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***A Brief Assessment on the Paris Climate Agreement and Compliance Issue***

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# A Brief Assessment on the Paris Climate Agreement and Compliance Issue

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## ABSTRACT

The aim of this study is to discuss the Paris Climate Agreement in terms of its implications on compliance issue. For this purpose, firstly, the current system on compliance, the Kyoto Protocol and its compliance mechanism, is briefly explained. Secondly, different proposals on compliance suggested in three different documents, namely, -the Lima Call for Climate Action, the Geneva Negotiating Text and the Bonn Draft Agreement- are discussed. Then, an assessment is made on the Paris Climate Agreement to find out a response to the question of how the Agreement contributes to the compliance issue.

**Keywords:** Compliance, Compliance Mechanism, Kyoto Protocol, Paris Climate Agreement, United Nations Framework Convention on Climate Change.

## Paris İklim Anlaşması ve Uygunluğun Sağlanması Üzerine Kısa Bir Değerlendirme

### ÖZET

Bu makale Paris İklim Anlaşması'nı uygunluğun sağlanması konusuna olası etkileri bakımından tartışılması amaçlamaktadır. Bu amaçla, ilk olarak, uygunluğun sağlanması konusundaki mevcut sistem, Kyoto Protokolü ve Protokol'ün uygunluğu sağlama mekanizması, kısaca açıklanmaktadır. İkinci olarak, uygunluğun sağlanması konusunda üç farklı dokümanda -Lima İklim Eylem Çağrısı, Cenevre Müzakere Metni ve Bonn Taslak Anlaşması- yer alan farklı öneriler tartışılmaktadır. Daha sonra, Paris İklim Anlaşması'nın uygunluğun sağlanması konusuna nasıl bir katkı yaptığı sorusuna cevap bulmak için Anlaşma üzerinde bir değerlendirme yapılmaktadır.

**Anahtar Kelimeler:** Uygunluğun Sağlanması, Uygunluğun Sağlanması Mekanizması, Kyoto Protokolü, Paris İklim Anlaşması, Birleşmiş Milletler İklim Değişikliği Çerçeve Sözleşmesi.

## Introduction

While the Kyoto Protocol (KP) sets up internationally binding emission reduction targets that require developed country parties to reduce their greenhouse gas emissions by 5.2% by the end of the first commitment period (CP1) (2008-2012) (art.3.1, KP) in order to cope with climate change and to reduce its risks;<sup>1</sup> the Doha Amendment to the Protocol<sup>2</sup> includes new commitments for developed country parties which should be carried out by the end of the second commitment period (CP2) (2013-2020).

However, as Canada (with its withdrawal from the KP in 2011) and the USA (no ratification of the KP) did not participate in the first commitment period (CP1) and the USA, Russia, Canada, Japan and developing countries do not have commitments in the second commitment period (CP2); the KP and also Doha Amendment, even if they symbolize hope for a better system, do not promise great chances on dealing with climate change.

On the other hand, the Paris Agreement does not put a categorization between Annex I and non-Annex I country parties, which differs from the UNFCCC system. Indeed, based on the categorization of the parties (Annex-I, Annex- II, Annex-B), the Convention contains certain general obligations (art.4, UNFCCC)<sup>3</sup> which are valid for all parties and specific ones which are required to meet only by Annex I parties.

On the basis of its overall objective which requires to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to limit this increase to 1.5°C above pre-industrial levels (art.1a, Paris Agreement),<sup>4</sup> the Paris Agreement requires all country parties to prepare their climate action commitments. More specifically, this includes intended nationally determined contributions (INDCs) “informed by the outcomes of the global stocktake” which will provide to assess the collective progress toward meeting the Agreement’s long-term goals (arts.3, 4, 7, 9, 10, 11, 13, Paris Agreement, Decision 1/COP 19, Decision 1/COP 20; art.4.9, art.14.3, Paris Agreement).

The question, how those parties’s compliance with their climate action commitments will be ensured, gives rise to the need of an examination on the Paris Agreement in terms of its provisions and outcomes on compliance issue and compliance mechanism. Therefore, in this study, the Paris Agreement will be evaluated on the basis of the compliance issue. But, before proceeding with this evaluation, firstly, the current system on compliance, the Kyoto Protocol and its compliance mechanism, will be explained. Secondly, the options proposed in three different documents, namely, the Lima Call for Climate Action,<sup>5</sup> the Negotiating Text adopted in Geneva<sup>6</sup> and the Draft Agreement

1 “Kyoto Protocol to the United Nations Framework Convention on Climate Change”, <http://unfccc.int/resource/docs/convkp/kpeng.pdf>, (Accessed on 7 January 2016).

2 Decision 1/MOP.8, Amendment to the Kyoto Protocol pursuant to its Article 3, paragraph 9 (the Doha Amendment), Report of the COP serving as the MOP to the Kyoto Protocol on its Eighth Session. Part Two: Action taken by the COP serving as the MOP at its Eighth Session. Doha, 26 November-8 December 2012. FCCC/KP/CMP/2012/13/Add.1., <http://unfccc.int/resource/docs/2012/cmp8/eng/13a01.pdf>, (Accessed on 7 January 2016).

3 “United Nations Framework Convention on Climate Change”, [http://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf), (Accessed on 7 January 2016).

4 “Paris Agreement”, [http://unfccc.int/files/home/application/pdf/paris\\_agreement.pdf](http://unfccc.int/files/home/application/pdf/paris_agreement.pdf), (Accessed on 7 January 2016).

5 Decision 1/COP.20, Lima Call for Climate Action, paragraph 88, p.40. Report of the Conference of the Parties on its twentieth session, held in Lima from 1 to 14 December 2014 Addendum Part two: Action taken by the Conference of the Parties at its twentieth session. FCCC/CP/2014/10/Add.1., <http://unfccc.int/resource/docs/2014/cop20/eng/10a01.pdf>, (Accessed on 7 January 2016).

