

Is the Paris Agreement a success and what does it mean for the energy sector?

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On 12 December 2015, the French President of the UN Climate Change Conference gavelled through the Paris Agreement in the presence of a few thousand country delegates. The conference room broke into euphoric cheers and applause as negotiators celebrated success in a task that just six years earlier had seemed all but impossible. Those who had been closely involved in the process described the Paris Agreement as the best possible outcome. Governments, investors, experts, and activists worldwide affirmed it had signalled the end of the fossil fuel era.

This short article examines these two affirmations. It asks: what did Paris do to deserve to be called a success, and where does it fall short? What does the Paris Agreement mean for the energy sector?

On the question of success, the article examines whether the Paris Agreement provides the necessary global regulatory mechanisms to prevent dangerous climate change. For negotiators who had seen several years of protracted negotiations and were desperate to avoid a similar collapse to that of Copenhagen in 2009, the definition of 'success' was inevitably lower than for climate scientists, civil society advocates, and people all around the world already feeling the negative impacts of climate change through abnormal weather patterns and increasing extreme weather events.

On energy, this article looks at what difference, if any, the Paris Agreement will make for the sector. How can an agreement that does not make a single reference to fossil fuels, nor any substantive reference to energy, push countries to decarbonize their

energy supply and move towards more efficient and climate-resilient energy systems? While a major outcome from Paris undoubtedly was the strong signal it sent of collective political determination, a signal alone is insufficient if it is not sustained by long-term policies and regulations, backed up by investments and divestments.

What is the Paris Agreement?

From a diplomatic perspective, the Paris Agreement was the culmination of more than 20 years of negotiations. It represents a consensus among 195 governments on what the global regulatory framework for preventing dangerous climate change post-2020 should look like. According to many, the Agreement restored faith in the ability of the multilateral UN system to agree on collective solutions to global problems. In recent years, a growing number of voices have been calling for the formation of 'climate clubs' of major emitters that agree to take ambitious action in exchange for trade and other benefits, as being the only viable solution to achieving the required emissions reductions. The Paris conference showed that the time of UN diplomacy is not over; it can deliver results even through consensus (the *de facto* procedure in the UN climate negotiations).

As a multilateral treaty, the Paris Agreement scores high on legitimacy through its near-universal level of participation. It also sends a strong

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signal on political ambition, and has in-built mechanisms aimed at increasing ambition over time.

From an international law perspective, the Paris Agreement consolidated a 'bottom-up' architecture for multilateral climate governance. In the words of climate law expert Daniel Bodansky Paris tied

'a treaty ribbon around ... key elements of the Copenhagen Accord'

('Reflections on the Paris Conference', *Opinio Juris*, 15 December 2015). It includes a system of nationally determined contributions (and their non-binding content), an extension of this system to all countries, and an affirmation of the pledge to mobilize US\$100 billion in finance to developing countries by 2020.

This bottom-up system, in which countries themselves determine what they consider a fair and ambitious contribution is, however, significantly strengthened in the Paris Agreement. Its 'hybrid' approach introduces a number of regulatory elements, political mechanisms, and institutional structures that will be crucial in ensuring that countries' individual plans, and their implementation, add up to what is required by science.

What does the Paris Agreement add?

Firstly, the Paris Agreement sets global long-term goals for temperature and greenhouse gas (GHG) emissions. Parties to the Agreement subscribe to a collective goal of holding the global average temperature increase well below 2 °C (or even 1.5 °C), of reaching a global peaking of GHG emissions

as soon as possible, and of achieving emissions neutrality in the second half of this century.

Secondly, the Agreement establishes a system of national climate action plans ('nationally determined contributions', NDCs), the preparation, communication, and maintenance of which are obligatory to all countries. NDCs need to be communicated every five years and must include mitigation (emissions reduction) measures and represent a progression over the country's previous NDCs.

Thirdly, the agreement lays the foundations for a framework to incentivize increasingly ambitious climate action by countries. This includes a process and systems to track countries' progress towards their individual goals (transparency framework) and a process to periodically assess collective progress towards the long-term goals of the agreement (global stocktake).

In order to encourage developing countries to adopt increasingly ambitious mitigation targets and to support their adaptation efforts, the Paris Agreement enhances the existing institutional mechanisms for technology development and transfer, and for capacity building in developing countries under the UN Framework Convention on Climate Change (UNFCCC). It also provides assurances on climate finance by extending the US\$100 billion commitment through 2025 and establishing a process to define a common accounting methodology for public finance – this definition remaining a source of contention between developed and developing countries.

Where does the Paris Agreement fall short?

As noted above, if restoring faith in multilateral diplomacy and saving

the reputation of the UNFCCC as the leading global institution for climate governance are used as the criteria for success, Paris delivered extremely well. No doubt it also sent a strong political signal. However, the Agreement's key features also reveal a number of shortcomings, which may determine whether it succeeds as a climate agreement.

