

PLATO Society

Taking Stock: the Paris Climate
Agreement Conference of the
Parties in Dubai, December, 2023

January 19-February 16, 2024

Peter Krug

First Meeting: 1/19/2024

The Dubai Climate Conference, 11/30/24-12/13/24

- This course will center on decisions made at this international conference (“COP28”)
- However, today’s meeting will be devoted in large part to the context in which those decisions were made:
 - The multilateral climate change system (the “Paris Climate System”, or “Paris System”)

Course Goal

- **The annual COP (“Conference of the Parties”) is a key institution within the Paris Climate System.**
- **Therefore, my goal is to provide a foundation for examination of COP28 and future developments in the evolution of the Paris Climate System.**
- **According to climate scientists, the 2020’s will be crucial if the world is to slow down climate change.**

Course Goal (continuing)

- The perspective will be governmental action on a global scale: thus, less detailed attention to individual countries or sub-national units.

My Interest in This Subject:

- Professor of international law, University of Oklahoma College of Law, 1991-2011
- Interested in the organization of multilateral efforts to address global problems.

Tentative Course Outline

- **Today (week one):**
 1. **The Paris System;**
 2. **COP28 introduction**
- **Week 2 (Jan. 26th): COP28 and mitigation**
- **Week 3 (Feb. 2nd): COP28 and adaptation**
- **Week 4 (Feb. 9th): COP28 and means of support for implementation**
- **Week 5 (Feb. 16th): Prospects for effective implementation of COP28**

Announcements

- Not necessary: background in course topics
- Primary format: lectures, with PowerPoint
 - Questions & comments welcome; please speak up, because I won't see you when showing PowerPoint slides
 - When not speaking, please be muted
- Short break in middle of the meeting

The Paris Climate System: Outline

- I. Origins
- II. Constructing the System: the two-tiered structure
- III. Updating the System: the 2015 Paris Climate Agreement
- IV. How the Two-tiered System currently operates

The Paris Climate System:

I. Origins

- **1980's: Climate science warnings**
 - In late 1980's, governments began to take notice of climate scientists' warnings about climate change.
 - Creation of Intergovernmental Panel on Climate Change ("IPCC"): 1988
 - A political component
 - Scientific reports (periodically updated) continue to inform policymaking in the evolving Paris System

