



*Climate Action Network-International (CAN-International) is the world's largest network of civil society organizations, with more than 800 members in over 93 countries, working together to promote government action to address the climate crisis.*

1<sup>st</sup> September 2013

## **Submission to ADP Chairs on Workstream 1: Post-2020**

We welcome this opportunity to present views on the future work to be undertaken by parties in Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP). This submission intends to help parties define the contours and the vision for a future agreement. The ideas presented in this submission will enable parties to engage positively in the ongoing discussions and get to a fair, ambitious and legally binding 2015 agreement.

This submission builds on the earlier submission made by Climate Action Network on ADP Workstream 1 dated, 1<sup>st</sup> March 2013.

### **Table of Contents**

<b>LEGAL: SCOPE, STRUCTURE AND DESIGN OF THE 2015 AGREEMENT</b>	<b>3</b>
Kyoto Protocol as a basis for the ADP	3
<b>THE EQUITY REFERENCE FRAMEWORK</b>	<b>4</b>
PRINCIPLES	5
DEFINITIONS	6
THE CORE CONVENTION-BASED EQUITY PRINCIPLES – AND THEIR INDICATORS	7
1 <sup>st</sup> core equity principle	7
2 <sup>ND</sup> Core equity principle	8
3 <sup>rd</sup> core equity principle	12
FRAMEWORKS	13
WAY FORWARD	13
OVERALL LOGIC FOR ERF	15
<b>ADAPTATION AND LOSS AND DAMAGE</b>	<b>16</b>
<b>FINANCE</b>	<b>17</b>
KEY ELEMENTS OF A 2015 DEAL ON POST-2020 FINANCE	18
Adequacy and scaling up	18
Equity	18
Additionality	18
Coherence	19
Rationalization	19
Transparency	19
<b>MITIGATION</b>	<b>19</b>
GLOBAL GOALS	19
DECIDING ON COUNTRY-SPECIFIC COMMITMENTS AND ACTION	20
ZERO-EMISSIONS STRATEGIES FOR DEVELOPED COUNTRIES	21
LOW-EMISSION DEVELOPMENT PLANS FOR DEVELOPING COUNTRIES	21

MARKET-BASED MECHANISMS	21
COMMON ACCOUNTING FRAMEWORK	22
<b>FIRST PERIODICAL REVIEW (2013 – 2015)</b>	<b>23</b>
<b>REDD/LULUCF</b>	<b>24</b>
<b>TECHNOLOGY</b>	<b>24</b>
LONG TERM FUNDING FOR TEC AND CTCN	24
TECHNOLOGY ASSESSMENT	24
CTCN PRIORITIZATION CRITERIA	25
<b>MEASURES OUTSIDE OF THE UNFCCC REGIME</b>	<b>25</b>
MEASURES TO ADDRESS INTERNATIONAL AVIATION AND MARITIME TRANSPORT	25
REMOVAL OF FOSSIL FUEL SUBSIDIES	25
HFCs	26
<b>NGO PARTICIPATION</b>	<b>26</b>
<b>LESSONS FROM OTHER CONVENTIONS FOR THE POST 2015 CLIMATE AGREEMENT</b>	<b>29</b>

## Legal: Scope, Structure and Design of the 2015 Agreement

The scope, structure and design of the 2015 agreement should be consistent with a **1.5°C** global carbon budget with high likelihood of success, including **targets and actions** within an **equitable framework** that provides the **financial, technology and capacity building support** to countries with low capacity. It should be **serious about ensuring sufficient support** for dealing with the unavoidable impacts of climate change. It should be built on, developing and improving the **rules already agreed under the Kyoto Protocol and the Convention** including transparency through **common and accurate accounting and effective compliance processes, respecting the principles of equity**. The form of the 2015 agreement should be a fair, ambitious and legally binding protocol<sup>1</sup>.

### *Kyoto Protocol as a basis for the ADP*

**The Kyoto Protocol provides a good basis for future Protocol**, its rules have been tested and should be improved and built upon. Existing elements of the Kyoto Protocol that provide a basis for the new Protocol include:

- **Long-term viability:** the KP provides a framework that can be updated for each 5-year commitment period, while maintaining its essential elements
- **Top down approach**, setting an overall objective, an aggregate goal, for developed countries, allowing appropriate consideration of the **science**, with comparability of effort between countries established through their respective targets (Article 3.1)
- Legally binding, economy-wide, absolute emissions reduction **targets** (QELROs) for countries with high responsibility and capacity, expressed as a percentage below the 1990 base year (Annex B)
- **A system of 5-year commitment periods**, with comparability of effort measured against a common base year allowing for reasonable cycles of review linked to the IPCC reports and for comparability of effort (Articles 3.1 and 3.7). A commitment regime under the new 2015 agreement should set at least two 5-year commitment periods, so that there are clear consequences in the already-agreed second period for failure to comply with the first 5-year target, and so that a next set of two 5-year targets is in place before the first 5-year period expires. The system should include an adjustment procedure similar to the adjustment procedure under Article 2.9 of the Montreal Protocol that is restricted to increasing ambition. This adjustment procedure should allow both unilateral real increases in ambition by a country and for a ratcheting up of all countries resulting from an adequacy review.
- **Monitoring, review, and international verification** system (Articles, 5,7,8 and associated decisions)
- **Compliance mechanism** composed of two tracks – facilitative and enforcement (Article 18). Compliance with the new 2015 legally binding outcome will depend in large part on effective **\*domestic\*** compliance processes, which can be facilitated by sharing of domestic best practices in compliance design. This will in turn facilitate better compliance with international obligations.
- Mandatory **review** of provisions of the Protocol for subsequent commitment periods (Article 3.9)
- **Supplementarity** – ensuring that market or non-market mechanisms are supplementary to (ie, CDM) to **domestic actions**, and don't undermine the

---

<sup>1</sup> Environmental Defense Fund, Greenovation Hub and Institute of Environment and Development (IED) do not endorse this position.

- fundamental need to decarbonize all economies (Article 6.1d)
- Required **reporting** on “demonstrable progress”, establishing an important reporting requirement and stocktaking (Article 3.2)
- Basket approach to GHGs, and the ability to list new gases and classes of gases (Annex A)
- Use of Global Warming Potentials (GWP) to allow comparability of the impacts of different gases on global warming (Article 5.3)

## The Equity Reference Framework

Equity is back on the negotiating table, and this is no surprise. Climate change negotiations under the UNFCCC were never going to succeed unless they faced the challenge of “equitable access to sustainable development.” Unless they faced, more precisely, the equity challenge of not just holding to a 2°C or even 1.5°C-compliant global emission budget but also supporting sustainable development and adaptation. These are the preconditions of any successful climate transition.

As negotiations under the ADP have begun towards finding agreement on a future climate regime by 2015, the core challenge is to move the equity agenda forward, in a manner that allows us to simultaneously 1) address the needed increase in ambition in the pre-2020 period and 2) pioneer a track to collective post-2020 emissions reductions that are in line with the precautionary principle. Addressing this will require that the following three conditions be met.

- First, the **Parties must work together, in good faith**, to find a way forward on equity. It will not do for each to assert the uniqueness of its own “national circumstances.” There must be a global way forward.
- Second, **pre-2020 ambition must be increased**. Developed country targets must be strengthened to be in line with the demands of science. Also, financial, technological and capability-building support for developing countries must materialize before Paris. This is absolutely essential to build the trust required for the world to act together to move to a low carbon economy post -2020. Developed countries also need to ensure that emissions peak within the decade in order to ensure that the window to limit warming to 1.5 and 2°C remains open.
- Third, there must be a **path forward for “common but differentiated responsibilities and respective capabilities (CBDR+RC)** and it must effectively trace and capture the changing dimensions of the global economic and social order.

An immediate clarification is in order here. **The path forward to CBDR+RC does not mean that the existing Annexes should be dissolved**, but it does mean that they’re not the only way forward. The key reason is the Annexes do not fully specify national “fair shares” toward an ambitious global effort. Parties need more explicit and quantitative guidance, based on the Convention’s equity principles, regarding both a fair allocation of both mitigation action as well as the provision of financial and technological support. The regime that goes into effect in 2020 must **focus pressure on those countries that are not contributing their fair share toward the global effort, and it must promise to do so as well in 2030 and beyond, in a manner that effectively tracks economic and social evolution**. If the regime does not do so, it will not be effective.

## Principles

The first of these conditions (good faith) and the second (mitigation and support) are beyond the scope of this paper. This paper addresses the third point: the future of CBDR+RC.

This paper presents ideas on operationalizing CBDR+RC under the Convention as an element of the Paris agreement. It seeks a way forward on this most difficult of fronts. Fortunately, it has somewhere to stand, for the thorniest part of the equity debate – the part that concerns principles – was essentially resolved back in 1992.

The Convention's core equity principles as identified by CAN, briefly and without detailed exegesis<sup>2</sup>, are captured in the following:

- **A precautionary approach to adequacy**, referring to the collective obligations of countries to undertake and support urgent and adequate global action to prevent dangerous impacts of climate change and provide effective adaptation to unavoidable impacts, without which there can be no justice. (Article 3.3: "The Parties should take precautionary measures to anticipate, prevent and minimize the causes of climate change and mitigate its adverse effects.")
- **Common but differentiated responsibility and respective capability (CBDR+RC)**, in which obligations to take action and provide support, and rights to receive such support, are accepted as functions of both historical and current emissions, and of capability to act. (Article 3.1: "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.")
- **The right to sustainable development**, which we understand as the right of all countries to not just lift their people out of poverty, but also to provide their citizens with sustainable and universalizable living standards. By sustainable we mean "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."<sup>3</sup> By universalizable, we mean living standards that could be made available to the citizens of all countries.<sup>4</sup> (Article 3.4: "The Parties have a right to, and should, promote sustainable development.")

