

EquityBD Position on Climate Change Negotiation: Uphold the Sprit of Rights and Justice

1. Summary

The 15th Conference of the Parties of the United Nations Framework Convention on Climate Change (UNFCCC) is aimed at hammering out a global climate deal to limit greenhouse gas emissions when the Kyoto Protocol's first commitment period expires at the end of 2012. The deadline comes in December at the annual UN climate conference in Copenhagen where a deal is supposed to be sealed. The new deal is to tackle the causes of climate change (mitigation) and to assist countries to cope with the impacts of climate change that we can no longer avoid (adaptation).

The Copenhagen deal should be a 'deal of justice' to the most affected communities and countries and this should be embedded in a sustainable development framework while giving equal importance to adaptation and mitigation. Developed countries should lead the way in robust emission reduction at their origin and keep temperature rise below 1.5 degree C and work with the developing countries to create development space and help make a transformation to low carbon green technologies.

2. Position on Mitigation

Stabilizing GHG concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, which is the ultimate objective of the Convention, can be achieved in two ways. The first is by limiting or, as appropriate, reducing anthropogenic GHG emissions by sources and the second by preserving or, as appropriate, enhancing sinks and reservoirs of GHGs. In relation to emission reduction the Convention provides a strong foundation for an inclusive, fair and effective international climate change regime which effectively addresses the imperative to stabilize the climate system while recognizing imperative and right of developing countries to develop, address poverty and food security. In this context the Convention is based on the principle of equity where developed countries, who are most responsible for the problem need to "take the lead", as well as the principle of common but differentiated responsibilities where all countries would act in accordance with their responsibilities.

The article 3 of the convention (referred to as equity article) stipulates that; a) Parties should protect the climate system 'on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities, and b) Developed countries should take the lead in combating and the adverse effect thereof. In relation to GHG limitation or reduction the Annex I Parties that are also Parties to the Protocol agreed to be legally bound by specific commitments on the reduction, or limitation; up to 5 per cent below the baseline levels of 1990 during a period from 2008-2012.

In framing the post Kyoto architecture The BAP contains six sub-paragraphs on mitigation: of which discussion on 1(b)(i) and 1(b)(ii) created 'deep divides' between developed and developing country Parties. These are;

On mitigation by developed countries the paragraph 1(b)(i) of Bali Action Plan says; measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and

reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances.

On the other hand on mitigation by developing countries 1(b)(ii) stated ; nationally appropriate mitigation actions by developing country Parties in the context of sustainable development supported and enabled by technology, financing and capacity building, in a measurable, reportable and verifiable manner.

But in the recent climate talks it has been observed that the developed country Parties want creation of a separate sub-group to consider proposals relating to common elements of mitigation by all parties, which is inconsistent with the Convention as they would impose new requirements on developing countries. The intention of the developed countries to bring developing countries under 'binding commitment' on emission reduction and MRVs is conflicting to the Kyoto Protocol and also to the Equity Principle of the UNFCCC. The developed countries seem to be engaging in a concerted plan to reduce their own commitments while pushing their burden onto developing countries, which are asked to take on more than their fair share. The proposals on frameworks for mitigation action by all parties is seek to erase the distinction between developed and developing countries and impose new mitigation and reporting commitments on the latter. LDC group opposes insertion of new sub-paragraph in the mitigation text of BAP as this will disregard the distinction between mitigation by developed and developing countries both in magnitude and legal nature. On mitigation our positions are;

- Emission reduction by developed countries by 45% by 2020 compared to 1990 level (similar to that of LDCs and SIDS)
- Keep temperature increase well below 1.5 degree Celsius
- Green House Concentration by 350 ppm by 2100.
- Allow the Green House Gas Concentration peaking by 2015

3. Position of Mitigation and Adaptation Finance

Although the strategies of addressing climate change e.g. mitigation, adaptation and support to existing development growth are interlinked but the later two are specifically important and real challenge to the developing countries which would require new, addition and incremental financial resources for implementation. In this regards, the Bali Action Plan refers to the need of "improved access to *adequate, predictable* and sustainable financial resources ... and noted a provision of *new and additional* resources" and "*innovative means of funding* to assist developing country Parties that are particularly vulnerable to the adverse impacts of climate change in meeting the cost of adaptation".

The LDC Party demand for 'new and additional' funds from developed countries, as well as for their 'adequacy' and 'predictability' which are by no means new. It has also been articulated in Article 4.3 of the UNFCCC. Given the patterns of differentiated (historic) responsibilities, the costs for developing country adaptation are seen as debts to be borne by the still largely responsible industrialized world, and debts cannot be repaid by loans, or even by 'grants' – this notion is beyond the so called donor- recipient or patron-client relationship. Moreover, given this pattern of differentiated responsibilities, there are also very strongly held views on the importance of an *equitable* distribution of the burden of such funding.