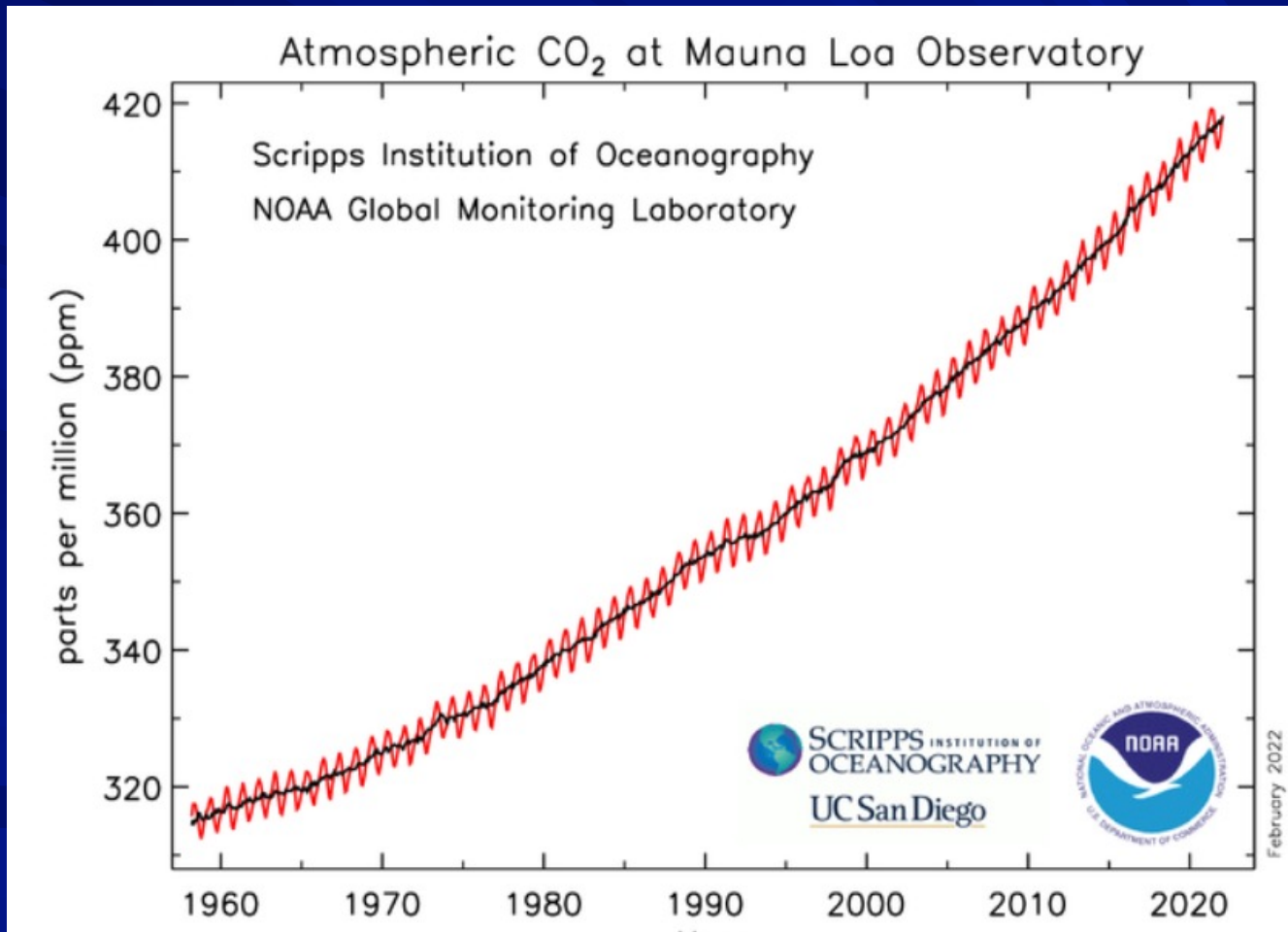
Climate Science: Key Tenets

- **Global warming (and therefore climate change) is occurring and intensifying**
- **Primary cause: increasing global emissions of greenhouse gases (GHG's) (carbon dioxide; methane; nitrous oxide). GHG molecules in the atmosphere absorb heat energy coming from the earth. That heat energy is then re-transmitted back to the earth.**
- **With excess GHG's in the atmosphere, too much heat returning to earth.**

Climate Science: Excess GHG's in the Atmosphere

- GHG atmospheric concentrations are measured in “parts per million”

CO₂ Parts Per Million, Late 1950s-2021



Climate Science: Key Tenets (continuing)

■ Climate change has dangerous impacts:

- Changes in climate patterns
- Immediate impacts: heat waves, wildfires, droughts, extreme storms, flooding
- Long term, permanent impacts (slow onset events): e.g., sea level rise; melting of permafrost
- Impacts on all life: food supply, disease, population displacements

Climate Science: Why Have GHG Emissions Increased?

- The result primarily of human activity (emissions)
- WMO report (Dec. 3, 2020): “Increasing levels of greenhouse gases in the atmosphere due to human activities are the major driver of climate change since the mid-20th century.”

Climate Science: Which Human Activities?

- Much of the increase is from the energy sector
- Consumption of energy makes up roughly 75% of global GHG emissions
- Much of this from combustion of fossil fuels: coal, gas (natural gas), crude oil

Climate Science: Implications for Governance

- Global coordination essential: GHG's do not know political boundaries
 - Even dramatic emissions reductions in any one country won't solve the problem.
- Urgency: GHG's, especially carbon dioxide, have long atmospheric residencies.
 - because they are cumulative, the situation is increasingly urgent
 - Why the rising level of ppm's is such an important indicator
 - Earth is using up its “carbon budget”

II. Constructing the Global System

The UNFCCC (1992)

- **The “U.N. Framework Convention on Climate Change”**
 - **The Paris System’s foundation document (a constitution)**
 - **Currently, 197 Parties (including the U.S.)**
 - **Recognition of climate and the threat that it poses**
 - **Institutional structure, including the annual “Conference of the Parties”**

A Complex Challenge

- Climate change has been called “a super wicked challenge”

Climate Change: A Governance Dilemma

- The exercise of governmental functions in the world is divided among more than 190 sovereign nation-states (*U.N. has 193 members*).
- These countries have differing political systems and economic circumstances
 - Most pronounced differences: developed and developing countries
- But the global climate is a shared natural system. Doesn't operate according to national boundaries.

