



United Nations
Economic Commission for Africa

ACP^C
African Climate Policy Centre

Young African Lawyers (YAL) Programme

Capacity Development for African Lawyers

06 – 16 November 2017
Bonn, Germany

Contents

List of acronyms:.....	Error! Bookmark not defined.
1. Context.....	2
2. Preparing for negotiations.....	3
2.1.Negotiating theory.....	3
2.2.Preparing for the negotiations.....	3
2.3.Positions and bargaining.....	4
2.4.Tips and tricks.....	5
3. Preparing the African Negotiator:	5
3.1.The G77+China and its dynamics:.....	6
3.2.The membership of G-77 and China.....	6
3.3.The challenges in the G-77 and China.....	7
Tips and tricks.....	7
4. Key agenda at COP23:.....	8
4.1.Some of the key outcomes and decisions:	8
4.2.Interactions with the YAL participants:	9
4.3.Activities undertaken by the participants - general:	10
4.4.Activities undertaken by the participants – side-events:	10
4.5.Participants’ personal experiences – some excerpts from their reports:	11
ANNEXURES	12
List of participants:.....	12
Copy of presentation:	12

1. Context

The 21th Conference of Parties to the United Nations Framework Convention on Climate Change finalized a new legal binding climate agreement under the Ad Hoc Working Group on the Paris Agreement (APA) that is now referred to as the Paris Agreement on Climate that was adopted during COP22 in Marrakesh bringing it into force.

The Twenty Third Conference of the Parties (COP23) is important because Parties will get an opportunity to negotiate the instruments and other modalities for the implementation of the Paris Agreement. The method of work for the session will be in facilitated groups, within which the different sections of the text will be negotiated in parallel. This will help to provide streamlined text and focus negotiations on substantive issues among parties. Consequently, this requires a strong engagement, critical review and analyses of the text by African legal experts in the different parallel sessions. The COP sessions usually have at least four parallel sessions at a time; this will require a strong presence and engagement of the legal experts in the different parallel sessions. The young lawyers' participation will ensure Africa's interest in the negotiation, and also build their capacity in multilateral environmental negotiations.

Therefore, building on inception workshop for the new members of the YAL programme that provided them with a theoretical understanding of the process, the COP session aimed at strengthening the capacity of African legal experts in the negotiation process and providing legal support for the African Group of Negotiators, to effectively participate in shaping the outcomes of the Post-Paris negotiations that will underscore implementation of the agreement by African member states. As countries embark with implementation of the Paris Agreement, this is an opportunity to highlight and enshrine the application of CIS for the implementation of the actions listed in Africa's NDCs. In support of the African Group of Negotiators, the YAL members are therefore expected to articulate and introduce the critical need to enhance the application of CIS for the implementation of the agreement under the instruments for implementation.

On the basis of the context that there was a need to undertake the following:

1. Organise and deliver capacity building training workshops and mentoring programmes for young African as future negotiators.
 - a. Initiate training workshop (2 – 4 days on how to improve negotiating skills),
 - b. Drafting position papers and negotiating texts.
2. Organise a pre session meetings to prepare draft negotiating texts reflecting the positions of Africa.
 - a. Revising and providing inputs into the negotiating texts,
 - b. Prepare guiding notes for the negotiators in presenting and defending the texts.
3. Develop programme tailored to provide support for national implementation of the Paris Agreement.

The work plan involved meeting the Young African Lawyers every day during COP23 (Table 1).

Table 1: Work Plan for the Young African Lawyers Capacity Building Programme at COP23.

