


# The state of climate negotiations

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## Abstract

Today, with little time remaining, negotiators confront a disorganized text that is far too long and replete with conflicting proposals that cross red lines for major players. Nonetheless, political leaders express confidence that a deal is achievable.

Unlike the task of Kyoto—producing politically feasible mitigation targets for developed nations—the post 2020 agreement covers (at least) six themes: mitigation for all nations, adaptation, finance, technology transfer, capacity building and transparency. Residual acrimony and distrust from Copenhagen hamper the process which must resolve many complex, contentious issues, e.g. legal form and compliance, the role (or not) for markets and offset projects, intellectual property rights, compensation for loss and damage, transparency and associated measurement, reporting and verification (MRV) and review procedures. Overshadowing all remains the question of how the principle of common but differentiated responsibilities (CBDR) will manifest throughout the agreement, e.g. from mitigation to reporting and review to finance.

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## Acknowledgements

Dr. Flannery has attended nearly every negotiating session associated with the international climate change agreement since the first meeting in Chantilly, Virginia (1990). He participates as an observer—accredited with a various industry groups in the past and more recently with Resources for the Future—never as a member of a governmental or intergovernmental delegation. The views in this chapter are based on personal observations and conversations over many years with other participants, from national delegations, business, academia, intergovernmental organizations, think tanks and other observers.



.../... Some aspects are solidifying. Mitigation efforts will not be negotiated; rather, they are being submitted (as Intended Nationally Determined Contributions: INDCs), and, ultimately, recorded, perhaps (dropping the I) becoming NDCs. Total financial aid appears set by the Copenhagen pledge of developed nations to mobilize 100 billion US\$ per year by 2020. Also, negotiators appear resolved to create a durable framework based on cycles of review and renewal over intervals of, perhaps, 5 or 10 years.

However, the Paris Agreement appears unlikely to fulfill the long-established narrative to be “on track” to limit warming to less than 2 (or 1.5) C. Only recently have political leaders begun to temper expectations. They will need to manage expectations thoughtfully to avoid a backlash from a range of nations, stakeholders and media, and to restore the credibility of United Nations Framework Convention on Climate Change (UNFCCC) as an effective process.

## 1. Introduction

With only four months remaining before the 21<sup>st</sup> meeting of the Conference of Parties (COP 21) to the UNFCCC in Paris, negotiators find themselves in a familiar spot: at loggerheads, with an unstructured, disorganized text—one that is far too long and replete with conflicting proposals that cross red lines for various nations. Nonetheless, most delegations and observers appear confident that political will exists to reach an agreement.

The agreement faces major challenges to achieve consensus and public acceptance. Little time remains to resolve contentious issues including ambition in mitigation and finance, legal form, how to reflect CBDR, the future of markets and offsets, and treatment of intellectual property rights (IPR). The clock may simply run out, especially if reluctant factions use procedural tools to delay progress. Recent COP meetings ended in controversy as disgruntled nations strenuously objected to declarations of consensus. Some have banded together, so objections may be more visible and harder to override in Paris. The greatest challenge will be to restore confidence that the UNFCCC can be a credible and effective vehicle to manage the global response to climate change.

The feasible deal in Paris looks to be modest, not consistent with expectations in the long-established narrative to avoid a climate catastrophe by putting the world on track to limit warming to less than 2 (or 1.5) C (Jacoby and Chen 2014). Only recently have political leaders sought to lower expectations. It may be too late. Forces that created powerful external pressure and unmet expectations that led to the painfully visible, far reaching failure in Copenhagen only six years ago are rallying again, calling for a far more ambitious deal. Consequently, the achievable deal may prove to be unacceptable to many nations, concerned advocacy groups, the media and public. Ultimately, this may hinder implementation and further progress.

In this chapter Section 2 provides a scene set and update on developments since milestones meetings marking success in Kyoto (1997) and failure in Copenhagen (2009); section 3 describes

major unresolved issues in the negotiation; and Section 4 discusses next steps after Paris before the agreement comes into force.

## 2. Scene set and background for negotiation of the post 2020 agreement

The dynamic and discussions for the post 2020 agreement bear little resemblance to those at the time of Kyoto or Copenhagen. They focused on national mitigation targets—Paris will not. Mitigation efforts will be set in advance through domestic deliberations and submitted before Paris as INDCs that contain voluntary, self-defined proposals for mitigation (and other efforts).

