



**Independent Association of Latin America and the Caribbean - AILAC**

**Submission on the Ad Hoc Working Group on the Durban Platform (ADP)**

Following the invitation from the ADP for Parties to make submissions with information, views and proposals on the work of the Ad Hoc Working Group on the Durban Platform (ADP), AILAC presents this contribution in order to advance the discussions on the 2015 legally binding agreement, in particular with regard to its overall structure.

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**I. GENERAL CONSIDERATIONS**

AILAC reiterates that in its view, the negotiations under the ADP should have as an outcome the definition of a new agreement that will be legally binding in nature. This legally binding agreement should aim at achieving the *ultimate* objective of the Convention, and be based on science. In this light, AILAC stresses that all the components of the legally binding agreement should be granted equal relevance and should have the same legal nature.

The link between climate change and development options should be clearly reflected on the legally binding agreement. Climate change is a direct threat to development. This threat is represented in the impacts that climate change has in all countries, and especially in those developing countries that are particularly vulnerable, which directly undermine the efforts to achieve sustainable development by inflicting incalculable losses in their economic, social and environmental structures and development trajectories, and undermining efforts to guarantee the well-being of their populations. Thus, climate change is a threat to the equitable right to development, *not because the need to limit emissions, but because its impacts limit development opportunities and undermines development gains. Poverty eradication efforts are therefore challenged.*

In this context, the focus of the new legally binding agreement should be on options and actions that all countries can pursue in order to pursue sustainable development pathways compatible with climate protection. The “climate-friendly economy” is about addressing development needs while mitigating GHG emissions so as to avoid catastrophic climate change. The new legally binding agreement should set the conditions for a global economy of growth that is climate sensitive: a “Climate Global Economy”.

Achieving this outcome requires an inclusive, transparent, and party-driven process. Arriving at the required deep and structural transformation of world economy to a low-carbon, climate resilient development paradigm requires that the UNFCCC process deliver ambitious evidence-based results, with engaged participation by all Parties in the definition of the future agreement. However, Parties need to ensure that the final agreement has the necessary flexibility to take into account each country’s specific and evolving circumstances, and thus avoiding the need for renegotiations in the future.

2014 is the pivotal year for the process, and Lima the key milestone. What we achieve - or not - in Lima will be decisive in defining the level of ambition, scope and nature of the new agreement. Therefore, there is an urgent need to make substantial progress during 2014 in the process of achieving a legally binding agreement by COP21 in Paris. A prerequisite for this is to arrive at functional draft text by COP20 in Lima.

During COP19, we failed both to agree to a clear timeline that would guide the work we are now starting in this session, and to define the specific elements that will be included in the agreement. It is fundamental that in the first session of 2014 we agree to the timeline, and that we define the specific elements of the agreement no later than the June session (SBs 40, ADP 2-5). We trust, however, that Parties will understand the historic responsibility that we have and ensure that we do not get caught in fruitless, tactical discussions over “process”.

## **II. STRUCTURE AND CONTENT OF THE AGREEMENT**

The COP mandated the ADP to further elaborate, beginning at this first session of the ADP in 2014, the elements for a draft negotiating text including the work on, inter alia, mitigation, adaptation, finance, technology development and transfer, capacity-building and transparency of action and support.

AILAC reiterates what was expressed in the previous submission put forward in August 2013, regarding the overall structure of the new legally binding agreement, which shall include at least the following elements:

1. Preamble
2. Mitigation (including REDD+)
3. Adaptation and Loss and Damage
4. Means of Implementation
5. Transparency
6. Compliance

The next paragraphs develop some initial ideas on the content for each of these elements, without prejudice to the need to include additional elements and additional detail in the content of each element, as the boundaries of the new legally binding agreement are defined.

