

Independent Association of Latin America and the Caribbean
AILAC

Ad-Hoc Working Group on the Durban Platform for Enhanced Action (ADP)

Submission on the legal architecture and structure of the elements of the 2015 Agreement

1. Following the invitation from the ADP to Parties to make submissions with information, views and proposals on the work of the Ad Hoc Working Group on the Durban Platform (ADP), AILAC presents this submission in order to advance the discussions under the ADP. This is one of a set of three submissions, as follows:
 - *Submission on the legal architecture and structure of the elements of the 2015 Agreement*
 - Submission on the ex ante information requirements for the communication of INDCs
 - Submission on work-stream 2
2. AILAC's views on the 2015 Agreement are included here under three sections: A) the legal architecture of the Agreement; B) the process for the definition of contributions, commitments, and their revision in the future; and C) the structure of the text of the Agreement itself, including details on its conceptual content.
3. AILAC acknowledges and thanks the Co-Chair's for their "Non Paper" on "Parties' views and proposals on the elements for a draft negotiating text" of July 7, 2014 (ADP.2014.6.NonPaper); the proposals included herein are intended to assist in the process of further advancing the collective work towards adopting a draft text at the Lima COP20.

A) Legal Architecture of the 2015 Agreement

4. The 2015 Agreement should be under the UNFCCC and its principles. This implies that it is a ratifiable, legally binding instrument, which creates international obligations for the States that choose to join

the Agreement through ratification, in accordance with their national provisions for the ratification of treaties.

5. The 2015 Agreement should be short, concise, durable, and include the common global vision to which all Parties will subscribe and aim to achieve with their collective efforts according to the principle of CBDR-RC. For this purpose, under each of its main substantive components (mitigation, adaptation and means of implementation) a long term goal should be included, setting the global direction towards which the international community needs to direct its efforts for each of these dimensions of the climate change challenge. These long-term goals may be expressed differently for each of the individual components of the Agreement¹. Yet, the inextricable linkages between them must also be acknowledged.
6. Additionally, the Agreement must serve as a catalyzer of action at the domestic level, incentivizing ambitious action, and providing a robust structure to support it; it should act as a powerful tool that helps Parties in their own efforts to contribute to the global endeavors to combat climate change.
7. For this purpose, the Agreement should be accompanied by the contributions that each Party will commit to implement. These should reflect the individual and/or joint actions that each country will commit to undertake, within its national context, and considering its respective capabilities, to the collective global goals included in the Agreement.
8. These contributions need to be anchored in the Agreement so that each country is legally bound to comply by implementing what it has included as its own contribution.
9. However, the architecture of the Agreement must be sufficiently flexible to: a) secure universal participation, b) allow for diversity and differentiation between types of contributions, c) allow countries to ratchet-up ambition over time, avoiding lengthy re-negotiations of the entire system and; d) to create an internationally legally binding obligation without requiring that country A ratifies the content of the country contribution document of country B.
10. For this, the contributions would be inscribed in individual country contribution documents, to which the Agreement will make an explicit reference stating that each country commits to implement what the country itself has set forth in its individual country contribution document. As a consequence, each ratifying country is legally bound to implement what it includes in its contribution document.

¹ See *infra* section C) on structure and conceptual elements.

11. Each country's contribution document will need to include all the up-front information requirements to be defined at COP20 in Lima. In this document, all countries should include information on their national level of ambition, and, for developing countries, information on additional ambition that they would be able to undertake both as nationally-funded efforts and subject to receiving international support².
12. Once a process of ex-ante evaluation is realized³ (which may give place to adjustments in the contributions), the contribution of each country should be inscribed in a Repository of all country contributions, to be held by the Agreement's depositary.
13. After this inscription, the country contributions should be subject to an ex-post review in order to monitor, report and verify their achievement and progress towards attaining global goals⁴. Country contributions would be subject to the Convention's and the 2015 Agreement's MRV and transparency requirements. In the same manner, the compliance mechanism to be included in the text of the Agreement will verify compliance with the obligation as set forth in the treaty and in the country contribution document.
14. This means that when each contribution period has lapsed, the same process takes place: nationally defined contributions, ex-ante assessment process, inscription in the Repository of country contribution documents, and ex post review⁵.
15. All this can happen without any need to re-negotiate the Agreement, nor to re-ratify the commitments in it, which will remain the same over time: a commitment to comply with what has been included in the country contribution document.
16. This system allows for:
 - i. Each country to nationally define its own contribution.
 - ii. The creation of a long-lasting commitment to be defined in a ratifiable Agreement that is durable over time.

