



SEAN-CC NEGOTIATION BRIEFING PAPER
March, 2014

The Durban Platform for Enhanced Action Workstream 1 (ADP WS1)



iiied

International Institute
for Environment
and Development

Contents

I. Introduction.....	3
II. Developments Prior to Warsaw.....	4
III. Impacts of Warsaw.....	5
IV. The 2015 Agreement.....	6
<i>“Top Down” Approach.....</i>	<i>6</i>
<i>“Bottom Up” Approach.....</i>	<i>7</i>
<i>Multi-Track Approach.....</i>	<i>7</i>
<i>No Agreement.....</i>	<i>8</i>
V. Expectations for ADP 2-4: 10-14 March 2014.....	8
Sources.....	9

I. Introduction

Since the beginning of the United Nations Framework Convention on Climate Change (UNFCCC) there has been pressure to establish a legally-binding agreement to prevent and reduce the adverse impacts of climate change. While the Convention has over 20 years of experience attempting to improve ambitions at the international level, efforts have been divided between a “top down” and a “bottom up” approach (Bodansky and Day, 2013). While neither has generated a clear victory for the climate change cause, these two approaches will become models for comparison when a new global agreement is formulated in 2015.

Adopted at the Eighteenth Conference of the Parties (COP18), the Durban Platform for Enhanced Action (ADP) calls for “strengthening the multilateral, rules-based regime under the Convention” with the aim of developing “a protocol, another legal instrument or an agreed outcome with legal force” that will enter into effect from 2020 onwards (UNFCCC, 2012). Alongside the decision to create a second commitment period under the Kyoto Protocol, the mandate of the platform was separated into two workstreams (WS) that includes a 2015 agreement (WS1) and pre-2020 ambition (WS2). Although this outcome left many countries excited to begin the process of developing another large-scale agreement, several issues stand in the way. Most predominantly, the language of the ADP has created large ambiguity forcing Parties to interpret the text along with the potential outcomes of the agreement. Since the Bali Action Plan (COP13) that set out the target towards a new agreement (UNFCCC, 2008), steps for drafting a legal text have been slow and difficult. It was only until COP18 that a useful discussion as to the scope, design and structure of the 2015 agreement occurred (UNFCCC, 2012). Even so, Parties only agreed to “consider” elements of a draft text by the end of this year at its session that will be held in conjunction with COP20 in Lima, Peru (Decision 2/CP.18).

By the end of this year, Parties will have tabulated their proposed mitigation and financial commitments. While it is predicted that these will add up to an ambitious deal in 2015, the timeline was set prior to Paris so as to have time for consultations and revisions. Unlike the Kyoto Protocol, a future agreement must raise ambitions to hold the global average temperature below 2°C as well as reach a peak in global greenhouse gas emissions ad hoc to Party commitments. So far however, Parties have been asked to prepare information regarding their commitments subject to paragraphs 33 and 34 of Decision 2/CP/17, which includes gas and other sectors covered, global values used and estimated mitigation outcomes. Additionally, they have been asked to reflect and report on their “needs for financial, technology and capacity-building support for preparation and implementation of specific measurable, reportable and verifiable [MRV] nationally appropriate mitigation actions” (Decision 1/CP.18 para. 19b: UNFCCC, 2013). The timeline for these however is vague.

II. Developments Prior to Warsaw

Sessions of the ADP Co-chairs have consisted of formal and informal discussions, whereby the latter has no status in the negotiations and is made available to Parties mainly as assistance and for clarifications. So far six sessions have been set up for the ADP, beginning with the first session that was held 17-24 May 2012 in Bonn, Germany that introduced the ADP sessions and outlined modalities. In-depth discussions only began in the informal session in Bangkok, Thailand, held from 30 August to 5 September 2012. Here, Parties were commended by the Co-chairs for productive discussions that highlighted several important issues such as principles of equity, common but differentiated responsibilities and respective capabilities, historical responsibilities, provisions of the Convention, a spectrum of commitment types, methods of measuring and evaluating emissions, technology transfer and capacity building, intellectual property rights, economic structures, ways to incentivize participation and implementation, and methods for incorporating lessons learned. As early as this session, many Parties were in agreement on a number of points. These included, among others: that principles of the Convention remain relevant and are sufficiently flexible to accommodate changing economic realities, the need to accommodate different and dynamic national circumstances in the 2015 agreement, that a holistic and Party-driven approach is necessary whereby each Party should determine their commitments, that “applicability to all” should not translate into a uniformity of commitments but rather to common “bindingness”, that the level of participation and ambition needs to be raised, and the importance of incorporating a transparency mechanism, reporting and verification procedures, compliance arrangements, and market-based mechanisms (ADP, 2012). A roundtable discussion followed in Doha, Qatar, later on that year which raised more specific questions as to the application of principles in the Convention, how diverging circumstances should be considered, defining “applicability to all” given differentiated circumstances and incentivizing participation and compliance.

