



Options for the Paris agreement under the Durban Platform process: Results of a 2015 online questionnaire survey

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Summary

The 17th Conference of the Parties (COP17) to the United Nations Framework Convention on Climate Change (UNFCCC) reached a decision known as the Durban Platform, which launched “a new process to develop a protocol, another legal instrument or an agreed outcome with legal force under the UNFCCC” “applicable to all Parties.” The process was to be completed as early as possible, but no later than 2015, so that the new instrument could come into effect and be implemented by 2020.

We have been conducting a series of online questionnaire surveys under the research project “2E-1201 Study on an Agreeable and Effective International Institution Concerning Climate Change for Years After 2020,” funded by the Environment Research Fund of Japan’s Ministry of the Environment, to get a better understanding of the new multilateral framework that will be applicable to all parties. The agreement should also be environmentally effective in mitigating climate change, so the questionnaire survey was also aimed at finding out how the new framework could be agreeable to all Parties while remaining environmentally effective. A survey conducted in January 2014 focused on the legal form of the 2015 agreement, as well as the legal nature of commitments related to mitigation and finance. Most of the respondents expected a package of “a legal instrument such as a protocol” and a series of “non-legal instruments such as COP decisions.” They considered such legal forms to be agreeable, and they expected the agreement to aim at environmentally effective consequences in terms of climate mitigation. Three plausible options were suggested.

This report covers the results of the third survey conducted in January 2015. The 20th Conference of the Parties (COP20) was held in Lima, Peru in late 2014, and the “Lima Call for Climate Action” had been agreed upon by the time of the survey. The questionnaire survey selected some contentious article options in the document; it asked the respondents to choose one article option from among several and decide in which instrument (i.e. a protocol, an annex to a protocol, a COP decision at COP21, or a COP decision in a future COP) the chosen article should be inserted. Nineteen respondents answered the questionnaire survey. Their responses were categorized into two distinct agreement options for the Paris conference in late 2015.

Group 1: Finalizing NDCs at COP21

Respondents categorized in this group expect a negotiating process whereby the intended nationally determined contributions (INDCs) submitted by the Parties are to be finalized at COP21. A list of NDCs will be attached as an annex to a core legal agreement. By doing so, the NDCs will be treated as legally binding targets inserted in a legal document. Also, by finalizing the NDCs by 2015, countries will be able to start internal legislation processes to ratify the agreement as soon as possible, so that the agreement can enter into force before 2020. Although negotiators may consider amendments in annexes to protocols to be time consuming and troublesome, the amendment procedure could be simplified so

that countries can occasionally update their NDCs.

This option allows no opportunity for negotiators and non-state actors to conduct ex-ante assessments to evaluate the adequacy of the levels of INDCs submitted by the Parties before finalization. This means there is a substantial chance that the total of the NDCs from all countries will exceed the emission level required to attain the long-term 2°C target. If the agreed NDC for the post-2020 period—such as through 2025—is considered to be too loose, then a COP decision could then be agreed on to revisit each country’s NDC in 2018 and possibly determine more ambitious NDC levels for the year 2030.

In terms of financial commitment, by 2018 the Standing Committee of Finance supervising the Green Climate Fund will review developed countries’ and other countries’ activities related to mobilization of finance and report to the COP. The timing of determination of the aggregate financial target for the post-2020 period is consistent with the timing of the determination of the next round of NDCs, so that the developing countries’ NDCs can be set according to funding availability. The COP will determine a goal for the aggregate amount of financial mobilization for the post-2020 period.

Group 2: Finalizing NDCs at COP22 or 23

This group expected a simple and concise core agreement that inscribes only the general nature of the NDCs without indicating specific NDCs in the document. A COP decision will be agreed on at COP21 to conduct an ex-ante consultation process in

2016, requesting each Party to reconsider its INDC if necessary and finalizing the NDCs at COP22 or COP23 by agreeing on a COP decision including a list of finalized NDCs for all countries. In this way, negotiators and non-state actors will be given an opportunity to discuss the adequacy of countries’ INDCs, and countries will have enough time to revisit their INDCs before finalization. This is thought to be an important process if the total amount of initial INDCs exceeds the global emission level required to reach the long-term target of 2 °C.

Delay in finalization of NDCs is a serious drawback of this option, because such a delay will delay the implementation of legislation in each country and delay the enforcement of the Paris agreement, which is expected to enter into force before 2020. Furthermore, delay of finalization does not necessarily mean that the level of the NDCs will be greater than that of the initial INDCs. Under this option a comprehensive monitoring, reporting, and verification (MRV) process would thus be prepared to partially overcome these shortcomings. A new governing body for MRV would be established to regularly monitor, receive reports on, and verify the progress of the Parties’ actions related to climate mitigation, adaptation, and effective use and mobilization of means of implementation.

The developed countries and other countries will be expected to submit their financial targets for the years beyond 2020 by 2017. Fast-start financing for the post-2020 period will be designed to complement the NDC finalization delay.

1. Background and objectives

The 17th Conference of the Parties (COP17) to the United Nations Framework Convention on Climate Change (UNFCCC), held in Durban, South Africa, in November–December 2011, reached a decision known as the Durban Platform. It launched “a new process to develop a protocol, another legal instrument or an agreed outcome with legal force under the UNFCCC,” which would be “applicable to all Parties.” The process was to be completed as early as possible, but no later than 2015, so that the new instrument could come into effect and be implemented by 2020.

We have been conducting a series of online questionnaire surveys under the research project “2E-1201 Study on an Agreeable and Effective International Institution Concerning Climate Change for Years After 2020,” funded by Japan’s Ministry of the Environment, to get a better understanding of the new multilateral framework applicable to all Parties. The agreement should also be environmentally effective in mitigating climate change, so the questionnaire survey was also aimed at finding out how the new framework could be agreeable to all Parties while also being environmentally effective.

The first survey¹ was conducted in January 2013. Its aim was to give a general idea of the new international framework that will become applicable to all Parties. The results showed that mitigation (in terms of emission targets) and finance would be the most contentious elements of the agreement, but that other elements such as

adaptation and use of carbon markets would also be indispensable for the package of agreements.

The second survey² was conducted in January 2014. The survey focused on the legal form of the 2015 agreement and the legal nature of commitments related to mitigation and finance. Most of the respondents expected a package of “a legal instrument such as a protocol” and a series of “non-legal instruments such as COP decisions.” They considered such a legal form to be agreeable, and they expected the agreement could aim at environmentally effective outcomes in terms of climate mitigation. Three plausible options were suggested.