The right to sustainable development requires clarification. In particular, the roles of right-bearers and duty-bearers must be further defined. Also, all countries must take immediate and urgent action to reduce their unsustainable consumption and resource-use patterns, and to follow pathways of inclusive growth and sustainable development. Countries with greater capability must take ambitious actions to address unsustainable consumption and resource use, actions which must inevitably include life-style changes. Countries with limited capability should pursue sustainable development models, which are inclusive, gender sensitive, climate resilient and low carbon, which they can only do if they receive adequate and appropriate support from the developed counties.

---

<sup>2</sup> **CAN Fair Effort Sharing Discussion Paper** at <http://www.climatenetwork.org/publication/can-discussion-paper-fair-effort-sharing-jul-2011>.

<sup>3</sup> These words are from the 1987 Report of the *World Commission on Environment and Development*, popularly known as the Brundtland commission.

<sup>4</sup> On universalizability, see Kant's notion of the "categorical imperative," which states that the only morally acceptable maxims are those that can be taken, rationally, as the basis of universal law

Principles, however, are not enough. What's needed now is an equity process that can drive increased ambition on all fronts – within top-down negotiations of commitments under the Convention, in which we struggle to meet global goals, and on the ground, where we seek to force free riders to face their proper obligations. Minimally, this process means a shared “Equity Reference Framework” that embodies the Convention's core equity principles – one that's based upon well-designed and quantified **equity indicators**, one that's precise enough to guide Parties ex ante as they formulate commitments that are both fair and adequate, one that's useful ex post to both Parties and Observers as they evaluate commitments in equity-based and science-based terms.

The point here is captured in the term “reference framework.” The first thing to say about such a framework is that it must be flexible enough to accommodate changes over time, for while we badly need a path towards climate equity, we're not going to reach complete, finely-detailed consensus on its demands in the immediate future. At the same time, we need an understanding that is concrete enough to encourage confidence in developing-country Parties, confidence that developed countries are taking and intend to take their fair share of the global obligation, both through their domestic mitigation contributions and, internationally, by providing finance and technology support to developing countries for additional mitigation, adaptation, and loss and damage, as two parts of their total fair share. How should responsibility be balanced against domestic technical feasibility? How should international obligations be balanced against domestic ones? How should sustainable development rights be understood, and how should they affect fair shares? These are difficult questions, and there are others as well - a useful Equity Reference Framework, is one that while allowing for disagreement, would clearly distinguish commitments that are approximately fair from those which are simply and patently inadequate. This isn't an optional feature. This is the point.

## Definitions

**Principle** – in this paper, a principle is by definition an “equity principle” – though we immediately add, and stress, that adequacy itself is the first of all equity principles. Without ambition there can be no justice. A “core equity principle” is an equity principle that is strongly founded in the (already agreed) text of the Framework Convention.

**Equity Reference Framework (ERF)** – an effort-sharing framework that posits equity indicators, constructing them out of raw indicators in a manner that is consistent with the Convention's core equity principles. The primary purpose of an ERF is to leverage equity indicators to calculate national “fair shares,” relative to one or another aspect of the common danger, and the common effort that will be needed to meet it.

**Equity indicator** – a higher-level, ethically-inflected indicator. For example, *capability* is an equity indicator. As is *responsibility*. As is *development need*. Not all equity reference frameworks (ERFs) will consider all equity indicators, but such indicators are central to equity reference frameworks. They stand between equity principles and raw indicators. They lay down the structure of the ERF approach.

**Raw indicators** – familiar, publically available demographic or economic data. For example, *population*, or *per-capita income*, or *national emissions intensity*. Raw indicators come as datasets that can be taken “off the shelf.” They are generally maintained by national institutions and tracked by one or another prestigious international institution. Some

important raw indicators (e.g., *per-capita income*) are critical in one-way or another (e.g., calibrating national financial obligations), but are still not equity indicators per se.

**Dynamic CBDR+RC** – an approach to global effort sharing that is explicitly rooted in the Convention’s core equity principles (we believe there are three, and they are itemized just below), and which operationalizes those principles in terms of equity indicators that dynamically change with the global economy. For example, a country’s *capability* indicator is taken to constantly change, as a function of change in underlying raw indicators (population, GDP, etc.), which are also inherently dynamic.

### **The core convention-based equity principles – and their indicators**

The three high-level principles suffice to show us where we stand. When searching for useful equity indicators, however, we must be more concrete. To that end, note that the Convention’s high-level equity principles refer to historical responsibility, standards of living, development need, national capability to act, and sustainable development rights. The precise meaning of these notions will not be agreed anytime soon, but, fortunately, precision is not needed here.

What is needed is an agreed list of well-designed equity indicators that can be wisely and intelligently applied by Parties and Observers as they seek to negotiate a way forward that respects the Convention’s core equity principles. With this in mind, it’s time to take yet another step towards precision. We suggest that the essential elements of the high-level principles can be captured in terms of five more distinct principles, each of which is well focused and thus amenable to (imperfect but serviceable) quantification. These are Adequacy, Responsibility, Capability, Adaptation Need and Development Need.

Below, briefly, we list the core Convention-based equity principles, and the equity indicators that we believe most effectively represents those principles. For each of these equity indicators, we briefly note some issues, and some of the “raw indicators” (standard macro-economic datasets) that are relevant to its proper construction.<sup>5</sup>

#### ***1<sup>st</sup> core equity principle: A precautionary approach to adequacy***

***... referring to the collective obligations of countries to undertake and support urgent and adequate global action to prevent dangerous impacts of climate change and provide effective adaptation to unavoidable impacts, without which there can be no justice.***

The most relevant indicators here, clearly, are those related to the 1.5°C and 2°C temperature targets. These should be defined, in the first instance, by *GHG emission budgets*, and secondarily by *indicative global emissions pathways (including peaks years) that conform to those budgets*. These pathways should be well specified, with explicit probabilities of success (e.g., 80% chance of holding the 2°C line), well defined and clearly

---

<sup>5</sup> The set of all relevant raw indicators is large. Were we to propose a complete Equity Reference Framework (rather than just a list of equity indicators) we would refer to many of them. The only point here is that raw indicators, though essential to the construction of proper equity indicators, are not themselves equity indicators. For example, national population is an inevitably a factor in the calculation of national capacity. But it is not, in itself, a measure of capacity. Similarly, the uneven distribution of low-cost mitigation potential is a fact of life, with real implications for the fair distribution of effort, but important though this be it is still not an equity indicator.

stated assumptions about non-CO<sub>2</sub> gases and land-use emission pathways, and explicit 2020, 2030, and 2050 emissions milestones.

The point here is not to pretend to an unachievable accuracy, but rather to establish marker pathways that clearly express the central, and extremely ambitious, goals of the negotiations. Such marker pathways are useful in a number of ways, not least by serving as a foundation for meaningful equity reference frameworks. That is to say, they make it possible to calculate the “mitigation gap” associated with any projected emissions pathway.

On the adaptation side, matters are even more difficult. Any given temperature target implies a level of global impacts, and thus a global *adaptation need*, but not in the unambiguous way that it implies a *global mitigation gap*. Nevertheless, defining adaptation need is critical, and it is clearly related to mitigation ambition – the lower the global level of ambition, the higher the level of loss and damage, and the greater the *adaptation need*. Moreover, adaptation need will tend to accrue to communities that are lower in *capability* and higher in *development need*. Given all this, any true equity reference framework must support higher levels of ambition, while accounting for *adaptation need* in a meaningful way.

Initial equity indicators

### *Adequacy*

- *Adequacy is the first among equity principles. There can be no justice without the stabilization of the climate system. To be sure, this stabilization will only be possible in a regime that meets the legitimate development needs of the world’s people. This is the nature of the case.*
- *The key indicators here are global emissions budgets and mitigation pathways*
- *Note that the level of global ambition implicitly defines global adaptation need – the lower the ambition, the higher the adaptation need.*

### **2<sup>ND</sup> Core equity principle: Common but differentiated responsibility and capability**

***. . . in which obligations to take action and provide support, and rights to receive such support, are accepted as functions of both historical and current emissions, and of capability to act.***

One obvious point here is that *responsibility* and *capability* are frequently correlated. This is not surprising since development and wealth creation have historically been strongly correlated with the consumption of fossil fuels. This frequent correlation between emissions and wealth is implicitly recognized in the second sentence of Article 3.1, obliging developed countries to “take the lead in combating climate change and the adverse effects thereof”.

The need to take both *responsibility* and *capability* into proper account has implications. In particular, it means that the problem here is properly one of equitable effort sharing. In effort-sharing systems, mitigation efforts and contributions must ultimately be expressed relative to national baseline pathways.



## ***Responsibility and the “development threshold”***

*Responsibility* is perhaps a more straightforward notion than *capability*. In particular, *cumulative emissions since a responsibility start date* is widely taken to be a robust indicator of national contribution to the climate problem. But this is not simple. For example, should these emissions include methane? And when should they be expressed in per-capita terms? Further, there are differing views on the proper *responsibility start date*. And should loss-and-damage obligations be calculated from the same start date as mitigation? Some do not think so.

