

Human Rights & Climate Change Working Group
NEGOTIATIONS UPDATE 2016-1
 UNFCCC Session Report: SB-44 / May 2016 session

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Overview

Generally, the May session concluded with a general sense of relief that negotiators were ready to move forward on the basis of the Paris agreement. It took several days for parties to agree to the agenda of the APA but these discussions were important as the agenda will shape the negotiations for the coming years. A more balanced agenda was adopted as a result of these discussions (mitigation does not trump other issues).

In relation to human rights, many supportive delegations remain interested by the issue but lacked clarity on how to move this issue forward most effectively after Paris. Proposals for the organisation of a workshop focused on human rights were made twice, by Mexico and Uganda, but received no vocal support from other parties at this stage. Human rights were referred to most frequently in the discussions related to capacity building and are currently included in the relevant draft COP decision. We also saw some positive developments on some issues (eg. gender, article 6), while others remained ...others (eg. markets).

The HR&CC WG continued its work at the session with the goal to address both the need for a cross-cutting discussion and the importance of mainstreaming human rights into thematic workstreams. Interest remains among civil society allies to continue cooperation through the interconstituency approach (now referred to as “coalition for rights”, to clarify its scope). CSO colleagues from the “Geneva Group” working on land rights and food security were successful at giving more prominence to the social and environmental risks associated with negative emissions technologies.

Summary of new key upcoming deadlines prior to the COP-22

- Lima Work Programme on Gender: possible elements and guiding principles for continuing and enhancing the work programme”, by 29 August 2016 (SBI)
- Annual focus area or theme for the Paris Committee on Capacity-building for 2017, by 29 August 2016 (SBI)
- Nairobi Work Programme on Impacts, Vulnerability and Adaptation: health impacts, including occupational health, safety and social protection, by 29 August 2016 (SBSTA)
- Sustainable Development Mechanism - rules, modalities and procedures, by 30 September 2016 (SBSTA)
- APA submissions by 30 September 2016 on the following issues:
 - Features and ex-ante information for the NDCs,
 - Guidance in relation to the adaptation communication,
 - Modalities and processes for the transparency framework,
 - Sources of information and modalities for the global stocktake.

Summary of new key upcoming deadlines in early 2017

- Views on the organisation of the fifth dialogue on the implementation of Article 6 of the Convention, by 25 January 2017 (SBI)
- Nairobi Work Programme on Impacts, Vulnerability and Adaptation: adaptation planning processes that address ecosystems and interrelated areas such as water resources, by 25 January 2017 (SBSTA)
- Information related to opportunities to improve the participation of observers to the UNFCCC process, by 28 February 2017 (SBI)
- Views on the third review of the Adaptation Fund, by 30 April 2017 (SBI)

Human Rights & Climate Change Working Group & Interconstituency Process

The Human Rights and Climate Change Working Group focused on two parallel tasks: (1) the promotion of human rights as a cross-cutting issue and (2) the mainstreaming of human rights in relevant areas of implementation of the UNFCCC and the Paris Agreement. The HR&CC WG had lower capacity than in previous meetings, with only very few members of the WG attending the full session. The HR&CC WG adopted a new rhythm, meeting briefly every morning to coordinate for the rest of the day, esp. in relation to specific negotiating

sessions, and meeting every second day at lunch time to address more substantive issues.

The participants to the interconstituency process met twice during the session. There was a general willingness to maintain the interconstituency discussion moving forward as a platform for the exchange of information. Also, a joint approach to promoting the preambular principles (human rights, the rights of indigenous peoples, gender equality, just transition, intergenerational equity, food security, and ecosystems integrity) was discussed with initial buy-in from all the participants.

This initiative would be based on a two-tiers approach to ensure that we are able to capitalise on the new ambition/review cycles to promote the implementation of the rights related principles. At the political level, we would advocate for a comprehensive mandate for the transparency and global stocktake processes so that those also consider work to promote these principles. At the operational level, we would work with key allies to collect information about implementation and to conduct our own review process. A concept note for this initiative will be drafted during summer and circulated to the participants of the interconstituency process as a basis for future and more concrete discussions.

Human Rights as a cross-cutting issue

Key champions including AILAC countries remain highly interested to advocate for a space allowing to consider the interlinkages between human rights and climate change in a comprehensive manner – especially if this space could contribute to build the capacity of negotiators on these issues and to clarify . There is however a shared assessment that the current time pressure to deliver rapidly key elements necessary to operationalise the Paris Agreement tend to make these proposal less audible.

AILAC emphasised human rights in their opening intervention to the APA. Uganda and Mexico made interventions during the sessions to call for a workshop on human rights and climate change (respectively under the agenda item related to arrangements for intergovernmental meetings and under the APA). These proposals were not immediately supported by other parties in these sessions.

A meeting was held in Bonn under the leadership of Costa Rica with the participation of many signatories to the Geneva Pledge. This meeting was meant for these parties to exchange information about potential opportunities during the session to promote human rights in the work of the subsidiary bodies and of the APA.

