

The 2015 Paris Climate Agreement: International Law and Policy Foundations

Course Outline

Peter Krug: January 7, 2020 (revising October 14, 2019 outline)

- I. Meeting One (Friday, January 10, 2020): Introduction to the Paris Climate Agreement; Three Long-term Factors Shaping the Agreement
 - A. The Paris Agreement: Central Instrument of the U.N. Climate Change System
 1. Objective: strengthen the global climate change response by spurring and coordinating national actions
 2. Pathways: mitigation (reduction of greenhouse gas emissions) and adaptation (managing the impacts of climate change)
 - B. 2020: A Pivotal Year
 1. Climate trends, 2010-2020, and scientific projections
 2. Governmental steps:
 - a. Expected U.S. withdrawal: November 4th
 - b. Glasgow Conference of the Parties, November 9-19: required submission of national upgrades of current mitigation pledges
 - C. Three Long-term Factors Shaping the Paris Agreement
 1. Climate science
 - a. The basis for establishment of the global climate change system in 1992
 - b. Ongoing scientific reports to inform policy decisions
 2. International law
 - a. Multilateral treaties: voluntary state entry
 - b. Treaty effectiveness: rule stringency and level of state participation
 3. Climate politics
 - a. Differing state interests and priorities of Paris negotiating groups
 - b. Climate change and sustainable development goals
 - c. The developed country/developing country demarcation; status of China and India
- II. Meeting Two (Friday, January 17, 2020): The U.N. Climate Change System; Mitigation in the Paris Agreement and in National Actions
 - A. The U.N. Climate Change System: Texts and Decisions
 1. U.N. Framework Convention on Climate Change (1992)
 - a. Kyoto Protocol (1997)
 - b. Paris Agreement (2015)
 2. Decisions of annual Conferences of the Parties
 - B. Mitigation in the Paris Climate Agreement
 1. Global goals for stabilization and eventual reduction of atmospheric greenhouse gas concentrations
 - a. Long-term term temperature goal: limiting increases to 1.5-2.0⁰C
 - b. Peaking of greenhouse gas emissions as soon as possible
 - c. Net zero emissions by 2050
 2. Spurring and coordinating national actions
 - a. Departure from the Kyoto Protocol's top-down targets, limited to developed countries

- b. Bottom-up approach: pledges and planning
- c. “Nationally-Determined Contributions” (NDCs) required of all parties
- d. Long-term national strategies toward net zero emissions
- e. Ratcheting up national ambition: five-year cycles

C. National Mitigation Policies

- 1. Command-and-control regulation, particularly the energy sector
- 2. Technological innovation
- 3. Natural carbon sequestration
- 4. Market-based approaches (carbon pricing)
- 5. Re-directing public and private finance

III. Meeting Three (Friday, January 24, 2020): Paris Agreement: Global Climate Finance; Cooperative Market-Based Mitigation Mechanisms

A. Climate Finance

- 1. The world of finance, public and private sectors
 - a. Public sector: state subsidies; development banks; international funds
 - b. Private sector: commercial lending; corporate investment
- 2. The Paris Agreement:
 - a. Re-direction of finance flows toward climate finance (low greenhouse gas emissions and climate-resilience development)
 - b. The \$100 billion annual finance mobilization pledge
- 3. Patterns of climate finance
 - a. Private: toward mitigation, particularly in energy sector
 - b. Public: toward attracting private climate investment; toward adaptation and natural sequestration (*e.g.*, forest conservation)

B. Cooperative Market-Based Mitigation Mechanisms

- 1. Support for linkage of national emission reduction systems, including international trading of reduction credits
- 2. Support for market-based arrangements aimed at mitigation and sustainable development

IV. Meeting Four (Friday, January 31, 2020): Paris Agreement: Adaptation; Support for Developing Countries

A. Adaptation (Resilience): Increased Emphasis in Paris Agreement; National Planning

B. Support for Developing Countries

- 1. Adaptation funding
- 2. Loss and damage
 - a. Terminology
 - b. Paris Agreement: inter-state cooperation on averting, minimizing and addressing loss and damage resulting from adverse effects of climate change
 - c. Controversy at 2019 Madrid Conference: liability and compensation for climate harms

3. Capacity-building
 - a. Goals: enhancing states' ability to take effective action, such as human resource development and institutional support
 - b. Paris Agreement: collective duty of developed countries; enhancement of support through climate system institutions
4. Technology transfer
 - a. Differing positions: developed and developing countries
 - c. Patent rights questions not resolved

V. Meeting Five (Friday, February 7, 2020): Implementation of Paris Agreement Measures

- A. Transparency
 1. Purposes of the transparency framework
 2. National reporting requirements
 3. Accounting standards
 4. Technical expert review
 5. Review of Parties' progress toward efforts to support developing countries
- B. Compliance
 1. Generally, the question of enforcement in international law
 2. Different approaches in international law, including prescription (sanctions for non-compliance) and facilitation (advice and assistance)
 3. Paris Agreement: a compliance mechanism, expert-based and facilitative in nature, that is transparent, non-adversarial, and non-punitive
- C. Assessments of Collective Progress: "Global Stocktakes" in 2023 and Every Five Years Thereafter

VI. Meeting Six (Friday, February 14, 2020): Advancing the Paris Goals: Non-Party Stakeholders and Complementary Multilateral Systems; Course Summary

- A. Non-Party stakeholders
 1. Sub-national governmental units
 2. Non-governmental organizations (NGOs); private sector
- B. Multilateral Systems
 1. Ozone layer protection
 2. International Maritime Organization
 3. International Civil Aviation Organization
- C. Course summary:
 1. Perspectives for assessment of the Paris Agreement's effectiveness
 2. Group discussion