6 “Negotiating Text”, paragraphs 194-201, p.82-84. *Ad Hoc* Working Group on the Durban Platform for Enhanced Action Second session, part eight Geneva, 8–13 February 2015. Agenda item 3 Implementation of all the elements of decision 1/COP.17. FCCC/ADP/2015/1., <http://unfccc.int/resource/docs/2015/adp2/eng/01.pdf>, (Accessed on 7 January 2016).

adopted in Bonn<sup>7</sup> will be discussed. Finally, the Paris Climate Agreement and its outcomes on compliance will be focused on.

## **Kyoto Protocol and Its Compliance Mechanism**

The compliance mechanism of the Kyoto Protocol is set up by a conference of the parties (COP) decision (not by an amendment to the Protocol) in Marrakesh, Morocco (so called as “Marrakesh Accords”) in 2001.<sup>8</sup> However, the beginning of the negotiations on the mechanism can be traced back to the Buenos Aires Action Plan (Decision 1/COP 4)<sup>9</sup> adopted in 1998 which sets out a work programme on issues under the Protocol.<sup>10</sup> Although the Bonn Agreements on the Implementation of the Buenos Aires Plan of Action (Decision 5/COP 6) are adopted by the parties at COP 6 (2001) (Part II) on key issues including compliance as well,<sup>11</sup> as few challenges regarding the compliance mechanism such as the consequences of non-compliance and the membership of the Compliance Committee could not be figured out at COP 6 (2000) in the Hague (Part I),<sup>12</sup> draft decision proposed by the co-chairmen of the negotiating group on these procedures and mechanisms is forwarded to COP 7 for further elaboration and adoption.

After their adoption by COP 7 (2001), the MOP -the Conference of the Parties serves as the meeting of the Parties to the Kyoto Protocol- also approves them, as the Protocol calls for the approval of procedures and mechanisms to determine and to address cases of non-compliance with the provisions of the Protocol (art.18, KP). Thus, through the confirmation of the Decision 24/COP 7 in Decision 27/MOP 1 held in Montreal, Canada in 2005,<sup>13</sup> many of the outstanding issues necessary to address any compliance difficulties-except the legal status of enforcement consequences- are resolved.

The compliance mechanism of the KP involves three components: gathering information/reporting, procedures and response measures. However, uniquely, it functions in practice following a “double track system”<sup>14</sup> through two important branches, -the Facilitative Branch (FB) and Enforcement Branch (EB) - of the Compliance Committee.

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- 7 Draft Agreement and draft decision on workstreams 1 and 2 of the *Ad Hoc* Working Group on the Durban Platform for Enhanced Action, p.25.-27. *Ad Hoc* Working Group On The Durban Platform For Enhanced Action, Second session, part eleven, 19-23 October 2015, Bonn, Germany. ADP 2-11, <http://unfccc.int/files/bodies/application/pdf/ws1and2@2330.pdf>, (Accessed on 7 January 2016).
  - 8 Decision 24/COP.7, Procedures and mechanisms relating to compliance under the Kyoto Protocol, Procedures and mechanisms relating to compliance under the Kyoto Protocol, <http://unfccc.int/resource/docs/cop7/13a03.pdf>, (Accessed on 7 January 2016).
  - 9 Decision 1/COP.4, The Buenos Aires Plan of Action, Report of the COP on Its Fourth Session. Part Two: Action taken by the COP at its Fourth Session. Buenos Aires, 2-14 November 1998. FCCC/CP/1998/16/Add.1., <http://unfccc.int/resource/docs/cop4/16a01.pdf>, (Accessed on 7 January 2016).
  - 10 Jacob Werksman, “The Negotiation of a Kyoto Compliance System”, Olav S. Stokke, Jon Hovi and Geir Ulfstein (eds.), *Implementing the Climate Regime, International Compliance*, USA, The Fridtjof Nansen Institute, 2005, p.17-38.
  - 11 Report of the COP on the Second Part of Its Sixth Session. Part II. Bonn, 16-27 July 2001, p.48-49. FCCC/CP/2001/5., <http://unfccc.int/resource/docs/cop6secpart/05.pdf>, (Accessed on 7 January 2016).
  - 12 Report of the COP on the First Part of Its Sixth Session. Part Two: Action taken by the COP at its Sixth Session. The Hague, 13- 25 November 2000. FCCC/CP/2000/5/Add.2. , <http://unfccc.int/resource/docs/cop6/05a02.pdf>, (Accessed on 7 January 2016).
  - 13 Decision 27/MOP.1, Procedures and mechanisms relating to compliance under the Kyoto Protocol Report of the COP serving as the MOP to the Kyoto Protocol on its First Session. Part Two: Action taken by the COP serving as the MOP at its First Session. Montreal, 28 November-10 December 2005. FCCC/KP/CMP/2005/8/Add.3. , <http://unfccc.int/resource/docs/2005/cmp1/eng/08a03.pdf#page=92>, (Accessed on 6 January 2016).
  - 14 Massimiliano Montini, “Procedural Guarantees in NCMs”, Tullio Treves *et.al.* (eds.), *Non-Compliance Procedures and Mechanisms and the Effectiveness of International Environmental Agreements*, The Hague, T.M.C. Asser Press, 2009, p.389-406.

The procedure applied in these branches starts with a submission raising a question of implementation (QoI) in three different ways: by any party with respect to itself (NCP, Section VI (1a); RoP, 14),<sup>15</sup> or by any party with respect to another party (NCP, Section VI (1b); RoP, 15), or by the reports of expert review teams under art. 8, Protocol (NCP, Section VI (3)).

The relevant branch then makes a preliminary examination to identify whether the questions are supported by sufficient information, are not *de minimis* or ill-founded and are based on the requirements of the Protocol (NCP, Section VII, 2).

If decided to proceed, then the substantive procedure to give final decision starts. In this phase, while the general procedures set up in NCP, Section VIII are applied for the procedure before FB; for the EB, specific rules of the NCP, Section IX and X are applied.

Of those, a party can also appeal to the MOP against the EB's final decision for denial of due process (NCP, Section XI). Thus, as a political body (i.e. the MOP), examines a decision of a quasi-judicial body (i.e. the EB), even though this examination is particularly about a legal question (i.e. whether the rules of the due process are applied to the party concerned).

