From 90 Pages to 9: A Possible Paris Agreement from the Geneva Negotiating Text?

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29th June 2015

About this Report

This report contains textual proposals that might form the core legal agreement that could be adopted in Paris by the Parties to UN Framework Convention on Climate Change (UNFCCC) pursuant to the negotiations being conducted by the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP). The proposals have been put forward in our capacity as independent experts and followers of the UNFCCC process for over two decades. Our proposals are based entirely on text submitted by Parties as contained in the Geneva Negotiating Text which forms the agreed basis for the Paris negotiations (Negotiating Text, FCCC/ADP/2015/1, 25 February 2015).

Our selection of options from the Geneva Negotiating Text is based solely on our independent expert judgment about what would constitute an ambitious but practical agreement that fulfills the terms of the Durban Mandate. Our approach and thinking has been guided by the ideas we set out in a number of academic papers we have written together from 2007 – 2013.4 Based on these earlier initial ideas, and taking into account the progress made in the ADP since then, this document is our attempt to extract a possible 2015 climate agreement from the Geneva Negotiating Text. The text that follows contains what we consider must be included in the core legal agreement as a compromise between what is necessary to limit climate change to safe levels and what is politically feasible. Some of the proposals in the Geneva negotiating text that are not included in our proposal for the core legal agreement should be incorporated into one or more decisions to be adopted by the Paris Conference of the Parties (COP) alongside the core agreement. In particular, COP decisions can be used to address issues that can or should be implemented before the 2015 agreement enters into force, and are especially suited to issues where the UNFCCC already has well established institutional machinery and work plans that could be further developed through COP decisions. The core legal agreement we put forward represents the views of the authors alone. We have tried to keep the text as concise and accessible as possible. The endnotes identify the source of the paragraph in the Geneva Negotiating Text and, occasionally, provide additional explanation.

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About Track 0

Track 0 is an independent not-for-profit, which serves as a hub to support all those working to phase out anthropogenic greenhouse gas emissions as part of a future defined by zero poverty, zero emissions and clean energy for all. The core mission of Track 0 is to translate the globally agreed 2°C limit into a practical solutions-orientated framework that can be implemented by anyone – countries, companies, cities and individuals. Scientists are pointing out that GHG emissions must peak and decline to zero around mid-century. This timeframe means bringing the biggest source of emissions, CO2 from fossil fuel combustion and industry, to zero by around 2050 if we are to have a good chance of staying well below 2°C, and keeping the door open to 1.5°C, which is a safer limit demanded by the world’s most vulnerable countries and populations. We use the term “net zero” greenhouse gas emissions to mean that global emissions of greenhouse gases are reduced to the maximum extent possible. Where no alternatives to the emitting technologies are available and the use of these technologies is regarded as essential, the resulting small emissions can be offset by removals of these gases from the atmosphere.

Track 0 is based in London but its work has a global reach, focusing on the international climate change negotiations and policy-relevant climate research related to the long-term goal of phasing out GHG emissions. Track 0 provides research, strategy, and policy advice, communications, convening and networking support to governments, businesses, investors, communities and NGOs. We are not a campaigning or political organisation. We also work closely with civil society, social movements and all those within the development community working to phase out fossil fuel emissions so we can usher in a future based on 100% clean energy and zero poverty.
A. Preamble

The Parties to this agreement,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as “the Convention”,

In pursuit of the ultimate objective of the Convention as stated in its Article 2,

Reaffirming the principles of the Convention and determined to strengthen the multilateral, rules-based regime under the Convention through its full, effective and sustained implementation from 2020,

Recognizing that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires to be urgently addressed by all Parties, and acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions,

Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation pledges in terms of global annual emissions of greenhouse gases up until 2020 and aggregate emission pathways consistent with having a likely chance of holding the increase in global average temperature below 2°C or 1.5°C above pre-industrial levels,

Emphasizing that adaptation is a global challenge that must be addressed with the same urgency as, and in balance with, mitigation,

Recognizing that even if warming is kept below 2°C with high levels of adaptation, there will be residual loss and damage, in particular in developing countries,

Recognizing the growing existential threat posed by the impacts of climate change to low-lying small island nations,

Affirming the need for new, additional, adequate and predictable financial resources for developing countries, including for technology and capacity building for addressing mitigation, adaptation and loss and damage,

Recognizing that all actions on climate change shall significantly contribute to the post 2015 development agenda of the United Nations with a particular focus on human rights, good governance, gender equality and the needs of particularly vulnerable groups,

Pursuant to decisions 1/CP.17, 2/CP.18, 1/CP.19, and 1/CP.20, have agreed to further enhance the full, effective and sustained implementation of the Convention as follows:

B. Definitions

1. For the purposes of this agreement the following terms are defined:

   i. The “governing body” means the governing body of this agreement;
   ii. “Party” means, unless the context indicates, a Party to this agreement;
   iii. “Emission reductions” means the sum of all reduced emissions and increased carbon stocks;
   vi. “Present and voting” means…;
   vii. “Intergovernmental Panel on Climate Change” means…;
   viii. (Other definitions as needed.)