Kyoto sought agreement on politically feasible, legally binding mitigation targets for developed nations and establishment of market mechanisms based on emissions trading and credits from offset projects. As with the UNFCCC, Kyoto fully embraced CBDR. Developed countries listed in Annex 1 took on mitigation obligations and those in Annex 2 agreed to provide aid; developing countries (non-Annex 1 Parties) were promised financial support and exempted from mitigation commitments.

The Bali Mandate (2007) provided a far broader remit for two negotiations to be completed in Copenhagen. Bali set 2009 as the deadline for the Ad Hoc Working Group on Further Commitments for Annex 1 Parties (AWG-KP) to complete terms for a second Kyoto commitment period (KP CP2). Bali also launched negotiations under the Ad Hoc Working Group on Long term Cooperation (AWG-LCA) for a comprehensive, new agreement involving all Parties. In an important (potential) breakthrough, Bali signaled the possibility for evolution of CBDR: AWG-LCA refers to *developed* and *developing* nations and to *all Parties*, rather than to nations grouped according to Annex 1 and non-Annex 1. However, this will require as yet contentious evolution from the writ of the 1992 UNFCCC.

### 2.1. Copenhagen and the demise of the top-down approach

Ahead of Copenhagen a number of actors (including many European nations, the Alliance of Small Island States (AOSIS), Least Developed Countries (LDCs), the UNFCCC Secretariat, advocacy groups, foundations and others desiring a strong agreement) encouraged public pressure and media attention to galvanize political momentum. This created powerful expectations for an outcome with serious mitigation commitments by all major Parties and significant financial aid from developed nations. However, even before COP 15, at the Asia Pacific Economic Cooperation summit meeting in Singapore leaders of many major nations (including the US and China) announced that they would agree in Copenhagen only to a political deal based on voluntary national pledges, rather than the legally binding outcome specified in Bali<sup>1</sup>. In the resulting Copenhagen Accord, developed nations also agreed by 2020 *to mobilize* 100 billion US\$ a year in financial aid to developing nations for mitigation and adaptation.

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<sup>1</sup> See: APEC leaders drop climate target (November 15, 2009: <http://news.bbc.co.uk/2/hi/8360982.stm>) and APEC Concedes Copenhagen Climate Treaty Out of Reach (November 16, 2009: <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aHZ4UFjPVrr4>)

The Copenhagen Accord was developed by a handful of nations, at the Head of State level, acting outside UNFCCC procedures. Many nations excluded from those deliberations voiced profound objections to what they regarded as a betrayal of the multi-lateral process. Residual distrust continues not only over unmet expectations for mitigation and financial aid, but also from concerns over transparency, inclusiveness and commitment to the multi-lateral process.

Copenhagen dealt a deathblow to the top-down approach in which nations negotiated terms for one another's actions as the basis for agreement. Going forward, national commitments, e.g. for mitigation and finance, will be based on voluntary submissions that reflect national circumstances and priorities—a situation that I have previously described as a mosaic world (Flannery 2014). The bottom-up approach in the mosaic world encourages participation by all nations that will be essential for long-term effort. However, just as the top-down approach cannot force effort on unwilling nations, so too voluntary contributions appear unlikely to produce aggregate outcomes aligned with ambitious long-term goals.

## **2.2. Developments shaping negotiation of the post 2020 agreement**

After Copenhagen, Parties spent years seeking to restore confidence in the multi-lateral process, especially along the way through Cancun and Durban. As well, the negotiating landscape became more complex and new institutions were created. COP 17 established the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) with efforts in two workstreams: 1) negotiating by 2015 a comprehensive, global agreement to take effect in 2020; and 2) enhancing ambition of mitigation (and finance) in the period before 2020.

Throughout 2012 all three negotiating groups (AWG-KP, AWG-LCA and ADP) were active, each with its own legal mandate. Critical issues, e.g. mitigation, finance, and CBDR, were common to all three. This created confusion and procedural opportunities to delay progress. Finally, COP 18 in Doha (2012) adopted a 2<sup>nd</sup> Kyoto commitment period (2013-2020), bringing AWG-KP to a close, and terminated AWG-LCA, leaving ADP as the sole ongoing negotiating body.

Many essential aspects in the Bali Mandate remained unresolved. These orphans found homes either in the permanent Subsidiary Bodies or in ADP. Mechanisms for mitigation in LCA wound up in the Subsidiary Body for Scientific and Technological Advice (SBSTA); these include new market mechanisms (NMM), non-market approaches (NMA) and the framework for various approaches (FVA). Reform and extension of the Clean Development Mechanism (CDM) landed in the Subsidiary Body for Implementation (SBI). Because these are pertinent to the post 2020 agreement, negotiations are not confined entirely to ADP.