During this process, the Facilitative Branch's (FB) main role is to provide advice and facilitation of assistance to parties, particularly to developing countries and to economies in transition countries included in Annex I. Through this assistance, it aims to ensure and enhance their compliance with their commitments under the Protocol (NCP, Section IV, 4).

On the basis of this aim, the FB addresses questions of implementation (QoIs) on Annex I parties to determine whether they comply with their commitments (arts.6, 12, 17, art.3.2, KP; NCP, Section IV, 5). After its examination it can also apply some consequences, if it becomes necessary (art.3.14, KP), such as advice and facilitation of assistance, facilitation of financial and technical assistance, including technology transfer and capacity building, formulation of recommendations, which are set out in Section XIV (NCP, Section VI, 7).

There has been just one submission of QoI to the FB till to date. It was raised by South Africa against the 15 Annex I parties which did not provide their reports demonstrating their progress on time (art.3.2, KP).

While the FB adopted only two decisions on Latvia and Slovenia, no decision could be taken about the rest of the parties,<sup>16</sup> due to the lack of consensus and also lack of majority of ¾ of the members, present and voting for adopting a decision (NCP, Section II, para.9; NCP, Section VII, paras.4, 6)

The Branch decided not to proceed against these two parties, because, in the case of Latvia, its fourth national communication and progress report had already been received by the secretariat

15 Rules of procedure of the Compliance Committee of the Kyoto Protocol (informal consolidated version) (version of 3 February 2014), [http://unfccc.int/files/kyoto\\_protocol/compliance/application/pdf/consolidated\\_rop\\_with\\_cmp\\_4&cmp9\\_amend\\_2014feb03.pdf](http://unfccc.int/files/kyoto_protocol/compliance/application/pdf/consolidated_rop_with_cmp_4&cmp9_amend_2014feb03.pdf), (Accessed on 6 January 2016).

16 Facilitative Branch (FB) Reports to the Compliance Committee on the Deliberations in the Facilitative Branch relating to the Submission entitled "Compliance with Article 3.1 of the Kyoto Protocol." (Parties concerned: Austria, CC-2006-1-2/FB, Bulgaria, CC-2006-2-3/FB; Canada, CC-2006-3-3/FB; France, CC-2006-4-3/FB; Germany, CC-2006-5-2/FB; Ireland, CC-2006-6-2/FB; Italy, CC-2006-7-2/FB; Latvia, CC-2006-8-4/FB, Liechtenstein, CC-2006-9-2/FB; Luxembourg, CC-2006-10-2/FB; Poland, CC-2006-11-3/FB; Portugal, CC-2006-12-3/FB; Russian Federation, CC-2006-13-2/FB; Slovenia, CC-2006-14-3/FB; Ukraine, CC-2006-15-2/FB).

before its consideration started;<sup>17</sup> regarding Slovenia, its respective reports had been received just after its consideration proceeded.<sup>18</sup>

Through this submission, as the FB failed to provide its early warning function, it is argued that further development on the FB's this task is required,<sup>19</sup> for instance, it may be allowed to engage into the system earlier than the present system. This may allow the FB to have the opportunity to review expert review team (ERT) reports and to initiate the process on its own.<sup>20</sup>

On the other hand, the Enforcement Branch (EB)'s role involves a quasi-judicial character. It has the competence to impose strict consequences. However, in practice, as it is not aimed to punish the non-compliant party, but just to encourage it to comply with its obligations;<sup>21</sup> in all eight cases of non-compliance (on the parties Greece, Canada Croatia, Bulgaria, Romania, Ukraine, Lithuania and Slovakia),<sup>22</sup> the EB has applied the same three consequences (except Slovakia). These include the making of a non-compliance public declaration, the submission of a compliance action plan, the suspension of trading in the Kyoto carbon market.

The EB in all cases also sought expert advice through the members of the expert review team. Except South African submission made to the FB, all the submissions to date have been proceeded by the ERTs as well. Therefore, their role and existence is really important not only just because of their submissions of QoI, but also because of their reports. Indeed, their reports are prepared on the basis of a comprehensive technical assessment, monitoring and verification process. Furthermore, through their reports, they also affect gathering information component of the mechanism in a very positive manner. However, as they have a complex and technical nature, they also can make it difficult for the public to follow the situation. Gathering information component can be affected negatively in some other aspects as well: self-reporting of the parties, lack of NGO participation to the reporting, complexity of gases that should be reported, complexity of reporting processes, possible speculations on the quality and reliability of data, capacity-building problem of developing country parties, lack of coordination between different compliance mechanisms (in fact, this is valid for the whole process either).

Moreover, there are also particularly crucial challenges regarding funding issues within the mechanism. Lack of proper and adequate funding can sometimes raise malfunctions within the system, e.g. to provide funding for only members and alternates from developing countries and from some low-income countries with economies in transition negatively affects the regular attendance of all members to the meetings.

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17 FB Decision not to Proceed against Latvia. CC-2006-8-3/Latvia/FB.

18 FB Decision not to Proceed against Slovenia. CC-2006-14-2/Slovenia/FB.

19 Geir Ulfstein and Jacob Werksman, "The Kyoto Compliance System: Towards Hard Enforcement", Olav S. Stokke, Jon Hovi and Geir Ulfstein (eds.), *Implementing the Climate Regime, International Compliance*, USA, The Fridtjof Nansen Institute, 2005, p.45; Sebastian Oberthür and René Lefeber, "Holding Countries to Account: The Kyoto Protocol's Compliance System Revisited After Four Years of Experience", *Climate Law*, Vol.1, 2010, p.137-155.

20 Meinhard Doelle, "Early Experience with the Kyoto Compliance System: Possible Lessons for MEA Compliance System Design", *Climate Law*, Vol.1, 2010, p.237-260.

21 Mar Campian Eritja, Xavier Fernand Pons and Laura Huici Sancho, "Compliance Mechanisms in the Framework Convention on Climate Change and the Kyoto Protocol", *Revue Generale de Droit*, Vol.34, 2004, p.53, [http://heinonline.org/HOL/Page?handle=hein.journals/revgend34&div=6&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/revgend34&div=6&g_sent=1&collection=journals) (Accessed on 9 September 2011).