APA Negotiations

The APA negotiations began with a discussion on the agenda which could be adopted only after about a week of negotiations. These discussions resulted in an

[agenda that is more balanced](#) (no heavy emphasis on mitigation as compared to adaptation, support...). A new item has also been included to take stock of progress with the implementation of the various elements mandated in the Paris Agreement.

The APA negotiation then started by a couple of plenary-like sessions dedicated to each of the agenda items. Proposals were made but rejected to invite the secretariat to prepare technical papers and organise technical workshops before the COP-22. Some parties remain unwilling to accept any process forward that might undermine the predominant role of parties in this process. The [APA concluded](#) by calling for submissions by 30 September on specific questions related to some of the agenda items:

- Features and ex-ante information for the NDCs,
- Guidance in relation to the adaptation communication,
- Modalities and processes for the transparency framework,
- Sources of information and modalities for the global stocktake.

Mainstreaming Human Rights under Specific Agenda Items

Please note that additional agenda items might be also relevant to human rights approaches to climate action but are not included in this short report.

Capacity Building (SBI)

The [5th meeting of the Durban Forum on capacity building](#) was convened during the session. The importance to consider human rights among activities covered by capacity building was mentioned several time during the forum. Notably, the Philippines and Guatemala explicitly referred to the need to integrate rights.

The SBI was mandated to perform the third comprehensive review of the implementation of the capacity-building framework as well as to adopt the terms of references for the Paris Committee on Capacity Building. The relevance of human rights for capacity building activities had been mentioned in several submissions prepared in relation to the comprehensive review (eg. EU, MRFCJ). While the SBI lacked the time to conclude the adoption of the conclusions of the comprehensive review, the [latest version of the draft](#) “requests the Paris Committee on Capacity-building, in managing the 2016– 2020 workplan, to take into consideration cross-cutting issues of national priority, such as gender responsiveness, human rights and indigenous peoples’ knowledge”. This discussion will resume and be concluded at the COP-22.

Carbon Markets – Clean Development Mechanism (SBI)

Parties continued to negotiate the review of the modalities and procedures (MPs) of the CDM and expressed a general desire to close this item in Morocco. However, discussions heated up on how to conclude and what messages should be included in the MPs. St Lucia on behalf of AOSIS highlighted that fundamental issues were not addressed in the review and need to be flagged in the decisions

in a visible manner, especially those with regards to environmental integrity. This is important since the CDM will inform the modalities and procedures of the SDM. Human rights considerations and social safeguards are not addressed in the CDM MP review yet.

The [session concluded](#) by highlighting that there continue to be divergent views on the need for further changes to the modalities and procedures. Respective submissions can be found on the UNFCCC website. Parties will resume this agenda item in Marrakesh.

Carbon Markets – Sustainable Development Mechanism (SBSTA)

Discussions on the rules, modalities and procedures of the market provisions under Art. 6 Paris Agreement were high on the agenda at the May intersessions, which includes non-market and cooperative approaches as well as the Sustainable Development Mechanism (SDM). At this initial round of discussions, parties exchanged a first round of views on what issues needs to be addressed in the future, listing issues such as double counting, the scope of the SDM, how to take into account experiences with the CDM, governance and oversight of the SDM as well as additionality.

However, no concrete mentioning of the need for social safeguards or human rights protection was brought forward in the negotiations. On the way forward, it was agreed to invite submissions to the SBSTA by parties and observer organizations on their views the rules, modalities and procedures by 30 September 2016. This is a crucial opportunity to underline the need for a rights-based approach and to bring social safeguards on the negotiation agenda. Discussions will resume in Marrakesh, taking into account the submissions made.

Gender (SBI)

An in-session workshop was held on gender responsive climate policies with a focus on adaptation and capacity building. The workshop was well attended and organised in a participatory manner. It delivered a [comprehensive set of recommendations](#).

The SBI also considered how to move forward with the promotion of gender under the Convention as activities under the [Lima Work Programme on Gender](#) were only mandated for an initial period of 2 years. The discussions related to this extension were positive as no strong objections were voiced by any party at this stage (except for Saudi Arabia...). The [SBI concluded](#) with an affirmation of its support for the “continuation and enhancement” of the work programme. The SBI invited submission on “possible elements and guiding principles for continuing and enhancing the work programme” by 29 August 2016. The extension of the work programme is expected to be negotiated and adopted at the COP-22.

Gender issues were also raised under many other agenda items, in particular in relation to the mandate of specific bodies or workstreams.

Article 6 of the Convention– Public Participation and Access to Information (SBI)

The parties undertook and concluded in Bonn the intermediate review of the [Doha Work Programme on the Article 6 of the UNFCCC](#). The [conclusions of the review](#) provided some guidance for the continuation of activities aimed at promoting the implementation of the Work Programme. Key features from the review include more focus on mainstreaming article 6 activities in other areas of implementation of the convention, the emphasis on the importance of regional cooperation and the suggestion to hold regional workshops, and a reference to the UN Economic Commissions – which we hope will strengthen the linkages between article 6 and the Aarhus Convention/UN-ECLAC process in Latin America.