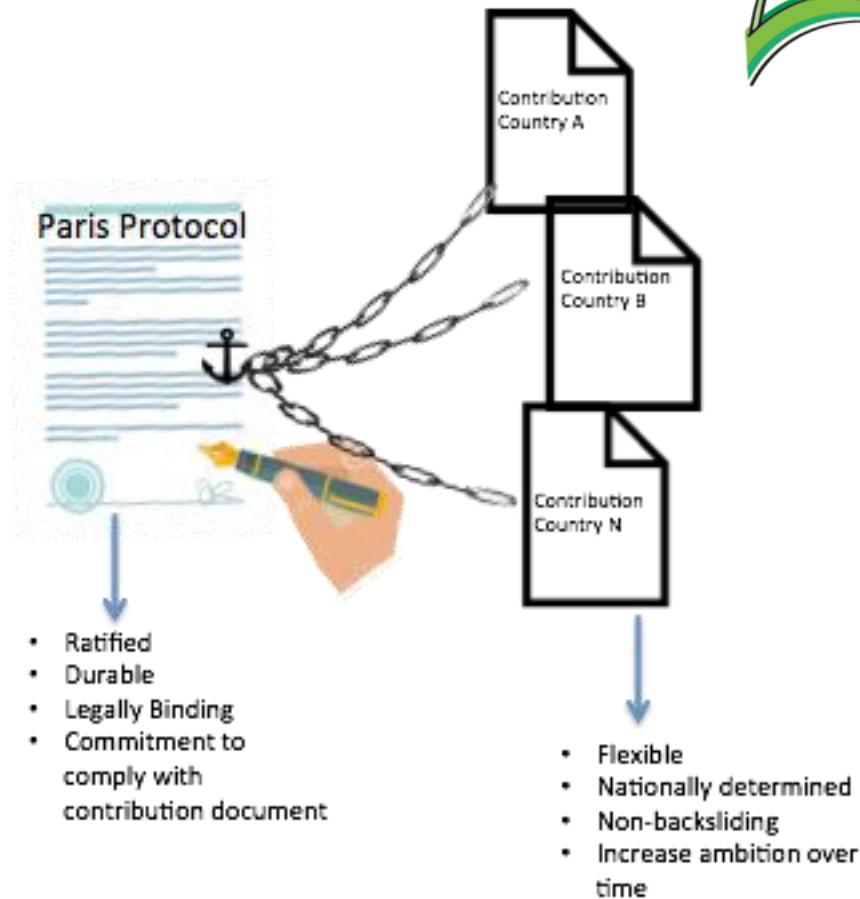
² AILAC has presented a separate submission on the ex ante information that countries should include when communicating their respective INDCs, where this point is further elaborated. Both submissions should be read in conjunction.

³ See *infra* section B) on process.

⁴ See *infra* section B) on process for further detail.

⁵ *Ibid.*

- iii. Countries to increase ambition by improving the content of their respective country contribution documents without requiring amendments to the text of the ratified Agreement each time the contribution period expires.
17. In other words, it permits countries to ratify an Agreement, which creates an internationally legally binding obligation, without requiring that country A ratifies the content of the country contribution document of country B. However, both countries are able to ratify the Agreement, which binds each of them, internationally, to comply with what they have set forth in their respective nationally determined contribution documents.
 18. This proposed architecture needs to be underpinned by two fundamental principles (in addition to the principles included in the Convention, which are, of course, applicable): a general principle of non-backsliding, by which no country can either withdraw its contribution nor make a less ambitious than the previous one it had committed to, including existing commitments under the Convention and the Kyoto Protocol; and a principle of gradual scale-up, by which country contributions should increase in ambition every time the contribution period expires until the Convention's and the 2015 Agreement's objectives are reached.
 19. This proposed architecture is inextricably linked to the structure of the text of the Agreement, its conceptual content, and to the process for determining and revising contributions, which are the subject of sections B) and C) below.
 20. The diagram below is an attempt to graphically represent the proposed architecture.