No.	Dates	Work plan
1	7 th November 2017	<ul style="list-style-type: none"> • Introductory meeting of participants presently in Bonn • Attend African Group of Negotiators lead coordinators/ strategy meeting
2.	8 November 2017	<ul style="list-style-type: none"> • Attend the African Group of Negotiators lead coordinators/ strategy meeting
3.	9 November 2017	<ul style="list-style-type: none"> • Attend a preparatory briefing meeting on the negotiation process by Seth Osafo
4.	10 November 2017	<ul style="list-style-type: none"> • Half a day workshop for the Young Lawyers: 9-12am • Senior Legal Officer of the UNFCCC Secretariat will be invited to address the group on the role of lawyers in the process
5.	11 November 2017	<ul style="list-style-type: none"> • Stocktaking of activities of the first week: 6-7 pm
6.	13 November 2017	<ul style="list-style-type: none"> • Attend the African Group of Negotiators lead coordinators/ strategy meeting
7.	14 November 2017	<ul style="list-style-type: none"> • Meeting to receive interim reports and prepare for high level segment of COP 23.
8.	15 November 2017	<ul style="list-style-type: none"> • Attend the African Group of Negotiators lead coordinators/ strategy meeting.
9.	16 November 2017	<ul style="list-style-type: none"> • Attend the African Group of Negotiators lead coordinators/ strategy meeting.
10	17 November 2017	<ul style="list-style-type: none"> • Wrap up meeting with the Lawyers after the AGN Coordination meeting, AM.

2. Preparing for negotiations.

2.1. Negotiating theory

The basic purpose of negotiating is to resolve conflict of interests on various issues. Negotiation aims to achieve a result that satisfies all Parties. A good negotiator is one who is a good listener, proactive, diplomatic and analytical, has technical knowledge, language skills and, above-all, self-discipline. It is important to remember that individuals can make a difference even if they are from very small countries.

2.2. Preparing for the negotiations

A good negotiator prepares thoroughly for the negotiations. This means that the negotiator has a good understanding of the issues at stake, as well as clarity about, his/her country's interests and position on each of the issues and the respective positions of other countries on all the issues. He or she has to be fully conversant with all the key issues that will come up for negotiation in the next round of negotiations and must know all the issues that have been accepted or rejected in the past negotiations. The negotiator must be fully aware of the legal implications of the Rules of Procedure and adopted text, must be familiar with diplomatic protocol and must have social skills that enable him or her to mix freely in the international context.

In the context of modern environmental diplomacy, a negotiator must not only have legal and political skills, but also good depth of knowledge on economics, finance and natural sciences. In addition, since most of these issues cover complexity at a very detailed level, the negotiator has to be able to assimilate the facts and separate them from the assumptions and the perceptions.

The negotiator needs to prepare in advance on the basis of the perceptions of the stakeholders in his or her own country in order to determine his or her own position on these issues.

A good negotiating team consists of a group of negotiators who cover the various issues and have expertise in complementary areas. The team is led by a head of delegation. There is frequently a deputy head who can negotiate during the all-night sessions. A clear division of labour among the team members in terms of substance and process is arranged in advance and takes advantage of different skills and technical backgrounds. The younger team members are groomed into the process. Some team members focus on cross-sectoral issues so that the country position is consistent in different related sub-issues. Some may be entrusted with the task of building coalitions with other countries.

Some may focus only on monitoring the process, and securing the most important documents for the negotiations. Legal drafters may be involved simply in drafting the text. Some may be responsible for making copious notes of the negotiations so that it is possible to double check on the (changing) positions of other countries.

The preparations need to be done in advance of the negotiations, so that at the negotiations there is time to respond to the new ideas and views that are being circulated.

2.3. Positions and bargaining

There are two types of bargaining strategies. One is referred to as distributive bargaining and the other as integrative bargaining. The simplest form of negotiation is distributive bargaining. Here one party wants one item from the other. This is a win-lose situation. In such situations it is likely that one wins at the cost of the other. In such negotiations, each party has an aspiration position (a position that the party wants) and a reserve position (the lowest acceptable negotiating position).

In integrative bargaining, an attempt is made to breach the gap between the interests of the two Parties by developing a possible package of negotiating elements, in which each side gives something to the other side and vice versa. This is possible through issue-linkages to other issue areas. Thus, each party makes some concessions in different issue areas and together they reach relative satisfaction. This implies that both Parties must be ready to seek potential options for developing such issue-linkages and need to have something to offer each other.

2.4. Tips and tricks

- Prepare thoroughly for each negotiating session.
- Have a clear brief outlining what deliverables your government expects. Know your interests and bottom line.
- Be careful not to over-defend your position. You may work yourself into a corner and it is then harder to change your position without losing face.
- Develop more than one version of a proposed text (you may also need to anticipate reactions).
- Consider relative strategies and chances available in trying to obtain the deliverables.
- Have reasons ready to defend key concepts and negotiating positions.
- Do not introduce complex language that does not clarify the process or provide a safeguard as it can create unforeseen problems.
- Be prepared to explain why existing text is or is not acceptable.
- Be flexible and prepared for tactical retreats, to gamble and, if necessary, to change course towards your goal.
- Try to develop useful linkages to other issues of concern to your country and reasons why these should be related to the climate negotiations.
- Try to identify areas in which you can provide concessions to the other party during the negotiations in return for issues on which your concerns are met.