A number of new national groups now play important roles in the negotiations. Before Copenhagen positions were characterized largely by views of three groups: the European Union; the Umbrella Group (comprising most of the non-EU developed nations); and the Group of 77 and China (G77 & China) representing developing nations. At and after Copenhagen, new groups emerged. In particular, significant differences divide G77 & China. For example, BASIC nations

(Brazil, China, India and South Africa) understand that demands by AOSIS and LDCs—to limit warming to less than 2 (or 1.5) C—would require major efforts by them, and soon, that could threaten their rapidly growing economies. Important divisions also exist on matters such as treatment of IPR, deployment of Carbon Capture and Storage (CCS), and use of markets in efforts to protect and expand forests. The Like Minded Developing Countries (LMDCs: including Bolivia, China, Cuba, Egypt, India, Iraq, Iran, Malaysia, Nicaragua, Philippines, Saudi Arabia, Thailand, Venezuela and others—but not Brazil or South Africa) strongly oppose evolution of CBDR; more generally, they oppose introduction of new concepts or terms that change or reinterpret what now exists in the Convention.

The UNFCCC also created new institutions to help to fulfill obligations for support in technology and finance. The Technology Mechanism consists of a Climate Technology Center and Network (CTCN) based in Copenhagen and a Technology Executive Committee (TEC). The Green Climate Fund (GCF) based in Songdo (South Korea) recently announced commitments of over 10 billion US\$. In a sign of evolving CBDR, 8 of the 33 nations contributing to GCF are developing countries. However, Parties have not resolved how these bodies will work to support one another or with existing institutions such as the Global Environment Facility (GEF). The new institutions will play an important role in implementation of the post 2020 agreement.

Other real-world changes outside the UNFCCC have had even greater impact. These include the dramatic shift in emissions growth to major developing nations; the recession and ongoing financial crises; the impact of the Fukushima natural disaster on nuclear policy in Japan, followed soon by Germany's reaction; and the technology revolution in North American production of gas and oil. They have altered the political, economic and technological landscape and shifted priorities in many nations since Copenhagen. In particular, technology change has raised the opportunity cost of limiting fossil fuels.

### **3. Issues under negotiation in the post 2020 agreement**

ADP has many consequential, contentious matters to resolve. The agreement will incorporate six themes: mitigation, adaptation, transparency, finance, technology transfer and capacity building—the latter three jointly referred to as means of implementation. Developing nations are pushing to add a seventh theme: compensation for loss and damage. Parties must also address a number of framing issues including: long-term objectives, legal form and compliance, establishing a durable framework to update future commitments, and how to reflect crosscutting principles, especially CBDR.

#### **3.1. Mitigation: INDCS, mitigation mechanisms, offsets and carbon pricing**

Nothing more strongly signals the UNFCCC's transition to a bottom-up process than the decision in Warsaw that nations will convey proposed commitments in advance of COP 21 through INDCs. INDCs are truly innovative in ways that materially change the dynamic of the negotiation. Proposed

INDCs are meant to describe a nation's best offer for mitigation, and many nations are undertaking substantial domestic effort to prepare them. This should provide greater ownership for national programs tailored to national circumstances. INDCs essentially remove bargaining over national mitigation commitments from the immediate negotiation—though perhaps ongoing discussions, even after Paris, may affect final national proposals. Also, they shift the burden of defining CBDR—at least for mitigation—to nations themselves, by asking them to self-declare why their INDC is appropriate and ambitious, according to their national circumstances.

Developed nations argued that INDCs should focus solely on mitigation efforts. They asked developing nations to propose actions that could be accomplished through domestic effort alone, and separately to describe actions that required assistance. Developing countries insisted that INDCs should detail contributions for all six elements, especially means of implementation. Nations *ready to do so* were requested to submit INDCs during the first quarter of 2015. By late July, 21 INDCs, covering 20 nations and 28 member states of the European Union, had been submitted. More are expected before the next negotiating session in August, but many will not be available until much later this year. Moreover, the submissions vary in scope and content and span different time periods making it challenging to compare them (Aldy and Pizer 2015).