B) Process for defining contributions, commitments, and their revision in the future

21. AILAC proposes the following steps for defining and inscribing the contributions in the country contribution documents, which would then become the content of the commitments included in the 2015 Agreement:

- **First step:** ex-ante information requirements are agreed at COP20 in Lima, as mandated by COP19. Countries use these requirements to prepare contributions with common format and minimum information requirements to be included in their country contribution documents⁶.
- **Second step:** Countries communicate their INDCs in country contribution documents to the UNFCCC in 2015 (those who are ready, during the first quarter of 2015; for other Parties, by August 2015). The UNFCCC Secretariat makes these documents public on the UNFCCC website as they are communicated by the Parties.
- **Third step:** an ex-ante assessment process takes place.

⁶ AILAC has presented a separate submission on the ex-ante information that countries should include when communicating their respective INDCs, where this point is further elaborated. Both submissions should be read in conjunction.

- It should serve two purposes: first, to assess whether a party's INDC is equitable and fair, and second, to assess whether the aggregate level of greenhouse gas reductions being contributed by Parties is adequate to achieve the global goal(s) on mitigation, including the below 2°C goal.
- This type of ex-ante assessment is only applicable to the contributions on mitigation in as much as these are aggregatable and susceptible to being evaluated against a global quantified goal. A different type of ex-ante assessment process would be applicable to the contributions on means of implementation.⁷
- For AILAC, a decision needs to be taken by COP20 in Lima on this ex-ante assessment process, in order for this process to begin in the second quarter of 2015.⁸

The assessment process would take place as follows:

- Timing: the assessment of contributions will take place in the subsequent quarter of the year in which the INDC was communicated (i.e. for those who present INDCs in the first quarter of 2015, the assessment process would take place during the second quarter; for those who present in the second quarter, the assessment would take place in the third quarter, and so on).
- Modalities:
 - a. For the assessment of the **adequacy** of the INDCs, a mandate could be given to a Task Force of expert scientists selected from the roster of experts working in the IPCC working group III (with regional representation), or another technical expert group such as the United Nations Environment Program, to consider the presented INDCs in every given quarter of the year as a whole, and to produce a public report before the end of the subsequent quarter, on: i) the adequacy of **the total aggregate mitigation effort** in light of the 2°C global goal and the global goal on mitigation to be agreed under the 2015 Agreement; and ii) facilitative recommendations to countries on how to enhance their INDCs.