This report covers the third survey conducted in January 2015. The “Lima Call for Climate Action” was agreed upon at COP20, held in Lima, Peru, in late 2014, by the time of the survey. The purpose of the 2015 questionnaire was to determine the most acceptable package of articles related to mitigation, adaptation, finance (to represent means of implementation [MOI]) and transparency; this optimum package is to be agreed upon at COP21. The survey focused on the types of instrument in which the most selected articles would be inscribed. The 2014 survey had revealed the respondents’ preference for an agreement consisting of a core legal instrument and a set of COP decisions, so the chosen articles were assumed to be in either a new legal instrument or one of COP decisions.

¹ Kameyama, Y. et al. (2013) What is the likely outcome of the Durban Platform process? Results of an online questionnaire survey, June 2013, available online at: <http://www-iam.nies.go.jp/climatepolicy/adp/reports/2e-1201-1.pdf>

² Kameyama, Y. et al. (2014) Options of the 2015 agreement under the Durban Platform process: focusing on legal form of the agreement, nationally determined contributions, and finance, June 2014, available online at: <http://www-iam.nies.go.jp/climatepolicy/adp/reports/2e-1201-2.pdf>

2. Design of the questionnaire

The 2015 agreement that is expected to be achieved by work stream 1 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) process could consist of two kinds of instruments (Figure 1):

- (A) a legal instrument, such as a protocol, or
- (B) other types of instruments that are not considered as legally binding in nature, such as COP decisions.

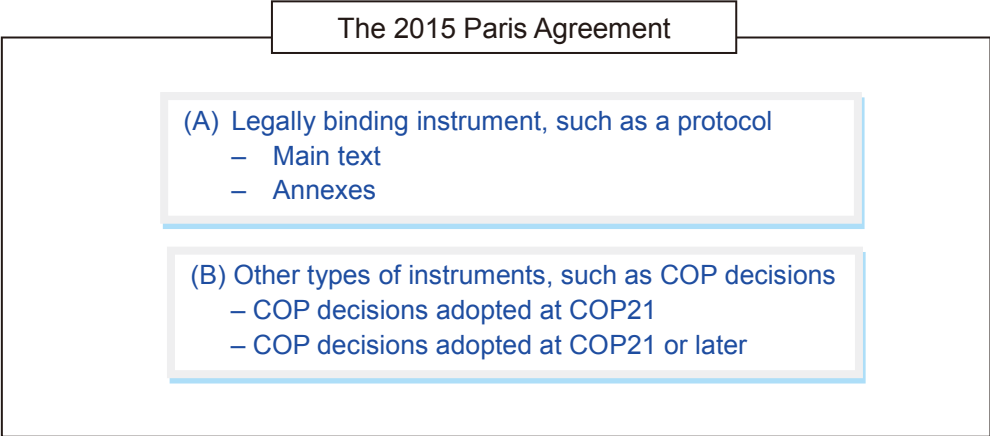
Elements expected to be reflected in the 2015 agreement are to be dealt with by using one of these two options. Generally speaking, because elements inscribed in (A) will be considered legally binding, countries may wish to choose less ambitious commitment levels and less stringent wording. Countries may also prefer to keep the contents of the document as simple and concise as possible. Legally binding instruments consist of a main text and annexes. Tables and figures may be inserted as annexes to the main text. In general, stringent procedural rules hamper Parties from revising annexes regularly.

Elements in COP decisions are not

considered legally binding by nature, unless the treaty expressly states that they are. Countries are able to select relatively aspirational actions and stronger wording for COP decisions. They are also able to regularly update or revise the contents in COP decisions by adopting other decisions in later COPs. Countries may also prefer to have detailed rules and procedures described in COP decisions rather than in legal instruments. Some aspects of the post-2020 framework would need to be agreed upon at COP21 in 2015, but the Parties could continue discussing other aspects of the post-2020 framework to be finalized at a later stage.

With these preconditions, this questionnaire survey aimed at arriving at a package of articles related to mitigation, adaptation, MOI, and transparency in a combined framework of a legal instrument and a series of COP decisions; this package is aimed at being both acceptable to all Parties and environmentally effective in tackling climate change.

Figure 1: Underlying assumptions on the architecture of the 2015 agreement



The questionnaire offered article options on four elements that were likely to become core elements of the 2015 agreements — mitigation, adaptation, finance (representing MOI), and transparency of action and support. Transparency—including the monitoring, reporting, and verification (MRV) process—is a cross-cutting element that covers the MRV process for mitigation, adaptation and finance, so questions related to transparency were asked in the first set of questions. Questions related to finance, adaptation, and mitigation followed.

Two or three article options were shown for each question (Table 1). The respondents were asked to choose one article option that best represented their view. Next, they were asked to choose one instrument in which the

selected article would be inscribed. The available choices were “a legal instrument such as a protocol,” “an annex to the legal instrument,” “a COP decision to be adopted at COP21,” or “a COP decision to be adopted after 2016.” In cases where the chosen article consisted of two or more sentences, each sentence could be allocated to different instruments. The goal of this exercise was to create a package of articles as a plausible 2015 agreement consisting of a legal instrument and a series of COP decisions.

The respondents were also asked to comment on any of the questions to further explain or express their views concerning article options.

Table 1: Example of questions in the survey (The full list of questions is attached at the end of this report.)

Item: Transparency		In which legal or non-legal instrument shall this item be inserted?				Comments (i.e. what is your own view?) (optional)
		Main legal text	Annex to a main legal text	COP decision as a component of the 2015 institution	COP decision/ conclusions for future decisions	
Commitments	Choose one option from (a)–(c) below					
	(a) Each Party provides, through its biennial communications, information on its actions and support, including in relation to mitigation, adaptation, and MOI.					
	(b-1) All Parties commit to participating in an agreed-upon, uniform transparency system and to providing information on its actions and support, including in relation to mitigation, adaptation, and MOI.	√				
	(b-2) Detailed rules for the uniform transparency system			√		
(c) All Parties commit to participating in an agreed-upon, uniform transparency system to provide information on mitigation, adaptation, and MOT, and to continuously improving transparency.						

Survey results

General overview

The online questionnaire survey was conducted between 14 and 31 January 2015. This timing was chosen so that the respondents would be able to see the outcomes of COP20 and the COP serving as the Meeting of the Parties to the Kyoto Protocol (CMP10), held in Lima, Peru, in December 2014 before completing the survey. The survey was open to anyone interested in international negotiations on climate change. The survey was announced via various mailing lists related to climate change negotiations.

Altogether, 19 responses were collected. The absolute number of the responses may not be sufficient to take the survey results as a thorough review of stakeholders' thoughts concerning climate change negotiations, but the distribution of the respondents' nationalities was well balanced, particularly between Annex I and non-Annex I.