Many nations wanted ADP to perform an ex ante review of proposed INDCs but others (notably LMDCs) objected. Ex ante review of individual national efforts and of the entire portfolio has several purposes: one is to understand each national proposal, a second is to understand the comparability, or lack thereof, of various proposals, and a third is to evaluate aggregate global outcomes. The 2014 Lima Decision requests the Secretariat (by November 1, 2015 based on submissions through October 1) to prepare a synthesis of the aggregate effect of INDCs. This is not a simple matter. INDCs likely will require clarification and specification of many assumptions, and national policies of one nation affect outcomes in other nations. Assessing national and aggregate effects requires complex models, not spreadsheets. Many governments, advocacy groups, and others are making major efforts to understand and assess INDCs and their global consequences. See Aldy and Pizer (2015) for a discussion of comparability of effort, potential metrics and review of pledges and actions. External processes are likely to be more thorough, contentious and informative than any official ADP effort. Apparently, proposed national actions will become part of the formal agreement only at the time they officially submit them with their instrument of accession. If so, the period of ex ante review could extend for the next several years before 2020.

Parties (and business) display a wide range of views concerning the role of international markets as a cost effective approach to promote mitigation now and in the post 2020 agreement. In the years since international emissions trading and offset mechanisms became enshrined in the Kyoto protocol, there has been little or no progress deciding what role they might play either before or after 2020. Developing nations worried that accepting a framework for offsets and emissions trading ahead of 2020 might imply that they would be taking on early commitments. Many also argued that with the current low levels of mitigation ambition in KP CP2 there was no need for

NMM at this time. Meanwhile a number of developed countries have become disenchanted with the inefficient international process associated with markets under the UNFCCC, and a number of developing nations oppose any use of markets.

Only since Lima has the market discussion shifted strongly from SBSTA to ADP, where again the issue of ambition is foremost. Some developing nations oppose any future role for markets and some developed nations insist that they need no permission from the UNFCCC to create and utilize international markets. Among others, business finds it extremely difficult to comprehend how NMM, NMA, and FVA might all function with the Clean Development Mechanism (CDM), proposed approaches in international shipping and aviation, and one another. In their INDCs neither the US nor EU called for use of international markets at this time.

Note that, today, carbon (or more appropriately GHG) markets have two aspects: emissions trading and offsets (see Stavins (2015) for an evaluation of carbon markets and Wang and Murisic (2015) for the extent of carbon markets). It remains unclear whether internationally sanctioned offsets under the UNFCCC will exist post 2020. If, as hoped, all major nations implement commitments, then foreign investments would occur primarily under domestic, not international rules. It may be that activities conducted through multi-lateral and bi-lateral agreements would be better suited (both more efficient and capable of entertaining a wider range of projects) than CDM-like approaches under international authority. For example, Japan has proposed a Joint Crediting Mechanism<sup>2</sup> conducted through bilateral agreements to facilitate the diffusion of low-carbon technologies, and have signed agreements with 13 developing nations to do so.

Consequently, major differences concerning the role of markets and other mechanisms exist between Parties and also within business. Broadly, the debate includes three possibilities: 1) no use of markets, 2) an expanded role for the UNFCCC in markets with authorized offsets that resemble an extension of the CDM, 3) nations may create and use international markets without the need for any enabling decision by the UNFCCC—though appropriate encouragement would be welcome. Among the many nations and businesses that support markets, all agree that allowances (or credits from offsets) must have environmental integrity and that accounting procedures must prevent double crediting especially when market exchanges occur. Although the accounting discussion typically refers to “double counting,” it is crediting, not counting, that is the essential issue. Many believe that this can be accomplished by nations engaged in markets, so long as they utilize well-designed MRV for projects and offsets as well as for national contributions, and record and quantify exchanges. Others feel the need to continue a UNFCCC role in methodologies and registries.

Finally, despite all the publicity surrounding carbon pricing, it is not an integral part of ADP discussions. Clearly, carbon (more broadly greenhouse gas) pricing requires domestic policies, and responsible domestic political institutions are unlikely to cede decision-making in such a major arena to an international process. Virtues assigned to the global carbon price are not relevant to

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<sup>2</sup> For more details see <https://www.jcm.go.jp>



the real world where nations will implement a wide variety of policies leading to different coverage within their economies and to different explicit or implicit prices—including no price at all. Within the private sector there are strong differences of view on how markets and carbon pricing should play out going forward. They are not simple policies. For most firms and sectors ultimate support (or not) will depend on details of domestic programs, e.g. covered emissions, cap and trade or tax, exemptions, revenue use, compensation, border adjustments etc., and how they interact with the programs of other nations—many of whom will not utilize carbon pricing or markets. Most businesses support the use of markets *in those countries that decide to use them*. Even businesses that may not support carbon markets per se, do wish to see recognition of the positive role of market-based policies in many forms, not just for trading emissions allowances. Views in the private sector are divided on the extent to which the UNFCCC needs to authorize, encourage or even assent to non-interference in markets and pricing.

