

The Paris Climate Change Agreement

text and contexts

When French foreign minister Laurent Fabius brought down the gavel on the Paris Agreement on 12 December 2015, the international community reached a goal that had eluded it for six years: an updated and universal climate change agreement. It owed much to France's diplomacy over the preceding 12 months, together with efficient, firm and innovative handling of the conference itself. Fundamental to the success of the Conference of the Parties (COP21) was the commitment at all levels from President Hollande down to engage with the broadest range of parties and non-state actors. The fruits of France's engagement were nowhere more apparent than in the small island states' comment in the final plenary that this was the first time they felt they had been listened to at a COP.

Other factors contributing to the success of COP21 were the lessons that had been learned from the failures at Copenhagen in 2009, and, even more important, a much evolved international context, which the

presidency shrewdly brought to bear on the negotiations.

Reactions to COP21 have ranged from jubilation – displayed by Ban Ki Moon, the French leaders and UNFCCC head

Christiana Figueres on the podium – to dismay at yet another inadequate effort by the international community. But the Paris Agreement cannot be assessed independently of its contexts, both domestic and international.

The text

The Paris Agreement and its lengthy accompanying decision can be seen as the completion of the third phase of international climate change negotiations (Macey, 2012), which finally allows for the full implementation of the United Nations Framework Convention on Climate Change (UNFCCC). The 1997 Kyoto Protocol, rather than being a stepping stone to a universal agreement, became an obstacle. 'Saving the KP' took up a huge amount of political and negotiating attention, which both interfered with and slowed progress on a broader agreement. In 2011 the Durban COP preserved the Kyoto Protocol long enough to enable a new negotiating mandate – the Durban Platform – to be agreed. A second commitment period under Kyoto was established; it will end in 2020 when the new agreement is to take effect. By 2014 it was clear that the Kyoto model of binding emissions reduction commitments and

penalties for non-compliance was a dead end. A third Kyoto commitment period beyond 2020 is thus highly unlikely.

On mitigation, the Paris Agreement can be seen as implementing article 4.1(b) of the convention. This is a fundamental provision, which introduces a binding obligation on *all* parties to reduce emissions and which the Kyoto Protocol does not fully reflect. Kyoto's distinction between developed countries with quantified commitments ('Annex I' parties in the convention) and all others continued to influence negotiations. 'CBDR' (common but differentiated responsibilities and respective capabilities), widely argued by developing countries as a binary and enduring principle, was absent from the Durban mandate. It returned to later texts, but with an important addition of 'in the light of different national circumstances', which produced just enough constructive ambiguity for everyone to be satisfied with an agreement that, in the words of the Durban mandate, was to be 'applicable to all'. That addition is retained and reiterated in the Paris Agreement.

The recognition given to pursuing efforts towards a temperature goal of 1.5° above pre-industrial levels was a major gain for poor and vulnerable countries. Whether it is achievable is another question, which will now receive more scientific attention. One outcome of COP21 is an invitation to the Intergovernmental Panel on Climate Change (IPCC) to prepare a special report on impacts of and pathways to 1.5°. Another is the elevation of adaptation and finance to be equal in rank to mitigation in the core article 2 of the agreement. This was part of the trade-off for lessening the north/south distinctions. COP21 also brought much stronger recognition than previously to social and civil society concerns, as well as to the role of non-state actors.

There are many shortcomings in the text, which have been amply highlighted by commentators. The implications of the latest science – and notably the requirement to reduce net CO₂ emissions to zero – are reflected ambiguously. The concept finally agreed is of a balance between emissions and removals in

the second half of the century. Clearer versions were a step too far for some parties highly dependent on fossil fuels. Details of the all-important review and transparency provisions are yet to be agreed. On finance little progress was made beyond extending current levels to 2025.

The dominant framing of the action required of parties is still 'contributions' rather than transition pathways, which would be better aligned with the science. The latter concept is, however, found in places, notably article 4.19, which advocates 'long-term greenhouse gas emission development strategies' and refers back to article 2. The decision invites parties to submit the strategies by 2020.

At its core, the text of the Paris Agreement has delivered:

- a revised and restated long-term goal;
- a more universal core mitigation component with a corresponding compliance model of contributions, transparency and review to replace commitments and sanctions;
- an updated and expanded framework of rules, bodies and mechanisms drawing on the existing UNFCCC content as well as the previous ten years of negotiations.¹

The context

Much of France's effort during the first week of the conference was directed outside the core negotiations. On the first day, 150 heads of state and government conveyed their expectation that there would be an agreement and a commitment to act. Then, at the end of the first week, a meeting of mayors of major cities from around the world (including Auckland) was followed by another high-level event focusing on the business sector. Both sectors demonstrated the action they were already taking on climate change, their intention to do more, and their expectations of what governments needed to do to facilitate.

Outside these three major events there was a plethora of other influences, including the presence for the first time of a central bank governor at the conference (Mike Carney of the Bank of England) and repeated appearances by

Al Gore, to mention just two. The terror attacks in Paris just two weeks before the conference were also present in delegates' minds. While treated in a dignified and restrained manner by the host country during the conference, the attacks added a further reason to conclude an agreement; there is a parallel with the successful launch of World Trade Organization's Doha round of trade negotiations soon after 9/11.

