

Background paper
First session of the informal ministerial consultation
Paris, July 20-21 2015

The ADP Co-Chairs will provide a new, streamlined version of the ADP negotiating text on 24 July that will form the basis for the next session of the ADP in August/September. Neither this paper nor the consultation itself is intended to duplicate that process. However, Parties have called for the early engagement of Ministers on some key political issues still to be resolved. Responding to this request, this background paper is therefore intended to highlight some key political issues on which Ministers may give political guidance to their negotiators in the ADP when it resumes in August/September.

These issues can be clustered in several ways. For simplicity's sake, we have chosen to group them around seven themes: 1) the general characteristics the agreement; 2) differentiation (applied to transparency, contributions, and means of implementation); 3) the long-term direction, durability and dynamism of the agreement; 4) means of implementation (finance, technology and capacity building); 5) adaptation and loss and damage; 6) enhancing ambition through cooperative actions; and 7) legal issues. We propose that this informal ministerial consultation does not go into an in-depth discussion on all of these issues, but rather concentrates on the first three.

Throughout the text, we use the term "Paris agreement" to refer to the package comprising the new legal instrument (a Protocol, another legal instrument, or an outcome with legal force) and the associated decisions to be adopted by COP21, without prejudging the placement of issues in the agreement – unless clearly stated otherwise.

1. General characteristics.

Discussions under the ADP have revealed some general characteristics the Paris agreement may have:

- A Protocol, another legal instrument, or an outcome with legal force under the UNFCCC, universal and applicable to all.
- Equitable: reflecting the principle of Common But Differentiated Responsibilities and Respective Capabilities (CBDR-RC), in light of different national circumstances.
- Balanced: between climate change mitigation and adaptation, demonstrating the equal political importance of both.
- Ambitious: sending a clear signal about the long-term direction of collective climate actions, including by communicating the objective of limiting the mean surface temperature increase below 1.5 or 2°C compared to pre-industrial level in a way that bolsters cooperation and ambition.
- Dynamic and durable: creating a periodic process to update contributions, avoid backtracking and increase ambition over time.
- Flexible: recognizing that some of its provisions will have to evolve over time, reflecting scientific progress, technological improvements and changing national circumstances.
- Effective and cooperative: facilitating ambition by mobilizing the necessary means of implementation (finance, technology and capacity building).
- Rules-based: creating a robust framework to ensure the transparency and accountability of actions and support.

2. Differentiation.

Parties have already made significant progress in their common understanding of the UNFCCC principle of CBDR-RC and how it should apply to the Paris agreement, in light of different national circumstances, as reflected Lima decision 1/CP.20. Unresolved political issues include:

- a. *On the transparency and accountability system:*

The Cancun agreements adopted in 2010 significantly strengthened the Measurement Reporting and Verification (MRV) of developing countries mitigation actions and of the financial support provided by

developed countries. But the MRV systems for developed and developing countries, and their requirements, are still different. Developing countries are also eligible for support to help meet their reporting obligations.

There is a common understanding that the Paris agreement should improve transparency and accountability for all countries, and for both actions and support. It is recognized as well that the new legal instrument adopted in Paris will not address this transparency mechanism in full detail, and that detailed rules for MRV will have to be developed after Paris, but before its entry into force.

The key political issues include:

- Building on the existing MRV system, what should be the core provisions and obligations of parties in the Paris agreement related to the transparency and accountability of actions and support, to give better confidence in the implementation of countries actions, without threatening national sovereignty?
- Do Parties envisage a unified/common MRV system for developed and developing countries' actions (with tiers, flexibilities and provisions of support) at some point? If so what should be the timing and the modalities of the progressive transition towards this unified/common system?

b. *On mitigation contributions.*

Developed and developing countries' 2020 mitigation targets and actions attached to the Cancun agreements are expressed in different ways: developed countries' 2020 mitigation targets are expressed as an absolute emission reduction target compared to a base year; while developing countries' 2020 mitigation actions are expressed as deviations from Business As Usual (BAU) scenarios, carbon (or GHG) intensity targets, or sectoral mitigation actions. For the first post-2020 mitigation contributions, some developing countries might opt for economy-wide absolute targets, but it is accepted that developing countries will continue to have a broad range of options to express their contribution.