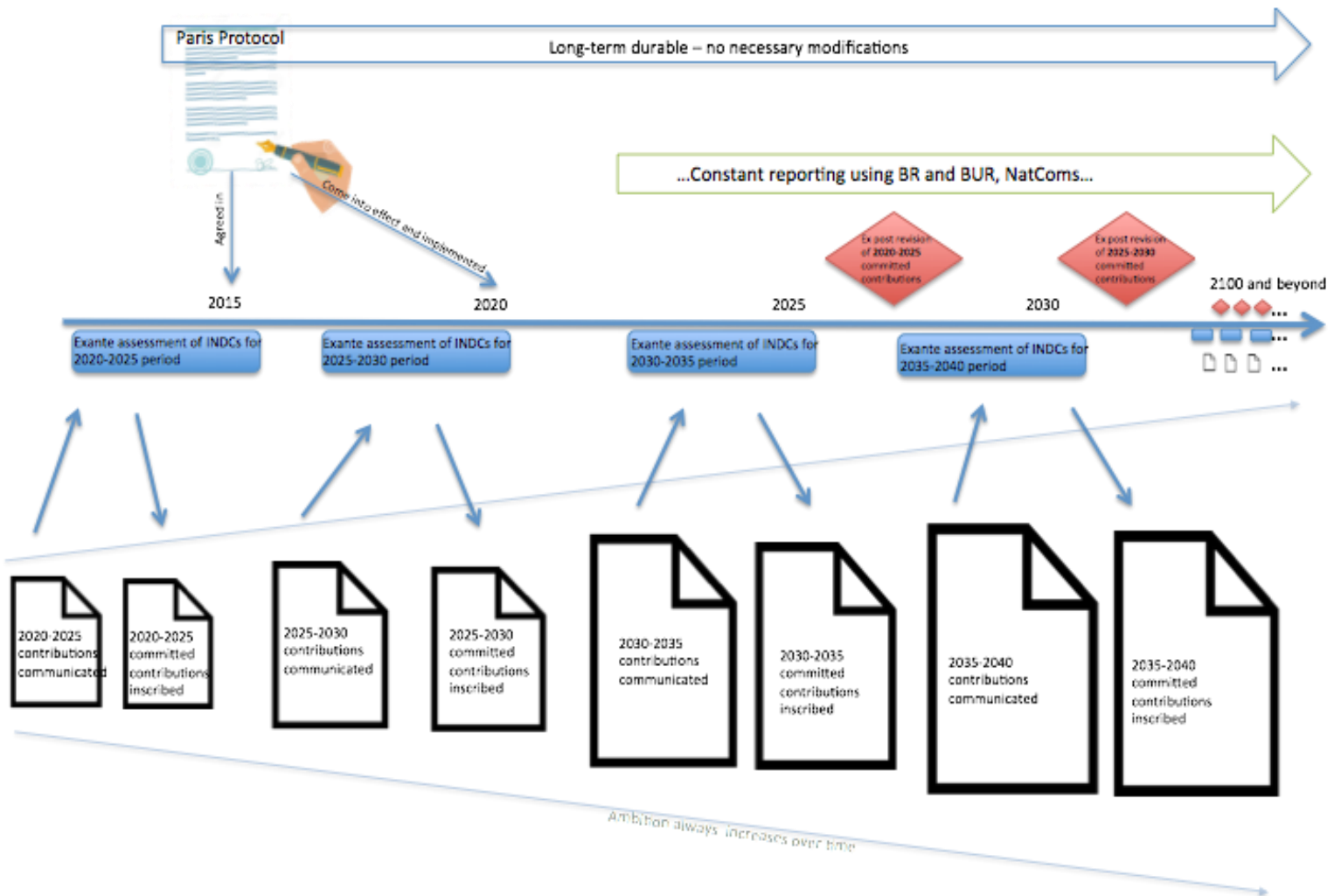
⁷ Ibid

⁸ Given the linkage between this process and the definition of ex ante information, AILAC's views on this process are also included in the separate submission on ex ante information referred to in footnote 6.

- b. For the assessment of the **fairness and equity** of the INDCs, a mandate could be given to SBSTA, to consider the presented INDCs in every given quarter of the year, focusing on the criteria that each Party has included as a foundation for defining the fairness of their own contribution; the Secretariat could be given a mandate to publish a technical report before the end of the subsequent quarter, on SBSTA's considerations.
- Outcome: the two reports described above are to be made public on the UNFCCC website, and communicated to the Parties whose INDCs have been subject to the assessment. Parties can decide to revise their proposed INDC before its inscription in the Repository, using the two reports as a significant input.
- **Fourth step**: After the assessment the country contributions can be modified, if necessary, and inscribed in a public Repository of committed country contribution documents, to be held by the Agreement's depositary, and before the approval of the Agreement by the Secretary General of the United Nations. The inscription should happen no later than three months after the end of the ex-ante assessment of the country's INDC. For the initial INDCs, the inscription should happen in time for the adoption of the 2015 Agreement, for those countries that have gone through the ex-ante assessment process prior to that date.
 - **Fifth step**: During the contribution period, Parties report on their progress toward fulfilling their contributions in their National Communications, Biennial Reports and Biennial Update Reports, or any revised reporting system that is agreed in the future.
 - **Sixth step**: an ex-post revision process takes place, in order to evaluate each country's progress towards the achievement of their committed contributions and the aggregate progress towards attaining the global goals established in the Convention and the 2015 Agreement.
 - **Seventh step**: Countries communicate their second round of INDCs for the subsequent period, and the same process described above takes place.
 - After each contribution period has expired, the Compliance Mechanism would be triggered on the basis of the outputs of the MRV system and /or of the ex-post revision process. This Compliance Mechanism would only be applicable to the mitigation contributions⁹.

