



NEW ZEALAND

Submission to the Ad Hoc Working Group on the Durban Platform for Enhanced Action

Work Stream 1

October 2014

Elements of the 2015 Agreement

Context

This submission responds to the invitation from the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) at the fifth part of its second session held in Bonn from 4 to 15 June 2014, to make submissions on the work of the ADP (FCCC/ADP/2012/3 paragraph 22). The submission addresses elements of the 2015 Agreement and should be read alongside New Zealand's previous submissions to the ADP Work Stream 1 (March 2012, March 2013, September 2013 and March 2014) and an accompanying submission on Up-front information (October 2014).

Summary

In this submission we:

1. set out the individual and collective obligations and the contextual provisions we would expect to see in elements for a draft negotiating text;
2. propose a series of COP decisions we anticipate being needed to support and implement the agreement;
3. identify a small number of proposals that we consider will not assist progress toward agreement on elements of a negotiation text; and
4. provide, in the Annex to this submission, suggested principles to underpin accounting for the land sector, while urging the ADP to commence discussion of this issue given the impact of land sector accounting rules on quantification of intended nationally determined contributions (INDCs) for some Parties.

Introduction

This submission addresses elements of a negotiating text, to be agreed by Parties at COP 20 in Lima in December 2014. We note, with appreciation, the comprehensive recital of views and proposals set out in the co-Chairs' non-paper. Although far broader in scope than we anticipate the legally binding agreement will be, the paper usefully provides the synthesis of interventions and submissions on aspects of the new agreement, as Parties requested at ADP 2.5.

2. The task now before us is to separate out the elements proposed from the views expressed on context and the forward work programme of the ADP, and to determine which component of the 2015 package is the best fit for taking each element forward (recalling the package appears likely to comprise a legally binding agreement, national commitments in the form of schedules, and implementing COP decisions). Determining the optimal component of the package for taking forward the adaptation and finance elements, alongside mitigation-focused NDCs, will be key to the ADP's work. Success will enable the Lima COP to deliver elements of a negotiation text of the legally binding agreement in parallel with key decisions on necessary up-front information, general parameters applicable to NDCs, the review process and, desirably, work on consideration of issues related to accounting for emissions in the land sector and for markets.

Elements of a negotiating text

3. Given the limited time remaining to negotiate an agreement before COP21, it is important the elements of the negotiation text agreed in Lima comprise concepts that can be converted to draft legal text, and negotiated. New Zealand seeks a legally binding agreement that is effective, includes all Parties, and is durable - able to be implemented without the need for renegotiation over the course of time. New Zealand considers the legally binding agreement needs to be concise, because this will be easier to negotiate, and easier for stakeholders to understand and implement. In order for the agreement to be durable and concise, its provisions need to focus on the discrete matters necessary to achieve the purpose of the agreement. The purpose of the elements text is to set out the objectives and high-level concepts that will be drawn out in the legally binding agreement and further detailed in supporting COP decisions.

4. New Zealand recognises that different Parties conceptualise the purpose of the agreement in slightly different ways. This informs the nature of the rights and obligations they contemplate being established under the legal agreement. This may require political parity in the treatment of Parties' main priorities, but need not predetermine how an issue will be framed in the Paris outcome. Nor does parity require symmetrical coverage by the legally binding agreement. Not all aspects of the Paris agreement will be sufficiently enduring or universal in their application to be appropriately included in the legal agreement. Many of the details necessary to operationalise the agreement will be finalised after Paris, and will evolve. These details are best formalised in COP decisions to enable them to be updated without requiring the legal agreement to be renegotiated and re-ratified. Once Parties determine the nature of each obligation, decisions about form, legal bindingness and placement in the Paris package will be more easily made.

5. We set out below the elements of a negotiation text we think would be needed to establish obligations to be undertaken by Parties either collectively or individually. We also identify the decisions we consider the COP will need to take to complete the Paris package in addition to adopting the legally binding agreement.