C. General / Objective

2. The objective of this agreement is to achieve net zero greenhouse gas emissions in line with the ultimate objective

3 Headsings and subheadings are provisional and intended only to orient the reader. All of the headings are the same as those in the Geneva negotiating text except that a “L. Market Mechanism” has been added. Some sub-headings have been deleted because the text is much shorter so they are no longer needed.
of the Convention and to maintain and increase resilience to the adverse effects of climate change.\textsuperscript{15,16} Consistent with the findings of the Intergovernmental Panel on Climate Change global greenhouse gas emissions should peak by 2020 at the latest and be reduced by at least 70 - 95 per cent below 2010 levels by 2050 and continue to decline thereafter reaching near-zero emissions by the end of the century in order to limit the global average temperature increase to below 2 °C or 1.5 °C above pre-industrial levels.\textsuperscript{17}

\section*{D. Mitigation\textsuperscript{18}}

3. Each Party shall make individual efforts at the highest level of ambition reflecting its national circumstances and cooperate on enhancing global greenhouse gas mitigation ambition.\textsuperscript{19}

4. Each Party, taking into account its common but differentiated responsibilities and its specific national and regional development priorities, objectives and circumstances, shall formulate, implement, publish and regularly update a nationally determined commitment to mitigate climate change.\textsuperscript{20}

5. Each Party shall prepare and then communicate successive proposed mitigation commitments that shall be implemented and reviewed in accordance with section J, and shall:\textsuperscript{21}
   a. Be quantified or quantifiable, be able to be aggregated, and be transparent, comparable and/or verifiable;\textsuperscript{22}
   b. Be accompanied by information aimed at enhancing the clarity, transparency and understanding of these commitments including, as appropriate, quantifiable information on the reference point (including as appropriate, a base year), time frames and/or periods for implementation, scope and coverage, planning processes, assumptions and methodological approaches including those for estimating and accounting for anthropogenic greenhouse gas emissions and, as appropriate, removals, and information on how the Party considers that its intended nationally determined mitigation contribution is fair and ambitious in the light of its national circumstances, and how it contributes towards achieving the objective of the Convention and this agreement as set out in section C above.\textsuperscript{23}

6. Mitigation commitments by all Parties shall be communicated and implemented without conditions on support. Developing country Parties may specify additional levels of mitigation conditioned on enhanced support being available.\textsuperscript{24}

7. Least Developed Countries (LDCs) may implement nationally determined mitigation commitments, including non-economy wide actions, at their discretion.\textsuperscript{25}

8. Each Party, upon joining the agreement, shall submit a country contribution document reflecting the nationally determined mitigation commitment it intends to implement from 2020 onwards.\textsuperscript{26} The initial contribution document, and any subsequent update, will be recorded in an online registry of national mitigation commitments which shall form an integral part of this agreement.\textsuperscript{27} The initial country mitigation contribution document shall be accompanied a longer term low emissions development strategy with a time horizon to 2050 to provide context and aid understanding of the Party’s initial and subsequent mitigation commitments.\textsuperscript{28} These strategies, which shall not form part of the country contribution document, shall be updated and submitted periodically as determined by the governing body.

9. Each Party agrees to account for its efforts to reduce or limit GHG emissions in line with agreed accounting framework/principles, as further elaborated by the governing body.\textsuperscript{29}

10. All Parties agree to collectively revisit, and as appropriate, individually update their nationally determined mitigation commitments at periodic intervals of no more than 5 years, in accordance with modalities to be agreed by the governing body.\textsuperscript{30}

11. Each Party’s successive nationally determined mitigation commitment will represent a progression beyond the current undertaking of that Party, recognizing enhanced and ambitious actions from the Party’s previous undertakings.\textsuperscript{31}

12. Each Party shall communicate successive proposed mitigation commitments at least 12 and no more than 18 months before they are to be recorded in the online registry of national mitigation commitments referred to in paragraphs 8 and 15 of this section. All proposed mitigation commitments shall be reviewed in accordance with section J below.\textsuperscript{32}

13. Mitigation commitments are:
   a. To be communicated by each Party in a format to be decided by the governing body;
   b. To have effect from 1 January 2020;
14. Parties, including regional economic integration organizations and their member States, may prepare, communicate and fulfil their mitigation commitments jointly.  

15. The secretariat shall keep and update accordingly an online registry of the national mitigation commitments without prejudice to the instrument of ratification, acceptance, approval or accession being deposited with the Depositary in accordance with the provisions of this agreement; this registry is an integral part of the agreement.  

