



Briefing on signing and ratification of the Paris agreement

[Brussels, 19 April 2016] The aim of this briefing is to provide clarity on the various procedures following the adoption of the Paris Agreement, namely signing, ratification and entry into force. The paper also provides information on the prospects of ratifying the Paris Agreement by the EU.

Entry into force of the Paris Agreement is guided by the Vienna Convention on the Law of the Treaties and by the relevant provisions in the Agreement:

Article 21.1 *This Agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 percent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.*

Article 20 1. *This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to the Convention. It shall be open for signature at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017.*

What does the signing of the Agreement mean?

Signing an international agreement is a means of *authentication*, so an identification of the agreement as the actual text the negotiating countries agreed to. The signature qualifies the countries to move on to ratification. By signing the Paris Agreement, countries express their readiness to move forward in the treaty-making process. Signing the Agreement can also be seen as an important, symbolic act, as “a State is obliged to refrain from acts which would defeat the object and purpose of a treaty” once it has signed it [Arts. 18, Vienna Convention on the Law of Treaties 1969]. The EU will sign the Paris Agreement during the official signing ceremony on 22 April in New York, together with a record of more than 150 states. EU Member States have accepted that the European Commission will sign for the EU as a whole, even while all Member States will also deliver their signatures.

What is the difference between signing and ratification?

Signing the Paris Agreement will not make it legally binding for the signatory State. Ratifying on the other hand is a declaration of a State to the international community that it considers itself bound by the treaty, and will incorporate it into national law. Therefore, ratification is what actually matters, as states will become Parties to the Agreement only once they have ratified it.

The domestic process of ratification differs from country to country. For example, the United States can join based on the president’s authority, while for China, the approval of the Standing Committee of the National People’s Congress is required. In Brazil, the consent of the National Congress is required, which means seeking approval of two separate houses of Parliament.



When will the Paris Agreement come into effect?

As indicated above the Agreement will enter into force when at least 55 countries have ratified it, representing at least 55% of global greenhouse gas emissions. The first number is not so much of a barrier, but the second might be. For instance, the four biggest emitters (China, the US, the EU and Russia) together already represent 58.19% of emissions and the top 20 represents 84.82%. Therefore, a significant number of G20 countries needs to ratify for the Paris Agreement to enter into force.

What does entry into force mean?

The Paris Agreement is designed to guide climate action from 2021 onwards, once the second commitment period of the Kyoto Protocol has ended. For this to happen, agreement on a whole range of rules on accounting etc. is still needed. Entry into force before 2021 will be needed to ensure all these rules can be formally adopted, and preparations can be made for the countries to implement their commitments. Once the Agreement enters into force, only those countries who have ratified it will have a formal vote in the negotiations of these rules, though other countries can still participate as observers.

What is EU's position in all this?

The US and China, together representing about 38 percent of global emissions, have announced that they will ratify the Agreement this year. This is an important step in the direction of early ratification.

The European Commission will put forward a proposal for ratification in July this year, and the EU basically has two legal options on how it will ratify the Paris Agreement. The first is to ratify it only at the level of EU institutions, meaning getting the necessary majorities in the European Parliament and the Council of Ministers. This is the simpler option which the Commission hopes Member States will agree to. The other legal line says that the EU can only deposit its ratification once it is ratified both by the EU institutions and by the relevant institutions in each of the 28 Member States. This will obviously be a longer and more difficult process, as some countries will refuse to ratify before there has been a decision on the so-called effort sharing of emission reductions outside of the Emissions Trading Scheme (ETS). The European Commission is expected to present a proposal for national targets for non-ETS emissions in July, together with a proposal for ratification.

The amendment to the Kyoto Protocol that was adopted in Doha in December 2012 took 20 months to be ratified by the EU institutions. As of now, 40 months later, it is however still not ratified by all 28 Member States. Poland and Italy still have not ratified it. The EU has therefore not been able to deposit its ratification. A similar scenario would keep the EU out of the Paris Agreement till at least 2019. This could potentially lead to a situation where the EU would only function as an observer when further rules are developed. This would obviously be contrary to the concept that the EU plays a leadership role in the international climate negotiations.

Notes:

More information on entry into force of the Paris Agreement, legal requirements and implications:

http://unfccc.int/files/paris_agreement/application/pdf/entry_into_force_of_pa.pdf

Climate Action Network (CAN) Europe is Europe's largest coalition working on climate and energy issues. With over 120 member organisations in more than 30 European countries - representing over 44 million citizens - CAN Europe works to prevent dangerous climate change and promote sustainable climate and energy policy in Europe.