22 For the details see at Zerrin Savaşan, *Compliance Mechanisms under Multilateral Environmental Agreements A Comparative Analysis of Compliance Mechanisms under Montreal and Kyoto Protocols*, Unpublished doctoral dissertation, Ankara, Middle East Technical University, Graduate School of Social Sciences, 2013.

In sum, the CM of the KP already consists of a comprehensive and strong system for ensuring compliance of its parties. However, it also involves some challenges in several aspects mentioned above that should be dealt with.<sup>23</sup> It is naturally expected from a new agreement to have provisions handling and resolving these kind of challenges.

## Pre-Paris Period: Discussions on Different Options

Before the adoption of the Paris Agreement, like having been in other many issues, various proposals are discussed and negotiated regarding implementation and compliance as well. These proposals and discussions will be assessed here by means of three different documents, namely, the Lima Call for Climate Action, the negotiating text adopted in Geneva and the draft agreement adopted in Bonn.

### *Lima Call for Climate Action (Section L, para.88)*

There are four main options suggested to be included in the Paris Agreement in order to facilitate implementation and to promote compliance of the parties in an expert-based, non-confrontational and non-judicial manner. The first one leaves any elaboration on the subject to the governing body. The second one suggests the establishment of a compliance mechanism or committee responsible for promoting implementation and compliance and assessing parties' performance.

Regarding these two options, the arrangements that should also cover issues related to the substantive scope, types of parties, structure of the mechanism, and modalities are discussed. These arrangements include membership, triggering, procedures; usage of market mechanisms, response measures and the Committee's annual report to the COP. From those arrangements, with respect to the substantive scope of arrangements, there are two main suggestions: All commitments under the agreement can be evaluated through the compliance mechanism. Specific ones can be thought under the mandate of the compliance arrangements (including reporting, excluding adaptation, or implementation of parties' schedules and the submission of biennial communications, or just mitigation, measurement, reporting and verification (MRV) and accounting commitments).

Regarding the question to which types of parties these arrangements should be applied, two proposals are on the table: a) to all parties, without looking at their differences among them. So, no differentiation between the parties is sought for; b) only to developed country parties and their commitments on mitigation, finance, transfer of technology and capacity-building.

On the other hand, the nature of the compliance mechanism under the Paris Agreement is discussed under four options. While one option is in favor of the Kyoto Protocol's system involving two separate branches: an enforcement and a facilitative branch; the other one supports setting up a standing, non-political, expert body serving in their individual capacity. The third option proposes the existence of a compliance mechanism that is only facilitative in nature. The last one involves the establishment of platforms to deal with facilitation and enforcement, but also early warning of non-compliance.

23 For details on its weaknesses evaluated resting on different aspects of the CM: gathering information, the impartiality and independency of the Committee, procedural safeguards, the rights of the party concerned, predetermined timetables, fixed consequences, possibility for appeal, the role of NGOs, financial challenges, operation of the mechanism in practice, see at: Savaşan, *Compliance Mechanisms*, and also Zerrin Savaşan, "The Role of Compliance Mechanism under the Kyoto Protocol in Coping with Climate Change," *Energy and Diplomacy Journal*, Volume 1, Issue 2, Summer 2015.

Regarding the modalities, on response measures, again four proposals stand out. Two of them do not distinguish between Annex I and non-Annex I parties. Indeed, while one of them proposes the application only of facilitative measures, the other one supports both measures and sanctions's application. On the other hand, the third one suggests facilitative measures for merely non-Annex I parties and sanctions for Annex I parties. The last one brings a different perspective, drawing attention to expert groups which can support developing country parties to comply with their commitments.

Within the third option, following a different approach from the KP's system involving a Compliance Committee, to strengthen the provisions for transparency and to reconsider the multilateral consultative process (MCP) (art.13, UNFCCC; art.16, KP) are raised as sufficient to facilitate compliance.

However, in the context of providing compliance, just enhancing transparency forms a facilitative system lacking enforcement and therefore is not potentially adequate to address non-compliance and to ensure and improve compliance.

On the other hand, regarding MCP, it should be stated first of all that, it is not established under the UNFCCC, but it is left to a COP decision (art.13, UNFCCC). After the study of an *Ad Hoc* Group on art. 13 (AG-13), in the last session of the AG-13, the multilateral consultative process was founded in the form of a set of procedures to be served by a standing Multilateral Consultative Committee through Decision 10/COP 4 in 1998.<sup>24</sup>

Through this process, the Committee aims to improve the understanding on the Convention and prevent potential disputes (Decision 10/COP 4, para.2). That is, it "rel[ies] on the willingness of the parties to respect their duties and to actively promote a "physiological" operation of the UNFCCC before any "pathological" situation arises."<sup>25</sup> It is thus intended to provide advice on the procurement of assistance to parties to overcome their difficulties in their compliance with the Convention (Decision 10/COP 4, para.2). In brief, facilitative, cooperative, non-confrontational, non-judicial, transparent and timely resolutions are targeted as the outcomes of the process (Decision 10/COP 4, para.3). Therefore, it is generally defined as an advisory mechanism. Yet, even though it is characterised by elements of an advisory mechanism predominantly in itself, and thus it is closer to being an advisory mechanism rather than a supervisory mechanism,<sup>26</sup> it also contains elements of a supervisory mechanism. This is because, it also involves triggering (by the party itself, by another party and by the COP (Decision 10/COP 4, para.5), the process with respect to the implementation of another party and the possibility to take measures (Decision 10/COP 4, para.12b).

However, since the compliance mechanism of the KP already provides for a facilitation branch which has the same functions of facilitation and prevention, the importance of the MCP has been undermined and has not been used in practice. So, there is no previous experience of such a process under the UNFCCC regime. While having experience nearly for two decades under the CM and being relatively successful, despite its some shortcomings, to try for a new process does not sound as a good idea for compliance improvement.

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<sup>24</sup> Decision 10/COP.4, Multilateral consultative process, FCCC/CP/1998/16/Add.1, 1998, p.42-46, <http://unfccc.int/resource/docs/cop4/16a01.pdf#page=42>, (Accessed on January 2016).