Respondents in Annex I countries: Canada (three respondents), Germany (two), Japan (one), Russia (one), and the United States (one)

Respondents in non-Annex I countries: India (three), Kenya (one), Korea (one), Mexico (one), Mongolia (one), Pakistan (one), and Venezuela (one)

The respondents' affiliations were as follows: researcher (eleven), environmental non-governmental organization (NGO) (four), business (two), international organization (one), and media (one). Given the level of their previous involvement with COP meetings (which was asked in the questionnaire), these respondents were considered to have enough expert knowledge about climate change negotiations to participate in the survey.

Preferences for article options in the Paris agreement

The questionnaire asked questions in the order of transparency, finance, adaptation, and mitigation. The most critical differences among the respondents' preferences were revealed in the questions related to mitigation. The respondents could be categorized into two groups expressing two distinct views of the post-2020 agreement.

Group 1: Respondents that selected articles that finalize NDCs at COP21

This group of nine respondents selected articles that held the view that the intended nationally determined contributions (INDCs) should be finalized as nationally determined contributions (NDCs) at COP21. The respondents were from Canada (two), Germany, Japan, Korea, Mexico, Mongolia, Pakistan, and Venezuela. Six were researchers, two were from the business community, and one from an NGO.

A package of the most selected articles by this group's members is shown in Table 2. This option envisions a negotiating process whereby the INDCs submitted by the Parties would be finalized at COP21. A list of NDCs will be attached as an annex to a core legal agreement. By doing so, the NDCs are considered to be legally binding targets inserted into a legal document. Also, by finalizing the NDCs by 2015, countries will be able to start internal legislation processes to ratify the agreement as soon as possible so that the agreement can enter

into force before 2020. Although some have argued that placing amendments in annexes to protocols is time consuming and revising them is troublesome, the amendment procedures could be simplified so that countries can frequently update their NDCs in a timely manner.

This option allows no opportunity for negotiators and non-state actors to conduct ex-ante assessments to evaluate the adequacy of the INDCs submitted by the Parties before finalization. This means that there is a substantial chance that the total amount of NDCs from all countries will exceed the emission level required to attain the long-term 2°C target. If the agreed NDC for the post-2020 period, such as through 2025, is considered to be too loose to reach the long-term target, a COP decision could be agreed on to revisit each country's NDC in 2018 and possibly determine more ambitious NDC levels for 2030. Common but Differentiated Responsibility and Respective Capability (CBDR/RC) is reflected in the frequency of NDC review, because the review process will focus on Parties with more than 1% of global GHG emissions.

Because the NDCs will be finalized at COP21, a wide variety of market mechanisms included in the NDCs would need to be acknowledged simultaneously. A registration system would need to be established by 2020 to avoid any double-counting of emission allowances and credits.

Relatively generalized commitments will be selected for adaptation. Each Party

is to continue preparing and updating National Adaptation Programmes of Action (NAPAs). The Adaptation Fund will continue in the post-2020 period. NAPAs will be considered as part of NDCs and will be subjected to MRV and updated every 5 years. In a way, this commitment is less ambitious than some other more controversial options and is thus relatively acceptable by all Parties.

In terms of financial commitment, the Standing Committee of Finance (SCF) supervising the Green Climate Fund will review developed countries' and other countries' activities related to mobilization of finance by 2018 and report to the COP. The COP is to determine a goal for an aggregate amount of financial mobilization for the post-2020 period by 2019. By 2020, the Parties will agree on the schedule, process, and methodologies of the review of post-2020 financial goals.

All Parties are to commit to participating in an agreed-upon, uniform transparency system and to providing information on its actions and support, including in relation to mitigation, adaptation, and MOI. NDCs will be updated every 5 years under this process. Ex-post reviews will not be established in the 2015 agreement, but a COP decision will be adopted to initiate discussions on the possibility of organizing ex-post reviews after the targeted years.

The comments from the respondents of this group included the following:

➤ The Post-2020 agreement should use

up-to-date, agreed-upon provisions as much as possible to minimize negotiating times.

- My main concern is how the acceptability of NDCs will be established by the international community represented in COPs and what steps can be taken to coerce countries into adopting higher commitments? How can the Copenhagen target be put into practice without multilaterally negotiated emission targets?
- Countries can have some freedom in implementing their commitments, providing that the total radiative forcing (thus considering the emission trajectory as well as total quantity emitted and target reached at the end of the commitment period) conforms to the NDCs.
- Adaptation is becoming more and more important. As a climate limit cannot be guaranteed and is in fact unlikely in the middle term, adaptation should not be tailored for it, but should remain flexible and keep pace with a dynamically changing climate.
- Elements concerning finance are fairly new and merit inclusion in the main text.
- Private financing should not be part of a

country's commitment because it is not really under its control.

- Establishment of a uniform transparency system is important, but it is secondary to an actual climate agreement. If no sufficient and binding goals are set, what is the use of verifying the transparency of emissions figures?
- Rules for inventories and communications are already pretty well advanced and do not need a fundamental overhaul.
- Frequency of revisiting the NDCs is an integral part of the new climate proposal. In light of the development of countries' emissions targets following the ratification of the Kyoto Protocol, it appears that revisiting process evolve faster than anticipated, especially for transition countries; therefore, a shorter timeframe is advisable.
- It makes sense to allow for countries to revise their commitments after a first proposal. It will allow room for the international community to sway some countries to further their commitments.
- The article options in this questionnaire are too ideal for the developed countries.

Table 2: A plausible Paris agreement at COP21 (Consolidation of Group 1's responses) :
Finalizing NDCs at COP21

Core legal instrument

Main text

- Mitigation
 - (NDC) Parties shall implement their NDCs for mitigation, listed in Annex X to this text.
 - (Ex-ante consultation) The NDCs of all Parties shall be subject to revision every 5 years on the basis of a periodic review process, which will focus on Parties with more than 1% of global GHG emissions. Submission of information on the progress of implementation of current NDCs and on the possible revision of NDCs shall be made by 1 January 2018. The information shall be subject to ex-ante consultation.
 - (Market mechanism) Three types of new and existing market mechanisms are established for utilization by all Parties to achieve their NDCs.
- Adaptation
 - (Long-term goal) All Parties in accordance with the principles and provisions of the Convention ensure resilience and protect citizens and ecosystems in the context of the long-term temperature limit.
 - (Commitment) Parties are encouraged to prepare and update their National Adaptation Programmes of Action (NAPAs).
 - (Adaptation Fund) The Adaptation Fund established under the Kyoto Protocol shall be maintained under the 2015 agreement.
- Finance
 - (A collective goal for post-2020 finance) Parties agree on a financial goal for post-2020 by 2019. By 2020, the Parties agree on the schedule, process, and methodologies of the review of post-2020 financial goals.
 - (Commitment on post-2012 finance) Developed countries and other countries, taking into account their respective responsibilities and capabilities, shall continuously make new and additional commitments to financial contributions to developing countries.
 - (Review of financial contribution) The Standing Committee on Finance (SCF) will review the financial commitments by developed countries and other countries and provide a report at COP24 in 2018.
- Transparency of actions and support
 - (Commitment): All Parties commit to participating in an agreed-upon, uniform transparency system and to providing information on its actions and support, including in relation to mitigation, adaptation and MOI.
 - (Frequency of updating of commitments) All Parties shall periodically update their proposed commitments every 5 years, beginning in 2015.
 - (Ex-ante consideration) After their communication, commitments will be subject to an ex-ante process to ensure clarity and understanding of commitments.
 - (Formalization of enhanced action) After ex-ante consideration, all Parties are encouraged to revisit their commitments and revise them accordingly before their finalization. The finalized commitments and actions on mitigation, adaptation, and MOI will be inscribed in Annexes to this text.