The [fourth Article 6 dialogue](#) was also organised in Bonn. The dialogue featured a stronger focus on rights-based approaches to public participation and access to information that is usual under Article 6 of the FCCC. Parties and observers are invited to submit views on the organisation of the fifth dialogue by 25 January 2017. The next dialogue is expected to link the thematic areas of Article 6 to one of the areas of implementation of the UNFCCC (possibly, adaptation).

A [one-day workshop](#) for the national focal points on article 6 was organised back to back with the session. The workshop was meant as a first step to initiate a network of article 6 national focal points. It was disappointing from a rights-based perspective as none of the presentations related to procedural rights.

Participation of civil society in the negotiations (SBI)

Several parties emphasised the need to consider opportunities to enhance participation by observers in the negotiation process, either noting that the situation in Paris had not been satisfactory or emphasis the shift from political negotiations to implementation.

The [SBI concluded](#) by acknowledging “the need to further enhance the effective engagement of observer organizations as the UNFCCC process moves forward into the implementation and operationalization of the Paris Agreement”. In order to consider new modalities and opportunities, an in-session workshop will be organised in May 2017 and parties and observers are invited to submit written information by 28 February 2017. Part of the workshop will be dedicated to the issue of conflict of interest among observers, an agenda driven by NGOs but the implications of which are not well defined at this stage.

Adaptation - Nairobi work programme on impacts, vulnerability and adaptation (SBSTA)

SBSTA review recent activities undertaken under the Nairobi Work Programme (NWP). It also adopted [very detailed conclusions](#) mapping new activities and focus area for the NWP. The following areas were identified as priorities for the activities of the NWP in the coming years: ecosystems, human settlements, water resources and health.

The SBSTA also concluded that the NWP needed to “integrate the consideration of vulnerable communities in addition to gender issues, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, and the role of and impacts on ecosystems, where appropriate” and mandated that action will be taken with the support of the secretariat to address these issues. Considering the extensive discussions during the pre-Paris negotiations on the relevance of human rights for adaptation, these conclusions (and in particular the reference to cross-cutting issues) would have offered a good opportunity to integrate human rights in the work undertaken under the NWP.

Submissions are invited on each of the four focus areas mentioned above - the following calls offering potential opportunities to highlight human rights-related issues in the context of the NWP:

- health impacts, including occupational health, safety and social protection, by 29 August 2016 (SBSTA)
- adaptation planning processes that address ecosystems and interrelated areas such as water resources, by 25 January 2017 (SBSTA)

Adaptation - National adaptation plans (SBI)

Last year, the SBI had initiated the consideration of options to improve the reporting related to the process of formulating and implementing National Adaptation Plans (NAPs). The SBI 44 continued these consideration. At this session, [the SBI highlighted](#) the relevance of the National Adaptation Plans in the context of the Paris Agreement article 7 and noted the role played by the Least Developed Countries Expert Group (LEG) and the Adaptation Committee to support the NAPs, in particular on issues related to accessing funding from the GCF for the process to formulate and implement NAPs. Potential work related to better integrating human rights in the NAPs should mainly focus on engagement with these two bodies. The SBI will continue work on this agenda item at its May 2017 session.

Adaptation - Third review of the Adaptation Fund (SBI)

The SBI is mandated to review the Adaptation Fund every three years. The SBI 44 initiated the third review of the Adaptation Fund with the [adoption of the terms of reference for the review](#). Unfortunately the review does not explicitly highlight safeguards as an issue to be specifically addressed by the review (the Adaptation Fund has established specific processes). Still, the terms of reference identify “lessons learned from results and impacts of approved adaptation projects and programmes” and “institutional arrangements” as specific issue to

be addressed by the review. Submissions are invited by 30 April 2017 to provide information on any element covered by the terms of reference agreed in May. This call could offer opportunities to comment on the safeguards established by the fund.

Guidelines for the preparation of national communications by Annex-1 countries (SBI)

The SBI was mandated to finalise the revision of the guidelines for the preparation of national communications submitted by Annex-1 countries. These mandatory guidelines will be used for the seventh national communications expected to be submitted by the end of 2017. The revision of the guidelines offered an opportunity to invite parties to report on their work to integrate the elements mentioned in the preamble of the Paris Agreement as well as to increase the coherence between the reporting requirements and the Doha Work Programme on article 6. Unfortunately, a pre-session workshop was organised on this agenda item (close to observers) and the negotiators involved refused to consider new elements at this final stage of the review process. The new guidelines adopted are contained in the [SBI conclusions](#) and include no useful reference.

Agriculture (SBSTA)

Two in-session workshops were held in May respectively on “[Identification of adaptation measures taking into account the diversity of agricultural systems](#)” and “[Enhancing agricultural productivity in a sustainable manner, food security and resilience](#)”.

These workshops were organised in the context of a two-years programme of activities decided in Lima. Since these activities have now concluded, parties were supposed to consider whether agriculture should still be tackled through a specific SBSTA mandate – eg. a work programme. As divergences remain among parties on how agriculture should be addressed (through adaptation, mitigation or both), no conclusions could yet be adopted on this issue which will be discussed at the COP-22. This negotiation may offer an opportunity to include a stronger focus on food security for this workstream which is broader than agriculture and recognised in the Paris Agreement.