16. To help meet its mitigation commitment a Party may make use of UNFCCC approved units for emission reductions achieved by other Parties in accordance with the provisions in section L below.  

17. Each Party shall report on the following in line with section I below:  
   a. A national inventory report containing estimated emissions and removals, in accordance with IPCC guidance as adopted by the COP;  
   b. Progress towards achievement of a Party’s mitigation commitments as recorded in the on-line registry;  
   c. Policies and measures;  
   d. Projections of estimated emissions and removals.  

18. Each Party shall be subject to a facilitative examination of its progress towards its nationally determined commitments as set out in section K below.  

E. Adaptation and loss and damage  

Adaptation  

19. All Parties commit to enhance international cooperation to adapt to the adverse effects of climate change in order to enhance resilience and protect ecosystems and people, their livelihoods and safety, and to enable sustainable development, while recognizing the local, national and transboundary dimensions of adaptation.  

20. Each Party shall take steps to engage in a national adaptation planning process with a view to strengthening resilience to medium- and long-term climate change impacts, recognizing that each Party’s adaptation plans, policies and other actions need to fit its circumstances and priorities.  

21. Each Party will enhance its efforts to:  
   a. Undertake assessments of climate change impacts and vulnerability;  
   b. Prioritize action with respect to the people, places, ecosystems and sectors that are most vulnerable to climate change impacts;  
   c. Strengthen governance and enabling environments for adaptation;  
   d. Monitor, report, evaluate and learn from adaptation plans, policies and programmes.  

22. The nationally determined adaptation commitments of developing countries can include both actions to be undertaken as part of a national effort and further actions to be implemented with timely access to international support.  

23. The secretariat shall keep and update an online registry of adaptation commitments submitted by Parties.  

24. The governing body shall adopt further guidance on reporting on adaptation and further facilitating the sharing of information on progress in and experiences with preparing and implementing adaptation actions.  

25. Each Party shall submit information on the progress towards achieving the adaptation objectives set out in paragraphs 2 and 19 of this agreement through its national communication.  

26. Institutional arrangements and programmes relevant to adaptation, including the Adaptation Committee and the Least Developed Countries Expert Group, shall serve this agreement as decided by the governing body.  

Loss and damage  

27. Parties recognize that inadequate mitigation and insufficient adaptation lead to more loss and damage and that financial and technical support shall be made available to vulnerable developing countries and communities to address Loss and Damage to both extreme events and slow onset events.  

28. The Warsaw International Mechanism shall serve this agreement and be fully operationalized, with modalities and procedures to be developed and adopted by the governing body.
F. Finance

29. All Parties agree to phase out inefficient fossil fuel subsidies and bilateral and multilateral international support for high-carbon investments.

30. Each Party undertakes to make individual efforts at the highest level of ambition reflecting its national circumstance to mobilize the climate finance needed to implement its mitigation, adaptation and other measures in its national determined commitment.

31. All Parties in a position to do so should provide new, additional, adequate and predictable financial support to the operating entities of the financial mechanism and eligible Parties in need of support to achieve the objectives of this agreement ensuring a balanced allocation between adaptation and mitigation.

32. Eligible Parties are Least Developed Countries and other developing country Parties with a national determined mitigation commitment that is current and that includes measures conditional on international financial support.

33. The governing body shall develop objective criteria to define which Parties are in a position to provide support and update the criteria and list of Parties biennially.

34. In view of their special circumstances and limited capacity of LDCs, and the existential threats faced by small island developing states, the governing body shall develop options to simplify procedures for access to funds for LDCs.

35. Each Party shall report on its climate finance biennially on a schedule and using a format adopted by the governing body.

36. The biennial assessment of climate finance by the Standing Committee on Finance established pursuant to the provisions of the Convention shall utilize information from the biennial reports submitted by Parties and include an assessment of the literature and data on climate finance needs. The assessment of needs shall include a summary of proposed measures conditional on finance that have not yet been funded.

37. Each Party identified as being in a position to provide climate finance using the criteria adopted by the governing body shall report biennially on its updated plans for the provision of climate finance on a schedule and using a format adopted by the governing body. The submissions on planned climate finance will be summarized by the secretariat.

38. A High Level Segment on Climate Finance shall be held biennially as part of the meeting of the governing body to consider the biennial assessment of the Standing Committee on Finance and the summary of submissions on planned climate finance and to make recommendations for decisions by the governing body on climate finance.

39. The Financial Mechanism established by Article 11 of the Convention, including its operating entities, shall serve as the financial mechanism of this agreement.

G. Technology development and transfer

40. All Parties commit to strengthen cooperative action to promote and enhance technology development and transfer, to support the implementation of mitigation and adaptation commitments under this agreement.