Collective obligations*:

*grey shading denotes proposal for COP decision rather than inclusion in the legal agreement

Adaptation	To enhance action on adaptation including addressing loss and damage, through international cooperation and coherent consideration of matters relating to adaptation under the Convention.
	To enhance transparency of action on adaptation including reviewing effectiveness of action taken.
	(All Parties in a position to do so) to assist vulnerable countries and those with least capacity to adapt to the challenges of climate change, through institutions and bodies under the UNFCCC and through bilateral and regional adaptation programmes.
	The Paris COP will need to take a decision defining the adaptation framework for the new agreement, consolidating and coordinating existing institutions, including the Cancun Adaptation Framework and Nairobi Work Programme.
Mitigation	To respect the principle of bounded flexibility whereby Parties agree broad parameters to apply to mitigation commitments (e.g. quantification of emissions impact, time period (5 or 10 year cycles), metrics for conversion of gases, default requirement that commitments will cover all sectors and gases) and accept Parties may deviate from some of these parameters within agreed limits (for example, fixed time periods for transition, restrictions on excluding material emission sources, requirements to report excluded emissions in national GHG inventories).
	To agree and apply a process for reviewing, updating and formalising the schedules that set out nationally determined mitigation commitments.
	The Lima COP will need to decide the details of the process Parties will follow to table, review, finalise and formalise intended nationally determined mitigation commitments (see accompanying New Zealand submission on INDCs).
	The Paris COP will need to take a decision adopting or noting the tabled INDCs.
	At, or subsequent to the Paris meeting, the COP will need to decide details of a process to review and update schedules setting out future (including overdue) mitigation contributions.

Transparency	<p>To agree and implement a universal transparency framework, including:</p> <p>(1) National inventories to be prepared and submitted by all Parties following IPCC guidelines</p> <p>(2) Reports on progress towards national mitigation commitments prepared and submitted, applying:</p> <ul style="list-style-type: none"> (i) common metrics for conversion of greenhouse gases, as adopted by the Parties, (ii) land sector accounting approaches consistent with agreed principles for this purpose (see attached Annex); iii) rules applicable to Parties that elect to participate in carbon market activity for purposes of meeting their mitigation commitment, as required to ensure units are generated and traded in ways consistent with the environmental integrity, transparency and effectiveness of the agreement (for example processes to ensure additionality and to prevent double counting); (iv) rules to encourage over-achievement and to enable carry-over of surplus units/mitigation from one commitment cycle to the next; and <p>(3) International peer review of such reports, frequency of which could be differentiated according to global share of emissions.</p>
Accountability	<p>To implement all commitments made under this agreement and, as required, to cooperate with any mechanism agreed to assist Parties to maintain compliance.</p> <p>The Paris COP will need to take a decision setting out the details of a facilitative accountability mechanism to assist Parties to implement their commitments, This might provide for a common multilateral consultative process for peer review of progress against targets and establish an Implementation Committee, determine its composition and decision-making rules, provide that its scope encompasses conformance with transparency and markets rules and with implementation of NDCs, and define triggers for mobilising its facilitative action and effective early warning components.</p>
Finance	<p>All Parties in a position to do so to provide climate finance in the post-2020 period to support Parties, particularly those most in need, to meet their obligations under the agreement.</p> <p>Parties that provide and receive climate finance to measure, report and verify flows of climate finance.</p> <p>To ensure provision of climate finance is effective, and focused on building a partnership among governments, development partners, and the private sector to invest in a low carbon and climate resilient future, and:</p> <ul style="list-style-type: none"> • encourages and supports recipient countries to set their own strategies for responding to climate change (“country ownership”); • aligns behind recipient countries’ identified priorities for responding to climate change; • is delivered in coordinated ways, using simplified procedures to

