

# Summarising the paris agreement



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The Kyoto Protocol's second commitment period is due to end in the year 2020, the same time as the new Paris agreement is due to come into force to replace this protocol (Wilder, Richard and Curnow, 2016). Given that the issue of fragmentation described earlier hinges on the provisions present in the Kyoto protocol, it is clear that the provisions introduced in the new agreement have the potential to change the fragmented relationship between the climate and biodiversity regimes. This presents a unique opportunity to: examine how this relationship may have changed; critique the Paris agreement's attempts at managing fragmentation; examine how the international community may be attempting to improve fragmented regimes; suggest how the international community might be able to improve on the weaker areas. To do this it is first necessary to provide a summary of the Paris agreement, exploring how it may differ from the Kyoto protocol in general and specifically in its delimitations on the use of forests - in achieving the objectives of the UNFCCC. To then go on to discuss what these differences mean for the fragmented UNFCCC-CBD regime.

## Background

During the 2011 United Nations Climate Change Conference, the Durban Platform (and the Ad Hoc Working Group on the Durban Platform for Enhanced Action) was established with the aim to negotiate a legal instrument governing climate change mitigation measures from 2020. The Durban Platform decision had identified the focus of work for the 2015 Agreement as 'mitigation, adaptation, finance, technology development and transfer, transparency of action, and support and capacity building'.

Developed countries, however, had long sought to focus on mitigation and transparency alone, while many developing countries had argued for parity in treatment across mitigation, adaptation, transparency and means of implementation (finance, technology and capacity building).[A3]The agreement entailed the continuation of the Kyoto Protocol in the interim, although only some countries including members of the EU were indicated as likely to commit.[A4]The terms of the Durban Platform were ultimately met following the successful negotiation of the Paris Agreement through decision 1/CP. 21, the text of the Paris Agreement is contained in the annex to this decision. The resulting agreement was to be adopted in 2015. The language of the agreement was negotiated by representatives of 195 countries at the 21st Conference of the Parties of the UNFCCC in Paris and adopted by consensus on 12 December 2015. It was opened for signature on 22 April 2016 (Earth Day) 175 Parties (174 states and the European Union) signed the treaty on the first date it was open for signature. As of December 2016, 194 UNFCCC members have signed the treaty, 126 of which have ratified it. After several European Union states ratified the agreement in October 2016, there were enough countries that had ratified the agreement that produce enough of the world's greenhouse gases for the agreement to enter into force. The agreement went into effect on the 4<sup>th</sup> of November 2016.

### Preamble and Purpose

The preamble establishes the overarching context for the operative elements of the agreement, the importance of: ' nature' is recognised and enshrined in addressing the challenges of adaptation and mitigation; sinks and reservoirs, including forest ecosystems and unlike the Kyoto protocol, the importance of <https://assignbuster.com/summarising-the-paris-agreement/>

protecting biodiversity is mentioned: “ The Parties to this Agreement, Noting the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity. Through this framing the importance of nature is recognised, and can be expected to lead to a greater focus on maintaining healthy ecosystems, which up until now has been an underrepresented dimension of climate change solutions.[A5]

### General - [A2]

The Paris Agreement has a ‘ bottom up’ [in parts] structure in contrast to most international environmental law treaties which are ‘ top down’, characterised by standards and targets set internationally, for states to implement. Like the Kyoto Protocol the aim of the convention is described in Article 2, “ enhancing the implementation” of the UNFCCC. Is an unusual Agreement, containing a carefully calibrated mix of hard, soft and non-obligations, the boundaries between which are blurred. Each of these types of obligations plays a distinct and valuable role. The ‘ hard obligations’ of conduct in mitigation and finance, in conjunction with a rigorous oversight system, form the core of the Paris Agreement. The ‘ soft obligations’ peppered throughout the instrument in relation to mitigation, adaptation and means of implementation create good faith expectations of Parties. And the non-obligations, albeit unusual in operational provisions of treaties, provide valuable context, construct narratives and offer mutual reassurances.

### NDC’s - [A3]

Unlike its predecessor, which sets commitment targets that have legal force, the Paris Agreement, with its emphasis on consensus-building allows for

voluntary and nationally determined targets[A6]. Nationally determined contributions [NDCs] are determined by all countries individually Article 3 requires them to be “ ambitious”, “ represent a progression over time” and set “ with the view to achieving the purpose of this Agreement”. The contributions should be reported every five years, the ‘ contributions’ themselves are not binding. The specific climate goals are thus politically encouraged, rather than legally bound. Only the processes governing the reporting and review of these goals are mandated. While each Party’s NDC is not legally binding, the Parties are legally bound to have their progress tracked by technical expert review[A7]to assess achievement toward the NDC, and to determine ways to strengthen ambition.

#### Forests - [A5]

Importantly the main text includes a section dedicated specifically to the role of forests in climate change mitigation, sending a strong political signal to both developed and developing countries that they should implement and support: forest protection, sustainable management and restoration . It differs from the Kyoto protocol in that it does not include provisions commanding the promotion of policies associated with either afforestation, reforestation or deforestation, nor are these prescribed to meet any such commitments . Article 5, integrates these forest-based climate change mitigation and adaptation measures in the operational scheme of the Agreement, noting in paragraph 1 that: “ Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1(d), of the Convention, including forests”. This pledge to fight deforestation and promote conservation has

been regarded by some as a key shift in the international climate regime. It provides a legal basis to require Parties only to 'conserve' and 'enhance' ecosystems when taking INDCs to address climate change. Note importantly that this provision encourages all parties, developing and developed to use 'ecosystem based' mitigation options. Furthermore reference to 'reservoirs' of greenhouse gases could provide a basis for use of carbon capture and storage technologies according to those who view Article 4, paragraph 1 of the UNFCCC as an encouragement to use such technology based options.