Going forward, and for the next mitigation contributions, it is also expected that countries will have to progressively converge towards more stringent types of mitigation contributions, ultimately to the point of taking an absolute emission reduction target. It is recognized that the Paris agreement will not address this issue in detail.

The key political issues include:

- Should the agreement include the principle of this progressive convergence? And if so, how should it be addressed?
- What would be potential incentives for Parties to move toward more stringent types of contributions? Is it acceptable to design a system based on incentives rather than on triggers?

c. *On the provision of – and eligibility for – support (finance, technology, capacity building):*

The UNFCCC and the Cancun agreements only commit developed countries to mobilize climate finance to address the needs of developing countries. But an increasing number of developing countries are already providing support to other developing countries.

The key political issues include:

- How can the Paris agreement ensure the provision of enhanced finance/technology/capacity-building, with a perspective of increasing ambition of support and broadening the base of contributors over time, while avoiding backtracking from existing commitments?
- Whether the Paris agreement should recognize these South-South climate finance flows, and if so how they should be treated (e.g. without submitting them to the same MRV system as developed countries)?-
- Whether the mobilization and provision of support needs to be further prioritized.

3. Long-term goal(s), durability and dynamism of the agreement.

a. On the long-term direction

The objective of the UNFCCC will be the objective of the Paris agreement. Furthermore, there is a common understanding that the Paris agreement should recall and reaffirm the long-term goal of previous agreements, in particular the goal of limiting the mean surface temperature increase below 2°C compared to the pre-industrial level, and the need to consider the option of strengthening this goal to 1.5°C. But the extent to which – and the ways in which – this goal could and should be clarified and operationalized are still issues for debate. The scope of the long-term goal(s) is also yet to be agreed.

The key political issues include:

- Whether the Paris agreement should clarify the operational implications of limiting the temperature increase below 2°C, by laying out the consequences for global GHG emissions?
- If countries could be encouraged to prepare and communicate voluntary long-term low-emissions development strategies/trajectories consistent with this goal?
- The need for a global goal for adaptation? And if so, should it be quantitative or qualitative?
- How to make the link between ambition (on mitigation and adaptation) and means of implementation (finance, technology, capacity building)?

b. On the durability of the agreement.

There is a common understanding that the Paris agreement should be flexible, because it will need to adapt to changing circumstances; and therefore that the new legal instrument should be short and concise, and include only core provisions, while the detailed rules will be established in separate decisions. There is also a shared recognition that Parties should not have to negotiate a new agreement every five or ten years, but rather that the Paris agreement will form the basis for the enhanced implementation of the UNFCCC.

A key political issue is:

- How to make it clear that the Paris agreement will not stop after the first contributions, while recognizing that some of its provisions will have to evolve?

c. On the dynamism of the agreement.

There is a common understanding that the Paris agreement should be dynamic, and include provisions for the periodic update of contributions, and avoid backtracking. There is also a shared recognition that it should include a review process to track progress towards the achievement of the long-term goal(s), encourage Parties to do more, and that this review process should be collective, facilitative and non-punitive.

The key political issues include:

- What should be the design of this aggregate review process, to enable an increase in the collective level of ambition over time, without singling out individual countries?
- What should be the scope of the review process? Would it apply only to mitigation contributions? Or also to adaptation and means of implementation (finance, technology, capacity building)?

4. Means of implementation: finance, technology and capacity building

Mobilizing adequate means of implementation (finance, technology, capacity building) is essential to enabling greater ambition by developing countries. Building a comprehensive climate finance package in particular is key to support developing countries mitigation and adaptation actions. Ultimately, the objective is to reorient all investment flows, public and private, international and domestic, and align them with climate change mitigation and adaptation objectives. Building this package requires actions to be taken outside of the UNFCCC. But the UNFCCC has a central role to play.

a. Pre-2020 finance

Developed countries have committed in Cancún in 2010 to a goal of mobilizing jointly USD 100 billion per year by 2020 (from public and private sources of finance) to address the needs of developing countries.