41. The Technology Mechanism established for technology development and transfer under the Convention, including the Technology Executive Committee and the Climate Technology Centre and Network, shall serve as the technology mechanism of this agreement and shall recommend to the governing body measures to promote and enhance development and transfer of climate mitigation and adaptation technologies.

H. Capacity-Building

42. All Parties commit to strengthen capacity building to enable developing countries support the implementation of mitigation and adaptation commitments under this agreement.

43. The Durban Forum on Capacity-Building established by decision 2/CP17 shall serve this agreement. The governing body shall review the outcomes of the Durban Forum on capacity-building regularly and provide further guidance as appropriate.
I. Transparency of action and support

44. A transparency framework, applicable to all Parties is established to ensure the environmental integrity of this agreement. The framework shall promote transparency of action and support by providing information on the implementation of each Party’s commitments in an efficient and flexible manner, to:
   a. Facilitate the tracking of progress in the implementation of commitments;
   b. Track the use of international units by Parties for compliance with their commitments;
   c. Enhance transparency and accountability on finance, technology and capacity-building support.

45. Each Party shall establish and maintain national arrangements that reflect national circumstances for monitoring, reporting and verification under the transparency framework in accordance with common guidelines adopted by the governing body.

46. The transparency framework shall encompass reporting through biennial communications, a technical expert review of the submitted biennial communications, a facilitative examination of the implementation of efforts, and, if appropriate, a multilateral assessment process that may result in a conclusion with consequences for compliance.

47. Each Party shall report verifiable, transparent, consistent, complete, accurate and comparable information, in accordance with previous decisions of the governing body, on the implementation of its commitments, in relation to mitigation, adaptation, finance, technology development and transfer and capacity-building.

48. All information provided shall be verified through a robust technical review process followed by a facilitative examination of the implementation of efforts and, if appropriate, a multilateral assessment process that may result in a conclusion with consequences for compliance.

49. The governing body shall elaborate the rules related to transparency of action and support, including measurement, reporting and verification.

J. Time frames and process related to commitments/contributions / Other matters related to implementation and ambition

50. The governing body shall review the adequacy of the sum of the proposed mitigation commitments by individual Parties, the relation of the aggregate effort for keeping temperature increases to below 2 / 1.5 °C, and the equity of relative efforts. On the basis of this review, the governing body shall take appropriate action, which may include the adoption of amendments to the commitments.

51. All Parties shall maintain a nationally determined mitigation commitment at all times by periodically updating in accordance with this section.

52. The starting date for the implementation of this agreement shall be 1st January 2020.

53. Each Party shall communicate its nationally determined mitigation contribution pursuant to sections D, E, F, G and H when joining the agreement along with its instrument its instrument of ratification, acceptance or approval of this agreement.

54. Each Party shall thereafter revise and update the mitigation component of its subsequently determined contributions by submitting a national mitigation contribution document no later than [12] months before the end of each five-year contribution term by adjusting and/or confirming the next five-year contribution term and communicating a new consecutive five-year indicative term, taking into account the ex ante consideration process referred to in paragraphs 54 through 58 below.

55. Each party shall also submit periodic updates to their longer term 2050 low emissions development strategy, as set out in section D, in a form determined by the governing body.

56. Updated nationally determined mitigation commitments must represent a progression from previous mitigation commitments in terms of ambition and scope.

57. Upon communication, nationally determined mitigation commitments set out in the country contribution document shall be made publicly available by the secretariat.

Ex ante consideration / Further facilitation of transparency and clarity / Consultative process/period

58. After their communication, commitments will be subject to an ex ante consideration process to facilitate transparency, clarity and enhance understanding of the level of ambition and fairness of the commitments. The process will:
a. Assess the adequacy of the aggregated commitments;\textsuperscript{85}
b. Assist countries that have not communicated their commitments;\textsuperscript{86}
c. Discuss deficits in the light of the ambition required.\textsuperscript{87}

59. The ex ante consideration process will be inclusive, consultative, facilitative, supportive, non-prescriptive, non-intrusive, non-punitive and be conducted in accordance with Article 4, paragraph 2(d), of the Convention.\textsuperscript{88}

60. The ex ante consideration process will take place during the 12 months prior to the session at which the commitment would be recorded in the on-line registry of mitigation commitments.\textsuperscript{89}

61. The governing body shall develop and adopt modalities and procedures for the ex ante consideration process by its [X] session.\textsuperscript{90}

62. On the basis of the ex ante consideration process each Party shall reflect on the outcome of the process and decide, on a voluntary basis, whether to revise its commitment.\textsuperscript{91}

Formalization / finalization / reflection of enhanced action

63. A Party may, at any time, make an upward revision to its commitments by an amendment to its contribution document following the modalities adopted by the governing body.\textsuperscript{92}

