COP 21 and ist main outcomes

Summary

On 12 December 2015, 195 countries and the EU adopted the Paris Agreement. It is considered a historic milestone in the world's endeavor to tackle climate change. The PA will be open for signature (April 2016-April 2017) and then needs to be ratified by a sufficient number of parties before it can enter into force.

The core legal obligations are mainly procedural: The Paris Agreement does not prescribe specific mitigation actions or which emission levels should be achieved by when. Instead, it focuses on individual climate mitigation plans and the transparency framework.

In five-year 'cycles', all parties have to prepare 'nationally determined contributions' (NDCs), report on implementation, account for their contributions and regularly enhance the plans in the light of a global stocktake. Developing countries continue to receive support for their actions and reporting.(Mapa)

Structure of the Agreement

Accordingly, the COP invites the IPCC to provide a special report on the impacts of 1.5°C. (Article 2.1(a); para 21 PD)

The PA covers the UNFCCC's traditional thematic areas mitigation, adaptation, finance, technology, capacity building, and reporting and accounting, loss and damage.

Key questions for Paris

Temperature limit in the Agreement: yes/no? 1.5°C or 2°C? How to express?/ A long-term global emission pathway in the Agreement: yes/no? Which?/ What should individual countries do (NDCs): binding or not? Content, information and timeframes?/How to close the ambition gap between current efforts and the temperature limit?

Mitigation

The PD "invites" parties to submit their first NDCs at the latest upon ratification. Per default, the first NDC will be the INDC the party already has submitted, unless the party decides otherwise.

The PA does not oblige parties to actually fulfil their NDCs, hence their content is not legally binding. Parties are only required to pursue measures.(Article 4.2 and 4.12; para 29 PD Article).

Limited guidance on the content of NDCs ("features"): NDCs of developed countries "should" be in the form of economy-wide absolute emission reduction targets, and other countries are encouraged to move towards such targets. There was, however, no agreement on specifying other types of targets or actions. An interim negotiation body, the APA, is mandated to develop further guidance on the features of NDCs. (Article 4.4; para 26 PD)

Timeframe: Parties were also unable to agree on a common timeframe for NDCs, i.e. whether NDCs should all cover the same period. Most INDCs submitted in the run-up to Paris indicate an implementation timeline up to 2030 and some to 2025; some start in 2020, others in 2021; some indicate a multi-year target period and others a single year target. Harmonizing the timeframe

would make it easier to compare NDCs, track collective progress towards the global temperature goal and to create momentum at the time of simultaneous submission. The PA now obliges parties to submit an NDC every five years, but does not indicate whether the new NDCs should cover a 5- or 10-year period.

Content: To understand the ambition of individual NDCs and track progress of implementation, the quality of information provided is crucial. In this respect, the PA only obliges parties to provide the information "necessary for clarity, transparency and understanding". The PD provides some more detail, but the listed information categories are only optional and not very specific.

Secretariat to establish interim registry of NDCs (first half of 2016)/ Secretariat to update NDC synthesis report (by 2 May 2016)/ IPCC to provide report on 1.5°C (in 2018)/ Facilitative dialogue on collective progress (in 2018)/ APA mandated to develop further guidance on NDC information (by CMA1)/ APA mandated to develop guidance on features of NDCs (by CMA1)/ CMA mandated to consider common timeframes (at CMA1)/ SBI to develop modalities for registry (by CMA1)/ submit new (for countries with 2025 end date) /updated (for countries with 2030 end date) NDC for period 2025-2030 (in 2019/20) Secretariat to prepare synthesis report on NDCs (in 2020)/ 1st global stocktake (in 2023).

Parties have to submit new NDCs every five years. Each successive update of NDCs is expected to reflect a party's "highest possible ambition" and to be stronger than the previous one (principle of "progression") (Article 4.9 and 4.3)

Adaptation and Loss and Damage

Adaptation may also be a component of NDCs, although parties are not obliged to include it. It is also part of the global stocktake that will take place every five years to assess progress towards the purpose of the PA. How to collectively take stock of the quite different individual adaptation efforts and needs with respect to the long-term goal is probably an issue that will require further discussion. Finally, the PA aims at achieving "a balance" between financial resources allocated to mitigation and to adaptation.

Loss and Damage: There is no official definition in the UNFCCC context for L&D but it is often interpreted as damage that cannot be avoided by adaptation. Whether and how L&D should feature in the PA was one of the politically most sensitive questions due to concerns by developed countries that this could entail state responsibility, liability and claims for compensation.