Annexes

- Mitigation

- (NDC) A list of finalized NDCs for all countries (The NDC may also include adaptation and MOI.)
- (List of market mechanisms and the rules) Joint implementation: two or more countries can jointly achieve their total NDCs as long as the net mitigation effect is realized. Emissions trading: rules set by the Marrakesh Accord under the Kyoto Protocol will be applied. Bilateral offsetting: project-based emission reduction schemes can be used. CDM projects set up under the Kyoto Protocol could continue.
- Transparency
 - (Procedural rules for the first ex-ante consultation) Due 1 January 2018: Submission of information on the progress of implementation of current NDCs and on possible revisions of NDCs (together with the biennial reports). This information shall be subject to ex-ante consultation (together with international assessment and review).

COP decision at COP21

- Finance
 - (Review of financial contribution for the pre-2020 period) Parties will discuss the SCF report, including how to bridge the gap if total contributions do not reach USD100 billion.
- Transparency
 - (General institutional feature) All Parties shall promote transparency of action and support by providing information on the implementation of each Party's contributions under the Convention.
 - Start a process to establish detailed rules for the uniform transparency system, which will be used in 2018.

COP decision after COP21

- Transparency
 - Detailed rules for the uniform transparency system for the MRV process.
 - (Mid-term or ex-post review) Start a process to establish rules for an ex-post review process. The review is to be consistent with the existing MRV process and informed by each country's progress towards the achievement of its NDC, including National Communications (NCs) and Biannual Reports (BRs).

Group 2: Respondents who selected articles that finalize NDCs at COP22 or 23

A group of 10 respondents selected articles that assumed the INDCs would be finalized as NDCs at COP22 or 23 (Table 3). The respondents were from Canada, Germany, India (three), Kenya, Korea, Mexico, Russia, and the United States. Five of them were researchers, three were from NGOs, and one was from the media.

The respondents in this group seek a simple and concise core legal agreement that focuses on the establishment of a thorough transparency mechanism. The core agreement inscribes only the general nature of the NDCs, without indicating specific NDCs in the document. A COP decision will be agreed upon at COP21 to conduct an ex-ante consultation process in 2016, requesting each Party to reconsider its INDC if necessary, and finalize the NDC at COP22 or COP23 by agreeing on a COP decision including a list of finalized NDCs for all countries. In this way, negotiators and non-state actors will be given an opportunity to discuss the adequacy of countries' INDCs, and countries will be given a chance to revisit their INDCs before finalization. This will be an important process if the total amount of the initial INDCs exceeds the global emission level required to reach the long-term target of 2 °C. In addition, countries may consider sector-specific emission targets across countries, such as those on activities related to Reducing Emissions from Deforestation and Forest Degradation in

Developing countries (REDD+).

Delay in finalization of NDCs is a serious drawback of this option, because such a delay will delay the implementation of legislation in each country and delay the enforcement of the Paris agreement, which is expected to enter into force before 2020. Furthermore, delay of finalization does not necessarily mean that the levels of the NDCs would be increased compared with those of the initial INDCs. A comprehensive MRV process is necessary in this option to partially compensate for these shortcomings.

A 1-or 2-year ex-ante consultation process would also allow countries to discuss new carbon markets for the post-2020 period. Coordination of market rules is to be agreed upon by 2017; thus only those rules that fulfill the criteria will be allowed to use market mechanisms across borders.

A long-term global goal for adaptation will be outlined in a generally-worded statement reflecting the concept that the Parties will commit to increasing their efforts to adapt to climate change impacts. In addition, each Party is to undertake national adaptation planning and communicate their commitments or contributions as part of the reporting process.

The developed countries and other countries are to submit their financial targets for the years beyond 2020 by 2017. Fast-start finance for the post-2020 period will be designed to partially cover the delay in NDC finalization. Relatively significant decisions regarding financial support are to

be made as COP decisions. Parties will agree on financial goals for post-2020 by 2019. An ex-post review on financial commitments will be organized by the Standing Committee on Finance, and Parties will discuss the report, including how to bridge the gap if total commitments do not reach USD100 billion.

Commitments to achieving transparency are at the center of this core legal agreement option, because most of the quantitative contents will be inscribed in COP decisions adopted at COP21 and at future COPs. A new MRV governing body will be established to regularly monitor, receive reports, and verify progression of the Parties' actions related to climate mitigation, adaptation, effective use, and mobilization of MOI.

Comments made by members of this group included the following:

- As weak as possible: there are no numbers on mitigation, adaptation, or MOI, and the setting of mitigation commitments will be pushed forward to COP23+.
- It should be based on broad binding principles; the details should be worked out in the COPs to allow for flexibility in light of changing circumstances.
- This will be legally binding but will have a non-self-executing nature (i.e. will require domestic legislation) and compliance will not truly be enforceable (similar to the Kyoto Protocol). It will agree to limited use of governing bodies, but they will not have real decision-making or enforcement power.

- Conclusions for “transparency” may be extended for future decisions.
- This (ex-ante consideration) might need further elaboration in future COP decisions.
- If there is going to be room for revisiting INDCs, then articles on the process can't be put into the main text, because that would be “tampering” with the text for each Party.
- The review process is subject to be affected by technological developments. Therefore, there is a need to provide room for flexibility without having to open the main text for revisions, so a COP is a better option.
- A broad goal is better because it also includes what those targeting 2020 want.
- The SCF should have more to say than the secretariat so that the decisions will have more buy-in from member states.
- For a framework (for transparency) to be common, it has to be in the main text. A treaty can't be a treaty if each Party is doing what it deems fit; there has to be something that directs all Parties to a common goal.
- The framework (for transparency) should be common for all countries. It should be legally binding.
- It is only fair that the governing body has “teeth,” and this should be prominently reflected by inserting articles related to MRVs in the main body of the text.
- Frequency of updating of contributions is a major decision and should therefore be anchored in the main text.