### **1. Preamble**

The preamble needs to make a reference at least to the following basic aspects:

- The ultimate objective of the convention and the global goal to achieve it through the implementation of the new legally binding agreement;
- The fundamental basis of the agreement on science;
- The core characteristic of the agreement that refers to it being “applicable to all”;
- The principles of the Convention as a basis and guiding framework for the new agreement, including the principles of equity and common but differentiated responsibilities and respective capabilities, including historic responsibility and evolving respective capabilities;
- The recognition of the collective responsibility incumbent on all parties for both mitigation and adaptation, based on equity and sustainable development;

### **2. Mitigation (including REDD+)**

The agreement must have a section on mitigation, which would address at least the following issues:

- A reference to the global mitigation goal that needs to be achieved through efforts by all parties according to the concept of common but differentiated responsibilities and respective capabilities.
- A reference to the mechanism to determine nationally determined contributions, which should take a legally binding form, to ensure the new agreement is actually applicable to all and will enhance ambition at the national level in every country party, and through this, at the global level with the aim of achieving the common goal;
- A reference to the basic information that needs to accompany the statement of commitment made by each country party, in order to make commitments comparable,

and to ensure that their format allows for global aggregation in order to ensure environmental integrity in the achievement of the common goal;

- In general, the contributions should be:
  - o Predictable
  - o Comparable
  - o Understandable
  - o Provide information on assumptions that underpin the commitments: baseline year, timeframe, sectors and gases covered, emissions factors, methodology applied, use of markets, treatment of reduction units.
  
- A process for anchoring nationally defined contributions in the agreement;
- Provisions related to accounting and transparency of action;
- Provisions related to the support, including finance, technology transfer, and capacity building specifically for mitigation actions; and
- Provisions related to market and non-market mechanisms and their role in the national and global mitigation efforts, including on co-benefits of mitigation actions that go beyond GHG reductions.
- A review mechanism of contributions should be included and allow for ambition to be updated on the basis of science in the light of any possible future gap to achieve the global goal of keeping the increase of global temperature below 2°C or 1.5°C.

The provisions on mitigation must take into account that universality of application (“applicable to all”) does not mean uniformity. *In AILAC’s understanding the way to ensure equity is the implementation of a fair differentiation, where capacity and political will towards the highest level of ambition possible are at the core.*

In this light, contributions should be nationally determined, based on the each country’s national context, capabilities, responsibility and challenges. Support should be given to countries who need it most and who are willing to go beyond their capacity. Thus, differentiation must be between types of contributions. The agreement must put in place the right incentives so that all parties in a position to do so take action and become more ambitious.

AILAC reiterates that leadership on mitigation should come from developed country parties, in light of their historic responsibility and their capacity. Without prejudice of this leadership that all developed countries should take, AILAC countries are also leading in the measure of their own capabilities, and often beyond their responsibility for climate change. We wish to highlight the need for all parties to be ambitious in contributing to global efforts to combat climate change according to their own capacities, under the leadership of developed country parties.

## REDD+

We believe that the contribution of REDD+ to global climate change mitigation efforts is substantial and can be enhanced. REDD+ is a fundamental part of national climate change strategies and should be considered in the future post 2020 instruments in its proper dimension.

Considering that REDD+ has been designed on the basis of a voluntary and cooperative initiative between developed and developing countries and that the REDD mechanism architecture was defined by the Warsaw REDD+ framework, there is a window of opportunity to include this mechanism, both at pre and post 2020 timeframes, in Work stream 1 and 2 of ADP. To achieve this goal, we believe that there is an urgent need to reach an agreement that provides sufficient, appropriate, transparent and predictable funding in the pre-2020 timeframe to meet the expectations that have been generated.

The need for REDD+ to be in place before 2020 is also relevant to foster synergies with other Conventions and help countries meet their Aichi 2020 targets for the Convention of Biological Diversity. In the post 2020 timeframe, we believe this mechanism should be considered as a priority, with the appropriate modifications in a post 2020 world, so it can continue to contribute to global efforts to mitigate climate change. We hope that the spirit of constructiveness demonstrated during the REDD+ design process, continues to reflect the importance that forests have in global climate change mitigation efforts, while at the same time ensuring robust methodological frameworks to enhance environmental integrity.

### **3. Adaptation and Loss and Damage**

Adaptation is a matter of *collective responsibility* on addressing climate change, ensuring sustainable development and eradication poverty, and should be treated as such under the Convention and in the new agreement. Climate change impacts, and thus adaptation opportunities are central to development efforts in developing countries in several sectors such as health, culture, water, food security, biodiversity and ecosystem services, affecting the most vulnerable and causing migrations and climate refugees.