	<p>avoid duplication, allow for flexibility, and ensure efficiency and transparency;</p> <ul style="list-style-type: none"> • targets mitigation and adaptation results that are able to be measured, reported and verified; and • does not displace private-sector investment.
	<p>The Paris COP will need to take a decision defining the finance mechanism for the new agreement, consolidating and coordinating existing institutions and processes relating to climate finance for the new agreement, and underlining the importance of country ownership, alignment, coherence, coordination, transparency, a focus on results and enabling the engagement of the private sector.</p>
	<p>The Paris COP may also promulgate a political declaration on climate finance, for example to shift [x%] of capital flows from brown to green investment by [2050].</p>

Individual obligations:*

*grey shading denotes proposal for COP decision rather than inclusion in the legal agreement

Adaptation	To ensure resilience to the adverse effects of climate change by integrating policies to enhance adaptation into national planning and actions.
Mitigation	To table a nationally determined mitigation contribution that conforms to any parameters agreed for such contributions, with sufficient up-front information to facilitate transparency and understanding of the intended commitment.
	To formalise that contribution in a national schedule, and to maintain a national schedule in place at all times by submitting a new national schedule before the previous schedule expires;
	To provide information on measures that will assist in the implementation of nationally determined mitigation commitments.
	To report on progress towards achievement of the commitment according to transparency arrangements agreed among the Parties.
	To increase the ambition of mitigation commitments over time from the beginning of the agreement until its purpose is achieved, subject to force majeure.
	To move toward alignment with agreed parameters over time if not aligned from beginning of agreement (and as national circumstances allow).
	The Lima COP will need to decide the up-front information requirements each Party must satisfy for the first commitment cycle, (and later COPs will make equivalent decisions for later cycles). This decision may additionally set common parameters for nationally determined mitigation contributions such as the commitment cycle, the common metric to be applied for conversion of gases, and a default position that mitigation

	contributions will be economy-wide unless a Party determines otherwise.
	At, or subsequent to the Paris meeting, the COP will need to establish the transparency arrangements including: <ul style="list-style-type: none"> ○ detailed rules for the universal transparency system and the transition to that system; ○ accounting principles for the land sector and processes to operationalise those principles, such as expert reviews of any reference levels proposed for use by Parties; ○ rules for use of carbon markets to help meet commitments (see New Zealand submission to SBSTA of September 2014 on the Framework for Various Approaches for further details); and ○ rules for accounting for progress against commitments, including management of carbon budgets.

Contextual provisions:*

*grey shading denotes proposal for COP decision rather than inclusion in the legal agreement

6. New Zealand recognises a number of additional provisions and concepts need to be addressed in the legal agreement to establish the context in which the individual and collective obligations will operate. These may take the form of preambular and final clauses and institutional provisions that guide Parties in their implementation of the agreement. We set out below the elements we think are needed in a negotiation text for this purpose.

Universality	Agreement to aim for and incentivise universal participation by taking account of national circumstances.
Relationship with the Convention	Agreement the purpose of the new agreement is to achieve the objective of the Convention and the new agreement supports the enduring operation of the Convention in a dynamic environment.
Global goal - mitigation	Agreement to an aspirational global mitigation goal of ensuring any increase in global temperature due to climate change is below 2 degrees Celsius; and one or more complementary secondary goals (for example: reducing global CO ₂ emissions to net zero by 2050, global carbon neutrality phase out of fossil fuel subsidies).
Global goal - adaptation	Agreement to an aspirational goal of ensuring preparedness for the unavoidable impacts of climate change and resilience in the face of future uncertainties about those impacts.
Implementation	Confirmation that mitigation objectives should be met without compromising food security, in a way that allows economic development to proceed in a sustainable manner and that allows ecosystems to adapt.
	Recognition that in taking mitigation action in agriculture, forests and in respect of other land uses under the Agreement, Parties may need to accommodate multiple sustainable land management objectives, including food production.
	Agreement that Parties applying removals by sinks and reservoirs to meet mitigation commitments should use methodologies agreed upon by the COP.