The Enforcement Question in International Law

- Countries are very protective of their national sovereignty (exclusive control over territory within their borders)
- Therefore, generally very resistant to placing coercive enforcement measures in treaties
- In lieu of coercive enforcement: monitoring, peer pressure, persuasion, reciprocity (built on trust)

Constructing the System (continuing)

- **Components of the campaign:**
 - mitigation, adaptation, support
- **“Mitigation”:** the stabilization and eventual reduction of greenhouse gas emissions.

Adaptation

- **“Adaptation”:**
- **Anticipation of adverse effects of climate change; and**
 - **Steps to prevent or minimize damage from those effects**
 - **For example: sea walls; development of drought-resistant crops; early warning sirens**
 - **Of great importance for developing countries**

Third Component: Support for Mitigation and Adaptation

- The transition deemed necessary to battle climate change entails enormous costs globally
 - Sources of funding?
- Support for developing countries
 - In addition to funding, includes capacity-building and technology transfer
 - “Loss and damage” (funding for irreparable damage caused by climate change)

Constructing the System: The Two Tiers and Their Relations

- **A two-tiered system:**
 - **The “international tier”:** the Parties to the UNFCCC, acting collectively
 - **The “national tier”:** the 190-plus sovereign states, acting individually
- **The challenge: how to coordinate relations between the two tiers effectively**
 - **Allocation of authority and responsibilities**

Relations Between and Within the Tiers: Fundamental Choices

- Which is more effective:
 - Breadth of participation (keep everyone in the system) or depth of commitments (intensify stringency)?
 - The former prioritizes compromises between Parties

Fundamental Choices: Continuing

- **Level of coercion from the international tier**
 - Two models:
 - “enforcement” (penalties for individual Parties’ non-compliance with specific duties) or
 - “managerial” (setting of collective goals, encouragement and facilitation of national action (e.g., transparency, reciprocity, capacity-building))

Fundamental Choices (continuing)

- **Identification of action targets:**
 - **Two models:**
 - **“Top-down” (collectively negotiated targets for Parties’ actions)**
 - *E.g.*, the 1997 Kyoto Protocol: specific emissions reduction targets for developed county Parties
 - **“Bottom-up” (individual Parties determine their own specific targets, in furtherance of collective international tier goals)**

Bottom-up Model: the Paris Climate Agreement

- All Parties required to adopt targets and plans, but with autonomy to make their own choices as to targets and implementation steps
- Application of the UNFCCC principle of “common but differentiated responsibilities and respective capacities”

Fundamental Choices: the Current System

1. Breadth of participation over depth of commitments
 - Linkage with the “consensus” requirement for COP decision-making
 2. Managerial model over enforcement model
 3. Bottom-up model of specific implementation decisions, rather than top-down
- Matter of debate: are these adequate for the urgent needs of the 2020's?

III. Updating the System: the Paris Climate Agreement (2015)

- 193 Parties, including the U.S. (re-joined in 2021).
- Articulation of long-term temperature goal
- Identification of 2050 target
- New system for bottom-up national commitments
 - Parties required to submit “nationally determined contributions” (NDC’s) on a periodic basis
 - The “ratcheting” approach: each successive submission to include “highest possible ambition”

Long-term Temperature Goal

- Hold the increase in the earth's average temperature to “well below” 2.0⁰ Celsius (3.6⁰ Fahrenheit) above pre-industrial levels.
- Pursue efforts to limit the increase to 1.5⁰ Celsius (2.7⁰ Fahrenheit).
- Currently, earth's average temperature has risen 1.1⁰ Celsius (2.0⁰ Fahrenheit) since 1850.

