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Talanoa Dialogue*

The Talanoa Dialogue was launched at the UN Climate Change Conference in Bonn (COP23) in November 2017. It invites parties and civil society stakeholders to engage in collective efforts to limit the rise in global average temperatures in line with the Paris Agreement. While the process focuses on sharing ideas and experience, it may also influence the formal negotiations under the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. This briefing reviews the discussions to date and considers the possible procedural and substantive linkages as well as their possible impact.

Background and process

In Paris in 2015, the aggregate ambition described in countries' nationally determined contributions (NDCs) was insufficient to reach the long-term temperature limitation goal adopted in the Paris Agreement. The Conference of the Parties (COP) therefore also decided to convene a facilitative dialogue in 2018 to take stock of the collective efforts and to inform the preparation of nationally determined contributions.¹

At the following COP, the presidency at the time (Morocco)

and the incoming presidency (Fiji) were mandated to undertake consultations with parties on the organization of the facilitative dialogue.² COP23 in Bonn welcomed the design of the dialogue and launched it as the "Talanoa" - a word used across the Pacific to describe a form of discourse - dialogue.³

Annex II to the decision outlines the Talanoa Dialogue's overall approach and processes. It consists of a preparatory and a political phase and is structured around three topics: *Where are we? Where do we want to go? How do we get there?* As part of the preparatory phase, parties, expert institutions, civil society stakeholders, intergovernmental organisations and others were encouraged to submit analytical and policy relevant inputs to inform the dialogue. All inputs are available via the Talanoa Dialogue platform.⁴

Subsequently, during the meeting of subsidiary bodies in Bonn in May 2018, parties and non-party stakeholders met in an informal setting to share stories from their own perspective in response to the Dialogue's three questions.⁵ This meeting included a panel discussion and special Talanoa sessions organised in seven groups of 20-30 participants. The preparatory phase will conclude at COP 24 with a final preparatory meeting and discussion aimed at understanding the implications of the IPCC special report on global warming of 1.5°C which is due to be released in October 2018.

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* By Kate Cook, barrister, Matrix Chambers, London and member of LRI's board of trustees.

¹ Decision 1/CP.21, paragraph 20. ² Decision 1/CP.22, paragraph 16. ³ Decision 1/CP.23, paragraphs 10-11. ⁴ At <https://unfccc.int/topics/2018-talanoa-dialogue-platform>. An overview on the inputs has been prepared under the authority of the presidencies, available at <https://talanoadialogue.com/presidencies-corner>. ⁵ A summary of the dialogue in May is also available at <https://talanoadialogue.com/presidencies-corner>.

Outcome

Building on the preparatory phase, the Dialogue's political phase will take place at COP24 with the participation of ministers.⁶ At the closing meeting of the Talanoa Dialogue, the Presidencies of COP 23 and 24 (Fiji and Poland) will provide a summary of its key messages. Given the emphasis on the urgent need to address climate change and on the emission gap in the submissions to and discussions of the Dialogue, it appears likely that their statement will address the need for more ambitious collective action. The focus on the IPCC's Special Report also appears to signal such an outcome.

The summary of key messages is an informal outcome, which will be integrated into the formal UNFCCC process by decision of the COP. In this connection, the parties can demonstrate the degree of their support through the decision language (e.g. appreciate, welcome, endorse, strongly support, fully agree etc.).

Annex II to decision I/CP.23 does not specify or attempt to pre-empt any next steps. However, it states that the Dialogue should "send clear forward looking signals" and its outcome "is expected to capture the political momentum". So there is plenty of room to outline some of the cornerstones for further collective action, as reflected in the political phase. Parties may also decide that the key messages should, for example, "be taken into account", "reflected" or "guide" future negotiations on the implementation of the Paris Agreement.

Such a COP decision would capture a purely political commitment by the parties. But that does not mean that the existing and emerging legal framework of the Paris Agreement is irrelevant to the process. The objectives, principles and processes of the Agreement provide a coherent and dynamic basis upon which parties can respond to the substantive outcome of the Talanoa Dialogue. At the same time, the Dialogue will inform parties' thinking and action on key elements of the Paris Agreement.⁷

Parties' submissions to the Dialogue comprise information about the current scientific, social and economic impacts of climate change (where are we now); scientific, social and economic data about the framing (where do we want to go);

as well as the tools and good practice examples for delivering the Paris Agreement's objectives (how do we get there). As part of the latter parties have in addition often indicated current obstacles, such as the lack of adequate financial support or the diversion of significant international finance into fossil fuel subsidies. The particular urgency of the situation is recognized in the Paris Agreement as well as the decisions on and subsequent discussions of the Talanoa Dialogue.⁸

The requirement to respond to the outcome of the Talanoa Dialogue in the light of this urgency and in the regulatory context of the Paris Agreement is reinforced by the general duty under the international law of treaties for states to perform treaties in good faith.⁹ In this case, the duty to act in good faith implies that parties will not disregard the outcome of the Dialogue as a process established under the auspices of the Paris Agreement to inform its further development and will respond to the outcome with appropriate and meaningful action under the terms of the Paris Agreement.

