



## The Judgement of Paris

### Publish Date:

April 2016

On December 12 2015, headlines stated that the newly concluded United Nations Framework Convention on Climate Change (UNFCCC) meeting in Paris was a success, and world leaders managed to complete an agreement that will help prevent climate change. The details, of course, were more subtle.

All signals in the lead-up to the negotiations indicated the final agreement—known as the Paris Agreement—was going to be weak. The agreement allows countries to determine their own commitments on climate change, whether quantitatively (i.e. the extent of any emissions cuts) or qualitatively (the legal nature of these commitments). In other words, each country can re-instate its domestic policy.

It simply puts disparate national approaches under a single framework. It differs from its predecessor—the Kyoto Protocol—in that there is no negotiating *between* countries over who is supposed to achieve what in terms of emissions. Rather, there is a system under which those commitments will be reviewed.

This writer has had the misfortune of attending UNFCCC meetings for seven years. What has become apparent in that time is that an international climate agreement that doesn't actually require countries to reduce emissions isn't surprising. There are two reasons for this.

The first is the legal nature of the agreement; which is driven by a conflict between the only two major economic powers interested in a climate change agreement: the EU and the United States.

The EU negotiates international treaties as a bloc, which means a common, generally inflexible position needs to be agreed to in advance. What it can negotiate on behalf of member states is limited. Energy policy and taxation, for example, are off-limits. For a treaty to have weight on member country policy it must be legally binding. The US has a similar problem. The White House negotiates international treaties but they can only be ratified by US Congress, who are reluctant to cede national sovereignty to anything. In short, the EU needs a legally binding treaty; and the US can't make one work. As a result, the language in the document isn't remotely proscriptive. Nearly every appearance of the word 'shall' in the final agreement was replaced with 'should'.

The second factor is finance. Major developing countries made it clear that they were unwilling to forego economic growth for a situation they did not create. In exchange for signing on to 2009's Copenhagen Accord, they asked for \$US100 billion annually in climate aid from 2020 in addition to regular development assistance. This didn't change in 2015. If anything, a leadership group of Brazil, India, China and South Africa, which led a block of 132 developing countries, became more hard-line in the face of stalling growth. Indian officials said they would not succumb to Western 'carbon imperialism'. In other words, these countries were never going to prioritise emissions cuts over economic growth, and it meant that politically, economically and environmentally it made no sense for the US or the EU to take unilateral action.

## **FAILURE OF THE UNFCCC**

The question is how, after almost 25 years, has the UN produced an agreement that does so very little?

The UNFCCC was the product of the 1992 United Nations Conference on Environment and Development (UNCED). That conference produced two other treaties alongside the UNFCCC: the United Nations Convention to Combat Desertification, and the Convention on Biological Diversity. The former is ineffective at best; the latter only comes to prominence when there are concerns over who might own the supposed cures for cancer waiting to be discovered in jungles around the world.

The UNCED declarations and treaties were vague, offering up only a set of principles under which actions were national. The UNFCCC, however, took a different course and proposed binding international action under a different instrument—the Kyoto Protocol of 1997. Taking effect in 2008, just 42 countries agreed to sign up for five years, ending in 2012.

The UNFCCC's negotiating process since 2007 has in essence been about finding a way to

extend the Kyoto Protocol. But Kyoto was an aberration from the UNCED process rather than the norm, and a return to national action is in line with other international treaties.

Taking into account this history, political impasse has a role to play in determining the factors as to why the agreement fails to produce results. Most notably, the negotiating divide in the UNFCCC is basically between rich and poor countries. Wealthy industrialised nations generally assume they can afford to bear the cost of climate change policies, while poor countries—making up the bulk of the world’s population—do not. Further, developing countries are steadfast in asserting that industrialised nations are mostly responsible for climate change.

Both the US and EU argue that the world has changed significantly since 1997, and they are correct. They argue China is the world’s largest economy and the largest emitter and should therefore commit to emissions reductions. But GDP per capita in China remains low, despite what a Westerner sees on the Bund.

Neither China nor its colleagues in Brazil, South Africa and India made a commitment to cut emissions in any of their national actions; this would gain them nothing. The US and EU arguments around emissions cut little ice; it’s difficult to sell the idea of expensive, unreliable renewables to Indian officials when only 31 per cent of the population has improved sanitation.

Similarly, the EU’s attempts to sell its vision of ‘low carbon economic development’ to poor countries with an inducement of aid have floundered. The post-2008 EU has lost its political and economic lustre; it is having enough trouble fulfilling its promise of peace and prosperity to its own members, and the prospect of capitulating to the tune of \$100 billion annually is politically dangerous.

Moreover, the self-interest of the UNFCCC also comes into play. Granted, if organisations are self-interested—and if an organisation’s original mandate becomes redundant and it’s led to establish a new one—then in order to grow and maintain relevance, the UNFCCC needs to demonstrate that it is effective. This can’t be done by reducing emissions, but it can be done by fulfilling agreements.

As an organisation the UNFCCC suffered a significant blow at the end of the Copenhagen meeting in 2009. The meeting failed; the ‘accord’ that the meeting produced was little more than a press release. This was despite the presence of the world’s major leaders and misguided celebrities, thousands of hangers on, blanket media coverage and considerable expense.

The Paris meeting was expected to cost \$260 million to mount; the UNFCCC’s operational budget for 2015 was \$135 million. This doesn’t include the costs incurred by national governments attending the meetings or the NGOs and other groups.

Around 50,000 people attended the Paris meeting. A conservative guess of the cost of 2015’s negotiations would be \$500 million. For this sort of time and expense something, anything, needs to be produced—even if it has little impact.

## **THE FUTURE OF INTERNATIONAL CLIMATE POLICY**



The apparent meaninglessness of the Paris Agreement does not, however, mean the end of the process. There are still two aspects to the future of international climate policy—the first within the UNFCCC. The EU and those supporting international action have gone to great lengths to stipulate that the Agreement contains future points for review and ‘increasing ambition’. This ensures the UNFCCC remains in play. As regular reviews approach, national governments will be called on to do more by interest groups in the media around an aspirational ‘1.5 degree’ goal. Similarly, it will reinforce the UNFCCC’s increasingly complex governance structures which are difficult to understand, hard to use, and difficult to object to.

Within the text is a provision for financial resources action by the UNFCCC to effectively lobby towards the 1.5 degree target. UN members that contribute to the UNFCCC coffers are now effectively paying to have the UNFCCC lobby them.

The idea of ‘international legal obligations’ holds a disproportionate weight in Australia—particularly among the left. This will become the catch-cry of campaign groups across the country. Government approvals of projects may ‘threaten our international legal obligations under the Paris Agreement’. Or worse, that Australia needs to ‘demonstrate international leadership in the UNFCCC’ by implementing a particular policy. The former will have particular resonance with some members of the judiciary.

Current and future Australian governments on either side of politics would do well to ignore any pressure on domestic policy in this future environment. Choosing between what is in the economic, social and environmental interests of Australians, and the interests of an organisation that is inefficient, opaque and ultimately self-interested should be a no-brainer.

But governments rarely pursue efficiency, transparency and anything outside of their own interests. So, yes, we should be worried.