For more information read:

Schelling, T.C. (1960). *The Strategy of Conflict*, Harvard University Press, Massachusetts.

Saner, R. (2000). *The Expert Negotiator*, Kluwer Academic Publications, The Hague.

3. Preparing the African Negotiator:

This part of the workshop presentation was based on a book by Joyeeta Gupta entitled “*On Behalf of My Delegation, - A Survival Guide for Developing Country Climate Negotiators*,” and it formed the climax of the workshop. The brief overview was followed by tips and tricks of a climate change negotiators which included understanding the issues at hand and being well versed with all issues related to FCCC, KP and keeping up to date with issues discussed at COP meeting. To enlighten the conference participants on the various organs associated with climate change issues, the participants were give an overview of Bodies established by the Convention and Protocol. Overview covered information on activities of bodies such as the Conference of Parties (COP), Secretariat, and Subsidiary Body for Scientific and Technological Advice (SBSTA), Subsidiary Body for Implementation (SBI) and the role of the Global Environment Facility (GEF). As part of this background information, the participant were also given an overview and definitions of the various Informal Groups (i.e. friends of the chair/president, working group, joint working group, contact group, joint contact group, informal group and non-group) to be found at climate change negotiations. To add it all up the participants were given some enlightenment on how all these groups are structured and how they work together.

The overview and introduction was followed by further tips and tricks of negotiations such as what should one do when they alone at the negotiations, when they have missed some sessions and if they are unfamiliar with the issues being tabled. In addition to the tips and trips, conference participants were taken through the politics of climate change negotiations with regards working dynamics of the climate change regime coalitions (i.e. the various coalitions, their working, advantages and disadvantages). The participants were given tips and tricks of how to negotiate in the G77+China group and how to derive the best benefits from negotiating through the group. Finally the participants were taken through the essential elements that make a good negotiator and some tips on how to become a good negotiator.

The power point presentation is provided in Annex 1 below

3.1. The G77+China and its dynamics:

The South consists of three and a half billion people living in about 140 countries in thousands of communities with diverging religions, languages, customs and resources. However, it also exists as a loosely united body that is defined by its geographical location, its shared structural and political characteristics, its use of soft currency and its common historical experiences.

While the birth of the G-77 in 1964 principally aimed at developing a strategy of coalitional bargaining to restructure the international economic system in favour of the South, the G-77 has been used as a negotiating framework also for environmental and other issues. In the 1970s and 1980s, the G-77 had difficulty in articulating its position. With the end of the Reagan era, the Cold War and the economic decline in many developing countries, the developing countries once again tried to enhance their bargaining power with the preparations for the Earth Summit and were able to redefine a position. Since then the group has grown exponentially and they have been influencing the various committees of the UN. In 2000, the very first global G-77 summit was held.

3.2. The membership of G-77 and China

There are 153 non-Annex I countries. Of these 130 are members of the group G-77 and China. The chair of G-77 rotates among the countries on an annual basis. The chairmanship rotates between regions but there is no clear list of future chairs. The G-77 and China currently has a Rome Chapter (at FAO), Paris Chapter (at UNESCO), Nairobi Chapter (at UNEP), Washington Chapter (at IMF and World Bank) and a Vienna Chapter (since 1998 at UNIDO) (<http://www.G-77.org/vienna/index.html>).

3.3. The challenges in the G-77 and China

The G-77 has extraordinary challenges. It includes a few very rich countries in a vast majority of poor countries. The governance systems are different and they have limited resources. The secretariat of G-77 and China itself has limited resources. Although G-77 shares key concerns, there are many issues in which member countries have diverging interests. Key challenges faced by these countries include difficulties in articulating what sustainable development should look like. How can they ask for equity in the international negotiations, without being held accountable by other countries and local actors for domestic equity related issues?