Perhaps applying a lesson from previous COPs, the presidency allowed negotiators full responsibility for running their process into the ground, which they predictably did by the end of the first week. The French could not in any way be held responsible, so there was no problem in gaining legitimacy for taking over the proceedings under a new body, the Paris Committee. The presidency pointed to the high expectations of an agreement, and warned negotiators that they needed to show themselves equal to the task, with a subtext that they would not be allowed to fail again.

New Zealand at and after the COP

New Zealand was represented by the prime minister and two ministers. They were not asked to play any part in the facilitation of the negotiations, but were active in the other parts of the conference. New Zealand also gained credit for many of its ideas, including, importantly, on the legal form of the agreement. The prime minister led a session on fossil fuel subsidy reform, and trade and climate change minister Tim Groser was prominent at several events, including on trade and agriculture. At the end of the conference, New Zealand launched a declaration on carbon markets on behalf of a group of 18 countries.²

The text meets most of New Zealand's key needs. It provides for the use of carbon markets, recognises sinks, and gives reassurance that any accounting rules agreed will not be applied retrospectively to the first INDC (intended nationally determined contribution) period. But there are some difficulties ahead. New Zealand is unique among developed countries in envisaging most of its contribution coming from carbon markets – at least three quarters at the carbon price of \$50 used in the

government's modelling (New Zealand Government, 2015a). Echoing this, the New Zealand INDC assumes 'unrestricted access to global carbon markets that enable trading and use of a wide variety of units' (New Zealand Government, 2015b). The assumption is that owing to our unique national circumstances, New Zealand can't put forward a credible figure for its 'fair share' without markets. Even with this assumption, the INDC claims that the likely cost to the economy of New Zealand's target is higher than that of other countries. Other countries use the cost of domestic reductions as the appropriate yardstick, with carbon markets potentially providing for more ambition.

Although the government has termed the INDC 'provisional', it is conditional in the ordinary meaning of the word. This carries a reputational risk: if at the time the agreement needed to be ratified there were still no carbon markets, or they were inadequate, there would be a temptation to reduce the target. New Zealand business expressed concerns about this aspect of the INDC, arguing that 'having a target that New Zealand cannot hope to meet other than via the purchase of overseas emission reduction units would not be in New Zealand's best long-term interests' (BusinessNZ, 2015).

Even with unrestricted access to markets, there is a further risk to New Zealand over the longer term. The Paris Agreement requires that each new INDC be a progression over the previous one. But because international carbon units are not permanent reductions, to the

extent that markets are used in New Zealand emissions, each time there is a new target New Zealand will begin with a liability from the previous period(s). This means effectively purchasing more units to get back to square one, until such time as real domestic reductions take place. Targets could thus become increasingly costly, a factor already seen in the government's modelling of the costs for the current target (New Zealand Government, 2015a). By far the greatest proportion of the cost to households of the 2030 target is the reductions needed to get back to its 2020 starting point of 5% below 1990 levels.

A shift of the international focus over time to 'transition' rather than 'contribution' would be logical, and better aligned with the science. It would lend itself to sector-by-sector international comparisons, which could leave New Zealand less exposed by its national circumstances in agriculture and electricity.

How should New Zealand respond to COP21? The current review of the Emissions Trading Scheme won't suffice, since the terms of reference are too limited. Much more work is now needed, beginning with a re-examination of domestic mitigation potential and its costs and benefits. The modelling carried out for the INDC was limited in many respects, and it was not easy to access by stakeholders. Better public information would be a good start. It is worth noting that, after a conspicuous silence on the longer term, the government used the INDC to restate New Zealand's goal of

a 50% reduction on 1990 levels by 2050. That gives some useful context for the domestic exercise.

Conclusion

The achievement of having wrested this agreement from the dysfunctional UNFCCC negotiations process and the role that traditional diplomacy played in getting there both deserve recognition. It was never a realistic hope that the result would ensure that global warming was limited to 2°, and indeed there is very little prospect that any sort of agreement based on repeated contributions would be enough. Its force is the signal that it gives to all actors, and it is a useful and updated framework.

COP21 will best be judged by the contribution it makes to both incentivising and facilitating the domestic action that the Paris Agreement requires parties to pursue. The agreement certainly falls short in clarity and ambition in places, and is still far from operational. The UNFCCC now has a challenging work programme ahead to make it so. But it is a decisive political step forward. A question to watch over the coming two to three years will be how far the new context will inspire the negotiating process to lift its game so as to produce the right text at the right time.

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- 1 For detailed summaries and commentary on the COP21 outcome see IISB, 2015; Mabey et al., 2015; and Centre for Climate and Energy Solutions, 2015.
 - 2 Australia, Canada, Chile, Colombia, Germany, Iceland, Indonesia, Italy, Japan, Mexico, the Netherlands, New Zealand, Panama, Papua New Guinea, South Korea, Senegal, Ukraine and the United States.

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