

**AD HOC WORKING GROUP ON THE DURBAN PLATFORM FOR ENHANCED ACTION
DESIGN AND ELEMENTS OF THE 2015 AGREEMENT**

Draft submission by South Africa

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CONTEXT

The design of the 2015 agreement has to be in line with the mandate of the Durban Platform for Enhanced Action. The objective and principles of the Convention will apply to the 2015 agreement and the existing architecture, including the mechanisms and institutions under the Convention and its Protocol would be available for the 2015 agreement. The 2015 must take a holistic approach that covers mitigation, adaptation, finance, technology development and transfer, capacity building and transparency measures.

In order to fully implement and contribute to the fulfilment of the objective of the Convention as set out in Article 2, the future agreement must elaborate a durable, legal, multilateral rules-based climate change system to be inclusive (applicable to all Parties); fair (give effect to the principles of equity and common but differentiated responsibilities and respective capabilities); effective (be based on sound science); and adequate to keep temperature increase below 2°C; and that enables, supports and enhances the transition to a low emissions and climate resilient sustainable development pathway; gives equal priority to adaptation and mitigation with balanced provision of means of implementation to enable and support mitigation and adaptation in the long-term. The 2015 agreement must be structured in a manner that gives effect to the objective of the Convention.

In addition to specific, common global commitments on mitigation, adaptation and means of implementation, individual commitments under the 2015 agreement to address the challenges of climate change must be comprehensive, consisting of a package of commitments, targets, actions, efforts, etc. in the areas of mitigation and adaptation and the provision of means of implementation.

Parties' intended nationally determined contributions and the information that Parties will provide when putting forward their intended nationally determined contributions in 2015 are crucial elements of the enhancement of the multilateral rules-based system.

The Warsaw outcome provides guidance on the conceptualisation of how the 2015 agreement could be constructed as it was agreed that Parties' contributions will be nationally determined, taking into account that this needs to be done in a manner that will strengthen the multilateral rules-based regime, as it was agreed that intended nationally determined Party contributions were to be formulated on the basis of a minimum set of information that needs to be identified in Lima in December 2014, a year before the planned adoption of the agreement in Paris in 2015. In this regard, please see South Africa's submission on the determination and communication of Parties' intended nationally determined contributions.

Furthermore, the Warsaw decision also provided for the process of communicating Parties' intended nationally determined contributions, calling on Parties to communicate same in the first quarter of 2015 by those Parties in a position to do so, i.e. before the adoption of the agreement in Paris and its entry into force by 2020. The communication must be done in a

manner that facilitates the clarity, transparency and understanding of the intended contributions.

Thus the effect of this decision is that essential elements of the future climate regime, namely intended nationally determined contributions and information to be presented by Parties will be contained in a decision taken a year before the adoption of the 2015 agreement. The reality is however that, to the extent possible, the multilateral guidelines should be fully elaborated at the same time as commitments, to avoid the risks of putting numbers before rules, or rules before numbers. (See South Africa's submission on the Determination and Communication of Intended Nationally Determined Contributions).

Therefore, work that is currently underway to refine and improve the existing UNFCCC system and to fill gaps should be finalised urgently and be available for the implementation of the 2015 agreement.

MAIN ELEMENTS TO BE INCLUDED IN THE 2015 AGREEMENT

Preamble

The preamble to the 2015 agreement should contain a short reference to the Convention and Protocol similar to the approach followed in the case of the Kyoto Protocol, e.g. "In accordance with the principles and provisions of the Convention".

Objective

The objective of the 2015 agreement should be to strengthen the multilateral rules-based system by enhancing implementation of climate change action to achieve the objective in Article 2 of the Convention, i.e. the stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

In order to achieve the objective of the Convention, the 2015 agreement should elaborate further commitments that would limit average global temperature increase to well below 2°C above pre-industrial levels and to ensure that adaptation commitments are commensurate with the emission reduction commitments.

Adaptation

Common global commitment

Article 2 of the Convention describes the GHG stabilisation levels as a means to an end of preventing dangerous climate change, and limiting temperature increase to 2 °C above preindustrial levels would limit (but not entirely avoid) climate impacts on food security, ability of ecosystems to naturally adapt, economic and sustainable development. In accordance with the ultimate objective of the Convention, the 2015 agreement should contain a common global commitment to reduce vulnerability to the adverse effects of climate change to acceptable levels, in line with mitigation commitments. This common

global commitment could take the form of a global adaptation goal that expressly confirms: that adaptation is a global responsibility despite the localised adaptation needs of countries and regions; that the levels of adaptation action required to reduce vulnerability to acceptable levels is linked to the levels of mitigation ambition; and that the necessary level of adaptation action will be met with adequate support that will be pursued through a Strategic Framework on Adaptation.

