CAN EUROPE'S ASSESSMENT OF THE PARIS AGREEMENT

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The Paris Agreement will not solve the climate crisis single-handedly, but it is so far the most important step the world has taken to tackle it. It signals an end to fossil fuels and a shift to 100% renewables. It creates firm foundations for more ambitious climate policies all over the world.

The Paris Climate Summit concluded with a number of decisions that all governments have agreed to. Some of these decisions will be captured in the legally binding Paris Agreement that will be opened for signature in April 2016 and hopefully then ratified and put in place before the end of this decade.

On the one hand, the Agreement contains provisions that will allow us to speed up the ongoing transition away from dirty fossil fuels and towards 100% renewables and reduce risks of the worst impacts of climate change. On the other hand, regrettably, some elements that would provide more ambition and fairness have been not included in the final text.

The goodies:
The Agreement sharpens the long-term temperature target from staying below 2°C, to staying "well" below 2°C, while pursuing efforts to limit temperature rise to 1.5°C. For the first time ever, governments agreed to a more operational long-term target to reduce global greenhouse gas emissions to net zero in the second half of this century.

Another positive element in the Agreement is the requirement for all countries to come up with contributions to reduce emissions every five year, and that all countries will report and monitor both their emissions and the implementation of their contributions in a coherent way.

Finally, countries recognised that next to mitigation (emission reductions) and adaptation (preparing for climate change impacts), there is a third, equally important pillar in climate action, which is loss and damage - addressing the damaging impacts of climate change. Together with the recognition of the 1.5°C target, this has been a substantial achievement for the countries that are most vulnerable to climate change.

The not-so-goodies:
On the downside, while several agreements were made on review mechanisms, no specific action was agreed in order to bridge the gap between intended actions and what is needed to keep temperature rise well below 2°C, let alone below 1.5°C. Similarly, the commitments made for the provision of financial support for emissions reductions and adaptation in developing countries are rather vague. Furthermore, references to issues such as phasing out fossil fuel subsidies or tackling emissions from international shipping and aviation were deleted from the text. A new market mechanism was established which may lead to a continuation of dubious forms of offsetting. Last but not least, countries' contributions will not be legally binding.

DETAILED ANALYSIS OF KEY ASPECTS OF THE PARIS AGREEMENT AND THE EU'S ROLE IN RAMPING UP AMBITION:

1) Legal form

The Paris Agreement is legally binding. However, *'should'* is used for many elements of the text, instead of *'shall'*. Only *'shall'* creates a sense of legal bindingness. There are further limitations to this aspect, as the text does not foresee any compliance regimes nor provides for sanctions for countries violating the legal obligations under the Agreement.

In advance of and during the Paris summit, there has been heated debate about whether the pledges that countries made in the run up to Paris would be part of the legally binding Agreement and whether provisions for monitoring and reporting would become legally binding obligations. The following provisions have been included in the final text:

- binding commitments:
  Countries *'should'* take action, in the form of nationally determined contributions (weaker language than commitments). These contributions should be communicated every five years. The contributions are not taken up in the Annex of the Agreement, which would have implied they would be legally binding, but instead will be recorded in a public registry. Governments *'shall'* pursue domestic mitigation measures with the aim of achieving the objectives of such contributions, meaning that, while the contributions as such are not legally binding, governments are nevertheless obliged to develop policies and actions.
- transparency and accounting:
  All governments shall provide information on all emissions and removals, based on scientific guidelines. This should include all information necessary to track progress in the implementation of the national contributions. All this information shall be subject to a technical expert review, which amongst others shall identify areas of improvement.
- entry into force:
  The Agreement will enter into force when at least 55 governments representing at least 55% of total global greenhouse gas emissions have ratified it.
- compliance:
  The Agreement establishes a compliance mechanism that will be expert-based and facilitative in nature.

This means that countries' pledges will not be legally binding. There will be no sanctions when they are unable or unwilling to fulfil their national contributions. However, in order to create more certainty that contributions will be implemented, countries are obliged to establish the necessary policies and the reporting obligations, including the expert review. This is a powerful tool that can help ensure that the targets will be met.