Table 3: A plausible Paris agreement at COP21 (Consolidation of Group 2's responses) : finalizing NDCs at COP22 or COP23

Core legal instrument

Main text

- Mitigation
 - (NDC) Parties shall regularly report to the UNFCCC secretariat their emission inventories and activities aimed at achieving their respective NDCs; these are to be finalized at COP22 (or COP23).
 - (Market mechanism) Use of new market mechanisms is applicable to those Parties that have submitted absolute emission reduction/limitation numerical figures as their NDCs. Parties may jointly reduce their net emissions by way of new market mechanisms as a means of increasing the total mitigation level. The Clean Development Mechanism (CDM) currently under the Kyoto Protocol may continue to be used for countries without absolute emission reductions/limitations in their NDCs.
- Adaptation
 - (Long-term global goal) All Parties commit to increasing efforts to adapt to climate change impacts, reduce vulnerability, and increase resilience in the context of the actual increase in global mean temperature.
 - (Commitment) Each Party undertakes national adaptation planning processes, with a view to integrating climate resilience into national-level planning and action to reduce vulnerability, and shall communicate its commitments/contributions periodically.
 - (Adaptation Fund) The developed countries and other countries, taking into account their respective capabilities, shall commit to an amount of financial and technological support for the developing countries' adaptation actions by 2017.
- Finance
 - (Commitment on post-2012 finance) The developed countries and other countries, taking into account their respective capabilities, shall communicate by 2017 a target amount of financial contributions to developing countries for the post-2020 period. This amount will include public financing, leveraged private financing, and non-leveraged (or pure) private financing.
- Transparency
 - (General institutional features) A uniform transparency system, applicable to all Parties, shall promote transparency of action and support by providing information. Flexibility shall be fully taken into account according to each Party's CBDR/RC.
 - (Commitment) All Parties commit to participating in an agreed-upon, uniform transparency system to provide information on mitigation, adaptation, and MOI and to continuously improving transparency.
 - (Governing body) The governing body is hereby established. It shall elaborate the rules related to transparency of action and support.
 - (Frequency of updating of commitments) Frequency of communication and updating of commitments shall be determined by the governing body.
 - (Mid-term or ex-post review) The governing body shall develop and adopt modalities for the review process.

Annexes

- Transparency
 - (Mid-term or ex-post review) Modalities for the review process will be elaborated here.

COP decision at COP21

- Mitigation
 - (NDCs) COP21 will decide to compile INDCs submitted by the Parties, each of which will be subject to ex-ante consultation to be conducted after COP21 and will be finalized at COP23.
 - (NDCs) Parties shall submit and implement their NDCs to be finalized by COP23 (2017). The NDCs of each Party should be based on the INDCs contained in the decision adopted by COP21.
 - (NDCs) A list of NDCs for all countries will be documented in a decision.
 - (Ex-ante consultation) Parties decide that ex-ante consultations will be conducted for the INDCs of all Parties, with more focus on Parties with more than 1% of global GHG emissions. January to December 2016: Submission of additional information deemed necessary to conduct consultations with experts. January to September 2017: Consultations on the list of revised INDCs to be adopted at COP23. At COP23: Finalization and adoption of NDCs.
- Finance
 - (Collective goal for post-2020 finance) Parties agree by 2019 on financial goals for post-2020.
 - (Commitment to post-2020 finance) By 2020, the Parties agree on the schedule, process, and methodologies of the review of post-2020 financial goals.
 - (Review of financial contributions) The SCF will review the financial commitments made by developed countries and other countries and will provide a report at COP24 in 2018. Parties will discuss the SCF report, including how to bridge the gap if total commitments do not reach USD100 billion.
- Transparency
 - (Ex-ante consideration) After their communication, INDCs will be subject to an ex-ante process to ensure clarity and understanding of contributions.
 - (Formalization of enhanced action) After ex-ante consideration, all Parties are encouraged to revisit their INDCs and revise them accordingly before they are finalized. The finalized NDCs on mitigation, adaptation, and MOI will be inscribed in the COP decision.

COP decision after COP21

- Mitigation
 - (NDCs) A list of NDCs on mitigation
- Adaptation
 - (Commitment) A list of NDCs on adaptation
 - (Adaptation fund) A list of NDCs on support for adaptation

Discussion of the two agreement options

The distinct responses of the two groups allowed the creation of two plausible options that are considered to be both agreeable and environmentally effective. There was no trend for the members of one group to consist of either developing or developed countries only. However, more respondents from the business sector were in group 1, which developed the first option, whereas more environmental NGO members were in group 2, which assumed the second option. Within the limited sample size, it may be hard to generalize. That said, this trend may appear surprising, because the second option delays determinations about fundamental area of commitments such as NDCs for mitigation, but environmental groups may also be uneasy with finalizing NDCs without any ex-ante consultation. On the other hand, members of the business community may prefer to see commitments confirmed as soon as possible so that they can reflect those decisions in their business management strategies and planning.

The NDCs for mitigation are listed in an annex to the main text in the first option, whereas they will be inscribed in a COP decision in 2016 or 2017 in the second option. Some researchers and governmental officials have expressed in informal meetings and dialogue their views that the NDCs should be listed in a COP decision at COP21. This is a middle ground between the two options, which might be agreeable to all Parties in reality. Finalizing NDCs without any consultation

and inscribing them in a legally non-binding document, however, may minimize the environmental effectiveness of the Paris agreement, because the NDCs are neither discussed nor inscribed in a legally binding document. For this reason, we consider the two options in this report to be more environmentally effective.

Similarly, some participants in the actual ADP negotiation meetings have suggested that the MRV process should be described in COP decisions. The two options here are in agreement in that the detailed procedural rules to increase transparency should be described in COP decisions, but the core legal agreement should confirm that participation in the transparency system is an integral part of the Parties' commitments in the agreement; thus any detailed procedures on MRV are anchored to the core legal agreement. This is particularly important for the second option, in which reporting and verification of all types of actions (mitigation, adaptation, MOI) are the key for Parties to commit to achieving their NDCs.

As the Parties' NDCs are likely to be determined without much consideration of equity among countries in both options, the CBDR/RCs according to the economic development level of countries are reflected in financial contributions and reporting requirements rather than the ambitious-ness of emission reduction targets. Table 4 summarizes the main features of the two options.