Domestic carbon pricing inevitably raises the companion issues of carbon leakage, competitiveness in trade and the potential for border adjustments. The G77 & China firmly oppose border adjustments. Yet many developed nations argue for such policies to protect their energy-intensive, trade-exposed industries and labor. Lately, the use of carbon clubs (Nordhaus 2015) has come under discussion as a means for countries with carbon (greenhouse gas) policies to join together to induce others to accept them or be subject to border taxes. The aim is to encourage participation (and reduce leakage) by penalizing free riders. While some in business welcome such approaches, many others oppose border adjustments because they fear to further complicate international trade and trade negotiations. They encourage approaches that use trade as a carrot, e.g. in the environmental goods negotiations rather than a stick—or club. The long-feared conflict between climate and trade policy and institutions continues as an unresolved but growing challenge.

### **3.2. Adaptation, and Loss and Damage**

Previous UNFCCC decisions establish that adaptation is now to be on an equal footing with mitigation. However, there appears to be no agreement on the content of measures to address adaptation, or how a long-term goal for adaptation might be enunciated. Procedures call for nations to create adaptation plans and for financial aid to apply equally to mitigation and adaptation. However, process and procedures remain unclear for how funding for adaptation will be raised, and even more for how money will be disbursed. Much work remains to specify precisely how adaptation will be addressed in the post-2020 agreement.

Compensation for loss and damage from climate change has become a major stumbling block: one with strong support from developing nations and resistance from developed nations. In Doha, COP 17 agreed to include loss and damage as an element of adaptation, while at the same time opposing any discussion of compensation. Nevertheless, developing countries have made compensation for loss and damage an issue in ADP. To date these discussions have not addressed

the thorny issues of attribution of specific natural events or liability for incremental damages as a consequence of human induced climate change.

### **3.3. Transparency, MRV, and ex post review of effort**

All nations express the view that the agreement should enshrine transparency as an essential feature. This requires clear commitments with agreed methodologies for MRV (see Wiener 2015) and for ex post review of actual performance. Nations now have long experience and fairly sophisticated tools for greenhouse gas inventories that are the fundamental basis for MRV of economy-wide commitments that apply to developed nations. However, as discussed by Aldy and Pizer (2015), much work may need to be done to understand and characterize commitments of developing countries that may apply only to specific sectors of their economy, or be based on vague concepts such as improvements over *business as usual*. Similarly, developed countries will be challenged to provide reliable methodologies regarding finance, e.g. to fulfill their pledge to mobilize 100 billion US\$ per year by 2020 from public and private sources. As well differences exist on how CBDR might apply to MRV and to formal review processes that will be essential to inform progress and, possibly, compliance.

Going forward, if as anticipated, nations agree to a durable framework involving periodic cycles to review progress and renew commitments (perhaps through updated INDCs), it will require significant effort and institutional reform to make reliable information available in a timely fashion to inform future cycles (see 3.7). As well, over the past several years, unanticipated events have had significant impacts that materially altered outcomes from those otherwise expected to occur based on conventional assumptions and trends. Recessions, financial crises, unpredictable natural disasters, such as tsunamis, and unanticipated technology revolutions have affected near-term emissions causing them to be lower or higher than anticipated. It may be essential in ex post analyses to account for the unanticipated consequences of force majeure and other unexpected developments that affect outcomes, especially over shorter periods.

### **3.4. Means of Implementation: Finance, technology and building capacity**

While political leadership and the public in developed nations focus on mitigation to manage climate risks, developing countries equally focus on finance and other means of implementation. The negotiations now include four separate areas where developing nations seek assistance. They request financial aid to assist in their actions to mitigate and adapt to climate risks, and compensation both for the adverse impacts on developing nations from mitigation measures in developed countries and for damages from climate change. Arguments have been made that claims in each of these areas already amount to hundreds of billions of dollars per year, and that they will grow in the future.