In 2013, informal meetings and roundtables were also held yet more progress was made to prepare Parties to present their commitments by 2014. Informed by the first roundtable discussion from 29 April to 3 May that called for more focused and transparent measures to enable greater support on mitigation and adaptation ambitions, the second part of the second session from 4-13 June in Bonn, Germany, discussed the contours and elements of the 2015 agreement. Elements such as mitigation, adaptation, finance, technology, capacity building, transparency and action and support helped determine the structure of the session throughout the week. Historical and future projected emissions were also examined. With regards to technology and finance, most Parties seemed to be in agreement that the transfer of technologies ought to be scaled-up and that a Protocol should add value to existing arrangements. Modalities were further discussed and some Parties suggested timelines for initial contributions to be made by the end of 2014 (ADP, 2013).

III. Impacts of Warsaw

The optimism of creating progress for a 2015 agreement in Warsaw was tainted by the coal summit that was held alongside the COP, Canada's withdraw and the lowered ambition by Japan and Australia. While this foreshadowed the challenges of ADP WS2, progress on WS1 was restrained by Parties reluctance to set deadlines for contributions. Going into Warsaw, there was a shared expectation to set clear commitment deadlines for Parties as well as define elements of the agreements prior to COP21 in Paris – both of which only partially came to fruition.

First, there remains ambiguity as to the schedule for WS1. As stated in paragraph 2(b) of the Warsaw Decision, Parties are invited to begin national preparations to determine contributions so as to be “communicated well in advance” to 2015. Led by the United States, the notion of having ex-ante targets generated support by several developed Parties however it quickly became clear that there was no consensus as to when these contributions should be made. According to these developments at Warsaw, one can imagine that ADP sessions this year will be focused on “actions with high mitigation potential” in line with nationally defined priorities (para. 5, Decision 1/CP.19). Additionally, Parties will have until the first quarter of 2015 to communicate their contributions (para. 2(b), Decision 1/CP.19).

Second, elements of the 2015 agreement have yet to be defined. There were dissimilarities between the co-chairs' draft text on the scope of said contributions and what was finally agreed upon. The general tension is whether the agreement should be centered on mitigation contributions or all elements as defined above. Most developing countries have pointed to the importance of increasing adaptation efforts and, more recently, reducing loss and damage. It is evident that mitigation will never be able to eliminate the adverse effects of climate change, and therefore groups like the Least Developed Countries (LDC) have started to demand equity and equality in all methods for reducing the adverse effects of climate change. Discussions at Warsaw attempted to include such aspects in the review process on Party contributions. However, efforts to include such elements in the text were opposed. The danger with this is that a future agreement may become simply a “pledge” process without any consideration for ensuring an equitable and fair division of contributions (Yamagishi, 2013).

An additional consideration for the 2015 Protocol is the extent to which the newly formed loss and damage Mechanism created in Warsaw will be considered in commitments and whether this will go beyond mitigation and adaptation efforts or whether it will be embedded into the latter. While some Parties and groups, in particular the LDC Group and the Alliance of Small Island States (AOSIS), in their submissions to ADP WS1 Decision 1/CP.17, mentioned strong interest of incorporating a loss and damage aspect in the 2015 Protocol, this is easier said than done. Over the years, there have been strong contentions on the issue of loss and damage as to its measurability, liability and financial implications. Considering the extremely slow progress and the fact there remains a gap in research, it is unlikely that Parties will reach an agreement on loss and damage prior to Paris.