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Firstly, a huge gap still remains between the level of action countries are willing to commit to internationally and what is required according to science to avoid dangerous climate change. The celebration by many vulnerable developing countries of the hard-fought inclusion of a reference to 1.5 °C in the Agreement text is contrasted by the stark reality of the pledges that countries brought to Paris (according to most estimates these would lead to 3 °C of warming or more, if implemented). A key measure of success will therefore be how well, and how fast, the Agreement will incentivize more ambitious action.

Secondly, the binding elements of the Paris Agreement are largely procedural. Achieving broad participation came with the cost of allowing countries to self-determine the level, type, and scope of their national contributions. Only the process-related aspects (preparation, communication, maintenance) of the NDCs are binding. The exact content of the NDCs is left to countries to determine.

Thirdly, the Agreement lacks legal muscle to ensure countries comply with their pledges or to increase them to a level that science determines as sufficient to avoid disastrous climate

change. While crucial in setting a common direction for all countries, the long-term goals of the Paris Agreement are in practice merely aspirational, given the impossibility of holding any country, or group of countries, accountable for non-compliance. Should a country fail to reach its goals, a committee of experts will examine the case in a facilitative and non-punitive manner. In the absence of a strong compliance mechanism, the power of the ambition mechanism is therefore mainly drawn from peer pressure – in other words political shaming and blaming.

What needs to happen now?

Paris resulted in a long to-do list for both the UNFCCC and national governments. Under the UNFCCC, climate negotiators and experts will spend the next five years developing the detailed rules and procedures that will form the basis for the functioning of the regulatory, political, and institutional frameworks supporting the Paris Agreement (transparency framework, global stocktake, accounting rules for finance, and rules for international emissions trading, among others).

In order to make the Paris Agreement operational by 2020, countries will need to ratify it, formalize their Paris pledges, and start preparing for their updated NDCs, which are due by 2020, with a target year of 2030. For entry into force, 55 countries representing at least 55 per cent of global GHG emissions will need to join. Boding well for this process, the USA and China (which jointly account for a more than a third of global emissions) announced in early April 2016 that they would aim to join the Agreement as early as possible in 2016.

The most crucial task, however, will be turning the countries' NDCs into on-the-ground action by translating them into public policies, programmes, and

investments. This work should start even before the Paris Agreement enters into force. Intergovernmental Panel on Climate Change (IPCC) emissions scenarios suggest that delaying more ambitious action increases both the costs and risks involved later on. If, instead of steady reductions, global GHG emissions are allowed to keep rising for the next 10–20 years, quick reductions will be needed thereafter to stay within 2 °C of warming. This would translate into higher costs and increase the likelihood of needing to resort to controversial geoengineering technologies – such as bioenergy with carbon capture and storage (BECCS).

Between 1970 and 2010, according to the IPCC, global GHG emissions increased by more than 80 per cent. Economic and population growth continue to drive the growth of fossil fuel consumption, which in turn is the main driver of climate change: currently responsible for two-thirds of human-made GHG emissions. Energy will therefore be at the centre of global mitigation efforts.

What does Paris mean for the energy sector?

Despite numerous analyses of the Paris Agreement from legal and political perspectives, less attention has been paid to its implications for global energy use patterns in the future. There are several possible reasons for this: firstly, energy is a highly politicized topic in the UNFCCC negotiations, which is why the Paris Agreement lacks clear references to it. The Paris Agreement also leaves it up to each country to decide how and where they will reduce their emissions. At the same time, energy will be a core component in practically all countries' climate plans. According to the World Resources Institute, 80 per cent of intended nationally determined contributions (INDCs) submitted by late October 2015 referenced clean energy.

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Secondly, the long-term goals of the Paris Agreement are not by any means breaking news for the energy industry. The pathway set for emissions to peak rapidly and reach net zero in the second half of this century will evidently require a major transformation of the entire global energy system. However, these collective emission goals merely reflect what science tells us, and the consequences of pursuing them are generally well known.

For example, the IPCC's Fifth Assessment Report from 2014 concluded that:

‘... mitigation policy could devalue fossil fuel assets and reduce revenues for fossil fuel exporters, but differences between regions and fuels exist.’

The report also confirmed that, as a result of mitigation action, coal and oil export revenues are likely to decrease, with less certain impacts on natural gas export revenues, and that the use of Carbon Capture and Storage (CCS) technologies would reduce adverse effects on the value of fossil fuel assets. What the Paris conference therefore did was confirm that countries are listening to science. This is nevertheless a powerful signal to the energy industries – if they are listening.

