

## History of the UN/FCCC: How did we get here? What can be expected at COP21?

Notes for a presentation by Dr. John M.R. Stone\* at the Ottawa Centre of the Canadian Meteorological and Oceanographic Association on November 25, 2015.

### History of the UN/FCCC – How Did We Get Here?

The story can be traced back to the Second World Climate Conference held in Geneva in 1990. A key part of that Conference was a presentation of the recently completed First Assessment Report (FAR) of the Intergovernmental Panel on Climate Change (IPCC). This Report concentrated the minds of the governments and resulted in two significant decisions. One was the establishment of the Global Climate Observing System (GCOS). The other was the decision to create an Intergovernmental Negotiation Committee (INC) to develop a global climate change regime under the United Nations. The momentum was such that it took just two years for a draft to be prepared. It was finalized and opened for government signatures at the Earth Summit in Rio de Janeiro in 1992. Canada signed the Convention in 1992 (as did the United States). By 1994 there were enough signatures that the United Nations Framework Convention on Climate Change (UN/FCCC) could come into effect.

The first Conference of the Parties – essentially annual meetings of all those governments that had ratified the Convention – met in Berlin in 1995. The Second Assessment Report of the IPCC (SAR) convinced governments that the Convention was insufficient to properly address the threat of climate change. As a result a decision was taken to begin negotiating a protocol under the Convention. These negotiations took two years and what became known as the Kyoto Protocol was adopted in Japan in 1997 although it took until 2005 before it came into force with enough signatures. Meanwhile there were detailed negotiations on the rules for implementation of the Kyoto Protocol, such as how to account for carbon sinks in forests (a key issue for Canada). These

rules were eventually agreed to in 2001 at the COP-7 in Marrakesh. Canada's Parliament ratified the Protocol in 2002 as one of the last acts of Prime Minister Jean Chretien. It was clear even then that Canada would have a real challenge to meet its commitment and this led regrettably to Canada eventually withdrawing from the Protocol in 2011. The United States Administration was never able to get Senate approval to ratify the Protocol.

The Kyoto Protocol contained voluntary commitments by industrialized countries to reduce emissions of greenhouse gases by specific amounts below a 1990 baseline by 2008-12 – what is known as the “commitment period”. The story of how Canada came to committing to a 6% reduction is a saga in itself. The commitment period implied a target date for completing negotiations of a regime to follow the Kyoto Protocol. Specifically the Kyoto Protocol mandated consideration of further commitments at least seven years before the end of the first commitment period. Hence at the first Meeting of the Parties under the Kyoto Protocol in Montreal in 2005 governments launched negotiations under the *Ad Hoc* Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP). International negotiations are not known for their concise use of language. This new phase of negotiations was fleshed out at the next COP in 2006 held in Nairobi.

There is now a tradition in which all subsequent COP's generate an additional programme of work named after the venue. For example, COP-13, held in Bali in 2007, agreed to the Bali Roadmap on long-term issues. It also established the *Ad Hoc* Working Group on Long-term Cooperative Action under the Convention (AWG-LCA). This

means we now had two tracks, one on the Convention and another on the Protocol. The deadline for completing both sets of negotiations was COP-15 in Copenhagen in 2009.

This deadline was based on the assumption that it would take a couple of years after the completion of a post-Kyoto regime for it to be ratified and come into force. There were considerable expectations on the Copenhagen meeting. As everyone knows this was a disaster both logistically and substantively. Sad to say, the Danish organizers were overwhelmed. Expectations were clearly too high. It became increasingly obvious that getting a globally inclusive and effective regime to significantly reduce GHG emissions was going to be difficult. Government officials who had been tasked to prepare texts for Ministers to approve could not overcome a number of significant disagreements. At the last moment the US President, Barack Obama, brought together a small group of countries – Canada was not amongst them – to negotiate what became known as the Copenhagen Accord. Because it was negotiated outside the formal UN/FCCC process it had no official status. Furthermore, the result was presented to the whole COP as a fait- accompli. This process was far from transparent and inclusive and led to a considerable lack of trust amongst countries, something which has still not been fully repaired.

One of the positive results to come out of the Copenhagen COP was the beginning of a process where countries share information on their national mitigation targets. It was in Copenhagen that countries recognized the need to limit the global average temperature rise to 2°C above pre-industrial levels.

The mandates of the two Working Groups were extended for a year and then further extended for another year. At the COP-17 held in Durban in 2011 countries reaffirmed their intention to establish a second commitment period, a process that is scheduled

to be completed this year, 2015, in Paris, with the new regime entering into force in 2020 (as though we had all the time in the world).