<sup>25</sup> Eritja, Pons and Sancho, "Compliance Mechanisms in the Framework Convention", p.68

<sup>26</sup> Markus Ehrmann, "Procedures of Compliance Control in International Environmental Treaties", *Colorado Journal of International Environmental Law and Policy*, Vol.13, 2002, p.377-444.



As a fourth option, it is proposed by some of the parties to not include any specific provisions for compliance under the Paris Agreement, as these are not required to be specified under this Agreement.

### ***Geneva Negotiating Text (Section K, para. 194-201)***

When compared with the Lima Call for Action, it is seen that, the Geneva Negotiating Text follows a different way of providing its options. Indeed, instead of four main options, it is based on three basic options suggested to be included in the Paris Agreement; and the first one already involves the proposals discussed within the Lima Call in itself. So even if it is more detailed than it, and with some slight differences, it is the most similar one to the Lima Call.

The second one provides the purpose of the compliance mechanism (as to ensure compliance of developed countries and facilitate implementation for developing countries) and leaves the elaboration of the modalities of the mechanism/committee to the COP. While doing that, it stresses the principle of differentiated responsibilities of developed and developing countries under the Convention, and sets forth two varied systems: a mandatory mechanism for developed countries on mitigation, adaptation, finance, technology development and transfer, capacity-building, and transparency of action and support; and a voluntary facilitative forum for developing countries on mitigation, adaptation and transparency of action.

The third option just touches upon the structure of the compliance committee, its branches and their tasks. The compliance committee should report annually to the COP and it can settle down technical expert panels to have assistance for its tasks. In addition, likewise the KP's CM, the committee shall have two branches: the enforcement branch (EB) and the facilitative branch (FB). While the EB can review compliance with commitments made by developed country parties and those developing country parties having emission reduction commitments, biennial reports, technical expert teams' related reports; the FB can just review developing countries' implementation of their commitments and it is responsible to help to meet their commitments. However, the response measure applied against the parties by both branches is identical, i.e. recommended actions. So, this option consists of provisions regarding the response measure; in contrary to the KP's CM, does not distinguish between positive and negative measures. It only involves the identical measure 'recommended actions' for both branches making EB's power less than it has in the KP's CM.

It involves various sub-options with respect to various aspects of the mechanism: As the purpose of the mechanism (with emphasis on different aspects with each option) is;

- to assist parties in the implementation of their commitments, and to address compliance issues in a expert-based, non-confrontational and non-judicial manner,
- to facilitate, promote and enforce compliance with the parties' commitments,
- to facilitate the implementation of commitments with a preventative and cooperative compliance system,
- both enforcement and facilitation with two branches of the Compliance Committee.

As the task of the governing body (with emphasis on different aspects with each option) is;

- to adopt procedures and/or mechanisms,
- to approve appropriate and effective procedures and mechanisms, including the

development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance, at its first session,

- to adopt procedures and/or mechanisms, including the strengthening of transparency arrangements,
- - to adopt appropriate and effective procedures.

As the nature of the mechanism (with emphasis on different aspects with each option) is;

- a compliance mechanism or committee / implementation committee / a standing body,
- a compliance committee (including provisions on its composition, number of members and decision-making),
- enhancing transparency through MCP (art.13, UNFCCC),
- no requirement for specific provisions.

Other arrangements -related to the substantive scope, types of parties, structure of the mechanism, and modalities such as membership, triggering, procedures; usage of market mechanisms, response measures and the Committee's annual report to the COP-that should be covered by the Agreement for this option are similar to the ones involved in Lima Call, yet, there are also different options like allowing the parties to trigger the procedure with respect to themselves or with respect to other parties, or involving other adequate measures clause; or a differentiated system of consequences on the basis of the nature of the commitment and extent of non-compliance with the commitment.

Remarkably, in the suggestion under paragraph 197, there is also an open-ended perspective allowing further developments and new institutional arrangements which may be needed to serve the purposes of the agreement.

However, the most outstanding issue expressed in this option is the establishment of an international climate justice tribunal for supervising and sanctioning non-compliance of Annex I and Annex II Parties with their commitments under Paris Agreement and the Convention.

In its submission the AWG-LCA,<sup>27</sup> the plurinational state of Bolivia firstly makes the call for this climate justice tribunal which would have the legal capacity to prevent, judge and penalize States to deal with climate change. This submission is specifically based on the outcome of the World People's Conference on Climate Change and the Rights of Mother Earth held in Cochabamba, Bolivia, on 19-22 of April 2010. Additionally, it inserts the Peoples Agreement and the draft proposal for a Universal Declaration of Mother Earths Rights- adopted at that Conference- and develops their main contents.

What makes it one of the prominent options within the Text is that it represents a considerable divergence from not only the current compliance system under the KP and decisions taken under both KP and the Convention till to that time, but also from the other options submitted under the Text which are consistent with the established preventative and non-confrontational model. It also contrasts with the views arguing the reasons of CMs' being more attractive than the traditional means of settling disputes,<sup>28</sup> indicating a turn back to a traditional means, i.e. a confrontational, judicial

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27 Submission by The Plurinational State of Bolivia to The Ad-Hoc Working Group On Long-Term Cooperative Action, [http://unfccc.int/files/meetings/ad\\_hoc\\_working\\_groups/lca/application/pdf/bolivia\\_awglca10.pdf](http://unfccc.int/files/meetings/ad_hoc_working_groups/lca/application/pdf/bolivia_awglca10.pdf), (Accessed on 8 January 2016).

28 For details on the reasons of CMs' being more attractive than the traditional means of settling disputes, see at Savaşan, *Compliance Mechanisms*, p.49-65.

tribunal. Moreover, given that the consent of the states are essential to be bound by the agreements creating these means of settling disputes, CMs, tribunals or others, illustrated already by several cases, but particularly by cases of Canada (with its withdrawal from the KP in 2011) and the USA (no ratification of the KP), the question becomes more complicated how the states can be convinced to be part of an Agreement involving this kind of judicial mechanism, whereas there is already a more flexible, preventive and non-confrontational system already exists. Finally, as there is no other detailed information on the rules applied to that kind of mechanism, on its legal-procedural-institutional structure, and also on its functioning in practice, how it can be made operational in practice remains unclear within this Text. Moreover, due to the fact that, there is also no previous experience concerning this kind of confrontational mechanism within the current system, it is also not possible to foresee its possible implications for the parties, better functioning of the overall system and ultimately coping with climate change.

