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**The Durban Platform for Enhanced  
Action: Workstream-I (ADP WS-I)**

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## I. Introduction

Since the beginning of the United Nations Framework Convention on Climate Change (UNFCCC) it has strived for establishing legally-binding agreement to prevent and reduce the adverse impacts of climate change. The Kyoto Protocol (KP) was the first legally binding protocol to reduce greenhouse gases emission which has entered into its second commitment period with an end date of 2020. While the Convention has over 20 years of experience attempting to improve ambitions and enhance efforts at the international level to deal with climate change, 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 (WSs) that includes a) the 2015 agreement (WS-I) and, b) pre-2020 ambition (WS-II). 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). Parties have agreed to consider elements of a draft text by the end of 2014 at its session that will be held in conjunction with COP20 in Lima, Peru (Decision 2/CP.18).

By the end of 2014, 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 (COP21) 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). As Parties agreed upon in Warsaw (COP19), the Intended Nationally Determined Contributions (INDCs) will demonstrate the ambition of Parties both in terms of mitigation levels as well as the extent to which they will include all elements as mentioned in paragraph 5 Decision 1/CP.17).

## 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 on 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 during 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 2013 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 of 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**

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 completion.

First, there remains ambiguity as to the schedule for WS-I. 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 in 2014 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 centred 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 agreement 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 Alliance of Small Island States (AOSIS), in their submissions to ADP WS-I Decision 1/CP.17 mentioned strong interest of incorporating a loss and damage aspect in the 2015 Agreement, 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.

Possibly the most important development during COP19 came in the form of the INDCs. These intended nationally determined contributions will form the key input in the preparation process for establishing the 2015 agreement. Since developed countries strongly argued in favour of replacing the term “commitments” with “contributions”, Parties were unable to come to a consensus as to what the INDCs should include. For this reason Warsaw left many Parties asking questions as to what they should expect with regards to the INDCs.

#### **IV. Bonn Talks Leading up to COP 20**

Between Warsaw (COP19) and Lima (COP20), three rounds of climate talks were convened in Bonn, Germany, related to ADP WS-I.

The fourth part of the second session of the ADP was held from 10 to 14 March 2014. Parties were invited to share experiences and learn from each other on approaches, processes, constraints and challenges, including on important areas in need of support. Notable presentations were given by the Least Development Countries, the European Union, China, Mexico, Ghana, Costa Rica and the United Arab Emirates. On the final day of the session, Parties decided to establish a single contact group that would advance work on elements on the post-2020 agreement (ADP WS-I) as well as on the pre-2020 ambition (ADP WS-II). It was agreed the contact group would be chaired by the ADP Co-chairs and Parties would proceed in this modality for the inter-sessional in June 2014. Parties

expressed the need to use the contact group to move forward with the 2015 agreement in a more structured and formal way and to address all six elements mandated in Warsaw.

In the third session of the ADP held from 4 to 14 June 2014, Parties began by expressing their views on how to advance further work on WS-I and WS-II. Of particular importance during this session was the push by Co-chairs for Parties to start preparing their INDCs. Informed by a non-paper produced by the Co-chairs on 5 June 2014, several developing countries including the African Group, Saudi Arabia, China and Singapore expressed concern that elements of the agreement need to be discussed first before moving forward with the INDCs. The session ended with the understanding the Co-chairs would prepare a revised non-paper that would be consistent with the all the elements as mentioned in paragraph 5 of Decision 1/CP.17. Important to note, the non-paper is only to be used as an information tool for Parties to begin working on a draft text for negotiation ideally before 2015.

In the second part of the talks that took place from 20-25 October 2014, negotiators gathered and discussed the set of documents prepared by the Co-chairs prior to the meeting. While previous decisions expected the draft text to the 2015 agreement to be ready by May 2015, this round of talks made it clear Lima is going leave them with plenty of work still. Debate loomed over the content for the next agreement and whether all the elements would be included (mitigation, adaptation, capacity building, technology transfer and finance). The INDCs were central in the debate with various Parties and groups arguing in favour of only including mitigation in their INDC. Since the updated documents from the Co-chairs included a non-paper of the elements for a draft negotiating text as well as a draft decision on the INDCs, there was contention over the differing status of the two documents.

Although Parties have been in favour of including adaptation in the new agreement, it is not clear how this will take place. During the October session, Parties debated on including a global adaptation goal that linked adaptation support to the level of mitigation. This view was pushed by several developing countries. Similarly, from the discussions on the INDCs, developed countries appeared more comfortable with mitigation ambitions than adaptation partially due to the overlap with finance discussions. The G77 mentioned their support for the inclusion of the Warsaw international Mechanism for Loss and Damage that was established at COP19 to be included in the new agreement. This additional component was also supported by AOSIS which since then has submitted a formal document outlining its views on including loss and damage in the 2015 agreement, one that is distinct from adaptation.

While the legal form the 2015 agreement has still not been determined, several groups and Parties called for focus group discussions for Lima. This proposal aimed to start negotiating on texts developed by Parties, not the Co-chairs, at COP20 however Australia and Russia were opposed to this proposition.

## **V. The 2015 Agreement**

Despite the progress that has been made so far, there is still no agreement as to what the legal framework will be for the 2015 agreement. 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 Cancun 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). Agreement 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” agreement. Based on the decisions at Copenhagen (COP15) and Cancun (COP16) such agreement 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 (Sépibus, Sterk and Tuerk, 2012). On the other hand, without a flexibility mechanism, a new 2015 agreement would likely face the same criticism of the Cancun 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 Cancun. 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 WS 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.

## **VI. Progress Made So Far**

The progress made so far in 2014 has left Parties with plenty to discuss in COP20 in Lima, Peru. While the INDCs will be a key component to a new global climate change agreement, there remains a lack of clarity as to what the INDCs should include and whether these contributions should be additional to, part of, or the sum of Parties’ contributions in a new agreement. Although developed countries have argued to keep these contributions mitigation-specific, they have also been in favour of including adaptation in the 2015 agreement – an indication there remain uncertainties in the procedures leading up to Lima. In aggregate, the INDCs will be important indicators as to the level of ambition of Parties and, more importantly, whether ambitions will be in line with the 2°C goal. Although it is expected that all Parties will have at least a draft of their INDCs ready in time for Lima, what their INDCs will include remains to be seen.

How adaptation will be included in the new agreement will also need to be agreed upon sooner rather than later. While most countries are in agreement that adaptation measures need to be considered, contention with developed countries still exists as to setting a global target. Developed countries have rightly pointed out the issue of overlap of adaptation and finance for which the latter is a crucial tool, not an objective.

It is expected COP20 will bring some clarity to this process, particularly the INDCs, so as to have a draft text ready by April 2015 which will then be translated in all the UN languages by May 2015. It is from this text, Parties will negotiate on in COP21 and establish the next international climate change agreement. Parties expect to go into Lima with draft texts already prepared either by the contact group established in March 2014 or spin-off drafting groups for all the various elements. The ADP will reconvene the second session of the 12th plenary meeting at COP20. They will also hold an

additional session in the first half of 2015 and possibly a second one later on in that year. The first additional session will be held from 8-13 February 2015 in Geneva, Switzerland.

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