Consider an even more difficult issue, one that dates back to the classic distinction<sup>6</sup> between *survival* and *luxury emissions*. Equity advocates have long argued that *survival emissions* (or *development emissions*) must be excluded from calculations of national historical responsibility. This argument is compelling, for the emissions of the poor are simply not morally equivalent to the emissions of the rich. That said there is real controversy about how best, and where, to draw the line. Operationalizing the distinction in terms of *development need* is the approach that accords with Convention’s core equity principles, and this implies the necessity for some sort of *poverty intensity* or (better) *development threshold* parameter, one that allows us to exclude *development emissions* from the calculation of *national responsibility*.

In the Greenhouse Development Rights framework, a *development threshold* is defined in terms of *per-capita income, as measured in PPP dollars*. Others<sup>7</sup> have drawn the line in terms of the *Human Development Index*, arguing that the HDI more directly measures social development. What is clear is that an *income threshold* has some pragmatic advantages over more multi-dimensional definitions of a *development threshold* (life expectancy, educational levels, etc.), particularly given the extremely high correlation between income and these other aspects of development, particularly at low income levels. On the other hand, this correlation is not universal and could well loosen in the future.

The key point here is that national per-capita income and emission averages are not in themselves serviceable indicators of *poverty* and *development need*. In the next few years, the pressure to accept such indicators will be high, but this pressure must be resisted, and a *development threshold* (or at least some measure of poverty intensity) must be supported as an essential building-block of a proper responsibility indicator. Progressivity, particularly as it results from distinctions at the bottom end of the income or development spectrum, is fundamental to the proper definition of both *responsibility* and *capability*.

CAN recommends addressing *development need* as, primarily, an aspect of *capability*. That is to say, the capabilities of countries to mitigate GHG emissions are obviously related to their capabilities to provide their citizens with basic human rights (e.g. access to food or water) or basic necessities such as healthcare, education, sanitation, and so on. The way forward, obviously, lies in prioritizing such development needs, rather than tying their fulfillment to increased emissions budgets.

Additional equity indicators:

### ***Responsibility***

---

<sup>6</sup> Anil Agarwal and Sunita Narain, *Global warming in an unequal world, 1991 Centre for Science and Environment*, <http://www.indiaenvironmentportal.org.in/files/GlobalWarming%20Book.pdf>

<sup>7</sup> See for example the South African contribution to *Equitable access to sustainable development: Contribution to the body of scientific knowledge*, the so-called “BASIC Experts Report” that was published in December of 2011. [http://www.erc.uct.ac.za/Basic\\_Experts\\_Paper.pdf](http://www.erc.uct.ac.za/Basic_Experts_Paper.pdf)

- *The responsibility start date is fundamental. Both global and national cumulative emissions are relative to it.*
- *Responsibility must be calculated relative to a development threshold or a measure of poverty intensity – survival or development emissions should be excluded from this calculation.*

### *Capability and “development need”*

*A nation’s development need* is the shortfall between its current socio-economic profile and a future profile in which all its people have achieved some adequate level of economic development, however defined. This is of course an absolutely minimal definition. It’s also a necessary one, because national *capability* cannot be adequately understood (or measured) unless *development need* is taken into proper account.

The minimum requirement here is a *development threshold* that can be used to calculate *development need* below the threshold. This immediately raises a point of potential confusion, for “development” is not reducible to poverty alleviation. A *development threshold* is -- by definition -- something more than a *poverty line*. At the level of indicators, this distinction raises a controversial point about intranational equity.

Simply put, an indicator of income distribution<sup>8</sup> is required to identify the fraction of the population that has already reached a level of income – a level of development – that corresponds to sustainable living standards in developed countries. Such an indicator can be used along with a *development threshold* to define an indicator for *capability* that neither includes income that should be targeted to *development need*, nor excludes income that properly contributes to national *capability*. Alternatively, a measure of “poverty intensity” (as for example it is in Oxford Capability Index<sup>9</sup>) can be used in place of a *development threshold*, though, again, it would have to be higher than a mere poverty line.

Similar issues apply to the calculation of *capability* above the *development threshold*. The simple point here is that individuals above a certain level of development (measured in terms of income, or available income) have capabilities and should therefore contribute to addressing climate change, and this irrespective of whether they are citizens of a developed or developing country.

More generally, the moral principle here is income progressivity, and it is almost universally accepted when it comes to effort sharing and the provision of public goods. National tax systems are a fine example, for almost all ask the wealthy to contribute a higher proportion of their resources than the poor. This progressivity is often implemented by means of a level of income below which no contribution is expected.

Analogously, a *development threshold* increases *progressivity*, relative to any framework that is based on *per-capita emissions or per-capita income across the entire national*

---

<sup>8</sup> This would be a “raw indicator”. For example, an index of Gini Coefficient, representing national PPP income distributions, which can be used to generate Lorenz curves that describe those national distributions.

<sup>9</sup> The authors of the “Oxford Capability Index” work out this approach in terms of a “Multidimensional Poverty Index.” See Benito Müller & Lavan Mahadeva, *The Oxford Approach: Operationalizing ‘Respective Capabilities.’* (February 2013). The summary for policy makers is [here](#), and the technical report is [here](#).

*population*. Also analogously, a truly progressive global effort-sharing system would have to take account of the difference between the incomes and emissions of the global middle class (however defined) and the global rich.

The key points here can be clarified with this simple typology:

**A capability indicator that is based solely on national average (per-capita) indicators.** Such an indicator, in which there is no *development threshold* (or *poverty intensity* indicator), is not reflective of country's true capabilities. Think of it as a global "flat tax" in which the few coins held by the poorest peasants would weigh equally, in the calculation of national *capability*, if they were transferred instead to the billions of dollars already held by the richest financiers.

**A capability indicator that leverages national average indicators, but also considers intranational data (however defined) to capture additional information on development need.** A simple approach would be to simply exempt countries with a *per-capita income* that is lower than the *development threshold* from any *capability*-based obligations. Another approach, well represented by the Oxford Capability Index, allows a "poverty adjustment" to a nation's "gross capability." One may also consider defining a *development threshold* that is, in principle, higher than the global poverty line) to define the *development need* (and, inevitably, to mark off the income range that is considered when calculating national capabilities). This approach has been used in GDRs (including a Chinese variant<sup>10</sup>) and the South African proposal.

**A capability indicator that leverages national average indicators, and development need, but also considers additional intranational data (however defined) to capture additional information on national capability.** Here, for example, the *development threshold* could be augmented by a second threshold, above which "luxury income" is weighted more heavily than, say, the income just above the development threshold.<sup>11</sup> The advantage of this approach is that it allows for more nuanced calculation of *capability* that considers the problem of the rich as well as the problem of the poor.

This typology is perhaps enough to show that there's more to equity than can be captured in national average indicators. In particular, it allows us to argue that a serious treatment of the right to sustainable development requires a push beyond averages and poverty indicators.

---

<sup>10</sup> See Jung Cao, *Reconciling Human Development and Climate Protection: Perspectives from Developing Countries on Post-2012 International Climate Change Policy*, Belfer Center for Science and International Affairs, [http://belfercenter.ksg.harvard.edu/publication/18685/reconciling\\_human\\_development\\_and\\_climate\\_protection.html](http://belfercenter.ksg.harvard.edu/publication/18685/reconciling_human_development_and_climate_protection.html)

<sup>11</sup> The analogy with a progressive income tax system can be straightforwardly extended by treating income above a given level (e.g., a "luxury threshold") differently. For example, luxury consumption (e.g. long-haul flights to opulent holidays) can be usefully distinguished from, not just development consumption (e.g. safe water, basic health care, food security) but also the routine consumption of the global middle class. Consider a luxury threshold of \$100,000 per person per year (which is close to the income line that defines the global 1%) and the claim that wealth above that level should be weighted more heavily in the calculation of national capacity.

Additional equity indicators:

### *Capability*

- *Like responsibility, capability should be calculated relative to development need or a poverty gap.*
- *Development need can be seen as a function of development threshold and a measure of income inequality. The poverty gap can be seen as a function of poverty intensity, however measured.*
- *Additional progressivity can be added to the capability calculation if luxury emissions and implied luxury capability are taken into account.*

### **3<sup>rd</sup> core equity principle: The right to sustainable development**

***. . . which we understand as the right of all countries to not just lift their people out of poverty, but also to provide their citizens with sustainable living standards equivalent to those available to the citizens of any other country.***

The right to sustainable development raises a host of equity issues, not all of them within the ambit of the effort-sharing problem. Another way of saying this is that, rather than trying to immediately agree to indicators relevant to a right to sustainable development, it might be wise to instead attempt to define the irreducible minimum without which no kind of sustainable development is possible. We propose to do so by way of two indicators, both of which have already been mentioned. National *development need* and *adaptation need*.

With regard to *development need*, two points are key. The first is that sustainable development cannot be quantified. For one thing, it implies a level of material life that is not constantly referenced to poverty – poverty alleviation is necessary but not sufficient. For another, sustainable development ultimately depends on qualitative and material factors – education, health and food security, etc. – that cannot be reduced to economic terms. All this means that economic indicators are inherently problematic as indicators of sustainable development, though this is less true if they are explicitly treated as floors.