### ***Bonn Draft Agreement (Article 11)***

Under the Draft Agreement of the AWG on the Durban Platform for Enhanced Action, in contrary to both the Lima Call and the Geneva Negotiating Text, there is no sign regarding the reconsideration of the multilateral consultative process (MCP) under the compliance mechanism (art.13, UNFCCC; art.16, KP). However, in parallel with the Geneva Negotiating Text, there is reference to the establishment of an international climate justice tribunal here as well.

Indeed, there are basically three options, of which the second one proposes to incorporate an International Tribunal of Climate Justice likewise being in the Negotiating Text discussed above. In contrast to the Text, here, there is more elaborated but still inadequate information on the tribunal. Indeed, it specifies that it will address cases of non-compliance of the commitments of developed country parties, and these cases will be on mitigation, adaptation, provision of finance, technology development and transfer and, capacity-building, and transparency of action and support. Furthermore, an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance will be also developed under the structure of the tribunal. However, the concerns about the establishment and operation of this suggestion in practice discussed above still keep on to exist, so requires reconsideration and to be further improved.

The third option recommends to insert no specific provision on facilitating implementation and compliance to the Paris Agreement. The first one, on the other hand, contains more detailed clauses under seven fundamental titles inserting further sub-options: establishment, objective and scope, nature, structure, triggers, consequences, relationship to the COP serving as the MOP to the Paris Agreement.

Under the establishment title, it is still debatable how it should be called, e.g. as an implementation mechanism, or implementation and compliance mechanism, or just compliance mechanism, or Committee, or mechanism /process including Committee, or just process/or Committee instead of mechanism.

Also, it is still not decided whether it will be mechanism/process applicable to all parties, or will be set up separately in two mechanisms: compliance mechanism for developed countries and facilitative mechanism for developing countries.

For its objective, three sub-options are suggested. Second and third ones make a separation between ensuring of compliance of the developed country parties and facilitating implementation of

developing country parties. While the second one stresses financial resources and transfer of technology for facilitation, the third one incorporates the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance for addressing non-compliance by developed country parties. The first one, on the other hand, does not make a distinction between developed and developing country parties, but, among others, it also suggests to specify the provisions of the Agreement that should be complied with, like articles 3, 4, 6, 7, 8, 9.

Regarding the nature there are two options: one of them specifically tells the nature as facilitative for just developing country parties, the other one draws attention to the principle of differentiation, and thus “to the respective national capabilities and circumstances of Parties.”

Under the structure title, it is seen that, the current compliance mechanism structure of the KP is protected with its dual system. However, it has four sub-options and this dual system is named differently in each one, such as enforcement branch for developed country Parties/facilitative branch for developing country Parties with suggestions for their roles (option 2), compliance branch and implementation forum (option 3), compliance mechanism for developed country Parties and facilitative mechanism for developing country Parties (option 4), or not named just involve the composition and decision-making rules of the Committee (option 1).

Two options are submitted for triggers. One of them already states that no specific provision is required for triggers. The other one sets forth four sources: written submissions from any Party/or Parties, Reports by Parties and questions of implementation, reports from ERTs, information derived when a Party fails to communicate, requests from the COP serving as the MOP.

With respect to consequences, again one of the options expresses to insert no provisions/text on consequences. The first one, of other two options, stresses the principle of differentiation between parties and taking into account the cause, type, degree and frequency of the non-compliance, and only involves two kind of consequences, as declaration of non-compliance and request of the development of a compliance action plan. The other one refers to measures-not using the term consequence-ranging from advice and assistance to the issuance of a statement of concern.

Finally, the relationship of the mechanism to the COP serving as the MOP is considered in three different ways, but at the core with the same logic; that is, under the authority of the COP serving as the MOP and obliged to report to it annually.

## **Paris Climate Agreement: Its Implications on Compliance Issue**

On the way towards the Paris Climate Agreement, through the Bali Action Plan in 2007, it is initially decided to launch a comprehensive process in order to reach an agreed outcome.<sup>29</sup> After three years in 2010, this outcome is stated as “legally binding outcome”<sup>30</sup> in Decision 1/COP 16 in involving the

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29 Decision 1/COP.13, Bali Action Plan, Report of the Conference of the Parties on its thirteenth session, held in Bali from 3 to 15 December 2007 Addendum Part Two: Action taken by the Conference of the Parties at its thirteenth session. FCCC/CP/2007/6/Add.1., <http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf#page=3>, (Accessed on 10 January 2016).

30 Decision 1/COP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention. Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010 Addendum Part Two: Action taken by the Conference of the Parties at its sixteenth session. FCCC/CP/2010/7/Add.1., <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>, (Accessed on 10 January 2016).

Cancun Agreements and so the outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA).

In 2011, through Decision 1/COP 17 (para.2),<sup>31</sup> it is called for a process to develop a protocol/ an instrument/ or an agreed outcome to be legal in nature through the AWG on the Durban Platform for Enhanced Action. It is also decided to complete this process and to adopt the related document with legal force at the COP 21 in 2015, for enabling it to come into effect and to be implemented from 2020 and onwards (Decision 1/COP 17 (para.4)). Therefore, before COP 21 held in Paris, this requirement of the Durban Platform for an agreed outcome with legal force continues through the adopted decisions in the subsequent meetings and documents prepared by AWG on the Durban Platform for Enhanced Action, such as the Decision 2/COP 18 (para.4),<sup>32</sup> Decision 1/COP 19 (para.1),<sup>33</sup> Decision 1/COP 20 (para.1) the Lima Call for Climate Action, the Negotiating Text adopted in Geneva and finally the Draft Agreement adopted in Bonn discussed above.

Through Decision 1/COP 21,<sup>34</sup> in line with the articles of UNFCCC (art.7.2, any related legal instruments; art.15, amendment; art.16, annex, art.17, protocol),<sup>35</sup> allowing the COPs to adopt different treaty instruments, the Paris Agreement is adopted, noting that the work of the AWG on the Durban Platform for Enhanced Action is completed.