64. A developing country Party may adjust its commitment when it is severely affected by force majeure or an extreme natural event.\textsuperscript{93}

Strategic review of implementation / Aggregate ambition assessment / Enhanced ambition mechanism

65. The governing body shall regularly conduct a strategic review of implementation of this agreement and progress toward achievement of the long-term goal of this agreement and the ultimate objective of the Convention.\textsuperscript{94}

66. The first strategic review shall take place [X] years after the agreement has come into effect and subsequent reviews will be conducted at five years intervals thereafter or as decided by the governing body.\textsuperscript{95}

67. The strategic review shall be consistent with science and the principles of the Convention. The scope and modalities shall be agreed by the governing body twelve months prior to each review.\textsuperscript{96}

68. On the basis of the review the governing body shall recommend further arrangements on implementing this agreement.\textsuperscript{97}

K. Facilitating implementation and compliance

69. In order to assist Parties in implementing their commitments a Compliance Committee is hereby established, comprising an enforcement branch and a facilitative branch. Unless agreed otherwise, the composition of the Compliance Committee shall be based on equitable geographic representation, ensuring representation of small island developing states. The Committee shall comprise [X] members. Decisions of the Compliance Committee shall be made by consensus where possible and, as a last resort, by a [two thirds/three-quarters] majority.\textsuperscript{98}

70. Based on recommendations by the Compliance Committee, the governing body shall approve appropriate and effective procedures and mechanisms to facilitate the implementation and enforcement of the provisions of this agreement, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance, building on experience under the Convention and its instruments.\textsuperscript{99}

L. Market Mechanism\textsuperscript{100}

71. Party participation in the Market Mechanism under this agreement is voluntary. Specifically, creation and/or use of units approved by the Market Mechanism Body by a Party to this agreement is voluntary.\textsuperscript{101}

72. Approved units can be created in the following ways:

a. Real, additional, permanent and verifiable reductions in emissions of greenhouse gases by sources and removals by sinks achieved by projects in Least Developed Countries in accordance with a methodology approved by the Market Mechanism Body;\textsuperscript{102}

b. Surplus allowances from a domestic market mechanism implemented by a Party with a mitigation commitment approved by the Market Mechanism Body set out below.\textsuperscript{103}
73. To ensure environmental integrity and avoid double counting international transfers of approved units must be made using procedures specified by the Market Mechanism Body. Transferred units shall be added to the mitigation commitment of the seller party and be counted toward meeting the mitigation commitment of the purchasing party.  

74. The governing body shall establish a share of proceeds to be applied to international transfers of approved units and to be used for adaptation and loss and damage. The governing body shall also approve administrative fees for the services of the Market Mechanism Body.

75. A Market Mechanism Body is hereby established.

76. The Market Mechanism Body shall replace and assume the functions of the Executive Board of the Clean Development Mechanism and the Joint Implementation Supervisory Committee established under the Kyoto Protocol upon entry into force of this agreement.

M. Procedural and institutional provisions

Institutional arrangements

77. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this agreement.

78. Parties to the Convention that are not Parties to this agreement may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this agreement. When the Conference of the Parties serves as the meeting of the Parties to this agreement, decisions under this agreement shall be taken only by those that are Parties to this agreement.

79. When the Conference of the Parties serves as the meeting of the Parties to this agreement, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this agreement, shall be replaced by an additional member to be elected by and from among Parties to this agreement.

80. The governing body shall keep under regular review the implementation of this agreement, including progress towards achieving the objective of the Convention and this agreement. The governing body shall, within its mandate, adopt decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this agreement and shall: (a) establish such subsidiary bodies as are deemed necessary for the implementation of this agreement; (b) adopt its own rules of procedure at its first session; (c) [placeholder for any other functions deemed necessary].

81. The first meeting of the governing body shall be convened by the secretariat no later than one year after the date of entry into force of this agreement. Thereafter, ordinary meetings of the governing body shall be held at regular intervals to be decided by the governing body.

82. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this agreement shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this agreement, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

83. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this agreement as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this agreement and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this agreement as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph [X] above.

84. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this agreement. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply mutatis mutandis to this agreement. The secretariat shall, in addition, exercise the functions assigned to it under this agreement and the governing body.

85. The SBSTA and the SBI established by Articles 9 and 10 of the Convention shall serve as, respectively, the SBSTA and the SBI of this agreement. The provisions relating to the functioning of these two bodies under the Convention shall apply mutatis mutandis to this agreement. Sessions of the meetings of the SBSTA and the SBI of this agreement shall be held in conjunction with the meetings of, respectively, the SBSTA and the SBI of the Convention. Parties to the Convention that are not Parties to this agreement may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this agreement, decisions under this agreement shall be taken only by those that are Parties to this agreement.