Table 4: Comparison of the two options for the Paris agreement

	Option A : Finalizing NDCs at COP21	Option B: Finalizing NDCs at COP 22 or 23
1. Architecture of the Paris agreement	A comprehensive core legal agreement with some COP decisions	A simple core legal agreement with a number of COP decisions at COP21 and later
2. NDCs inscribed in:	An annex of the core agreement	A COP decision to be decided at COP 22 or 23
3. Target year of the first NDCs	2025	2030
4. Submission of the next NDCs	2018	Shall be determined by the governing body of transparency
5. Transparency	Continuation of the Cancun MRV process	Establishment of a governing body for transparency and a uniform transparency system
6. Strengths	<ul style="list-style-type: none"> ➤ Parties can start implementation of policies soon after COP21. ➤ NDCs are respected as legally binding commitments. ➤ An aggregated financial goal for the post-2020 period is considered legally binding. 	<ul style="list-style-type: none"> ➤ Parties can take time consulting the INDC levels before finalization. Market mechanisms and other rules can be made consistent by 2017. ➤ The transparency system is respected as a legally binding institution. ➤ A review of the achievement of 2020 financial goals is conducted.
7. Weaknesses	<ul style="list-style-type: none"> ➤ No opportunity is given to the Parties to discuss each INDC before finalization; thus, total global emissions might exceed the long-term goal. ➤ The Cancun MRV process may not have the “teeth” to motivate countries to fulfill commitments. 	<ul style="list-style-type: none"> ➤ Delay in finalization of NDCs will postpone domestic implementation of policies and actions in each country. ➤ The uniform transparency system could become too burdensome for small developing countries.
8. Ways to overcome or minimize weaknesses	<ul style="list-style-type: none"> ➤ Review of the current NDCs and submission of the next NDCs should be conducted without much delay, such as in 2017 or 2018. ➤ The verification aspect of the Cancun MRV process needs to be further refined, particularly for developed countries. 	<ul style="list-style-type: none"> ➤ The pre-2020 actions need to be reviewed by work stream 2 of the ADP. Reviews of financial contributions concerning the 2020 goal should also assess the way in which finance has been utilized. ➤ The uniform transparency system can set relatively stringent requirements for developed countries.

Conclusions and future study

The purpose of this questionnaire survey was to explore two or three options for the Paris agreement, which has the aim of reaching an agreement at COP21 to be held in late 2015. The results showed that an agreement is reachable and that there might be some flexibility in the ways in which the agreement is formed. The two options discussed may not be satisfactory in terms of environmental effectiveness, and total emission reduction /limitation commitments by all Parties may not be enough to mitigate climate change to maintain the global temperature below 2 °C.

Work stream 2 of the ADP is a process of deepening the mitigation actions for the pre-2020 period. Perhaps such initiatives, even in the absence of any legal agreement, can be effective in bringing in various non-state actors such as industries and local governments to share their success stories. By building up evidence that

climate change mitigation actions are effective not only in terms of climate change mitigation but also in terms of economic investment, regional development, and improvement in the local environment, countries may be able to reconsider and increase their initial NDCs.

Adaptation is an important element, but actions need to be implemented at the domestic and local levels. Multinational commitments are required mostly to continue financial support for adaptation activities.

One remaining issue that was not taken up in this study is the relationship of the new agreement to the Kyoto Protocol. Although little attention is paid to the Kyoto Protocol in negotiation meetings under ADP, many of the Kyoto-type mechanisms and rules for counting emission sequestration by sinks could be addressed in the new agreement.

Acknowledgments

We sincerely thank the respondents to the web questionnaire survey, who kindly took the time and effort to contribute.

Annex: Web Questionnaire, conducted in January 2015

Question 1: What is your nationality?

Question 2: What is your occupation or affiliation?

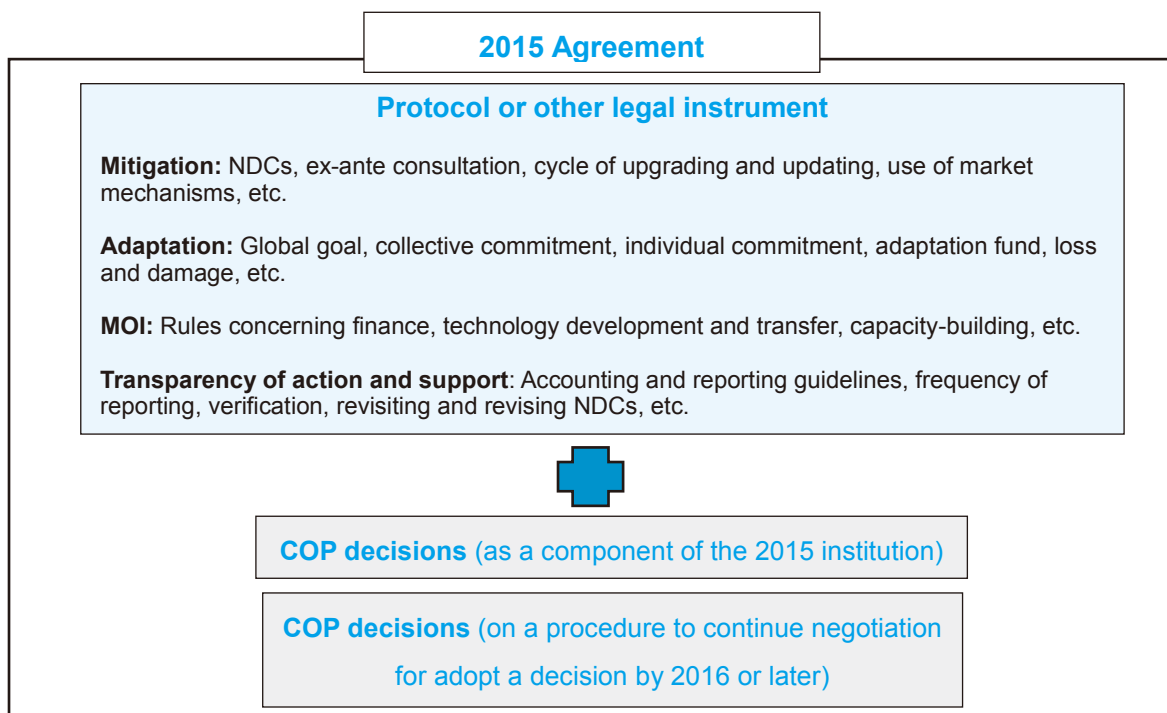
- National governmental official
- Business and industry
- Environmental NGO
- Political party representative
- Local government official
- Researcher
- Media
- Other (please specify)

Question 3: Which COPs have you attended?

