



Results of the Paris COP 21 climate negotiations

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Authors:

Kati Kulovesi, CC Law Climate Change Consulting

Antto Vihma, Finnish Institute for International Affairs

Anna Laine, GreenStream Network Oy

Majella Clarke, Indufor Oy

Karl Upston-Hooper, GreenStream Network Oy

Roland Magnusson, GreenStream Network Oy

Mika Sulkinoja, GreenStream Network Oy

Glossary

ADP	Ad Hoc Working Group on the Durban Platform for Enhanced Action
BASIC	Brazil, South Africa, India and China
CBDRRC	Common But Differentiated Responsibilities and Respective Capabilities
CDM	Clean Development Mechanism
CMP	Conference of the Parties serving as the meeting of the Parties
COP	Conference of the Parties
CTCN	Climate Technology Centre and Network
GCF	Green Climate Fund
GHG	Greenhouse gas
INDC	Intended Nationally Determined Contribution
IPCC	Intergovernmental Panel on Climate Change
ITMO	Internationally Transferable Mitigation Outcome
JI	Joint Implementation
JMA	Joint Mitigation and Adaptation
LDC	Least Developed Countries
LMDC	Like-Minded Developing Countries
MOI	Means of Implementation (finance, technology, capacity building)
MRV	Monitoring, Reporting and Verification
NAP	National Adaptation Plan
NDC	Nationally Determined Contribution
NGO	Non-Governmental Organisation
ODA	Official Development Assistance
REDD+	Reducing Emissions from Deforestation and Forest Degradation
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
SIDS	Small Island Developing States
TEC	Technology Executive Committee
UNFCCC	United Nations Framework Convention on Climate Change

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1. Introduction: The Paris Outcome

The Paris Agreement, gavelled by the French Foreign Minister Laurent Fabius at around 7:30 pm on Saturday 12th December 2015 and greeted with a standing ovation, has been welcomed by leading analysts as a “historic breakthrough”,¹ “real step forward”,² “major milestone”,³ and by other remarkably positive terms. The contrast with the final moments of the 15th session of the Conference of the Parties (COP) six years ago in Copenhagen could not be starker. According to the typical line of expert commentary in the Paris aftermath,⁴ Copenhagen was a disaster and Paris was a triumph. During the Paris closing plenary, also many Parties lauded the Paris Agreement as an ambitious, fair and universal climate agreement, and celebrated the return to successful multilateralism to the climate change process

Key outcomes of the Paris Conference consist of the Paris Agreement - a new, legally-binding international climate treaty – and COP decision 1/CP.21 on the Adoption of the Paris Agreement. While not annexed to the treaty, closely related to the Paris Agreement are countries’ intended nationally determined contributions (INDCs) submitted before and during the Paris COP. In light of what was agreed in Paris, these will become nationally determined contributions (NDCs) and subject to regular updating and various other obligations described in this report. Broadly speaking – and reflecting changes in global governance structures - the Paris Outcome can also be seen as including the various unilateral pledges and other announcements by governments and various stakeholders, such as cities, regions, business and civil society, made during the Paris Conference.

Before COP 21 in Paris it was clear, once again, that achieving a global, legally-binding climate agreement with substance would require compromises on perennial, and highly political, issues. Some of the thorniest ones included differentiation between developed and developing countries, and mobilizing support for developing countries. However, many positive signs in world politics were visible before the Paris negotiations took place. Most importantly, the US and China – the world’s two largest emitters of greenhouse gases - have begun to implement climate policies with a much greater urgency than previously. In China, the domestic air pollution problem, caused largely by the burning of coal and other fossil fuels, has become politicized across all levels of government, including the President.⁵ In the US, President Obama has made climate change a national and international priority during his second term, having made clear that it is an

¹ Meinhart Doelle, ‘The Paris Agreement: Historic Breakthrough or High Stakes Experiment?’, Draft Working Paper.

² Peter Haas, ‘The day after Paris: politicians hand the baton to green industries’

³ “Höhne et al” on New Climate Institute, ‘What the Paris Agreement means for global climate change mitigation’

⁴ Daniel Bodansky, ‘Reflections on the Paris Conference’, *Opinio Juris*, 17 December 2015, available at: <http://opiniojuris.org/2015/12/15/reflections-on-the-paris-conference/>.

⁵ The President has even referred to air pollution as ‘Beijing’s biggest challenge’. See for example Bloomberg, ‘Xi Jinping Calls Pollution Beijing’s biggest challenge’, 27 February 2014, available at: <http://www.bloomberg.com/news/articles/2014-02-26/xi-calls-pollution-beijing-s-biggest-challenge-as-smog-eases>.

integral part of his legacy.⁶ The two great powers have also developed common high-level diplomatic initiatives and cooperation, and prepared for the Paris Conference with an extensive bilateral dialogue.

In addition to these positive developments, it is worth emphasizing that the Paris meeting was taking place against the backdrop of the continuing growth of global greenhouse gas emissions,⁷ the already observable impacts of climate change, and the risk of runaway climate change, in which climate change becomes self-reinforcing. It is undeniable that national and international efforts to address climate change, taken together, have proved to be grossly inadequate to date. Many reports from leading scientists and research institutes stress the imminent dangers that the world is facing due to melting glaciers, rising sea levels, reduced food supplies, as well as the expected increases in extreme events that climate change is stimulating.⁸ The public expectations on the Paris meeting and the whole UNFCCC process were influenced by this anxiety.

However, declaring the Paris conference a success or failure right after the meeting is challenging. In order to be truly successful, its main result, the Paris Agreement must not only capture all the political will that was mustered in December 2015, but it must also provide a lasting international framework for nurturing such political will and promoting practical climate action for decades to come. It is also still hard to estimate the extent to which the Paris Outcome will have effects on different constituencies at the domestic level. Reactions by different constituencies may vary considerably, both in developed and developing countries.

A second challenge for analysing the Paris Agreement is that it includes not only climate change mitigation efforts, but also addresses several other substantive areas of international climate change cooperation. These include finance, adaptation, technology development and transfer, capacity-building as well as transparency of action and support. It has obviously long been recognised that addressing all these substantive issues is crucial for the success of international climate change cooperation.

However, as shown in Chapter 2, the Paris conference did not necessarily provide adequate substantive solutions to any of the most pressing challenges of global climate change cooperation. To be sure, the Paris Agreement deserves praise for strengthening the international legal and institutional framework for dealing with climate change. At the same time, the solutions reached in Paris on most key issues are of a procedural nature; the Paris Agreement introduces few new, clearly-defined and concrete substantive international obligations. Instead, it created a multitude of new international processes where negotiations and expert work on the various crucial but politically sensitive issues will continue in the coming years.

⁶ See for example CNN, 'Obama ends Paris climate visit with spotlight on legacy', 2 December 2015, available at: <http://edition.cnn.com/2015/12/01/politics/obama-climate-talks-should-include-legally-binding-mechanism/>.

⁷ The International Energy Agency reports that global emissions of carbon dioxide (CO₂), the most significant greenhouse gas, stalled in 2014. See BBC, 'Global CO₂ Emissions "Stalled" in 2014', 13 March 2015, <http://www.bbc.com/news/science-environment-31872460>.

⁸ See IPCC (2014), 'Impacts, Adaptation and Vulnerability: Summary for Policymakers', available at: http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/ar5_wgII_spm_en.pdf

This view of the Paris Agreement is shared by several well-known international legal experts. Bodansky, for example, characterises the substance of the Paris Agreement as “relatively modest” and argues that “if we focus only on the Agreement’s contents, it seems hardly the stuff of history.”⁹ Slaughter, in turn, explains that traditional international treaties contain codified, enforceable rules, along with sanctions for non-compliance.¹⁰ In contrast, she argues that the obligations contained in the Paris Agreement are not fixed but the Agreement creates a system encouraging Parties to increase their ambition every five years.¹¹ In addition, the Agreement substitutes compliance with transparency, and its compliance mechanism “sounds more like a support group than a disciplinary committee.” Thus, according to Slaughter, “the Paris Agreement is essentially a statement of good intentions” when measured by traditional international legal standards.¹²

Most notably, the Paris Agreement did not – as expected – introduce any new substantive mitigation commitments or measures to increase inadequate levels of collective mitigation ambition. The Paris Agreement does include goals to limit the global average warming to well below 2°C from pre-industrial temperatures, and it even includes a reference to the more ambitious 1.5°C target. It is widely known, however, that the current level of mitigation ambition based on the INDCs currently on the table is far from adequate to deliver on either of these goals. Regardless, the Paris Agreement and the mitigation regime relying on NDCs left countries’ mitigation ambition and measures to be determined at the national level – both a strength and weakness of the Paris Outcome.

Instead of attempting to introduce more ambitious mitigation measures immediately in Paris, UNFCCC Parties reached agreement on several international processes through which mitigation ambition will be regularly assessed and hopefully increased in the coming years. To be fair, the INDCs do represent a clear step forward compared to the pledges put forward in Copenhagen and Cancun. For the first time, some of the analyses produce results that offer hope of limiting global average warming to below 3 degrees. Naturally, the results of these modelling exercises are sensitive to assumptions made on implementation as well as countries’ post-2025 and 2030 action.

Climate finance is another example where procedural outcomes were an important part of the compromise. The Paris Outcome does include an agreement to extend the US\$100 billion finance goal from 2020 to 2025, and countries put forward new financing pledges during the COP. At the same time, the controversial question of increasing the annual US\$ 100 billion climate finance target was transferred to further negotiations that should conclude prior to 2025.

As expected, the Paris Agreement only creates the general legal framework for post-2020 climate change cooperation. Detailed modalities and guidelines needed to

⁹ Daniel Bodansky, *Is the Paris Agreement Historic?*, *Opinio Juris*, 13 December 2015, available at: <http://opiniojuris.org/2015/12/13/it-the-paris-agreement-historic/>.

¹⁰ Anne-Marie Slaughter, *The Paris Approach to Global Governance*, 28 December 2015, available at: <https://www.project-syndicate.org/commentary/paris-agreement-model-for-global-governance-by-anne-marie-slaughter-2015-12>.

¹¹ *Ibid.*

¹² *Ibid.*

implement the compromises reached in its rather general substantive provisions are to be determined in further negotiations. In each case, the critical question is how the international level) can best deliver added value to the ongoing national and local efforts.¹³

1.1 The 2015 Paris Agreement: Background

The UNFCCC was adopted in 1992. It provides the main international legal framework for addressing climate change. According to Article 2, the ultimate objective of the UNFCCC is to prevent dangerous anthropogenic interference with the climate system. Parties have subsequently agreed on a goal to limit the global average temperature increase to below 2°C from pre-industrial times. As noted above, the Paris Agreement confirms the 2°C target and also includes a reference to the 1.5°C target.

The pre-Paris international legal framework for mitigating climate change is largely based on binding emission targets for developed countries under the 1997 Kyoto Protocol. The first commitment period for Annex I countries under the Kyoto Protocol took place in 2008-12. Based on the Doha Amendment to the Kyoto Protocol, adopted in 2012, the second commitment period runs from 2013 until 2020.¹⁴ In addition to the Kyoto Protocol's legal framework, a number of developed and developing countries have submitted unilateral mitigation pledges to the UNFCCC Secretariat. These submissions were mostly made in context of the 2009 UN Climate Change Conference in Copenhagen and cover the pre-2020 period. In light of climate science it is clear, however, that the combined effect of the existing binding and non-binding mitigation measures is inadequate to achieve the two-degree target. A new negotiating round was therefore launched at COP 17 in Durban with two workstreams. Workstream 2 focused on enhancing pre-2020 ambition and the Workstream 1 on negotiating a new climate treaty that would apply from 2020 onwards.

A subsidiary body entitled the *Ad Hoc* Working Group on the Durban Platform for Enhanced Action (ADP) oversaw the negotiations for the Paris Agreement.¹⁵ Concerning Workstream 1, its mandate was to negotiate a new agreement, applicable to all Parties. In more specific terms the ADP was mandated to negotiate "a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties...".¹⁶ According to the mandate, the agreement was scheduled for adoption in 2015 and for implementation from 2020 onwards.¹⁷ Issues addressed by the ADP included mitigation, adaptation, finance, technology development and transfer, transparency of action and support, and capacity building.¹⁸

¹³ Antto Vihma, 'Stress Test Paris: Can the UN climate talks deliver', FIIA Briefing Paper.

¹⁴ Note, however, that the Doha Amendment to the Kyoto Protocol containing, *inter alia*, emission targets for 2013-2020 has not entered into force.

¹⁵ Decision 1/CP.17, *Establishment of an Ad Hoc Working Group on the Durban Platform for Enhanced Action*, UN Doc. FCCC/CP/2011/9/Add.1, 15 March 2012, para. 2.

¹⁶ Decision 1/CP.17

¹⁷ *Ibid.*

¹⁸ *Ibid.*, para. 5.

Intended Nationally Determined Contributions (INDCs) formed an important aspect of preparations for the 2015 Paris Agreement. Initial agreement on INDCs was reached by COP 19 in Warsaw. In their INDCs, countries outline what climate actions they intend to take in the post-2020 period. According to guidance from COP 20 in Lima in 2014, INDCs should facilitate the clarity, transparency and understanding of a country's contribution.¹⁹ The UNFCCC Secretariat publishes INDCs on its website. It also prepared a synthesis report on their aggregate effect in November 2015.²⁰ In Paris, COP 21 invited the Secretariat to update the report in light of INDCs communicated by 4 April 2016 and make it available by 2 May 2016.²¹

1.2 Contents of the Paris Outcome

In light of the results achieved in Paris, the ADP was successful in fulfilling its mandate and its work was terminated. The formal Paris Outcome consists of the following key elements:

- The Paris Agreement
- Decision 1/CP.21 on Adoption of the Paris Agreement²²
- Countries' Intended Nationally Determined Contributions, most of which are likely to become NDCs under the Paris Agreement

This can be seen as a comprehensive outcome in that it addresses all key substantive areas of international climate change cooperation. The Paris Agreement includes provisions on mitigation, adaptation, loss and damage, technology, capacity building, transparency of action and support, as well as global stocktake, compliance and so on. Decision 1/CP.21 includes several details on these issues especially in its sections on "INDCs" and "Decisions to Give Effect to the Agreement."

INDCs can be seen as an important element of the Paris Outcome. While they will not be formally annexed to the Paris Agreement, they played a crucial role in its negotiation process. In light of the Paris Outcome, INDCs submitted based on decisions by COP 19 and 21, will become nationally determined contributions (NDCs) within the meaning of the Paris Agreement and Decision 1/CP.21. In Paris, it was agreed that Parties must communicate their first NDCs at the latest when joining the Paris Agreement through ratification, accession or approval.²³ Parties having communicated an INDC are considered to have satisfied this requirement unless they decide otherwise.²⁴ COP 21 also urges Parties to communicate updated NDCs by 2020.²⁵ Formally, NDCs will be

¹⁹ Decision 1/CP.20, *Lima Call for Climate Action*, paras. 13-14.

²⁰ *Ibid.*, para. 16.

²¹ Decision 1/CP.21, *Adoption of the Paris Agreement*, para. 19.

²² <https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

²³ Decision 1/CP.21, *Adoption of the Paris Agreement*, para. 22.

²⁴ *Ibid.*

²⁵ *Ibid.*, paras. 22 and 23.

recorded in a public registry maintained by the UNFCCC Secretariat. INDCs, in turn, are also being published online by the Secretariat.

As noted above, also relevant to the Paris Outcome are the various announcements made by governments and non-state actors in context of COP 21. These take various forms, such as unilateral declarations and pledges by governments. Remarkable are also the numerous non-state initiatives announced in context of the Lima-Paris Action Agenda. This includes more than 70 major cooperative initiatives and more than 10,000 climate actions registered through the Climate Action Platform, which focuses on companies, cities, subnational regions and investors.²⁶ Seen from a traditional legal perspective, these pledges and actions are not part of the formal Paris Outcome. However, they reflect important ongoing changes in global governance structures various non-state actors play an increasingly important role and the regulatory landscape is increasingly layered, complex and informal.

Chapter 2 summarises and analyses each key area of the Paris Outcome in light of the Paris Agreement and Decision 1/CP.21.

²⁶ Available at: <http://climateaction.unfccc.int/>

2. Main Outcomes on Key Issues

As explained above, main outcome from COP 21 consist of the Paris Agreement and Decision 1/CP.21 on Adoption of the Paris Agreement. Also related to the formal Paris Outcome are countries' Intended Nationally Determined Contributions (INDCs), which are likely to become NDCs under the Paris Agreement.

2.1 Paris Outcome and its legal form

As explained above, main outcome from COP 21 consist of the Paris Agreement and Decision 1/CP.21 on Adoption of the Paris Agreement. Also related to the Paris Outcome are countries' Nationally Determined Contributions (NDCs).

The Paris Agreement

The Paris Agreement is a binding treaty under public international law.²⁷ It will be open for signature at the UN Headquarters from 22 April 2016 to 21 April 2017.²⁸ On the first day of the signature period, the UN Secretary-General will convene a high-level ceremony for the signature of the Paris Agreement.²⁹

In addition to signature, the Paris Agreement will require ratification, acceptance, approval or accession for an individual country to be legally bound by its obligations.³⁰ For the Paris Agreement, ratification, acceptance or approval is the key legal step through which a state establishes its consent to be bound by the new climate treaty under international law.³¹ As such, there are various ways for states to express their consent to be bound by an international treaty.³² However a two-step approach, consisting of both, signature and ratification, is a fairly common practice concerning multilateral international treaties and the Paris Agreement is not exceptional in this sense.

The entry into force of the Paris Agreement is subject to a dual threshold. Accordingly, the Agreement will enter into force on the 30th day after the date on which at least 55 Parties to the UNFCCC accounting for "at least an estimated 55 per cent of the total global greenhouse gas emissions" have completed the second step.³³

²⁷ This is regulated by the 1969 Vienna Convention on the Law of Treaties, much of which has become customary international law, thus also binding such countries that have not ratified the Vienna Convention.

²⁸ Article 20.1 of the Paris Agreement.

²⁹ Decision 1/CP.20, para. 3.

³⁰ Article 20 of the Paris Agreement.

³¹ Art. 2.1(b) of the Vienna Convention on the Law of Treaties.

³² *Ibid.*

³³ Article 21.1 of the Paris Agreement.

Domestic steps that countries need to take before ratifying the Paris Agreement are determined by their national legislation and there are likely to be differences depending on countries' constitutional requirements. In the US, for example, the Constitution includes different categories of international agreements, namely treaties, presidential-executive agreements and congressional-executive agreements.³⁴ The Obama Administration is characterising the Paris Agreement as a presidential-executive agreement that does not need approval by the Senate.³⁵ The advantage of this view is that the President may bring the Agreement into force in the US domestically without the risk that the Republicans will block it at the Senate. The downside of this approach is that "an executive agreement made by one administration is not necessarily binding on its successor, but it would have to be explicitly repudiated".³⁶ In other words, it is possible that a subsequent (Republican) president in the US could choose to repudiate the Paris Agreement, introducing an element of uncertainty concerning US participation. In many countries, however, ratification of the Paris Agreement is likely to require parliamentary approval. This obviously always entails the possibility that a national Parliament votes against the Paris Agreement.

COP Decision

Decision 1/CP.21 on Adoption of the Paris Agreement: Decision 1/CP.21 contains many important details that complement the Paris Agreement and launch preparations for its entry into force and implementation. Key steps include the establishment of the *Ad Hoc* Working Group on the Paris Agreement to prepare for the entry into force of the Paris Agreement and for convening of the Agreement's first Conference of the Parties serving as the meeting of the Parties (CMP).

Decision 1/CP.21 also covers all key substantive elements of the Paris Agreement, namely: mitigation; adaptation; loss and damage; technology development and transfer; finance; capacity-building; transparency of action and support; global stocktake; and facilitating implementation and compliance. Its substance in this regard will be discussed under the respective substantive sections below.

Decision 1/CP.21 also includes a section on INDCs. As explained above, INDCs are not included in the Paris Agreement as such. Instead, Decision 1/CP.21 requests the Secretariat to publish them on the UNFCCC website.³⁷ In addition, Decision 1/CP.21 addresses "Enhanced Action Prior to 2020," containing key outcomes of the ADP's work on Workstream 2 and pre-2020 ambition.

As shown in the substantive sections below, it is clear that the Paris Agreement leaves open many important questions regarding implementation. These will need to be

³⁴ Joost Pauwelyn and Liliana Andnova, *A legally binding treaty or not? The wrong question for the Paris Summit*, EJIL: Talk! - Blog of the European Journal of International Law, 4 December 2015, available at: <http://www.ejiltalk.org/a-legally-binding-treaty-or-not-the-wrong-question-for-paris-climate-summit/>.

³⁵ Ed King, "Paris Agreement does not need Senate approval say officials," *Climate Change News*, 15 December 2015, available at: <http://www.climatechangenews.com/2015/12/15/paris-agreement-does-not-need-senate-approval-say-officials/>

³⁶ Anne-Marie Slaughter, *The Paris Approach to Global Governance*, 28 December 2015.

³⁷ Decision 1/CP.21, para. 14.

negotiated and agreed on in the coming years. Decision 1/CP.21 establishes the negotiating bodies, mandates and processes needed to do so.

Assessment of the Paris Outcome

A new binding climate treaty was clearly a significant achievement at COP 21. It has received a positive response from various experts, analysts and the media. However, there has already been some criticism and even confusion concerning the legal nature and relevance of the Paris Agreement. As explained above, several international legal experts have argued that while the Paris Agreement is different from a traditional international treaty, it is mainly a positive development that reflects the complexity of the climate change challenge.

There is no doubt that the Paris Agreement constitutes a binding treaty. Therefore, in the formal sense, it has the strongest possible status under international law. On the other hand, most obligations in the Paris Agreement are of a procedural rather than substantive nature.

For example, in contrast to the clearly-defined emission reduction targets in Annex B of the Kyoto Protocol, the Paris Agreement includes an obligation for Parties to “prepare, communicate and maintain successive nationally-determined contributions that it *intends* to achieve.”³⁸ Given the shift of the UN climate regime towards nationally-determined mitigation goals since COP 15 in Copenhagen, this was an expected outcome. However, there are various other obligations regarding NDCs in the Paris Agreement, including that they be communicated every five years³⁹ and that each successive NDCs is more ambitious than the previous one.⁴⁰ The Paris Agreement also includes an obligation to implement domestic mitigation measures with the aim of achieving its NDC.⁴¹

Thus, from the legal point of view, it is clear that the Paris Agreement does not include binding emission targets. However, it does contain legally-binding obligations for *all Parties* to prepare, maintain and periodically update a mitigation contribution. This is remarkable as the Paris Agreement signifies the end of the classification of countries into Annex I and non-Annex I that has characterised the UNFCCC regime since the beginning.

