is unclear but there is a need to make sure that the “Pathways” are not referring to the global mitigation pathways in the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report as there are certain assumptions in the global mitigation pathways which do not consider “equity”. Elaborating further, India said there are possibilities for this work programme to reflect global equity to create and enable just transitions nationally.

Saudi Arabia for the **Arab Group** suggested that whenever “pathways” is referenced in the draft, it should be written in full - “Just Transition Pathways”. **Zambia** for the **AGN** also echoed the same concerns raised by others.

On the scope of the work programme, many developing countries commented that the text was “out-of-balance between international and national dimensions” given that this is a multilateral process. (Three out of the four bullet points in the text contained references to “Pathways to just transition that include energy transition...”, “Country-driven...”, “Opportunities and challenges, best practices and experiences on pathways to just transition, at the international and national levels”.)

Zambia for the **AGN** said that at the minimum, the group wants to have clear language from the Sharm el-Sheikh decision text (Paragraphs 50 – 52 of [Decision 1/CMA.4](#)). Zambia said the reason why it has a problem with the framing is that the scope focuses on the national aspect; it viewed that the focus of this multilateral process should be on the

international dimension of just transitions. Commenting further, AGN called for international cooperation to support just transitions to meet the goal of the Paris Agreement (PA).

India echoed the same concerns over the need for balance between national and international dimensions as the discussion in the work programme appeared to focus on the national level. **Brazil for ABU** also said that we cannot have equity and justice if we do not refer to the international dimension here in this work programme.

Commenting on the “energy transition” language, **Bolivia** for the **LMDC** suggested to use the PA language and the issue on “energy” should be wider, and not just on the energy transition. This was also echoed by the **Saudi Arabia** for the **Arab Group** that “energy transition” is not used in the paragraph 51 of the Sharm el-Sheikh decision from last year.

(Paragraph 51 of the Sharm el-Sheikh decision reads as, *“Emphasizes that just and equitable transition encompasses pathways that include energy, socioeconomic, workforce and other dimensions, all of which must be based on nationally defined development priorities and include social protection so as to mitigate potential impacts associated with the transition, and highlights the important role of the instruments related to social solidarity and protection in mitigating the impacts of applied measures.”*)

Regarding the preamble of the work programme, one of the most contentious points was the call by **Brazil on behalf of ABU**, and supported by **China and India**, to reference Article 3.5 of the Convention, in relation to the issue of “trade-related unilateral measures to combat climate change with cross-border impacts”.

The textual proposal was also seen in the bridging proposal submitted by the G77/China, which reads, *“Highlighting that the Article 3.5 of the Convention establishes that Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change*

and that measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.”

Developed countries could not agree to this proposal.

Given the divergences in the room and no consensus on the draft text, the co-facilitators, after consulting the Presidency, said they will reconvene informal consultations at 9 pm on the same day (9 Dec), to give the formal guidance from the Presidency on the way forward. During the informal stocktaking plenary convened by the Presidency at 8.30 pm, it was reported that the Presidency hoped Parties could agree to the draft decision text when they reconvene the informal consultation at 9 to 11 pm.

The co-facilitators were seen giving a final push by producing a new iteration of text for Parties to consider when they reconvened the consultation at 10.30 pm. Given that this was the final push, the co-facilitators said they would not edit the text except to add brackets and asked Parties to stretch as far as possible and only take the floor if there are texts that “you simply cannot live it”. The co-facilitators said they will report back to the Presidency on all of the concerns raised by Parties together with the new draft text.

The entire text is bracketed, denoting a lack of consensus. There is also a bracket on contentious reference to Article 3.5 of the Convention in the preamble which is related to the unilateral measure issues. The text also kept the “Just Transition Pathways” language, instead of “Pathways to Just Transition”. It was understood that the preamble did include some bridging proposal submitted by the G77 and China.

The preamble also referenced the text from the PA, with regard to the need for Parties, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

The scope of the work programme also saw a formulation of text from the Sharm el-Sheikh decision text (Paragraph 50 – 52 of Decision 1/CMA.4) with a more balanced language on the international and national dimensions based on the verbal and written submissions from Parties.

Japan suggested adding brackets to the reference to the Convention which was then countered by **Zambia** for **AGN**, citing that the PA is to enhance the implementation of the Convention. The **United States (US)** also made a similar suggestion to clarify the “UNFCCC” language used in the text.

Most of the interventions from developed countries like the **European Union (EU)**, **Canada**, the **United Kingdom (UK)**, and the **Environmental Integrity Group (EIG)** centred around adding text regarding human rights into the scope.

The **UK, US and EU** also proposed to add a bracket in paragraph 4 of the draft text on the modality of the work programme that reads: *“Further decides that the work programme shall be implemented under the guidance of the SBSTA and the SBI through a joint contact group at each of its sessions with a view to recommending a draft decision to the CMA for its consideration and adoption at each of its sessions.”*

This provoked some reactions from Parties like **Egypt** and **China** to bracket another modality language on holding two dialogues each year as part of the work programme in Paragraph 5, while others like **Bolivia** for **LMDC** and **India** called for the deletion of the bracket.