IV. The 2015 Agreement

In spite of the fact that Warsaw did little more than reiterate Party concerns in the ADP sessions, there remain a number of options for what an agreement in 2015 might look like. This section considers four possible options: first, a “top down” approach similar to the Kyoto Protocol; second, a “bottom up” approach otherwise known as a legalization of the Cancún architecture; third, a multi-track approach; and fourth, no agreement whatsoever. Speaking to the first three options, effectiveness of an agreement will not only come from its structure but also from its stringency, participation and compliance (Barett, 2003). Such factors will need to form the foundation of any agreement since the issue itself necessarily involves all countries in the world either due to their role in contributing to greenhouse gas emissions and/or the effects climate change will have on their country.

“Top Down” Approach

The most ambitious of the options is a “top down” approach that would call for a legally binding protocol similar to the one agreed upon in Kyoto. Such a structure would incorporate items such as a comprehensive international objective, national targets, reporting deadlines, monitoring and review processes and, potentially, a market mechanism (Bodansky and Day, 2012). Agreements would be made at the international level and would provide a more coherent structure to the currently fragmented system. Rather than countries pledging numbers on mitigation and possibly adaptation, a “top down” approach would designate targets for all countries involved. The benefit of this is that a global target can be set prior to allocating different contributions to Parties. Such a target would require issues of equity, fairness and common but differentiated responsibilities (CBDR) to be considered. While useful, this raises difficult questions such as: what will the global goal entail? What is the most equitable approach to divide responsibilities? What is the most effective measure for improving adaptation efforts? How will such an agreement avoid overlap with existing Party commitments?

The Kyoto Protocol is considered a top-down process due to the way by which international negotiations set national emission targets. While it was predicted that nations would be held accountable to their commitments, the United States’ blatant refusal to sign, Canada’s walkout, and New Zealand, Japan and Russia’s failure to sign up to a second commitment period demonstrate the power that remains at the national level. Without a formal legal institution, countries under Kyoto had significant influence in deciding their emission targets and therefore the global target was set on an ad hoc basis (Bodansky and Day, 2012). From this perspective, strong criticism remains as to whether the Protocol was ever able to reach the Convention’s objective (Leal-Arcas, 2011). Beyond mitigation, setting goals for items such as adaptation will be cause for contention. Since adaptation falls on a continuum of measures whereby no single effort will be sufficient to reduce the adverse effects of climate change, measures for achieving targets will be extremely difficult to recognize.

“Bottom Up” Approach

This alternative would build from existing “bottom-up” agreements. Based on the decisions at Copenhagen (COP15) and Cancún (COP16) such agreements would be partly or fully binding but would rely on voluntary targets as set by national legislation. The substance of commitments would vary from absolute emission targets to indexed targets to specific nationally defined policies. This approach would increase compliance amongst all Parties involved in the UNFCCC but legislation will decide the extent to which international bodies are capable of monitoring and evaluating progress. For instance, schedules for national emissions may be set by an annex at the international level while procedures for amending Parties’ agreement may require consultation of the Convention. It is important that international obligations are set, however, since it provides assurance that all Parties will follow through with their commitments. This point has often been raised in the ADP sessions, where there remains significant pessimism on Parties ambition to ensure that the global temperature is kept below 2 °C.

The benefit of the “bottom up” approach is that it encourages Party participation by allowing countries to put forth their own targets. This process is often faster and less controversial than the “top down” approach. To further encourage fluidity in the process, Parties may be given the flexibility to change their own legislation. However this, in turn, runs the risk of diminished credibility of the climate change regime. This was the fear of EU and AOSIS for the second commitment period of the Kyoto Protocol (Sépius, Sterk and Tuerk, 2012). On the other hand, without a flexibility mechanism, a new 2015 agreement would likely face the same criticism of the Cancún approach: lack of ambition in pledges (UNEP, 2010: Leal-Arcas, 2011). If history in the UNFCCC process provides us with any lesson then, it should be that an element of international pressure must be exerted, in order to ensure pledges are capable of meeting global targets and also that Parties will keep their commitments.

Multi-Track Approach

The multi-track approach has been well received by many developed country parties, though the details of such an approach are open to interpretation. Considered a blend between “top-down” and “bottom-up” approaches, the basic structure would be to have multiple tracks in which states are able to pick and join multiple streams. Pledges could also be further divided based on countries per capital Gross Domestic Product (GDP) and/or their export to import ratio, so as to abide to the principle of CBDR. Generally, providing options for states is helpful in terms of engagement and participation since most countries are likely to take the opportunity to negotiate tracks most appropriate to their circumstances. The timeframe for commitment periods and common accounting rules would likely also be determined ex-ante in this approach. The European Union, in particular, has lobbied hard to see countries submit such pledges by September 2014 in time for the UN Secretary General Ban Ki Moon’s World Leaders Summit (Centre for Science and Environment).