While countries retain a lot of discretion regarding the ambition and contents of their NDCs, the Paris Agreement does contain various elements regulating the NDC process. Article 4.3 includes the requirement that each successive NDC be more ambitious than the previous one. COP 21 also reached agreement on various international processes through which the international community seeks to increase the ambition and clarity of future NDCs. These include a facilitative dialogue scheduled for 2018, a periodic global stocktake at 5-year intervals from 2023 onwards as well as provisions on transparency of action and support.

³⁸ Article 4.2 of the Paris Agreement.

³⁹ Article 4.9 of the Paris Agreement.

⁴⁰ Article 4.3 of the Paris Agreement.

⁴¹ Article 4.2 of the Paris Agreement.

Overall, when evaluating the Paris Agreement, it is useful to bear in mind the classic criticism of public international law that it is ineffective in terms of enforcement mechanisms and sanctions. Indeed, scholars have been asking whether public international law is really law long before the UNFCCC and Paris Agreement were concluded. It has also long been argued that international environmental law is geared towards procedural obligations rather than hard substantive ones. Against this background, it seems almost inevitable that the Paris Agreement reflects some of these classic weaknesses of public international law and international environmental law.

On the other hand, when assessing the legal relevance of the Paris Agreement, one should bear in mind that an international treaty is the strongest form of commitment that a country can make under public international law. Indeed, most Parties to the UNFCCC have been hoping to achieve a new, legally-binding climate treaty since the adoption of the Bali Action Plan in 2007. This goes to show that such outcomes are difficult to achieve. One should therefore not underestimate the legal significance of the Paris Agreement.

2.2 Mitigation

Given the ultimate objective of the UNFCCC to avoid dangerous anthropogenic climate change, mitigation is one of the key elements of the Paris Agreement. A notable achievement is that 187 countries submitted their INDCs to the UNFCCC Secretariat before and during COP 21.

Climate change impacts of INDCs have been assessed by various organisations. These show that while INDCs represent a progression compared to the pledges put forward after Copenhagen and Cancun, they fall short of the well below 2 °C target. According to the UNFCCC Secretariat, INDCs will lead to a global average temperature increase of 2.7°C while the UN Environment Programme estimates that they would limit the global average temperature increase to between 3°C and 3.5°C.

In Paris, agreement was reached on a new mitigation regime applicable to all Parties. The regime involves turning INDCs into NDCs, which will be updated upwards at 5-year intervals. A global stocktake will take place every five years from 2023 onwards to analyse the progress made. It will be preceded by a facilitative dialogue in 2018. The Paris Agreement also seeks to enhance the system for transparency and reporting.

Paris Agreement

The Paris Agreement includes the following mitigation goals:

- Limiting the global average temperature increase to well below 2°C above pre-industrial levels (Article 2.1)
- Pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels (Article 2.1)
- Global peaking of greenhouse gas emissions as soon as possible (Article 4.1)
- Rapid emission reductions thereafter in accordance with best available science “so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of the century (Article 4.1)

Concerning NDCs, the Paris Agreement provides the following:

- Each Party must prepare, communicate and maintain successive NDCs “that it intends to achieve” (Article 4.2)
- Each Party must pursue domestic mitigation measures with the aim of achieving the objectives of their NDCs (Article 4.2)
- NDCs can be adjusted at any time to enhance ambition (Article 4.11)
- NDCs must be communicated every five years (Article 4.9)
- Each successive NDC must represent a progression beyond the previous one (Article 4.3)
- Parties must provide the information necessary for clarity, transparency and understanding of their NDC (Article 4.8)
- Parties must account for their NDCs (Article 4.13)

While all Parties must undertake NDCs, the Paris Agreement retains some differentiation between countries:

- Developed countries’ should take the lead with economy-wide, absolute emission reduction targets (Article 4.4)
- Developing countries are encouraged to move towards economy-wide emission reduction or limitation targets in light of different national circumstances (Article 4.4)
- Least Developed Countries (LDCs) and Small Island Developing States (SIDS) may communicate policies and measures reflecting their special circumstances (Article 4.6)

It is worth noting that INDCs will not be annexed to the Paris Agreement as some countries had suggested during the negotiations. As explained above, countries’ INDCs are published online by the UNFCCC Secretariat. They will become NDCs within the meaning of the Paris Agreement and Decision 1/CP.21 unless a Party decides otherwise. In other words, Parties must communicate their first NDCs at the latest when joining the Paris Agreement.⁴² Parties having communicated an INDC are considered to have satisfied the requirement to communicate an NDC unless they decide otherwise.⁴³ COP 21 also urges Parties to communicate updated NDCs by 2020.⁴⁴ NDCs will be recorded in a public registry maintained by the UNFCCC Secretariat.⁴⁵

Other relevant aspects of the Paris Agreement concerning mitigation include its provisions on transparency of action and support,⁴⁶ and global stocktake⁴⁷. The first global stocktake is scheduled to take place in 2023 and every five years thereafter.⁴⁸ It

⁴² Decision 1/CP.21, *Adoption of the Paris Agreement*, para. 22.

⁴³ *Ibid.*

⁴⁴ *Ibid.*, paras. 22 and 23.

⁴⁵ Article 4.12 of the Paris Agreement.

⁴⁶ Article 13 of the Paris Agreement.

⁴⁷ Article 14 of the Paris Agreement.

⁴⁸ Article 13.2 of the Paris Agreement.

“shall inform” Parties when they update and enhance “in a nationally determined manner” their actions and support.⁴⁹ Global stocktake and the transparency framework will be discussed in more detail in the relevant sections below.

COP Decision

Decision 1/CP.21: Concern over mitigation ambition is reflected in Decision 1/CP.21. The COP, *inter alia*, notes “with concern” that the estimated aggregate GHG emission levels in 2025 and 2030 from the INDCs do not fall within the most cost-effective scenario for reaching the 2°C target.⁵⁰ It also notes that “much greater emission reduction efforts” will be required to reach the 2°C and 1.5°C targets.⁵¹

Increasing mitigation ambition will thus be one of the key challenges for the successful implementation of the Paris Outcome. While the first global stocktake under the Paris Agreement is scheduled to take place only in 2023, the COP agreed to convene, in 2018, a facilitative dialogue already to take stock of Parties’ collective efforts to reach the objectives of the Paris Agreement.⁵² The dialogue also aims to inform the preparation of NDCs, which should be updated by 2020.⁵³ The COP also invites Parties to communicate mid-century, long-term low GHG development strategies to the Secretariat by 2020.⁵⁴

Also related to mitigation ambition, COP 21 invites the Intergovernmental Panel on Climate Change (IPCC) to provide a special report in 2018 on the impacts of the 1.5°C target and related global GHG emission pathways.⁵⁵

COP 21 made several requests for the three subsidiary bodies – Subsidiary Body for Implementation (SBI), Subsidiary Body for Scientific and Technological Advice (SBSTA) and Ad Hoc Working Group on the Paris Agreement - to develop further guidance on details needed to implement the Paris Agreement. Such guidance is expected to be adopted by CMP 1.

Tasks of the Ad Hoc Working Group on the Paris Agreement include developing further guidance on NDCs.⁵⁶ This entails developing further guidance to facilitate clarity, transparency and understanding of NDCs.⁵⁷ The Ad Hoc Working Group is also mandated to develop guidance for accounting of NDCs, drawing on the UNFCCC and

⁴⁹ Article 13.3 of the Paris Agreement.

⁵⁰ Decision 1/CP.21, para. 17.

⁵¹ *Ibid.*

⁵² Decision 1/CP.21, para. 20.

⁵³ Decision 1/CP.21 para 23-24

⁵⁴ *Ibid.*, para. 36.

⁵⁵ Decision 1/CP.21, para. 21.

⁵⁶ *Ibid.*, para 26.

⁵⁷ *Ibid.*, para. 27.

related legal instruments.⁵⁸ Such guidance will apply to second and subsequent NDCs, unless a Party chooses to apply it already to its first NDC.⁵⁹

The SBSTA is requested to develop modalities and procedures for the public NDC registry.⁶⁰ The Secretariat is requested to make an interim public registry available in the first half of 2016.⁶¹ The COP also decides to continue the Forum on the Impact of the Implementation of response measures under the SBs, and that the Forum will also serve the Paris Agreement.⁶² The SBI and SBSTA are requested to develop modalities, work programme and functions of the Forum.⁶³

Assessment of the Paris results

A groundbreaking element of the Paris mitigation regime is that it applies to all Parties. The Paris Agreement no longer uses language on Annex I and non-Annex I countries. This puts an end to the bifurcated mitigation regime that has played a powerful, yet controversial role under the UNFCCC and the Kyoto Protocol since the 1990. While the Paris Agreement includes references to the principle of common but differentiated responsibilities and respective capabilities (CBDRRC), it combines them with language on “different national circumstances,” which is familiar from the Lima Call for Climate Action adopted by COP 20 and originates from the US-China bilateral climate pact in November 2014.⁶⁴

Another positive element of the mitigation regime created in Paris is that countries are invited to formulate and communicate long-term low greenhouse gas emission development strategies by 2020. Developed countries that already have 2050 targets can then review their plans in the context of the agreed goals, as most of these plans must be strengthened, and developing countries can build on the experience of the INDC process to work from existing plans and develop longer-term visions.⁶⁵

Important elements of the Paris mitigation regime have been criticised for not being legally-binding. One of the reasons is that countries’ NDCs are housed outside the Agreement. Thus, according to Bodansky, “countries’ NDCs are not legally binding.”⁶⁶ This is also how the US has characterised the agreement for its domestic purposes: “The

⁵⁸ *Ibid.*, para 31.

⁵⁹ *Ibid.*, para. 32.

⁶⁰ *Ibid.*, para 29.

⁶¹ *Ibid.*, para. 30.

⁶² *Ibid.*, para. 33.

⁶³ *Ibid.*, para. 34.

⁶⁴ Article 4.3 of the Paris Agreement. See also Decision 1/20, *Lima Call for Climate Action*.

⁶⁵ http://climateactiontracker.org/assets/publications/briefing_papers/CAT_COP21_Paris_Agreement_statement.pdf

⁶⁶ Daniel Bodansky, *Is the Paris Agreement Historic?* *Opinio Juris*, 13 December 2015, available at: <http://opiniojuris.org/2015/12/13/it-the-paris-agreement-historic/>.

targets are non-binding. The elements that are binding are consistent with already-approved previous agreements.”⁶⁷

While countries’ mitigation targets and other actions included in NDCs are outside the legally-binding framework, the Paris Agreement does contain several legally-binding obligations concerning NDCs. Thus, one could argue that while the substance of NDCs will remain nationally-determined, the Paris mitigation regime does impose several obligations concerning NDCs, including the obligation to communicate, maintain, implement and update them. International legal scholars have also argued that it can, in fact, be more effective to make countries’ climate plans binding at the national level.⁶⁸ Such plans would come up with more effective enforcement procedures and trigger national legislative and administrative processes.⁶⁹ While the Paris Agreement does not guarantee that countries NDCs are binding under domestic law, criticising NDCs for being non-binding seems too simplistic in light of the Paris Outcome, which mixes both binding and non-binding elements regarding mitigation.

One could argue, instead, that the key weakness of the Paris Outcome regarding mitigation is inadequate collective ambition. While the Paris Agreement is more ambitious regarding mitigation than the Copenhagen Accord (2009) and the Cancun Agreements (2010) due to stronger language on the 1.5°C target, its mitigation regime currently is not ambitious enough to achieve this or the well below 2-degree target. On the positive side, the Agreement does create various processes designed to increase mitigation ambition in the coming years. A key test for the success of the Paris Agreement is whether its emphasis on proceduralism works, and whether the new processes lead to increased mitigation ambition.

2.3 Finance

Finance was another crucial topic in the negotiations for the Paris Agreement. Important progress on finance was made in Copenhagen (2009) and Cancun (2010). However, questions such as scale and sources of climate finance continued to divide developed and developing countries in the pre-Paris negotiations. Difficult was also the question whether the category of countries responsible for providing climate finance should be expanded. In the Paris Outcome, issues related to finance are addressed in both the Agreement and Decision 1/CP.21.

Paris Agreement

Article 9 of the Paris Agreement is dedicated to issues related to climate finance. The basic obligation is that “developed country Parties shall provide financial resources to

⁶⁷ Ed King, “Paris Agreement does not need Senate approval say officials,” Climate Change News, 15 December 2015, available at: <http://www.climatechangenews.com/2015/12/15/paris-agreement-does-not-need-senate-approval-say-officials/>

⁶⁸ Joost Pauwelyn and Liliana Andanova, Joost Pauwelyn and Liliana Andanova, *A legally binding treaty or not? The wrong question for the Paris Summit*, EJIL: Talk! - Blog of the European Journal of International Law, 4 December 2015, available at: <http://www.ejiltalk.org/a-legally-binding-treaty-or-not-the-wrong-question-for-paris-climate-summit/>.

⁶⁹ *Ibid.*

assist developing country Parties” regarding both mitigation and adaptation.⁷⁰ Other Parties are “encouraged” to provide such support voluntarily.⁷¹

According to the Paris Agreement, developed countries should continue to take the lead in mobilising climate finance. Such finance is to come from “a wide variety of sources, instruments and channels” with a significant role for public funds. The mobilization of climate finance should represent a progression beyond previous efforts.⁷² In addition, the scaled up finance should aim for a balance between adaptation and mitigation, and take into consideration the need for public and grant-based resources for adaptation.⁷³

The Paris Agreement aims to enhance reporting and transparency of climate finance. It requires developed countries to communicate biennially “indicative quantitative and qualitative information” on provision of climate finance, including projected levels of public financial resources.⁷⁴ This applies to *ex ante* information. In addition, the first session of the CMP is to adopt modalities, procedures and guidelines for developed countries’ to provide information on support for developing countries through public interventions.⁷⁵ Information on developed countries’ climate finance will also be considered during the global stocktake, along with information provided by Agreement bodies.⁷⁶

The Paris Agreement also contains provisions on institutional arrangements. Accordingly, the Convention’s financial mechanism and its operating entities, will also serve as the financial mechanism of the Paris Agreement.⁷⁷ This means that the Green Climate Fund and the Global Environment Facility will also be involved in the provision of climate finance through the Paris Agreement.

COP Decision

Decision 1/CP.21: Decision 1/CP.21 complements the Paris Agreement with respect to several important details on climate finance.

Concerning the scale of funding, COP 21 agreed that the US\$ 100 billion goal will remain in place until 2025.⁷⁸ The CMP of the Paris Agreement is to set a new goal prior to 2025.⁷⁹ Meanwhile, Decision 1/CP.21 “strongly urges” developed country Parties to scale up their level of financial support.⁸⁰ It also calls for a “concrete roadmap” to achieve the

⁷⁰ Article 9.1 of the Paris Agreement.

⁷¹ Article 9.2 of the Paris Agreement.

⁷² Article 9.3. of the Paris Agreement.

⁷³ Article 9.4 of the Paris Agreement.

⁷⁴ Article 9.5 of the Paris Agreement.

⁷⁵ Article 9.6 of the Paris Agreement.

⁷⁶ Article 9.6 of the Paris Agreement.

⁷⁷ Article 9.8 of the Paris Agreement.

⁷⁸ Decision 1/CP.21, para. 54.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*, para. 115.

goal of jointly providing US\$100 billion annually by 2020 for mitigation and adaptation.⁸¹ A facilitative dialogue will take place at COP 22, seeking, *inter alia*, to identify opportunities to enhance the provision of financial resources.⁸²

COP 22 will initiate a process concerning climate finance information provided by developed countries under Article 9.5 of the Paris Agreement.⁸³ The COP also requests the SBSTA to develop modalities for the accounting of financial resources provided and mobilized through public interventions under Article 9.7 of the Paris Agreement.⁸⁴

Concerning institutional arrangements, the COP agreed that the Green Climate Fund and the Global Environment Facility serve the Paris Climate Agreement as well as the Least Developed Countries Fund and the Special Climate Change Fund.⁸⁵ Also the Adaptation Fund under the Kyoto Protocol may serve the Paris Agreement, depending on what the Kyoto Protocol's CMP decides.⁸⁶ In addition, the Standing Committee on Finance will serve the Paris Agreement.⁸⁷

Assessment of the Paris results

Going to Paris, climate finance was a controversial issue and one that could have led to dangerous divides between developed and developing countries. With this in mind, the Paris conference was successful in that agreement could be reached on climate finance. From the substantive perspective, the Paris outcome complements the previous climate finance framework with some additions, albeit not radical ones.

Key outcomes include that the current US\$100 billion climate finance goal was extended until 2025 and the COP called for a concrete roadmap on how the target will be achieved. Various countries also made financial pledges at COP 21. In contrast, the controversial issue of increasing the scale of climate finance was postponed to further negotiations, scheduled to conclude prior to 2025.

In many respects, the Paris Outcome on climate finance can be seen as reflecting developed country preferences. As expected, there was no agreement on numeric financial targets as proposed by many developing countries prior to Paris, no agreement on how much the level of climate finance should increase in the long-term and how much it should become from developed countries' public sources.

Also the question of how to reach the US\$100 billion annual target was resolved by agreement to develop a roadmap, rather than through substantive financing commitments by developed countries. On the other hand, contributing to climate finance

⁸¹ *Ibid.*

⁸² *Ibid.*, para. 116.

⁸³ Decision 1/CP.21, para. 56.

⁸⁴ Decision 1/CP.21, para. 58.

⁸⁵ Decision 1/CP.21, para. 59.

⁸⁶ Decision 1/CP.21, paras. 60-61.

⁸⁷ Decision 1/CP.21, para. 64.

remains voluntary for all but developed countries. This is in line with developing country preferences.

The Paris Outcome created new processes designed to enhance transparency and reporting related to climate finance. It seeks to strengthen developed country obligations in this regard. Climate finance will also be considered during the global stocktake, scheduled to take place every five years from 2023 onwards.

Overall, the most positive aspect of climate finance negotiations in Paris was that agreement was reached. The outcome contains few new substantive obligations, leaving the scale and exact sources of funding open. It does, however, create processes for further consideration of the issue.

2.4 Adaptation

Adaptation refers to adjustments in ecological, social, or economic systems in response to actual or expected climatic stimuli and their effects or impacts. It refers to changes in processes, practices, and structures to moderate potential damages or to benefit from opportunities associated with climate change". (IPCC 2001, Third Assessment Report). Although the UNFCCC historically has placed greater emphasis on climate mitigation than on adaptation, a number of the Convention's provisions, such as the LDC Work Programme, the Nairobi Work Programme and the Cancun Adaptation Framework, relate directly or indirectly to adaptation.

The Paris Agreement marks a new era for adaptation. The status of adaptation has been significantly elevated with an intensive and ambitious work programme. For the first time, adaptation is on equal footing with mitigation, which was certainly not the case when the UNFCCC was adopted in 1992.

The Paris Agreement requires all Parties to take action to adapt to climate change as well as contribute to the mitigation of climate change. In addition, clarity on adaptation actions that can also mitigate climate change are given credence in their dual role in climate change. Clarity is also given such that adaptation actions that lead to mitigation benefits are able to contribute to national mitigation outcomes agreed under the Paris Agreement. This later is perhaps quite crucial, because many developing countries expressed adaptation needs in their INDCs.

Paris Agreement

Article 7 of the Paris Agreement is dedicated to adaptation. The Paris Agreement establishes a global goal for adaptation specifically with respect to enhanced capacity, strengthening resilience and reducing vulnerability to climate change.⁸⁸ The goal is linked to the 2°C and 1.5 C temperature goals in Article 2.⁸⁹

The Paris Agreement recognizes that adaptation is a global challenge faced by all, with local, subnational, national, regional and international dimensions.⁹⁰ The Agreement

⁸⁸ Article 7.1 of the Paris Agreement.

⁸⁹ *Ibid.*

⁹⁰ Article 7.2 of the Paris Agreement.

refers to the need to protect people, livelihoods and ecosystems, taking into consideration urgent needs of particularly vulnerable developing countries.⁹¹ The Paris Agreement also calls for recognising developing countries' adaptation efforts in accordance with modalities to be adopted by CMP 1.⁹²

The Paris Agreement recognizes that the current need for adaptation is significant and that it is interlinked with the realities of mitigation, noting that the greater levels of mitigation can reduce additional adaptation efforts and costs.⁹³

Adaptation is one of the few Articles in the Paris Agreement which acknowledges the importance that adaption action follows a gender-responsive approach, also highlighting the importance of country-driven, participatory and fully-transparent approaches.⁹⁴ In addition, the Agreement notes that adaptation action should be based on the best available science, traditional knowledge, knowledge of indigenous peoples and local knowledge systems with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions.⁹⁵

The Paris Agreement makes a special point on distinguishing developing countries' needs, and especially developing country Parties that are particularly vulnerable to climate change.

The Paris Agreement calls on Parties to strengthen their cooperation on adaptation, making specific reference to the Cancun Adaptation Framework, including with regard to:

- Sharing information, good practices, experiences and lessons learned as these relate to science, planning, policies and implementation of adaptation actions;
- Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;
- Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;
- Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices;
- Improving the effectiveness and durability of adaptation actions.⁹⁶

The Paris Agreement makes specific reference to UN organizations, which are encouraged to support the efforts of Parties to implement the adaptation actions listed

⁹¹ **Ibid.**

⁹² Article 7.3 of the Paris Agreement.

⁹³ Article 7.4 of the Paris Agreement.

⁹⁴ Article 7.5 of the Paris Agreement.

⁹⁵ *Ibid.*

⁹⁶ Article 7.7 of the Paris Agreement.

above. In addition, also included in the same paragraph for UN organizations is a cross reference to Joint Mitigation and Adaptation (Article 5) in relation to forests.

The Paris Agreement requires that each Party engage in adaptation planning processes and implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:

- The implementation of adaptation actions, undertakings and/or efforts;
- The process to formulate and implement national adaptation plans;
- The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;
- Monitoring and evaluating and learning from adaptation plans, policies, programs and actions; and
- Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.