Contrary to what is commonly stated, adaptation is not only a local issue. Impacts and costs can be and should be assessed at local levels, but they can also be aggregated at national, regional, and global levels. Substantive, timely, and efficient investments in adaptation, as well as mitigation effort, are required to keep us within the adaptation context, when still possible, and not in a loss and damage setting.

Loss and damage is however a reality for many countries and communities and thus should be addressed by the Convention and the new agreement. Both adaptation and loss & damage should be included as elements in the agreement to be agreed in Paris.

There is an opportunity to further strengthen work on adaptation in the UNFCCC context, for instance an adaptation assessment framework must be established under the Convention. Also, and without prejudice of all institutional arrangements in place to support the LDCs, it is key that the focus on adaptation becomes broader, and includes all parties and not just developing countries. Within developing countries however, it is also important that more permanent and solid structures that support adaptation processes of non-LDC parties are established, without undermining the existing ones in place for LDCs. We need to ensure coherence within the adaptation instruments and modalities approved to date under different platforms under the Convention, and the new post 2020 instrument should contribute to better structuring adaptation elements, a key priority for highly vulnerable countries like ours.

Another opportunity for strengthening adaptation is further advancing on the metrics. We need to agree on methodologies to make adaptation assessments. Although this discussion is already ongoing under loss & damage, it should be brought also into the adaptation discussions. Only by measuring it is possible to understand the global implications of adaptation. Methodologies and indicators are fundamental for adaptation processes and the Convention should support parties in identifying costs, impacts, vulnerability, and baselines to measure progress. There should also be support for parties for sectoral and territorial adaptations options.

Means of implementation are fundamental for developing country parties to be able to assess adaptation needs, and formulate and implement NAPS. Adaptation has been heavily underfunded and public funds are needed to support and catalyze action, as well as enhanced financial, technical and scientific support. Involvement of the private sector is also decisive for adaptation efforts in all countries, but concrete options and opportunities are not well understood and the Secretariat should assist countries in advancing on this front, beyond involvement of the insurance sector.

The African Group's proposal on the adaptation goal is interesting and AILAC is looking forwards to have more in depth discussions on the proposal and how it might be included in the new agreement.

The National Adaptation Plans (NAPs) provide the essential basis for *all* countries to undertake necessary steps to identify and assess vulnerabilities and exposures within and across sectors, identify options, and define both soft and hard adaptation responses.

For this purpose, there is a need for enhanced financial, technical and scientific support for countries to undertake these assessments, and formulate and implement NAPs. Clear support

mechanisms for parties undertaking formulation or implementation of National Development Plans should be established.

The Nairobi Work Programme should be strengthened and elements included under the Programme should be built upon in the new agreement and mainstreamed into the broader adaptation discussions.

#### *Loss & damage*

The new agreement must build upon the Warsaw International Mechanism of Loss and Damage and its Work plan to ensure that the issue is given a central place under the new agreement.

Efforts should be directed towards ensuring that the Executive Committee of the Mechanism is fully substantive and not bureaucratic, and focuses on developing countries' vulnerability and the identification of specific country needs.

Also, given the mandate provides for progress on coordination among existing Convention bodies and coherence between different approaches to address loss and damage, special attention should be given to enhance the technical capacities of financial institutions in developing countries so as to identify the gaps and needs in the actions that will be undertaken.