This hybrid approach has the benefits of building from the approach taken in COP agreements since Cancún. It is also credited with being flexible and inclusive enough to include those developed countries that struggle with low ambition due to domestic political constraints

(Bodansky and Diringer, 2007). Given that the Kyoto Protocol is the closest agreement we have to working like a multi-track mechanism, avoiding its pitfalls are equally as important. Drawbacks of using this approach are that it is not the science-based approach used by the IPCC, inadequate initial pledges have proven difficult to improve (Sterk et al., 2013), and the effort to prioritize the needs of less ambitious developed countries might shift an unfair burden onto some developing countries, which could increase opposition (Sharma, 2013). Additional questions as to how equity will be addressed within a hybrid framework are equally as disconcerting and likely just as controversial as was the case for the “top-down” process.

No Agreement

In the most pessimistic scenario, 2015 may bring about no agreement whatsoever. Similar to what occurred in Copenhagen, the final attempt to formulate a deal occurred because many of the major economies failed to include more vulnerable states in the process. Not only did this not fall in line with the UNFCCC process but it created angst amongst developing countries that were concerned that their rights were not being considered. Similarly, civil society has been quite blunt about its pessimism for the COP21 in Paris, partially based on the difficulties faced in Copenhagen but also, more recently, as a result of the “comprise” that occurred in Warsaw (Shankleman, 2013). The loose framework that was agreed upon in Warsaw might not have been ideal but it was likely the best anyone could have asked for given the tension throughout the negotiations (King and Yeo, 2013). Without a defined timeline or appropriate groundwork in preparation for COP21, negotiators are likely to face similar challenges over the next two years, potentially at the expense of creating a legally-binding agreement. At least, as of now, progress on ADP WS1 makes it appear very probable that Parties will not be able to agree upon targets or elements of the 2015 agreement. This is a grim reality that mirrors diminishing ambitions both in negotiations as well as in the media.

If a future agreement aims to capture the state of current negotiations, targets must be set beyond mitigation. As the climate change community is beginning to realize, efforts to increase mitigation will no longer be sufficient to prevent the adverse impacts of climate change. This is particularly troubling for vulnerable countries that have been active in the negotiation process but that have struggled to formulate a cohesive strategy with which to pressure developed states. While groups such as the LDCs, AOSIS and G77 represent a significant number of countries in negotiations, there is a need for these groups to work together to create strong positions in preparation for COP21. A more united strategy will improve effectiveness of negotiations since all Parties can start work from a single proposal.

V. Expectations for ADP 2-4: 10-14 March 2014

The ADP will hold the fourth part of its second session from 10 to 14 March 2014 in Bonn, Germany. Given that Parties previously agreed to initiate and/or intensify domestic preparations for contributions by the end of 2014, the goals in March are to:

- a) Make significant progress as to the content of the 2015 agreement in order to create a negotiating draft text by COP20 in Lima, Peru;
- b) Initiate discussions to help Parties prepare for nationally-determined contributions;
- c) Help countries realize the importance for raising pre-2020 ambitions.

With respect to the first two points, the Co-chairs have proposed a number of open-ended consultations and dedicated meetings to elaborate on some of the questions raised in previous sessions on the elements of the 2015 agreement. Already a workshop and briefing have been arranged. The workshop will discuss and share experiences on domestic preparations so as to enhance ambitions and provide support for Parties as soon as possible. On the other hand, the briefing will be held by the operating entities of the financial mechanism, along with other relevant organizations and interested Parties. The goal of the briefing is to facilitate coordination and bilateral interactions both during the March session and beyond. Finally, before the closing of the March session, Parties will decide whether a second additional session will be required before December 2014.