The second is that the essential questions of distributional equity include those associated with access to means of implementation. It is necessary, but not sufficient, to devise a set of indicators that allows us to tell if all nations are doing their “fair share,” (in the context of effort- and risk-sharing) and providing their fair share of the international support. We also need to know if all nations are receiving their fair share of that support, their fair share of the benefits of the necessary transformation (opportunity sharing). Unless they do, their right to sustainable development, however it is finally defined, cannot reasonably be said to be respected.

With regard to *adaptation need*, the key point is extremely critical, and bears restatement. The less mitigation we do, the more adaptation will be necessary. Unless this adaptation is properly supported, it is impossible to honestly claim that the right to sustainable development is being respected. In this sense, *adaptation need* is fundamental, and closes the loop that begins with *adequacy* itself. Though there are also limits to adaptation; in these situations there is an additional need to cover loss and damage.

## Additional equity indicators

### *Development Need*

- *It is challenging to design proper indicators of sustainable development. Nonetheless, it is clear that the satisfaction of development need, properly defined, is an essential precondition for sustainable development.*
- *Development need is defined in the analysis of capability – relative to either a development threshold or a measure of poverty.*

### *Adaptation (& Loss and Damage) Need*

- *The satisfaction of adaptation need is, similarly, an essential precondition for sustainable development.*
- *Adaptation need is the inverse of adequacy – the lower the ambition, the higher the adaptation need.*

## **Frameworks**

An agreed list of core equity indicators, however, is only the beginning. We need an actual Equity Reference Framework, one that ensures commitments – both for mitigation action and financial support – are objectively and precisely evaluated with respect to specified global emission budgets and specified estimates of the global financial need. The good news is that, once a standardized set of equity indicators is agreed, such an Equity Reference Framework comes into reach.

A minimal outcome of the **Equity Reference Framework** would be to encourage Parties to make commitments that are defensible, as fair-shares contribution to the 2°C target. It would do so because Parties would know that their commitments will be seen in the context of a common framework based on Convention principles, and subject to a review by independent experts in an equity review process under the Convention and in particular to the quantitative comparison to their fair shares. Moreover, even a basic Equity Reference Framework would enable Observers to do their own equity reviews, specifically civil society organizations that are active on the home front, applying pressure on their governments to step up their efforts. The hope, of course, is that a framework for making the notion of fair shares concrete will make commitments more equitable, and that such review and comparison would set terms conducive to increased public understanding and, of course, appropriately targeted pressure for increased ambition.

## **Way Forward**

A well-defined agreed list of equity indicators, one that embodies the key choices before us, will not be easy to negotiate. A true Equity Reference Framework, one that builds upon **Convention-based indicators** to model a dynamic global effort-sharing regime that meet the challenges before us, will be even harder. How then to move forward?

What is **needed is an independent expert process**, constituted by the COP in line with the submissions of the Parties, and tasked with proposing an Equity Reference Framework that is based on a well-specified list of indicators, all of which are themselves based on the Convention's equity principles. This Equity Reference Framework would then be used by the Parties to propose their commitments: these would then be reviewed by international

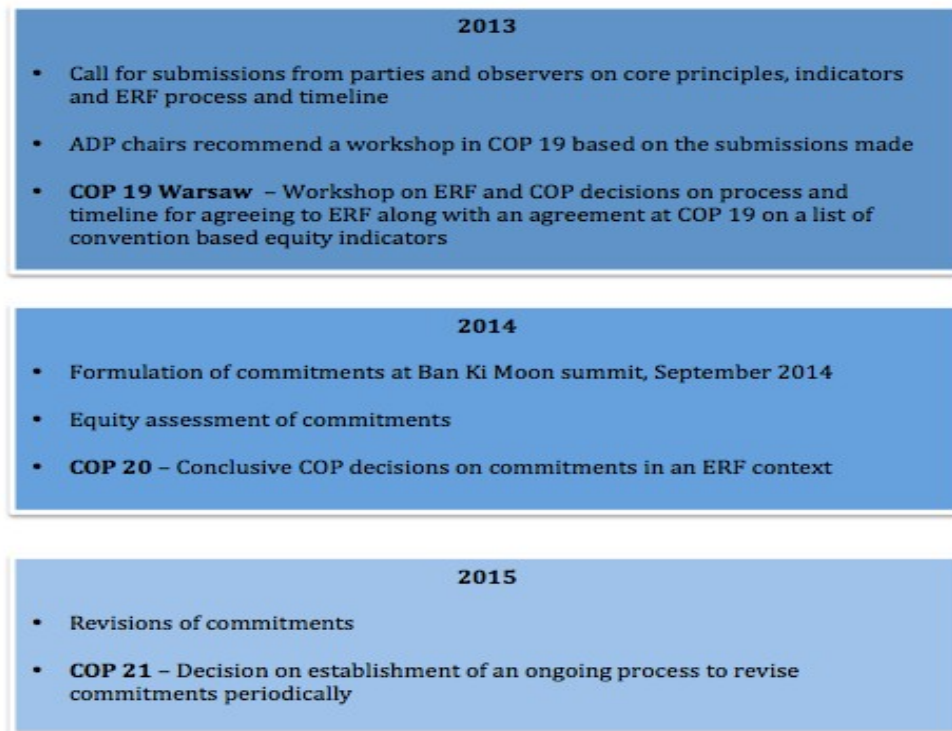
experts and the commitments and expert review by Parties form the basis for negotiations among Parties, all with the goal of both setting and evaluating the post-2020 pledges for adequacy on the mitigation and finance fronts, and of course informing subsequent mitigation and finance commitments.

Is any of this possible? Yes it is. To see this, note these key aspects of the position:

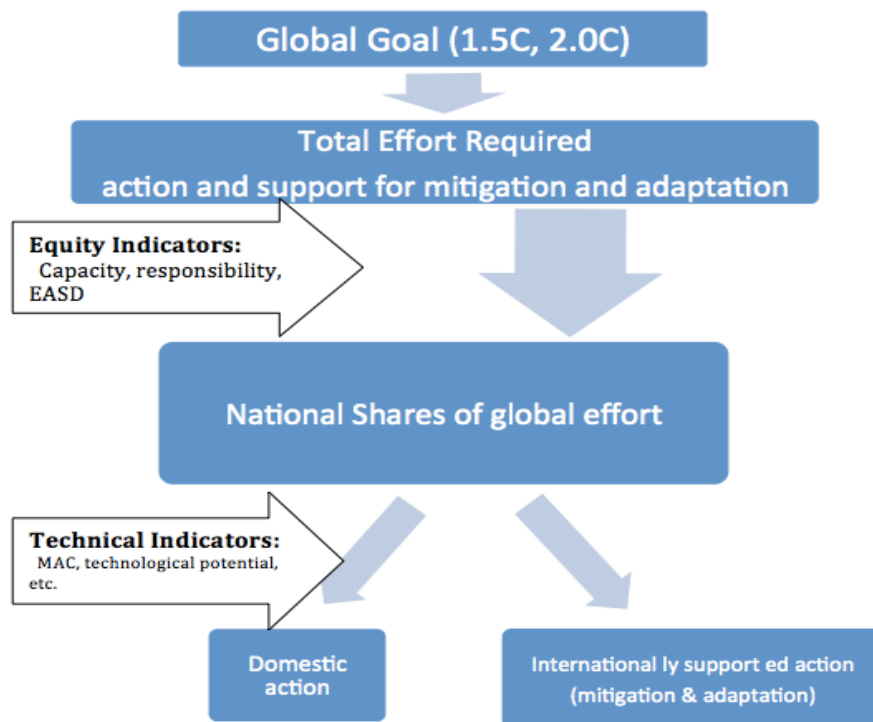
- **The Convention.** We are now beyond the point where any group of Parties can reasonably hope to set aside the core principles of the Convention, including the principle of CBDR+RC. Nor is any renegotiation or rewriting of this foundational principle needed. Just the opposite! A common Equity Reference Framework, and more generally a dynamic, forward-looking approach to CBDR+RC, would give new life and meaning to the Convention's existing equity principles, while at the same time ensuring that those with greater capabilities and responsibilities accept their fair-shares of the shared global effort. If this point can be established, we will have a new kind of shared vision, the kind we need.
- **The Submission & Workshop processes.** The ADP co-chairs have invited submissions from Parties, Observers, and Experts until 1 September 2013. CAN suggests Parties to reflect and formulate on three key questions on the Equity Reference Framework (see ADP submission template by CAN (<http://bit.ly/1cx32na>)). The submissions should thus include ideas about core equity principles and their respective indicators for shaping the 'agreed list of indicators', but they should also include ideas for a purposeful process by which relevant articulations of the Convention's principles, and proposed indicators that embody those principles, can be quickly distilled into a minimum set that is of immediate use by the Parties when setting their mitigation pledges and financial commitments. All these ideas could be compiled by the Secretariat, and used as guidance for a roundtable or workshop process, which would be held in Warsaw at the absolute latest. It would be charged with testing the views that the Parties have submitted, and should lead to a COP decision, in Warsaw, on the accelerated development, involving an independent expert process, of a common Equity Reference Framework that is applicable to all. Also the timeline is crucial for the Equity Reference Framework to be able to contribute to success in Paris.
- **The application of the Equity Reference Framework to the post-2020 treaty.** Discussions in Warsaw should begin to define the modalities of the equity review, and the decision processes that will follow from its outcomes including possible compliance and enforcement rules. These processes would form an integral part of the treaty outcome in Paris. They should include establishing the global emission-reduction target required for the immediate post-2020 commitment period, calling for a set of commitments that meet both this global mitigation target and the associated financing and technology support targets, review by international experts of all the submitted commitments (in the context of the standardized equity indicators), which then feeds into consultations on the commitments, and taking steps to revise the commitments and adopt the final commitments in accordance with the commitment periods of the 2015 agreement.
- **The all-important Equity Champions.** At the end of the day, of course, all of this, or anything like it, will depend on Parties stepping forward to champion the need for a robust equity review process.