Provision of finance poses a major challenge for developed countries (see Buchner and Wilkinson 2015). While national political leaders have argued the necessity to develop and finance domestic mitigation actions, they have not prepared their publics to accept the need to supply financial aid

to developing nations at the scale under discussion. Even the promised provision of 100 billion US\$ per year seems politically difficult in developed countries facing their own obvious challenges from the lingering effects of recession and financial crises. The current commitment seems at the same time both difficult to meet and far too little. It appears that developed nations regard the Copenhagen pledge as their offer in finance. Donor nations are in discussions to demonstrate that they can successfully mobilize 100 billion US\$ per year by 2020. This will require understanding of the term “mobilize” as it implies leveraging private sector funding and also of anticipated funding from each of the developed nations.

Discussions on technology, especially technology transfer, and capacity building raise different challenges. In particular, in the arena of technology, IPR has become a matter of great controversy. Developed nations have made clear their (red line) position that the UNFCCC simply should not address IPR. They state that competent bodies (WIPO and WTO) already exist for such discussions, and that the private sector, not governments, own most relevant IPR. For their part, private sector representatives (at least those from developed nations) argue that IPR is essential to motivate costly research and development to create advanced technologies and that IPR contributes to the enabling framework for technology dissemination. Nonetheless, developing countries, led by India, argue that IPR for climate-friendly technologies should be a public good.

### **3.5. Legal Form and Compliance**

ADP is working to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties. Text so far has been developed with the understanding that it should be without prejudice to the ultimate legal form.

Parties differ regarding the nature of the agreement they are negotiating and what related provisions this may require, e.g. on compliance and entry into force. Many call for an agreement that is legally binding in all aspects, including, for example, requiring nations to achieve their commitments for mitigation and finance, and with strong compliance provisions. For others, notably the United States, the legal form and its obligations could pose an insurmountable barrier to participation. In the US view, nations would have an obligation to submit their proposed actions and to report on progress, but not to achieve outcomes. The essential issue is not whether the agreement is legally binding, so much as what aspects are binding and what are the terms for compliance. Starkly, the critical choice is between: commit and comply or pledge and report. As well, in either case the layering on of durable cycles (see 3.7) also adds components for review and renew.

Negotiators are also seeking to partition the text into elements that should be part of the long-term durable agreement, and those that belong in accompanying decisions taken by the COP, e.g. on methodologies for MRV. While the former must be resolved in Paris, the latter might be the subject of later discussions and decisions (as in the Kyoto Protocol).

Clearly it would be desirable if nations could reach agreement on legal form soon, because it will have implications for the structure as well as wording of the agreement. There are few days left to get those aspects done, and they will require legal scrutiny before nations can adopt the agreement.

### **3.6. Objectives and long-term goals**

The UNFCCC contains the well-known Article 2 objective to stabilize greenhouse gas concentrations at levels that prevent dangerous human interference with the climate system. As an agreement under the UNFCCC, the post 2020 agreement clearly carries that goal. There have been discussions for many years on appropriate additional long-term goals. Many different proposals have been made for mitigation including: limiting warming to 2 (or 1.5) C, a year for global emissions to peak, a reduction in annual emissions to be achieved by a given year, and the recently announced G7 goal to reach net zero emissions by 2100. These have different implications and consequences. Moreover, it is unclear precisely what status a goal would have. For example, would the goal be aspirational or would it have some stronger implication for action if the goal were not met. Furthermore, in this negotiation some Parties have proposed that each of the elements of the agreement should have its own long-term goal, for example those for adaptation, finance and even technology.

### **3.7. A durable framework based on periodic cycles**

Negotiators appear set to establish a durable framework for future commitments based on periodic cycles of review and renewal, perhaps at intervals of 5 to 10 years. This appears to be another important innovation—one that may allow future negotiations to focus more on content than process. They face a startup challenge because available INDCs do not share a common timeframe: some (EU) extend to 2030 others (US) to 2025. A tension exists between providing credibility to plan and implement policies, investments and other actions, which could favor a 10-year cycle, and creating flexibility to ratchet up commitments more rapidly, which could favor a five-year cycle. Timing of future commitments is also not settled. For example, if the first cycle ends in 2025, would commitments for the cycle ending in 2030 be taken in 2020 or perhaps closer to 2025?