The Paris Agreement recognizes that communication is an important element of adaptation and suggests that each Party develop, submit and periodically update “as appropriate” a “adaptation communication”, which may include the Party’s priorities, implementation and support needs, plans and actions.⁹⁷ The communications are to be recorded in a public registry maintained by the Secretariat.⁹⁸ They are to be submitted, as appropriate, with other communications, such as national adaptation plans, NDCs and national communications.⁹⁹

The Paris Agreement further elaborates what the global stocktake referred to in Article 14 of the Paris Agreement should consist of, with respect to adaptation.

COP Decision

Decision 1/CP.21 contains considerable emphasis and onus on Parties to view adaptation as one of the key elements of the agreement. Adaptation features as a stand-alone sub-section under Section III.

The COP requests the Adaptation Committee and LDC Expert Group to jointly develop modalities to recognize the adaptation efforts of developing countries.¹⁰⁰ It also requests that the Adaptation Committee review the work of adaptation-related institutional arrangements in 2017 with a view to enhancing their coherence, and making

⁹⁷ Article 7.10 of the Paris Agreement

⁹⁸ Article 7.12 of the Paris Agreement.

⁹⁹ Article 7.11 of the Paris Agreement

¹⁰⁰ Decision 1/CP.21, para. 42.

recommendations to CMP 1.¹⁰¹ The Adaptation Committee is also requested to consider methodologies for assessing adaptation needs in order to assist developing countries.¹⁰²

The COP requests Parties to strengthen regional cooperation on adaptation, including through the establishment of regional centres. It invites relevant UN organizations to provide information to the Secretariat on how their development assistance and climate finance incorporates climate proofing and climate resilience measures.

The COP also requests recommendations for consideration in subsequent COPs on facilitating the mobilization of support for adaptation, review the effectiveness of adaptation and its support and specifically requests the GCF to expedite support for LDCs and other developing countries for the formulation of the National Adaptation Plans.

The Decision launches a technical examination process on adaptation between 2016-2020 to identify concrete opportunities for strengthening resilience, reducing vulnerabilities and increasing the understanding and implementation of adaptation actions. The technical examination process will be done through facilitating sharing of good practices, experiences and lessons learned, identifying actions that significantly enhance the implementation of adaptation as well as have mitigation co-benefits. The decision specifically clarifies that mitigation co-benefits resulting from adaptation actions, applied to all Parties adaptation actions and/or economic diversification plans can contribute to mitigation outcomes.

Assessment of the Paris results

Adaptation has its own Article 7 under the Paris Agreement. The new global adaptation goal elevates the need to plan for the impacts of climate change in iterative cycles under the UNFCCC. Adaptation has never been more significant under the Convention than in the Paris Agreement, and there is good reason for this. On one hand the Paris Agreement recognizes that the greater the mitigation efforts now, the lower the costs of adaptation in the future. However many reviews of the INDCs submitted consistently indicate that the temperature limitations referred to in Article 2 of the Paris Agreement (below 2 degree, pursue 1.5 degrees) are not consistent with the INDCs which currently amount to a warming pathway between 2.7-3.7 degrees, dependent on which models and assumptions are applied¹⁰³. This would indicate that there needs to be a quick shift in the trend with respect to adaptation finance, which is currently seen as significantly poorly financed. In addition, this disconnect between the Paris Agreement and the INDCs would also indicate that the work programs and mechanisms established under the Convention for adaptation need to increase in their effectiveness and efficiency.

Heading into Paris, the LMDCs had a very clear position on the financing of adaptation which includes provisions that specifically commit Annex II Parties, through the Green Climate Fund, to deliver adequate and predictable funding for adaptation in developing countries, in particular for the implementation of the Cancun Adaptation Framework.

¹⁰¹ *Ibid.*, para. 43-

¹⁰² *Ibid.*

¹⁰³ <http://www.wri.org/blog/2015/11/insider-why-are-indc-studies-reaching-different-temperature-estimates>

Financing has become the real issue, because there are processes for support and implementation of adaptation under the Paris Agreement, but no mechanism to allocate adequate finance.

The Paris Agreement generally balanced the issues which certain Parties were quite tied to by referencing all terminologies for guiding adaptation planning, so that guidance can be based on best available science, but also indigenous knowledge, traditional knowledge and local knowledge systems.

It is clear from the COP decisions that finance for adaptation is inadequate, with references specifically made “with noted concern” to the finance available for implementing certain processes such as NAPs. Finance for adaptation is going to become an issue for the future, and the suggestion to link mitigation with adaptation, under Article 5, demonstrates foresight and creates an additional possibility to use mitigation finance for adaptation in the context of ecosystems.

One outcome is clear from Paris. The reality is that the current ambition level of the INDCs corresponds to a global warming pathway between 2.7-3.7 degrees, and this would indicate having exceeded the critical point of 2 degrees warming, unless the ambition level of the contributions is significantly improved. In order to mitigate the negative effects of climate change, countries need to start placing a higher priority on adaptation, and provide the support and finance for LDCs, SIDS and other vulnerable countries to adaptation to the impacts of climate change.

2.5 Technology

In 2010, as part of the Cancun Agreements the Parties agreed to establish a Technology Mechanism. The objective of the Mechanism is to facilitate technology development and transfer. Two key components of the Mechanism are the Technology Executive Committee (TEC) and the Climate Technology Centre and Network (CTCN). Issues related to technology development and transfer are addressed both in the Paris Agreement¹⁰⁴ and the Decision 1/CP.21¹⁰⁵.

Paris Agreement

According to the Paris Agreement, the Parties share a long-term vision on the importance of “fully realizing” technology development and transfer.¹⁰⁶ This applies to both adaptation and mitigation.¹⁰⁷

Parties agree to strengthen cooperative action on technology and that the Convention’s Technology Mechanism will also serve the Paris Agreement.¹⁰⁸ The Agreement

¹⁰⁴ Article 10 of the Paris Agreement

¹⁰⁵ Decision 1/CP.21, paras 66-71

¹⁰⁶ Article 10.1 of the Paris Agreement

¹⁰⁷ *Ibid.*

¹⁰⁸ Articles 10.2 and 10.3 of the Paris Agreement

establishes a Technology Framework, the objective of which is to provide overarching guidance to the Technology Mechanism.¹⁰⁹

Further, the Paris Agreement states that efforts to accelerate, encourage and enable innovation shall be supported by Technology Mechanism and, financially, by the Financial Mechanism.¹¹⁰

The final paragraph of Article 10 states that support, including financial support, shall be provided to developing country Parties for the implementation of Article 10, and notes that the global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.¹¹¹

COP Decision

Decision 1/CP.21 states that the Technology Mechanism shall be further strengthened and requests the TEC and CTCN to support the implementation of the Paris Agreement, and to undertake further to, *inter alia*, (i) technology research, development and demonstration; (ii) the development and enhancement of endogenous capacities and technologies.¹¹²

Further, the decision requests the SBSTA to initiate the elaboration of the technology framework established under Article 10 of the Paris Agreement, with the objective of making a proposal on it for consideration and adoption at its first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.¹¹³

Assessment of the Paris results

It is broadly accepted that low-carbon technologies play key role in efforts to fulfilling the objectives of the Paris Agreement. Views vary on the extent which reaching the 2°C target is technically feasible. Sceptics argue that this requires relying on emerging technologies that are barely proven, yet to be successfully commercialised, or downright illusory.¹¹⁴ Further, projections show that achieving the 1.5°C target also reflected in Article 2 of the Paris Agreement requires relying to a very large extent on technologies that remove carbon from the atmosphere, of which perhaps currently the most promising is bioenergy combined with carbon capture and storage (BECCS).¹¹⁵

¹⁰⁹ Article 10.4 of the Paris Agreement

¹¹⁰ Article 10.5 of the Paris Agreement

¹¹¹ Article 10.6. of the Paris Agreement

¹¹² Decision 1/CP.21, paras 67

¹¹³ Decision 1/CP.21, paras 68

¹¹⁴ See e.g. <http://www.technologyreview.com/news/544551/paris-climate-agreement-rests-on-shaky-technological-foundations/>

¹¹⁵ <http://www.nature.com/nclimate/journal/v5/n6/full/nclimate2572.html>

The Paris Outcome commits nations to strengthening technology cooperation for mitigation and adaptation. The Technology Mechanism, created in 2010, has already begun to harness a network of diverse public and private actors to assist nations attempting to transition to low-emissions and climate-resilient economies. A new addition in the Paris Agreement is the Technology Framework, tasked with providing guidance to the Mechanism.

The networking arm of the Technology Mechanism, the CTCN, became fully operational in December 2013. Although anchored in the public international law framework of the UNFCCC, the CTCN is at core a hybrid network, through which research institutions, businesses, NGOs and multi-stakeholder partnerships alongside public authorities participate in influencing the norms and processes of climate technology development and transfer.¹¹⁶ The Technology Framework established in Paris will provide guidance to the CTCN and the TEC, and hopefully such guidance will enhance their global reach during the years up to the entry into force of the Paris Agreement. The question remains, however, whether and how such guidance can help in the new goal of “fully realizing” technology development and transfer.

2.6 Capacity building

Capacity building is one of the key Means of Implementation (Mol) for the Paris Agreement for developing countries. It has long been recognized in the Convention’s work on such issues as national communications, greenhouse gas inventories, technology transfer and adaptation. Many developing countries have stressed in their INDCs the need for capacity building and other Mol as conditions to fulfil their national mitigation and adaptation commitments.

Paris Agreement

Capacity building has its own Article 11 in the Paris Agreement. Article 11 mentions that especially countries with the least capacity, such as Least Developed Countries (LDCs) and Small Island Developing States (SIDS) should be provided with enhanced capacity building support to implement their adaptation and mitigation actions¹¹⁷.

Importantly, **all Parties** should co-operate to enhance the capacity building of developing countries.¹¹⁸ However, developed countries should enhance their support for capacity building actions in developing countries from current levels. According to the Paris Agreement, capacity building should be country-driven and based on actual national needs¹¹⁹. The capacity building actions need to be communicated on a regular basis;

¹¹⁶<http://www.globalpolicyjournal.com/blog/23/12/2015/paris-agreement-strengthen-role-networks-climate-policy-technology>

¹¹⁷ Article 11.1. of the Paris Agreement

¹¹⁸ Article 11.3. of the Paris Agreement

¹¹⁹ Article 11.2. of the Paris Agreement

both the countries providing capacity building support and the countries receiving such support need to communicate on the issue.¹²⁰

The institutional arrangements for capacity building established under the Convention are also valid under the Paris Agreement; however the initial institutional arrangements are decided in more detail in the first session of the Conference of Parties serving as the meeting of the Parties to the Paris Agreement.¹²¹

COP Decision

Decision 1/CP.21 establishes a **Paris Committee on Capacity-building**, which is a new initiative designed to address the difficulties that developing countries may have in implementing climate actions.¹²² The new Committee will address capacity gaps and needs for capacity building in developing countries. It will also oversee the work plan for the period 2016-2020, related to enhancing capacity building actions, such as fostering global, regional, national and sub-national co-operation. The Committee will also provide further guidance for the development of the already started web-based capacity building portal¹²³ under the UNFCCC, which currently has basic information about national and regional capacity-building activities by country.¹²⁴ The Paris Committee on Capacity-building will focus on different themes or areas each year, and will focus on maintaining up-to-date knowledge on the successes and challenges in building capacity in the particular field.¹²⁵ The SBI will organize in-session meetings for the Committee annually.¹²⁶ The progress of the Committee will be reviewed in COP 25 in 2019, including the need of its extension. All Parties are invited to submit their views on the membership of the Committee by March 2016 through the submissions portal of the UNFCCC.¹²⁷

The COP decided also to establish a new **Capacity-building Initiative for Transparency** in order to support developing countries in meeting the increased transparency requirements under the Paris Agreement.¹²⁸ This new initiative is discussed in more detail under the transparency section (2.7.) below.

Assessment of the Paris results

The COP decision 1/CP.21 includes nearly two pages of text on capacity building, which is more than on finance or technology. In this sense, capacity building can be seen as one of the central issues in the Paris outcome.

¹²⁰ Article 11.4. of the Paris Agreement

¹²¹ Article 11.5. of the Paris Agreement

¹²² Decision 1/CP.21, para 72

¹²³ http://unfccc.int/cooperation_and_support/capacity_building/items/7204.php

¹²⁴ Decision 1/CP.21, para 74

¹²⁵ Decision 1/CP.21, para 75

¹²⁶ Decision 1/CP.21, para 76

¹²⁷ Decision 1/CP.21, paras 77-78

¹²⁸ Decision 1/CP.21, para 85

As the Paris Agreement is the first international climate agreement with mitigation and adaptation commitments for all Parties, the importance of capacity building is even greater than before. The 196 Parties to the UNFCCC are at highly divergent stages of development, with different capacities to implement climate action. In many developing countries, there is still lack of public awareness of climate change and lack of support for climate policies. Other challenges include fragmentation of information and experts, lack of adequate training for e.g. emission calculation methodologies, and other capacity-related gaps.¹²⁹

According to the World Resources Institute, these challenges have largely persisted because of the ad hoc, short-term project-based approach to capacity building created by the complex and fragmented landscape of international institutions providing capacity building. Notably, there has not been adequate long-term support, and no centralised institution or process to ensure coherence and coordination among countries.

By establishing the Paris Committee on Capacity-building and the related work plan for 2016-2020, these issues are expected to be alleviated in the coming years. The Paris Agreement provides an opportunity to foster enhanced, strategic and sustained approaches to capacity building that support transformational change and enable all Parties and wider stakeholders to build the capacities they need to mitigate and adapt to climate change.¹³⁰ The new Committee is not a “capacity-building mechanism”, which many developing countries were calling for in their submissions for the Paris Agreement, but essentially it covers many of the same issues. However, the capacity-building Committee is not a long-term institution such as the CTCN or the GCF are for technology and finance.

Major things that changed from the Co-Chairs draft text from October 2015¹³¹ to the final Paris Agreement were the special mentions of LDCs and SIDS as recipients of enhanced capacity building, and the establishing of the Paris Committee for Capacity-building, which was not mentioned in the draft Decision text from October. The new established Committee was successfully pushed forward in the negotiations by especially the African Group. However, the issue of capacity building getting a separate window under the Green Climate Fund, which many developing countries such as China and African Group were calling for in Paris, did not materialize in the Paris Agreement or COP decisions.¹³²

2.7 Compliance with the Paris Agreement

Most multilateral environmental agreements (MEAs) use compliance mechanisms to facilitate implementation and ensure enforcement. Amongst MEAs, the Kyoto Protocol's compliance mechanism is often characterised as one of the strongest. It consists of Facilitative and Enforcement Branches. The latter uses a quasi-judicial process and has

¹²⁹ <http://www.wri.org/blog/2015/12/3-reasons-why-capacity-building-critical-implementing-paris-agreement>

¹³⁰ <http://www.wri.org/publication/capacity-building-post-2020-climate-regime>

¹³¹ <http://unfccc.int/resource/docs/2015/adp2/eng/8infnot.pdf>

¹³² <http://www.africa.undp.org/content/rba/en/home/ourperspective/ourperspectivearticles/2015/12/17/what-does-the-cop21-paris-agreement-mean-for-africa-.html>

the competence to apply penalties against Parties that do not implement their treaty obligations, such as increasing their targets. The Facilitative Branch supports implementation of the Kyoto Protocol through, *inter alia*, facilitation, recommendations and advice.

Under international law in general, countries are often reluctant to agree to strong dispute settlement and enforcement mechanisms. It is therefore not surprising that the Paris Outcome regarding compliance is not as strong as the Kyoto Protocol system and focuses on facilitation rather than enforcement. At the same time, the Paris Agreement's compliance mechanism needs to be seen in a broader context. It relates also to other aspects of the outcome, such as "transparency of action and support" as well as "timeframes and process related to contributions". The global stocktakes, which are discussed in more detail below in section on time frames, are a key component in assessing the Parties' compliance with, and the correct implementation of, the Paris Agreement.

Paris Agreement

Article 15 of the Paris Agreement establishes a **mechanism to facilitate the implementation** of the Agreement.¹³³ This mechanism consists of an expert-based and facilitative committee, which will function in a transparent, non-adversarial¹³⁴ and non-punitive manner. It will also pay particular attention to different national capabilities and circumstances of Parties.¹³⁵

COP Decision

The COP decision 1/CP.21 includes a section on *Facilitating implementation and compliance*, which gives further guidance on the committee established in the Article 15 of the Paris Agreement. The committee shall consist of 12 experts, with recognized competence in the relevant scientific, technical, socio-economic or legal fields. These experts will be elected by the Conference of Parties serving as the meeting of Parties to the Paris Agreement, taking into account equitable geographical representation and gender balance. To ensure the recognition of the situation of the most vulnerable and less developed countries, the committee will have one member from SIDS and one from LDCs.¹³⁶

The Ad Hoc Working Group on the Paris Agreement is requested develop the modalities and procedures for the committee, with a view of completing the work for consideration and adoption by the first session of the Conference of the Parties serving as the meeting of the Parties of the Paris Agreement, which is expected to be held in 2020.¹³⁷

¹³³ Article 15.1. of the Paris Agreement

¹³⁴ "Non-adversarial" means working together co-operatively to reach the best resolution for everyone

¹³⁵ Article 15.2. of the Paris Agreement

¹³⁶ Decision 1/CP.21, para 103

¹³⁷ Decision 1/CP.21, para 104

Assessment of the Paris results

Since international environmental agreements involve a collaborative approach to a long-term problem, punishing non-compliance can remove incentives for further participation, and therefore ultimately prove counterproductive. A more facilitative and non-punitive approach to compliance is therefore needed, but it needs to be strong enough to ensure the effective participation of all Parties. In addition to compliance mechanisms spelled out in the Agreement, there is significant diplomatic pressure, “naming and shaming”. This is especially the case regarding the Paris Agreement, where all countries participate, and want to see other Parties do their share.¹³⁸ The harmonised global transparency system and the 5-yearly global stocktake process established in the Paris Agreement provide a possibility to catch early warnings for non-compliance of Parties, and in these cases the expert committee established in Article 15 of the Agreement can respond to these with non-punitive recommendations on how to improve a Party’s compliance.¹³⁹

A similar compliance mechanism has already been established under the UNFCCC, in the form of the Kyoto Protocol’s Compliance Committee. However, the Kyoto committee has, in addition to a facilitative branch, an enforcement branch that recommends actions against Parties when they fail to make progress towards their commitments. This has not been an entirely successful approach - Canada’s withdrawal from the Kyoto Protocol in 2014 is perhaps the best demonstration of the difficulties of enforcing compliance in such an international law system. The compliance committee of the Paris Agreement is different in the sense that it is only one expert body that makes non-punitive recommendations to Parties that are in risk of non-compliance, and does not impose sanctions.¹⁴⁰ Therefore, for the developed (former Annex I) countries the compliance mechanism of the Paris Agreement is less strict than in the case of the Kyoto Protocol, as there is no enforcement branch under the new Agreement. But, it can also be estimated that there will be even more “naming and shaming” in the new system, as there is a global stocktake process for all Parties, and all Parties have legally binding commitments under the Agreement. The developed countries are expected to show example to the developing and emerging economies in the implementation of the Agreement.

During the Paris negotiations, some developing countries had been calling for a differentiated mechanism for developed and developing countries, with an enforcement mechanism for developed countries and a facilitative mechanism for developing countries. Developed countries, particularly the US, did not want such a differentiated approach. In the final Paris Outcome there is no differentiation between developed and developing countries in the compliance mechanism, so the developed countries achieved their goal in this regard.¹⁴¹

¹³⁸ https://ldclimate.files.wordpress.com/2012/05/webldc_compliance.pdf

¹³⁹ <http://paristext2015.com/2015/09/can-the-paris-text-guarantee-compliance/>

¹⁴⁰ *Ibid.*

¹⁴¹ <http://twnetwork.org/climate-change/what-countries-agreed-under-paris-agreement-%E2%80%93-part-4>

2.8 Transparency of action and support

Transparency refers to Parties' obligations to report and communicate their efforts to implement the UNFCCC and the Paris Agreement. For a universal legal instrument such as the Paris Agreement it is necessary to track the progress regarding implementation, to provide understanding and clarity of the actions implemented and support provided. The Paris Agreement is significant in seeking to enhance transparency of action and support in the UN climate regime. It is also politically important that transparency obligations are common for all Parties, as it enhances the credibility of global climate action.

Paris Agreement

Article 13 of the Paris Agreement is dedicated to transparency, which is one of the backbones of the Agreement. The Paris Agreement establishes an enhanced, harmonized framework for transparency of climate action and support. The framework applies to all Parties but it has built-in flexibility that takes into account the differences between countries.¹⁴² The Agreement contains a special recognition of the situation of LDCs and SIDS, and an agreement to take into account that it will not cause undue burden on Parties. The common framework will be implemented in a "facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty".¹⁴³ Support will be provided to developing countries to implement the transparency framework.¹⁴⁴

Each Party shall regularly provide a national inventory report of emissions and sinks, and also provide necessary information to track their progress regarding achieving their mitigation targets¹⁴⁵, and also provide information related to adaptation, as appropriate.¹⁴⁶ Developed countries providing and receiving Means of Implementation (finance, technology, capacity building) need to provide information on the support given, needed and received. Developing countries should provide information on support given and received, but it is not mandatory (as "should" and not "shall").¹⁴⁷

The information on the achievement and implementation of the NDCs of each country, and the support provided to developing countries, will go through a **technical expert review**. The review will pay attention to national capabilities and circumstances. For developing countries the review process can also include assistance in identifying capacity-building needs.¹⁴⁸ The review will identify areas of improvement in each country's reporting, taking into account the national circumstances and capabilities of

¹⁴² Article 13.1 of the Paris Agreement

¹⁴³ Article 13.3 of the Paris Agreement

¹⁴⁴ Article 13.14 of the Paris Agreement

¹⁴⁵ Article 13.7 of the Paris Agreement

¹⁴⁶ Article 13.8 of the Paris Agreement

¹⁴⁷ Article 13.9 and 13.10 of the Paris Agreement

¹⁴⁸ Article 13.11 of the Paris Agreement

developing countries. In addition, each Party shall participate in a facilitative multilateral consideration of progress with respect to their NDCs.¹⁴⁹

COP Decision

The COP decision establishes a new Capacity-building Initiative for Transparency, which will support developing countries in meeting the enhanced transparency requirements set by the Paris Agreement, both before and after 2020.¹⁵⁰ It will provide tools, training and assistance for developing countries, and will also assist in improving transparency over time. This Initiative will be supported and operated by the Global Environment Facility (GEF), including through voluntary contributions from Parties in the sixth replenishment of the GEF funding and future replenishment cycles. The implementation of the Initiative will be assessed in conjunction with the seventh review of the financial mechanism.¹⁵¹

Developing countries will be provided flexibility including in scope, frequency and level of detail of reporting, and in the scope of the technical review. For developing countries the in-country reviews could be optional, depending on what is agreed in Marrakesh. However, all Parties other than LDCs and SIDS shall submit the information referred to in the Paris Agreement (Article 13, paragraphs 7, 8, 9 and 10) on a **bi-annual basis**. The LDCs and SIDS can provide the information at their own discretion.¹⁵²

The modalities, procedures and guidelines for the transparency framework will be developed by the new Ad Hoc Working Group on the Paris Agreement (which replaces the Durban Platform), and have them ready for consideration of the COP 24 in 2018. The modalities, procedures and guidelines developed in this context will eventually replace the measurement, reporting and verification (MRV) system established in the Cancun Agreements (1/CP.16) and the outcome of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (2/CP.17).¹⁵³

Assessment of the Paris results

Under the existing UNFCCC system, the monitoring, reporting and verification requirements are different for Annex I and non-Annex I Parties. Under the Paris Agreement, however, the requirements apply to all Parties, with some flexibility for developing countries. In other words, the Paris Agreement includes legally-binding reporting requirements for all Parties, with recognition of developing countries' need for support and further recognition of special capacity building needs for LDCs and SIDS.