22. The following is a graphic attempt to capture the described process (assuming for this exercise a five-year contribution period):

⁹ Further detail on the Compliance Mechanism can be found in section C) on structure and conceptual content.



C) Structure of the text of the Agreement and conceptual content

23. In AILAC's view, the 2015 Agreement should include nine (9) sections. Their conceptual content is described in the following paragraphs.

24. The 2015 Agreement will be part of a broader package Agreement, which will include both the Agreement itself and accompanying COP decisions on specific matters that do not require inclusion in the legally binding Agreement, but are fundamental for providing the appropriate balance. This submission focuses exclusively on the 2015 Agreement and its contents.

FIRST: PREAMBLE.

25. The preamble should speak to a global vision of attaining a low-carbon and climate resilient world within the present century, where all societies reach sustainable development and prosperity while ensuring the continuation and flourishing of life on the planet earth in the long-term.
26. This recognition implies also a specific reference to the global - yet differentiated - responsibility to address climate change, in all its dimensions. Solving the climate change challenge requires mitigation, adaptation, and means of implementation, and all three dimensions must be addressed by the international community through collective and individual efforts.
27. Here, particular attention should be given to frame the principles, provisions and objective of the Convention, as well as other cross-cutting issues such as intergenerational equity and gender considerations which are of particular relevance in the context of the objective of the Convention and the 2015 Agreement.
28. Additional key principles will also play a role and need to be included in the preamble, such as the principle of global cooperation, the principle of non-backsliding and the principle of gradual scale-up of contributions.

SECOND: ADAPTATION

29. It is AILAC's view that the 2015 Agreement must address adaptation comprehensively, giving adaptation a central and significant place in the climate change regime.
30. The Agreement should include an aspirational global goal on adaptation, which should include:
 - A vision for a climate resilient world, setting a sense of direction to the international community for its adaptation efforts.
 - The recognition of the global dimensions of the adaptation actions undertaken in every country.
 - The recognition of the importance of undertaking global cooperative adaptation efforts for reducing the vulnerability of global common goods such as the oceans, among others.
 - The undeniable relationship that exists between the level of mitigation ambition, the associated climate change impacts, the consequent adaptation needs and costs that

arise, and losses and damages created by those impacts. With a higher level of mitigation ambition, the likelihood of staying within a 2°C or 1.5°C scenario is higher, and the related impacts and adaptation needs and costs, and the losses and damages suffered, will be lower. A lower level of mitigation ambition will result in higher temperature scenarios with increasingly high adaptation needs and costs, as well as greater losses and damages.

31. This global goal on adaptation should be accompanied by a universal call to increase the efforts to adapt to climate change impacts, in order to meet a global responsibility of moving towards a resilient planet. The current globalized world is deeply interconnected, and the resilience of societies, economies, and ecosystems are common global goods.
32. This universal call can be followed by a collective commitment by all Parties to contribute towards the global goal on adaptation.
33. The main vehicle to implement the collective commitment and to achieve the global goal on adaptation will be through the definition of country contributions on adaptation. This would be included in the form of an anchor-text referring to the contributions in the Agreement, and should be expressed in a manner that creates a long-term legally binding commitment.
34. Taking into account the particular nature of adaptation, having national contributions on adaptation would serve multiple purposes:
 - To communicate how Parties will contribute to the global goal on adaptation.
 - For the international community to further understand the actions to be undertaken by Parties in order to cooperate with each other to combat climate change.
 - To foster national ambitious action on climate change.
 - To recognize Parties' efforts to combat climate change.
 - To promote long term national adaptation action.
 - To identify and quantify adaptation needs corresponding to specific climate change scenarios.
 - To facilitate potential adaptation action as Parties distinguish adaptation contributions made with their own resources from distinct adaptation efforts they would carry out with support.