In terms of the time frame of the work programme, the draft text suggested that the implementation of the work programme will start immediately after CMA5 in Dubai, with a view to the work programme informing the second global stocktake and other relevant processes, and agrees to review the effectiveness and efficiency, and consider the continuation of the work programme at CMA 8 in 2026.

China has been consistently calling for the deletion of the “consider the continuation” text as it said there should be no termination date for the work programme.

The preamble of the draft text underscored “the importance of urgent delivery of means of implementation (capacity-building, climate finance, and technology development and transfer) to facilitate just transition pathways, and enhancing international cooperation on, and support for, just transition pathways, especially for developing countries”. It was understood that this language was from the G77 and China’s bridging proposal which was intended for the scope of the work programme.

According to sources, the Presidency attempted to produce a newer version of the text based on the report back from the co-facilitators and the concerns made by Parties. However, sources informed that the newer version released by the Presidency had upset the balance in the text and Parties preferred to stick to the earlier version. Delegates then received an email confirming the withdrawal of the draft text from the UNFCCC web page.

How this unfolds will be keenly watched as the implementation of the work programme is expected to start next year.

RESPONSE MEASURES

Consultations on the forum on the impact of the implementation of response measures in Dubai saw continued opposition by developed countries against any attempts from developing countries to discuss the potential adverse impacts of trade-related climate measures with cross-border impact (which has been a contentious subject of discussions since the beginning of the Katowice Committee of Experts’ [KCI] workplan in 2020).

This opposition to address the issue has continued, despite the proposal for a new agenda item by the **BASIC** group of countries (**Brazil, China, India and South Africa**) on “Concerns with unilateral trade measures related to Climate Change and their potential adverse impact on equitable and just transitions, in the context of sustainable development and efforts to eradicate poverty” at the beginning of COP28.

The COP Presidency proposed to have new co-facilitators, **Andrei Marcu (Honduras)** and **Georg Børsting (Norway)**, to conclude the outstanding

technical work on this issue.

Parties were mandated to finalise the mid-term review of the six-year workplan (2020-2025) of the forum and its KCI, as well as initiate the process of conducting a review of the functions, work programme and modalities of the forum.

(The KCI on the Impacts of the Implementation of Response Measures was established in Katowice, Poland, in December 2018 to support the work programme of the forum on the impact of the implementation of response measures, arising from the implementation of mitigation policies, programmes and actions, could have both positive and negative impacts, especially cross border environmental, social and economic impacts. The agreed KCI’s workplan for 2020 - 2025 includes activities that refer to the just transition of the work force and creation of decent work and quality jobs, as well as economic diversification and transformation.)

The informal consultations on 10 Dec saw intense wrangling and major divergences between developed and developing countries on the new draft text prepared by the co-facilitators, covering review of the functions, work programme and modalities of forum on the impacts of the implementation of response measures, midterm review of the workplan, and report of the forum on the impacts of the implementation of response measures.

One of the major divides is on the work programme, where developed countries like the **US, EU, and Switzerland** proposed to focus on the “Environmental, social, and economic co-benefits of climate change policies and actions” and were strongly against the addition of the word “adverse impacts” proposed by developing countries.

Saudi Arabia, on behalf of **G77 and China** responded that it is very important for developing countries to focus on addressing any negative impacts and this will “not in any way try to undermine efforts (on climate action)”.

It also noted that one of the major concerns from developed countries is related to the proposal to include trade-related climate measure with cross border impact in the text but also stated that the

word “cross border impact” is already on the Response Measures website of the UNFCCC. Hence, it would like to recall Article 3.5 of the Convention in the preamble, said Saudi Arabia.

Further, the current text also saw the deletion of the following pertaining to the trade-related climate measures with cross border impacts:

- *“Work Programme: “The assessment and analysis of the impacts of implementation of climate change related unilateral measures with cross-border impacts measures, and to explore ways to minimize the negative impacts to parties, especially developing countries” in the Work Programme*
- *Activities in Annex II: “Enhance capacity and understanding of Parties, on the assessment and analysis of the impacts of implementation of climate-related unilateral measures, [in particular those that lead are inconsistent with a global trajectory to net zero emissions,] and cross-border impacts, to address the negative impacts to parties especially developing countries, to be implemented by the KCI at SB 60 by receiving*

input from experts, practitioners and relevant organizations, and technical paper, and by the forum at SB 62 through exchange and sharing of experience and best practices and conclusions/draft decisions.”

Developing countries, led by G77 and China, attempted to reintroduce the work programme back into the text while China proposed to retain the activity in Annex II.

The **US** reacted to the new addition in the text and remarked that this feels that it was going further from consensus, which was also echoed by the EU. The **US** and **EU** also reiterated their concerns on other areas of the text and suggested finishing only the midterm review of the workplan and deferring discussion on the review of the forum to Bonn 2024, which was rejected by developing countries. At end of the session, the co-facilitators said they will try to include all the interventions made by Parties in the text and then will report back and hand it to the Presidency.

Whether there would be landing zone with regards to the trade-related climate measures with cross border impact in Dubai will be closely watched.