Individual commitments for all Parties with commitments under Article 4.1 of the Convention

Formulation of National Adaptation Plans (NAPs) by each Party;

Commitment by Parties to governance that engages with sub-national and local authorities to enhance adaptation; and

Adaptation costs need to be defined across the continuum from development to adaptation to residual damages and developing countries' investments in adaptation should be recognised as a contribution to finance, and part of the overall financial goal.

Additional individual commitments for Parties with obligations under Article 4.2 of the Convention

The 2015 agreement should provide for enhanced access of finance, technology and capacity building support for adaptation in developing countries through existing institutions and mechanisms and in line with existing agreements and commitments. Support for adaptation should be commensurate with the scale of damage likely to be suffered by developing countries even in a 2 °C world, or the appropriate temperature scenario based on emission reduction commitments.

In particular, those Parties with additional obligations under Article 4.2 must contribute to:

- the development of National Adaptation Plans for developing country Parties; and
- the costs of implementation of NAPs in developing countries.

The implementation of priority needs of developing countries, as identified in their NAPs and NAPAAs, must be a central element. However, we need to go further in their implementation, considering also sub-regional and regional adaptation programmes. Clear rules and procedures are needed to ensure that funding for adaptation is balanced with mitigation, in the short-, medium- and long-term. South Africa proposes that multilateral financing of adaptation be a cornerstone of the 2015 agreement. Financing risk management instruments (re-insurance, catastrophe bonds, escrow accounts, etc.) should be built into the 2015 agreement.

Provisions on governance

The Adaptation Committee should continue to provide guidance on adaptation. Its authority should be enhanced by providing a mandate.

The use of the various adaptation tools (L&D, NAPs, AF, NWP, A&R support framework for regional and cooperative programmes etc.) created under the Convention and the Kyoto Protocol should be utilised for the implementation of commitments under the 2015 agreement.

Mitigation

Common global commitment

A long term global goal for emission reductions in the form of a global trajectory to reach 50% below 1990 levels by 2050 which, in order to be credible and fair, must be based on ambitious mid-term targets and actions and an equitable burden-sharing paradigm.

Individual commitments for all Parties pursuant to Article 4.1 of the Convention

To enhance the implementation of the provisions of Article 4.1(a) of the Convention:

- Parties will formulate and implement mitigation commitments. These may include relative emission reduction commitments and actions. This might be expressed in the form of intensity targets (reducing carbon intensity of GDP) or sets of NAMAs;
- All commitments, targets and actions will be measurable, reportable and verifiable (MRV);
- Rules related to targets or actions should include underlying assumptions and methodologies, sectors and gases covered, GWP values used, use of credits from a new market mechanism (to be agreed); and estimated mitigation outcomes; and
- Developing countries should also indicate support needs for the implementation of NAMAs.

Additional individual commitments for those Parties that have commitments under Article 4.2 of the Convention

Building on the existing commitments under Article 4.2, developed country Parties shall undertake the following specific commitments in addition to the commitments of all Parties (above):

- Absolute economy-wide emission reduction commitments or targets, against a 1990 base year (with flexibility for EITs). Mitigation commitments would take the form of QELROs, or QEERTs for multiple years defining a trajectory to 2030, with every year defined;
- Zero carbon emissions pathways should peak by 2015, start declining rapidly up to 2030, and define a long-term goal of zero emissions for each Party in 2050. The commitments and targets should be comparable among developed countries; and
- In addition to the common accounting rules for all Parties (above), developed countries shall also apply a common base year (1990; other years may also be reported for domestic audiences), treatment of LULUCF and carbon credits, expected reductions for the period 2020-2025/30; associated assumptions and conditions related to the ambition of the pledges and demonstrating progress towards QELROs/QEERTs. Lessons can also be learned from the Kyoto accounting rules enhancing comparability.