- COP1 (Berlin, 1995)
- COP2 (Geneva, 1996)
- COP3 (Kyoto, 1997)
- COP4 (Buenos Aires, 1998)
- COP5 (Bonn, 1999)
- COP6 (Hague, 2000)
- COP7 (Marrakesh, 2001)
- COP8 (New Delhi, 2002)
- COP9 (Milan, 2003)
- COP10 (Nairobi, 2004)
- COP11 (Montreal, 2005)
- COP12 (Buenos Aires, 2006)
- COP13 (Bali, 2007)
- COP14 (Poznan, 2008)
- COP15 (Copenhagen, 2009)
- COP16 (Cancun, 2010)
- COP17 (Durban, 2011)
- COP18 (Doha, 2012)
- COP19 (Warsaw, 2013)
- COP20 (Lima, 2014)
- Never attended a COP

Introductory explanation

The figure below illustrates the basic architecture of a possible institution that could be agreed upon at COP21 in 2015. The 2015 agreement could be assumed as a package that consists of a legal instrument (such as a protocol) and a series of non-legal agreements (such as COP decisions). You may anticipate follow-up decisions that could be adopted in COPs after COP21. The current negotiating text is constructed in the order of mitigation, adaptation, MOI and transparency, based on the decision text of the Durban Platform. However, it could be worthwhile to consider transparency first, as this element may be the controller of degree of stringency of all the other elements. Some of you may not agree with this basic assumption. In such a case, please answer the following questions based on this assumption and add any relevant comments on this topic in the final comment section of the questionnaire.



NDC: Nationally Determined Contributions (a contribution approved by COP)

INDC: Intended Nationally Determined Contributions (a contribution yet to be approved by COP)

MRV: Monitoring, Reporting, Verification

Main questions

Question 4: In the following section, you are asked to choose one among several article options in each item closest to your own view, and select one legal or non-legal instrument that you think would be most suitable for the chosen article or action. Many of the options are taken from the document “*Elements for a draft negotiating text*” Version 2 of 10 December 2014 at 06:30, of ADP2-7. The list is divided into four key elements: (1) transparency, (2)MOI (finance), (2)adaptation, and (4)mitigation.

Item: Transparency of action and support		In which legal or non-legal instrument shall this item be inserted?				Comments (i.e. What is your own view?)
		Main legal text	Annex to a main legal text	COP decision as a component of the 2015 institution	Future COP decision	
(1) General	Choose one option from (a)~(b) below					
	(a) A common transparency framework, applicable to all Parties, shall promote transparency of action and support by providing information. Flexibility shall be fully taken into account according to each Party’s CBDR/RC.					
	(b) All Parties shall promote transparency of action and support by providing information on the implementation of each Party’s commitments under the Convention.					
(2) Commitments	Choose one option from (a)~(c) below					
	(a) Each Party to provide, through their biennial communications, information on its actions and support, including in relation to mitigation, adaptation, and MOI.					

	(b-1) All Parties commit to participating in an agreed, uniform transparency system and to providing information on its actions and support, including in relation to mitigation, adaptation and MOI.					
	(b-2) Detailed rules for the uniform transparency system					
	(c) All Parties commit to participating in an agreed, uniform transparency system to provide information on mitigation, adaptation, and MOT, and to continuously improve transparency.					
(3) Governing body for transparency	Choose one option from (a) ~ (b) below					
	(a-1) The governing body shall elaborate the rules related to transparency of action and support.					
	(a-2) Establishment of the governing body					
	(b) Existing operational rules shall be applied for rules related to transparency of action and support.					
(4) Frequency of updating of commitments /contributions /actions	Choose one option from (a) ~ (c) below					
	(a) All Parties shall periodically update their proposed commitments every five years, beginning in 2015.					
	(b) All Parties shall periodically update their proposed commitments every ten years, with a mid-term review.					
	(c) Frequency of communication and updating of commitments shall be determined by the governing body.					
(5) Ex-ante consideration	Choose one option from (a) ~ (c) below					
	(a) After their communication, commitments will be subject to an ex-ante process to ensure clarity and understanding of commitments.					
	(b) Parties' commitments to be considered based on existing arrangements and processes under the Convention.					
	(c-1) The governing body shall develop and adopt modalities and procedures for the ex-ante consideration.					
	(c-2) A procedure for the ex-ante consideration.					
(6) Formalization of enhanced action	Choose one option from (a) ~ (b) below					
	(a) After ex-ante consideration, commitments and actions on mitigation, adaptation, and MOI, will be finalized and will be inscribed in (choose among the right-hand cells)					
	(b) After ex-ante consideration, all Parties are suggested to revisit their commitments and revise them accordingly, before their finalization. The finalized commitments and actions on mitigation, adaptation, and MOI, will be inscribed in (choose among the right-hand cells).					
(7) Mid-term, or ex-post review	Choose one option from (a) ~ (c) below					
	(a) The review shall take place starting in 3 years after the agreement has come into effect.					
	(b) The assessment to be consistent with existing MRV process, informed by each country's progress towards the achievement of its commitments, including NCs and BRs.					
	(c-1) The governing body shall develop and adopt modalities for the review process.					
	(c-2) Modalities for the review process.					

Item: Finance		In which legal or non-legal instrument shall this item be inserted?				Comments (i.e. What is your own view?)
		Main legal text	Annex to a main legal text	COP decision as a component of the 2015 institution	COP decision /conclusions for future decisions	
(1) A collective goal for the post-2020 finance	Choose one option from (a) ~ (b) below					
	(a-1) Parties agree to set a financial goal to address climate change. Such financial goals should be periodically reviewed by the Parties.					
	(a-2) Review process of financial goal					
	(b-1) Parties agree on financial goal for post-2020 by 2019.					
	(b-2) By 2020, the Parties agree on the schedule, process, and methodologies of the review of post-2020 financial goals.					
(2) Commitments on the post-2020 finance	Choose one option from (a) ~ (d) below					
	(a) Developed countries and other countries, taking into account their respective responsibilities and capabilities, shall continuously make new and additional commitments to financial contributions to developing countries.					
	(b-1) The developed countries and other countries, taking into account their respective capabilities, shall communicate by 2017 a target amount of financial contributions to developing countries for the post-2020 period. This amount will include public financing, leveraged private financing, and non-leveraged (or pure) private financing.					
	(b-2) Because the amount of non-leveraged (or pure) private financing will be subject to many factors, these amounts will be considered to be a projection for each developed country and not a commitment.					
	(c) The developed countries and other countries, taking into account their respective capabilities, shall submit their commitments by 2017 on the mobilization of financial resources to developing countries for the post-2020 period.					
	(d) The Standing Committee on Finance shall establish a process to determine Parties' commitments on the post-2020 finance.					
(3) Review of financial contributions to the pre-2020 long-term finance	Choose one option from (a) ~ (c) below					
	(a-1) The Standing Committee on Finance (SCF) will review the financial commitments by developed countries and other countries and provide a report at COP24 in 2018.					
	(a-2) Parties will discuss the SCF report, including how to bridge the gap if total commitments do not reach USD100 billion.					
	(b) A new Common Tabular Format for the biennial report should be prepared by the Secretariat to communicate and review the committed amount of long-term finance,					

	for both the periods pre- and post-2020. For this purpose, the Common Tabular Format of the biennial report should be appropriately reviewed and revised wherever necessary so that the commitments of developed countries will be submitted with a common methodology by 2017.					
	(c) Progress of the financial contributions to the pre-2020 long-term financing and post-2020 financial goals will be continuously and annually reported to the Secretariat.					