Under the Paris Agreement, contrary to both Lima Call and Geneva Negotiating Text, but in line with the Bonn Draft Agreement, there is no sign regarding the reconsideration of the multilateral consultative process (MCP) under the compliance mechanism (art.13, UNFCCC; art.16, KP). Moreover, contrary to both the Geneva Negotiating Text and the Bonn Draft Agreement, there is no reference to the establishment of an international climate justice tribunal here as well. However, in parallel with Bolivia's submission to the AWG-LCA which is based on the outcome of the World People's Conference on Climate Change and the Rights of Mother Earth, in its Preamble, it stands out "the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth" and "the importance... of the concept of 'climate justice,' when taking action to address climate change" (Preamble, para.13). This implies that, at least for now, it is not thought to try for these new options which already do not seem to be proper to tackle with climate change issues, which require prevention more than sanctioning and also the balance of facilitation and enforcement.

The Paris Agreement contains a specific article on compliance, article 15 with the title

31 Decision 1/COP.17, Establishment of an *Ad Hoc* Working Group on the Durban Platform for Enhanced Action, Report of the Conference of the Parties on its seventeenth session, held in Durban from 28 November to 11 December 2011 Addendum Part Two: Action taken by the Conference of the Parties at its seventeenth session, FCCC/CP/2011/9/Add.1., <http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf#page=2>, (Accessed on 10 January 2016).

32 Decision 2/COP.18, Advancing the Durban Platform, Report of the Conference of the Parties on its eighteenth session, held in Doha from 26 November to 8 December 2012 Addendum Part Two: Action taken by the Conference of the Parties at its eighteenth session, FCCC/CP/2012/8/Add.1., <http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf#page=3>, (Accessed on 10 January 2016).

33 Decision 1/COP.19 further advancing the Durban Platform. Report of the Conference of the Parties on its nineteenth session, held in Warsaw from 11 to 23 November 2013, Addendum Part two: Action taken by the Conference of the Parties at its nineteenth session, p.3. FCCC/CP/2013/10/Add.1., <http://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf>, (Accessed on 10 January 2016).

34 Decision 1/COP.21, Adoption of the Paris Agreement. Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015 Addendum Part two: Action taken by the Conference of the Parties at its twenty-first session. FCCC/CP/2015/10/Add.1., <http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>, (Accessed on 10 January 2016).

35 "United Nations Framework Convention On Climate Change", [http://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf), (Accessed on 6 January 2016).

“Facilitating implementation and compliance”. Through this article, it establishes a mechanism to “facilitate implementation” and “promote compliance” of the parties with their commitments under the Agreement (art.15.1).

In contrast, under the KP, there is no specific provision creating a compliance mechanism, but only a reference with article 18. In fact, according to the art.18, KP, the COP serving as MOP should approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of the Protocol and also to develop an indicative list of consequences for the effective operation of these procedures. Based on this provision, the provisions regarding such a procedure were established by a decision of the COP (Decision 24/COP 7), and then approved by the MOP (Decision 27/ MOP 1).

Following the way of the adoption of the procedure in the form of a decision (MOP 1) makes its operation faster and more flexible, but at the same time it can make its binding status blurred, as it can be argued that merely the treaty (the protocol as well) under international law can be accepted as legally binding, but the decisions by the MOP can not. Indeed, although there are views arguing that as the cooperative approach is dominant for its practical application, it is not considerably important to discuss its binding status,<sup>36</sup> it becomes controversial what forms the binding status of the mechanism. Therefore, through the involvement of a specific provision establishing a compliance mechanism, the Paris Agreement makes the binding status of the mechanism obvious.

In the same article (art.15, Paris Agreement), the committee of the mechanism is also defined as being “expert-based and facilitative in nature” and operating under the principle of differentiation in a “transparent, non-adversarial and non-punitive manner.” (art.15.2)

Under the Decision 1/COP 21(para.102), referring to this article, it is decided that the Committee should consist of 12 members having competence in relevant scientific, technical, socio-economic or legal fields and elected by the COP serving as the MOP. Regarding its composition, it states that, it includes two members each from the five regional groups of the UN and one member each from the small island developing states and the least developed countries, on the basis of equitable geographical representation and the goal of gender balance.

Under the system of the KP, differently, the Compliance Committee has twenty members elected by the COP serving as the MOP, ten of whom are elected to serve in the FB, and other ten are to serve in the EB (NCP, Section II (3)). Thus, both branches are composed of ten members, including one representative from each of the five official UN regions (Africa, Asia, Latin America and the Caribbean, Central and Eastern Europe, and Western Europe and others), one from the small island developing states, and two each from Annex I and non-Annex I Parties (NCP, Section IV (1); NCP, Section V(1)).

The Agreement leaves any elaboration beyond these provisions demonstrated above and so developing the modalities and procedures for the effective operation of the Committee to the first meeting of the COP serving as the MOP (art.15.3, Paris Agreement; Decision 1/COP 21, para.103). So, details and further clarification are still needed to be completed on the following areas:

- It does not mention how it should be called, as implementation mechanism, or implementation and compliance mechanism, or just compliance mechanism, just mentions a “mechanism”.
- It inserts no provision on triggering of the questions of implementation, and so on the role

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<sup>36</sup> Ehrmann, “Procedures of Compliance Control”.

of ERTs and the consequences that should be applied when non-compliance is occurred.

Additionally, after the procedures developed by the first meeting of the COP serving as the MOP, this situation can change; but, with its current provisions, it is not possible to claim that, the current compliance mechanism structure of the KP is protected with its dual system (Section IV, V, NCP). On the contrary, it can be argued that there is a tendency towards establishing a more transparent and facilitative mechanism. This is because;

- It does not clarify whether it will be a mechanism applicable to all parties, or will be set up separately in two mechanisms: compliance mechanism for developed countries and facilitative mechanism for developing countries.
- Regarding the nature of the mechanism, it just refers to an expert-based and facilitative Committee which will function in a transparent, non-adversarial and non-punitive manner. It does not specifically tell that it is facilitative as nature for just developing country parties, just draws attention to the principle of differentiation, so “to the respective national capabilities and circumstances of Parties.”
- On its structure, there is no mention of two branches as facilitative and enforcement branches. But in contrary, on the composition of the Committee, it is decided that the Committee should consist of 12 members having competence in relevant fields (Decision 1/COP 21, para.102), while under the KP system, the Compliance Committee has twenty members, ten of whom are elected to serve in the FB, and other ten are to serve in the EB (NCP, Section II (3)).