## Timeline

The graphic shows the process and timeline for the Equity Reference Framework as envisioned by CAN.



## Overall Logic for ERF



## Adaptation and Loss and Damage

With regard to the ADP and the negotiations towards a 2015 agreement, it will be crucial that **ADP makes a significant contribution in delivering an adaptation approach, which adequately responds to the immediate needs and future threats for particularly the vulnerable developing countries, communities and ecosystems. Adaptation must be treated with the same priority as mitigation in the agreement.** Also, its inherent equity dimensions need to be taken into account, such as an **equitable distribution of adaptation finance according to risks and needs** with particular attention to the most vulnerable countries, ecosystem and people. It is important that the ADP **strengthens the existing international adaptation regime and structures**, to advance implementation of the Cancun Adaptation Framework at the earliest, including through specific COP decisions in the road to the 2015 agreement, as stated above.

However, CAN also notes the need to further explore additional issues, which for example have not yet been taken into account sufficiently, or which have been proposed recently by Parties.

### *These include*

- **Further increasing adaptation finance:** Scaling up new and additional adaptation finance has to be a crucial outcome of the ADP negotiations. **At least \$50 billion of public finance out of the \$100 billion commitment is needed**, and estimates of adaptation finance needs suggests even that won't be enough. A decision in Warsaw allocating at least 50% of public finance to adaptation will take us in the right direction and climate finance is scaled-up towards \$100 billion annually. The provision of these resources shall be based on the past and future responsibilities for the cause of the problem. It is also important to highlight that the current practice by donor countries to count climate finance towards their commitments of Official Development Assistance without increasing these commitments in light of the additional costs of climate change is highly problematic. Some even increase climate finance (as a share of ODA) while ODA finance as a whole decreases (often far below the committed 0.7%). This undermines efforts to fight poverty and address the needs of the poorest. Thus, **Climate Finance should be new and additional to existing ODA commitment. Prioritizing the needs and risks of the most vulnerable people is essential.**
- **Correcting the absence of recognition in past agreements that lack of mitigation ambition directly increases the threats as well as adaptation needs of the poorest and most vulnerable people and ecosystems in the developing world.** Strengthening such principles in future agreements is therefore important not only from equity perspective but also to take into account the growing risks from climate change inherent in the gap in mitigation ambition. The implementation and adequacy of the Cancun Adaptation Framework must be regularly reviewed in light of the mitigation ambition and the needs of, and support provided to, the developing countries.
- **Exploring options, benefits and limitations of global adaptation goals:** Some Parties have recently proposed to elaborate specific global goals related to adaptation action and finance, including taking into account the progress in light of different expected global temperature increases. CAN is of the view that exploring options for such goals



should be pursued by the ADP, as a means to help steering action in developing countries, but also assessing whether the global community is sufficiently advancing (or failing) in adapting to the increasing threats of climate change impacts. Such exploration would have to include its benefits and limitations, as well as potential architectural needs to allow monitoring the milestones of these global goals.

- **Full implementation of NAPA and NAPs should be a key element for the post-2020 agreement and substantive progress must be made well before 2020.** The learning from the development and implementation of NAPA and NAPs will also provide valuable inputs on the post-2020 adaptation needs.
- **Loss and damage: CAN is also of the opinion that in principle loss and damage must also have a place in the ADP Workstream 1 discussions.** The ADP outcomes with regard to mitigation ambition, adaptation and finance will also determine the loss and damage to be incurred in the future therefore **loss and damage, as a third pillar to the negotiations, must form an integral part of the ADP.** It currently looks as if vulnerable developing countries have to address this from the perspective of the extreme global warming scenarios. While the SBI this year is well placed to develop on an international mechanism, with arrangements to be decided on how to further operationalize it afterwards, the post-2020 climate world will largely be shaped through the ADP discussions. These will have to take into account the outcomes of COP19, including in relation to the loss and damage work programme and therefore the loss and damage discussions will have a key role to play in the ADP.

## **Financing the low-carbon and climate-resilient paradigm shift under the ADP and the 2015 agreement**

The world requires a paradigm shift towards a low carbon emission future. While we move towards this we also have to tackle the impacts from climate change ensuring resilience and adaptation to existing and future impacts, which comes at a high cost in vulnerable developing countries.

Most financial needs assessments indicate that the overall financing required to catalyze this shift in developing countries will be several times larger than the \$100bn commitment made by developed countries. Assuming that an important share of the necessary total financing will come from the private sector, we will nonetheless require major public finance support – to leverage and incentivize the much larger shifts in additional private sector investments, and to support the actions and the countries that cannot attract private sector investments. Crucially, developing country adaptation needs overwhelmingly require public finance support.

In this context, it is crucial the 2015 global agreement mobilize the scale of funding required to face these impacts and help developing countries shift to low-carbon development paths. Climate finance will be a key component of the future regime in supporting ambitious mitigation action and adaptation and implementing core equity principles like the right to sustainable development, as well as adequacy and consistency of commitments. Furthermore, as developed countries fail to meet their existing financial commitments under

the UNFCCC, the ADP will face a critical challenge of rebuilding trust and paving the way for equitable, post-2020 finance, in time for the 2015 agreement.

### **Key elements of a 2015 deal on post-2020 finance**

We see the following elements as critical elements of a fair 2015 deal on finance that will address climate change in the context of sustainable development post-2020.

In CAN's view, the ADP will need to make rapid progress on the following issues to secure adequacy, transparency, consistency and equity to secure a 2015 deal on finance that includes the above-listed elements and ensure finance needs pre-2020 are met:

#### ***Adequacy and scaling up***

Work to **review the adequacy of existing financial commitments**. The review should build on the Standing Committee's upcoming **assessment** of needs as well as other reports capturing current flows, sources and trends of climate finance, and **be ready by mid-2014, ahead of the UNSG high-level meeting**.

- This renewed commitment should include **a review mechanism to regularly reassess the adequacy of pledges in line with the latest science and needs analyses**. The ADP will need to discuss the modalities of such a review mechanism.
- **Work on new international sources of finance to increase public contributions by Parties, address the scale of needs and meet additionality principles**. This will entail sending a signal to relevant organizations, such as the IMO and ICAO, as soon as possible, to ensure the mechanisms are established in time for the 2015 deal and all operational by 2020 at the latest. The **ADP's work should build on existing reports, including the 2011 G20 report and 2010 AGF report on alternative sources of finance**.
- More specifically, the ADP negotiations should **work on establishing global carbon pricing mechanisms for the international transport sector** to both curb its growing emissions and raise revenue to tackle climate change in developing countries in a manner which is consistent with the goal to limit global warming to below 2°C/1.5°C

#### ***Equity***

- In conjunction with the work program on equity, **agreement needs to be reached on responsibilities for mobilizing finance in the context of changing global patterns of development and distribution of wealth in the post-2020 period**, in accordance with the Convention principle of common but differentiated responsibilities and respective capabilities (CBDRRC).

#### ***Additionality***

- **Work on accounting rules and principles to ensure additionality of climate finance commitments to ODA commitments**. Discussions should focus on improving accounting methods to ensure that while climate finance might meet current OECD

DAC criteria for ODA, it should not be counted towards ODA commitments. Climate finance commitments (Article 4 UNFCCC, USD 100 billion per year by 2020) provided by developed countries should be seen as commitments separate from ODA commitments, with developed countries making progress towards both commitments separately.

### ***Coherence***

- **Agree on criteria and principles for climate proofing public and private international finance flows to developing countries** to ensure finance does not run counter to low emission sustainable development and does not lock in rising emissions.

### ***Rationalization***

- Work on **rationalizing and consolidating the financial mechanism and other existing funds**, ensuring that appropriate instruments are in place to address adaptation needs. By 2020, the **Green Climate Fund should become the main channel for international climate finance**.

### ***Transparency***

- Ensure, as part of an ambitious outcome and sufficient trust-basis, a meaningful process to measure, report and verify financial contributions, based on existing relevant processes under the Convention, and considering the role of recipient countries in including MRV into climate finance.

The ADP will not single-handedly address all of these issues, and will have to build upon work by other Committees (Adaptation Committee, Standing Committee on Finance and Technology Committee as well as the Green Climate Fund board), fora and initiatives (G20, MEF, AGF, World Bank, OECD, etc).

Meeting the imperatives above will require strong involvement and commitments from Finance Ministers. To this end, the **ADP should convene high-level meetings with Finance Ministers to address the most political issues and make progress on scaling up public financing**.

## **Mitigation**

As the science becomes clear it is certain that ALL countries need to take deep emission reductions if we are serious about not breaching the 1.5/2 degree Celsius threshold. It is also clear that the efforts for emission reductions by all countries will be different in this regard for arriving at fair, equitable, emission-reduction efforts by countries in a post-2020 framework.