Tips and tricks

- Master the internal procedures and workings of the group. Be active within the group.
- All G-77 members speak through G-77. If you haven't discussed your position in G-77, don't discuss it in public.
- Assign responsibility for each negotiating issue to different colleagues within the G-77.
- Always attempt to put a proposal in writing and put it before the group in advance.
- Listen very carefully to the views of others and see if you are talking the same language.
- Identify the key G-77 interests and pursue them under each issue, unless they are incompatible with your national interests.
- Exchange ideas and approaches informally among the G-77 members.
- Try to understand the strengths and weaknesses of G-77, and try to contribute to minimizing its weaknesses.
- Some delegates tend to dominate the discussions (in particular English speaking delegates). Try to find ways of communicating to ensure that you too have a chance. Written submissions are one way to affect the agenda and the internal process
- Ensure that individuals with language skills are included on your national delegations.
- Capitalize on the size of the group and avoid feeling powerless against wealthier nations.

For more information read:

Journal of the Group of 77, e-mail [G-77off@undp.org] Sridharan, K. (1998). G-15 and South-South Cooperation: Promise and Performance, *Third World Quarterly*, Vol. 19, No. 3, 357-373. For more information visit: G-77: <http://www.G-77.org/>

4. Key agenda at COP23:

At COP23 Governments met to advance the implementation of the Paris Agreement. They focused on developing guidelines for the implementation of the Paris Agreement's. Key areas of focus included transparency, adaptation, emission reductions, provision of finance, capacity-building and technology. The aim is make progress in all these areas so that the guidelines can be completed by COP24 in Poland in 2018.

TEXT BOX 1: Paris Agreement summary

- i. Aim to peak GHG emissions as soon as possible and to achieve net-zero emissions in the second half of the this century
- ii. A requirement for mitigation measures of individual countries to be expressed in nationally determined contributions (INDCs)
- iii. Countries to achieve NDCs jointly, sharing mitigation targets and a mechanism for countries to cooperate in achieving NDCs.
- iv. Encouragement for parties to implement existing frameworks for REDD+ including through the provision of results-based payments
- v. A non-punitive mechanism that is expert-based and facilitative in nature.

The UNFCCC COP23 comprised of the following meetings:

- The twenty-third session of the Conference of the Parties (COP 23)
- The thirteenth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 13)
- The second part of the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA 1.2)
- The forty-seventh session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 47)
- The forty-seventh session of the Subsidiary Body for Implementation (SBI 47)
- The fourth part of the first session of the Ad hoc Working Group on the Paris Agreement (APA 1.4)

The COP, the CMP and the CMA are the supreme decision-making bodies for the Convention, the Kyoto Protocol and the Paris Agreement respectively.

4.1. Some of the key outcomes and decisions:

Some of the key decisions (Table 2) included:

- The Warsaw International Mechanism for Loss and Damage associated with climate change impacts (WIM),
- Local communities and indigenous peoples' platform,
- Issues relating to agriculture and
- Gender and climate change.

Table 2: Key decisions and outcomes:

Key decisions	Description	Outcome
Warsaw Implementation Mechanism (WIM) on Loss and Damage	To avert, minimise and address loss and damage that are particularly vulnerable to the adverse effects of climate change, vulnerable populations and the ecosystems that they depend on.”	<ul style="list-style-type: none"> Operationalising the clearing house for risk transfer and the task force on displacement To evaluate progress made towards implementing its five-year rolling work plan in 2020 and at regular intervals Convene a meeting in May 2018 on all areas of WIM which will include consultations with stakeholders to take into consideration both cross-border and internal displacement,
Local communities and indigenous peoples’ platform	To strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change,	<ul style="list-style-type: none"> An expert dialogue to explore a wide range of information at the next session of the SBs To consider at its 48th session (Apr-May 2018) the further operationalisation of the platform, including the establishment of a facilitative working group,
Issues relating to agriculture	To consider issues relating to agriculture, with the aim of exchanging views.	<ul style="list-style-type: none"> Parties and observers “to submit by 31 March 2018, their views on methods and approaches for assessing adaptation, adaptation co-benefits and resilience, etc.” The Subsidiary Bodies are requested to report on the progress and outcomes of the work to COP26 (Nov 2020).
Gender and climate change	SBI Marrakech (decision 21/CP.22) to develop a gender action plan (GAP) in order to support the implementation of gender-related decisions and mandates in the UNFCCC process.	<ul style="list-style-type: none"> COP invited Parties and relevant organisations to participate and engage in the implementation of gender-related activities within the GAP, including enhancing the capacity of the gender focal point of the secretariat.