Climate Finance

There was a broad common understanding that climate finance is an enabler for action and that the global mitigation and adaptation efforts require major shifts in financial flows and private investments would continue to apply. One of the main political issues in Paris was whether the Agreement should, in addition, anchor and continue the political commitment made in Copenhagen to mobilize USD 100bn per year by 2020, or even specify higher amounts. The final text of the PA does not contain quantified obligations or a reference to the 100bn commitment. It merely restates the continuing existing obligations under the UNFCCC, by referring to developed countries instead of Annex II. However, the PD explicitly refers to the 100bn goal, stating that developed countries

“intend to” continue it until 2025 and that a new collective quantified goal shall be set before that year, with the USD 100bn as a floor. (Article 9.1; para 54 PD)
Proposals to capture more specific issues such as fossil fuel subsidies, carbon pricing, mainstreaming and enabling environments are not included in the final text or play a marginal role.

Future role of the Green Climate Fund and the Adaptation Fund: The PA is served by the existing financial mechanism under the UNFCCC, with the Green Climate Fund and the GEF as its operating entities.

Transparency, MRV and accounting

Transparency framework and obligations: It includes regular reports on national greenhouse gas inventories, the implementation of NDCs, support provided and received and adaptation efforts. The PD specifies that all countries shall report at least every two years. Strict obligations on all parties are having to report inventories and information on the implementation of NDCs, expert review and multilateral consideration of progress. Reporting on adaptation is also not a strictly prescriptive obligation. The system also shall be non-punitive, respectful of national sovereignty and avoid an undue burden.

Transition from the existing UNFCCC system: The PD further specifies that the transparency rules developed under the PA shall eventually supersede the system of biennial reports and biennial update reports that was established at COP16 in Cancun.

Principles: Parties were already able to agree on a set of general principles. These include the “TACCC” principles (transparent, accurate, complete, consistent and comparable), no backsliding from the frequency and quality of UNFCCC reporting, no double counting, environmental integrity, and flexibility in light of capacities (Article 13.3; para 93 PD)

Legal aspects

Legal character of NDCs: The INDCs and NDCs are not formally part of the PA, although it refers to them. Their content is also not binding. Parties have an obligation to have, communicate and regularly update their NDCs, but there is no strict obligation to implement the exact content of the NDCs. Parties are only obliged to “pursue” measures “with the aim of achieving the objectives” of their NDCs. This means that they do not have to fulfil the NDCs but only to make efforts towards achieving their respective objectives. (Article 4.2)

Compliance mechanism: The PA establishes a mechanism “to facilitate implementation of and promote compliance with” the PA. that applies to all parties and covers all provisions of the PA including finance, while highlighting that attention needs to be paid to the national capabilities and circumstances of countries. Taking into account that the legal obligations on parties are mainly procedural and relating to making efforts rather than achieving specific results, it will be interesting to see how the compliance mechanism will find its facilitative role.

Markets
The PA does not mention the term “markets” except for “non-market” approaches. But it establishes three different types of international cooperation on mitigation and adaptation.

“Cooperative approaches” allow parties to engage bilaterally or multilaterally. This cooperation could potentially cover the linking of emission trading schemes. (Article 6.2 and 6.3; para 37 PD)

The PA also establishes a sustainable development mechanism (SDM) involving both public and private entities, which may in some aspects be similar to the CDM of the Kyoto Protocol. The SDM will operate under the authority of the CMA. The SDM is meant to “deliver an overall mitigation in global emissions”, i.e. net emission reductions. But it is not clear yet how this is to be achieved. The modalities of the SDM still need to be negotiated.

Assessment of the Paris Agreement

Ambition and long-term objectives: The PA does not establish a clear emission reduction objective. But it does state a temperature limit (“well below 2°C, pursuing efforts towards 1.5°C”) and elements of an emission pathway towards 2100: peaking followed by rapid reductions and an eventual balance between emissions and sinks. However, it does not specify specific years for when global emissions should peak or equal net zero.

It obliges each Party to regularly present an NDC and to make it public, and subjects them all to transparency procedures and a regular stocktake. These will create public pressure on countries to do their fair share and implement their NDCs. However, the PA does not prescribe specific mitigation actions or which emission levels should be achieved by when, nor is there an obligation to actually fulfil the NDC.

The estimated aggregate level of emissions in 2030 will be at around 55Gt CO2eq in 2030 if the INDCs are implemented but for a least-cost 2°C scenario emissions would need to go down to around 42 GtCO2eq.

Shortcomings: the wording of the “balance” of emissions and removals leaves room for interpretation. Other terms such as “zero” or “decarbonisation” might have been clearer and easier to communicate, but would also entail other difficulties. For instance, there is no agreed definition of the term „decarbonisation“. In addition, some caveats and qualifiers spread over the agreement could be regarded as important safeguards by some and as potential loopholes by others.

Source: Bodle, Ralph, Lena Donat and Matthias Duwe (2016). The Paris Agreement: Analysis, Assessment and Outlook. German Federal Environment Agency (UBA) Research Paper. Dessau-Roßlau: Umweltbundesamt.