To achieve this, CAN proposes the following mitigation elements to be part of the 2015 deal:

### **Agreeing on long-term and medium-term global goals**

The world is clearly moving into dangerous territory when it comes to GHG emission concentration. It is important for the countries to **set global emission benchmarks for 2050 as well as 2030 and 2040**. These global goals will help countries to cross check progress as well and ensure that global GHG emissions trajectory is within safe limits. Such a long-term global objective would also provide governments and businesses across the world the certainty required to make large investments in a sustainable future and to reduce investments in carbon intensive infrastructure.

**Medium and long-term global goals should be informed by science and the 2013-2015 Review. Individual country targets can be informed from these goals and through discussions on equity.** Keeping urgency of action in mind, parties need to identify and agree on long- and medium-term global goals through a rigorous science-based process, and commit to these goals by inscribing them in a 2015 legally binding outcome. **The process of agreeing on a global goal should be agreed at the earliest and should possibly be considered for adoption by countries at the leaders' summit called upon by the UN secretary general in 2014.**

### **Deciding on country-specific commitments and action, based on the Equity Reference Framework**

All countries must have appropriate mitigation commitments and actions based on the principles of the convention respecting the principles of equity and common but differentiated responsibility and respective capabilities. It is appropriate for countries at different levels of responsibility and capacity to take mitigation actions of differentiated nature.

**Countries with high capacity and responsibility are candidates for ambitious, legally binding economy wide quantified emissions reductions targets.** These countries, as have been identified in Annex 1 of the convention, must commit to legally binding economy wide quantified emissions reduction targets in the 2015 agreement. Those **countries that have a lower capacity and responsibility** identified, as Non-Annex 1 in the convention **should take nationally appropriate mitigation actions. The ambition as well as nature of the action by these countries would be explicitly contingent on financial and technical support.**

The level of ambition for mitigation should be informed by science and the 2013-2015 review as well as the agreed conception of equity. Mitigation targets could also be supplemented by additional action in the form of but not limited to ambitious renewable energy, energy efficiency targets and/or sectoral targets.

All these commitments and actions should be amenable to measurement and reporting to ensure that global goals are being met.

Increasing clarity on obligations and commitments of countries through 2013 is crucial. The year 2014 should be a period of negotiations on collective and differentiated post -2020 individual country ambition based on equity principles and ensuring the necessary level of ambition is met.

By COP20, countries should be clear about the commitment that they will be making. The UNFCCC should **produce a technical paper in early 2015 to assess each country's proposed level of mitigation action against the agreed equity principles and criteria.** This would help

in calculating the gap between global and country level ambition as well as the gap between what is being committed by a country and what is the country's fair share.

### **Adopting zero-emissions strategies for developed countries**

Establishing emission pathways consistent with the 1.5/2°C limit requires the steady transformation of economies away from a high carbon economic growth model. **Developed countries should produce zero emission development strategies** that are both visionary and pragmatic, accurately mapping out a fully achievable and consistently realizable pathway to near-zero emissions by 2050, including through indicative decadal targets and legally binding 5-year carbon budgets.

Guidelines for these plans should be agreed within the ADP in early 2013. Draft plans should be submitted to the UNFCCC before COP19, with workshops on the strategies being held at Warsaw. The UNFCCC Secretariat should be commissioned to undertake a technical paper to summarize these strategies and estimate what they mean in terms of total emissions reductions and identify trends and additional potential. This technical paper should be made available in time to inform an intersessional early in 2014.

### **Developing low-emission development plans for developing countries**

Enabled through appropriate financial and technical support from developed countries, **developing countries should develop long-term Low Emission Development Plans as part of the country's overall development planning.** Such plans would provide a visionary roadmap and outline a pathway to a low-carbon and climate resilient economy, building upon and integrated into national development plans or planning processes already in place in many countries. These plans should be developed through a bottom-up country-driven process.

Depending on individual countries' capacities and support received, such plans could have different levels of scope and complexity. More economically advanced developing countries should start to develop their plans over the next 1-2 years. In those plans, countries could identify NAMAs they would do unilaterally, how these would form part of an economy-wide low carbon plan, as well as emission reduction potential, cost and timeline estimates to implement additional NAMAs requiring support. Other developing countries may require more years to develop their plans, and for the time being, focus on developing NAMAs and adaptation activities.

### **Limiting access to market-based mechanisms**

**Access to international carbon markets under an ADP agreement should be limited to countries that have a sufficiently ambitious reduction target that is in line with the 2°C target and equity principles.** Such a target must ensure that the **main share of emission reductions is achieved domestically.** All market units that are traded internationally must have environmental integrity (e.g. be additional, based on conservative baselines, permanent), be accounted for through a comprehensive accounting framework that addresses all possible double counting risks.

Numerous studies have shown that both the Clean Development Mechanism and Joint Implementation have issued more credits than actually achieved additional emissions reductions. For example, one study from last year shows that the CDM may have delivered

less than 40% of the emissions reductions it sold (CDM Policy Dialogue [Impact Report](#)). **Extensive reform** of both mechanisms are needed to ensure that they do not further undermine the already weak 2020 reduction targets. **Reform must include stronger additionality rules, shortening of crediting periods and the exclusion of non-additional or clearly harmful project types**, such as coal power). In addition, double counting of CDM offsets by both the host and the buyer country have to be avoided.

### **Developing a rigorous and comprehensive common accounting framework**

Despite the setbacks from Doha, Parties should **develop rigorous common accounting rules for GHG emissions for all countries, allowing comparability of efforts** between Kyoto and non-Kyoto parties. This is necessary in order to build trust, foster a sense of fairness and should lead to increased ambition.

This common accounting framework should include, inter alia, global warming potential values, coverage of gases and coverage of sectors, and the greenhouse (GHG) emission inventory methodologies. **Technical and financial assistance will be needed to establish the institutional and human capacity needed to compile data for inventories in developing countries.**

More clarity and detail, especially related to coverage of sectors and gases, role of LULUCF and offsets/credits, mechanisms for preventing double counting of offsets/credits, and assumptions and methods for calculating baseline (BAU) scenarios for NA1 Party reduction efforts, is critical for tracking progress toward national goals and progress toward the agreed aggregate global goal of limiting warming to less than 2°C, and ensuring that the option to limit warming to less than 1.5°C remains viable.

Significant work is needed to build consensus around common, consistent, complete, comparable, transparent and accurate accounting rules for all developed countries to help ensure comparability and compliance. In particular, regarding the coverage of sectors and gases developed countries must adopt common accounting rules and the treatment of LULUCF, offsets, and assigned amount units (AAUs) by emissions reduction targets.

A work program should be established to assess mitigation reductions from developing countries in a facilitative manner to help gauge aggregate global emission reductions and keep track of progress against the 2 degree / 1.5 degree goal. In particular, the work program should aim to standardize methods for assessing the GHG impacts of NAMAs, developing baseline (BAU) scenarios, assessing emissions reductions from the land use sector, and preventing the double counting of offsets and credits. At present, developing countries have varying, often limited, capacities to participate in a common accounting framework. Over time, this capacity will need to be built up. The international framework should allow for a reasonably smooth transition in methodologies, reporting requirements, and capabilities, over nationally-appropriate time periods; it should facilitate moving from accounting and reporting for project-level NAMAs through to wider scale NAMAs (including sectoral NAMAs), and eventually to economy-wide plans and actions. Such transitions could continue to be addressed through a tiering of accounting and reporting methodologies, respecting CBD/RR. Over time, common accounting rules will have to apply to an ever-growing set of Parties.

Public participation in MRV processes that were stripped from the final decision at Doha should be brought back and should be one of the essential elements for a post 2020 MRV regime.

## **First Periodical Review (2013 – 2015)**

The level of overall post-2020 ambition must be informed by science and be in line with that necessary to keep warming below 1.5 degrees C. **To this end, the work undertaken in the First Periodical Review (2013-2015) must be taken into account in establishing overall mitigation ambition.** It is crucial that this is provided in a timely basis – with initial findings in 2013.

CAN is awaiting the start of the Joint Contact Group (JCG) on the First Periodical Review at Warsaw after the non-start of SBI 38. In Warsaw, the JCG should organize itself, elect the Co-Chairs of the JCG, which should be also the Co-Chairs of the Structured Expert Dialogue and decide on the structure and the timeline of its work at Warsaw and beyond.

In the JCG, Parties should draw conclusions from recent scientific progress (e.g. UNEP Gap Report, SREN and SREX of IPCC) as well as from further content of the workshop of the Structured Expert Dialogue in June 2013 and its report.

According to decision 1/CP.18, par 86 (a) **b** This workshop should be organized in a constructive and innovative manner to allow a meaningful exchange between scientific experts and Parties. This workshop should be followed by discussions amongst Parties in the JCG and conclusions by the SB chairs.

CAN seeks to remind Parties that - as presented at the Structured Expert Dialogue in June 2013 - a 1.5°C pathway is still feasible; challenging but – probably after a temperature overshoot of several decades - still feasible. It is the task of the FPR to **draw conclusions from this scientific information for emission reduction pathways and respective mitigation targets** supported by technology transfer, climate finance and capacity building and to compare it with the pathway on which we are so that we learn what has to be changed, which decisions on our future development are necessary and what has to be avoided to exclude lock-in effects. It is important to mention that equity aspects play a crucial role in this process.

