

The Paris Climate Conference (COP 21) Nov. 30 – Dec. 12 2015

Hopefully, through our class on the Paris Climate Conference and the videos and readings, you now have a good sense of the development of international efforts to respond to climate change, and some of the explanations for why climate change responses have been so challenging, from the individual, group/state, and global perspective.

In class, after a review of the Rio and Kyoto accords, we picked the story up with the Paris Climate Conference. The conference was BIG:

- 196 parties to the treaty were represented
- 19,385 national delegates, 8,338 observers, and 8,825 media were in attendance
- 2,500 working group meetings were held

The negotiating process was less contentious than in the past (there were less of the usual leaks and attacks characteristic of past UN climate summits).

There was great excitement when the COP21 President Laurent Fabius declared the adoption of the Paris Agreement. The circumstances were not procedurally correct: it would have been more diplomatic to hold a full plenary with many interventions, with each delegation requesting amendments. However, to prevent the collapse of the draft agreement, President Fabius literally hammered the adoption of the treaty before any delegate could request the floor. Nevertheless, this bit of diplomatic unilateralism received overwhelming support from the cheering (and exhausted) delegates.

For his part, the (now former) UN Secretary-General Ban Ki-moon opined that a movement once “unthinkable” is now “unstoppable.”

Speaking for the G77+China group (consisting of 134 countries), South Africa’s Edna Molewa announced support for the text, noting that the acceptance of climate change targets was a major commitment by developing countries to combat climate change.

US Secretary of State John Kerry argued that the Agreement charted a new and sustainable path for the planet, sent a critical message to the global marketplace, and represented a victory for multilateralism.

Indian Minister Prakash Javadekar, perhaps illustrating that old tensions were still present, observed that the treaty acknowledged the importance of sustainable lifestyles and of protecting countries vulnerable to climate change. He also reiterated the right of developing countries to economic growth and lamented the lack of recognition of developed countries' historical responsibilities for climate change in the Agreement.

French President François Hollande affirmed that whereas the French Revolution had affirmed human rights, the new Agreement signals a climate revolution and entrenches the rights of humanity as a whole.

The Paris Agreement

So what does the Paris Agreement commit signatory states to do? Under the commitments and goals (Article 2) of the agreement, parties to the agreement pledge to:

- Hold the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels.
- Increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production.
- Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate- resilient development.
- Submit nationally determined commitments, detailing how each country will reduce greenhouse gas emissions domestically and by assisting developed countries in mitigation and adaptation.
- Reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science.

- Renew their commitments at least every 5 years and make them progressively more ambitious.
- Provide financing to assist developed countries with mitigation and adaptation.
- Ensure that adaptation action is country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems.
- Promote cooperation in public education and public engagement on climate change and public access to information to help enhance action.
- Provide a transparency mechanism to facilitate implementation and compliance whereby these commitments must be accurately and consistently described and progress reported.
- Provide information related to climate change impacts and adaptation, and developed country Parties to provide information on financial, technology transfer and capacity-building support provided to developing country Parties, participating in facilitative, multilateral consideration of progress with respect to efforts.
- Including a compliance mechanism to review commitments and performance and hold states to account, through criticism rather than formal sanction.

The Paris Agreement was fundamentally different from the previous agreements at Rio and Kyoto for the following reasons.

All In

The UNFCCC and the Kyoto Protocol were characterized by a clear division between developed (Annex I) and developing (Annex II) countries. Only Annex I countries were obligated to reduce GHG emissions in the UNFCCC and the Kyoto Protocol.

In the Paris Agreement, in contrast, all countries, including developing countries, are supposed to curb emissions.

Pot Luck

The UNFCCC and the Kyoto Protocol divided up responsibility among developed countries for GHG emissions reductions targets. Each country was supposed to reduce emissions by a certain amount. These targets were to be implemented by Annex I countries and enforced through international law. So the approach was top down: governments go to a negotiation, agree to a commitment, sign and ratify a treaty, and implement it at home (or are supposed to).

At Paris, negotiations did not focus on dividing up targets. Instead, each country developed its own Intended Nationally Determined Contributions (INDCs) and brought them to Paris. The advantage of this “potluck” approach is that countries arrived at Paris with commitments that were already politically less contentious domestically.

Not Binding

The UNFCCC and the Kyoto protocol (and efforts to replace them) were legally binding international treaties. This means something. A treaty is a binding document that can be enforced by courts. They must be ratified by national parliaments, so that they become a part of domestic law.

However, the Paris agreement is not a legally binding treaty. In the United States, as a matter of domestic law, it was an executive agreement, binding only on President Barack Obama’s administration. In Canada, it is the same. An executive agreement made by one government is not binding on its successor if it is explicitly repudiated. This is what the Trump Administration has done (with that decision to take effect in 2020 after the required waiting period of three or four years).