4.2. Interactions with the YAL participants:

Several interactions were undertaken. These included, among other (a) support during the COP23 negotiations; (b) briefings by the participants to Dr Osafo and Mr Lesolle on specific issues and agenda items at COP23; (c) enhancing participation at various for a, including G77 +China, Africa Group other groups as well as in the Drafting Sessions; (d) post COP23 activities including follow-up actions.

The YAL were also provided with support on issues such as; (a) Organisation of the COP process; (b) where to get information about past decisions; (c) getting onto the agenda and getting country specific issues onto the Africa Group, G77 and China and into the scheme of UNFCCC; (d) pre-UNFCCC preparations and consultations at home prior to COP including financing travel; (e) role of the lawyer post COP and Pre-COP preparations and so on.

4.3. Activities undertaken by the participants - general:

- i. Analyzing other parties' submissions and interventions and advising the APA lead coordinators on appropriate responses to ensure the interests of the group are reflected in the outcome.
- ii. Briefing the Kenyan focal point and coordinators on the legal implications of negotiation and decisions¹.
- iii. Drafting legal text for consideration by the AGN as and when requested.
- iv. Liaising with other AGN group lawyers and other lawyers in offering general legal support to the AGN negotiators.
- v. Different s participants followed various negotiation streams for example (a) APA agenda item 7: Modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement (b) Article 9, Paragraph 5 of the Paris Agreement (c) Impact on the Implementation of Response Measures and Improved Forum under SBI agenda item 17 and SBSTA agenda item 9 and Modalities, (d) work programme and functions under the Paris Agreement of the forum on the impact of the implementation of response under SBI agenda item 17 (b) together with SBSTA agenda item 9 (b) just to mention a few.
- vi. Attended a side event on adaption and climate finance by the Green Climate Fund (GEF) in some SADC countries, hosted by South, South North at Bonn Zone on 15 November 2017 @11:30.
- vii. Attended (watched on screen) a High-Level Segment during My Minister's (Hon. Pohamba Shifeta, Minster of Environment and Tourism, Namibia) statement delivered on 16 November 2017 at Plenary Genf².
- viii. More importantly, attended a training of YAL programme on 11 November 1017, at 14h00 to 15h00, and five follow up meetings.

4.4. Activities undertaken by the participants – side-events:

Some participants took part in several side-events especially where they were part of the national delegations; for example;

- The event co-organised by Pan-African Agency of the Green Wall, the Observatory of the Sahara and the Sahel, for adaptation and resilience of communities and local people of the Sahel³:
- Technology for the treatment of non-industrial sewage to make agriculture attractive for the benefit of young people in the context of the climate finance?
- Climate action for food security: harvesting adaptation and mitigation benefits in the land sector, organised by United Nations (UN)

¹ Submission by Edward Wabwoto - lawyer National Environment Management Authority (NEMA-Kenya)

² Submission by Natalia N Heita – Attorney Generals 'Chambers, Namibia

³ Submission by Tonde Sonia Audrey from Burkina

4.5. Participants' personal experiences – some excerpts from their reports:

- The session was busy with many agenda items for negotiations
- Working with various lawyers from different countries in Africa was exciting to me
- The training was helpful in providing the general idea of the UNFCCC negotiation processes, especially in providing tips on how to go around issues as it relates to us as lawyers
- There is a need to extend the training sessions to guide us in understating issues and most importantly how we can translate them from the technical aspect into legal aspects and to consequently make us helpful and relevant, not only to the needs of the AGN but also to that of our specific countries.
- It will be more beneficial if we are informed on time in order for us to prepare and attend the Conference on time and preferably also attend the pre-sessions. I strongly believe that this will enable us to understand better and follow issues at ease.
- COP 23 has been very interesting and fruitful, especially the theory and practice of negotiation.
- After Bonn experience, it is better to have at least one week training before taking part to the COP.
- Everyone should choose an agenda item and should focus on the item during the COP and present a report at every meeting after the AGN meeting.
- It is very important to have a schedule before leaving.