	Agreement that Parties using carbon markets to help meet mitigation commitments should follow common minimum standards or guidelines.
Capacity building	Confirmation that capacity building is important for supporting Parties, particularly those most in need, to meet their obligations under the agreement.
Technology transfer & development	Confirmation that technology transfer and development is important to support Parties, particularly those most in need, to meet their obligations under the agreement.
Institutions	Agreement that the Conference of the Parties, secretariat, Subsidiary Body for Scientific and Technological Advice, Subsidiary Body for Implementation of the Convention will serve this agreement.
	Agreement that finance, technology development and transfer and capacity building under the agreement will be delivered through institutions and mechanisms operating under the Convention, in accordance with relevant decisions of the Conference of the Parties.
	The Paris COP will need to take a decision confirming that the Technology Mechanism is the mechanism for technology transfer and development under the new agreement.
Status of schedules	Agreement that national schedules are necessary to and sit alongside the legal agreement but are not part of it.
Final clauses	For example: Agreement that entry into force provisions that ensure appropriate participation; and amendment procedures that enable Parties to readily update their commitments.

Exclusions from the elements of the negotiation text

7. New Zealand notes the wealth of proposals put forward by Parties for inclusion in the elements of a negotiation text. Many of these have informed our proposals above. However, New Zealand considers some of the proposals made will not prove durable, universally applicable or conducive to reaching an agreement that can effectively achieve the objective of the Convention. We comment on a number of these below.

*Binary differentiation: application of **Annexes** to the Convention **or other fixed categories of countries** as the operational basis for determining obligations under the new agreement*

8. New Zealand is deeply sceptical about using fixed categories of countries as the determining factor for who is required to do what under the new agreement. It is possible to leave the Annexes as they are, while using other mechanisms to deliver dynamic and nationally appropriate CBDR/RC. An agreement operationalised on the basis of a binary determination of who does what would discourage participation and ambition. On the contrary, we need the new agreement to incentivise mitigation by Parties in different circumstances, in ways that do not limit action by any Party.

9. National determination of contributions allows Parties to self-select the type and ambition of their mitigation contributions to suit their national circumstances. Different commitment types lend themselves to different transparency requirements – both ex ante and ex post the tabling of contributions. A common transparency framework can accommodate parties at different stages of development – the tiered approach of the IPCC guidelines for national greenhouse gas inventories, for example. An accounting menu, from which Parties select options best suited to their national circumstances will also align expectations of Parties with their circumstances. In respect of providing finance, categories of countries make little sense in the context of the magnitude of the task. All Parties in a position to do so should support the most vulnerable and least capable.

10. We note also the severe limitations categories fixed in 1992 for purposes of maximising action to take place from 2020 onward. Now we have agreed mitigation contributions should be nationally determined, it is incongruous to constrain mitigation options for some countries and not others. Only by moving away from categorisation toward bounded flexibility will we arrive at an effective rules-based regime that is genuinely applicable to all.

Conditionality of action: *mitigation by some Parties being subject to provision of support by other Parties*

11. New Zealand recalls that Parties have already agreed that the new agreement is applicable to all. This means that all countries will be expected to mitigate to the extent their national circumstances and respective capacities allow. As discussed above, the agreement can and should be designed to allow Parties to tailor their responsibilities to their circumstances without need for pre-conditions. Indeed, the effectiveness of the agreement depends on all Parties taking responsibility for their own contributions. We understand that any Party could mitigate and adapt more with greater resources available; however, in an agreement that is applicable to all it is unworkable for a country to claim all action must be contingent on receipt of resources from others. We believe the genuine limitations on Parties' capacity to act can be accommodated by allowing Parties to determine their own contributions and by requiring all Parties in a position to do so to provide support – finance, capacity building, technology – to assist Parties in need.

Quantification of finance commitments: *national finance targets, finance pathways and goals, fixed allocation between mitigation and adaptation*

12. There is no question that some countries will require support to be able to meet their obligations under this agreement. But Parties' ability to provide, and need to receive, finance will be dynamic over the lifetime of the agreement. In defining the finance element of the negotiation text, we should seek to ensure the agreement will maximise investment in the transformation to a low-carbon, climate resilient global economy. We should recognise that success in provision of financial support should be measured by the extent to which this

transformation is achieved, not by the quantum of finance flows. Quantum is an indicator of effort, not of outcome.