### **What Happens at a COP?**

The Conferences of the Parties (COP's) have evolved into a tangled web of meetings so much so that even the most experienced of delegates or journalists have difficulty following what is going on and, except for large delegations, unable to participate in all relevant meetings. At the coarsest resolution there are two separate meetings. The first is the umbrella for all the intergovernmental negotiations – the COP proper. Observers are allowed into most of the negotiations and occasionally invited to make statements but it is governments that formally do the negotiations. The second meeting is what is effectively a global climate change village where governments and non- governmental organizations meet to exchange ideas, promote positions and advertize collaborative initiatives – what are referred to as “side meetings”. This is really the most informative part of any COP meeting and the one that more often gives one food for encouragement. I used to spend much of my time at these side meetings; it was where you could find out what drives many of the positions of governments, industry and civil society and occasionally make some progress.

However, the COP's themselves are not a single meeting. To start with under the UN/FCCC there are two “subsidiary bodies” – one for the implementation of the Convention (SBI) and one for a broad discussion of science and technology (SBSTA). I used to represent Canada in the latter, helping to promote research and systematic observations. Happily some of the initiatives continue to this day. Both SBI and SBSTA have their own agendas and for each item a group of countries will go off in what are known as “contact groups” and negotiate some resolution or other.

Where things started to get more complicated were that the Kyoto Protocol needed to have meetings of its own – what are referred to as Meetings of the Parties (MOP's). The first MOP took place in Montreal in 2005 at the same time as the COP-11. Some might remember that this was at a time when Canada was in the midst of a federal election, something which required some diplomatic finesse as the host country acts as the COP Chairman – in this case Stéphane Dion.

The participation in these meetings is enormous. Copenhagen had an estimated participation of some 60,000 from governments, intergovernmental bodies, the private sector as well as civil society. Even the mid-year meetings of officials who negotiate texts to be presented to Ministers at a COP can have as many as 5,000 representatives.

### **What Can Be Expected?**

In less than two weeks some 190 Heads of State and Governments will gather in Paris to complete negotiations of an international regime to tackle the “urgent threat” of climate change. This is the most important intergovernmental meeting on climate change since the Conference of the Parties that was held in Copenhagen in 2009 and that failed to live up to expectations. COP-21 is a crucial event because of the scientific evidence that we are running out of time. As President Obama said recently: “We are the first generation to experience the impacts of climate change and may well be the last generation that can ensure we avoid significant future impacts”.

Of course, I cannot tell you exactly what the outcome of the Paris meeting will be; I do not have a crystal ball. What I can do is offer a few observations that might shed some light on what can be expected. The meeting will be held in the aftermath of the tragic events that occurred recently in Paris and have cast a dark cloud over the City of Light. Security concerns were already a factor in

holding the meeting at Le Bourget airport and limiting the number of representatives of civil society and industry to 40,000.

At the Copenhagen Conference of the Parties Presidents and Prime Ministers arrived for the High-level meeting under the mistaken impression that a draft text was almost ready for their approval. This was not the case, unresolvable differences still existed and the meeting ended in a lack of trust in the process. Everyone hopes this can be avoided this in Paris. It will be a Herculean task to consolidate the current text. One sometimes has the impression that the negotiators have forgotten the issue; they seem to behave like lawyers arguing on the basis of precedents, earlier decisions and texts. According to the French President of COP-21 progress so far is “insufficient and uneven.” Attempts to find acceptable bridging proposals have been “rare unicorns.” As an indication of progress negotiators at a recent working meeting in Bonn congratulated themselves on “making progress on the headings, if not the text,” in what one NGO termed a “fragile progress.”

It is clear differences still exist between Parties. Despite negotiators best efforts and a brutal series of meetings the current draft texts are currently over fifty pagers long and replete with square brackets of unresolved differences of opinion. To help ensure a successful outcome the French government, as Chair of the COP-21, organized a pre-COP meeting a week ago to which they invited some 70 Ministers including our very recently minted Minister of the Environment. The meeting aimed to find potential compromises and build political momentum, to bring a political lens to the current text. The UNFCCC Executive Secretary, Christiana Figueres, called the pre-COP the “most productive” in the history of the Conference of the Parties.

There are other factors, which contribute to a positive tone. As an example Presidents Obama and Xi are committed to achieving

an ambitious outcome. The United States has committed to reducing emissions in the U.S. power sector by 32% by 2030 and China has recently confirmed that it plans to launch in 2017 a national emission trading system. These two countries are the largest emitters of greenhouse gases. In addition Pope Francis has made tackling climate change one of his priorities and in May issued his encyclical *Laudato Si*. He plans to attend the Paris COP. He will have a role not only of being the Head of State of the Holy See but also as the leader of a very large Non-Governmental Organization. His presence could be influential.