ANNEXURES

List of participants:

#	Name(s)	Country	e-mail
1	Winfred Lichuma	Kenya	winnielichuma@gmail.com
2	Natalie Heita	Namibia	natalieheits@gmail.com
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4	Ouedraogo Maimouna	Burkina Faso	Naoami_810@yahoo.fr
5	Sumia Mohamed	Sudan	Sumiamohamed2015@gmail.com
6	Oumou Doumbouya	Guinea	oumoudoumbouya@yahoo.fr
7	Happy Khambule	South Africa	happykhambule@gmail.com
8	Ba Moussa		Bamouss14@
9	Amani Ibrahim Ahmed	Sudan	Amani.ibrahim41@yahoo.com

Copy of presentation:

Becoming a Climate Change Negotiator

Young African Lawyer Programme at COP23

David Lesolle
University of Botswana
11th November 2017

The Climate Convention and the Kyoto Protocol

The key documents in the regime are:

- The United Nations Framework Convention on Climate Change (FCCC 1992) and the
- Kyoto Protocol to the United Nations Framework Convention on Climate Change (KP 1997).
- In addition, the decisions in the regime are taken by the Conference of the Parties (COP). The COP meets annually since 1995.
- The Conference of the Parties makes its decisions on the basis of the reports of the subsidiary bodies

Based on excerpts from:

“On Behalf of My Delegation,...”

A Survival Guide for Developing Country Climate Negotiators

by Joyeeta Gupta
Institute for Environmental Studies
Vrije Universiteit Amsterdam
The Netherlands

The UNFCCC

- The Convention divides the world into two groups— developed (western countries and eastern countries with economies in transition listed in Annex I, and developing countries.
- Annex I countries were encouraged to reduce their emissions of CO₂, N₂O and CH₄ in the year 2000 to the 1990 levels. Under the Convention, developed countries listed in Annex II (a sub-set of Annex I) are expected to provide financial assistance to the developing countries (Art. 11, 21). They are also expected to cooperate in the field of science and technology transfer to enable these countries to adopt more climate-friendly technologies and to adapt to the potential impacts of climate change.
- The FCCC calls on all Parties to make national inventories of emissions and adopt climate policies (Art. 4), to undertake research and observation (Art. 5), education, training and public awareness (Art. 6) and to communicate these to the Secretariat (Art. 12).

The Kyoto Protocol

- At COP-3, the Kyoto Protocol (KP) to the FCCC was adopted.
- The KP aims to reduce emissions of Annex I countries by at least 5% below 1990 levels (and in some cases 1995 levels) in the period 2008-2012.
- Individually, these countries have separate commitments. The European Union countries are collectively expected to reduce their emissions by 8%, the USA by 7% and Japan by 6%.
- The Protocol identifies policies and measures that can be taken by countries (Art. 2) and quantified commitments for Annex B countries on six GHGs and reiterates other commitments (Art.10). Countries need to communicate their measures (Art. 7) and these are then reviewed (Art. 8).

Tips and tricks

- Understand the main and peripheral issues in the debate and in the environment of the negotiations.
- Familiarize yourself thoroughly with the FCCC and KP; at least keep it in your possession at all times.
- Underline texts that are relevant for your own position on key issues, so that you can cite them without having to search for the appropriate texts.
- Keep a copy of all the COP decisions within reach. If you need one, the document desk of the FCCC has a copy of all decisions for you to refer to.

The bodies established by the Convention and the Protocol

five bodies co-exist:

1. The Conference of the Parties (COP), which consists of negotiators from ratifying countries, meets once a year to review the implementation and to take decisions on how to improve the implementation process (Art. 7).
2. The Secretariat undertakes the day-to-day activities of coordinating the implementation and makes arrangements for the annual meetings of the COP.

The bodies established by the Convention and the Protocol

3. A Subsidiary Body for Scientific and Technological Advice (SBSTA) has been established to advise the COP about the latest developments in the scientific and technological area and to provide policy recommendations (Art. 9). The SBSTA meets once or twice a year
4. The Subsidiary Body for Implementation (SBI) provides assistance in assessing and reviewing the implementation of the Convention.

