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## International Climate Negotiations to Finalize Agreement in Paris

From November 30 to December 11, 2015, the United Nations Framework Convention on Climate Change (UNFCCC) Conference of Parties (COP 21) will convene in Paris, France. Despite the recent acts of terrorism against the city, the climate negotiations will continue as scheduled. The stated objective of COP 21 is to adopt “a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all parties,” which is to come into force in 2020. This article provides a brief history of the UNFCCC negotiations, reviews the commitments from the U.S. and other parties to the Convention, and reviews the key aspects of the upcoming agreement identified by key stakeholders and the draft agreement.

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### Key Takeaways

- The goal of the upcoming international climate negotiations in December 2015 in Paris, France is to develop an agreement for international greenhouse gas (GHG) reduction commitments beyond 2020, which is seen as a continuation of the 1997 Kyoto protocol.
- Each Party to the Convention was expected to submit their intended national determined contribution (INDC) before the conference. This is the first time a significant number of countries, so far over 150 countries representing nearly 90 percent of total global GHG emissions have made formal announcements with specific pledges to reduce their GHG emissions, and the policies and measures they will put in place to reach those goals.
- Certain key elements are viewed as critical outcomes including clearly defined and transparent contributions, planning for national adaptation to climate change, financing for developing countries, and a strong legal form.
- It is unclear whether a legally binding agreement will result from the Paris negotiations. Financing for developing countries will be the point of contention between negotiators, as developing countries feel that they have contributed the least to the current climate conditions, yet already suffer the most from climate impacts. The most recent negotiations in Bonn, Germany set the stage for Paris negotiations with much left to resolve before an effective protocol can be adopted.

### History on International Climate Negotiations

Countries first met to discuss climate change in Rio de Janeiro in 1992, which later became what is now known as the UN Framework Convention on Climate Change (UNFCCC or Convention). The UNFCCC sets out a legal framework for stabilizing atmospheric concentrations of GHG emissions to avoid “dangerous anthropogenic interference with the climate system.” The ultimate decision-making body of the UNFCCC is the Conference of the Parties (COP), which includes representatives from the 194 countries (plus the European Union) that agreed to the Convention. The COP meets each year to review the implementation of the Convention. The first COP (COP 1) was in Berlin in 1995, after the Convention entered into force in 1994. In 1997, COP 3 adopted the Kyoto

Protocol, which included a set of legally binding national emissions targets from 2008 to 2012. This approach to creating agreement between countries is seen as a top-down approach to climate change and is considered less favorable as the actions to reduce emissions were determined by the U.N. The countries were able to choose the implementation measures, but did not have the flexibility to define their emission reduction commitments. Along with 82 other signatories, the U.S. signed the Kyoto Protocol in 1998, but the U.S. never ratified the Protocol. However, the Protocol entered into force in 2005 once countries representing 55 percent of global emissions ratified the document. In December 2012, parties to the Kyoto protocol adopted the Doha Amendment, which included new commitments for years 2013 to 2020. As of May 2015, 32 countries have ratified the Amendment.

In 2009 at COP 15, the Copenhagen Accord was the first international agreement of participating countries pledging specific actions that would result in a reduction of greenhouse gas emissions by 2020. The Accord was an important first step in a bottom up approach to climate change, asking countries to announce their own contributions to reduce emissions. The agreement was more political than legal in nature and did not include any punitive actions for countries that did not meet their goal. 114 parties agreed to the Accord with varying levels of specific pledges, including 16 developed countries and 37 developing countries. The U.S. pledged to take action to be in the range of 17 percent below 2005 levels by 2020 in conformity with anticipated legislation. China pledged mitigation actions that would result in a 40 to 45 percent emission intensity reduction below 2005 levels by 2020, including increases in renewable energy. In the end, the Copenhagen Accord was not formally adopted, but instead UNFCCC parties “took note” of the agreement to formally acknowledge its existence.

The most recent meeting of UNFCCC was COP 20, held in Lima, Peru in December 2014. The outcome of COP 20 was the Lima Call for Climate Action, which created a framework for countries to submit their own targets for an agreement to be adopted at COP 21 in Paris. This approach, which continued the bottom-up approach used in Copenhagen, allows countries to decide their level of contribution to the goal gives a level of flexibility to national contributions that the Kyoto Protocol did not provide. Parties were expected to submit their “intended national determined contributions” (INDC) by the end of the first quarter of 2015. Countries were also required to submit supplementary information to ensure transparency of the INDCs, including: the time frame; the reference point, such as a base year; the methods of estimating emissions; and an explanation of how the parties see their targets as “fair and ambitious.” However, COP 20 did not resolve the legal status of the upcoming Paris agreement. In order to encourage accountability, many parties, including the European Union, support legally binding mitigation targets. Others, such as New Zealand, proposed that submitting nationally determined targets should be legally binding, but the contents of the targets themselves should not.