The Paris Outcome can be seen as a procedural revolution and an innovation coming from the French COP Presidency; there is a transparent and inclusive process for all Parties, which caters to the needs of individual countries, but in a substantive manner.¹⁵⁴

¹⁴⁹ Article 13.12 of the Paris Agreement

¹⁵⁰ Decision 1/CP.21, para 85

¹⁵¹ Decision 1/CP.21, paras 86-89

¹⁵² Decision 1/CP.21, para 91

¹⁵³ Decision 1/CP.21, paras 92-99

¹⁵⁴ International Institute of Sustainable Development (IISD): Earth Negotiations Bulletin, COP 21 summary

This transparency is vital for building international trust and confidence that action is taking place as well as for assessing how to facilitate further action.¹⁵⁵ Generating trust in collective action through transparency is not only critical to spur strong domestic policies, but also to assure the private sector about the actual movement towards a low-carbon economy, thereby enabling it to shift its strategic orientations and investments.¹⁵⁶

Still, it remains to be seen how actively developing countries are going to participate in the new transparency system. Their track-record on the existing transparency system established in the Cancun Agreements is not great: only 22 non-Annex I countries have so far submitted their First Biennial Update Reports¹⁵⁷, even though the (indicative) deadline for submission passed already in December 2014. However, the difference between the Cancun Agreements and the Paris framework is that the Paris Agreement is legally binding, which the Cancun Agreements were not. Also, in the Paris Agreement there is more financial support available for enhancing the transparency of developing countries.

Hopefully the new Capacity-building Initiative for Transparency will help more countries get on board with the regular reporting. Participating in the reporting and verification framework is a learning-by-doing process, and developing countries, such as Chile, have stated that while participating for the first time can be intimidating, but going through it has been surprisingly productive and fruitful.¹⁵⁸

The key to a durable, operable, and effective Paris Agreement, which all countries could agree to, was finding the right balance between the extent of participation by countries, rules stringency, and review of compliance. This balance is ensured with a hybrid of legally binding and other less stringent provisions, and flexibilities for less developed countries. The Paris Agreement delivers a strong, enhanced transparency and accountability framework through the following conditions:

- Universal and harmonized reporting and verification requirements
- Commitment to enhance transparency over time, while taking account of countries' differing capacities
- Legally binding rules and processes holding all countries accountable.¹⁵⁹

However, there are also some features of the Paris transparency framework that seem even less strict than the existing UNFCCC framework, especially for developed (former Annex I) countries. Interestingly, in the final Paris Outcome the notion of the transparency framework being non-intrusive, non-punitive and respectful of national sovereignty applies for all Parties, not just developing countries. Also, the outcome of the review process in the transparency framework is identification of "areas of improvement", which

¹⁵⁵ <http://www.wri.org/blog/2015/12/insider-enhanced-and-effective-framework-transparency-and-accountability-paris>

¹⁵⁶ <http://www.iddri.org/Publications/Collections/Idees-pour-le-debat/WP0315.pdf>

¹⁵⁷ http://unfccc.int/national_reports/non-annex_i_natcom/reporting_on_climate_change/items/8722.php (as of 30 December 2015)

¹⁵⁸ <http://www.c2es.org/blog/huangji/how-paris-agreement-will-bring-transparency-climate-action>

¹⁵⁹ <http://www.wri.org/blog/2015/12/insider-enhanced-and-effective-framework-transparency-and-accountability-paris>

can be seen as quite relaxed for a legally binding agreement, and thus this wording is probably quite pleasing for the Parties advocating for a non-intrusive and non-punitive system.¹⁶⁰

2.9 Equity and responsibility

Discussions on equity and responsibility have been strong undercurrents in the UN climate negotiations throughout their history, dating back to pre-Rio era. Much of the debates have remained informal, as reaching North-South compromises on the issue has proved to be an enduring challenge. Typically, equity frameworks have made developed countries uncomfortable, as they have been built around such equity-related concepts as per capita allocation of emissions, historic responsibility, or climate debt. Mentioning the concept in COP decisions has been controversial also due to the possible interpretations of equity as strong, bifurcated differentiation between developed and developing countries. From a legal perspective it is worth noting that 'equity' is mentioned several times in the operative paragraphs of the Convention, and thus is and should be a part of UNFCCC deliberations.

The current drive of major developing countries to discuss equity is, to a large extent, reaction to two advances in the climate regime. The first impetus was the recognition of the two degrees target by the Copenhagen Accord and subsequently Cancun Agreements. This kick-started, for example, the BASIC countries work on equity frameworks, as they interpreted that the North is looking for a disproportionate share of the remaining carbon budget and 'squeeze' the emerging economies of the South. Secondly, the Durban Mandate and especially its wording concerning legal agreement 'applicable to all parties' triggered the formation of the Like-Minded Developing Countries, which have championed equity discussion as a defensive tactic against the erosion of Annex I/Non-Annex I differentiation.

In sum, equity discussion is often used as a shield by developing countries under international pressure to accept further obligations than in the Convention. In this logic, advocated for example by Third World Network and statements of the LMDCs,¹⁶¹ there is either a global system that is allocated based on per capita or some variant of it, or there is the CBDR principle as traditionally interpreted – as high level of binary differentiation between developed and developing countries.

Paris Agreement

In the Paris Agreement equity is addressed in the preamble, the objective,¹⁶² mitigation,¹⁶³ and global stocktake.¹⁶⁴ The first three are closely following the Convention structure on mentioning equity, while global stocktaking context can be seen as to

¹⁶⁰ Sindico, F (2015) SCELG Working Paper: A Story of 2.0 Texts and of the Landing of the Paris Agreement

¹⁶¹ See for example Third World Network, 'Equity and Human Rights', Paris Climate Justice Briefs #2, available at: http://www.twn.my/title2/climate/pdf/paris01_justicebrief/02-humanrights.pdf.

¹⁶² Article 2.2 of the Paris Agreement.

¹⁶³ Article 4.1 of the Paris Agreement.

¹⁶⁴ Article 14.1 of the Paris Agreement.

address concerns of the developing country parties on the focus of the new stocktaking exercise. The global stocktake will now make its assessment 'in light of equity and the best available science', language that was introduced by South Africa in the October session in Bonn.

The contemporary formulation of the CBDR-principle features in the preamble of the Paris Agreement, the objective,¹⁶⁵ as well as the mitigation section¹⁶⁶ : 'common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'. This CBDR&RC&NC -language, already familiar from US-China Agreement in 2014 and the Lima Call for Climate Action from COP-20,¹⁶⁷ combines the traditional language of the Convention¹⁶⁸ with 'different national circumstances'. It broadens the scope of which Parties may be differentiated beyond responsibility and capacity, side-stepping the seemingly everlasting debate on those issues. The wording can be interpreted to implying self-differentiation via the NDCs.

In other parts of the Paris Agreement, the equity and responsibility aspects feature in the compromises on differentiation. As noted, much of the contemporary climate negotiations involve shifting away from the binary approach to differentiation between Annex I and non-Annex I countries that has been at the heart of the Kyoto Protocol.

The Paris Agreement makes no explicit mention of the Annexes of the Convention. The language of differentiation is now using terms 'developing countries' and 'developed countries' and is thus somewhat more open to interpretation. As a general rule, differentiation is remarkably subtle in both mitigation and transparency sections, with most of the commitments applying to all Parties. In mitigation, there is an element of broader differentiation on economy-wide targets for developed countries and recognition of developing countries needing support. In addition, these sections feature self-differentiation via the NDCs, and recognition of the special status of LDCs and SIDS similarly to the Convention.¹⁶⁹ As a final tweak of the Paris Agreement, Article 4.4 on mitigation was changed to use the same verb ('should') for both developed and developing countries, instead of 'shall' for developed and 'should' for developing countries.¹⁷⁰ This was done in order to accommodate the 'red lines' of the US.

The transparency framework takes into the account the developing countries need for support, and obliges developed country parties to provide it.¹⁷¹ However, a major shift is that the transparency provisions are not differentiated à la Copenhagen Accord and Cancun Agreements, which created international assessment and review (IAR) and

¹⁶⁵ Article 2.2 of the Paris Agreement.

¹⁶⁶ Articles 4.3 and 4.19 of the Paris Agreement.

¹⁶⁷ Decision 1/CP.20.

¹⁶⁸ Article 3.1 of the UNFCCC.

¹⁶⁹ Articles 4.6 and 13.3 of the Paris Agreement.

¹⁷⁰ The Article 4.4 of the Paris Agreement now reads '*Developed country Parties shall continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.*'

¹⁷¹ Article 13.9 of the Paris Agreement.

international consultation and analysis (ICA) for Annex 1 Parties and non-Annex 1 Parties, respectively. The Paris Agreement lays out purposes and information to be provided by all Parties, including inventories and emission projections, as well as technical expert reviews for all Parties.

However, developed vs. developing country differentiation is significant in finance,¹⁷² as well as capacity building, in which the roles of developed and developing countries are clearly bifurcated. The Agreement ended up restating the obligations of the Convention – without referring to the Annexes – in which developed countries shall provide finance to developed countries. In addition, ‘other parties’ are encouraged to provide voluntary support. Developed country parties are also obliged to biennially communicate quantitative and qualitative information on their financing. In practice, however, it is likely that the donor pool will somewhat broaden over time.

Finally, the preamble section of the Paris Agreement includes many novelties that have been on the wishlist of many countries in the G77/China for a long time, including ‘human rights’, ‘climate justice’, ‘Mother Earth’, ‘lifestyles’ and ‘patterns of consumption’. According to international rules of treaty interpretation, a concept in an agreement’s preamble is not legally-binding or part of the operative agreement. Instead, the role of the preamble is to inform the interpretation of the operative part of the treaty.¹⁷³

For example, The UNFCCC preamble from 1992 notes ‘that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low [...]’. This has not caused ‘historical emissions’ or ‘per capita emissions’ to be featured in, for example, subsequent operative decision texts.

The new equity concepts introduced by the Paris Agreement preamble can be seen as part of the ‘balanced package’, in which every Party has something to bring home. The Indian Prime Minister Narendra Modi, for example, interpreted the agreement as a ‘victory for climate justice’ in his remarks to domestic audiences.¹⁷⁴ In this way, the new concepts act as enablers of compromise – but are unlikely to significantly shift the equity discussion of the forthcoming international negotiations. Similar logic was applied in the Cancun Agreements, where ‘historical responsibility’ was mentioned for the first time in a preambular text of the mitigation paragraphs.¹⁷⁵

COP Decision

Decision 1/CP.21 contains no references to equity or CBDR principle. On differentiation, it follows similar logic as the Paris Agreement, but is even less differentiated: differentiation is clear and binary only concerning the provision of finance by developed country Parties. This takes in the preamble, INDCs,¹⁷⁶ finance,¹⁷⁷ and Enhanced Action Prior to 2020.¹⁷⁸

¹⁷² Article 9 of the Paris Agreement.

¹⁷³ Article 31.2 of the 1969 Vienna Convention on the Law of Treaties.

¹⁷⁴ India Today, ‘Paris deal frames climate ambition in lens of equity: India’, 16 December 2015, available at: <http://indiatoday.intoday.in/story/paris-deal-frames-climate-ambition-in-lens-of-equity-india/1/548169.html>.

¹⁷⁵ Decision 1/CP.16, The Cancun Agreements, III Enhanced Action on Mitigation, preamble.

¹⁷⁶ Decision 1/CP.21, para 15.

The special role of the Least Developed Countries and SIDS is recognised in a similar way as in the Paris Agreement. Concerning transparency, as an example, the decision text is symmetrical in its requirement for 'submitting information on a biennial basis', but gives flexibility to the LDCs and SIDS, which 'may submit this information at their discretion'.¹⁷⁹

2.10 REDD+, Forests and Land Use

The IPCC recently confirmed in the Fifth Assessment Report¹⁸⁰ (AR5) that tropical deforestation and forest degradation represent 'the largest and most variable single contributor' to emissions from land use change and that the 'AFOLU (Agriculture, Forestry and Other Land Use) sector accounts for about a quarter (~10-2GtCO₂eq/yr) of net anthropogenic GHG emissions mainly from deforestation, agricultural emissions from soil and nutrient management and livestock'.

As reported in both the Technical Paper on 'Investment and financial flows to address climate change: an update' FCCC/TP/2008/7 and the UNEP 'Emissions Gap 2012' report, the mitigation potential in the forestry sector by 2020 in developing countries is equivalent to approximately 4.2 Gt CO₂ annually. In addition, as highlighted by Houghton¹⁸¹ "no other processes or procedures alone have the potential for stopping and reversing the accumulation of CO₂ in the atmosphere at the speed necessary to stabilize concentrations at 450 ppm or less.

Reducing Emissions from Deforestation and Forest Degradation (REDD+) has historically been one of the more advanced negotiation processes under the UNFCCC, mainly because there has been a good amount of progress in SBSTA on guidance and modalities for reporting, linked to the IPCC. This has placed REDD+ in a unique position, because it has an internationally acceptable framework, called the Warsaw REDD+ Framework, which sets REDD+ up to achieve results based payments.

Paris Agreement

Forests and REDD+ get their own stand-alone Article 5 in the Paris Agreement. Article 5 does not include additional obligations for Parties and starts by referring to Article 4, paragraph 1(d) of the Convention, which refers to Parties responsibilities to conserve and enhance sinks for GHGs, and specifically refers to the role of forests. Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework – the Warsaw REDD+ Framework, as set out in related guidance and decisions already agreed under the previous COPs. In addition, Article 5 of the Paris Agreement includes a new role for forests and specifically refers to Joint Mitigation and Adaptation (JMA) approaches for the integral and sustainable management of forests, while reaffirming the importance of non-carbon benefits (NCB)

¹⁷⁷ Decision 1/CP.21, para 54.

¹⁷⁸ Decision 1/CP.21, para 115.

¹⁷⁹ Decision 1/CP.21, Paragraph 91.

¹⁸⁰ IPCC. (2013). Climate Change 2013: The Physical Science Basis. Fifth Assessment Report of the Intergovernmental Panel on Climate Change. (Vol. I). Cambridge, New York: Cambridge University Press, p. 50

¹⁸¹ Houghton, R. A. (2012). Carbon emissions and the drivers of deforestation and forest degradation in the tropics. *Current Opinion in Environmental Sustainability*, 4(6), p. 601

associated.¹⁸² The reference to these two new aspects of forests (JMA and NCBs) in the Paris Agreement derives from several COP decisions on JMA and NCBs.

COP Decision

Decision 1/CP.21 does not address forest issues in a separate section, but REDD+ and forests are recognised under the finance section which mentioned the importance of adequate and predictable finance, including for results based payments to support REDD+ and forests, and mentioned the GCF as a possible source.¹⁸³ In addition, sinks (removals) are mentioned in the mitigation section concerning NDCs.¹⁸⁴ However, there were three other COP Decisions which relate to forests and REDD+ at COP21.^{185 186 187}

Assessment of Paris Results

The main outcome in Article 5 of the Paris Agreement concerning forests forces the international community to look beyond forest carbon long associated with REDD+, and recognize the significance forests play in also adapting to climate change and providing non-carbon benefits.

REDD+ and alternative policy approaches such as JMA, also get a specific mention in a paragraph on finance, through which the Paris Agreement recognizes the importance of multilateral, bilateral, and public and private sources of finance, including results based payments, for financing and incentivizing approaches and actions. The Paris Agreement makes specific reference to the Green Climate Fund as a source of financing for forests, but does not mention or distinguish market based and non-market based approaches for REDD+ based finance, unlike 13/CP.19 and 14/CP.19 from the Warsaw REDD+ Framework.

With respect to expectations, Article 5 of the Paris Agreement contains the most important elements and expectations from developing and developed country Parties. At previous sessions, Bolivia had polarized discussions on what should be included in REDD+ and how it should be financed, and were strongly adverse to market based approaches that “commodify ecosystems”. Article 5 tributes the work Bolivia has done in presenting a solution to finding a common understanding with its specific reference to JMA.

We can see that the Paris Agreement has been able to successfully negate conflicts on polarizing terminologies with respect to the role of forests by both referring to REDD+ and to the role of forests for JMA, and at the same time meet most of the expectations of the

¹⁸² Article 5.2 of the Paris Agreement

¹⁸³ Decision 1/CP.21, para 55

¹⁸⁴ Eg. Decision 1/CP.21, para 31 a)

¹⁸⁵ Decision -/CP.21: Alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests

¹⁸⁶ Decision -/CP.21 Further guidance on ensuring transparency, consistency, comprehensiveness and effectiveness when informing on how all the safeguards referred to in decision 1/CP.16, appendix I, are being addressed and respected

¹⁸⁷ Decision -/CP.21 Methodological issues related to non-carbon benefits resulting from the implementation of the activities referred to in decision 1/CP.16

LMDCs and Large Countries. The Paris Agreement does not mention market and non-market approaches, as these terminologies, when applied to land and forests, are often met with a dichotomy even within groups such as the LMDCs. However the reference to the GCF as a specific source of finance for forests and REDD+ is quite consistent with the LMDC position leading into the Paris Agreement, and given the broad range of views between LMDC Parties, it is fair to say that the Paris Agreement does a good job referencing the most important points on finance and the role of forests for LMDCs.

In the previous report by the consortium, Large Countries positions were assessed with respect to REDD+, forests and land. Their viewpoints were that the post 2015 agreement should include REDD+ and build on the Warsaw REDD+ Framework and some large countries specifically made reference to the importance the land sector plays in global annual GHG emissions, and that there is the expectation that land, forests and REDD+, should feature as an important part of the deal.

The expectations of the large countries are generally met under Article 5 of the Paris Agreement as there is specific reference to building on existing Frameworks (Warsaw REDD+ Framework) and guidance and decisions under the Convention. Large countries expectations are further met in the Paris Agreement with the stand-alone article on forests and REDD+, which highlights the land sector's specific importance and role under the Convention.

2.11 Time frames and process related to commitments

One of the major breakthroughs in the Paris Agreement was reaching a legally binding process for all Parties to submit their climate change mitigation commitments, and to increase ambition over time when updating actions every five years. A global stocktake will measure the progress towards to long-term goals of the Paris Agreement every five years, starting in 2023. Already in 2018 there is a “facilitative dialogue”, which resembles a global stocktake, but has a narrower mandate of looking at mitigation only, while the stocktake includes also adaptation and MOI.

Paris Agreement

The Article 3 of the Paris Agreement states that all Parties must undertake and communicate ambitious efforts, which will represent a progression over time.¹⁸⁸ According to Article 4, Parties need to communicate a nationally determined contribution **every five years**.¹⁸⁹ A Party can at any time increase the ambition level of its contribution, also during the 5-year period.¹⁹⁰ The first CMP will consider the common timeframes at its first session,¹⁹¹ which is expected to be held in 2020.