Decision will pose significant challenges for institutional linkages and timely availability of appropriate information. For example, today, information on national emissions in a given year is typically available a year and a half later (the United States published its inventory for 2013 emissions only in April this year). So discussions in 2023, for renewals in 2025, are unlikely to have emissions information for any year later than 2021. As well, recent events demonstrate that unforeseen impacts not accounted for in the assumptions underlying national commitments can materially affect short run emissions. Also, a number of nations have suggested that the Intergovernmental Panel on Climate Change (IPCC) should provide information to inform the development of future cycles. Unfortunately, existing procedures, such as Special Reports, do not

seem fit for purpose, and the IPCC can hardly be regarded as nimble. If IPCC agreed to provide relevant information, it may be necessary to develop new work products tailored for this purpose. Careful consideration should be given to the information and institutional linkages required for the process to work smoothly in a timely fashion. Dialogues involving relevant actors might be a good approach to develop understanding of implications and possibilities.

### **3.8. Workstream 2: Enhancing pre-2020 ambition**

Since the beginning of ADP this workstream has had a prominent place, especially for developing nations. As a demonstration of good faith, they sought tangible evidence that developed countries would increase their ambition in both mitigation and finance before 2020. They asked all developed countries to increase their mitigation commitments in 2014 (either under KP CP2 or otherwise for non-KP developed Parties). Similarly, the G77 & China asked developed countries to commit to ramp up financial aid from 50 to 100 billion US\$ per year between 2015 and 2020. Developed countries did not respond to either request. Instead, effort has shifted to technical expert meetings (TEMs). These focus on programs and opportunities in areas such as CCS, renewable energy and energy efficiency in buildings and cities. Typically, they provide progress reports for projects already underway in organizations, e.g. UNEP and IEA. Fundamentally, these address areas where ambition might be increased, rather than establishing new commitments, programs or efforts that actually increase pre-2020 ambition. The Lima decision extends and strengthens the TEM process; it also seeks to frame the meetings in a way that will deliver better policy advice and practical experience for consideration. State-of-knowledge in these respective areas are reviewed by Bigio (2015), Bossetti (2015) and Tavoni (2015).

## **4. Next steps**

In the few remaining days of formal negotiations to conclude the Paris Agreement, negotiators must complete the text of the agreement and decide on mandates for follow on work before the agreement enters into effect.

### **4.1. Preparation of text**

The “Geneva negotiating text” (90 pages with 224 paragraphs in 11 sections agreed in February this year) satisfies the procedural obligation to translate and distribute a proposed agreement to all Parties at least six months before the COP. The Geneva text will remain as the formal proposal and a key reference, until it is superseded by the actual agreement in Paris. The latest ADP meeting in June made little headway in its objective to streamline text. Parties worked to edit duplications only reducing the text from 90 to 85 pages. Negotiations per se did not occur and negotiators did not begin to consider more complex tasks associated with crosscutting issues like CBDR, legal form or overall structure.

While the process of developing and refining text until now has been tedious and frustrating, it has respected Parties’ deep concerns that the negotiation must be Party-driven and based on text

submitted by Parties. This insistence flows from experience and deep suspicions in the aftermath of Copenhagen. During the negotiating session in June Parties realized that they must rely on the co-chairs to act on their behalf to create an appropriate, more manageable document that will allow serious negotiation to begin. Co-chairs Daniel Reifsnyder (USA) and Ahmed Djoghlaif (Algeria) agreed to produce a streamlined text with options clearly delineated. They distributed consolidated text July 24 as a *tool* to aid discussions<sup>3</sup>. At 76 pages, the tool is only somewhat shorter. It is organized into material to be part of the agreement (19 pages, 59 paragraphs), accompanying decisions (21 pages, 98 paragraphs), or still to be determined (36 pages, 102 paragraphs). An enormous task remains and serious negotiation must begin in August. As a consequence, it is likely that ADP discussions will proceed in meetings that are largely closed to observers.

#### **4.2. Expectations for COP 21, Paris**

In June, current and future COP Presidents Manuel Pulgar-Vidal (Environment Minister Peru) and Laurent Fabius (Minister of Foreign Affairs France) provided their perspectives on process and outcomes at COP 21. They asked negotiators by October to develop a concise text with clear options for ministerial decisions in Paris. Minister Fabius proposed that Heads of State might wish to attend at the start to lend political support, with ministers taking decisions in week two. They portrayed an outcome based on four pillars: 1) adopting the universal, legally binding, durable agreement; 2) incorporating INDCs for the first period; 3) delivering on support to developing nations through finance, technology and capacity building, including mobilizing 100 billion US\$ per year by 2020 from public and private sources; 4) recognizing actions by non-state actors, notably cities and local authorities and business.