Provisions on governance

- Timelines, e.g. 2020-2030, with mid-term reviews
- Detailed guidelines accounting of land use change and forestry under the Convention

- Use of existing mechanisms, including flexibility mechanisms, land-based tools (e.g. REDD+);
- New market-based mechanism;
- Use of existing transparency provisions (national communications; biennial reports and biennial update reports; international assessment and review, and international consultation and analysis);
- Review of Annex I national communications according to revised guidelines;
- Supplimentarity threshold;
- Tools to address response measures (Forum); and
- IMO, ICAO, etc.

Means of Implementation

The 2015 agreement must contain common global commitments to:

- (a) mobilise climate **finance** on the scale necessary to achieve the ultimate objective of the Convention and to support the implementation of developing country Parties' individual commitments under this agreement;
- (b) achieve the **development and transfer of technology** to developing countries to achieve the ultimate objective of the Convention and to support the implementation of developing country Parties' individual commitments under this agreement; and
- (c) enhance **capacity** in all areas of climate change action to achieve the ultimate objective of the Convention and to support the implementation of developing country Parties' individual commitments under this agreement.

Finance

Individual commitments for Parties with obligations under Article 4.3 of the Convention

Parties with commitment under Article 4.3 of the Convention have individual commitments to provide finance, including goals for scaled up means of implementation, in particular:

- Pathways to the long-term finance commitment by developed country Parties of mobilising US\$100 billion per year by 2020; and thereby enabling technology development and transfer, as well as the enhancement of human and institutional capacity in developing countries;
- Agreement on an assessed contribution arrangement based on an agreed percentage formula (GDP, income or other) for calculating Annex I country contributions and differentiating developing country contributions;
- Agreement on a range of global policies and/or regulations governing the generation/sources of climate finance;
- Agreement on a no-incidence arrangement to safeguard economic development in developing countries;

- Systems to ensure predictability and delivery of climate finance, and national coordinating bodies; and
- Enhancing MRV of support drawing on the outcomes of the review by the COP of the function of the Standing Committee on Finance in 2015.

Provisions on governance

The existing institutional arrangements with regard to the Convention's financial mechanism will be used for the implementation of this agreement.

Enhance the utilisation of the Green Climate Fund, as an entity charged with the operation of the financial mechanism, including measurable, reportable and verifiable provision of finance;

Technology development and transfer

The commitment for the provision of support to developing countries for technology development and transfer must be reflective of the global commitments on mitigation and adaptation in pursuit of the ultimate objective as articulated in Article 2 of the Convention. The Parties must agree on enabling policy and regulatory framework to facilitate access to technology. The 2015 Agreement must enhance the operation of the Technology Executive Committee and Climate Technology Centre and Network.

Individual commitments for developing Parties under Article 4.1 of the Convention

- The development of Technology Needs Assessments with the support of Annex I Parties; and
- Commitment to develop national structures, strategies, systems and policies.

Additional individual commitments for Parties with obligations under Article 4.3 and 4.5 of the Convention

- Commitment to assign and/or buyout a specific technology and license it to developing countries (humanitarian or preferential licensing), patent pools (joint licensing schemes) or programmes, agencies, entities or subsidiary bodies of the United Nations at preferential rates;
- Commitment to assign a specific technology and legally pledge not to assert the patent rights against users in specific developing countries using the technology for restricted specific uses of technologies and in specific geographical areas;
- Acquiring a fully paid up license (no transfer of ownership to country) and making it available (sub-licensing) to developing countries (humanitarian or preferential licensing) or programmes, agencies, entities or subsidiary bodies of the United Nations at preferential rates;
- Commitment to enhance developing country access to technology through multilateral institutions as a public good;
- Commitment to a subsidy scheme that ensures partial subsidisation of a license (no transfer of ownership to country) and making it available (sub-licensing) to

developing countries or programmes, agencies, entities or subsidiary bodies of the United Nations at preferential rates;

- Commitment to an internationally agreed incentive scheme framework for technology transfer;
- Commitment to provide technical support for the development and enhancement of endogenous capacities and technologies of developing country Parties;
- Commitment to provide technical support for the deployment/dissemination of technology;
- Support for research and development and strengthening the National Systems of Innovation for developing countries;
- Commitment to enter into cooperative research and development agreements
- Domestic policy commitments by developed countries to leverage their private sector support;
- Commitment to make direct financial contributions for research and development for the development of environmentally sound technologies and know-how;
- Commitment to a technology transfer financial facility through existing or new mechanisms that will support technology transfer vehicles or schemes that will accelerate the commercialisation of research to early stage technologies; and
- Financial support for technology transfer and deployment by developed country Parties;

Provisions on governance

The existing institutional arrangements with regard to the technology financial mechanism will be used for the implementation of this agreement.