Furthermore, it is of crucial importance and a great achievement that all countries will be obliged to report on their emissions and removals in the same way. Timely and comparable information will be crucial if the world is to achieve the long-term goals agreed in Paris.

The conditions for entry into force will likely allow for a more rapid start of the Agreement than the Kyoto Protocol, which was adopted in 1997 and entered into force only in 2005.

The compliance regime is almost non-existent. The external technical expert review and subsequent naming and shaming is probably the only stick that countries can use to push laggards who are not on track to implement their contributions.

What do we expect from the EU?

The EU lost on the legal bindingness of national contributions, but achieved quite a lot in term of monitoring and reporting. It should now take a leadership role and ensure it moves forward rapidly with its own policies, its own reporting and its own ratification. Moreover, it should put forward clear and constructive proposals for the further development of the monitoring and compliance mechanisms, which will need to be developed and approved at the next summit in Morocco in 2016.

2) Long term goal and INDCs

The Paris Agreement strengthens the global warming temperature limit from 2°C towards 1.5°C. As countries now need to pursue efforts to limit the temperature increase to 1.5°C, it is necessary that they re-evaluate their climate and energy policies in the light of this strengthened target.

The Agreement also includes a global goal of zero net emissions during the second half of the century. First, the timing to reach zero emissions needs to be considered in the context of global carbon budget compatible with 2 and 1.5°C. Second, the transition needs to take place faster for countries with greater responsibility and capacity, such as these in the EU. This means rapid decline from the current emission level towards full decarbonisation globally latest by 2050. In the EU, the transition towards 100% renewable energy must happen even earlier.

The COP Decision notes that countries' current commitments, the Intended Nationally Determined Contributions (INDCs) are inadequate for the global temperature to stay below 1.5 or 2°C. Therefore, greater efforts than current INDCs need to be pursued. Governments have agreed to come together to take stock of the collective efforts in 2018, and submit improved targets latest by 2020. Now that governments start developing policies for the period after 2020, it is clear that they will have to have higher level of ambition that initially indicated in the INDCs.

3) Pre-2020 climate action

Governments are currently not on track to reduce greenhouse gas emissions in a way that ensures we can keep temperature rise below 2°C, let alone 1.5°C. By 2020, total emissions would need to be at 44 Gigatonne CO2-e. We are now heading towards 52 Gigatonne. Therefore, next to providing us with a new legal agreement for the period after 2020, Paris summit also needed to come up with a solution on pre-2020 action, within the Workstream 2.

The Paris Summit did indeed deliver text on 'enhanced action prior to 2020', in the COP Decision text. Decisions made by the Conference of the Parties are non-binding, but do deliver guidance.

Unfortunately, this guidance is rather poor. The Decision:

- urges the ratification and implementation of pledges and commitments under the Cancun Agreement and the Kyoto Protocol;
- urges countries to participate in measurement, reporting and verification processes to know the real level of emissions;
- encourages countries to voluntary cancel surplus emission permits under the Kyoto Protocol;
- supports further expert work on possible avenues for increasing action; sets up a facilitative dialogue at the next summit in Morocco, to assess progress in pre-2020 action; sets up a high-level event at each summit the coming years, to get engagement at the highest level, of governments, businesses, local authorities and other non-state actors in increasing short term action;
- specifies that two high-level champions will be appointed to strengthen efforts to increase action.

If we are to close the pre-2020 gap, then actions need to be taken now. However, no country was willing to make specific commitments in Paris. Therefore all we got out of Paris is a set of processes, talk-shops and other desperate efforts, e.g. the high-level champions with unspecified tasks. We can only hope that ambitious efforts undertaken by non-governmental stakeholders, such as civil society, private sector and local authorities, will ensure that the weak governments' targets are surpassed.

What do we expect from the EU?

The EU has a target to reduce its emissions by 20% by 2020, as compared to 1990. In 2014, emissions were already at -23%. With a total reduction of -12% over the last six years, it is very likely that the EU will be able to reduce its emissions by 30% or more by 2020. This is because, for the coming six years, it would only need a little bit more than half the emission reductions of the past six years.