## **Key Aspects of Paris Negotiations**

Several meetings have taken place throughout 2015 in preparation for the Paris agreement convened by negotiators, stakeholders and experts on climate change. An international working group began negotiating and drafting a the text to be adopted at COP 21. The most recent draft of the agreement was released in October after international negotiators met at the Bonn Climate Change Conference. This draft agreement, together with conferences, seminars, and white papers published by think tanks, universities, and private sector leaders have highlighted several key elements that are needed to ensure an effective agreement. The following summarizes several key aspects and themes that are likely necessary for an effective final climate agreement.

### *Purpose and Contributions*

The parties decided in Lima that the resulting agreement from COP 21 in Paris would have the overarching goal to achieve a reduction in greenhouse gas emissions that cap the increase in average global temperature below two degrees Celsius above pre-industrial levels. The contributions from countries are arguably the most important part of the agreement. Countries must set both short-term and long-term goals in order to achieve the goal of maintain the average temperature below two degrees Celsius. The INDCs represent short-term goals for the years between 2025 and 2030. Parties to the Convention were expected to submit their INDC to show their contributions to the agreement.

The world's two largest contributors to GHG emissions, the U.S. and China, announced their intended contributions in November 2014. At that time, President Obama announced that the U.S. would commit to reducing greenhouse gas emissions by 26 to 28 percent below 2005 levels by 2025. This commitment would require the U.S. to roughly double its pace of carbon pollution reduction from 1.2 percent per year on average during the 2005 to 2020 period to 2.3 to 2.8 percent per year on average between 2020 and 2025. At the same time, President Xi Jinping of China announced targets to peak China's CO<sub>2</sub> emissions around 2030, with the intention to peak early and to increase the non-fossil fuel share of all energy to around 20 percent by 2030. Combined, China and the U.S. account for over 30 percent of the total GHG emissions globally; therefore, the joint announcements regarding emission reductions represent a significant share of potential reductions.

On September 25, 2015, the U.S. and China issued another statement on climate change to reaffirm their shared conviction that climate change is one of the greatest threats facing humanity and that both countries have a critical role to play in addressing it. China updated its contribution to a reduction in carbon emissions per unit of GDP by 60 to 65 percent from 2005 levels by 2030 and an increase in the forest stock volume by around 4.5 billion cubic meters on the 2005 level by 2030. China also plans to establish a carbon market by 2017 that will cover the majority of the country's emissions including all heavy emitting industries such as electric power, steel, and paper.

Contributions from additional notable countries include:

- India, the world's third-largest emitter of GHG emissions, committed to reduce its emissions intensity per unit GDP by 33 to 35 percent below 2005, and to increase its share of non-fossil-based power capacity to 40 percent by 2030. The commitment is conditional on international financial support.
- The European Union, and its 28 member states, committed to a 40 percent reduction in GHG emissions below 1990 levels by 2030.
- Mexico submitted an unconditional reduction of 25 percent by 2030. Emission reductions could increase to 50 percent subject to global agreements.
- Russia committed to limiting their GHG emissions between 70 to 75 percent of 1990 levels by 2030. Russian Prime Minister Vladimir Putin has accepted the invitation to attend the conference.
- Canada committed to reduce economy-wide GHG emissions by 30 percent below 2005 levels by 2030.

To date, over 150 parties have submitted an INDC to the UNFCCC web-based portal. In preparation for the Paris Summit, the Secretariat released the synthesis of the INDCs on November 1, 2015. The final synthesis reports that the 147 parties (additional countries have submitted INDCs since the synthesis was published) account for 75 percent of all parties to the Convention and 86 percent of global emissions in 2010.

### *Structure and Legal Form*

COP 20 did not resolve the legal status of the Paris agreement. In order to encourage accountability, many parties, including the European Union, support legally binding mitigation targets. Others have proposed that submitting nationally determined targets should be legally binding, but the contents of the targets themselves should not. The text of the draft agreement calls for the adoption of a “protocol, another legal instrument, or an agreed outcome with legal force under the Convention applicable to all Parties.” For the U.S. to enter a treaty, or legally binding agreement that establishes legally binding emissions limits or legally binding financial commitments it would require consent, advice, and ratification from the U.S. Senate, which is unlikely given the current Congressional dynamics. However, a legally binding deal may not mean legally binding targets.