For next year after the adoption of the IPCC WG II and WG III - reports, **the task of FPR** will be

1. **To assess the scale and nature of irreversible damage**, human misery, ecosystem losses and risks **related to tipping points** that could be avoided if warming were limited to 1.5 degrees instead of 2 degrees
2. **To emphasize the fundamental importance of early peaking of global emissions** if we want to achieve any tolerable temperature limit. I
3. In addition to the long-term goal, targets and commitments in the 2015 agreement that should be based on the review findings, the FPR must also **guide enhanced short-term action with decisions to be taken in 2013 and 2014.**

## REDD/LULUCF

**The 2015 agreement should contain specific provisions for the continuation of REDD+. This should include provisions for funding results based (phase 3) REDD+ and ensure that the Cancun safeguards are fully addressed, respected and implemented.**

The agreement should **include rules for common accounting, including for LULUCF**. The **LULUCF rules should be land based**, as is consistent with the Convention, and should be **referenced to a common base period or year**, as in all other sectors. Research by CAN member organizations shows that a common base period would be more reliable.

## Technology

Technology will need to play a key role in achieving the emissions reductions and resilience we'll need to meet our temperature goals and to enable us to live with the temperature rise to which we are already committed. But today, the UNFCCC's tool for accelerating the diffusion of technologies for mitigation and adaptation, the Technology Mechanism (TM), has no guaranteed commitment for long term funding, it may have only scant guidance from the COP for deciding how to set prioritization criteria for allocating resources at its main distribution channel, the Climate Technology Centre and Network (CTCN), it has no mechanism for addressing negative impacts on the ground that could result from an inappropriate transfer of technology and it has no mechanism for ensuring that the technologies whose diffusion it promotes will be environmentally sound in the long term, or that they are adequate to meet our temperatures goals.

In short, despite the goal of full operationalization in 2012, the Technology Mechanism has a big task ahead to finish the job of setting its structural rules and to get down to project work on the ground.

Given the above needs we formulate our asks to the Subsidiary the ADP and its work stream1 as follows:

### **Long term funding for TEC and CTCN**

Our vision is of a TM that is well resourced to serve the needs of developing countries yet independent from potentially corrupting financial influences. While we understand that private enterprise has a role to play in the TM, we believe that core funding for the decision making part of the TM, the TEC and the Climate Technology Centre and its Advisory Board should be supported long term by public funding to ensure that vision.

We seek a COP decision for **long term public funding from the GCF for the core operations of the TEC and the CTCN**. This funding should cover the expenses of the operations of the TEC including its secretariat support and the operational costs of the CTCN especially in responding to the technology needs of developing countries.

### **Technology Assessment**

Simply put, it makes no sense to develop or deploy technologies that may, in the long run, turn out to have unsuspected detrimental impacts on biodiversity or human lives. But how might we foresee such impacts in advance? The answer to this question has been discussed



in a number of organizations within and outside of the UN system, and there are a number of established methods to evaluate environmental and social impacts of projects and technologies. The use of appropriate technology impact assessment must be an integral part of the work of the CTCN.

We seek a COP decision for a mandate to the Technology Mechanism to **produce a plan to organize an effort** including relevant UN organizations **that will result in a portfolio of Technology Assessment references, assessment criteria, and tools**. This Technology Assessment portfolio would form a reliable basis for ensuring countries that the technologies that they wish to deploy conserve biodiversity, respect and prevent harm to human lives and promote sustainable development.

### **CTCN prioritization criteria**

The work of the CTCN is seen as being a developing country driven process. But today there is no adequate mechanism by which developing countries can voice their collective requests. Moreover there is no understanding of how convention principles should influence the priorities adopted by the CTCN. The TM needs to adopt request prioritization procedures that are based on the ADP's understanding of equity and how it is measured to create an "equitable distribution" of the resources of the CTCN.

We seek a COP decision that **provides guidance to the TM to apply ADP equity principles to the CTCN prioritization criteria and other TM processes**. This guidance should address equity as well as other principles of the Convention.

### **Measures outside of the UNFCCC regime**

The ADP should also focus on getting agreement, including adopting COP decisions triggering action, on ways to reduce emissions that are not currently covered in the UNFCCC regime.

### **Measures to address international aviation and maritime transport under the IMO and ICAO**

**A clear signal from the UNFCCC is urgently needed to address the emissions of the international transport sector. The ADP must make a fresh start on finding a way forward on ambitious and effective measures to control emissions from international aviation and maritime transport.** Emissions from these inherently international sectors can only be dealt with comprehensively through multilateral processes, and the UNFCCC has an important role to play in this. We need a multilateral, rules based approach to the international aviation and maritime transport sectors that sets ambitious emissions targets, puts a price on carbon, and generates finance for climate action in developing countries, while addressing CBDR+RC in a manner appropriate to these sectors. After 15 years of fruitless discussions of these sectors under the UNFCCC, Parties must agree on an approach that identifies clear roles and responsibilities for each body and puts a stop to the endless Ping-Pong between the Sectoral bodies and the UNFCCC. Thus international transport sectors (aviation and maritime transport) must be included explicitly in the work of Workstream 1 of the ADP.

### **Removal of fossil fuel subsidies**

Fossil fuel production and consumption subsidies distort markets, encourage the use of fossil fuels and thus increase greenhouse gas emissions and impede the transition to sustainable development. Annex 1 countries should take the lead in removing their fossil fuel subsidies which will result in emissions reductions as well as financial savings that could be used for climate finance. Analysis by the International Energy Agency (IEA) shows that phasing out subsidies for fossil fuel consumption in the 37 largest developing countries could reduce energy related carbon dioxide emissions by 6.9% in 2020 compared to business as usual, or 2.4 gigatonnes. Plans for removal of subsidies in developing countries should be developed and necessary support should be provided in the short term to ensure that subsidy removal does not negatively impact poverty eradication and decent livelihoods in cases where the poor might be harmed as result of rapid price increases or lack of affordable clean energy alternatives. Many subsidies are in fact socially regressive and such resources could be better spent on ensuring renewable energy access for all. In 2011, the IEA estimated that only 8% of consumption subsidies reach the poorest 20% of the population.

**The ADP conversation should be structured in such a way as to demonstrate the high level of actions being undertaken and to facilitate exchange of experience around reduction and eventual elimination of fossil fuel subsidies.**

## HFCs

In addition to (and not substituting) enhanced actions on CO<sub>2</sub>, Parties should accelerate action on phasing out HFC gases. **Parties should request that the Montreal Protocol agree to phase out production and consumption of these gases as a matter of urgency at MOP25.** All Annex 1 Parties should also commit to an immediate ban on the use of HFC-23 offsets for compliance with Kyoto Protocol targets. Up to 1.3 GtCO<sub>2</sub>e could be saved annually by 2020.

## NGO Participation

### The Convention (UNFCCC)

CAN expects that the new 2015 Protocol under the UNFCCC should build upon existing agreements and work of two decades under the UNFCCC, and in particular, its Kyoto Protocol. In particular, this means that **CAN expects the obligations and modalities relating to countries with high capacity and responsibility, including current Annex 1 countries, should build upon the provisions of the KP, with its system of economy-wide, quantified emissions reduction obligations, expressed as carbon budgets for 5-year periods.** The new Protocol must contain equitably allocated mitigation obligations applying to all developed countries, including those who have not taken commitments under the Kyoto Protocol. Other relevant elements of the KP architecture that should be taken forward are given in the Process Overview section.

The challenge for the next few years is therefore to develop how other countries' actions are captured in a Protocol, including how graduation and differentiation is to be addressed in negotiating the obligations and actions for each future commitment period in a way that is robust enough to provide a consistent long-term framework.

Obligations and actions need to be of different types, reflecting the responsibility and

capability principles of the Convention and be based on the equity discussions outlined in the equity discussion. They could possibly range from legally binding quantified emissions limitation obligations to binding sectoral, renewable and/ or energy efficiency targets, through to non-binding nationally-appropriate mitigation actions for countries with the least responsibility and capability. In addition the MRV regime needs to be developed in a way that should allow for a reasonably smooth transition in methodologies, reporting requirements, and capabilities, over nationally-appropriate time periods, so that experience and capacity is built upon as a country moves through time to more ambitious actions and obligations, rather than having to start from scratch. See mitigation section for more detail.

### **Guiding Principles/Recommendations on NGO Participation**

Respectful, relevant and effective participation by observers plays a critical role in the climate negotiations. The SBI has “affirmed the value of the engagement of observer organizations ... and acknowledged the important role of civil society representation in the intergovernmental process.”<sup>12</sup> As the Secretariat has explained, vibrant public participation “allows vital experience, expertise, information and perspectives from civil society to be brought into the process to generate new insights and approaches [, and] promotes transparency in this increasingly complex universal problem.”<sup>13</sup>

Broad public participation in the UNFCCC processes – including negotiations under the Durban Platform – is consistent with international law and norms. For example, the Rio Declaration, Agenda 21, and the Aarhus Convention all affirm that the best environmental decisions are made when civil society participates. The Framework Convention itself provides that Parties “shall ... encourage the widest participation in this process, including that of non-governmental organizations,”<sup>14</sup> and requires the COP to “[s]eek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies.”<sup>15</sup>

Because public participation is fundamental to the success of the Convention, as well as to its subsidiary bodies and any instruments adopted under it, the Parties must ensure broad public participation in all aspects of negotiations conducted under the Durban Platform. Drawing on the best practices in public participation in other international institutions, we make the following recommendations for ensuring meaningful and effective public participation in the UNFCCC negotiations.