The 4<sup>th</sup> pillar has become a topic of discussion with many different views expressed. No doubt this is a powerful way to recognize and support actions by non-state actors and many welcome the opportunity and initiative. It will certainly be used to signal political support for the outcome. Those seeking a strong deal argue that actions by business and cities are leading governments; some even state that 4<sup>th</sup> pillar actions will materially help to overcome the gap to achieving the 2 C goal. However, this seems unlikely—most will already be accounted for in national INDCs, so they will not be additional. The proposal also raises important questions regarding staying power and capacity to report and track progress on the large and varied set of actions already registered in the NAZCA Platform (Non-state Actor Zone for Climate Actions supporting the Lima-Paris Actions Agenda). Others see this pillar as a distraction intended to shift attention from an agreement by governments that will fall short of expectations. Indeed, some countries suggest that governments are trying to offload their responsibilities to others.

This discussion of the 4<sup>th</sup> pillar, together with previous comments on markets and mitigation, signal a sea change. For many years both governments and those in business thought it advisable to keep

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<sup>3</sup> Available at <http://unfccc.int/meetings/session/9056.php>

climate negotiations and efforts largely within the framework of the UNFCCC. However, especially since Copenhagen, frustration with endless delay and lack of progress has led many to seek more effective ways, outside the UNFCCC, to promote action.

#### **4.3. Enabling work during the interim preparatory phase before 2020**

While the bulk of attention in Paris will properly focus on the agreement, Parties must also consider a mandate for next steps. This will enable the Subsidiary Bodies to consider and undertake preparatory work in the coming years so that the agreement can enter into force efficiently in 2020. For example, significant effort remains to develop MRV for INDCs and information needs and institutional linkages that will inform future cycles. Non-state actors hope that these decisions will anchor their enhanced participation in UNFCCC deliberations and in the expert meetings and workshops that will surely be required.

It seems likely that the Paris Agreement will usher in a period of intense analysis of INDCs by many actors, ranging from governments to academia, business, think tanks and advocacy groups. It remains to be determined how and when INDCs become reflected in the agreement: becoming “actual” as opposed to “intended” contributions, perhaps NDCs (for the first period). Some suggest that this will occur when Parties formally consent to participate in the agreement, which might not be until 2019. If so, there may be a period of several years during which discussion, analysis, and perhaps improvement of INDCs may be possible. Improvements could be in accompanying information and in the way they are motivated and described or, though unlikely, in their actual contributions.

#### **4.4. Long-term goals and the future of the UNFCCC**

Some nations sought a process to strengthen INDC pledges automatically, if, in aggregate, they are not sufficiently ambitious. That will not happen. However, the durable path forward under discussion would include a process to examine progress and seek ways to increase ambition. A fierce academic and political debate has gone on for many years concerning the credibility and desirability of the UNFCCC’s long-term goal to limit warming to less than 2 C (see Victor and Kennel 2014). It pits those on one side who feel it is only a matter of political will to achieve the target against those who feel this is simply not possible—already in the rear view mirror. This raises a central question of how best to motivate strong, credible public policy over many decades to address climate risks: is it better to have ambitious aspirational goals (that appear not to be credible) or to take a more pragmatic approach based on strong but feasible policies (that seem unlikely to deliver the goal)?

Consider results from the MIT Joint Program on Science and Policy of Global Change in their Energy and Climate Outlook (2014). For several years they have published data and trends on the observed buildup of greenhouse gases (Huang et al. 2009). They find that concentrations of well-mixed greenhouse gases today already correspond to an equivalent concentration of CO<sub>2</sub> (CO<sub>2</sub>e) in excess of 485 parts per million. This significantly exceeds a conventional estimate that CO<sub>2</sub>e would need to

stabilize at 450 ppm or less for a 50% chance to prevent warming of more than 2 C. In an analysis of expected progress from Paris, Jacoby and Chen (2014) found that “by 2030 the world will be within about 7 years of hitting cumulative emissions levels that the IPCC shows to be consistent with a 50% chance of holding temperature increase to less than 2° C.” Greater penetration of low-carbon technologies would require much stronger policies, especially from major emitting nations, to be anywhere near “on track” to limit warming to less than 2 C.

The overall package of results in Paris, from its long-term objectives to the initial set of contributions and procedures for durable cycles, will set the stage for future effort. Paris will represent a new beginning for efforts both before and after 2020. Process matters, and the decisions taken will frame the process. Hopefully, the new agreement will make the UNFCCC a more respected and effective institution for action on climate change.

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