Given the overall objective of both the UNFCCC and the Paris Agreement, this is likely to entail a recognition that more ambitious action is urgently required to close the ongoing emissions gap in order to increase the chance that the long term goal will be achieved and that this will also impact on the preparation of the NDCs. Submissions to the Talanoa Dialogue have highlighted that the gap remains and that parties are not yet on track to achieve the long term goal.

As a result, the Talanoa Dialogue should influence the long-term outcomes of the Paris Agreement work programme, in particular the development of further processes and rules for the implementation of the Paris Agreement (the so called "Rulebook").¹⁰ This applies to elements related to the Dialogue's core mandate (long term goal and preparation of the NDCs) such as the timescales for review processes or the need for greater transparency and public participation in the NDC process.

It may also illuminate the range of inputs that should inform the global stocktake and its future process could mirror some of the Talanoa Dialogue's procedural elements. Other principles and provisions of the Paris Agreement whose development will be informed by the Dialogue include, for example, the requirement to act on the basis of the best available science (BAS), the progressive approach, NDCs, the integration of civil society concerns and the increase of climate resilience.

⁶ Information by the presidencies on their approach to organizing the Talanoa Dialogue at COP 24 is available on the Talanoa Dialogue Platform (see FN 4 on previous page). ⁷ To take stock of the collective effort towards the achievement of the long-term goal referred to in Art.4, para.1, and informing the preparation of NDCs and ensuring their clarity and transparency pursuant to Art.4 para.8 of the Paris Agreement. ⁸ The Paris Agreement is based upon the recognition of parties that climate change represents an urgent and potentially irreversible threat to human societies and the planet, that there is an urgent need to address the mitigation gap and to enhance the provision of finance, technology and capacity- building support for developing country parties. See, for example, preamble to the PA recital 3. Party submissions to the Talanoa Dialogue (e.g. by China, the EU, New Zealand, CARICOM and the African Union) have highlighted that the emission gap remains and that Parties are not yet on track to achieve the long-term goal. The EU submission refers to "unprecedented urgency". ⁹ 1969 Vienna Convention on the Law of Treaties, Art.26. ¹⁰ Parties are meant to conclude their work and adopt the Rulebook during COP24 too. In many areas, however, they are likely to take broad general decisions only to determine technical and operational details over the coming years.

Best available scientific knowledge

The requirement to act on the basis of the best available scientific knowledge (BAS) is repeated in a number of provisions of the Paris Agreement. The Dialogue's mandate explicitly refers to the need to take into account the IPCC's special report and the central importance of BAS has been consistently emphasised in the submissions to the Talanoa Dialogue that addressed scientific information on current GHG concentrations and GHG emission trends as well as data on current and future impacts.

The Caribbean Community (CARICOM), for example, concludes its submission as follows: "CARICOM expects the scientific evidence presented through the Talanoa Dialogue to highlight the need for parties to bring forward new and updated NDCs that are more ambitious by 2020, in line with the Paris goal of limiting warming to below 1.5°C, to enable vulnerable communities such as those in SIDS to survive." Other parties have highlighted the current impacts of climate change including sea level rise, increases in extreme weather events, loss of Arctic sea ice and ocean acidification. The special IPCC report on 1.5 degrees global warming contributes to the sense of urgency together with the need for greater ambition and faster action.

In the context of adaptation, the parties explicitly recognise the importance of traditional knowledge, knowledge of indigenous peoples and local knowledge systems.¹¹ The Talanoa Dialogue has provided an opportunity to highlight "on the ground" climate change impacts and these sources are also extensively referenced in party submissions.¹² Together with BAS, they could inform parties in their response to the political outcome of the Dialogue.

Progression

Under the Paris Agreement, parties have committed to strengthen the global response to climate change and ratchet up their emission control and limitation efforts over time.¹³ By implication this restricts regression or "backsliding" which would undermine the Agreement's objective. Closure of the mitigation gap can only be achieved through progression and the need to accelerate short-term action has been highlighted by many parties participating in the Talanoa Dialogue.¹⁴

Progression, however, does not only apply to mitigation but

is also relevant to adaptation, climate finance, technology transfer and capacity building.¹⁵ Annex II to the decision on the Talanoa Dialogue states that the Dialogue will be conducted "in a manner that promotes enhanced ambition and will consider, as one of its elements, the efforts of parties on action and support, as appropriate, in the pre-2020 period". This language confirms the importance of addressing the financial needs of developing country parties as identified at the time of the adoption of the Paris Agreement and beyond.