13. As above, New Zealand is looking for a legal agreement that is effective and durable. For many countries, including New Zealand, legally binding undertakings on government expenditure cannot be given years in advance of the relevant budget cycle. An obligation to quantify finance contributions in the new agreement would be unworkable – and a barrier to participation.

14. The finance now flowing, and needed in the future, will be drawn from an increasingly diverse range of sources, much of which will be independent of government control and impossible to quantify as individual Party contributions. To divert effort into quantification, prescribing channels of finance, and restricting the nature of financed activities risks undermining the finance flows, inter-country collaboration, and Parties' focus on the mitigation and adaptation action required to achieve the purpose of the agreement.

Conclusion

15. New Zealand looks forward to an in-depth discussion of these matters at the October 2014 Bonn meeting.

Annex: Land Sector Accounting principles

Given that nearly a quarter of global emissions derive from the land sector, New Zealand considers it important that the new agreement encourages Parties to address these in order to contribute to an effective global response. For many Parties however, the imperative of increasing production, the challenges of measuring emissions, and the complexity of current land sector accounting practices present a formidable deterrent to committing to action. New Zealand suggests resolution can be found in development of an accounting framework that incentivises incremental mitigation action, aligns transparency requirements with capacity, and is sufficiently simple and flexible to accommodate a diversity of national circumstances.

As with other aspects of this agreement, existing accounting arrangements, with modification, can form the backbone of the new system. For example;

- the broad Kyoto framework includes important accounting principles and provisions for land sector activities and specific circumstances, but was designed for a narrow group of countries with a single mitigation commitment type and relatively homogenous objectives for their land sectors;
- GHG Inventory Reporting Guidelines provide useful tools for accounting for land sector emissions, but some types of mitigation commitment will be narrower in scope than national inventories; and
- incentives for reducing deforestation have been considered under REDD+, but these present challenges in an applicable-to-all agreement, for example in terms of common MRV standards and integration with markets.

Here New Zealand submits proposed principles to underpin land sector accounting, and an illustrative framework demonstrating how Parties might transparently account for land sector emissions, including by drawing on existing rules as applicable, whilst maintaining consistency with these principles.

Principles:

1. Parties may use mitigation in the land sector towards their nationally determined mitigation commitments.
2. Parties may adopt approaches to mitigation in the land sector, and account for these in ways, that accommodate their national circumstances and multiple sustainable land management objectives, provided these are consistent with these principles and IPCC guidance where available.
3. The implementation of mitigation activities, policies and measures in the agriculture, forestry and other land use sectors should contribute to the conservation of biodiversity and sustainable use of natural resources, and should not constrain food production.

4. Once the land sector is included in a national mitigation commitment, coverage of that sector should expand throughout a commitment cycle and for subsequent cycles to include all key categories of emissions and removals, as defined by IPCC guidance, taking account of national circumstances.
5. Definitions of forest, land use and activities should be used consistently throughout a commitment cycle and for subsequent cycles.
6. Consistent methodologies should be used for estimation and reporting of activities throughout a commitment cycle and for subsequent cycles.
7. Once a source or sink is covered by a mitigation contribution, it should remain covered in future contribution cycles.
8. The mere presence of carbon stocks should be excluded from accounting.
9. Non-anthropogenic emissions and removals should be excluded from accounting.
10. Accounting should exclude removals resulting from (i) the dynamic effects of age structure resulting from activities and practices before the reference year; and (ii) carbon flux effects arising from natural processes in the absence of direct human intervention.
11. Projected reference levels and other dynamic baselines should be subject to technical assessment to support on-going transparency, completeness, consistency, accuracy and comparability.
12. Mitigation results in the land sector should not be double claimed by a Party or double counted by more than one Party.