Given the fact that, there is no separation between Annex I and non-Annex I country parties in the Paris Agreement, and the Agreement requires all country parties to prepare their INDCs and to assess the collective progress toward meeting the Agreement’s long-term goals by global stockage, the tendency towards a more transparent and facilitative system taking into account the respective national capabilities of parties does not sound like a bad option.

However, lessons learned from the CM of the KP displays that, although it is a comprehensive and strong system for ensuring its parties’ compliance, even it still has some challenges to deal with.

When encountered with similar challenges, to what extent the Paris Agreement with a more transparent and facilitative system can be successful to tackle with these challenges?

To give a right response to this question and to make a certain argument about the success of the Agreement in compliance issue, it is naturally essential to know about the new procedures/modalities which will be created by the first meeting’s decision and to observe their application in practice.

## Conclusion

The Paris Agreement is an “international agreement concluded between States in written form and governed by international law” (VCLT, art. 2.1(a)).<sup>37</sup> So, “whatever its particular designation,” it is called a treaty under international law (VCLT, art. 2.1(a)). That is, it makes no difference whether it is called an agreement or any other name so long as it is clear that the intention of the parties is to effect an agreement.

<sup>37</sup> “Vienna Convention 1 on the Law of Treaties”, <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>, (Accessed on 11 January 2016).

Additionally, its name is again irrelevant to its binding status, in fact, it can have a binding character only for those states expressing their consent to be bounded by the treaty. Therefore, the adoption of the Paris Agreement just displays that the text of the treaty is acceptable in principle (VCLT, art.9); for having binding status, the states adopting it should also express their consent to be bounded by it by one of the means of expressing consent (VCLT, art.11-17).

Moreover, the agreement should enter into force in line with art.26, VCLT, stating that “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

The final clauses of the Paris Agreement address issues concerning the entry into force, on the basis of the art.24 of the VCLT. To these clauses, it will be open for signature from 22 April 2016 to 21 April 2017 (art.20, Paris Agreement) and will enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 per cent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession (art.21, Paris Agreement).

Even if it will take time for the Agreement to get into force, still when it is entered into force and attained legally binding status, its provisions on compliance and its compliance mechanism have the potential to be an important means for ensuring the compliance of the parties.

Nevertheless, regardless of its binding status that eventually it will take, the related party can resist to be in non-compliance with its commitments under the Agreement despite the existence of response measures it can come across with, because there is no enforcement mechanism under international law. Nevertheless, if the parties consider the Agreement and its provisions fair, they can comply with its requirements voluntarily, even if they are non-binding.<sup>38</sup>

Therefore, even if the binding status of an Agreement forms a possible driving force for the parties to comply with its provisions, the ultimate decision to be bound by it and to comply with its provisions largely depends on the parties themselves.<sup>39</sup> And, an Agreement giving significance to the compliance issue and its compliance mechanism- designed largely with the effect of management approach-<sup>40</sup> plays a very important role on the parties to direct them towards compliance, rather than non-compliance.

Indeed, if the parties can be convinced that it is a fair system and they will be supported when they lack of capability to comply or they will encounter with response measures when they do not comply, and they will all benefit if full compliance is ensured within the system, trust can be strengthened among parties and a strong cooperation and coordination between parties/different bodies on compliance can be ensured.

In brief, if an Agreement, legally binding or not, includes an effective compliance mechanism, through this mechanism, it can ensure and improve the parties’ compliance with their commitments

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38 Astrid Epiney, “The Role of NGOs in the Process of ensuring compliance with MEAs”, Ulrich Beyerlin, Peter T. Stoll, and Rüdiger Wolfrum (eds.), *Ensuring Compliance with Multilateral Environmental Agreements, A Dialogue between Practitioners and Academia*. The Netherlands, Koninklijke Brill NV, 2006, p.273-300.

39 Scott Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-making*, Oxford, Oxford University Press, 2003.

40 Abram Chayes, Antonia H. Chayes and Ronald B.Mitchell, “Managing Compliance: A Comparative Perspective”, Edith B. Weiss and Harold K. Jacobson (eds.), *Engaging Countries: Strengthening Compliance with International Environmental Accords*, Cambridge, Mass., MIT Press, 1998, p.39-62; Abram Chayes, Antonia H. Chayes and Ronald B.Mitchell, “Active Compliance Management in Environmental Treaties”, Winfried Lang (ed.), *Sustainable Development and International Law*, London, Boston, Graham & Trotman/M. Nijhoff, 1995, p.75-89; Abram Chayes, Antonia H. Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements*. Cambridge, Harvard University Press, 1995.



under the Agreement.

For the Paris Agreement in particular, the analysis made above displays that, how the parties's compliance with their climate action commitments will be ensured by the Agreement, is not very clear right now. This is because, the Agreement leaves any kind of elaboration on its compliance system to the first meeting of the COP serving as the MOP. So, the question, to what extent its compliance system can ensure the parties' compliance with their commitments, is not accurately answerable. In fact, till to the creation of its compliance mechanism and its application in practice, it is not possible to make a certain argument on the potential success/or failure of the Agreement on ensuring compliance or on coping with compliance challenges.

For now, it is just possible to wait for the first meeting for further clarifications on compliance issue that are still needed in many aspects and to observe their application in practice. In this period, it is also definitely worth to make evaluations over the possible options, on the basis of the experiences attained in the compliance mechanisms till to date, such as the CMs of the Montreal Protocol or Kyoto Protocol. These evaluations can indicate possible advantages/disadvantages, strengths/weaknesses and thus open the ways of foreseeing the likelihood of compliance status of the parties with their commitments under the Agreement.

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