¹⁸⁸ Article 3 of the Paris Agreement

¹⁸⁹ Article 4.9 of the Paris Agreement

¹⁹⁰ Article 4.11 of the Paris Agreement

¹⁹¹ Article 4.10 of the Paris Agreement

According to the Agreement, Parties also should strive to communicate their long-term low greenhouse gas emission strategies, taking into account their national responsibilities, capabilities and circumstances.¹⁹²

Article 14 defines the **global stocktake** that will be done periodically to assess the ambition level of the contributions towards reaching the long-term goals of the agreement¹⁹³: limiting global warming below 2°C above pre-industrial times but aiming at a 1.5°C increase, and balancing emissions and sinks in the second half of the century¹⁹⁴. The global stocktake will be comprehensive and assess not only mitigation, but also adaptation and means of implementation (finance, technology and capacity building) commitments. The first global stocktake will take place in 2023 and every five years thereafter.¹⁹⁵

COP Decision

Decision 1/CP.21 reiterates the invitation to Parties that have not yet sent their INDC to do so as soon as possible, well in advance of COP 22 in November 2016 in Marrakesh, Morocco.¹⁹⁶ The Secretariat will update the synthesis report about the collective ambition level of the INDCs compared to the 2°C target by 4 April 2016, and make it available by 2 May 2016.¹⁹⁷

A **facilitative dialogue** among Parties will take place in 2018 to take stock of the collective efforts of all Parties in relation to the long-term goal and to inform the preparation of the Nationally Determined Contributions (NDCs).¹⁹⁸

Regarding mitigation commitments, Parties are requested to submit their first NDCs at the latest when they ratify, accept or accede to the Paris Agreement. However, if a Party has already submitted its INDC (187 Parties have already done so by January 2016¹⁹⁹), this provision is already fulfilled unless the Party wishes to send an updated version.²⁰⁰

All Parties, regardless if their current INDC has a timeframe up to 2025 or 2030, are urged to communicate **by 2020 a new NDC** and do so **every 5 years thereafter**.²⁰¹ The NDCs need to be communicated at least 9 -12 months in advance of the relevant Paris

¹⁹² Article 4.19 of the Paris Agreement

¹⁹³ Article 14.1 of the Paris Agreement

¹⁹⁴ Article 2 and Article 4.1 of the Paris Agreement

¹⁹⁵ Article 14.1 and 14.2 of the Paris Agreement

¹⁹⁶ 1/CP.21, para 13

¹⁹⁷ 1/CP.21, para 19

¹⁹⁸ 1/CP.21, para 20

¹⁹⁹ <http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

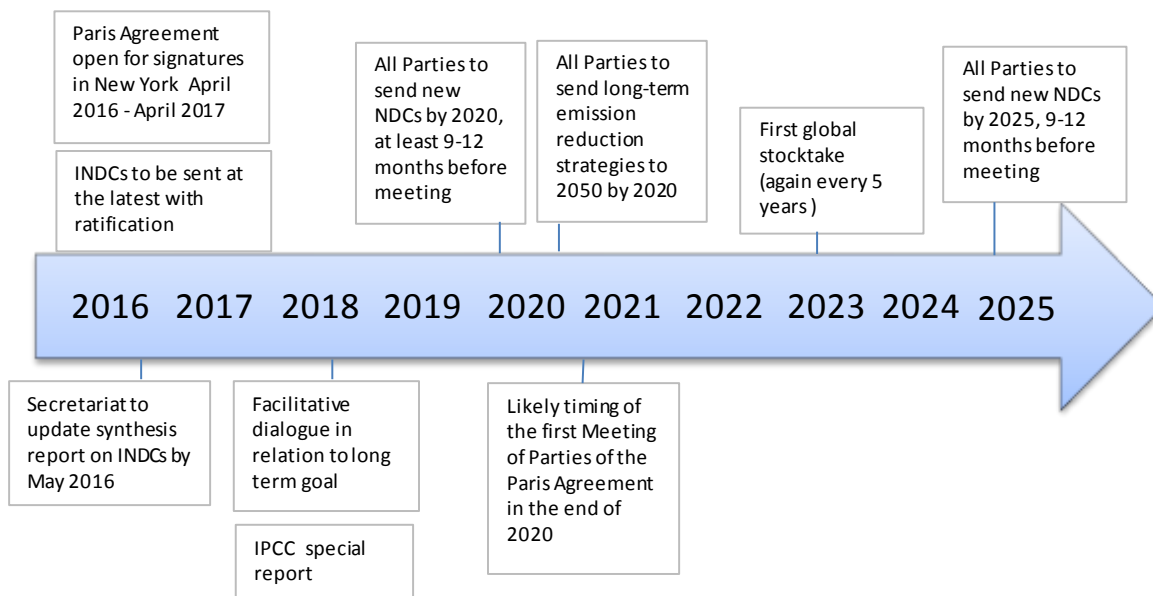
²⁰⁰ 1/CP.21, para 22

²⁰¹ 1/CP.21, paras 23-24

Agreement CMP to facilitate clarity and transparency of the contributions.²⁰² The new NDCs need to include information on the timeframes of their implementation.²⁰³

Decision 1/CP.21 also includes deadlines for the communication of the long-term mid-century low greenhouse gas emission development strategies mentioned in Article 4 of the Paris Agreement. These strategies should be sent by 2020 to the Secretariat.

Figure 1: Timeline regarding mitigation contributions under the Paris Agreement



Assessment of the results

The 5-year cycles are at the heart of the Paris Agreement, and one of the key outcomes of the Paris negotiations. The Agreement sets a clever “review and ratchet up” mechanism for mitigation, that mandates increasing ambition over time. This is essential for reaching the long-term global temperature goal(s), as the current level of mitigation ambition remains far from adequate.

Every five years, a global stocktake will be conducted showing how far current emissions projections diverge from pathways towards the 2⁰C and 1.5⁰C global temperature goals. Two years after that all countries will have to produce new NDCs with more ambitious mitigation measures for the subsequent period. The Paris Agreement states that each subsequent NDC must be more ambitious than the previous one, and this requirement is

²⁰² 1/CP.21, para 25

²⁰³ 1/CP.21, para 27

legally binding. Also, there is no end date for the five year cycles, so the system created under the Paris Agreement could continue at least as long as a gap remains between the long-term temperature goal and the ambition level of the contributions of Parties.

Given that countries could not put forward adequately ambitious mitigation targets from the viewpoint of climate science before the adoption of the Paris Agreement, it is vital to have a binding mechanism designed to increase ambition over time. The periodic global stocktaking process also provides an important opportunity for various stakeholders and non-state actors, such as non-governmental organisations and private companies, to put pressure on governments to take on more ambitious targets in order to reach the global temperature goals included in the Paris Agreement.

The consideration of progress starts already before the Paris Agreement becomes applicable through the “facilitative dialogue” scheduled for 2018. While the process is not called a stocktake, its purpose is essentially the same regarding mitigation – to assess where there current NDCs will lead with respect to limiting global temperature increases and to inform Parties of the situation before submitting updated NDCs by 2020.

The Paris Agreement’s long-term net zero goal (balancing emissions and sinks by 2100, meaning effectively net zero emissions) and the five-yearly ambition assessment have also been designed to send clear signals to business and investors about the low-carbon direction of the global economy. Establishing simultaneous policy improvement cycles in all countries, the Agreement will create global markets in and demand for low-carbon infrastructure and technologies.²⁰⁴

In addition to mitigation, the periodic global stocktake will also assess progress with respect to adaptation as well as means of implementation. This is a key message from the Paris Agreement for developing countries – the financial, technical and capacity building support for their climate action is also being followed and taken stock of globally, and also the adaptation needs and actions are taken into account. As developing countries need support and guidance in their increasing commitments and the 5-year improvement cycles, it is a positive message to them that also the level of support, as well as adaptation efforts, is looked at regularly on a global scale.

It is a fundamental change to the existing system that by virtue of the mandatory cycles, climate change can be expected return to the top of the political agenda in every country at five-year intervals. The same process applies to developing and developed countries and all are expected to increase their ambition over time.

So far under the UNFCCC, the assessment of countries’ actions and support have been undertaken after implementation, to determine whether they were in compliance with agreed commitments. This changes in the Paris Agreement, as mitigation commitments will be assessed also *before* they are implemented. However, such ex-ante stocktaking is done only on global level and not with respect to single countries’ NDCs. Still, it will help inform countries’ decision-making concerning their future NDCs, and provide arguments and motivation for Parties to revisit their proposals. The five year cycles of improvement ensures that countries regularly assess and strengthen their actions to reduce emissions,

²⁰⁴ <http://www.lse.ac.uk/GranthamInstitute/news/the-paris-agreement-is-highly-ambitious-and-very-clever/>

adapt to climate change and support low-carbon growth in less developed countries. They will also enable countries to develop and share a big-picture snapshot of their actions to the world regularly.²⁰⁵

2.12 Loss & damage

The COP initiated work on loss and damage as part of the Cancun Adaptation Framework to consider approaches to address loss and damage associated with the impacts of climate change in developing countries. This effort resulted in the Warsaw International Mechanism (WIM) for Loss and Damage (Decisions 2/CP.19, and 2/CP.20). More than 50 INDC's make a mention of climate change related losses or damages and 23 countries²⁰⁶ make an explicit reference to loss and damage in their INDCs.²⁰⁷

Paris Agreement

Loss and Damage has its own Article 8 in the Paris Agreement. Article 8 recognizes the importance of averting, minimizing and addressing associated loss and damage with the adverse effects of climate change making reference to extreme weather events and slow onset events.²⁰⁸ Parties are expected to enhance action and support on a co-operative basis on loss and damage²⁰⁹, and reference is made specifically to the role of the Warsaw International Mechanism (WIM).²¹⁰

Article 8 identified areas of cooperation and facilitation to enhance the understanding for action and support on loss and damage and included the following in the list: a) Early warning systems; (b) Emergency preparedness; (c) Slow onset events; (d) Events that may involve irreversible and permanent loss and damage; (e) Comprehensive risk assessment and management; (f) Risk insurance facilities, climate risk pooling and other insurance solutions; (g) Non-economic losses; (h) Resilience of communities, livelihoods and ecosystems.²¹¹ Article 8 concludes by reinforcing the role of the WIM as the most important institution for loss and damage and notes that it can be strengthened and enhanced based on subsequent COP agreements if determined appropriate.²¹²

COP Decision

In Decision 1/CP.21, Loss and Damage features in a standalone sub-section under Section III Decisions that give Effect to the Agreement.

²⁰⁵ <http://www.wri.org/blog/2015/05/insider-case-establishing-five-year-cycles-paris-climate-agreement>

²⁰⁶ Antigua and Barbuda, Barbados, Cambodia, Colombia, Costa Rica, Côte d'Ivoire, Dominica, Dominican Republic, Fiji, Gambia, Haiti, India, Malawi, Myanmar, Philippines, Republic of Moldova, Serbia, Sierra Leone, Suriname, Uruguay, Vanuatu, Vietnam, and Zambia

²⁰⁷ <http://www.iccad.net/wp-content/uploads/2015/12/Loss-and-Damage-in-INDCs-.pdf>

²⁰⁸ Article 8.1 of the Paris Agreement

²⁰⁹ Article 8.3 of the Paris Agreement

²¹⁰ Article 8.2 of the Paris Agreement

²¹¹ Article 8.4 of the Paris Agreement

²¹² Article 8.5 of the Paris Agreement

The COP decides on the continuation of the WIM following its review.²¹³ It requests the Executive Committee of the WIM to establish a clearing house for risk transfer that serves as a repository for information on insurance and risk transfer, in order to facilitate the efforts of Parties to develop and implement comprehensive risk management strategies.²¹⁴

The COP requests the involvement of other UNFCCC groups, such as the Adaptation Committee, in developing recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change.²¹⁵ And finally, of critical importance, the COP agrees that Article 8 of the Agreement on loss and damage does not involve or provide a basis for any liability or compensation.²¹⁶

Assessment of the results

The Paris Agreement yielded a breakthrough on loss and damage, especially for developing countries, and SIDS in particular, by virtue of being included as a stand-alone Article 8, thus distinguishing loss and damage from adaptation as a specific area for cooperation, action and support.

The Paris Agreement article on loss and damage is also important, as there were concerns and confusion on whether the WIM would be a short term institution on loss and damage, or have its place as a long term institution and process, beyond adaptation, in a post-2020 climate regime.

This outcome is also important as it includes agreement on the highly polarizing and contentious issues of liability and compensation, which some developing countries had called for, but for which developed countries were not willing to support.

The common ground is built around the concepts of comprehensive risk assessment and management; as well as risk insurance facilities, climate risk pooling and other insurance-related solutions. These items make the first reference to risk and insurance facilities for which compensation mechanisms can be built within a common international climate change mechanism.

Decision 1/CP.21 is also important in stating that Article 8 of the Paris Agreement does not involve or provide a basis for any liability or compensation. This point is of particular importance to developed countries.

Support and action is expected to be directed into future insurance schemes providing compensation to the poor and vulnerable communities affected by extreme weather events and slow onset events. In other words, the agreement on one hand identifies loss and damage separately to adaptation, but commits to technical work and makes no mention of liability or finance.

The insurance sector is an area of much needed support across many developing countries and especially in LDCs and SIDS in developing supporting legal and regulatory frameworks, and capacity building and awareness raising within society. The question does remain unanswered, however, who will pay for the set up (support) for these

²¹³ Decision 1/CP.21, para 48

²¹⁴ Decision 1/CP.21, para 49

²¹⁵ Decision 1/CP.21, para 50

²¹⁶ Decision 1/CP.21, para 52

insurance sectors and mechanisms, and who will pay to be insured? There are many countries that are still to establish, develop and integrate their insurance sectors within their economies. Unlike microfinance programmes that provide people with instant cash, the insurance industry has so far struggled to overcome the simple problem of trying to ask poor people to pay for something they might never use.

On the other hand, micro insurance and low-cost insurance policies for the most vulnerable are being seen as a central way of providing social protection to the increasing numbers of people affected by natural disasters such as hurricanes, flooding and drought. The real question remains to be answered – can the UNFCCC provide any meaningful action and support in this respect?

2.13 Carbon pricing and carbon markets

The legal architecture of the Kyoto Protocol, in the form of the flexibility mechanisms (Articles 6, 12 and 17 of the Kyoto Protocol), provided the tools that enabled the formation, by predominantly private sources of capital, of significant international carbon markets. For example, the total investment in over 7900 Clean Development Mechanism projects exceeds €100 billion and provides an annual abatement pipeline of 950 million tonnes of CO₂e.²¹⁷ Perhaps more importantly, the quantified emission reduction commitments of Annex B of the Kyoto Protocol triggered the European Union into the development of a multi-jurisdictional and economy-wide emissions trading scheme to regulate major point source GHG emissions.

The rapid global expansion of this policy tool, and carbon pricing more generally, has been the predominant national policy response to the failure of international negotiations in Copenhagen. Most significantly, both China and the United States now have large sections of their economies (and therefore emissions) implementing carbon pricing through emissions trading. In addition to the impending Chinese national scheme, carbon pricing has been legislatively implemented in over 40 countries or sub-national entities and is actively referenced in 37 of the INDCs presented prior to the Paris negotiations. This paradigm of global carbon pricing provided one of the primary areas of contestation during the Paris negotiations, with proponents seeking reference in the Agreement (and/or Decision) to enable the further development markets (with a view to leveraging private capital in mitigation activities), commitments to environmental integrity, avoidance of double counting and drivers for demand, while opponents resisted the commodification of the atmosphere and the surrender of sovereignty over public goods.

Paris Agreement

Although in doubt during the evening of Friday 10 December, and moved from its earlier position of Article 3 ter, the Paris Agreement contains a stand-alone Article designed to reinforce the role of carbon pricing as a tool in mitigating anthropomorphic climate change. Article 6 provides both recognition of the possibility for Parties to voluntarily exchange their “internationally transferred mitigation outcomes”²¹⁸ and establishes a mechanism to “contribute to the mitigation of greenhouse gas emissions and support

²¹⁷ According to the CDM Executive Board's 2014 status report, at least \$138 billion – “probably significantly more” – had been invested in the CDM over the nine years from 2005-14. See <http://unfccc.int/resource/docs/2014/cmp10/eng/05.pdf>

²¹⁸ Articles 6.1 and 6.2 of the Paris Agreement

sustainable development”²¹⁹. The former is known as the co-operative approaches in order to avoid the divisive language of international emissions trading and the latter, currently and unusually without acronym, is potentially a blending of the JI (universal applicability) and CDM (environmental integrity and governance architecture) Kyoto mechanisms in a mitigation context that is wider than the current project-based system.

Each possibility comes with important caveats that will shape the development of Article 6.

In relation to the co-operative approaches through ITMOs to encourage “higher ambition in mitigation and adaptation actions”, the Paris Agreement requires:

- a. environmental integrity and transparency;
- b. robust accounting to ensure the avoidance of double counting; and
- c. authorization by the participating Parties.²²⁰

The full details of the Article 6.4 mechanism will be developed under the authority and the guidance of the CMA and shall:

- a. Promote the mitigation of greenhouse gas emissions while fostering sustainable development;
- b. Incentivize and facilitate participation by authorized “public and private” entities;
- c. Deliver “an overall mitigation in global emissions”; and
- d. Avoid double counting in NDCs.²²¹

As part of the dynamics of the negotiation and the text of the Geneva Text, there is also a Framework for “integrated, holistic and balanced non-market approaches” established in the Paris Agreement.²²²

In relation to the previous cornerstones of market participation, both the CDM and JI reviews were rolled over to COP 22. Similarly, neither the New Market Mechanism nor Framework for Various Approaches gained traction under the very focused approach of the French presidency and arguably, given the focus on the 2018 informal stocktake and the need to increase ambition under the Paris Agreement (and its available tools), neither may ever regain their momentum.

The full import of Article 6 will not be apparent until Parties start to utilise the co-operative approaches and the 6.4 Mechanism is established and operational, but without doubt the Article sets a strong basis for the continued evolution of carbon markets as a powerful tool to deliver economy wide transitions to a low carbon future.

COP Decision

²¹⁹ Article 6.4 of the Paris Agreement

²²⁰ Articles 6.2 and 6.3. of the Paris Agreement

²²¹ Article 6.4. of the Paris Agreement

²²² Article 6.9 of the Paris Agreement

Again although carbon pricing is mentioned in Paragraph 127 of the COP Decision,²²³ the overwhelming tenure of the decision in relation to carbon markets is to maintain the negotiation balance of the Agreement and to enable the SBSTA to commence work on the Article 6.4 mechanism and the broader rules, modalities and procedures.

Paragraphs 37, 38 and 39 are most relevant of this section of the Decision but it should be noted that markets work in the context of supply and demand and therefore the future of carbon markets is inextricably linked to questions of ambition and finance. Under the Paris Decision the parameters of the new mechanism are hinted at:

- a. All Parties may be consumers or suppliers under the mechanism as the differentiation of Kyoto is removed from this part of the Paris Agreement, thus enabling a more dynamic use of Article 6;
- b. The use of “real, measurable, and long-term benefits” without the use of “permanent” indicating the potential inclusion of forestry activities under Article 6;
- c. Reference is made in Paragraph 38(c) to “scope of activities” in contrast to the wording of Article 12 of the Kyoto Protocol “project activities” indicating a CDM+ sectoral approach will be possible;
- d. The test of “reductions that are additional” will continue to apply;
- e. There will be a continuing role for Designated Operational Entities; and
- f. There will be a very strong emphasis on the avoidance of double counting, an exercise made more difficult by global participation, the INDC process and the lack of an Assigned Amount Unit (AAU)-like currency.

Decisions 37, 38 and 39 will reignite many of the difficult conversations of Paris but the coalitions that emerged in Le Bourget, the joint Brazilian-EU approach to Article 6, the role of China in supporting the US in the correction of the “shall” vs “should” wording in Article 4(4), the High Ambition Coalition developed by the Marshall Islands and the post-Paris Declaration on Carbon Pricing drafted by New Zealand all point to their being sufficient political will to operationalise Article 6.

Assessment of the results

Organisations such as the World Bank²²⁴ and the International Emissions Trading Association²²⁵ have hailed the Paris Agreement generally, and specifically the direction of travel set by Article 6, as the best outcome reasonably possible. However, the argument for the inclusion of mechanism and the development of co-operative approaches is premised on new demand for these tools. Although a small subset of the OECD has (through their INDCs) expressed a desire to utilise international mechanisms, the

²²³ recognizing “the important role of providing incentives for emission reduction activities, including tools such as domestic policies and carbon pricing”

²²⁴ “While many of us were hoping for a hook that would support the use of markets, we were happily surprised to see the extent and detail on carbon markets that was ultimately included in the Paris Agreement.” See <http://blogs.worldbank.org/climatechange/carbon-markets-paris-agreement-early-holiday-gift>

²²⁵ “We congratulate governments on a historic agreement, grounded in a new spirit of cooperation,” says Dirk Forrister, IETA’s CEO and President. “With the endorsement of more than 190 governments and a strong foundation for markets going forward, businesses can begin planning for a vibrant new future.” See <https://www.ieta.org/page-18192/3719003>

elephant in the *indaba* is the lack of meaningful sources of demand for any tradable units generated by such processes. Without such demand the argument for the transformational role that can be played by the private sector is spurious. The Paris Agreement does not create demand, rather it creates a process that enables ambition and thus indirectly drives demand either domestically within ETS and other carbon pricing systems and/or through international cooperation such as linking or sectoral results based support. It should also be considered how Article 6 will evolve in tandem with other aspects of the Paris Agreement as the silo-nature of the Kyoto Protocol has not been replicated. The effective implementation of the mitigation, finance and land use aspects of the Agreement will have an impact on how Article 6 develops. This relationship is also iterative; Article 6 may supply solutions outside the “traditional” exchange of units of GHG abatement generated by project activities, and a role could be envisaged for co-operative approaches in adaptation, technology transfer and loss & damage.

This deterministic, demand focused, perspective does not enable a prompt resolution of the utility or otherwise of Article 6. In reality it will be several years, during which modalities are drafted, stocktakes initiated, national policy developed and markets evolve, before judgements can be formed in relation to this communicative approach to the resolution of the existential collective action problem that is climate change. What is clear in the afterglow of Paris is that the Paris Agreement gives stakeholders, not just Parties, a creative palate on which to fashion climate solutions at scale. As a consequence of Article 6 it is clear that the use of price discovery, the leveraging of private capital flows and innovation of markets will form a significant part of this toolbox.

2.14 Enhanced action prior to 2020

Since the Paris Agreement focuses on post-2020 actions, the COP 21 decision on enhanced pre-2020 action is important for climate action to continue in the ongoing timeframe 2016-2020, before the Paris Agreement enters into force. During this time Parties will continue both enhance the implementation of their current commitments, and further work on details of the implementation of the Paris Agreement. Intensifying ongoing climate action has been a central part of the ADP negotiating process, under so called Workstream 2²²⁶ on pre-2020 ambition. Developing countries have focused much of their attention in the recent climate negotiations to ensure that developed countries fulfil all their existing commitments under e.g. the Kyoto Protocol and the Cancun Agreements, to step up ambition on emissions reductions as agreed and to fulfil commitments on the mobilization of climate finance of USD 100 billion a year by 2020.²²⁷

Paris Agreement

As the Paris Agreement concentrates on post-2020 climate action, it does not contain provisions regarding the pre-2020 period.

COP Decision

²²⁶ <http://unfccc.int/bodies/body/6645.php>

²²⁷ <http://twnetwork.org/climate-change/cop21-decision-enhanced-action-prior-2020>

The provisions related to enhancing pre-2020 action are contained in the COP decision 1/CP.21 in section IV *Enhanced Action Prior to 2020*. The decision covers not only mitigation, but also finance, adaptation, transparency, technology and capacity building.

Regarding mitigation, the decision urges all Parties to the Kyoto Protocol that have not already done so to ratify and implement the Doha Amendment to the Kyoto Protocol, meaning the second KP commitment period of 2013-2020.²²⁸ All Parties are also urged to make and implement a mitigation pledge under the Cancun Agreements, if they have not already done so.²²⁹ The decision also resolves to strengthen the existing technical examination process on mitigation.²³⁰ The decision also welcomes the efforts of non-Party stakeholders, and encourages Parties to work closely with them to catalyze efforts to strengthen mitigation and adaptation action.²³¹

Building on the Lima-Paris Action Agenda, it agrees to convene in conjunction with each COP during 2016-2020, a *high-level event* that further strengthens high-level political engagement in countries and provides an opportunity to announce new voluntary efforts and initiatives.²³² In this context it is decided that two *high-level champions* will be appointed to facilitate successful execution of existing efforts and scaling up action in the 2016-2020 period.