35. The inclusion of adaptation contributions as part of the INDC process and the Agreement should be an exercise that adds value to the current arrangements on adaptation, and helps countries in their own adaptation endeavors. *It should not imply the imposition of additional or unfair burdens to the most vulnerable and should take into account each country's capabilities and its intrinsic geographic exposure to climate impacts, enhancing collaboration and universal participation*¹⁰.
36. Adaptation contributions would not be subject to a symmetrical ex-ante assessment process as the contributions on mitigation.
37. Adaptation contributions would not be subject to the Agreement's Compliance Mechanism.
38. A fundamental principle that should govern the adaptation contributions is that each country's efforts in this area should be independent of mitigation efforts: the level of effort in adaptation does not substitute or compensate for the need to ambitious, universal national mitigation contributions. Adaptation action should not occur at the expense of mitigation action and ambition.
39. The 2015 Agreement should also include an explicit reference to the link between adaptation and the means of implementation. Developing and implementing adaptation plans at the national and local level will require substantive means of implementation. Developing countries, especially those who are particularly vulnerable to the impacts of climate change will require enhanced and significantly scaled up means of implementation for addressing their adaptation needs. Developed countries, which are historically responsible and highly capable, need to scale up the provision of resources, technology and capacity building for implementing adaptation action in particularly vulnerable developing countries, including AILAC countries . For AILAC, the provision of resources, technology and capacity building must also to be tailored to the specific needs of middle income countries, who still harbor large vulnerable populations and have limited means to fund adaptation efforts with their own means.
40. The existing institutional arrangements for adaptation under the Convention should be significantly strengthened, in particular in terms of the science of adaptation, tools and metrics¹¹ for assessing

¹⁰ As stated previously, AILAC has presented a separate submission on the ex ante information that countries should include when communicating their respective INDCs. In that submission further detail is given on the idea of adaptation contributions, their nature, and the facilitative process attached to it. Both submissions should be read in conjunction.

¹¹ AILAC is preparing a specific submission on Adaptation within the ADP that includes further details of the Adaptation Assessment [Tool/Mechanism/Framework/] where it presents its views on how to further progress in this area under the Convention.

adaptation and adaptation finance. A link to these arrangements should be included in the Agreement, as to make them useful and meaningful for the post 2020 regime.

THIRD: MITIGATION.

41. In AILAC's view the 2015 Agreement includes a global mitigation goal to be achieved through efforts by all Parties according to science and the principles of equity and CBDR-RC, in line with the agreed temperature goal of keeping temperature rise below 2°C or 1.5°C. According to the most recent scientific findings¹², this will require a low carbon and possibly a carbon neutral global economy close to the middle of the century to stay under the 2°C goal.
42. This can be accompanied by a call for universal action that follows the principles of CBDR-RC and equity, recognizing the commitments established under the Convention and the need for enhancing global efforts to address increasing emission levels. This should translate into a collective commitment, by all Parties, to mitigate GHG emissions, and undertake bold efforts to contribute to attaining the global mitigation goal. It also implies an explicit recognition that countries who are most responsible for climate change and most capable should take bold leadership in the global mitigation efforts.
43. In addition, at the core of the mitigation section, all Parties will commit to comply with their specific country contributions on mitigation as set forth in their respective country contribution documents. This would be included in the form of an anchor-text referring to the contributions in the Agreement, and should be written in order to create a durable and long-lasting legally binding commitment.
44. Mechanisms that allow Parties to increase their ambition and comply flexibly with their commitments, such as market and non-market mechanisms, should also be part of this section.
45. A reference to REDD+ as a useful mechanism for mitigation is also necessary, pursuant to the already established Warsaw REDD+ Framework.
46. In this section a link should be included to a rules-based system in terms of accounting that allows for the global aggregation of mitigation contributions and for their environmental integrity and avoids

¹² IPCC, 2014: Summary for Policymakers, In: Climate Change 2014, Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

double counting. We expect that we can build upon existing systems, particularly the Kyoto Protocol rules and the REDD+ rules.

FOURTH: MEANS OF IMPLEMENTATION.