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When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this agreement, any member of the Bureau of those subsidiary bodies representing a Party to the Convention but, at that time, not a Party to this agreement, shall be replaced by an additional member to be elected by and from among the Parties to this agreement. 116

86. This agreement to build on the subsidiary bodies / institutional arrangements and mechanisms established by or under the Convention and its Kyoto Protocol. All subsidiary bodies / institutional arrangements and mechanisms established by or under the Convention and the Kyoto Protocol shall serve this agreement, unless otherwise decided by the governing body. The governing body may provide further guidance as appropriate. 117

87. Placeholder for relationship between the Convention, the agreement and Kyoto Protocol. 118

Procedural provisions / Final clauses

88. Signature, ratification, acceptance, approval and accession (based on Article 24, paragraph 1, of the Kyoto Protocol):

a. This agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations (REIOs) that are Parties to the Convention at a specified place and time. Thereafter, the agreement would be open for accession by such States and REIOs; 119

b. Provisions on REIOs (based on Article 22, paragraphs 2 and 3, of the Convention): Any REIO that becomes a Party to the agreement without any of its member States being a Party shall be bound by all the obligations under the agreement. In the case of REIOs with one or more member States that are Parties to the agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under the agreement concurrently. In their instruments of ratification, acceptance, approval or accession, REIOs shall declare the extent of their competence with respect to the matters governed by the agreement. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence; 120

c. REIOs and their member States may agree to prepare, communicate and fulfill their mitigation commitments jointly. When the common mitigation commitment is fulfilled jointly, each Party participating in a joint fulfillment agreement will be considered to be in compliance with achieving its mitigation commitment.

d. Actions taken pursuant to the agreement by REIOs, or by any group of Parties acting jointly, to be in accordance with paragraph/decision X (to be adopted at COP 21); 121

e. A Party to the Convention may not join this agreement unless it has satisfied the requirements under section D above. 122

Entry into force:

89. The agreement will come into effect on and be implemented from 1st January 2020, subject to the deposit of [X] number of instruments of ratification, acceptance, approval, or accession having been deposited before 30th September 2019. Otherwise it will enter into force 90 days after [X-Y] instruments have been deposited. 123

90. For each State or REIO that ratifies, accepts or approves the agreement or accedes thereto after the entry into force in accordance with paragraph 93 above, the agreement shall enter into force on the ninetieth / [X] day after the date of deposit by such State or REIO of its instrument of ratification, acceptance, approval or accession. 124

91. For the purposes of paragraph 93, any instrument deposited by a REIO shall not be counted as additional to those deposited by States members of the organization. 125

Amendments to the agreement (based on Article 15 of the Convention):

92. Any Party may propose amendments to the agreement. 126

93. Amendments to the agreement shall be adopted at an ordinary session of the governing body. The text of any proposed amendment to the agreement shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to the agreement and, for information, to the Depositary. 127

94. The Parties shall make every effort to reach agreement on any proposed amendment to the agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their
acceptance.  

95. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 79 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the agreement.  

96. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.  

Simplified procedure for the adjustment of mitigation commitments. 

97. Any Party may propose an adjustment to enhance the efforts expressed by its mitigation commitment. A proposal for such an adjustment shall be communicated to the Parties by the secretariat at least three months before the meeting of the governing body of this agreement at which it is proposed for adoption.  

98. An adjustment proposed by a Party to enhance the efforts expressed by its mitigation commitment shall be considered adopted by the governing body unless more than three fourths of the Parties present and voting object to its adoption. The adopted adjustment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties, and shall enter into force on 1 January of the year following the communication by the Depositary. Such adjustments shall be binding upon Parties.  

Settlement of disputes (based on Article 19 of the Kyoto Protocol): 

99. The provisions of Article 14 of the Convention on settlement of disputes shall apply mutatis mutandis to this agreement.  

Voting / Right to vote (based on Article 18 of the Convention): 

100. Each Party shall have one vote, except as follows: REIOs, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.  

101. Parties shall make every effort to reach agreement by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, except:  

a. For decisions on financial issues, in which case decisions shall be taken by consensus;  

b. For decisions on procedure, which shall be taken by a majority vote of the Parties present and voting.  

102. If the question arises as to whether a matter is one of a procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President’s ruling shall stand unless overruled by a majority of the Parties present and voting.  

Depositary (based on Article 19 of the Convention): 

103. The Secretary-General of the United Nations shall be the Depositary of this agreement.  

104. No reservations may be made to this agreement.  

105. At any time after [X] years from the date on which this agreement has entered into force for a Party, that Party may withdraw from this agreement by giving written notification to the Depositary. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this agreement.  