The adaptation financing should address different types of adaptation needs, such as: Climate proofing Official Development Assistance (ODA); climate proofing of existing infrastructure; additional investments for new infrastructure; costs on community level /community based adaptation, capacity building; restoration of eco-system services; addressing mass displacement; and; mainstreaming adaptation into poverty reduction strategies and other relevant government policies and so on. Thus, the measures

and financing of climate change adaptation should not be integrated with the efforts and financing on poverty reduction. Although measures of climate change adaptation comply with some of the measures of poverty reduction but many of the adaptation measures like restoration of eco-system services, efforts of DRR to address additional risk factors caused by climate change, rehabilitation of the displaced people, technology innovation for agriculture development in the changed climatic condition etc. would require additional financing.

It's also important to look into the quality of financing and its effectiveness as emphasized in the Paris Declaration. Financing should be sustainable, predictable and with the sense of local ownership. The adaptation financing should be largely and primarily from the public sources of the developed countries not much depending on the 'market based solution'. On financing our positions are;

- Mandatory contributions from Annex-I Parties for meeting the cost of adaptation, which should be supported primarily and from 'public sources' and the secondary mechanisms may be International Air Passenger Adaptation Levy (IAPAL) or Green Levy on Air Fare and other new and innovative mechanisms.
- Financial resources should be over and above the existing 0.7% Overseas Development Assistance (ODA); the proposed financial resources should not be less than 1.5% of the GDP contribution by the Annex-I Parties and with increased allocation to the LDCs and SIDS
- Adaptation fund must be provided on a grant basis (not as concessional loans)
- Finance should be sustainable and with sovereign ownership of the recipient countries and should be free from the domination of the existing financial architecture.
- The level of financing shall be adequate and predictable with direct, simplified and quicker accessible by the recipient countries, especially by the LDCs.
- Immigration rights of the climate change induced forced migrants to the Annex I countries with ensuring their social, cultural and economic rights.

4. Position on Technology Transfer

Technology is a major element in addressing climate change in terms of the potential for existing and new technologies to play key roles in global and domestic climate change monitoring, mitigation and adaptation strategies and actions.

Although, the issue of technology transfer has been discussed among the state Parties but the governmental context is that governments could basically transfer nothing. As per intellectual property rights (IPR) the technologies are owned by the private sector and therefore the governments could not transfer these. That is why; in the trade ministers from different country Parties and representatives from the World Trade Organization (WTO) are increasingly taking part in the climate talks to explore possible options of trading environment friendly technologies developed by the Annex I country Parties.

In the Bali Climate Conference the trade ministers and senior trade officials from 32 countries were reached an agreement to intensify high level engagement on trade and climate change, and they have high hopes that the WTO will play a wider role in technology transfer. Supporting the inclusion of WTO in the trade game, the US trade representative said that the WTO, under the Doha Development Agenda (DDA), already gave a mandate for member countries to focus on negotiation on environmentally friendly goods and services.

Here, the pertinent question is how is DDA benefiting the LDCs? On paper, it is a matter of hope for the LDCs, but in practice it is a matter of frustration as the WTO members have not yet fulfilled the

commitments they made under DDA to allow duty-free and quota-free access to goods originating from the LDC's. Meantime, most of the LDCs have opened up their economies due to pressure of the international financial institutions (IFIs) e.g. the World Bank, IMF. For example, there are proposals at the WTO for removing the non tariff barriers e.g. removal of higher taxes on cars with a higher engine capacity, or the government actions to facilitate financing of consumers' purchase of motor cars, etc. which directly will contribute increasing carbon emissions.

Technology transfer to the developing countries should not just be about opening up of environmental goods and services market, but about enabling the developing countries to have access and procure these goods and services; facilitate the ability and capacity of developing countries to use these technologies for emission reduction and to adapt to climate change. Thus the trade liberalization for the goods and services which has been pushed by the WTO's multilateral trade mechanism would result nothing unless a 'package of capacity building and facilitation' measure is included with the process of technology transfer. Our positions on technology transfer are;

- LDCs should be provided with necessary financial assistance and technology cooperation in upgrading indigenous technologies through innovation, creating markets for relevant technologies with the right kind of investment and enabling environment
- LDCs should be exempted from the obligation of patent protection of climate related technologies for adaptation and mitigation, as required for capacity building and development.
- Development of Climate Change Adaptation and Mitigation Technologies must be kept outside the present IPR regime.
- Annex I Parties should support Innovative Climate Change Research and technology development and make it freely available to the LDC country Parties.
- Patented technologies should be made available free of charge to the LDC/SIDS
- Genetic resources, that are essential for adaptation in agriculture, must not be patented by multinational or any other corporations. These are also should not be consider as traded item under the IPR regime of WTO