The 2050 Interim Target (“net zero”)

- **Targets = signposts to maintain alignment with the long-term temperature goal**
- **Guide current planning by governments and businesses (e.g., whether to limit fossil fuels or to build new coal-fired power plants)**
- **The 2050 and 2030 dates are not intended as deadlines: Parties do not have until those years to initiate emission reduction policies**

The 2050 Interim Target (continuing)

- **“Net zero” carbon dioxide emissions by 2050**
 - **“Net zero” = human-based emissions minus removal by “sinks”**
 - **“Sink” = any process, activity or mechanism that removes a GHG from the atmosphere (e.g., forests)**

National ambition and action: NDC's

- The Paris Agreement places the individual Parties in charge over GHG emissions within their borders
- Duties of planning and implementation
- “Nationally-determined contributions”
 - Pledges (targets, detailed policies)
 - Implementation steps (“actions”)

The Nature of the NDC Requirements

- **These steps are required, but each Party makes its own substantive decisions: no one size fits all. The purpose: encourage broad participation of all countries [breadth over depth]**

IV. The Current Paris Climate System

- **Constructed by the States, with its powers and responsibilities delegated by the States**
- **The international and national tiers**
 - **International:**
 - **The Agreements (UNFCCC, Paris)**
 - **The COPs (supreme process for collective decision-making beyond the Agreements)**
 - **On-going administration between COPs (the UN “UNFCCC” agency)**
 - **National tier: the 193 state-Parties to the UNFCCC**

Important Players Outside the Formal System

■ “Non-Party Stakeholders”:

The Paris System recognizes and encourages their contributions to the global campaign against climate change, but they do not have powers or responsibilities within the System’s operation

- Non-governmental organizations (NGOs)
- Private sector organizations
- Women, youth, Indigenous Peoples

The System's Operation: Allocation of Responsibilities

- **International tier: collective responsibility for function of the System as a whole:**
 - **The Parties make decisions as to collective goals, targets, and implementation steps**
 - **Lacks enforcement authority over individual states as to whether they contribute to carrying out collective responsibilities) (managerial model, not enforcement model)**

International Tier (continuing)

- **Decision-making process:**
 - COP “Decisions”
 - The consensus requirement: procedure whereby a conference takes a decision in the absence of a vote
 - The Parties do not have a “vote”
 - COP President concludes negotiations by recognizing existence of agreement among the Party delegations

Consensus Requirement (continuing)

- In the Paris System, viewed as advancing the priority of breadth of participation.
- Results in compromises, rather than crisply-articulated positions on specific questions (e.g., status of fossil fuels)

The System: Allocation of Authority and Responsibilities

- **To the individual Parties (the national governments):**
 - **Enforcement authority within their national jurisdiction**
 - **Responsibilities to the Paris System:**
 - **Adoption and implementation of policies to advance the System's collective goals and targets (the bottom-up model, not top-down model),**

National Tier: Adoption of Policies

- Per principle of “Common but differentiated responsibilities and respective capacities” (CBDRRC)

COP28 (Dubai, late 2023)

- All of the above is the setting for the COP28 conference

United Arab Emirates: Arabian Peninsula



Dubai: UAE's Largest City



What is a “COP”?

- **Stands for “Conference of the Parties” to the 1992 UNFCCC**
- **Held annually (important element of the system’s evolutionary character)**
- **Purposes:**
 - **Review on-going implementation of the UNFCCC and the Paris Agreement; and**
 - **Make decisions necessary to promote their effective implementation**

What Happens at a COP?

- A negotiating forum
- The final action of a COP is a “Decision” (statement of conclusions)
- Also, consideration and possible adoption of measures for implementing the goals of the Paris System (“incremental measures”)
- Opportunities for exchange of information and ideas