106. The original of this agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
This is our suggested working title as the Geneva Negotiating Text does not contain a name for the new agreement. We envisage the proposal being adopted in Paris via a single COP decision called Decision 1/CP21 that would contain the text of the Paris Agreement and then reference other COP and CMP decisions that need to be adopted in Paris alongside the agreement to conclude the mandate of the ADP.

1 Page 1, option 2, para. 1
2 Page 1, option 2, para.2
3 Page 1, option 2, para. 3
4 Page 2, option 2, first and second option b and option a
5 Page 2, option 2, second para after option c
6 Page 2, option 2, fourth para after option c
7 Page 3, first part of the second option b
8 Page 3, fourth para after option d, with the phrase on “best available science” deleted
9 Page 4, option d, first para
10 Page 4, Option d, first para
11 Page 3, Option d, para 7
12 Page 4, Option (d), para 16
13 Page 4, last sentence of the last para before “Definitions”
14 Pages 4 and 5, Definitions section. Note that items vii through x have been dropped because this text does not have any defined categories of parties.
15 Page 5, para 1
16 ‘Net zero greenhouse gas emissions’ means that global emissions of greenhouse gases not controlled under the Montreal Protocol are reduced to the maximum extent possible. Only in the case where no alternatives to the emitting technologies are available and the use of these technologies is regards as essential, the resulting small emissions can be offset by removals of these gases from the atmosphere.
17 Pages 5 and 6, para 5 and options a and b of para 5.1. Similar proposals are found in para 17 (page 9)
18 We have not included any provisions relating to non-state entities in the core agreement. The agreement is an agreement among Parties and provisions relating to non-state entities are better addressed by COP/governing body decisions. Likewise, we have not addressed matters relating to Work Stream 2 of the ADP which we think is best addressed through a COP decision given its pre 2020 nature.
19 Page 7, para 7, option 1 and page 9, para 17.1 option2
20 Page 11, options 4 and 5 with the specification that this be a nationally determined commitment added.
21 Page 11, para 21, option4 (chapeau). Could replace “prepare and communicate successive proposed” with “formulate, implement, publish and regularly update national” from Article 4, para 1 (b) of the Convention.
22 Page 11, para 21.1 option 1 at the bottom of the page
23 Page 12, para 21.1
24 Page 14, para 21.6, option 6 with edits
25 Page 13, item b viii
26 Page 15, para 27, option 3 and paras 178 and 179 on pages 77 and 78
27 Page 15, para 27, option 3 and paras 178 and 179 on pages 77 and 78
28 Page 10, para 17.2, option 1, para e
29 Page 14, para 24. The agreement should be supplemented by a COP decision requesting SBSTA and SBI to recommend accounting principles that promote understanding and ensure the environmental integrity of efforts to reduce or limit greenhouse gas emissions and appropriately accommodate Parties’ national circumstances and capabilities.
30 Page 15, para 25 chapeau only
31 Page 12, para 21.4
32 Page 15, para 27, option 4
33 Page 15, para 29
34 Page 16, para 32
35 Page 16, para 33, option 3
36 Page 16, para 39, option 1 edited to refer to a new section on Market Mechanisms (section M)
37 Page 20, para 47
38 Page 20, para 48 chapeau
39 The agreement should be supplemented by a separate COP decision with guidance for the Adaptation Committee. The decision could include material from page 29, para 65.1, option b.
40 Page 22, para 50, option 11
41 Page 25, option 5, para 51.1
42 Page 25, option 5, para 51.2
The agreement should be accompanied by a separate COP decision with guidance for the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts. The decision could include material from option III paras 72 through 78 on page 33. This would allow for work on Loss and Damage to be completed without the need to wait for the new agreement to enter into force.

Page 32, option I, para 68

The agreement should be accompanied by a separate COP decision addressing finance issues. The Geneva negotiating text includes changes or guidance to the GEF and GCF. Such changes/guidance are better implemented as COP decisions as has been the case in the past legal practice of the UNFCCC. The COP decision could include issues such as the mobilisation of $100bn per annum by 2020 and provisions to scale up the resources available to the GCF to support pre and post 2020 actions.

Page 35, para 81, edited. Phase out of fossil fuel subsidies is strictly domestic (although some subsidies are provided by sub-national governments and corporations); “inefficient” is agreed by G20 to provide some flexibility. The “investments” section deals with international support through bilateral and multilateral institutions. Dates could be added, but they are not in the “objective” paras of the mitigation and adaptation sections.

Page 34, option 2 edited

Operating entities of the financial mechanism have been added because some support, like loss and damage compensation, might come mainly from operating entities rather than bilateral support.