The outcome of the Talanoa Dialogue may serve to highlight the specific needs of developing country parties in developing and implementing their NDCs. If there is a shortfall in international finance, this should be addressed in line with the Paris Agreement with the aim of making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development, as part of the strengthened global response to climate change.¹⁶ Some parties have addressed this issue in their submissions.¹⁷

NDCs

The outcomes of the Talanoa Dialogue may encourage parties to enhance their NDCs. At the international level, this could be reflected in joint or individual political declarations by parties to review their NDCs and/or submit more ambitious NDCs in 2019 or 2020. If parties wanted to raise the profile and robustness of their enhanced commitments they could also consider making them as part of formal unilateral declarations.¹⁸

Whilst the legal status and general framework for NDCs cannot be altered by subsequent implementation rules, additional decisions relating to NDCs should reflect the importance of best available scientific knowledge and the progressive approach. If the outcome of the Talanoa Dialogue highlights specific trends or concerns in relation to NDCs, such as inadequate financing, or lack of transparency, it may be prudent to address these in more detail during the negotiations of the Paris implementation rules.

Good practice examples emerging from the Talanoa Dialogue may also indicate that the rules should suggest specific approaches concerning, for example, public participation or different sectors of the economy, including in relation to the review to be undertaken as part of the global stocktake in 2023. A number of parties have, for example, highlighted key sectors in the context of emissions reductions.¹⁹ Future time frames should also reflect the increasing urgency arising from the evidence presented during the Talanoa Dialogue and generally recognised by the parties.

¹¹ Paris Agreement Art.7 para.5. ¹² Summary of the Talanoa Dialogue, para.29; e.g. submission by New Zealand. ¹³ Paris Agreement Preamble, Art.3, Art.4 para.3. ¹⁴ E.g. the EU. ¹⁵ Paris Agreement Art.3, Art.9 para.3. ¹⁶ Paris Agreement, Art.2 para.1 (c) and Art.9 para.3. ¹⁷ E.g. China, the African Group, the EU and New Zealand, whose submission highlights the issue of fossil fuel subsidy reform. ¹⁸ See ICJ, Nuclear Tests (Australia v France), Judgment, ICJ Reports, 1974, p.253, para.43, and Nuclear Tests (New Zealand v France), Judgment, ICJ Reports, 1974, p. 457, para.46; and ILC, Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations with Commentaries, taken note of by the UN General Assembly (GA) in December 2006, UN doc. A/RES/61/34, 18 December 2006. ¹⁹ The EU e.g. also refers to analysis by the International Energy Agency (IEA) and the New Climate Institute in this regard, as well as to the UNEP Emissions Gap Report 2017.

Collectively, the international community should take note and support indications of actions (in the NDCs or adaptation communications) that conform to the progressive approach and address the mitigation and finance gaps. Where the Talanoa outcome indicates emerging best practice of relevance to the achievement of the long-term goal additional efforts should be made to ensure that any gaps in the necessary means of implementation and support are filled.

Public participation and human rights

The Paris Agreement recognises the need for transparency, public participation, trust and confidence building.²⁰ The qualities of the Talanoa Dialogue reflect a distinct break with the formal inter-governmental UNFCCC negotiation process. As such, it provides a good practice example and possible interpretation of what may be expected in terms of openness and inclusiveness under the Paris Agreement.

As a result of the Dialogue's story telling approach, the adverse effects of climate change on individuals and communities have been highlighted during the discussions. This includes the effects on human, social, economic and cultural rights, including the right to life and the right to health, as well as the need for increased support in addressing climate change threats through disaster risk reduction, the establishment of effective early warning systems and other approaches. In this context, the Talanoa Dialogue outcomes could build on the language of the preamble to the Paris Agreement (that mentions an array of rights and concerns) and lead to additional quality criteria e.g. for the preparation and implementation of NDCs.

Resilience and vulnerability

The provisions of the Paris Agreement also provide a broad framework to respond to the Talanoa Dialogue's outcomes on the need for reducing vulnerability and increasing climate resilience.²¹ In this regard, the African Group has, for example, highlighted the importance of identifying the numbers of vulnerable people. In a decision on the Talanoa Dialogue and their negotiations of the Rulebook, parties could build on this and further strengthen the adaptation component in, for example, NDCs, finance or climate action in general.

To the extent climate mitigation efforts fail, adaptation to a changing environment will be required. Reducing exposure to the adverse effects of climate change and building resilience are, therefore, linked to the (mitigation focused) mandate of the Talanoa dialogue. Information about current levels of vulnerability in particular may serve to underscore the need for greater ambition including in the mitigation contributions contained in NDCs. In their submissions to the Dialogue some parties have highlighted the importance of integrating climate change and disaster risk reduction.²²

²⁰ Paris Agreement, preamble recital 12, Art. 12, Art. 13.

²¹ Paris Agreement, e.g. Art.2 para. 1 (b), Arts.7 and 8.

²² E.g. Australia.

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If you require legal advice, please contact us on: enquiries@legalresponseinitiative.org

Legal Response International

c/o Simmons & Simmons, CityPoint, One Ropemaker Street, London EC2Y 9SS, UK

enquiries@legalresponseinitiative.org www.legalresponse.org

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