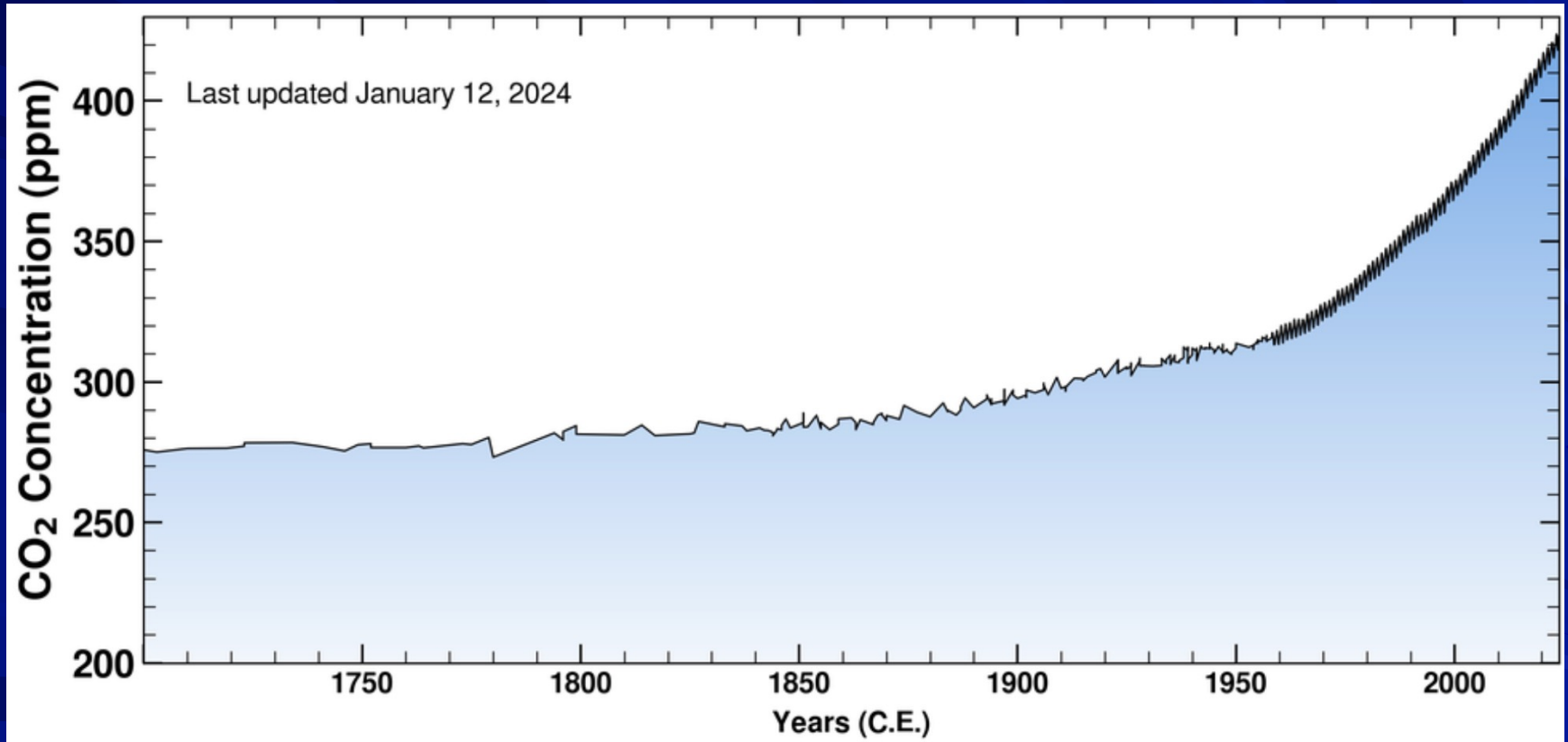
COP “Decisions”

- Adopted by consensus at a session of all the Parties (the “Closing Plenary”)
 - Adoption preceded by negotiations in smaller thematic groups on topics to be addressed in the draft Decision.
 - Their results merged into a draft “Decision” text

COP28: the Climate Setting

- **2023 hottest year**
- **All-time high carbon dioxide parts per million: 424 average in May, 2023**

Carbon Dioxide Concentrations up to January 12, 2024



Why in the UAE?

- **Location rotates among five geographical groups. They decide the country and the country chooses the city.**
- **UAE one of the world's top 10 oil producers**
- **COP26 (2021) was in Glasgow, U.K.**
- **COP27 (2022) in Sharm el- Sheikh, Egypt**
- **COP29 (2024) in Baku, Azerbaijan**
- **COP30 (2025) in Belem, Brazil**

Why is location important?