47. The 2015 Agreement must address the issue of means of implementation (MoI) in a holistic manner, including the provision of finance, technology development and transfer, and capacity building.
48. The 2015 Agreement should include a global goal on MoI, to be achieved through efforts by all Parties in accordance with the principles of equity and CBDR-RC. This global goal should address the need to transition to a world where all investments are resilient and low in emissions, and where finance, technology and capacity that promote low-carbon and resilient actions prevail. This implies a transformation in the way in which both public and private investments are made. Predictability and scale in the means of implementation are fundamental requirements to enable low-carbon climate resilient development.
49. This should be complemented by a short-term quantified goal on the provision of finance, to be achieved by Annex II countries, which are most responsible for climate change and have higher capabilities, pursuant to their legal obligation under Article 4.3 of the Convention, and by any other countries with high capacity and in a position to do so. This quantified goal should be significantly higher than the existing goal of mobilizing USD\$100 billion by 2020, refer to public sources of finance, be set for the same period as the period set for the revision of mitigation contributions, and be revised upwards following the same time intervals. It should be implemented through contributions to existing climate finance mechanisms such as the Adaptation Fund, the Green Climate Fund, among others.
50. The 2015 Agreement needs to also include a universal call for all countries to mobilize and invest resources in resilient and low-emission actions at the national level, and to mainstream climate change into their national fiscal accounts.
51. In addition, at the core of the MoI section, Parties will commit to implement their specific country contributions on means of implementation as set forth in their respective country contribution documents. This would be included in the form of an anchor-text referring to the contributions in the Agreement, and should be written in order to create a durable and long-lasting legally binding commitment.

52. As with contributions on other issues, each country shall determine its own contribution on MoI. Countries with low capability, low responsibility, and high needs have to receive substantial international resources to support the actions they will undertake to mitigate and adapt; their contribution to the MoI cannot imply an unfair or additional burden, but rather includes the actions that they can undertake nationally to further build their national capacity and enable a conversion of investments towards low-carbon and climate-resilient action, among others.
53. Developed countries, who have high capability and high historic responsibility and any other highly capable countries in a position to do so, are expected to provide international MoI, should take the lead, and should include substantive, quantified contributions on the provision of international climate finance in their respective country contributions documents, pursuant to the global aspirational goal and the global quantified goal on finance¹³.
54. A fundamental principle that should govern the provision of means of implementation is that each country's efforts in this area should be independent of mitigation and adaptation efforts: the level of effort in providing means of implementation does not substitute or compensate for the necessary ambition in mitigation or adaptation.
55. A reference to REDD+ as a useful mechanism for mitigation, which requires sufficient means of implementation, is also necessary under this chapter, pursuant to the already established Warsaw REDD+ Framework.

FIFTH: LOSS AND DAMAGE.

56. The 2015 Agreement should explicitly recognize that most countries are already experiencing loss and damage due to the effects of climate change.
57. The 2015 Agreement should recognize the undeniable relationship that exists between the level of mitigation ambition, the associated climate change impacts, the resulting adaptation needs and costs that arise, and losses and damages created by those impacts. With a higher level of mitigation ambition, the likeliness of staying within a 2°C or 1.5°C scenario is higher, and the related impacts and adaptation needs and costs, and the losses and damages suffered, will be lower. A lower level of

¹³ See AILAC's submission on the ex ante information to be provided when communicating INDCs for further detail on the content that country contributions could have on each issue.

mitigation ambition will result in higher temperature scenarios with increasingly high adaptation needs and costs, as well as greater losses and damages.

58. An explicit link between loss and damage and the means of Implementation is necessary. Means of implementation are required to cover the cost of losses and damages, as well as to identify constraints to adaptive capacities of vulnerable groups, sectors and regions. Every economic, social, political, and environmental context imposes certain constraints on the adaptive capacity of vulnerable populations and ecosystems. Beyond these limits is where loss and damage will be larger and more frequent, and the need for resources earmarked for humanitarian action will increase.
59. The Warsaw Mechanism on Loss and Damage should continue working, and be strengthened.

SIXTH: CONTRIBUTIONS.