### REDD [A8] - [A5]

Whereas provisions relating to forest conservation in developing countries were deliberately omitted from the Kyoto protocol[A9], due to efficiency concerns. REDD+ was formally recognised in an explicit and standalone part of the Paris agreement, article 5. 2, in which " Parties are 'encouraged' to take action to implement and support,[-][A10], the existing framework for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation". Note the specific wording designed to prevent REDD+ from becoming a formal mechanism under the Convention, chosen to prevent the kind of administrative barriers that have been encountered when approving projects under the existing Clean Development Mechanism. Encourages 'implementation' and 'support', among others, of REDD+, and alternative policy approaches such as joint mitigation and adaptation approaches for integral and sustainable management of forests. Article 5 paragraph 2 refers to frameworks, decisions and guidance adopted over the years as they relate to forests,

including REDD+, it also reaffirms the importance of non-carbon benefits of forests.

### REDD Background [A11]

REDD+ which has been in development since 2005, was the subject of intense negotiation during the 2015 climate change conference in Paris. Its inclusion in the Paris agreement is a notable achievement. High on the agenda in the lead up to Paris was the ambiguity associated with the lack of a strong political signal to assure the international community that REDD+ was a permanent addition to the climate regime. Countries such as Brazil (who have long opposed the proliferation of forest regimes) did not want any reference to REDD+ at all, arguing that the arrangements had already been formulated through the Warsaw Framework for REDD+. Whereas organisations such as the Coalition for Rainforest Nations (CRN) argued for further provisions to establish financing for REDD+. REDD was considered for inclusion alongside other mechanisms such as the Joint Mitigation and Adaptation Mechanism (JMA). Other key topics of discussion included whether REDD+ reductions would count toward countries national climate action plans, or INDCs. Text - Despite the CRN's efforts, the new treaty [does not introduce any new finance commitments, pledges or channels, beyond those found in Article 9]. Though [clause 55 specifically recognised the need for financial resources to support forest-related activities, with particular mention of joint mitigation and adaptation approaches for the integral and sustainable management of forests.] The provisions in article 5. 2 are considered to be positive for forests, by formally recognising the role they play in combatting climate change, providing the necessary political signal to <https://assignbuster.com/summarising-the-paris-agreement/>

mobilise action and by operationalizing the REDD+ package, sending a clear message that it is a prominent piece of the new global climate action strategy.

### Sustainable Development Mechanism - [A6]

Establishes the 'sustainable development mechanism' an advancement of the 'clean development mechanism' that was present in the Kyoto protocol which facilitated the collaborative pursuit of emissions reductions for their Intended Nationally Determined Contributions. Notably, the SDM, unlike the Clean Development Mechanism, will be available to all parties as opposed to only Annex-1 parties, making it much wider in scope. Although the structure and the processes governing the SDM are not yet determined the specifics of the governance structure, project proposal modalities, and overall design are expected to come during the next Conference of the Parties in Marrakesh. Relevance to REDD+ forest based mitigation will form part of the SDM, including measures for public and private participation that could possibly mobilise private financing [A12] for REDD+, forest conservation and sink enhancement.

### Flexibility

Throughout article 6 Provides benefits to REDD+ mechanism in the form of the transference of mitigation outcomes (including emissions reductions or removal enhancement). Furthermore it is stipulated that cooperation in implementing NDC's must provide reference to REDD+ as well as stipulating the trading of emissions reductions. Scope



Another key difference between Paris Agreement and the Kyoto Protocol is its scope. While the Kyoto Protocol differentiated between Annex-1 and non-Annex-1 countries, this bifurcation is blurred in the Paris Agreement, as all parties will be required to submit emissions reductions plans. The acknowledgement that different nations have different capacities and duties to climate action it does not provide a specific division between developed and developing nations.

### Adaptation

Adaptation issues garnered more focus in the formation of the Paris Agreement. Collective, long-term adaptation goals are included in the Agreement, and countries must report on their adaptation actions, making adaptation a parallel component of the agreement with mitigation. May be relevant to forests in that it requires the protection of ecosystem and the implementation of measures to increase their resilience.

### Transparency

Article 13 of the Paris Agreement articulates an “ enhanced transparency framework for action and support” that establishes harmonized monitoring, reporting, and verification (MRV) requirements. Thus, both developed and developing nations must report every two years on their mitigation efforts, and all parties will be subject to both technical and peer review. The agreement also has an enhanced transparency framework over the Kyoto protocol the Parties are legally bound to have their progress tracked by technical expert review to assess achievement toward the NDC, and to determine ways to strengthen ambition. Article 13 of the Paris Agreement

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### Carbon Market

Additional elements include in article 6 the basis for a global carbon market, involving the international transfer of mitigation outcomes (ITMOs)

.[A13]

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[A1]Expand on this

[A2]Compare to the suggestions that critics have offered

[A3]Necessary?

[A4]? move

[A5]Consider moving to discussion?

[A6]Could result in less emphasis on need for conversion?

[A7]Do these experts: note the importance of biod?

[A8]More information needed

[A9]Check this

[A10]Include

[A11]Consider order

[A12]There are private financing afforestation projects?

[A13]To complete, are there more aspects?