Item: adaptation		In which legal or non-legal instrument shall this item be inserted?				Comments (i.e. What is your own view?)
		Main legal text	Annex to a main legal text	COP decision as a component of the 2015 institution	COP decision /conclusion for future decisions	
(1) Long-term global aspect of adaptation	Choose one option from (a) ~ (c) below					
	(a) All Parties in accordance with the principles and provisions of the Convention, ensure resilience and protect citizens and ecosystems in the context of the long-term temperature limit.					
	(b) All Parties commit to increase efforts to adapt to climate change impacts, reduce vulnerability and increase resilience in the context of the actual increase in global mean temperature.					
	(c) Parties shall establish a global goal for adaptation.					
(2) Individual commitments on adaptation	Choose one option from (a) ~ (c) below					
	(a-1) Each Party undertake national adaptation planning processes, with a view to integrating climate resilience into national level planning and action in order to reduce vulnerability, and shall communicate their commitments/contributions periodically.					
	(a-2) A list of NDCs on adaptation					
	(b) Each Party undertake a national adaptation plan and strengthen governance subject to modalities and procedures to be developed and adopted by the governing body.					
	(c) Parties are encouraged to prepare and update National Adaptation Programmes of Action (NAPA).					
(3) Adaptation Fund/support for adaptation	Choose one option from (a) ~ (c) below					
	(a-1) The developed countries and other countries, taking into account their respective capabilities, shall commit to an amount of financial and technological support for the developing countries' adaptation actions by 2017.					
	(a-2) A list of NDCs on support for adaptation					
	(b) The developed countries and other countries, taking into account their respective capabilities, are encouraged to					

	make best effort to mobilize financial support for adaptation in developing countries.					
	(c) The Adaptation Fund established under the Kyoto Protocol shall be maintained under the 2015 agreement.					
(4) Loss and damage	Choose one option from (a) ~ (b) below					
	(a) All Parties are encouraged to develop early warning systems and risk management plans, and communicate them to the secretariat by 2017 as part of their national communications.					
	(b) The Warsaw International Mechanism for Loss and Damage shall serve this agreement and be fully operationalized.					

Item: mitigation		In which legal or non-legal instrument shall this item be inserted?				Comments (i.e. What is your own view?)
		Main legal text	Annex to a main legal text	COP decision as a component of the 2015 institution	COP decision for future decisions	
(1) Nationally Determined Contributions (NDCs)	Choose one option from (a) ~ (c) below					
	(a-1) Parties shall implement their NDCs for mitigation					
	(a-2) A list of NDCs for all countries					
	(b-1) Parties shall submit and implement their NDCs to be finalized by COP23 (2017). The NDCs of each Party should be based on the INDCs contained in the decision adopted by COP21.					
	(b-2) A list of INDCs for all countries					
	(c) COP21 will decide to compile INDCs submitted by the Parties, each of which will be subject to ex-ante consultation to be conducted after COP21 and will be finalized at COP23.					
(2) Ex-ante consultations	Choose one option from (a) ~ (d) below					
	(a) Parties shall elaborate and submit their INDCs every 5 years to be subject to an international consultative process with a view towards upgrading them. Through the consultative process, the Parties are expected to consider the possibilities of increasing the mitigation level.					
	(b) The INDCs of Parties shall be subject to an international consultative process, which will end well in advance of COP23 (2017). The Parties shall make their best efforts to upgrade their NDCs based on the recommendations through the consultation process.					
	(c-1) The NDCs of all Parties shall be subject to revision every 5 years based on periodical review process. More focus should be put on Parties with more than 1% of global GHG emissions.					
	(c-2) By 1 Jan. 2018: Submission of information on the progress of implementation of current NDCs and on possible revision of NDCs (together with the BR). The information shall be subject to ex-ante consultation (together with					

	IAR). By COP25 (2019): Finalization of consultations. Parties are requested to consider recommendations and possibly upgrade their NDCs at COP26 (2020).					
	(d-1) Parties decide that ex ante consultations will be conducted for the INDCs of all Parties with more focus on Parties with more than 1% of global GHG emissions.					
	(d-2) Jan.–Dec. 2016: Submission of additional information deemed necessary to conduct consultations with experts. Jan.–Sept. 2017: Consultations on the list of revised INDCs to be adopted at COP23. At COP23: Finalization and adoption of NDCs.					
(3) Market mechanisms	Choose one option from (a) ~ (c) below					
	(a-1) Use of new market mechanisms is applicable to those Parties that have submitted absolute emission reduction/limitation numerical figures as their INDCs. Parties may jointly reduce their net emissions by way of new market mechanisms as a means of increasing the total mitigation level.					
	(a-2) CDM may continue to be used for countries without absolute emission reductions/limitations in their NDCs.					
	(b) Use of new market mechanisms is applicable, especially for those Parties that have included use of the mechanism in their submitted NDCs. Parties may link their respective regional/municipal level carbon markets with each other if total emission reduction is secured.					
	(c-1) Three types of new market mechanisms are established.					
	(c-2) Joint implementation: two or more countries can jointly achieve their total INDCs as long as the net mitigation effect is realized.					
	(c-3) Emissions trading: rules set by the Marrakesh Accord under the Kyoto Protocol will be applied.					
	(c-4) Bilateral offsetting: project-based emission reduction schemes can be used. CDM projects set up under the Kyoto Protocol could continue.					

Comments (optional)

Question 5 Please comment on your ideas about the architecture of the likely outcome of current international negotiations under the Durban Platform on the post-2020 agreement.

You have completed the survey. Thank you for your cooperation.

About Us:

This survey was conducted under the research project, “2E-1201 Study on an Agreeable and Effective International Institution Concerning Climate Change for Years After 2020,” funded by the Environment Research Fund of Japan’s Ministry of the Environment.

Web site: <http://www-iam.nies.go.jp/climatepolicy/adp/index.htm>

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