Regarding emission reduction units generated under the Kyoto Mechanisms CDM and JI, the decision encourages voluntary cancellation of units by Party and non-Party stakeholders²³³, in order to achieve a net mitigation effect. Both host and purchasing Parties of CDM and JI projects are urged to report transparently on the use and generation of emission units, with a view of promoting environmental integrity and avoiding double counting.²³⁴

Regarding adaptation, the decision 1/CP.21 launches a technical examination process on adaptation between 2016-2020 to identify concrete opportunities for strengthening resilience, reducing vulnerabilities and increasing the understanding and implementation of adaptation actions. The technical examination process will be done through facilitating sharing of good practices, experiences and lessons learned, identifying actions that significantly enhance the implementation of adaptation as well as have mitigation co-benefits. This process will be jointly organized by SBI and SBSTA, and conducted by the Adaptation Committee. The decision specifically clarifies that mitigation co-benefits resulting from adaptation actions, applied to all Parties adaptation actions and/or economic diversification plans can contribute to mitigation outcomes.²³⁵

²²⁸ Decision 1/CP.21, para 106 a)

²²⁹ Decision 1/CP.21, para 106 b)

²³⁰ Decision 1/CP.21, para 110

²³¹ Decision 1/CP.21, para 117-120

²³² Decision 1/CP.21, para 121

²³³ Decision 1/CP.21, para 107

²³⁴ Decision 1/CP.21, para 108

²³⁵ Decision 1/CP.21, paras 125-131

Regarding means of implementation (MOI), the decision 1/CP.21 resolves to enhance the provision of urgent and adequate finance, technology and capacity building support for developing countries, and strongly urges developed countries to scale up their level of financial support, with a concrete roadmap to achieve the USD 100 billion annually by 2020 for mitigation and adaptation, and to further provide appropriate technology and capacity building support.²³⁶ It also decides to conduct a facilitative dialogue in COP 22 to assess the progress of implementing the COP 19 decision regarding advancing the Durban Platform²³⁷ from the viewpoint of MOI, and to identify opportunities to enhance the provision of finance, technology and capacity building.²³⁸

Assessment of Paris results

After the adoption of the Paris Agreement, and therefore the achieving more clarification on post-2020 climate policy, the international community has a better opportunity to concentrate also on the period 2016-2020 and raising ambition on pre-2020 action. During the last few years Parties have been so occupied with preparing for the Paris negotiations that the pre-2020 period has not been on the top of their climate policy agenda. This can be also seen from the current low levels of ratification of the ongoing second commitment period of the Kyoto Protocol. As of December 2015, only 59 Parties have ratified the Doha Amendment to the Kyoto Protocol, and a significant majority of these Parties are developing country Parties²³⁹. The EU is one major player that has not yet ratified the Amendment, even though ratification has been decided by the European Council in July 2015.²⁴⁰ The delay in ratification of the Doha Amendment, that was agreed back in 2012 and the commitment period starting already in 2013, gives also some indication on how long it could take to get the ratification of the Paris Agreement to the required level to enter into force. Developing countries have understandably been vocal in the climate negotiations on the need to speed up the efforts under the existing commitments, and getting all Kyoto Protocol Parties to ratify the second commitment period. The Doha Amendment will enter into force after 75 % of Kyoto Protocol Parties have ratified it.²⁴¹

During the inter-sessional negotiations in Bonn during 2015, Parties had serious differences over the mandate of Workstream 2. While developed countries stated that the mandate of Workstream 2 should concentrate on mitigation, developing countries said the mandate extends to adaptation and wanted to launch a technical expert process on adaptation under Workstream 2.²⁴² The developing countries' view was taken into account in the Paris Outcome, which launches this technical expert process on adaptation, and also covers enhancing pre-2020 action on finance, technology and capacity building.

²³⁶ Decision 1/CP.21, para 115

²³⁷ Decision 1/CP.19, paras 3-4

²³⁸ Decision 1/CP.21, para 116

²³⁹ http://unfccc.int/kyoto_protocol/doha_amendment/items/7362.php

²⁴⁰ http://ec.europa.eu/clima/news/articles/news_2015071401_en.htm

²⁴¹ Article 20 of the Kyoto Protocol

²⁴² <http://twnetwork.org/climate-change/cop21-decision-enhanced-action-prior-2020>

3. Fulfillment of Key Countries Expectations on the Paris Outcome

The expectations and preparations of 14 large countries and also the coalition of Like-Minded Developing Countries were assessed in two reports published in December 2015. The reports are called “Large countries’ preparations and views for the 2015 Paris climate agreement”²⁴³ and “Like-Minded Developing Countries’ preparations and views for the 2015 Paris climate agreement”²⁴⁴. The main views of the countries assessed in the two reports are compared to the Paris results in this chapter, in order to find out how their expectations for Paris were fulfilled.

3.1 Fulfillment of large countries’ expectations and proposals for Paris Agreement

In the below table, the expectations and positions of 14 large countries and the coalition of Like-Minded Developing Countries are compared to the Paris outcome. The left column specifies the country in question, the middle column reiterates which of the country’s asks for the Paris outcome were fulfilled, and the right-hand column specifies which issues the country needed to compromise on.

Table 1. Fulfillment of countries’ expectations for Paris

Country	Expectations fulfilled	Needed to compromise on
China	<ul style="list-style-type: none"> • Legally-binding agreement implementing the Convention and covering mitigation, adaptation, finance, technology, capacity building and transparency of action and support in a balanced manner • Adaptation on equal footing with mitigation, all Parties enhancing action • Preparing a list of “ready to transfer” technologies • Transparency framework that it non-intrusive, non-punitive and respecting national sovereignty • Loss and damage included 	<ul style="list-style-type: none"> • Continuing Annex I and non-Annex differentiation • Developed country targets to be legally binding and attachment to Agreement • Developing country targets as attachment to Agreement • Funding primarily from public sources, additional to ODA, at least 1 % of developed country GDP to GCF • Financial flows to increase annually from 2020 from the 100 billion USD level • Long term technology goal and IPR Mechanism • Establishing a capacity building mechanism

²⁴³ Available online: <http://www.ym.fi/download/noname/%7B7FD27D90-6EDA-4637-A982-1718633E9E92%7D/113754>

²⁴⁴ Available online: <http://www.ym.fi/download/noname/%7B7A85ED4E-7467-4BAB-B7AE-858661F5E8F1%7D/113755>

		<ul style="list-style-type: none"> • 10-year cycle for commitments • No reason for including a market mechanism in Paris Agreement
US	<ul style="list-style-type: none"> • No Annex I / non-Annex I differentiation • Mitigation commitments themselves are not legally binding. However, each Party provides when joining the Agreement a schedule with its NDC • Adaptation an important part of Paris outcome with Parties enhancing efforts • Strengthening recipient country reporting of climate finance flows • No establishment of capacity building mechanism • Single reporting system with built-in flexibility, periodic reporting for all • 5 year cycle for commitments 	<ul style="list-style-type: none"> • New regularly updated Annexes x and y • Parties to submit INDCs no later than six months before each cycle (agreed 9-12 months)
India	<ul style="list-style-type: none"> • Adaptation and MOI a core part of the Agreement • Predictable and adequate funding for adaptation • Work under finance pillar must build on existing promises and institutions • Addressing response measures • Outcome must be built on equity and CBDRRC 	<ul style="list-style-type: none"> • “Legal force” can mean domestic law • Continuing Annex I / non-Annex I differentiation • Full incremental costs of enhanced developing country transparency obligations to be met through additional funding • Barriers created by IPRs must be addressed. GCF should allocate full costs of technology access of developing countries. • Actions and commitments differentiated on basis of historical responsibilities
Russia	<ul style="list-style-type: none"> • Agreement to be legally binding and set commitments for all Parties. Actions by developing and developed Parties in a single international instrument • No static division to Annex I / non-Annex I countries • All Parties to set their own commitments pursuant to their level of development and capacity • Adaptation included as one of thematic building blocks • Financial mechanisms of the Convention to serve the Agreement • CBDRRC shall not be interpreted as a basis for rejecting obligations by all Parties • Market mechanisms considered 	<ul style="list-style-type: none"> • 10-year cycle for commitments • Agreement on general criteria for country commitments and sufficient information to enable comparisons • All Parties to include land use and forests when setting targets
Mexico	<ul style="list-style-type: none"> • Agreement to be legally binding instrument allowing efficient adjustments without a new ratification process • Establishing commitments for all Parties 	<ul style="list-style-type: none"> • Mitigation commitments as part of the Agreement with an Annex for each Party • Linking mitigation goal with adaptation cost • Establishing an Adaptation Mechanism that

	<p>on mitigation, adaptation, MOI and transparency of action and support</p> <ul style="list-style-type: none"> • Adequate flexibility for national circumstances • Global goal on adaptation • Encourage joint mitigation and adaptation • Financial mechanism built on improved existing institutions and funds • Advancing existing capacity building provisions, enhancing south-south cooperation • Transparency an obligation but tailored to fit diverse circumstances. Differentiation for LDCs and SIDS. • Robust market mechanism 	<p>builds on existing arrangements</p>
Indonesia	<ul style="list-style-type: none"> • Legally binding agreement, which includes a spectrum of commitments of each Party in terms of mitigation, adaptation and MOI • Priority support for LDCs • Inclusion of REDD+, role of land sinks • International market mechanism 	<ul style="list-style-type: none"> • Continuing Annex I / non-Annex I differentiation
Brazil	<ul style="list-style-type: none"> • Universal undertakings with commitments from all Parties • Paris Agreement doesn't need to be revisited each cycle • Developing countries encouraged to move over time towards economy-wide reduction targets in light of national circumstances • NDCs shouldn't be included as Annexes given the need of regular updating, but in an online tool • Enhanced cooperation through the Cancun Adaptation Framework • Financial Mechanism of the UNFCCC supporting developing countries in implementation of all aspects of Agreement, GCF in a key role • Enhanced cooperation through the Technology Mechanism • Committee or a group of experts for assessing transparency, facilitative and non-intrusive process • NDCs subject to multilateral review after their formal communication • Avoiding "locking in" contributions in the long term 	<ul style="list-style-type: none"> • NDCs to contain a finance component related to national budgetary cycle • Annex II Parties must include, and regularly update, measures for technology development and transfer in their NDCs • All Annex II Parties to include, and regularly update, capacity building measures in their NDCs • 10 year cycles, with two 5-year contribution terms: contribution term and indicative term (this resembles the Paris outcome though) • Economic mechanism to incentivize further action in (only) developing countries. CDM+ to cover aviation and maritime transport.

	<ul style="list-style-type: none"> • “Emission trading system and CDM+” • COP to regularly assess aggregate effect of NDCs and to inform Parties in adjusting their NDCs towards enhancing ambition 	
South Africa	<ul style="list-style-type: none"> • Comprehensive agreement with commitments, targets, actions and efforts • All Parties to take on mitigation commitments • Addressing adaptation with same priority as mitigation • Balance funding for mitigation and adaptation in the long term • Enhancing transparency of support • Enhancing operation of Technology Executive Committee and CTCN • Common global commitments to enhance capacity in all areas of climate action • Capacity building framework enhanced • Transparency: common rules for all Parties • Mitigation commitments to intensify over time • Ex-ante assessment of contributions • Establishing new market mechanism 	<ul style="list-style-type: none"> • INDCs provisionally inscribed in an Annex • Final NDCs to be submitted no later than June 2017 • Common long-term reduction goal of 50 % in 2050 from 1990 levels • Annex I / non-Annex division to continue • Inclusion of pathways to mobilizing developed countries’ US\$100 billion goal • Various technology commitments for developed countries (on licensing, patent pools, etc) • 10-year implementation cycles • Possibility to use CDM and JI also under the Paris Agreement
Japan	<ul style="list-style-type: none"> • Core agreement must be durable. Main elements are mitigation, transparency and encouragement to integrate adaptation into national planning • Dynamic interpretation of CBDRRC • All Parties to have common obligations to submit an INDC in common timeframe to allow for comparison and evaluation • Adaptation treated as key element, taking into account progress under Cancun Adaptation Framework • Encouraging all responsible and capable Parties to provide financial support; broader donor base in line with changing capabilities of Parties • Better addressing needs of vulnerable countries, such as SIDS and LDCs • All Parties subject to a common transparency mechanism with <i>ex ante</i> and <i>ex post</i> reviews 	<ul style="list-style-type: none"> • Finance, technology and capacity building should not be included as legal obligations • 10-year cycles, as it sends stronger signal for investors
Australia	<ul style="list-style-type: none"> • Concise and durable agreement. Details of implementing arrangements in new or updated COP decisions 	<ul style="list-style-type: none"> • Mention that great majority of financial flows will come from private or other non-governmental sources

	<ul style="list-style-type: none"> • Annex I / non-Annex I division no longer viable. All countries to act according to their circumstances and capacities • Rule-based architecture that creates transparency and accountability • Promote both mitigation and adaptation, with MOI to help developing countries • All countries to cooperate on climate finance issues and commit to further work on transparency of support • National capacity building plans for articulating countries' needs • Common MRV system containing national inventories, mitigation and adaptation actions and support. Flexibilities for developing countries. • Common timetables for MRV that work in sequence with review processes to give a "rolling picture" of countries' performance and to inform later cycles 	
Turkey	<ul style="list-style-type: none"> • Outcome to include mitigation, adaptation, finance, technology, capacity building and transparency • Outcome to be inclusive, equitable and comprehensive, covering in principle 100% of global emissions • All Parties to take on commitments according to national capabilities • Transparency: common framework with flexibility for developing countries • Historical responsibilities should not be overlooked, but dynamic interpretation of CBDRRRC 	<ul style="list-style-type: none"> • National circumstances to be evaluated taking into account the development level, economic and social indicators, per capita GHG emissions, carbon intensity and energy demand (this might come later in COP decisions) • Linking of loss and damage to agriculture • In the final moments of the Paris negotiations, Turkey signalled serious concerns with the Paris Agreement, as it was "unfairly" placed in the group of developed countries, with responsibilities of providing support.²⁴⁵
Republic of Korea	<ul style="list-style-type: none"> • Legally-binding instrument with enduring elements • All Parties should submit quantified or quantifiable emission reduction targets • Catalyze adaptation actions on the ground by setting out a clear global vision • Parties in position to do so are invited to offer support for developing countries • Capacity building an important pillar of MOI • Outcome guided by equity and CBDRRRC 	<ul style="list-style-type: none"> • Recognizing the importance of operational entities of the financial mechanism, including the GCF, for capacity building • 10-year commitment period, with a review in the middle (this resembles the Paris outcome though)

²⁴⁵http://www.todayszaman.com/business_turkey-concerned-about-raw-deal-in-climate-change-agreement_409683.html

	<ul style="list-style-type: none"> • Reference to Warsaw International Mechanism for loss and damage in the Paris Agreement 	
Canada	<ul style="list-style-type: none"> • Concise internationally legally binding core agreement. Details to be worked out in 2016-2020 • Agreement applicable for all Parties, but accommodating diversity of approaches in line with Parties' capabilities • Common mitigation obligations in core agreement for all Parties, such as submitting NDC • Support should be provided by Parties in position to do so • Consideration of the poorest and most vulnerable countries • Technology and capacity building to play a role in implementation • Common transparency framework for all Parties. • Regular reporting of progress towards NDCs using common reporting guidelines. Commitment to participate in regular review of progress. • Market mechanisms should meet standards of environmental integrity and avoiding double counting 	<ul style="list-style-type: none"> • Parties to include the land sector as part of their nationally determined contributions
Democratic Republic of Congo	<ul style="list-style-type: none"> • Balance between mitigation, adaptation, loss&damage, finance and technology in terms of legal nature of obligations • MRV for support needed • Institutional arrangements for technology transfer anchored in TEC and CTCN. Obligations for developed countries for financing technology transfer. • Establishing a Capacity Building Committee • Specific reference to equity, CBDRRC, whilst taking into account national circumstances • Warsaw REDD+ framework should be at the foundation of a REDD+ mechanism in the Paris Agreement • 5-year cycles. Countries can increase ambition also in the middle of a cycle. • Loss and damage to be part of Paris Agreement • Need to agree on market and non-market mechanisms with environmental integrity 	<ul style="list-style-type: none"> • Annex II Parties should provide full incremental costs of developing country actions, and their full costs for reporting and adaptation • Reference to historical responsibility of developed countries • Agreement should provide support for corresponding costs, including insurance and compensation, risk management and impacts of damages • Establishing an international climate change displacement coordination support mechanism • Establishing a clearinghouse for insurance and risk transfer systems coordinated by the Executive Committee of the Warsaw International Mechanism for Loss and Damage.

<p>Like-Minded Developing Countries (LMDCs)</p>	<ul style="list-style-type: none"> • Agreement to cover all elements: mitigation, adaptation, finance, technology development and transfer, transparency of action and support as well as capacity-building • Developing country action may include REDD+ and joint adaptation and mitigation approaches • Commit developed countries to deliver financing for adaptation through the GCF. MRV of support for adaptation financing. • Financial resources, including for the transfer of technology, shall be channelled through the financial mechanism of the Convention and GCF • Technology: Financing required for transfer, access and R&D • Capacity-building: Demand-driven, long term and to deal with all actions under the Convention. Should not focus solely on mitigation and MRV of mitigation. • MRV-related capacity building in developing countries • Joint Mitigation and Adaptation approaches on forests • Comprehensive aggregate review • Address loss and damage, additional to, but separate from adaptation • Framework for non-market mechanisms and approaches 	<ul style="list-style-type: none"> • Concepts such as “evolving CBDRRC”, “Parties in a position to do so” and “single transparency system” are not acceptable • All elements of the 2015 Agreement should have the same legal nature, consistent with other related legal instruments that the COP has adopted • Retaining the current Annexes of the UNFCCC • Annex I Parties’ mitigation commitments should use common timeframe and base year enabling comparability • Non-Annex I Parties should implement NAMAs subject to and supported by finance, technology development and transfer as well and capacity building • Any enhanced action of developing countries must be accompanied by additional financial resources • Public finance must be the primary source of financing. Annex II Parties to provide a clear roadmap for public climate financing • Technology: Establishment of an international mechanism on IPRs. Financial resources through a specific window under the GCF. • Establishing of an international capacity building mechanism • Transparency differentiated between developed and developing country Parties. Non-Annex I Parties’ mitigation actions to be done in accordance with current procedures • Extent to which developing countries can implement MRV arrangements will depend on financial support • “Applicability to all” does not mean uniformity, but differentiation in application according to the provisions and principles of the Convention. • Mention that as developing countries continue to pursue socio-economic development, their emissions will grow • Parties to decide for themselves on either 5- or 10-year cycles for contributions • Specific commitments from Annex II Parties to provide support for the financing and operationalization of the loss and damage mechanism
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3.2 Countries' Reactions to the Paris Agreement

Despite the fact that most countries, especially many developing countries, had to compromise on several issues important to them, the Paris outcome has received praise and positive reactions from all over the world. Below are some quotes from reactions of major economies to the Paris outcome:

President Barack Obama, US: "We came together around the strong agreement the world needed. Today, the American people can be proud - because this historic agreement is a tribute to American leadership [...] This agreement is ambitious, with every nation setting and committing to their own specific targets, even as we take into account differences among nations. We'll have a strong system of transparency, including periodic reviews and independent assessments, to help hold every country accountable for meeting its commitments [...] Moreover, this agreement sends a powerful signal that the world is firmly committed to a low-carbon future. And that has the potential to unleash investment and innovation in clean energy at a scale we have never seen before."²⁴⁶

Xinhua News, China: "While the accord is testament to the hard work, passion and cooperation of almost 200 countries involved, it is a particularly sweet victory for China, which emerged to take a leading role in the deal, which aims to slash emissions and help reduce the impact of climate change [...] China's special representative on climate change Xie Zhenhua called the conference "a crucial point in the global climate governance process.". "Although the agreement is not perfect, it does not stop us from moving one historical step forward," Xie said. [...] China can be counted on to do everything within its power to ensure that emissions are reduced and everyone can enjoy a better environment."²⁴⁷

Times of India, India: "This is an agreement India can live with and Environment Minister Prakash Javadekar has signalled it takes care of India's concerns [...] It is imperative to turn the heat down on the planet and the Paris Agreement lights the way forward [...] It's a little ironic that President Barack Obama claimed the Paris Agreement was the outcome of American leadership, since the US effectively sabotaged the agreement's predecessor, the Kyoto Protocol, by not joining it [...] While the deal commits developed countries to contribute at least \$100 billion a year from 2020 onwards for adaptation and mitigation efforts of developing countries, this is not legally binding on them. This is an area of concern as developed countries have historically reneged on commitments of financial and technology transfers."²⁴⁸

Julie Bishop, foreign minister, Australia: "It gives us comfort that we know what the major economies are doing, our major trading partners are doing, our trading competitors are doing [...] It certainly means there is flexibility for us to do more, and the spirit of the

²⁴⁶ <https://www.whitehouse.gov/the-press-office/2015/12/12/statement-president-paris-climate-agreement>

²⁴⁷ http://news.xinhuanet.com/english/2015-12/14/c_134916400.htm

²⁴⁸ <http://blogs.timesofindia.indiatimes.com/toi-editorials/message-of-hope-paris-agreement-can-turn-down-the-heat-on-the-planet/>

agreement is to encourage countries to be ambitious, to aim higher and to take into account their circumstance.”²⁴⁹

Felipe Calderón, former president of Mexico: “The Paris Agreement gives businesses and investors the policy certainty they crave and provides a vital foundation for a healthier, stronger and, more prosperous economy. Companies, cities and governments are realizing that can do well, by doing good. From now, on, the smart money will no longer go into fossil fuels, but into cleaner energy, smarter cities, and more sustainable land use.”²⁵⁰

Martin Schulz, The President of the European Parliament:”‘Historic’ is an often-abused adjective in politics, but today’s agreement deserves this qualification: it outlines the path on which we all have to embark to strengthen the global response to climate change in the short, medium and long term. Paris has succeeded where previous negotiations had failed. It provides a universal and binding agreement which allows for increased ambition and reviews every five years. It sets out monitoring and reporting which will allow us to assess how well we are faring in our fight against climate change [...] The tough work starts now. Paris is a success today because all Parties have been truly included in the agreement in a democratic, transparent and pluralistic fashion. Parties must now implement and finance this agreement ensuring the highest degree of ownership at the state level, but also by subnational actors, civil society, investors, workers, citizens and parliaments.”²⁵¹

