



# Foley Hoag Climate Update

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production of this white paper.*

The previous update outlined the progress that the ten days of formal negotiations in Bonn from 1-11 June 2015 were intended to deliver. This latest update reflects on the outcomes from Bonn, and on the challenges and priorities that lie ahead.

### The negotiating text

The consensus is that the negotiating session failed to deliver the substantive progress that had been hoped for. The 85-page Geneva text was shortened only by 5 pages, leaving a document that is far too lengthy and unwieldy for use in Paris. This has led to widespread concern that progress is too slow for a new legally binding agreement to be reached at COP21.

Despite the dim headline, however, small advances were made. In terms of the negotiating text, the lack of forward movement on key issues was somewhat compensated for by agreement on a new methodology to prepare the text in the months ahead. A consensual way of working increased the level of trust between the Parties and culminated in a request for the co-Chairs of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) to take temporary responsibility for the text. By 24<sup>th</sup> July, the co-Chairs will produce a new, consolidated version, combining Parties' inputs to date and identifying the issues for further negotiations.

Key sections of the consolidated text will also follow a new, themed structure that the Parties were able to agree on in Bonn. The mitigation chapter will be structured along the following themes: long-term and global aspects; commitments/contributions/actions; features, procedures and updating; accounting; transparency; institutional arrangements; and other aspects. The adaptation chapter will take a similar course. The vesting of responsibility for consolidating the text in the politically neutral hands of the ADP co-Chairs could mark a significant step in facilitating an agreement in Paris and loosen some of the contention between the different negotiating groups. However, this depends entirely on whether the version produced on 24th July is somehow able to tread a path in-between all the Parties' sensibilities and red lines. For the time being, Parties remain divided between those that believe all countries should have mitigation commitments enshrined in the Paris Agreement, and those that argue in favour of developing countries having only mitigation contributions or actions.

### Intended Nationally Determined Contributions (INDC)

A particularly positive development at Bonn was the holding of a first public INDC event whereby those parties that have already submitted an INDC presented its contents and explained the process they had adopted to develop it. This event helped to overcome some earlier reluctance regarding such an exchange, and helped to build confidence in the INDC process. The US participated in this event, and highlighted how the speed of its emissions reductions will match the EU's in 2020-25.

## Enhancing action to 2020

There were also accelerated discussions on enhanced action before 2020 when the Paris Agreement will take effect. Those discussions, however, revealed the extent of divisions, with the EU and other industrialised nations keen not to duplicate the efforts under the Kyoto Protocol and Convention, whilst China and the G77 group put forward elaborate proposals for a whole new process on mitigation, finance and adaptation, and conditioned their actions on funding from developed countries. More positively, all Parties agreed on the importance of focusing on options with high mitigation potential in the five years ahead, in particular through the involvement of a broad range of non-state actors and the strengthening of current institutions.

## Increasing ambition

One of the key issues on which no progress was made at Bonn concerns a process to enhance ambition within the Paris Agreement. Two of the qualities that are widely considered as essential for the COP21 outcome are durability and dynamism. A durable agreement is considered necessary in order to provide a framework for the long-term mitigation and adaptation goals that should be set in Paris. Dynamism is required in order to compensate for the expected inadequacy of parties' nationally determined mitigation commitments, to ensure that levels of ambition are continually raised in order to meet the long-term goals, and to prevent "back-sliding", or a weakening of parties' commitments over time. The lack of progress was largely due to certain, major developing countries (the Like-Minded Developing Countries, or LMDCs) insisting that the very need for both of these elements be the subject to negotiation. The stalemate means there is still no clear option in the text for the popular proposal of a 5-yearly submission cycle for mitigation commitments.

This state of affairs is particularly frustrating as positive progress on these issues had been made in earlier informal negotiations.

## Finance, transparency, and differentiation

Finance was another area where, although some streamlining of options took place, no real progress was made on substance, with the Parties' showing an unwillingness to depart from their established positions. On transparency, the mood was more positive and progressive, due to deft facilitation which led to a remodelled chapter of the text which was broadly welcomed by all Parties. Tensions emerged, however, during discussions on differentiation – although there was a clear sense that the current system cannot be taken over into the new agreement, there was increasing support for a proposal that essentially repackages that system, based on self-differentiation, without enhancement.

## The legal form

There remains a difference of opinion between those Parties who wish to see specific headline commitments such as a long-term emissions reduction goal enshrined in the legal text, and those, like the US, who wish for this, and other details, to be contained in supplementary decisions to implement the agreement.

### Scientific, technical and implementation issues

Both of the Subsidiary Bodies under the Convention (the Subsidiary Body for Scientific and Technical Advice – SBSTA, and the Subsidiary Body for Implementation – SBI) met in Bonn. Although much of their work does not directly relate to COP21, two key issues that will carry over to the Paris conference are a 2013-15 scientific review of the adequacy of the “below 2 degrees Celsius” goal from which Saudi Arabia is currently blocking any substantive conclusions, and a substantive decision on international market mechanisms which some countries are blocking as premature, pending the COP21 outcome.

### Conclusion

It would be wrong to consider the Bonn negotiations as a total failure given the various areas of progress outlined above. However, the concern is that numerous long-standing and contentious issues remain unresolved and the time ahead to Paris is short. Political will is almost certain to mean there will be some kind of agreement coming out of Paris; however, it is likely to be short, general, and therefore something which leaves those very same long-standing and contentious issues to be fought over another day.