The key political issues include:

- How to come up to a shared understanding of what counts as part of the USD 100 billion per year commitment by developed countries; and of the cumulative amount of climate finance already mobilized by developed countries today?
- And how can developed countries demonstrate a credible pathway towards the mobilization of the USD 100 billion per year by 2020?

b. Post-2020 finance:

The key political issues include:

- What should be the collective goal for the mobilization of climate finance for the post-2020 period?
- How should developed countries contribute individually to this collective goal?
- How to strengthen the existing MRV system for delivery of climate finance?

c. Technology and capacity building:

Discussions on technology and capacity building have largely focused on how the Paris agreement could strengthen implementation under existing institutions and arrangements. There is a question whether to create a specific capacity building mechanism.

5. Adaptation and loss and damage.

A major achievement compared to previous agreements is that it is now accepted by all that the Paris agreement should demonstrate the equal political importance of climate change mitigation and adaptation, and strengthen adaptation planning, action and support.

a. National adaptation plans

Parties have made significant progress in their common understanding of the way they could enhance adaptation planning, action and support, as well as the sharing of best practices, in particular through strengthened National Adaptation Plans (NAPs).

A key political issue is:

- How to encourage Parties to establish national adaptation plans and mainstream climate adaptation into their broader development policies?

b. Adaptation finance:

There is a common understanding that the allocation of climate finance should be balanced between mitigation and adaptation; but also a shared recognition (in spite of the absence of an agreed methodology and comprehensive data) that adaptation actions have so far received less financial support than mitigation actions.

A key political issue is:

- How to scale up adaptation finance, and ensure a balance between mitigation and adaptation finance?

c. Loss and damage:

The issue of loss and damage (i.e. the impacts of climate change which cannot be adapted to, and therefore result in net losses) is of very high political importance for several countries. It also raises concerns for some others, especially when it is framed as a liability which would lead to compensation. Parties have already made significant progress in their common understanding of the way the Paris agreement should address this issue.

A key political issue is:

- Should loss and damage figure in the legal agreement itself or take the form of strengthened implementation of concrete long-term actions under the existing Warsaw mechanism on loss and damage?

6. Strengthening ambition through cooperative actions.

Parties decided in Durban in 2011 to launch a work-plan (the work-stream 2) on enhancing mitigation ambition to identify and explore options that can close the ambition gap. Enhancing pre-2020 mitigation ambition is essential to being on a path to the limitation of the mean surface temperature increase below 2°C (or 1.5°C) compared to pre-industrial levels.

The key political issues include:

- How to strengthen the work-stream 2, and better connect it to the provision of financial, technological and capacity building support, to move towards the implementation of the policy options identified?
- How to link to the accelerated implementation of existing arrangements under the UNFCCC and the Kyoto Protocol?
- Should adaptation be included as part of the work-stream 2, recognizing that there is also an adaptation gap, and that the same dynamic exists where pre-2020 actions contribute to post-2020 ambition?

Beyond that, there are on-going discussions on the opportunity of establishing a cooperative platform as part of the Paris agreement, to make sure countries can reap the benefits of international cooperation, and go beyond what they can do unilaterally. These discussions are based on the lessons learned from the work-stream 2, the 2014 UN Climate Summit, and the ongoing efforts of the Lima-Paris Action Agenda (LPAA).

The key political issues include:

- What should be the design of the post-2020 cooperative platform to increase ambition by countries?
- Should non-state actors play a role in this cooperative platform, recognizing that their actions and commitments should not replace or dilute countries' contributions? If so, how to recognize, promote, and improve the accountability of cooperative initiatives with non-state actors?

7. Legal issues

Since the Durban mandate makes it clear that COP21 should adopt a "Protocol, another legal instrument, or an agreed outcome with legal force" there have been few discussions to date about the legal form of the agreement.

Four important issues stand out so far:

- What will be the status of the nationally determined contributions in relation to the new legal instrument?
- Should mitigation contributions be expressed as an obligation to prepare, submit and update a nationally determined contribution? To implement mitigation actions with the view to achieving the target? Or to achieve mitigation targets?
- What will be the status of the rules of the transparency and accountability framework?
- What should be the threshold for the entry into force of the new legal instrument?