The negotiating text does not contain explicit language on eligibility for international financial support. However, page 86, para 215.5, option 3 provides that only a Party to the Convention that has taken on a binding mitigation commitment can become a party to the new agreement. Our proposal is consistent with the provisions for nationally determined mitigation commitments being taken on by all Parties as part of the process of joining the agreement; flexible standards being in place for LDCs in this regard and the option for other developing countries to include additional measures conditional on international financial and/or other support. This provision will incentivize all countries to submit and implement both mitigation and adaptation commitments as part of the new agreement.

Page 35, para 80. The provision for biennial updates has been added for consistency with the subsequent paragraphs of this text. The UN Scale of Assessment is updated biennially. The governing body would specify criteria to identify countries that should contribute. This provision would only identify countries, not specify the share each country should contribute as the scale of assessment does.

Page 39, para 82.2, option (d), f

Paras 36 through 39 of this text are based on the proposals in paragraphs 84 through 87 of the negotiating text and specifically build on the biennial process adopted for the 2014-2020 period. All parties report on climate finance, the Standing Committee on Finance (SCF) assesses climate finance, contributing countries report on their climate finance plans, and a High Level segment discusses climate finance. The paragraphs enhance the current process in the following ways. Reporting is standardized for all Parties and extended, if possible, to international finance provided, international finance received and climate finance mobilised and deployed domestically. The biennial assessment is extended to coved material on climate finance needs, such as proposed measures conditional on international finance that have not yet been funded. The High Level segment would consider the material and make recommendations to the governing body for climate finance decisions. Virtually all international funding processes, other than strictly voluntary contributions, are based on a 2 to 4 year cycle with assessments of needs and potential sources. We believe a two-year cycle is more compatible with national budget processes than a five-year cycle.

As a separate decision, the SCF would be requested to recommend changes to the current reporting formats for developed and developing countries, including operational definitions of climate finance. Ideally all Parties would report international finance provided, international finance received and climate finance mobilised and deployed domestically.

In a separate COP decision the SCF would be requested to develop the reporting format and schedule. This need not be more complicated that a 2 to 4 year projection of the country’s climate finance delivered in September before the relevant COP/governing body meeting. Reporting could cover climate finance to be provided to other Parties via bilateral or multilateral channels as well as domestic climate finance.

Governing body decisions might include, inter alia, specific guidance to operating entities of the financial mechanism, requests to Parties (e.g., to devote more to adaptation, more to Africa, etc.) to scale up and adjust the climate finance they provide bilaterally, and invitations to other institutions (e.g., MDBs) to scale up and adjust the climate finance they provide.

Page 41, para 89 option 1 chapeau and (d)
The core agreement should be supplemented by separate COP decisions with guidance for the Technology Executive Committee and the Climate Technology Centre & Network that will pick up most of the elements now contained in the Geneva text on technology. The established practice of the UNFCCC has been to elaborate guidance on guidance through COP decisions.

The core agreement should be supplemented by separate COP decisions on capacity building with additional guidance for the Durban Platform on Capacity Building. The established practice of the UNFCCC has been to elaborate guidance on capacity building through COP decisions.

The core agreement should be supplemented by separate COP decisions on transparency of action and support.

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To export units, a country would need to have a mitigation commitment and establish a domestic market mechanism approved by the Market Mechanism body. The domestic market mechanism could be an emissions trading system and/or an offset credits mechanism that can be used for compliance with regulations, a carbon tax or emissions trading system obligations. Items (a) and (b) of this text are based on option 4 of the negotiating text. A separate COP decision could request the Market Mechanism Body to develop appropriate criteria for UNFCCC approval of surplus units of a domestic emissions trading system. Possible criteria could include: the emissions trading system has an absolute cap; the cap of the emissions trading system is comparable to the share of national emissions covered by the system; surplus units can not exceed x% [5%] of the actual emissions covered by the system; and the Party is in compliance with its commitments under the agreement.

Page 16, para 39. Almost all options in the negotiating text specify that the market mechanism must ensure “environmental integrity” and “avoidance of double counting”. One option is to require international transfers to be made using the International Transaction Log. Additional procedures might be needed to accommodate transfers between jurisdictions that have linked emissions trading systems, such as Norway and EU member states, where allowances can be freely transferred between jurisdictions.

Page 17, option 1, para 39.4. The provision for recovery of operating costs has been added to reflect current practice under the Kyoto Protocol.

Page 86, para 212. This is a placeholder. If a Market Mechanism body is established, as in option 4 of the negotiating text items such as membership, reporting relationship, and functions should be specified. Sections of the Marrakech Accords relating to the CDM Executive Board and the JI Supervisory Committee can be used as models.

Page 86, para 211 and 2012. The negotiating text does not deal clearly with the relationship between the Convention, the Protocol and the new agreement. The future of Kyoto Protocol bodies – Adaptation Fund, Compliance Committee, CDM Executive Board and JI Supervisory Committee – should be addressed explicitly and will also need to be addressed in a CMP decision.