Of course, while the UNFCCC and the Kyoto protocol were treaties, and some countries did reduce emissions, no one met their targets, and emissions continued to rise.

And so, rather than enforcing GHG emissions targets through a legally binding treaty in force in international law, the Paris Agreement aims to

mobilize political pressure (both international and domestic) to encourage compliance. The agreement creates a set of transparency measures and a process for regularly and publicly reviewing each country's progress every five years, beginning in 2020.

Positives

There are a lot of positives to be found in the Paris Agreement. The INDC concept is more in tune with underlying domestic political and economic realities than the UNFCCC and the Kyoto Protocol. The main barriers to strong action have always been domestic political factors, so letting the process of setting goals play out within each country (bottom up), rather than around a negotiating table (top down), makes sense.

The Paris agreement moves enforcement from the international to the domestic realm. Governments have demonstrated a reluctance (or outright failure) to pursue rigorous enforcement mechanisms to encourage compliance. So the Paris Agreement seeks to boost domestic support for serious climate efforts in each major country. Mandatory transparency and international review should empower domestic political forces that favour climate action.

The Paris agreement is also more flexible. Climate change is a rapidly evolving problem, requiring responses to keep pace. This is hard to achieve with formal, legal agreements because by the time an agreement is negotiated, climate conditions and technology have changed. The Paris agreement calls for review periods that are better suited to meeting an evolving climate change problem.

Criticisms:

Of course, the Paris agreement is not perfect either. The emissions reductions promised under the INDCs submitted by governments do not meet the targets necessary to keep global temperature to 1.5 or 2 degrees above preindustrial levels. The current level of nationally determined greenhouse gas (GHG) reduction contributions will likely result in global temperature increases of between 2.7 to 3.5 degrees above pre-industrial levels. Not good.

Under the Paris agreement, there is no clear timetable for a peak year. Paris specifies that emissions should peak “as soon as possible” and emission balance should be achieved “in the second half of this century.” However, this is likely too late to avoid serious climate change impacts.

The Paris agreement lacks specifics on the commitment to increase financial support for poor countries beyond \$100 billion after 2020. The agreement also does not include any loss and damage principles or any reference to historical liability for rich countries for the damage caused by climate change.

Despite the agreement of developing countries to reduce GHG emissions, the divide between developed and developing countries remains. The phrase “common but differentiated responsibilities” appears frequently in the text of the agreement at the insistence of developing countries. These countries argue that they should be subject to weaker obligations than developed countries. In fact, there are many places in the agreement where the demands on developing and developed countries are qualitatively different. This is not necessarily a bad thing: no one should expect small island states to bear the same burden of GHG emission reductions and European countries. And rich industrial countries do bear a greater share of the responsibility for climate change.

A major issue with the Paris agreement is compliance and enforcement mechanisms (or the lack thereof). The language of enforcement and compliance is notably lacking in teeth. It will be “facilitative,” functioning in a manner that is “transparent, non-adversarial, and non-punitive.” That does not even sound like an enforcement mechanism, at least not one that has any power. There is no International Court of the Environment (proposed by the International Bar Association) and there is no mechanism for international sanctions against states that fail to meet their commitments.

The hope is that international exposure and criticism will have a strong capacity to encourage state compliance because they affect the reputation of governments.

Finally, there was no agreement in Paris on a “rulebook” or set of

guidelines for how to count, measure, report, and record the elements of the Paris agreement. Without this, the metrics and analytics used would not be consistent across countries. This issue was deferred to a future COP.

Developments After Paris

The UN climate summit in November of 2016 in Morocco was overshadowed by the US election campaign, which featured strong anti-climate change rhetoric from the Trump campaign. This continued in the years after President Trump took office, and US opposition to climate change across a wide range of political and economic issues continues to play an important role in global diplomacy.

On the mitigation front, many policies will be necessary to reduce emissions, but two things stand out: a price on carbon (carbon taxation) and technology changes that are already driving a transition to low-emissions energy sources. Technology breakthroughs have already made wind and solar alternatives more viable. Carbon taxation will further level the playing field between fossil fuels and renewable energy sources. “In the last six years,” said Hal Harvey, C.E.O. of Energy Innovation, “solar prices have dropped by more than 80 percent, and now cost less than a new coal plant. Wind is down 60 percent, and LED lights more than 90 percent.” With other new technologies near at hand “it becomes clear that a clean future costs no more than a dirty one,” he said. “Texas now has the most wind installed of any U.S. state. Texas!”