In comparison, the 1997 Kyoto Protocol established emissions targets for countries up to 2012, and organized an enforcement branch to determine consequences for parties that did not meet their commitments. However, in practice, some countries failed to comply with the Protocol’s commitments but did not suffer any penalties or consequences. Some stakeholders have indicated that the agreements could include binding procedural commitments, such as submitting and maintaining INDCs, submitting progress reports on implementation, and participating in procedures holding Parties accountable. However, the parties may not need to have a legal obligation to implement or achieve the commitments included in the INDCs. It is also unlikely that the pledges from developed countries to finance and support the adaptation in developing countries need to be legally binding under the agreement as well. Of note, in a letter to President Obama, 37 Republican Senators propose to without the approval of new funding for the Green Climate Fund unless first being able to review any agreement from Paris. President Obama has not directly responded to the letter.

### *Financing*

Financing for developing nations will also be a critical component of the agreement. At the 2009 Copenhagen meeting, a goal was set at \$100 billion from public and private sources to support climate action in developing countries by 2020. The UN established the Green Climate Fund in 2011, under the framework of the UNFCCC, as one of the main delivery channels for climate finance and to assist developing countries in adaptation and mitigation practices. The Fund functions under the guidance of the UNFCCC COP and has 24 board members from both developed and developing countries. It is estimated that the fund will channel tens of billions of dollars per year to developing countries. Income for the fund comes from more developed countries. The U.S. pledged the largest contribution to the fund, with a current pledge of \$3 billion dollars. China increased their commitment to \$3.1 billion in late October. Other significant contributions to the Fund include Japan’s commitment of \$1.5 billion and the United Kingdom at \$1.211 billion dollars.

Article 6 of the draft agreement addresses finance and suggests that developed countries will take the lead in providing support to developing countries and that the mobilization of climate finance will be scaled up from the original goal of \$100 billion per year from 2020. Additionally, the draft highlights the need to improve the predictability of finance flows. The funding to developing countries will take two forms—grants and loans—with grants being prioritized for the poorest and most vulnerable of countries. India in particular has pushed back on financing from developed countries, and during the Bonn talks in October India introduced language asking that renewable energy be “free of cost, in order to enhance...actions to address the adverse effect of climate change.”

Support for financing and a strong Paris agreement from the private sector has been shown from six major U.S. banks in a September 2015 press release. The six banks, Bank of America, Citi, Goldman Sachs, JPMorgan Chase, Morgan Stanley, and Wells Fargo, call for cooperation among governments that will lead to a policy framework that creates market certainty for the estimated \$90 trillion will be invested in urban infrastructure and energy over

the next fifteen years. Several of the banks have their own goals to support financing of clean energy and infrastructure in both developed and developing countries. For example, on November 2, 2015, Goldman Sachs committed to financing \$150 billion in clean energy technologies by the year 2025. Goldman has also launched the Clean Energy Access Initiative, which targets the deployment of clean energy solutions to underserved markets. Bank of America has also increased its environmental business initiative to \$125 billion in low-carbon business by 2025 in their banking services.

### *Transparency and Accountability*

The agreement must encourage transparency and accountability from participating countries in order to promote confidence between countries and be effective in implementation. The working draft includes a clause in Article 3 to update contributions every five years. The clause states that the agreement must ensure that “that progress to their respective contributions can be easily tracked without undue burden or duplication, but enable the periodic review and to be held accountable by peers.” It is unlikely that the agreement will include any punitive measures for not meeting emission reductions, but it is expected to include a mechanism for countries to track the progress of others in implementing measures that result in emission reductions. Support for such a mechanism was announced by China and France in a joint announcement on November 2, 2015. The countries agreed that there is a need for each country to review their contributions every five years in order to “reinforce mutual confidence and promote efficient implementation.” The previous attempts at Kyoto and Copenhagen to have countries submit their intended contributions to reduce greenhouse gas emissions lacked an element to track or hold countries accountable for their pledged contributions.

### *Planning for Adaptation*

In addition to mitigating future emissions that will result in an increase in global warming, many stakeholders agree that countries must also be required to plan for and mitigate any challenges and changes taking place due to climate change that cannot be avoided as a part of an effective agreement. Articles 4 and 5 of the draft refer to the challenges posed by climate change impacts. These articles state that the influx of weather events as a result of climate change need to be planned for, including how to address any loss or damage due to those climate related events. The draft says “each party should engage in a national adaptation planning process and implement any necessary policies or measures.”