Thus, the EU could make a substantial contribution to bridging the pre-2020 gap, without putting in place new policies. However, this surplus can only contribute to bridging the pre-2020 gap if it is not carried over to the post-2020 period in order to contribute to emission reductions needed after 2020. This would result in less efforts to be taken after 2020 and could not be counted for reducing the pre-2020 gap. The EU therefore needs to urgently either officially increase its target to 30% or cancel all surplus allowances under both the directives governing the Emissions Trading Scheme (ETS) and the emissions from non-ETS sectors.

4) Climate finance

Given that climate finance was brought to the wire of the Paris negotiations, an outcome to please everyone was always going to be a challenge. As a result, the Agreement vaguely requires developed countries to keep providing support, but not in an improved way and only until 2025. This is coupled with an equally vague invitation for unknown contributors to add support on a voluntary basis. CAN Europe fears that the interests and concerns of the most vulnerable have fallen victim to the short-term political priorities of key negotiating blocs.

- Climate finance pre-2020

CAN Europe has advocated for the EU to maintain its notable leadership on providing poor countries with 100 billion US dollars a year by 2020 for their efforts to reduce emissions and adapt to climate change. NGOs across Europe have made numerous calls for a clear pathway to reaching that goal: one that spells out the sources, channels and allocation of support. However, commitments still come on an ad-hoc basis, with little clarity among most donors on how much support is grant-based and how much will be allocated to adaptation.

Though it is noted that the Green Climate Fund (GCF) should have a balance of support between mitigation and adaptation, the same requirement is not applied to any of the many other programmes which fall outside of the GCF. As a result, the growing adaptation needs are not met with sufficient support to safeguard people who face the biggest threats as a result of climate change.

- Provision and scale of climate finance post-2020

The Agreement gives a vague assurance that climate finance will continue to flow and scale up in the years after 2020, with developed countries such as the EU continuing to lead in this endeavor. Other countries, not specified, are *"encouraged"* to join efforts, but they will not be *required* to do so. This illustrates that the so-called firewall between developed and developing countries when it comes to provision of climate finance has just taken a knock rather than has been completely taken down, as the EU had hoped for.

The finer details of the commitment to provide finance are captured in the Decision which accompanies the Agreement. Here we learn that the commitment to provide finance after 2020 seems to have a cut-off date of 2025: *"developed country parties intend to continue their existing collective mobilization goal through 2025… ".* In light of the current and future costs of climate change in developing countries, the five-year time-frame of financial provisions (2020-2025) gives minimal comfort to vulnerable developing countries that they will be adequately supported as they face mounting climate challenges.

Another let-down to the most vulnerable countries is that the reaffirmation of financial provisions no longer includes the requirement for climate finance to be new and additional to existing Official Development Assistance (ODA). The language is minimalist and includes no reference to terms such as 'adequate' and 'predictable'. If ODA is not expanded and if climate finance is not additional to it the result is less money for more challenges.

- Support for adaptation

The Paris Agreement didn't effectively address the growing needs to support adaptation more concretely in the future. During the summit, a number of donor countries showed solidarity with vulnerable countries through financial pledges for climate adaptation - Germany and US being most notable examples. However, a specific target for supporting adaptation in the near and long-term was not included in the final text . As a result, vulnerable countries have little assurance that their livelihoods will be adequately protected against future climate impacts.

- Innovative sources

Another unfortunate casualty of the marathon negotiations was a process to develop and implement innovative sources of climate finance - an issue that the EU has championed in the past. One small hook on pre-2020 efforts exists in the Decision: *"identify relevant opportunities to enhance the provision of financial resources … enhance the provision and mobilization of support and enabling environments".*

Despite the various ways in which governments can increase public climate finance, the political will to follow it through is falling short of what is needed. EU Member States should capitalize on the progress made in discussions around the Financial Transaction Tax and the EU Emissions Trading Scheme.