#### **4. Means of Implementation**

The new agreement will include a section on means of implementation that should include at least the following elements:

- An overarching guiding objective that should be the foundation of all the provision of means of implementation, addressing the need to transition to a world where all investments are climate friendly investments, and where climate finance, technology and capacity stop competing against carbon-intensive actions;
- Provisions on the national responsibility of all countries to mobilize and invest resources in climate friendly actions at the national level, and to mainstream climate change in national spending;
- An explicit reference to historical responsibility of developed countries and its relationship with the provision of climate finance to developing countries for contributing to their mitigation and adaptation efforts;
- A request to strengthen the existing provision of climate finance and enhance it significantly, to achieve the maximum level of ambition possible in the provision of means of implementation;
- Specific reference to the definition of nationally determined contributions on the provision of means of implementation that shall ensure that adaptation and mitigation

action actually happen on the ground; these should be part of the overall process of defining the national contributions, and be subject to the same process of “anchoring” in the legally binding agreement;

- A reference to the areas where the means of implementation should be directed to be transformative in the results of the action implemented through them;
- Operational provisions related to the financial architecture of the Convention, the relationship of the compliance mechanism with the contributions of means of implementation, the MRV of support, among other operational issues.

The contributions on the provision of means of implementation need also to be defined as soon as possible; their definition should be in line with what will be agreed on the process for the definition of the nationally determined contributions in general.

The new legally binding agreement must ensure predictability in the medium and long term for the provision of the means of implementation, on the one hand, and on the other, provide all that is required for a transformation at scale in the way in which both public and private investments are made. *Predictability* and *scale* in the means of implementation are a fundamental requirement for this transition.

The agreement must address the issue of means of implementation in a holistic manner, including the provision of finance, technology development and transfer, and capacity building. All of these elements are necessary to implement action on the ground and can be part of the nationally defined contributions by parties.

National climate change strategies, both for adaptation and mitigation, will depend on transformation of production processes and service delivery; in this context access to state-of-the-art technologies and leapfrogging options must be privileged. At the same time, capacity needs to be built in-house<sup>1</sup>, in order to create the appropriate environment that can provide for implementation of ambitious climate change action.

The exercise of defining contributions to means of implementation must take into account the needs of developing country parties, especially those who are particularly vulnerable to the effects of climate change and whose capacities are limited. The definition of the intended nationally determined contributions and further implementation of such contributions will require substantial provision of means of implementation.

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<sup>1</sup> AILAC has submitted a submission specifically on the issue of capacity building, which includes elements that are relevant for the discussions under the ADP on this issue.

## **5. Transparency of action and support**

Transparency of action and support is cornerstone in the UNFCCC regime. It is a central element to build confidence and trust in the process, among parties, and in the international community's efforts to combat climate change.

The new legally binding agreement should build upon existing transparency arrangements both for action and support, making the most of the progress that has already been achieved in this area. However, the new regime must be adjusted and based directly on the gap that needs to be closed by the efforts to be made by all parties in order to achieve the Convention's ultimate objective.

The agreement should include at least the following elements related to transparency of action and support:

- Elements necessary to guarantee ex-ante clarity on the nature of mitigation commitments by all parties;
- Specific transparency rules upon which the nationally determined contributions will be based;
- Specific transparency rules on sources of support, the scale of support, the channels and instruments used;
- A unified MRV system for action and for support, which differentiates within it regarding the requirements on the basis of capacity; within the system, countries would evolve over time, as their capacity is enhanced, from the lower to the higher end of the transparency requirements;
- A mechanism to periodically review nationally defined contributions (on all issues) based on science and respective capacities.

## **6. Compliance mechanism**

Given that AILAC confirms its understanding that the new agreement will be legally binding, due attention must be given to the definition of a robust compliance mechanism.

### **III. MOVING AHEAD**

AILAC is confident on and fully supports the guidance of the Co-chairs for the work of the ADP, while underscoring the pressing sense of urgency that should inspire our work with a view to making substantive progress that will allow us to have draft negotiating text by COP20 in Lima

In order for this to happen, during 2014 we need to, at least:

- Define the outline and elements of the agreement by the June session (SBs 40, ADP),
- Based on the outline, prepare a draft text during the additional October ADP session; and
- Agree to a draft negotiating text by COP20 in Lima, for further negotiation during 2015.

Also, the discussion on the information that Parties will provide when putting forward their contributions should begin as soon as possible and in any case no later than the June session, so that such information can be agreed by COP20, pursuant to decision 1/CP .19.

In order to further advance the work under the ADP, AILAC suggests having *workshops* that allow parties to present their views on what the evolution of the interpretation of the principles of the Convention, and the way in which they will be anchored in and guide the new legally binding agreement.