The Kyoto Protocol was, in essence, a top-down approach with emission reduction commitments only for industrialized countries. One of the principle stumbling blocks has been the interpretation of the term in the Convention of “common but differentiated responsibilities”. This log-jam has been broken and now we have the beginnings of an iterative “pledge and review” process where all Parties have the opportunity, in a more bottom-up manner, to contribute, depending on their level of development, to addressing climate change whether that be emission reductions, adaptation, financing, technology development and transfer. These national commitments are reflected in countries’ Independent Nationally Determined Contributions – their INDC’s. Exactly how this new approach will be operationalized remains unclear but is likely to be developed in technical meetings following Paris. One of the outcomes of the pre-COP meeting was agreement on a “no backtracking” clause, meaning each new commitment in this iterative process must be more ambitious than the previous one.

The Paris package is in two parts: the first is a text of “a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties,” which is to come into force in 2020. I quote this in full to give you some idea of the subtleties of the negotiation process. The

second component is a series of actions to bridge the period between now and 2020 and close the current emissions gap in order to reach the 2°C target that was agreed to by governments in Copenhagen – that is a commitment to limit global average temperatures to no more than two degrees above pre-industrial levels and avoid, in the words of the Convention, “dangerous interference with the climate system”.

Based on submissions made by over 150 countries in their INDC’s, the proposed reductions are currently insufficient to reach this target. It is estimated that current commitments by governments will result in a 2.7°C increase in temperature by the end of the century. This is to be compared with a projected increase of 4°C under a business as normal scenario. Thus, while this represents considerable progress, COP-21 is but a point of departure and not a final destination. Nevertheless, the progress is significant: global emission levels will decline.

Will Paris be a success? That of course depends on one’s criteria. For the French success means achieving four things: 1) a new globally inclusive legal instrument; 2) agreement on financing actions in developing countries; 3) the tabling of INDC’s that aim to achieve the 2°C target and 4) the engagement of non-state players in what the French Ambassador recently referred to as a “solutions agenda”. The most difficult issue is likely to be financing particularly for what the UN/FCCC refers to as “damage and loss” from current climate change.

The stars are certainly better aligned. The French, as hosts, have been working assiduously to ensure COP-21 is a success. They have been sending out emissaries for the past year to talk to governments and civil society. They also have greater experience than the Danes in orchestrating the logistics of such a huge meeting.

There is a sense of greater political will to achieve a successful outcome. World lead-

ers (at least the important ones) are saying the right things. Key players will include the BRICS group (Brazil, Russia, India, China and South Africa). Other key players are, of course, the US and the EU. A few countries, such as the US, are already well on the way to achieving their target with existing policies and the EU has already reached its 2020 target.

As we have seen in Canada, targets without concomitant policies and measures are meaningless. In some cases national policies have been adopted because they achieve other ancillary objectives such as poverty reduction, economic development and air quality improvements. Some commitments, such as Russia's, are contingent on the outcome of the overall negotiations whereas others, such as India's, commit only to intensity rather than an absolute emission reduction. Some INDC's take account of contributions from forestry sinks which can include the natural up-take of carbon.

With the completion of the IPCC 5<sup>th</sup> Assessment Report the science is even stronger and indicating than we are running out of time to avoid some "severe, pervasive and potentially irreversible" impacts – this is wording approved by governments in the recently completed IPCC 5<sup>th</sup> Assessment Report. It is perhaps significant that in the text of the draft Paris package there are no square brackets around the wording "urgent threat".

There has also been an incredible move to non-carbon renewable energies, particularly wind and solar. It is a little like the introduc-

tion of personal computers which occurred slowly and were expensive at first but now almost everybody has one. In addition there are an impressive and growing number of organizations that have decided to divest their interests in fossil fuel companies including the United Church of Canada and the Rockefeller Foundation.

What of Canada's participation? The new Prime Minister has made it clear that he wants Canada to again make a constructive contribution to the international effort to address the threat of climate change, to reclaim the helpful role we once played. His participation, with the Provinces, will be much appreciated. Alberta, British Columbia and Ontario are all expected to announce energy and climate change plans before COP-21. And there was a federal/provincial meeting of first Ministers earlier this week to discuss Canada's participation in Paris. Other governments will understand that there has not been sufficient time for broad consultations and informed deliberations for Canada to announce a new, ambitious target accompanied by strong policies and measures such as goals for renewable energy.

Whatever the result, COP-21 in Paris will not be the end of the international effort to address the threat of climate change. Hopefully, it will be the end of the beginning of an iterative process that will "at a level that would prevent dangerous indeed stabilize anthropogenic interference with the climate system." And leave a sustainable World for our children.

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