- Shifting financial flows:

The purpose the Paris Agreement highlights the fact that financial flows will need to work for climate action and no longer against it. This intention could have been more clearly spelled out in the Finance section of the Agreement, but it faced substantial resistance from numerous Parties. However, the purpose sets out to ensure that countries and communities can develop without relying on high emission energy and infrastructure, and to strengthen government policies to take money out of dirty energy and into zero-carbon energies: *"Making finance flows consistent with a pathway towards low greenhouse gas emission and climate-resilient development."*

This piece of the Agreement will be an important compass for any future policy-making, and particularly for steering financial investments. Governments, public institutions and private businesses will need to make this happen as soon as possible, already before the Paris Agreement comes into force.

What do we expect from the EU?

The EU and its Member States need to fulfill their 2020 commitment to provide climate finance in an adequate, predictable and measurable way. They should also guarantee provisions of public finance for adaptation in order to close the large gap in support for adaptation in vulnerable countries. EU Member States should, post-2020, set quantified targets for providing climate finance with a view to scaling it up beyond the 2020 target of $100 billion per year. Learning from the 2020 commitment to climate finance, the EU should also set a specific public finance goal for supporting adaptation. Consistent support in such a way will be vital as climate impacts begin to set in.

National governments should also initiate and build on existing frameworks to phase out environmentally harmful subsidies, domestically and internationally – effectively eliminating negative climate finance.

5) International Aviation & Shipping

The Paris Agreement failed to address the increasing emissions from international shipping and aviation. As these emissions fall outside national reduction targets, it would have been valuable to make an explicit reference to them in the Agreement. A draft paragraph was dropped in the second week of the Paris summit. It would have required countries to “pursue the limitation or reduction” of aviation and shipping emissions “working through the International Civil Aviation Organization [ICAO] and the International Maritime Organization [IMO], respectively, with a view to agreeing concrete measures addressing these emissions”.

This fails to directly tie international transport to the 1.5°C Paris trajectory at a time where emissions from the sector are growing rapidly. Aviation accounts for about 5% of global warming now, and CO2 from shipping is about 3% of the global total emissions. If treated as countries, the two sectors would both be ranked among the top 10 emitters.[1]

It also is a step back comparing to the Kyoto Protocol which included an explicit reference to bunkers and obliged developed countries to reduce aviation and shipping emissions through ICAO and IMO. Instead of putting the much needed additional pressure on the two agencies, the Paris Agreement leaves unclear the responsibility for reducing the sectors’ emissions. By dropping an explicit reference to these sectors, it entrenches 18 years of failing to live up to the Kyoto provisions.

In this context, it is worth mentioning that the Agreement contains an ambition long-term goal and references to economy-wide emission reductions, and, it is clear that emissions from aviation and shipping must be reduced in line with the 1.5°C limit.

What do we expect from the EU?

The EU pushed hard for the paragraph to be included in the Agreement, managing to build an alliance with a number of other developed and developing states. However, resistance from a number of states including China, India and the US doomed the text. The EU must keep up the good work and lead a coalition of ambition that is able to produce results in ICAO and IMO in the years to come. ICAO is due to adopt a CO2 standard and a global market-based mechanism next year. These processes must be monitored closely to be designed to deliver real emission reductions. At IMO, the EU must push to establish a target for the sector and ensure effective measures are introduced to achieve it. Moreover, the EU should push for the aviation and shipping sectors to be obliged to contribute to climate finance.

Furthermore, the lack of international commitment is all the more a reason for the EU to address the issue domestically. At the moment, the EU ETS does not cover emissions from shipping. It also does not cover all emissions from aviation, excluding flights to and from non-European countries. The ongoing revision of the ETS Directive is an opportunity to extend the system to all aviation and shipping. An equally effective alternative would be a compensation fund linked to a reduction

[1] http://www.transportenvironment.org/news/%E2%80%98ambitious-countries-must-push-aviation-and-shipping-climate-deal%E2%80%99

target. Importantly, for the ETS to have an effect at all the EU needs to restore its functioning as fast as possible. Moreover, the EU needs to revise its 2030 climate targets to make sure that aviation and shipping are included. At the moment this is unclear. Last but not least, the EU needs to end tax exemptions for kerosene and bunker fuels and other forms of state aid for the sectors.