Thirdly, there is no track record of a link between UNFCCC outcomes and global emissions. The UNFCCC and its first legally binding treaty (the Kyoto Protocol) have not, so far, had a demonstrable net effect on global GHG emissions. However, this may be changing as, in March 2016, the International Energy Agency (IEA) reported that CO₂ emissions from the

energy sector had remained constant from 2013 to 2015. This was the first time in 40 years that global emissions had stood still (or fallen) for reasons unrelated to an economic downturn. According to the IEA, the trend was led by changing energy consumption patterns in China and the USA: switching from coal to renewables in the former and from coal to natural gas in the latter. These changes were offset by emissions growth elsewhere in Asia, in the Middle East and, to some extent, in Europe.

The stalling of global energy emissions due to changes in just two countries shows how domestic actions by major emitters can have a significant impact on global emissions. Here, the periodic ambition and transparency mechanisms of the Paris Agreement can play a key role in building trust for increasingly ambitious action by all major economies.

Fourthly, oil markets have in recent times been more preoccupied with low prices, which are driven by factors largely unrelated to climate policy, namely a glut in supply. The jury is still out on whether the low oil prices are a curse or a blessing for ambitious climate action. On the negative side, low prices incentivize higher oil consumption and use of energy inefficient solutions, especially in the transport sector (where impacts may be felt by fuel-efficient vehicles, electric vehicles, and biofuels), but in some countries also in the electricity sector. The IEA estimates that if sustained, lower oil prices could discourage US\$800 billion in energy efficiency investments through 2040, leading to higher GHG emissions.

On the positive side, low oil prices have already made it possible for many countries to implement badly needed fossil fuel subsidy reforms. In the oil industry, they have led to the postponing of capital expenditure in

production and exploration, possibly to a time in which environmental regulation or changed market conditions will make their use no longer viable. Low oil prices have also accelerated the determination with which many oil-producing countries, in particular in the Gulf, are pursuing their economic diversification efforts. The United Arab Emirates' post-oil strategy, together with plans in Saudi Arabia to sell shares of the national oil company to support economic growth and reform, are powerful signs of this.

Will Paris make a difference?

It is argued here that, in order to see the real potential of the Paris Agreement to support the needed global energy transformation, one must look beyond its actual and perceived shortcomings. These include its internal

operational and structural weaknesses (the gap between pledges and science, and the weak enforcement mechanism), issues related to external perceptions (the UNFCCC's weak track record), and parallel energy trends (low oil prices).

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Post-2015, the question of whether the Paris Agreement will be successful or if it will spur change in the energy sector, is arguably synonymous to asking if national climate policies will be strengthened and implemented over time, and where energy investments will be directed as a result. Despite all its shortcomings, the Paris Agreement,

as a universal climate agreement, represents a realistic compromise and achieves more than many had expected. The debate, going forward, should therefore not be about whether Paris succeeded or not, but about how to leverage the Agreement to support national-level implementation worldwide. Ultimately, future generations will not judge ours for whether the Paris Agreement included ambitious pledges, or even if it set up functional confidence-building and support mechanisms, but whether we, collectively, managed to cut our energy emissions quickly and deeply enough to keep global temperature rise at a safe level.

**The views expressed in this article are those of the author, and do not necessarily reflect the views of the Emirates Diplomatic Academy or the UAE Government.*



COP21: One step forward, a mile to go

Scott Barrett

At the Paris climate conference last December, all the world's countries were able to reach a consensus about a matter of profound importance. They agreed that climate change needs to be halted and that every country must play a role in halting it.

Why were countries able to reach a consensus? One reason, of course, is that all countries recognize the threat posed by climate change. But another reason is that, under the rules of the first climate treaty, adopted in Rio in 1992 (the United Nations Framework Convention on Climate Change, or UNFCCC) decisions by the parties *must* be agreed by consensus. As the new agreement was being negotiated under these same rules, opposition by any country could have sunk the effort – this is what happened in Copenhagen

in 2009 at the previous make-or-break climate meeting. All countries agreed after this that they had no alternative but to try again.

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Another reason why a consensus was reached in Paris is that the main obligations of the agreement are self-determined and explicitly voluntary (other obligations are collectively determined, but the agreement says that implementation of these obligations is to incorporate 'built-in flexibility'). Previous efforts to negotiate a climate treaty tried to get countries to do more than they were willing to do on their own, without providing any

means for enforcing such obligations. If the means for enforcement are lacking, and a consensus is needed, then it's obvious how the negotiations should be structured: you have to ask countries to accept obligations that they are willing to accept. You can urge them to do more, but you cannot compel them to do more. And since the obligations are usually expressed in terms of outcomes that countries don't control directly (country-wide emissions), you have to accept that meeting these obligations is ultimately voluntary in order to provide an extra measure of reassurance.

This is not to say that the negotiations were tension-free. Although each country wants to be free to choose its own obligations, every country would like all *other* countries to do much