Capacity-building

The framework for capacity-building and the further development of human and institutional capacity in developing countries should be enhanced.

Transparency of Action and Support

Building on existing rules regarding measurement, reporting and verification (MRV), greater specificity is needed on MRV of support in particular. With regard to finance, enhanced transparency is required on the levels of financing, what financing is used for, which countries are benefiting, and whether funds are new and additional.

Recognition of contributions to international cooperative initiatives (ICIs) as part of the commitment by Parties should be considered. The rules regarding accounting for ICIs, particularly the extent to which credit can be given for actions outside a country's territory, should be made clear.

Catalytic Role of the Convention

Opportunity and option identification of institutional arrangements (identification of emerging opportunities, options and needs for at scale roll-out etc.).

Facilitative institutional arrangement (recognition, recording and develop support programmes for cooperative agreements between the UNFCCC and other international bodies, e.g. ICAO, IMO, Montreal Protocol, FAO, Hyogo Framework of Action, etc. and within regions, between countries, sub-national and local authorities, sectors etc.).

Subsidiary Bodies

The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve as, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol.

Inscription of Commitments

Intended nationally determined contributions will be provisionally inscribed in an annex to the 2015 agreement when the agreement is adopted at COP21.

Final individual commitments on mitigation, adaptation and means of implementation shall be finally inscribed no later than June 2017, to enable its entry into force on 1 January 2020.

Process for national adjustment and submission for inscription

- Parties need to determine whether mitigation contributions for periods from 2030 will be inscribed in an annex to the agreement and its legal nature. Our view is that it should be an integral part of the 2015 agreement.
- The implementation periods could be 10 years each.

Ex Post Assessment of Implementation of Individual Commitments

In relation to compliance, the Kyoto Protocol developed a system with facilitative and enforcement functions. The Convention provides in Article 13 for a Multilateral Consultative Process (MCP) for the resolution of questions regarding implementation. Negotiations on the MCP were not concluded, and would be worth revisiting in the context of enhanced action and implementation. The process of compliance should be consultative, facilitative and non-threatening.

The assessment must include verification of financial and other support to developing countries.

The subsidiary bodies should be given a mandate to further improve existing transparency measures.

The *ex post* assessment of the implementation of individual commitments will be based on science and equity.

Ex post assessment will include the identification of opportunities, support requirements and the need for adjustments:

- Regular reporting of progress in implementation of commitments including through the Convention processes of international assessment and review (IAR) and international consultation and analysis (ICA) during the 10 year period.
- The outcome of the *ex post* assessment will be a facilitative/consultative process.

Period end assessment and adjustment:

- The *ex post* assessment should enable dynamic adjustments of commitments and provide for an incremental adjustment process, e.g. 2020-2030, 2030-2040, etc.
- The adjustment process would be triggered by a call for new intended contributions for the next period, followed by *ex ante* assessment of such intended contributions adjustment by Parties and inscription (similar to the process described in South Africa's submission on the determination and communication of nationally intended contributions).
- Individual commitments to mitigation of a Party shall be more ambitious in a future period than its commitment for the previous period.
- The process of assessment of the implemented contribution *ex post* must be included so that there is an automatic process to reflect enhancement and compliance, as well as for facilitation.
- Non-delivery on a Parties' individual contributions will be referred to a compliance mechanism. Gaps in the existing rules also need to be addressed.

Review

Provision should be made for a review of the implementation and adequacy of common global commitments in 2025.

The review of the adequacy of aggregate efforts will be based on science and equity. The review of the adequacy and fairness of these commitments will be done against the existing but strengthened MRV system, not only for mitigation, but also adaptation and means of implementation.

The review will also assess the ambition and fairness of individual commitments and their implementation in terms of historical responsibility, current capability and national circumstances, including developmental imperatives, such as poverty eradication and inequality.

Periodic evaluation of institutional arrangement (add-up, individual performance etc.).

Outcome of mid-term review shall inform the process of determining individual commitments for the post-2030 period.

Compliance

In 2030 Parties will be required to show compliance with their individual commitments, which will be subject to a compliance mechanism to be agreed by the Conference of the Parties.

FINAL CLAUSES

Amendments to the Agreement

Signature

Ratification, Acceptance, Approval or Accession

Entry into Force

Reservations

Withdrawal

Authentic Texts

Annex: Commitments