- **Presidency of the Conference: control over agenda, conduct of plenary sessions (especially Closing Plenary]**



Sultan Ahmed Al Jaber

President, COP28; Chief, Abu Dhabi Nat'l Oil Co.; Chair, Abu Dhabi Future Energy Co. (state-owned renewables)

COP28 Attendees

- **Roughly 85,000**
 - **Camp Randall Stadium capacity: 75,822**
 - **COP1 (Berlin) was 4,000 attendees**
- **Categories of attendees:**
 - **Party delegates: 51,000**
 - **Representatives off “Observer organizations” (NGOs, etc.) (accredited by UNFCCC)**
 - **Other members of the public, admitted by UAE**

“Internal” and “External” Conferences

- One way to visualize this: “internal conference” and “external conference” [or “Inside Conference” and “Outside” conference]
- Another way: Blue Zone and Green Zone in the Conference Center
- Party delegations: the “internal conference” in the Blue Zone

Conference Activities

- **General mixing of attendees (networking, deal-making)**
- **Thematic programs**
 - *E.g.*, **Climate Change and Health; nuclear power**
 - **Often arising from these: side agreements (or “international pledges”)**
 - *E.g.*, **climate change and health, nuclear energy, methane emissions reductions)**

Conference Activities (continuing)

- **Special events devoted to inclusion**
 - For example, a “Youth Climate Dialogue”
 - A week-long series of youth-led dialogues with negotiators and high-level experts on key issues of the climate agenda
- **Party negotiations: the “Closing Plenary”**
 - agenda

COP28: Youth Climate Dialogue



The Closing Plenary



The Closing Plenary:

- Devoted to the Global Stocktake and adoption of the COP28 Decision (entitled “Outcome of the first global stocktake”)
- The Global Stocktake
 - Intense, two-year process
 - Experts, Non-Party Stakeholders, Party Representatives
 - Status report and prescriptions for implementation steps going forward

Question: What are the Purposes of this Process?

- A COP's Decision is given widespread publicity around the world
- Temperature goals and targets
- Signals of probable governmental action to national and sub-national governments, NGO's, the private sector (businesses and investors)

The Decision Itself

- Detailed: Preamble plus 196 numbered sections
- Divided into sections (“Cross-cutting”, mitigation, adaptation, support, and others)

The COP28 Decision: Selected Provisions

- **Par. 28:** “[*The COP*] recognizes the need for deep, rapid and sustained reductions in greenhouse gas emissions in line with 1.5 ° C pathways and *calls on* Parties to contribute to the following global efforts, in a nationally determined manner, taking into account the Paris Agreement and their different national circumstances, pathways and approaches:

Par. 28 (continued)

(d) Transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science”

Par. 1

- “[*The COP*] welcomes that the Paris Agreement has driven near-universal climate action by setting goals and sending signals to the world regarding the urgency of responding to the climate crisis”

Par. 2

- **[D]espite overall progress on mitigation, adaptation and means of implementation and support, Parties are not yet collectively on track towards achieving the purpose of the Paris Agreement and its long-term goals**

Par. 3

- “[*The COP*] reaffirms the Paris Agreement temperature goal of holding the increase in the global average temperature to well below 2 ° C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 ° C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change

Par. 5

“*[The COP] Expresses serious concern* that 2023 is set to be the warmest year on record and that impacts from climate change are rapidly accelerating, and *emphasizes* the need for urgent action and support to keep the 1.5 ° C goal within reach and to address the climate crisis in this critical decade”

Par. 15(a)

- **[The COP]** *Notes with alarm and serious concern* the following findings of the Sixth Assessment Report of the Intergovernmental Panel on Climate Change:
 - (a) That human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming of about 1.1°C

Par. 16(b)

[The COP] Notes the following findings of the Sixth Assessment Report of the [IPCC]: (b) That both adaptation and mitigation financing would need to increase manyfold, and that there is sufficient global capital to close the global investment gap but there are barriers to redirecting capital to climate action, and that Governments through public funding and clear signals to investors are key in reducing these barriers and investors, central banks and financial regulators can also play their part

Week Two (Jan. 26, 2024)

- Review of today's meeting
- Detailed view of the COP28 Decision's section on mitigation