Sources

- ADP (2012) Summary of roundtable on workstream 1 Bangkok, Thailand, 30 August-5 September 2-12. ADP.2012.2.InformalSummary. Available at: <http://unfccc.int/resource/docs/2012/adp1/eng/2infsum.pdf> (Last accessed: 26 February 2014).
- ADP (2013) Summary of the round tables under workstream 1. ADP 2, part 2. Bonn, Germany, 4-13 June 2013. ADP.2013.10.InformalSummary. Available at: <http://unfccc.int/resource/docs/2013/adp2/eng/10infsum.pdf> (Last accessed: 26 February 2014).
- Barrett, S. (2003) *Environment and Statecraft: The Strategy of Environmental Treaty Making*. Oxford University Press: Oxford.
- Bodansky, D. and E. Diring (2007) *Towards an Integrated Multi-Track Climate Framework*. Paper Prepared for the Pew Center on Global Climate Change. Available at: <http://www.c2es.org/docUploads/Multi-Track-Report.pdf> (Last accessed: 4 February 2014)
- Bodansky, D. and S. Day (2012) *The Durban Platform: Issues and Options for a 2015 Agreement*. Center for Climate and Energy Solutions. Available at: <http://www.c2es.org/docUploads/durban-platform-issues-and-options.pdf> (Last accessed: 4 February 2014)
- King, E. and S. Yeo (2013) *UN agrees pathway towards 2015 Climate Change Deal*. Responding to Climate Change. 24 November 2013. Available at: <http://www.rtcc.org/2013/11/23/un-agrees-on-framework-for-2015-climate-change-deal/> (Last accessed: 4 February 2014)

- Leal-Arcas, R. (2011) Top-Down Versus Bottom-Up Approaches for Climate Change Negotiations: An Analysis. *The IUP Journal of Governance and Public Policy* Vol. 6 No. 4.
- Sépibus, J., Sterk, W. and A. Tuerk (2012) Top-down, Bottom-up or In-between: How Can a UNFCCC Framework for Market-Based Approaches Ensure Environmental Integrity and Market Coherence? *NCCR Trade Regulation: Swiss National Centre of Competence in Research. Working Paper No. 2012/31.*
- Sharma, A. (2013) Oxford Seminar Report. European Capacity Building Initiative: Oxford. Available at: <http://www.eurocapacity.org/downloads/OxfordSeminarReport2013.pdf> (Last accessed 4 February 2014)
- Sterk, W. et al. (2013) Submission to the Ad Hoc Working Group on the Durban Platform for Enhanced Action. Workstream 1: The 2015 Agreement. Wuppertal Institute for Climate, Environment and Energy: Döppersberg. Available at: http://wupperinst.org/uploads/tx_wupperinst/ADP-WS1-Submission-Wuppertal-Institute.pdf (Last accessed: 4 February 2014)
- Shankleman, J. (2013) COP19: Civil society groups quit Warsaw Climate Summit. *Business Green*: 21 November 2013. Available at: <http://www.businessgreen.com/bg/news/2308523/cop-19-civil-society-groups-quit-warsaw-climate-summit> (Last accessed: 4 February 2014)
- UNEP (2010) Emissions Gap Report: Are the Copenhagen Pledges Sufficient to Limit Global Warming to 2 C or 1.5 C? UNEP: Nairobi.
- UNFCCC (2007) Report of the Conference of the Parties on its thirteenth session, held in Bali from 3 to 15 December 2007. FCCC/CP/2007/6/Add.1. Available at: <http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf> (Last accessed: 5 February 2014)
- UNFCCC (2008) The Report of the Conference of the Parties on its thirteenth session, held in Bali from 3 to 15 December 2007. FCCC/CP/2007/6/Add.1. Available at: <http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf#page=3> (Last accessed: 5 February 2014)
- UNFCCC (2012) Report of the Conference of the Parties on its seventeenth session, held in Durban from 28 November to 11 December 2011. FCCC/CP/2011/9/Add.1. Available at: <http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf#page=2> (Last accessed: 5 February 2014)
- UNFCCC (2013) Report of the Conference of the Parties on its eighteenth session, held in Doha from 26 from 26 November to 8 December 2012. Addendum: Part Two: Action taken by the Conference of the Parties at its eighteenth session. FCCC/CP/2012/8/Add. 1. Available at: <http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf> (Last accessed: 26 February 2014)

Yamagishi, N. (2013) Mitigated Ambition: Mitigation Outcome of the Warsaw Climate Conference. WWF Report: Japan. Available at:
<http://www.scribd.com/doc/193916839/Mitigated-Ambition-Outcome-on-mitigation-of-the-UN-Climate-Conference-in-Warsaw> (Last accessed: 5 February 2014)