The bodies established by the Convention and the Protocol

5. The Convention also identified the Global Environment Facility (GEF) as an interim operating entity to provide financial resources on a grant or concessional basis, including for technology transfer, to the developing countries.

Informal Groups

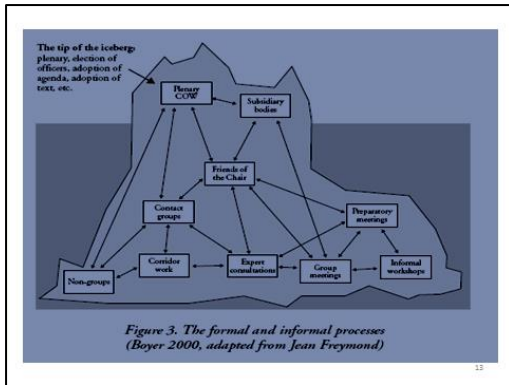
- **Friends of the Chair/President:** Sometimes the Chair can invite a few prominent negotiators to form a group called Friends of the Chair/President to help informally in developing consensus on issues.
- **Working Group:** A group convened by the COP or by one of the subsidiary bodies to work on large scale issues. The Chair or Co-chairs must be designated by the Chair of the body calling the Working Group, and membership is open to all Parties. Examples: Working Group on Mechanisms, on Compliance, etc.

Informal Groups

- **Joint Working Group:** Two working groups, each convened by a different subsidiary body, brought together to work on cross cutting issues.
- **Contact Group:** A spur-of-the-moment group called into being to resolve a specific issue on which there is disagreement. Membership is ostensibly open to all Parties, but is usually limited to those Parties individually invited by the Chair to participate, due to their different viewpoints.

Informal Groups

- **Joint Contact Group:** Two contact groups created separately and brought together to resolve differences between them.
- **Informal Group:** A group called into being by one or more of the Parties, for purposes of informal consultation.
- **Non-group:** Under circumstances of extreme reluctance to enter into negotiation, non-groups can be called into being by the Chair in order to encourage communication without the pressure of negotiations.



Coalitions in the Climate Change Regime

- Coalitions can be power-based (e.g., G-77 versus non-G-77; see Section 7), issue-specific (e.g., Alliance of Small Island States – AOSIS), institutionalized or formal (e.g., the European Union – EU), political or constructed (e.g., JUSSCANNZ).
- The disadvantages of coalitions is that although in theory one has the flexibility to manoeuvre in different groups, in practice it is very difficult to move out of a specific coalition.

Tips and tricks

- If you are alone on your delegation, you should focus on one or two critical issues for your country and choose the most appropriate plenary session.
- Seek ways of finding out what happened in the sessions you missed.
- If you can find another lone negotiator from a like-minded country, you can divide the plenary negotiations between you. This is unorthodox in that the other negotiator can in no way represent your country, but he or she can alert you to issues that might be relevant for your country and you can reciprocate in kind.

The divisions across the groups in Non-Annex I

The non-Annex I countries too have diverse groupings.

- The Africa Group consists of 54 countries,
- The group of Latin America & the Caribbean has 33 members
- Asia does not have an active regional group in the negotiations.
- In addition, there is AOSIS which has 42 members of which four are not independent States and five are not members of G-77.
- OPEC has 11 members in Asia, Africa and Latin America.
- GRILA is an informal group in Latin America.
- The non-G-77 non-Annex I countries consists of 23 countries.

Tips and tricks

- If you cannot make sense of all the informal processes, find someone from the NGOs from your region and ask them for a briefing.
- In the long-term, it is absolutely imperative to make coalitions with other developing countries and share the participation in the informal processes (i.e., division of labour between countries (team up!)).

Tips and tricks

- Identify the group to which you belong—G-77, non-G-77 and non-Annex I, or Annex I.
- If your country is a G-77 member, attend the G-77 meetings which normally begin at 9:00 in the morning during the sessions.
- Identify the regional group to which you belong and attend their meetings which normally begin at 8:00 in the morning.
- Identify the sub-group to which you belong; and find dinner or corridor opportunities to see what they are pushing forward.