Jakarta Post, Indonesia: “In a rare display of common sense, countries of the world are expressing their confidence in science. [...] On numerous occasions, Indonesian negotiators in Paris blamed developed nations for not being progressive enough [...] Our delegation in Paris also made no effort to hide its displeasure toward Saudi Arabia, Russia, Venezuela and other oil-producing countries for blocking talks aimed at arriving at an agreement to reach the 2-degree target. It could have been more than grandstanding had we not carried so much baggage into the negotiations.”²⁵²

Asahi Shimbun, Japan: “The Japanese government hardly made its presence felt at the Paris conference. The U.S. move to join the “high ambition coalition” came as a total surprise for Tokyo, according to sources. Since the Paris climate conference has set a far more ambitious long-term goal than before, the economic trend in the world is bound to change rapidly in the coming years. Japan, the world’s third-largest economy and the fifth-largest greenhouse gas emitter, should not maintain its passive attitude toward this global sea change.”²⁵³

Sudan Vision, Sudan: “This new agreement should be continuously strengthened and governments will need to go back home and deliver actions on all levels to close the

²⁴⁹ <http://carbon-pulse.com/13323/>

²⁵⁰ *Ibid.*

²⁵¹ <http://www.euractiv.com/sections/climate-environment/reactions-cop21-deal-largely-cheerful-guarded-320401>

²⁵² <http://www.thejakartapost.com/news/2015/12/14/editorial-indonesia-s-big-promise.html>

²⁵³ <http://ajw.asahi.com/article/views/editorial/AJ201512150036>

emissions gap, resource the energy transition and protect the most vulnerable. [...] The climate talks in Paris did more than produce an agreement – this moment has galvanized the global community toward large-scale collaborative action to deal with the climate problem.”²⁵⁴

Hürriyet Daily News, Turkey: “Probably the Turkish delegation itself was not even convinced that Turkey will change its energy policies, which was why it was not very active in Paris [...] While Turkey will continue to aggressively invest in coal plants, the whole world agrees that the age of fossil fuels is over. [...] In the end, this agreement puts fossil fuels in the wrong side of history; we will see which side of history Turkey will choose to take with its energy policies.”²⁵⁵

Catherine McKenna, Environment Minister, Canada: “This agreement is ambitious and balanced. It was adopted by 195 countries - big and small, rich and poor - who will set targets, report on them in a transparent manner and review and improve them every five years. Collectively, the countries of the world agreed to strengthen the global response to limit global average temperature rise to well below 2 degrees Celsius, as well as pursue efforts to limit increase to 1.5 degrees. We need to do this to avoid the harshest impact of climate change on our geography, livelihoods and health.”²⁵⁶

David Cameron, British Prime Minister: “The talks at the COP 21 conference in Paris have culminated in a global deal, with the whole world now signed up to play its part in halting climate change. In other words, this generation has taken vital steps to ensure that our children and grandchildren will see that we did our duty in securing the future of our planet. What is so special about this deal is that it puts the onus on every country to play its part.”²⁵⁷

²⁵⁴ <http://www.carbonbrief.org/the-paris-agreement-on-climate-change-the-world-reacts>

²⁵⁵ <http://web.hurriyetdailynews.com/Default.aspx?pageID=238&nID=92476&NewsCatID=507>

²⁵⁶ <http://ipolitics.ca/2015/12/15/reaction-wrap-canadas-varied-domestic-response-to-the-paris-agreement-ms/>

²⁵⁷ <http://www.aljazeera.com/news/2015/12/movers-shakers-reacted-paris-deal-151213075653369.html>

4. Paris Outcome and Finland

The Paris outcome has implications for all countries of the world, including Finland. During the year 2015 leading up to the Paris conference the Ministry of Environment of Finland and the whole climate negotiation group have been active in stakeholder engagement with relevant Finnish organisations, and also to the Finnish general public. In the two chapters below the results of this stakeholder engagement process are compared with the Paris outcome.

4.1 Paris results from the viewpoint of the Finnish citizen poll done in 2015

Ministry of the Environment carried out a citizens' survey in August 2015 related to climate change and climate policy.²⁵⁸ The survey examined the level of knowledge and concern about climate change, as well as expectations for upcoming negotiations in Paris. The survey revealed that the Finns considered the international climate negotiations as the most important forum for solving the climate challenge. The majority were of the opinion that the international community should do its utmost to limit the temperature rise to two degrees and 77 % thought that ambitious actions were urgently needed. The vast majority (68 %) thought that the international community should set a long-term goal which articulates how the two degree target will be met.

However, confidence in the international community's ability to agree in Paris faltered seriously. Only 27 % of Finnish believed in August 2015 that a legally binding global climate agreement to ensure that global warming remains below the two-degree limit would be possible in Paris. Considering the perceived need of urgency and low expectations for the international community, the Paris outcome going even beyond the 2 degree target can be considered a positive surprise from the viewpoint of the citizens' opinions.

The EU emission reduction targets based on the 2030 climate and energy package received strong support and 62 % were willing to raise the EU's targets if the major emitters raise their targets respectively. Half of the respondents were of the opinion that the reduction targets should be increased regardless of the targets in other countries. The Paris Agreement, which calls for all countries to increase their efforts and be progressive over time in their mitigation efforts, can be considered to meet the opinion of Finnish people on emission reduction targets and burden sharing.

According to the survey, Finns supported common but differentiated responsibilities as long as the increasingly prosperous developing countries also take on targets. Finns also showed understanding especially to the most vulnerable and poor countries whose challenges and needs can be considered to be rather well acknowledged in the Paris Agreement. The Finns also agreed with the need to increase climate finance - while being rather conservative with increasing Finland's own contribution - and considered that the industrialized countries should continue being the forefront of that exercise while saying

²⁵⁸ Summary of the poll results in Finnish available at:
http://www.ym.fi/fi-FI/Suomalaiset_toivovat_kansainvaliselta_yh%2835669%29

that the richer a country is, the greater the responsibility it should have in climate finance. This objective is also reflected in the spirit of the Paris outcome although it is not explicitly spelled out.

4.2 Paris results from the viewpoint of the stakeholder discussion events held in Finland in 2015

The Ministry of Environment, supported by GreenStream Network and Indufor, held a series of stakeholder events regarding the Paris negotiations for Finnish stakeholders during the year 2015. The stakeholder events considered the following topics/areas:

- Business and private sector organisations
- Environmental non-governmental organisations and trade unions
- Large event for the general public regarding Paris negotiations
- Climate finance and banking sector (thematic event)
- Forestry and land use (thematic event)
- INDCs and their ambition level (thematic event)
- Meeting of Finnish delegation to Paris COP21

In the beginning of year 2016, after the adoption of the Paris Agreement and COP decision, GreenStream did an email interview round gathering the reactions of the relevant stakeholders, which had participated in the discussion events on the road up to the Paris conference. GreenStream got answers from 23 stakeholder organisations, which are gathered to the two tables below. In table 2 the views and reactions of the organisations are gathered – the highlights of the Paris outcome and the possible negative issues or challenges related to it. The subsequent table 3 gathers the stakeholder organisations’ views regarding the implications of the Paris outcome for Finland, regarding the field of their organisation.

Table 2. General views and reactions of Finnish stakeholder organisations to the Paris outcome

Organisation	General views, highlights of outcome	Challenges or negative issues
Business and private sector organisations		
Confederation of Finnish Industries (EK)	<ul style="list-style-type: none"> • The Paris climate agreement is a historical achievement that needs to be seen as a step in an ambitious process forward. Good that differentiation to Annex I / non-Annex I not mentioned. • Very important that the foundations for global carbon pricing were laid in Paris • The established market mechanism can give a significant boost to climate efforts, helping to reach the emission reductions as cost efficiently as possible. • Paris climate agreement is an important step towards a more level playing field in terms of the “climate costs” companies are facing in different parts of the world. • The value of the global cleantech market is going to multiply, presenting new growth 	<ul style="list-style-type: none"> • The risk of carbon leakage remains. Therefore European energy intensive companies, which compete on global market, need compensations for the competitive disadvantage they face in Europe at least until 2030. • To enter into force, it is enough that 55 % of global emissions are covered. This is less than the threshold of 80 % of global emissions that EU proposed. Some large emitters such as Russia or India could stay out of the Agreement and it would still come into force. • Nationally Determined Contributions (NDCs) themselves are not legally binding or under threat of sanctions for non-compliance. EU is still the only major economic region to have

	<p>opportunities for cleantech companies.</p> <ul style="list-style-type: none"> • Noting the role of forest carbon sinks in the Paris Agreement in a way that does not pose a threat to increasing sustainable use of wood biomass in forested countries such as Finland • As a next step, it is vital to ensure a swift ratification of the Paris agreement in different countries, as well as to start implementing the actual emission reduction commitments. At that point, especially the G20 countries need to tighten their emission reduction targets so that they are closer to the EU target levels. 	legally binding emission reduction targets.
Finnish Energy Industries (Energia-teollisuus ry)	<ul style="list-style-type: none"> • The Paris Agreement can be seen as the strongest possible tool for international climate policy. There is also parallel development ongoing globally, as mitigation of climate change is increasingly often in line with other interests of countries. • The Paris outcome even surpassed realistic expectations. The objectives of the Finnish Energy Industries for Paris were met. • Agreement gives a clear signal, that market-based instruments have international support and a place in climate policy. The Agreement enables cooperation between Parties in mitigation actions, by for example transferring of mitigation outcomes. A new market mechanism is established, which enables cost efficient and market-based mitigation projects. • Transparency of global action and the reliability of emission reporting is increased, because of the more comprehensive transparency system. • Sanctions for non-compliance would not even be helpful in the case of the Paris Agreement, as sovereign states could always withdraw from the agreement to avoid sanctions. 	<ul style="list-style-type: none"> • The playing field for private companies is not levelled at once by the Paris Agreement, but it is now on the way of getting more even over time. • The effects of the Paris Agreement on European (electricity) industry start slowly, and the effects still depend on many upcoming decisions.
Finnish Technology Industries (Teknologia-teollisuus ry)	<ul style="list-style-type: none"> • It is important that the global Climate Agreement was achieved in Paris so that all countries promised to reduce carbon dioxide emissions. • It is even more important that all countries fulfil their commitments so that we approach a level playing field regarding industrial competitiveness when implementing national climate policies. 	<ul style="list-style-type: none"> • We need a global carbon price
Finnish Forest Industries (Metsä-)	<ul style="list-style-type: none"> • It is positive that most of the countries of the world agreed that they are ready for mitigating climate change. 	<ul style="list-style-type: none"> • Our industry faces global competition here and now, but it is good that there are positive prospects for global climate change

teollisuus ry)	<ul style="list-style-type: none"> • Steps taken in Paris towards global carbon pricing are a start for global greenhouse gas emission reduction actions. • It is essential that countries ratify the Agreement globally, and that other countries will raise their ambition level to be on the same level as the EU. 	<p>mitigation action.</p> <ul style="list-style-type: none"> • Emission reductions can't still be celebrated before they are implemented, and the contributions from countries are still not balanced – the EU is still taking the lead.
The Chemical Industry Federation of Finland (Kemian-teollisuus ry)	<ul style="list-style-type: none"> • Reaching a Global Agreement in Paris is the result we wanted to see. • Main issue now is how countries fulfil their commitments. This is only way to achieve level playing field and global carbon prize in long run. Nothing has been achieved yet. 	<ul style="list-style-type: none"> • One negative issue it that the emission reduction target of the EU is still most ambitious, even if it's share of global emissions is under 10%. For the sake of competitiveness we see that there is no need to tighten European Energy & Climate policy even if some politicians feel like this.
Climate Leadership Council	<ul style="list-style-type: none"> • Highlights: so many countries delivered their INDCs, ambition that we need to go clearly under +2C, 5 year reviews, elements that enable carbon markets and sustainable forestry. 	<ul style="list-style-type: none"> • Challenges: targets still closer to +3°C than +2°C, the role of carbon price could have been bigger especially now when cheap fossil energy is slowing down energy efficiency and CO2-free investments.
ICC Finland - International Chamber of Commerce (EK also supports these views)	<ul style="list-style-type: none"> • The ICC believes this is a truly historic moment in our shared efforts to meet the climate challenge. • Business has consistently called for a robust and ambitious deal at COP21. This agreement will give business and investors the long-term certainty needed to scale up innovation and investment in climate solutions. The path to a low-carbon economy is now firmly set: business is ready to make that a reality. 	<ul style="list-style-type: none"> • Main challenge will be how countries fulfil their commitments. We call on governments to capitalize on this momentum by working constructively with the private sector in the months ahead to achieve the Paris outcomes. • We need better level playing rules for fair global competition.
The Central Union of Agricultural Producers and Forest Owners (MTK ry)	<ul style="list-style-type: none"> • MTK welcomes the Paris agreement: The agreement allows for sustainable forestry to be included in climate solutions and emphasized the role of agriculture for food security. • It can be said that the steps taken in Paris are the first legally binding entries towards a global carbon pricing. • It is essential that those countries that produce most of the emissions are bound to reduce them. 	<ul style="list-style-type: none"> • The success of the agreement will not be seen until the ratification process. • Executive threshold was low, this might cause risks of some major emitters staying out of the Agreement.
The Federation of Finnish Enterprises (Suomen Yrittäjät)	<ul style="list-style-type: none"> • We are mainly pleased with the outcome and in general it was better than what was expected. • Wide range of countries delivered the INDCs and approved the Paris agreement. This may decrease the gap of CO2 reduction costs between the EU and other countries in long term. 	<ul style="list-style-type: none"> • The countries mitigation targets are not legally binding in the agreement and the total mitigation target of the INDC`s are not in line with the +2 Celsius target. • The open question is that how the countries will fulfil their commitments and which kind of mitigation targets the other major emitters (non-EU countries) will bring to the table, when the emission targets will be checked in every 5 years.
Association of	<ul style="list-style-type: none"> • Global Climate Agreement was achieved in 	<ul style="list-style-type: none"> • It is absolutely necessary that all countries

<p>Finnish Steel and Metal Producers (Metallinjalostajat)</p>	<p>Paris with so many countries promising to reduce carbon dioxide emissions. Very Good!</p>	<p>fulfil their commitments and charge a price for carbon emissions so that we approach a level playing field regarding industrial competitiveness. Finally we need a global carbon price.</p>
<p>Finance organisations</p>		
<p>Finnish Innovation Fund Sitra</p>	<ul style="list-style-type: none"> • Paris was a turning point in international climate policy, delivering a universal treaty with a robust mechanism to regularly ratchet up commitments and a very ambitious temperature goal. • While not perfect, it is likely to be the best realistically possible outcome. Now it is up to all countries to implement their Paris pledges and, importantly, go beyond them. 	
<p>Nordic Development Fund NDF</p>	<ul style="list-style-type: none"> • As NDF is only an observer to COP, it does not have formal positions on COP issues or outcomes. Nevertheless, NDF was pleased to see that an agreement was made that will combat climate change and generate investments towards a low carbon, resilient and sustainable future. • It was positive to see that clear goals were set and that almost all countries have submitted pledges as part of each participating country's Intended Nationally Determined Contribution (INDC). 	<ul style="list-style-type: none"> • It is clear that even after this agreement there are issues that require attention in implementing the agreement and in future COP negotiations. One of those questions is climate financing - an area where NDF also wishes to play a role.
<p>Ilmarinen Mutual Pension Insurance</p>	<ul style="list-style-type: none"> • The Paris conference was a great success, but mostly in reaching a consensus on non-binding global targets. • One of the outcomes of Paris seem to be that the EU would be ready to accept even larger carbon emissions reductions than promised so far, and within the EU Finland would be even more ambitious. 	<ul style="list-style-type: none"> • The Paris Agreement did not achieve agreement on country-specific binding emission targets for the major economies like China and India. Also for the USA and Russia the promised emission reductions were modest.
<p>Nordea Bank</p>	<ul style="list-style-type: none"> • The general outcome was positive and somewhat exceeded expectations. The business world contributed to the outcome by showing visible and wide support for action, such as price to carbon. • The major impact on banking is probably indirect: general awareness of climate change and risks related to fossil fuel related activity has increased. Higher focus on these risks will push market players for further transparency. It will be interesting to see if other governments will follow France and introduce legislation about investment portfolio carbon reporting. However, creating a functioning market mechanism for energy pricing is also required. Unpredictability tends to block investments that precede any financing decisions. 	<ul style="list-style-type: none"> • Currently the low and volatile oil price gets a lot of attention and may take some focus away from renewable energy on short term. It will also be more challenging for renewable investments to be competitive on short term, especially if there is no price for carbon (by taxes or other mechanisms).

	<ul style="list-style-type: none"> • Even without further legislation the growing focus by investors will lead to more transparency concerning carbon footprint and other qualitative and quantitative environmental reporting by corporations. Banks will gradually start to put more attention to the carbon risks in their portfolios, but major investments in reporting systems are likely to happen after further regulation. 	
Trade unions		
<p>The Central Organisation of Finnish Trade Unions (SAK), Finnish Confederation of Salaried Employees (STTK) and The Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)</p>	<ul style="list-style-type: none"> • To raise ambition and realize the job potential of climate action: While governments positively committed to stay well below a 2 degrees trajectory and referenced 1.5 degrees as an ideal pathway, the realization of that commitment requires greater ambition before 2020 and a review of each national target (and not just a collective assessment) before the agreement comes into force in 2020. • To deliver on climate finance and support the most vulnerable: It is positive that in the future it is not only the responsibility of industrial countries to contribute to climate finance but all are expected to perform their share. It is also positive that \$100billion a year is on the table as a commitment to balance adaptation and emission reductions. 	<ul style="list-style-type: none"> • The \$100billion a year climate finance commitment is unfortunately out from the Paris Agreement itself.
Environmental and Youth Non-Governmental Organisations		
<p>Greenpeace Finland</p>	<ul style="list-style-type: none"> • The outcome speeds up the clean energy revolution that has already started, and builds new hope for the global co-operation on climate resilience. • By being truly global and by including a strong global goal of well below 2 degrees / 1.5 degrees and net zero global emissions by the second half of the century, it marks the beginning of an end to the fossil fuel era. • The highlights include a stronger global long-term goal, five-year cycles of progression, global participation, and the inclusion of loss and damage. 	<ul style="list-style-type: none"> • The actual work of getting there still lies ahead, to bridge the massive gap between the goal and the insufficient action in the current INDCs. • What's negative is the lack of mandatory action to bridge the huge gap between the intended actions and what is needed to keep temperature rise well below 2°C, not to mention 1.5°C. Furthermore, the commitments made for the provision of financial support for the vulnerable countries are rather vague
<p>Friends of the Earth (Maan Ystävät)</p>	<ul style="list-style-type: none"> • Friends of the Earth International believes that the Paris Agreement fails to deliver climate justice, and sees it from that point of view as a weak agreement where rich countries do not do their fair shares of emissions cuts, or provide their fair share of finance for energy transformation and adaptation for developing countries. There are almost no hard numbers or goals within the text to ensure ambitious action on climate change. The part of the text that may 	<ul style="list-style-type: none"> • There are no pre-2020 goals for mitigation action, and no plan to strengthen pre-2020 ambition. • In 2018 there will be a stocktake to see if post-2020 pledges are measuring up – and again every 5 years after that. But there is no obligation to increase efforts based on this review. Current pledges have been calculated to result in at least 2.7 and likely over 3 degrees of warming - this is clearly incompatible with climate science. More

	<p>have offered redress for vulnerable communities who have suffered irreparable impacts of climate change has been weakened so as to render it ineffective.</p> <ul style="list-style-type: none"> • Positive: 1.5 degree target, and that loss and damage is anchored in the Agreement 	<p>ambitious actions are needed now.</p> <ul style="list-style-type: none"> • With regard to finance the only legally binding obligation for developed countries is that they must report on any finance they provide. The goal of mobilising \$100 bn a year from 2020 has been moved out of the Agreement to a weaker COP decision. Developed countries now only 'intend to continue' that level of support through 2025. A process to set a goal of a minimum of \$100bn per year by 2025 will happen sometime before 2025. What this means is there is only a process in place and not concrete commitments. • Although the Paris Agreement does make it clear rich nations should provide that money, it does not guarantee the level of finance and how they are going to do so. • For loss and damage the wording specifically excludes compensation and liability. This will be a high price for vulnerable countries to pay.
<p>The Finnish Nature League (Luonto-Liitto)</p>	<ul style="list-style-type: none"> • From our point of view the Paris agreement can be seen as a significant breakthrough of climate negotiations and as a strong signal that there is a global understanding about seriousness of climate change. New and more ambitious global temperature goal is a highlight in Paris outcome as well as the five year ambition mechanisms for reviewing countries' contributions. • Climate change education and training, public awareness as well as public participation and public access to information are acknowledged in Paris agreement, also an highlight since there are wide changes needed in education and training sectors to support transform to post fossil-fuel era in a sustainable manner. 	<ul style="list-style-type: none"> • There is still lots of work ahead since the INDCs countries have made still leave a vast gap between long term goal and current targets to cut emissions. Financial support for the most vulnerable countries and people needs to be strengthened in future.
<p>Suomen Nuorisoyhteistyö Allianssi ry (Youth organisation)</p>	<ul style="list-style-type: none"> • The outcome marks an important step forward in terms of international cooperation and legislation on climate change. It draws up clear ambitions for the future and provides a basis for working towards them. The highlights are undeniably that the space for ambiguity on what the nations will have to achieve has been minimized, by setting an ambitious long term goal (1.5°C). • The youth is especially happy about that the mention of 1.5 C and intergenerational equity, as well as human rights, is included in the Paris Agreement. 	<ul style="list-style-type: none"> • Actually achieving these goals will require concrete action on the local and national level, which clearly constitutes a challenge – there is no clear mechanism for the sharing of burden relating to the climate change challenge so far, and the current INDCs are nowhere close enough to sufficient. In other words, a lot of work is still needed, where the voice of the youth will be important.
<p>Climate Parents Finland (Ilmasto-</p>	<ul style="list-style-type: none"> • We are satisfied that a global agreement has been reached, with the ambitious target to limit the global average temperature rise to 	<ul style="list-style-type: none"> • The long-term goal to reach global zero emissions between 2050 and 2100 is vague: according to UN's climate panel, zero

vanhemmat ry)	1.5 °C.	emissions should be reached by 2070. <ul style="list-style-type: none"> The sum total of the national pledges is not yet satisfactory, and it is essential to review the progress and to ramp up the pledges through the stocktaking mechanism
The Finnish Association for Nature Conservation (Suomen luonnonsuojeluliitto ry)	<ul style="list-style-type: none"> After Paris the international climate co-operation is back on track. The new temperature limit of 1.5 degrees is ambitious and fair. The mechanism to review and update the national contributions every five years is robust and makes achieving this common goal possible. 	<ul style="list-style-type: none"> Finance and loss and damage are the weaker elements of the agreement, and they must be further strengthened during next negotiation rounds through Parties' decisions. Not including emissions from aviation and marine transportation in the Agreement was a setback.
Kepa – The Finnish NGO Platform	<ul style="list-style-type: none"> In Kepa's point of view the Paris Agreement and COP decision provide tools for an equitable and sustainable solution for climate change. This requires especially increasing the ambition level of short term emission reductions, so that the long term goal can be achieved. Regarding climate finance it is important that the promised funds are new and additional compared to official development assistance (ODA). Positive that human rights were mentioned in the preamble of the Agreement. This gives a basis of further work in this field, so that climate action does not negatively affect human rights. 	<ul style="list-style-type: none"> The Agreement and COP decision leave open more detailed questions on what is counted as climate finance and what is not. This increases the worry regarding development finance – it has been cut (or is in the process of being cut) in several countries, and in the same time there is no agreement regarding the additionality of climate finance compared to ODA.