This transition is a global phenomenon. Recent deals from Morocco to South Africa to Chile were struck for around 2.8 cents a kilowatt-hour of wind and 4.2 cents a kW-h for solar, making them highly competitive with fossil fuel. But a price on carbon is still important, because while renewables are cheaper compared to the building costs of new fossil fuel plants, old fossil fuel plants (many still enjoying subsidies), can still run very cheaply.

The publication in 2018 of the IPCC Special Report may also spur action: the report stresses the importance of holding global temperature increases to 1.5 degrees: anything over that and climate change impacts

worsen considerably. The problem is that will require an almost immediate transition away from fossil fuels and towards zero GHG emissions. The IPCC report says the world has only about 12 years to avoid 1.5 degrees of warming above pre-industrial levels, which is one of the goals of the Paris Agreement. In order to avoid this outcome, the IPCC report warned that carbon emissions must be cut almost in half by 2030 and then reach "net zero" by mid-century. The report is an "ear-splitting wake-up call," UN Secretary-General António Guterres said upon its release. The history we have looked at in this course does not suggest that will be possible. But we have to dare to hope: along with cheaper renewables coming to the market (see above) there is also the possibility for a breakthrough (technological and political) on Solar Radiation Management technologies and Carbon Capture and/or sequestration technologies. When couple with existing frameworks such as the Green Climate Fund, and regional and local action by nations, state/provincial, and local governments, it is possible to shift the needle of GHG emissions while adapting and reducing impacts.

Katowice

We then turned to the Katowice COP of 2018. This was a weird COP, held as it was in a coal-producing (and coal-friendly) part of Poland. The big positive takeaway was agreement on the "Paris Rulebook," essentially a set of shared guidelines on how to measure the commitments adopted by individual countries under the Paris Agreement. The rulebook defines the criteria for reporting, counting, measuring and monitoring. To be more specific, there was an agreement on the following:

- on mitigation: further guidance in relation to reporting NDCs and their time frames;
- on adaptation: further guidance on adaptation reporting and communication;
- on finance: identification of the information to be provided by parties relating to the Adaptation Fund;
- on technology: procedures for the periodic assessment of the technology framework

- the modalities, procedures, and guidelines for the transparency framework for action and support;
- modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance.

But there were still disagreements: the COP could not reach agreement on how countries trade and account for certain pollution. And Brazil nearly blocked the process amid concerns that its proposals would lead to "double counting" and, essentially, cheating. Brazil did not help matters by announcing that it would no longer be the host for the 2019 COP, casting the future of that COP into doubt. The US delegates talked up coal, which was popular among some but deeply disappointing to most. This was despite this warning from agencies of the US government itself, in the form of the US National Climate Assessment: "With continued growth in emissions at historic rates, annual losses in some economic sectors are projected to reach hundreds of billions of dollars by the end of the century -- more than the current gross domestic product of many US states."

What really stunned everyone (who wasn't paying attention to the politics, anyway) was the failure of the Katowice COP to fully embrace the 2018 IPCC Special Report due to the opposition of four countries: Saudi Arabia, Kuwait, Russia, and the United States. Countries reached a compromise statement in which they welcomed the timely publication of the report, but they did not welcome its findings!

Madrid

The next COP was supposed to be held in Brazil in November 2019. However, a year before the planned start, the newly-elected President Jair Bolsonaro (who has expressed climate change skepticism) withdrew the offer to host the event. Then Chile offered to host, but social unrest forced the government to cancel the conference. Then Spain stepped up and offered to host. So that is why we are in Madrid.

The results of the Madrid conference were disappointing. Key decisions that needed to be made on the carbon market and deeper emissions

cuts were delayed to the next climate conference in Glasgow. The countries that were most opposed to these measures were the United States, Russia, India, China, Brazil, and Saudi Arabia.

On the other hand, some actors made GHG reductions commitments (but outside the Madrid framework). For example, the EU reached an agreement on a "European Green New Deal" that should lower its emissions to zero by 2050. And the Climate Ambitious Coalition, which includes 73 countries and a further 1214 actors (regions, cities, businesses, investors) committed to net zero emissions by 2050.

A common observation from Madrid is the discrepancy between the slow pace of the talks and the urgency suggested by the latest science. The UN Environment Program's (UNEP) emissions gap report, released just prior to the Madrid COP, showed the 1.5C goal is "slipping out of reach". Even if existing climate pledges under the Paris NDCs are met, emissions in 2030 will be 38% higher than required to meet that target. In a reply of Katowice, the report was only "noted", as opposed to "welcomed", in the final text of the Madrid COP.

The Madrid conference left a bad taste in the mouths of conference attendees. "This is the biggest disconnect between this process and what's going on in the real world that I've seen," said Alden Meyer, director of strategy and policy for the Union of Concerned Scientists.

So that is the climate change story to this point. I think we are primed for the simulation now!