Coalitions in the Climate Change Regime

- The climate change negotiations take place among 194 countries. It is impossible to negotiate with each country individually. This means that countries try to develop coalitions with other countries. Such coalitions are necessary to make the negotiations manageable, to reduce the complexity of the issues and the numbers of negotiating groups.
- Coalitions can be used to put issues on the agenda, to negotiate a point of view, and to modify or break a consensus.

Tips and tricks

- Identify if there are issues on which you can agree with other subgroups; but do not do this behind the back of your own group. This can create an unpleasant diplomatic breach.
- Read miscellaneous documents that cover country positions on specific issues.
- Keep copies of group positions and submissions from past and on-going negotiations in their different drafts (institutional memory).
- Make a critical analysis of each text, with an eye for underlying policies or "traps."

The HARVARD Concept to negotiations

The HARVARD Concept suggests four principles of successful negotiation:

- Separate people and problems.
- Focus on interests, not positions.
- Invent options for mutual gain.
- Insist on using objective criteria.

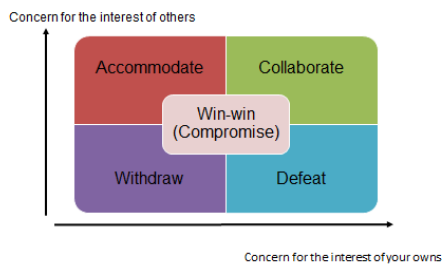
27

Dirty Tricks...and how to deal with them

- **Trick 5: Unreasonable demands:** Force the other to (reasonable) justify his/her demands. Ask questions until your negotiation partner realizes that his/her demands are unreasonable / exaggerated.
- **Trick 6: Inducing insecurity:** Check what is making you feel insecure and point it out! E.g., "You're looking bad today..." Coming late Not really listening

28

Negotiation styles



28

Dirty Tricks...and how to deal with them

- **Trick 7: Stress creating environment:** Point out what causes the stress (noise, temperature, movements) and talk about it!
- **Trick 8: Withdrawal to a "higher" authority:** Clarify the position / mandate of your negotiation partner before the negotiation starts!
- **Trick 9: Wrong facts:** Separate people from the problem, that means communicate your doubts and ask for verification without attacking the other party.

29

The Harvard Approach

Elements of Harvard method

1. **People:** Separate the people from the problem; Emotions, Perception, Communication)
2. **Interests:** Focus on interests, not on positions
3. **Options:** Invent options for mutual gain
4. **Criteria:** Insist on using objective criteria (verifiable, discuss criteria openly, develop next best alternative; analyse your partner's NBA)

30

The Ideal Negotiator

- The basic purpose of negotiating is to resolve conflict of interests on various issues. Negotiation aims to achieve a result that satisfies all Parties.
- A good negotiator is one who is a good listener, proactive, diplomatic and analytical, has technical knowledge, language skills and, above-all, self-discipline. It is important to remember that individuals can make a difference even if they are from very small countries.

30

Dirty Tricks...and how to deal with them

- **Trick 1: Escalating demands:** Explicitly point out the problem and interrupt negotiation until you have sorted out the principle of the negotiation
- **Trick 2: „Take it or leave it“:** Ignore it and continue negotiating!
- **Trick 3: Bad partner:** Write down the position your negotiation partner just gave you and then verify his/her statement.
- **Trick 4: Tying oneself into a position:** Ignore his/her argument and/or try to underestimate it.

31

The Ideal Negotiator

- A good negotiator prepares thoroughly for the negotiations. This means that the negotiator has a good understanding of the issues at stake, as well as clarity about, his/her country's interests and position on each of the issues and the respective positions of other countries on all the issues.
- He or she has to be fully conversant with all the key issues that will come up for negotiation in the next round of negotiations and must know all the issues that have been accepted or rejected in the past negotiations.

31

Tips and tricks

- Prepare thoroughly for each negotiating session.
- Have a clear brief outlining what deliverables your government expects. Know your interests and bottom line.
- Be careful not to over-defend your position. You may work yourself into a corner and it is then harder to change your position without losing face.
- Develop more than one version of a proposed text (you may also need to anticipate reactions).
- Consider relative strategies and chances available in trying to obtain the deliverables.
- Have reasons ready to defend key concepts and negotiating positions.

37

End of Session: Any questions?

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11th November 2017

40

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