

What countries agreed to under the Paris Agreement (Part 1)

Penang, 18 December (Meena Raman) – The adoption of the Paris Agreement, under the United Nations Framework Convention on Climate Change (UNFCCC) has been heralded by many countries as a historic moment and a critical point in the global effort against climate change.

The Agreement was adopted evening of Saturday, 12 December in Paris.

Several countries that spoke at the final plenary of the 21st meeting of the Conference of Parties (COP21) to the UNFCCC expressed this view. COP 21 began on 30 November and went on for an extra day till 12 December (see [TWN Update 17](#) for further details: *Paris Agreement adopted after last minute 'technical correction'*).

According to the decision adopted at COP 21, the Agreement will be open for signature by Parties in the UN in New York from 22 April 2016 to 21 April 2017. The Secretary-General of the UN is invited to convene a high-level signature ceremony for the Agreement on 22 April next year.

Given that the Agreement is a new legal instrument, it will have to be ratified by Parties for it to come into effect. It will enter into force after at least 55 Parties to the Convention, accounting in total for at least an estimated 55 per cent of the total global greenhouse gas (GHG) emissions have deposited their instruments of ratification or acceptance. (The Agreement is expected to come into effect post-2020.)

Parties also agreed to establish a new body called the Ad Hoc Working Group on the Paris Agreement that is responsible to prepare for the entry into force of the Agreement and this will meet starting in 2016

in conjunction with the Convention's subsidiary bodies on 16 to 26 May.

Highlights of the Agreement

The Paris Agreement was adopted in a decision of COP21, with the Agreement contained in an annex to the decision. The Agreement itself is 12 pages, while the decision is 19 pages. The decision includes the following parts – the adoption of the Agreement, intended nationally determined contributions (INDCs), decisions to give effect to the Agreement, enhanced action prior to 2020, non-Party stakeholders, and administrative and budgetary matters.

Some of the main highlights of the Agreement and the relevant parts of the decision are set out below. (Part 1 of this article reflects aspects relating to the purpose of the agreement, nationally determined contributions and mitigation. Other aspects will be covered in further articles.)

Purpose of the Agreement

Article 2 of the Agreement (known generally as 'purpose' during the negotiations) states in subparagraph 1 that: *"This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:*

(a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient

development.”

Sub-paragraph 2 states that *“This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), in the light of different national circumstances.”*

The purpose of the Agreement was a major area of contention between developed and developing countries.

It was clear from the four years of work to leading to the Paris Agreement under the Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP), that the common refrain of developing countries under the G77 and China was for the Agreement not to “rewrite, replace or reinterpret the Convention.” The G77 and China, including its sub-groupings especially the Like-minded Developing Countries (LMDC) and the African Group constantly stressed that the purpose of the Agreement is to enhance the implementation of the Convention on the elements of mitigation, adaptation, finance, technology transfer, capacity-building, and transparency of action and support.

Developed countries, on the other hand, appeared to focus more of their attention on the ‘objective’ of the Agreement, which was perceived by developing countries as a mitigation-centric approach linked only to the temperature goal, with an attempt to weaken the link to the Convention provisions and the obligations of developed countries under the Convention, especially on the means of implementation (finance, technology transfer and capacity-building).

Hence, the reference to “enhancing the implementation of the Convention” is seen as a positive win for developing countries.

While global attention seemed to be on the temperature goal of limiting temperature rise to well below 2 degrees C above pre-industrial levels and to pursue efforts to limit the increase to 1.5 degrees C, developing countries wanted the focus to also be on adaptation and finance and to ensure that the global response is in “the context of sustainable development and efforts to eradicate poverty”.

Several senior developing country delegates did express their unhappiness over the reference to “finance flows” in the Article 2(1)(c) of the Agreement rather than a reference to the provision of financial resources from developed to developing

countries, the commitment language of the Convention.

A major win for developing countries is Article 2.2 that states that the Agreement will be implemented to reflect equity and the principle of CBDR-RC, in the light of different national circumstances.

A key issue throughout the ADP process and at COP21 was whether and how the principle of CBDR-RC will be operationalised in all the elements of the Agreement.

Developed countries had been insisting that the agreement must reflect the “evolving economic and emission trends” of countries in the post-2020 timeframe, while developing countries continued to argue that given the historical emissions of developed countries, developed countries continue to bear the responsibility in taking the lead in emission reductions and in helping developing countries with the provision of finance, technology transfer and capacity-building as provided for under the UNFCCC.