60. The 2015 Agreement should include an annex that establishes how the committed country contributions system will work. This annex should be based on the defined legal architecture and take into account the agreed process for defining contributions and for their subsequent revisions.
61. The 2015 Agreement must explicitly mandate each Party to inscribe a country contribution document in a Repository to be held by the Agreement's depository.
62. Through the 2015 Agreement, Parties commit to implement the targets, actions, efforts, or other, that are contained in their respective country contribution document, according to the principle of CBDR-RC.
63. The country contribution documents shall include the minimum ex-ante information requirements agreed by the COP, and be subject to the agreed ex-ante assessment process before their inscription in the Repository.
64. Contribution periods should be set for a specific timeframe, after which Parties shall modify their committed contributions upwards, for a subsequent timeframe. The modification of contributions should be subject to the general principles of non-backsliding and gradual scale-up.
65. Committed contributions will be subject to an ex-post revision process to evaluate their adequacy, which will evaluate each country's achievement and the aggregate progress towards attaining the global goals set in the Convention and Agreement. The results of this ex-post revision process should be one of the triggers for the Compliance Mechanism to enter into action.

66. The modification of committed contributions after every cycle should follow the same process of ex-ante assessment and ex-post revision, and be subject to the same or enhanced ex-ante information requirements.
67. The content of committed contributions should be subject to the MRV system established under the Convention and the 2015 Agreement.

SEVENTH: TRANSPARENCY OF ACTION AND SUPPORT.

68. The 2015 Agreement should build upon the current MRV system in place.

Transparency of action

69. On the MRV of action system, the current system based on the two mechanisms of ICA and IAR is a good basis for the future system. Both should tend to integrate into a single, dynamic system, which includes the provision of necessary support for countries to progressively enhance their data collection and analysis capacities.
70. Adequate common accounting provisions must be included, in order to ensure the robustness of the MRV system, and its usefulness to assess the progress towards the global goal on mitigation and the compliance of each country with its committed contributions. The accounting provisions should ensure:
- Certainty in the treatment of the land use sector
 - That the methodologies used ensure environmental integrity
 - That there is no double counting of emissions reductions

71. The MRV of action system should be entirely applicable to the content of the committed contributions, as inscribed in the country contribution documents.

Transparency on the provision of support

72. The MRV of support system is currently much less developed than that of the MRV of action. The 2015 Agreement should include a reference to an internationally agreed methodology for tracking financial flows, including information of donors and recipient countries.

73. An MRV system of financial flows should be based on a common agreed definition of climate finance, to avoid double counting of resources for development activities, mitigation and adaptation action, as well as public and private resources invested.
74. Finally, the 2015 Agreement needs to include an explicit link between the MRV of action and of support systems and the Compliance Mechanism. The MRV system should serve as a trigger for the Compliance Mechanism to enter into action when non-compliance becomes evident as an output of the MRV system.

EIGHT: COMPLIANCE.

75. The Compliance Mechanism should be embedded in the 2015 Agreement and should prioritize facilitative measures, in particular for developing country Parties, but could also include sanctions for recurring non-compliance with international obligations.
76. The establishment of a robust Compliance Mechanism will contribute to building trust amongst Parties and will help to avoid the creation of competitive advantages for the Parties in non-compliance.
77. The Mechanism should be non-confrontational, transparent, cost-effective and preventive in nature; it should also be simple, flexible, binding and oriented towards assisting Parties in implementing the provisions of the Agreement as well as enforcing them.
78. While compliance is not equivalent to MRV, and the two must be clearly distinguished, the outputs of the MRV system that is applicable to the actions covered by the Agreement should be an input and one of the options to trigger the Compliance Mechanism, amongst other possible triggers, such as the ex-post review process foreseen for committed country contributions.
79. The Compliance Mechanism should be applicable to all obligations under the Agreement, including the committed contributions on mitigation and on the provision of finance by Annex II Parties taking into account the principles of non-backsliding and gradual scale-up. Committed contributions on adaptation would not be subject to the Compliance Mechanism.

NINTH: LEGAL CLAUSES.

80. The clauses on entry into force should take into account a double threshold that includes both a number of Parties ratifying, and a percentage of global emissions reductions covered by the ratifying Parties.
81. According to the Convention, the Depositary of any Protocol adopted in accordance to its Article 17, such as the 2015 Agreement, is the Secretary-General of the United Nations. In accordance to the proposed legal architecture of the Agreement, the additional task of managing the Repository of country contributions should be given to the Depositary of the UNFCCC.
82. No reservations should be allowed to the Agreement.