In the below table the same organisations' views are collected about the implications of the Paris Agreement for Finland, regarding their fields of expertise.

Table 3. Views of Finnish stakeholder organisations about the implications of the Paris outcome for Finland and Finnish industry

Organisation	Implications of Paris Agreement for Finland
Business and private sector organisations	
Confederation of Finnish Industries (EK)	<ul style="list-style-type: none"> There is potential for a win-win-win situation (but the Paris Agreement does not guarantee it yet): <ul style="list-style-type: none"> Global emissions are reducing, and not just moving to other countries More level playing field for Finnish companies in the long term Cleantech markets will be multiplied, lots of export opportunities for Finland. In developing the long term domestic climate strategy in Finland it is important to remember the specific circumstances of Finland and the international competitiveness of Finnish companies.
Finnish Energy Industries (Energiateollisuus ry)	<ul style="list-style-type: none"> Paris outcome gives a signal for need of investments and the long-term continuity of climate policy. However, no immediate change in policy in Finland. We can continue implementing the EU targets. Growing export opportunities, playing field levelling in the longer term

	<ul style="list-style-type: none"> • Message for Finnish policy makers: no need for new micro management, we got support for market-based instruments in Paris.
Finnish Technology Industries (Teknologioteollisuus ry)	<ul style="list-style-type: none"> • Finnish technology industries have a lot of experience in energy efficiency, low carbon technologies and environmentally clean processes. After the Climate Agreement there shall be more business opportunities worldwide for these technologies.
Finnish Forest Industries (Metsäteollisuus ry)	<ul style="list-style-type: none"> • Forest issues were left mainly open in Paris. For forested countries such as Finland a natural way to participate in climate action is to enhance the bio-economy by increasing sustainable use wood. With wood biomass the use of non-renewable and fossil fuels can be reduced. In this way also the bioeconomy, which is selected as Finland's "spearhead project" (kärkihanke) for growth, can be enhanced. • A forest sink accounting system which is comprehensive and transparent, and covers all countries, is definitely an advantage for Finland and the climate.
The Chemical Industry Federation of Finland (Kemianteollisuus ry)	<ul style="list-style-type: none"> • The chemical industry has a lot of solutions which serve reduction of global emissions (e.g. transport biofuels and other bio-based products, catalysts, fertilizers, water chemicals). We hope that the Paris "attitude" will give a global boost for solutions of our industry. • The Paris outcome might also service cross-sectorial solutions, which may give positive boost for Finnish exports.
Climate Leadership Council	<ul style="list-style-type: none"> • Since the Paris agreement was better than generally expected, there will be more business opportunities for cleantech and solutions for climate change mitigation.
ICC Finland - International Chamber of Commerce (EK also supports these views)	<ul style="list-style-type: none"> • ICC Finland believes that there will be more business opportunities for Finnish companies abroad. • Furthermore, all kind of industrial production supported with the best clean technology may be more competitive in Finland. In Finland we need energy and therefore, we need practical, but modern energy policy which will keep all clean energy option opened.
The Central Union of Agricultural Producers and Forest Owners (MTK ry)	<ul style="list-style-type: none"> • The Paris agreement allows sustainable forest use and food production. At best, bio-based solutions creating more markets.
The Federation of Finnish Enterprises (Suomen Yrittäjät)	<ul style="list-style-type: none"> • The agreement will likely open plenty of business opportunities for the Finnish clean technology solutions as well as for the service sector around it.
Association of Finnish Steel and Metal Producers (Metallinjalostajat)	<ul style="list-style-type: none"> • Finnish technology industries have a lot of experience in energy efficiency, low carbon technologies and environmentally clean processes. With the implementation of the new the Climate Agreement there shall be more business opportunities worldwide for these technologies. Almost impossible to estimate the potential value and timing at the moment.
Finance organisations	
Finnish Innovation Fund Sitra	<ul style="list-style-type: none"> • The Paris outcome contributes to an already vast and fast growing market of climate and resource wise solutions and services. If Finnish companies, cities, and public authorities seize the moment, there are remarkable opportunities available in terms of wealth and job creation. • Domestic market is important for cleantech solutions, and thus references for technologies with export potential need to be implemented fast in order to keep up in the global competition. The outcome also puts to rest the common myth

	that the EU or Finland would be moving alone, removing one obstacle from more ambitious climate action.
Nordic Development Fund NDF	<ul style="list-style-type: none"> • NDF has been building up a strong climate change project portfolio since 2009. With that in mind the Paris outcome further confirms that NDF can continue and further strengthen its climate change related activities, as well as enhance its collaboration with other climate and development finance institutions. • We see that the crucial areas identified as essential areas in the COP21 outcome are well in line with NDF's operations. Now with NDF's newly adopted strategy which states that we shall focus even more on: Leveraging funding and having a catalytic impact; project preparation, experimentation, innovation and piloting; supporting private sector and linking public and private sectors, we see that the linkage between the COP21 outcome and our core business has become even stronger. • With the COP21 outcome, together with a number of concrete recognitions by UNFCCC to NDF-funded activities, we hope to see even more demand for our expertise and possibilities to add value to the common task of addressing causes and consequences of climate change.
Ilmarinen Mutual Pension Insurance	<ul style="list-style-type: none"> • For Finland the Paris outcome is not a risk, instead it may create new opportunities to cleantech firms. For Finland's own emission targets the treatment of forests and wood products will be crucial. There are no direct impacts on Ilmarinen which is mostly international investor.
Nordea Bank	<ul style="list-style-type: none"> • The impact on companies in Finland will vary according to sectors and over time. We believe there will be more strategic focus and reporting about carbon and environmental footprint by large corporations, particularly if they have international debt and equity investors. We will also see the first green bonds by Finnish issuers in 2016.
Trade unions	
The Central Organisation of Finnish Trade Unions (SAK), Finnish Confederation of Salaried Employees (STTK) and The Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)	<ul style="list-style-type: none"> • To commit to securing a just transition for workers and their communities: We face the biggest and most rapid industrial transformation in history. While a just transition for workers and the respect of human rights have been included in the preamble it is the first step on which to build on together. Through the Paris Agreement it is possible to find ways to manage a just transition. Unions can eg. ask the dialogue with the Government, employers etc. that will see a national plan for decarbonisation, clean energy, jobs, training needs/possibilities and security for workers.
Environmental and Youth Non-Governmental Organisations	
Greenpeace Finland	<ul style="list-style-type: none"> • It means a safer, brighter and snowier future for Finns. It also means new economic opportunities as the world speeds up the transition to clean, renewable energy. • In policy terms, it means we must a) update and improve the EU's mid-term and long-term targets so that they are in line with the new, stronger global goals b) ensure continuous and increasing climate finance up until and beyond 2020, and c) get prepared for exceptional co-operation on and accountability for loss and damage. • In more detail, the Paris agreement includes a stronger global goal (articles 2.1a and 4.1) than what the EU has assumed when setting its own targets and policies. Hence, the European Union must now update and improve its 2030 climate and energy targets and its 2050 goal accordingly. It must do this without delay, so that when countries will convene in 2018 to take stock of the collective efforts towards the long-term goal, the European Union will have done its homework and can present new 2025/2030 and 2050 targets and policies that

	are in line with the new long-term goal.
Friends of the Earth (Maan Ystävät)	<ul style="list-style-type: none"> • There is now finally 1.5 degree target mentioned in the Agreement, and it means also for Finland immediately needs for more ambitious goals and actions in climate and energy policy. • E.g. EU's mid-term and long-term targets must be updated and improved. • Finland and EU must also do their fare share of the global effort by providing finance to developing countries to see an energy transformation. New and added finance is also needed for the adaption and more accountability for the loss and damage. • Finland needs energy transformation from fossil fuels and other wrong solutions to clean and safe 100 % renewable energies, e.g. developing real possibilities for community renewable energy. It will mean better life to us all.
The Finnish Nature League (Luonto-Liitto)	<ul style="list-style-type: none"> • Finland and EU needs to review climate targets for year 2030 without delay to keep the global temperature goal within reach.
Suomen Nuorisoyhteistyö Allianssi ry (Youth organisation)	<ul style="list-style-type: none"> • Finland is affected by the Paris Agreement as many other Western states. It's a clear statement that fossil fuels are not the way forward, and that Finland, as well as the EU, needs to raise their ambition.
Climate Parents Finland (Ilmastovanhemmat ry)	<ul style="list-style-type: none"> • The Paris outcome should profoundly affect the political decision-making in Finland, at both national and municipal levels. Climate impacts should be assessed for all relevant decisions (e.g. in energy politics, large infrastructure investments, taxation) and climate-friendly alternatives should prevail over non-sustainable ones. The focus should stay in effectively mitigating the global temperature rise, and we must establish more detailed national targets and time-plans for ending fossil fuel use.
The Finnish Association for Nature Conservation (Suomen luonnonsuojeluliitto ry)	<ul style="list-style-type: none"> • The new temperature limit of 1.5 degrees requires swift emission reductions and full decarbonisation globally by 2050. This means a clear signal to end the use of fossil fuels and redirecting financial flows to clean renewable energy, energy efficiency and energy saving. The Paris outcome highlights the need for all governments to increase their ambition and emission reduction targets. This must be reflected in the EU's 2030 targets as well as in Finland's new climate and energy strategy. • Paris agreement also requires Finland to better conserve our natural carbon sinks and reservoirs like forests and mires. This means burning peat must end as soon as possible.
Kepa – The Finnish NGO Platform	<ul style="list-style-type: none"> • Next the climate policy of EU and Finland has to be reviewed again. The Finnish government target of making Finland coal-free and halving oil use has to be taken further. Reducing emissions by 60 % by 2030, and corresponding stricter pace of reductions by 2020 are logical next steps after Paris and according to climate science. Technological development and Helsinki's decision to move away from coal use have made this politically more possible during 2015. • In addition, Finland has to give new and additional grant-based climate finance corresponding to its financing share.

4.3 Article 5 on forestry and its implications for Finland

Finland has traditionally been a strong supporter and a world leader in sustainable forest management, both domestically and internationally, in both private and public

dimensions. Consequently, many developing countries look to Finland for providing bilateral technical assistance for sustainably managing forests while pursuing growth in their forest sector. Multilateral agencies expect Finland to contribute significantly, both financially and technically, because of its position as a global leader in sustainable forest management. Article 5 of the Paris Agreement will not diminish these expectations from developing countries, International NGOs, the private sector and other donors.

These expectations on Finland, however, coincide at a troubled time within the Finnish Government, which is making significant cut backs to ODA, especially on their bilateral forest programmes – often linked with climate finance. While these financing cut backs do not usually have internationally legally binding targets to meet, it could mean that over the next ten years Finland could lose its position as a global leader in using forestry as a solution to provide alternative livelihoods, provide technical advice and technologies to countries that are keen to learn sustainable approaches to growing and maintaining future fibre supplies.

The elevation of the role of forests in mitigating and adapting to climate change, and the non-carbon benefits forests provide, as outlined under Article 5 of the Paris Agreement, would suggest that Finland should reconsider its financing and technical assistance priorities, and develop a strategy so that Finland can maintain its position as a global power house of forest friendly expertise, technologies and innovations that have shaped the forest sectors of so many developing and emerging countries to this day.

4.4 Legal implications for Finland

As explained above, the Paris Agreement qualifies as a treaty under international law, intended to create legally-binding consequences. For Finland to be bound by the Paris Agreement, ratification will be required. Under EU law, the Paris Agreement qualifies as mixed agreement to which both the EU and its Member States will participate. This means that the Paris Agreement will also be ratified by the EU as well as by its individual Member States.

The Finnish ratification of the Paris Agreement is likely to require approval by the Parliament. According to Section 94 of the Constitution of Finland: The acceptance of the Parliament is required for such treaties and other international obligations that contain provisions of a legislative nature, are otherwise significant, or otherwise require approval by the Parliament under this Constitution.

It will also be necessary to examine how the Paris Agreement affects other existing legislation in Finland and in the EU. In Finland, the Climate Change Act (609/2015, *Ilmastolaki*) creates a framework for national planning processes related to climate change. It seems necessary to examine whether these processes and their timeframes are compatible with the various timeframes and cycles in the Paris Agreement. Ideally, the Climate Change Act and the Paris Agreement should be supportive of each other instead of partly containing overlapping but separate planning processes.

In the EU, the process is ongoing to create the legal framework for climate and energy action in the 2020-2030 period is currently ongoing. The new framework should enable the EU and its Member States to meet the targets of reducing GHG emissions by at least 40%, increasing the share of renewable energy consumption to at least 27% and

enhancing energy efficiency by at least 27% from business as usual. Expected legislative changes include revisions to the Emissions Trading (ETS) Directive. Work on the Effort-Sharing Decision will also be taking place in 2016 in order to address cuts to be made by Member States in sectors outside the EU ETS.

NGOs and other organisations have urged the EU to assess the ambition of its climate targets in light of the Paris Outcome. However, EU Climate Commissioner Miguel Arias Cañete indicated soon after Paris that increasing ambition will be something for the next Commission to consider in 2020.²⁵⁹ Invited by the European Council in December 2015, the Commission and the Council are currently assessing what the Paris Outcome means, in particular for the 2030 climate and energy framework.²⁶⁰ They should complete this task by March 2016.

²⁵⁹ Ed King, *EU unlikely to increase climate ambition before 2020, says Canete*, Climate Home, 14 December 2015, available at: <http://www.climatechangenews.com/2015/12/14/eu-unlikely-to-increase-climate-ambition-till-2020-says-canete/>

²⁶⁰ European Council Conclusions, 18 Decemeber 2015, EUCO 28/15, para. 19,.

5. Road Ahead from Paris

The masterfully skilled and rightfully applauded French Presidency of COP 21 was among the first to recognise that the Paris Agreement constitutes an important milestone in the UN climate process, not an end itself. The work on avoiding dangerous climate change to fulfil the UNFCCC's ultimate objective and reaching the mitigation goals stipulated in the Paris Agreement must continue on many levels – local, national, international – without a pause. The Paris Outcome reflects this necessity by addressing the pre-2020 period in Decision 1/CP.21. In addition, many key details must be finalised before implementation of the Paris Agreement from 2020 onwards will be possible.

As the familiar saying regarding multilateral processes goes, 'the devil is in the details'. Some seasoned analysts have argued that the post-Paris process is actually more important than the Paris meeting itself.²⁶¹ For analysts, such as David Victor, Daniel Bodansky and many others, ambition and transparency are the keys: the cycle of NDCs including reporting, review, stocktaking and updating.²⁶² For upgrading the ambition of the current INDCs, some hopes are pinned on the decision to initiate a facilitative dialogue for 2018. However, as seen above, detailed guidance must be agreed in the coming years on accounting; reporting and review; global stocktake; compliance; as well as for several other challenging issues, including possible modalities for international emissions trading. To enable these compromises politically, a major effort will be needed from developed countries to mobilize funding needed to achieve the reinforced targets. Otherwise the 'balanced package' achieved in Paris may break down.

In operationalizing the Paris Agreement, the history of the UN climate negotiations gives us some advice and reason for caution. First, to call these negotiations 'technical' may be misleading. It is well known that several large developing countries, perhaps most notably India, have been reluctant to move away from the binary differentiation of countries that has, up to now, played a crucial role in the UN climate regime. As noted in section 2.9, major advances in the climate regime produce typically a counter reaction, in a similar fashion that the Durban Mandate gave impetus to form the LMDC group promoting a conservative interpretation of the UNFCCC. Throughout the UNFCCC negotiations, countries have used 'technical' negotiations in attempts to regain ground previously ceded. Secondly, although Secretary General Ban Ki-moon called the Paris climate talks 'most complicated and difficult ever',²⁶³ seasoned UNFCCC hands would be quick to note that negotiating the Marrakech Accords to operationalize the Kyoto Protocol was actually much more complex. Similar complex, difficult, and political issues are likely to demand significant ministerial level attention and compromises in the forthcoming COPs.

²⁶¹ David Victor, 'Why Paris Worked: A Different Approach to Climate Diplomacy', *Yale Environment* 360, 15 December 2015, available at: http://e360.yale.edu/feature/why_paris_worked_a_different_approach_to_climate_diplomacy/2940/.

²⁶² See also Daniel Bodansky, 'Reflections on the Paris Conference', *Opinio Juris*, 17 December 2015, available at: <http://opiniojuris.org/2015/12/15/reflections-on-the-paris-conference/>.

²⁶³ The Guardian, 'Ban Ki-moon calls Paris climate talks "most complicated and difficult" ever', 11 December 2015, available at: <http://www.theguardian.com/environment/2015/dec/11/ban-ki-moon-calls-paris-climate-talks-most-complicated-and-difficult-ever>.

However, on an optimistic note, the after Paris negotiations concerning for example transparency and international emissions trading may well benefit from the textual formulations already existing in the Marrakech Agreements, as well as other relevant previous COP decisions. Another encouraging aspect is the Chinese ownership in the Paris Agreement, manifested for example by its final minute behaviour in Paris. When US requested the change from 'shall' to 'should' in Article 4.4, and several developing countries were considering not accepting any changes, Chinese Head of Delegation reportedly stepped in and said 'stop it now, we want this agreement, don't play games with this, it isn't fair'.²⁶⁴ Special Envoy Laurence Tubiana from the French Presidency later commented 'without Xie, we would not have had an agreement'.²⁶⁵ In this light, also taking into account the unforeseen closeness of Sino-American cooperation on climate change, it seems less likely that China would consider backing down or delaying the operationalization of, for example, the transparency compromise of the Paris Agreement. Furthermore, it does not seem that China or India have had to face considerable heat from domestic constituencies for their willingness to sign the Paris Agreement.

In the coming years, a lot of attention will be on the major emitters and their respective ratification processes. According to the Paris Agreement, 55 countries and 55% of global emissions are needed as ratified or accepted for the agreement to enter into force. Ratification typically includes parliaments and may take considerable time. Although many international treaties have a higher threshold than the Paris Agreement,²⁶⁶ the threshold may incentivize political manoeuvring. The double requirement was supported by many advocates of climate policy, including within the EU, as some perceived it as guaranteeing the participation of major emitters. In the coming years, the progressive Parties will sincerely hope that the requirement will not create a situation akin to the Kyoto Protocol, in which some laggards used the Protocol's entry into force requirement to increase their leverage in negotiating the final rules of the Protocol, as well as with issue linkages outside the climate talks in world politics.²⁶⁷ Only with necessary number of major economies among the ratifiers will the Durban mandate, stating that 'the agreement will come into effect and be implemented by 2020', be completed.

In the domestic debates, the importance of the Paris Agreement should be communicated vocally. In the current op-ed, blog and social media culture, sweeping analyses that are quick to dismiss the outcome spread quickly. These include 'expert opinions' that are remarkably naïve about the process and ignorant on the substance, as well as public international law – including misleading commentary on, for example, compliance mechanisms in international agreements, and what constitutes a legally binding obligation.

²⁶⁴ The Financial Times, 'Climate deal: Carbon dated?', 15 December 2015, available at: <http://www.ft.com/intl/cms/s/0/58ecb88c-a30e-11e5-8d70-42b68cfae6e4.html#axzz3x8CS09u2>.

²⁶⁵ *Ibid.*

²⁶⁶ David Victor, 'Why Paris Worked: A Different Approach to Climate Diplomacy', Yale Environment 360, 15 December 2015, available at: http://e360.yale.edu/feature/why_paris_worked_a_different_approach_to_climate_diplomacy/2940/.

²⁶⁷ See for example The Wall Street Journal, 'EU Backs Russia's WTO Entry As Moscow Supports Kyoto Pact', 24 May 2014, <http://www.wsj.com/articles/SB108514021459817981>.

The UNFCCC has slowly started being less inward looking, and to embrace a more 'catalytic' role. Non-state actors are included, for example in technical examination processes for mitigation and adaptation (TEP-M and TEP-A). Perhaps in this way some of the positive and constructive energy from outside can be brought to formal multilateral talks.

During the last stretch of the Copenhagen meeting, in a meeting between the BASIC countries and the US later made public by Der Spiegel magazine,²⁶⁸ the final exclusions of the Copenhagen Accord included 'our firm resolve to adopt one or more legal instruments' (preamble) and a new mandate to negotiate a legal instrument. Although the climate process got back on track already the next year in Cancun, and the mandate noted above was achieved in Durban, only after negotiating the actual Paris Agreement has the Copenhagen trauma completely healed. The Paris Agreement represents a historic breakthrough in that it has, after a decade of confusion, integrated both the US and developing countries into a legally binding agreement. In doing so, it revitalizes the belief that multilateral decision-making is possible, and may contribute essentially even in solving the most pressing and wicked global problems.

²⁶⁸ See Der Spiegel articles on the Copenhagen COP-15, available at:
<http://www.spiegel.de/international/world/the-copenhagen-protocol-how-china-and-india-sabotaged-the-un-climate-summit-a-692861.html>.