At the last COP in Lima in 2014, where the issue of differentiation was also hotly contested, Parties underscored their commitment to reaching an ambitious agreement in Paris that reflects the principle of CBDR-RC, in light of different national circumstances. This was the ‘landing-zone’ arrived at in reflecting the CBDR principle, following the China-United States joint statement issued last year prior to Lima and that has accordingly found its way to the Paris Agreement.

Nationally determined contributions (NDCs)

Article 3 (previously known as Article 2*bis* during the negotiations) states that, *“As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.”*

Article 3 symbolizes the ‘battle’ over the nature of the agreement to ensure that the NDCs are not viewed only as being ‘mitigation-centric’ (Article 4 refers to the element of ‘mitigation’, Article 7 to ‘adaptation’, Article 9 to ‘finance’, Article 10 to ‘technology development and transfer’, Article 11 to

‘capacity-building’ and Article 13 to a ‘transparency framework for action and support’).

The LMDC was the major proponent of what was then Article 2*bis* for all Parties to regularly prepare, communicate and implement their intended NDCs (INDCs) towards achieving the purpose of the Agreement. It also proposed that INDCs will represent a progression in light of Parties’ differentiated responsibilities and commitments under the Convention.

It was an uphill task during the negotiations to get developed countries to see the viewpoint of the LMDC in this regard. The proposal was to ensure that the contributions of Parties are viewed in a comprehensive manner, reflecting the respective obligations they have under the provisions of the Convention, and not to confine the contributions only to mitigation as desired by the developed countries.

Mitigation (Article 4)

The following sub-paragraphs of Article 4 are among the main highlights of what Parties agreed to in relation to mitigation:

“1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of GHGs as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid 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 this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.”

“2. Each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.”

The US was against any reference that each Party shall implement the NDCs that it has communicated, as this would make it an obligation for the US and others to implement the emissions reduction target communicated. To accommodate the US ‘problem’, all Parties have to do is to “pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.” What this means is that there is an obligation to take the measures necessary, **with the aim of achieving** the emissions reduction target, but not to achieve the target itself (emphasis added).

“3. Each Party’s successive NDC will represent a progression beyond the Party’s then current NDC and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”

“4. Developed country Parties should 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.”

Article 4.4 was another major paragraph of contention between developed and developing countries. Many developing countries wanted the nature of the mitigation efforts to be differentiated between developed and developing countries, reflecting the existing provisions of the Convention that are based on historical responsibility and CBDR.

The US and its allies in the Umbrella Group were opposed to any form of differentiated efforts, preferring that Parties “self-differentiate” among themselves, while recognising that those who have undertaken absolute emission reduction targets before should continue to do so in the post-2020 timeframe.

While this sub-paragraph continues to provide the policy space for developing countries in undertaking any type of enhanced mitigation efforts (including relative emission reduction targets which are economy-wide and non-economy wide actions), over time, developing countries will have to move to economy-wide targets, in light of their different national circumstances.

The term “over time” is not precisely defined and there is also no reference that developing countries have to undertake “absolute” emission reduction targets, which was what developed countries and some developing countries were pushing for during the negotiations.

Also noteworthy is that in the original version of the text for adoption on Article 4.4, the reference was that developed countries “shall” and developing countries “should”...

According to sources, the US wanted the word “shall” in the first sentence to be replaced with the word “should”, so that developed and developing countries will be treated in a like manner legally. Instead of raising the issue from the floor of the

plenary, the US request was accommodated by the COP Presidency by what was termed a “technical correction” and the word “shall” was then replaced with “should” in the Article which was hastily read out by the Secretariat together with several minor corrections (see [TWN Update 17](#)).

“9. Each Party shall communicate a NDC every five years...”

Some developed and developing countries have communicated an INDC which is for a timeframe of 10 years. This sub-paragraph requires all Parties to communicate an NDC every 5 years.

“10. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall consider common time frames for NDCs.”

What this suggests is that in the preparation of the next NDC (following from the first NDC), there could be common time frames set for NDCs as to

whether it should be a 5 year or 10 year or other period.

“11. A Party may at any time adjust its existing NDC with a view to enhancing its level of ambition...”

“12. NDCs communicated by Parties shall be recorded in a public registry maintained by the secretariat.”

The US had maintained throughout the negotiations that it could not have its NDC ‘housed’ in the Agreement as this could mean that the emissions reductions target is legally binding. Hence the recording of the NDC in a public registry outside of the Paris Agreement.

“19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their CBDR-RC, in the light of different national circumstances.”

(Further articles will follow on other elements of the Agreement and decision).