The UNFCCC adopted a national adaptation plan process under the Cancun Adaptation Framework in 2010, where the parties to the convention affirmed that adaptation must be addressed with the same level of priority as mitigation. A working group collaboration organized by World Resources Institute (WRI) proposed a final date of December 21, 2018 for countries to adopt a national adaptation plan. WRI noted that evidence of the need to adapt is found worldwide as countries struggle to adapt to the impacts of severe weather events and depend upon global aid to rebuild their impacted communities. Countries are looking to have plans in place to adapt to rising sea levels on their coasts, drought, and the ability to react quickly to severe weather events like flash flooding and tornados.

### *Private Sector Engagement*

State actors will not be able to reach the necessary GHG emission reductions without the help of the private sector through education, change in behavior, and additional financing. The participation of non-state stakeholders are referred to in the draft agreement as necessary in order to meet the goal of capping the increase of global warming at two degrees Celsius. The draft encourages the recognition of efforts made by private sector stakeholders. The U.S. private sector has shown commitment and contributions to the reduction of greenhouse gas emissions as well. On July 27, 2015, the White House launched the American Business Act on Climate Pledge to show such commitment in the U.S. with an event to announce the initial 13 companies representing multiple sectors across the

economy that signed the pledge. On October 19, 2015, the White House hosted a second event to announce the next round of commitments from additional companies who signed onto the pledge. The number of companies signing the pledge now totals 81. The White House reports that the companies making these commitments represent more than \$3 trillion in annual revenue and have a combined capitalization of over \$5 trillion.

By signing onto the pledge, the companies are committing to: (1) voice support for a strong Paris outcome, (2) demonstrate an ongoing commitment to climate action through new pledges to reduce emissions and deploy more clean energy, and (3) set an example for their peers and mobilize more companies to join the American Business Act on Climate Pledge. As a part of the pledge, each company makes specific commitments to fighting climate change including reductions in greenhouse gas emissions, reductions in water usage, reductions in waste sent to the landfill, or an increase in renewable energy.

Participants from the electric industry include Berkshire Hathaway Energy, Calpine, PG&E, and Portland General Electric. For example, the pledge by Portland General Electric includes a commitment to end coal use at the only coal-fired power plant in Oregon by the end of 2020, add more than 800 MW of new renewable energy, add 5 MW of energy storage by 2020, and promote vehicle electrification through the installation of charging stations and incentivizing electric vehicle adoption by employees. Another example pledge by PG&E includes a variety of commitments, including a promise to supply customers with electricity that is more than 60 percent carbon-free, support the implementation of the Clean Power Plan, plan grid modernization investments of approximately \$3 billion annually, and expansion of their fleet of alternative-fuel vehicles.

In an announcement in October 2015, leaders from 10 international oil and gas companies, BG Group, BP, Eni, Petróleos Mexicanos, Reliance Industries Limited, Repsol, Royal Dutch Shell, Saudi Aramco, Statoil, and Total held a press conference and issued a statement calling for an effective agreement in Paris. In the press statement they signified future contributions investment in natural gas, carbon capture and storage and renewables to identify long term solutions to reduce greenhouse gas emissions. The statement lacked any specific, measureable goals to reduce emissions, but showed support for an effective agreement and a long term commitment to reduce greenhouse gas emissions.

## **Expectations for Paris Negotiations**

In order to create a truly effective agreement that would meet the goal of the Convention, the agreement must have contributions from each party that collectively result in a reduction of GHG emissions and some form of commitment that shows progress and commitment from each country to follow up with their contribution. In review of the draft agreement, feedback from stakeholders, and review of the GHG reduction contributions from parties, many fundamental components are likely to be included in the final agreement, but it is unlikely that the final agreement will result in the overall goal of reducing GHG emissions to a level that caps global warming at two degrees Celsius.

Over 150 countries, including the two largest carbon emitters, the U.S. and China, submitted their own contributions for emission reduction, but the commitments still do not cumulatively result in sufficient GHG reductions. The synthesis report from the Secretariat that aggregated the contributions from all countries concluded that the INDCs is not enough to reach the long term goal of limiting warming below two degrees Celsius.

It is not necessary that the commitments be legally binding, but countries must show progress and commitment to the implementation of measures that will achieve the reductions in a way that gives other parties to the Convention confidence that they are all working towards the same goal. This could be done through the ratification of the agreement from all parties to the Convention; however, as noted above, it is unlikely that the U.S. will ratify any

international treaty given current Congressional dynamics. The October meeting in Bonn highlighted the discontent and need for financing from developing countries. Many of the INDCs from developing countries are conditional. Without financing from developed countries in place, it may be challenging for developing countries to implement the measures needed to reduce their GHG emissions.

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