CAN recommends that the Parties should **consider new means of observer participation**, such as the approach used by the FAO’s Committee on World Food Security (CFS) in its reform process. Throughout negotiations to reform the CFS, the mechanism established to facilitate this process and produce an outcome document – the Contact Group – provided unprecedented opportunities for civil society observers, who were entitled to means of access and participation almost parallel to those of Member States.<sup>16</sup> Observers tabled and responded to proposals through the Contact Group’s website and through active

---

<sup>12</sup> FCCC/SBI/2010/L.21, 9 June 2010, para. 18.

<sup>13</sup> Id.

<sup>14</sup> UNFCCC Art. 4.1(i).

<sup>15</sup> UNFCCC, Art. 7, para. 2(l).

<sup>16</sup> Int’l Planning Committee for Food Security, *The Reformed Committee on World Food Security: A Briefing Paper for Civil Society* (Sept. 2010), available at [http://www.foodsovereignty.org/Portals/0/documenti%20sito/Home/News/reformed%20CFS\\_english.pdf](http://www.foodsovereignty.org/Portals/0/documenti%20sito/Home/News/reformed%20CFS_english.pdf).

participation (including interventions) in the negotiations themselves.<sup>17</sup> This process has been widely recognized by the Member States as a success in large part due to meaningful and effective participation of observers in the negotiation process.

CAN further recommends that the Parties should **enhance existing means of participation** as described in further detail below:

**Opportunities to make interventions:** In negotiations under the Durban Platform, Parties should provide increased opportunities for interventions by not requiring observers to submit interventions in advance, and by guaranteeing interventions at the end of all sessions with an opportunity to intervene during the session at the chair's discretion. Other institutions adopt such an approach. For example, the Strategic Approach to Chemicals (SAICM) allows NGO observers to speak, put forward proposals, and raise points of order in the same manner as governments and intergovernmental participants.<sup>18</sup> In the Aarhus Convention, observers have the same speaking rights as Parties, and participate in drafting groups working in collaboration with Parties to develop text during the negotiations.<sup>19</sup> In the Convention on Biological Diversity, observers are allowed to make statements during plenary and working group sessions (at the discretion of the chair and in accordance with time constraints). In the Convention on International Trade in Endangered Species (CITES), observers may request the floor to make an intervention at any point, and will usually be recognized by the Chair.

**Access to negotiations:** Parties should ensure greater access to negotiating sessions, making closed sessions the exception rather than the rule (in other words, all negotiating sessions, including informal meetings, should be open to observers subject to reasonable restrictions). This would be consistent with the approach taken in the CBD, CITES, Aarhus Convention, and Convention to Combat Desertification (CCD), among others, all of which allow accredited observers to participate in meetings of the Parties. For example, the Rules of Procedure for the Aarhus Convention provide that "meetings of the Parties shall be open to members of the public, unless the Meeting of the Parties, in exceptional circumstances, decides otherwise especially to protect the confidentiality of information pursuant to the Convention."

The IMO is also a **good model of NGO participation**, where Observers are given equivalent treatment to parties in many respects, including making submissions and participating and intervening in all meetings of the Marine Environment Protection Committee, including informal drafting group meetings.

**Access to information in a timely manner:** To the greatest extent possible, the Secretariat

---

<sup>17</sup> Id.

<sup>18</sup> Aarhus Convention Task Force on Public Participation in International Forums, *Innovations in Public Participation in International Forums – Advanced Draft*, 23 February 2011, ("Innovations draft"), available at <http://www.unece.org/env/pp/ppif/6meeting/Innovations%20in%20public%20participation%20in%20international%20forums%20-%20draft%20for%20consideration%20by%20PPIF%20Task%20Force%20v.1%20.doc>.

<sup>19</sup> UNFCCC Subsidiary Body for Implementation, Synthesis report on ways to enhance the engagement of observer organizations, 8 (Oct 19, 2010), available at <http://unfccc.int/resource/docs/2010/sbi/eng/16.pdf>.

Article 10(5) of the Aarhus Convention provides some basis for this freedom:

*'Any non-governmental organization, qualified in the fields to which this Convention relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a meeting of the Parties shall be entitled to participate as an observer unless at least one third of the Parties present in the meeting raise objections.*

should publish all documents relevant to the negotiation process as soon as they become available. In addition to publishing documents via the UNFCCC website and PaperSmart system, the Secretariat should make reasonable exceptions to the PaperSmart policy to ensure timely and equitable access to information (through hard copy distribution). Similar to the practices employed in the CBD and CITES, observers should have access to all documents that are available to delegates. As in the case of the UNECE Water Convention, the UNFCCC should distribute and documents, announcements and other information electronically to observers at the same time as to Parties.

**Participation fund for underrepresented groups:** The Parties should consider providing travel expenses to help ensure the balanced participation of civil society observers in the negotiations under the Durban Platform. CCD, Forum on Forests, and Global Environment Facility have granted funding for participation by NGO observers. UNESCO is currently exploring the possibility of establishing arrangements to provide financial support for observers.

**Conference venues that can accommodate the anticipated number of participants:** The Parties should require host country governments to ensure that venues proposed for the negotiations are of a size and capacity that will enable them to host the anticipated number of participants.

The Hyogo framework for action, which inter alia **initiated national processes and setting up of national, multi-stakeholder coordinating bodies**. Such an approach is increasingly pursued by developing countries also on climate change or adaptation in specific and is essential to harness the experience and perspectives from multiple stakeholders, such as particularly vulnerable communities.

## Lessons from Other Conventions for the post 2015 climate agreement

The Montreal Protocol provides three key lessons for the development of a new legally-binding 2015 outcome. First, it **set an ambitious goal** of phasing out ozone depleting substances (ODS) through a series of mandatory reductions, under an ambitious timeframe. Second, it **created a differentiation regime that worked** – it provided extra time for developing countries to take similar actions to those of developed country Parties as well as financial, technological and capacity building support to implement the actions through a well-funded mechanism. And third, it established a **rigorous compliance mechanism**

The Protocol's highly functioning non-compliance procedure was implemented early in the Protocol's life, as required by Article 8. The non-compliance system is based on a well-defined MRV system. Each Party must measure, as per agreed guidelines, and annually report production, export, and import data to the Secretariat. The reported information is verified by the Secretariat. Technical assistance for compliance with the Protocol's reduction goals is specifically mandated. Party's status of meeting its obligations is reviewed under the non-compliance procedure by the Implementation Committee, which is comprised of representatives from ten Parties, and which provides recommendations to the MOP. The Meeting of the Parties in turn makes decisions on all issues related to compliance. Those decisions have typically been to provide the "carrot" of assistance, though withholding financial assistance and applying trade restrictions have also been an effective "stick".

As a result, the compliance regime **has proved very effective** in ensuring exceptionally high reporting rates (despite early problems) as compared to other MEAs. It is widely agreed that the non-compliance procedure and the ability of the Implementation Committee to create a dialogue with Parties (and levy sanctions) are core components of the Protocol's effectiveness.

Another successful aspect of the Montreal Protocol is its **robust Multilateral Fund**, established by Amendment in 1990, which has been utilized in over 2,500 institutional strengthening projects to assist developing nations in shifting consumption away from Ozone Depleting Substances (ODS). The Multilateral Fund and technology transfers provided for by the Protocol under Article 11 further encouraged accession to the protocol, rather than free riding, as there was greater incentive to join and take part in gradual reductions, rather than remain outside the system and face sudden and disruptive cessation of ODS trade with Montreal Parties.

The Convention on Biological Diversity is also often cited as doing much good work, especially in terms of working with indigenous and local communities in the conservation of wildlife. Its REDD+ safeguards are excellent. However, **it is a non-binding treaty and the USA is not a Party, and so most of its good work is not implemented, except in countries that are likely to be good anyway**. The CBD also has a **record of being more open to NGO Participation** and in this regard could help increase NGO participation in the UNFCCC.

The Convention on Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in endangered species through an extensive import and export permitting process overseen by each Party's designated scientific and management authorities. CITES is notable for its **powerful Standing Committee, with its ability to promote compliance** with the basic trading requirements of the treaty. If any trading nation is not upholding CITES standards, the Standing Committee is empowered to recommend trade suspensions to the Secretariat, who then transmits them to the Parties. Though technically only recommendations, adhering to trade suspensions is a widely-prevailing norm among CITES Parties. While far from perfect, CITES enjoys the significant participation of 175 Parties, and there is a general consensus that those Parties adhere to the trade sanction recommendations of the Standing Committee.

The Arms Trade Treaty could potentially offer an interesting example for UNFCCC **negotiations in between sessions**. Some features include: a diverse range of independently organized regional and multi-national dialogues and consultations, all held within a period of 4-6 weeks or so. Some of the meetings in arms control are organized under the aegis of civil society (i.e. Saferworld, ICRC), some by regional groupings (AU, EU, ECOWAS), and some by individual states (Mexico, Indonesia). Each has different formats/outcomes but most have strong participation by civil society, for example, that that was just organized in Gabon by the AU.

The process of the Arms Trade Treaty seems to have emerged organically and not mandated by the Chair, though he has organized one such consultation himself in NY and is attending many of them. This is largely due to the lack of negotiation time available to conclude the talks.

**Deal with a wide range of highly technical issues quickly:** The IMO and ICAO have traditionally been able to deal with a wide range of highly technical and operational issues

efficiently and speedily. However, this has not been the case in dealing with greenhouse gas emissions, and particularly with market based measures, where discussions have been ongoing for more than a decade with little progress towards a concrete outcome.