









Section	Provisions
General	Preamble, Article 1 – definitions, Art.2 – the Agreement’s purpose and Art.3 – NDCs
Main substantive elements and commitments	Art.4 – mitigation
	Art.5 – greenhouse gas sinks and reservoirs and REDD+
	Art.6 – cooperative approaches
	Art.7 – adaptation
	Art.8 – loss and damage
	Art.9 – finance
	Art.10 – technology development and transfer
	Art.11 – capacity –building
	Art.12 – climate change awareness and education
Reporting, review and compliance	Art.13 – transparency, Art.14 – global stocktake and Art.15 – facilitating implementation and compliance
Institutional arrangements	Art.16 – CMA, Art.17 – secretariat, Art.18 – SBI and SBSTA, Art.19 – other bodies and institutional arrangements to serve the Agreement
Final articles	Art.20 – signature and ratification, Art.21 – entry into force, Art.22 – amendments, Art.23 – annexes, Art.24 – dispute settlement, Art.25 – voting, Art.26 – depository, Art.27 – reservations, Art.28 – withdrawal and Art.29 – languages

General

- International treaty building on Copenhagen Accord
- Formally binding procedural commitments
- Focuses on mitigation and also addresses other areas
- COP decision language with some uncertainties
- Framework/skeleton agreement – ad-hoc Working Group on Paris Agreement – methodologies, rules, recommendations etc.
- Role of the US

Climate Justice

- Substantive component : no disproportionate exposure to climate change impacts and hazards (distributive justice) and rectifying injustice (corrective justice)
- Procedural elements: access to information, participation in decision making, and access to justice in climate change related-related matters

Climate justice & the Agreement

- Preamble: human rights, “climate justice”, public participation, public access to information, engagement of all levels of government and various actors
- Non-market approaches shall aim to enhance public and private participation in the implementation of NDCs (Art.6.8)
- Adaptation action should follow participatory approach, taking into consideration vulnerable groups, communities (Art.7.5)
- Public awareness (Art.12), transparency (Art.13),
- Dispute settlement (Art.24), compulsory jurisdiction, consultative process not mentioned, Bolivia’s climate justice tribunal

Climate justice & the Agreement

- CBDRRC in the light of different national circumstances > historic responsibilities (carbon budget, atmospheric space)
- Finance (Art.9, decision para.53)
- Art.17 para.2 Convention: text of proposed protocol circulated to parties 6 months before session
- NDC implementation => domestic legislation
- Loss and damage (Art.8)

Loss & damage (Art.8)

- Warsaw International Mechanism on loss and damage
- Disaster response, risk assessment and management, insurance
- Outside support, transparency, stocktake, review and compliance
- Continuation after review (decision, para.47)
- Task force on displacement related to the adverse impacts of climate change (para.49)
- “Agrees that Article 8 does not involve or provide a basis for any liability or compensation” (para.51)

Exclusion of compensation & liability?

- COP decision does not exclude application of general rules of public international law
- UNFCCC and PA = *lex specialis*? International Law Commission's (ILC) Draft Articles on the Responsibility of States for Internationally Wrongful Acts with Commentary, Art.55
- Future work of WIM und PA?
- Rules of transboundary pollution (principle of prevention) apply to climate change (ILA draft principles related to climate change)
- Limited effect on liability under domestic or private international law (disputes between persons of nations – e.g. Hague conference)

State accountability

- Legal advisory opinion by the International Court of Justice (ICJ) - Palau Initiative; contentious interstate cases – compulsory jurisdiction
- World Heritage Convention, Law of the Sea Convention (International Tribunal for the Law of the Sea)
- Transboundary impact assessments (Micronesia – Czech Republic)
- European Court of Justice (human rights); Interamerican Commission on Human Rights (v. US), Aarhus Compliance Committee, etc.
- Massachusetts v. Environmental Protection Agency, (US federal agency to regulate carbon dioxide and other greenhouse gases); Urgenda case (Dutch State to take additional measures against climate change)
- Atmospheric trust doctrine and action on behalf of future generations

“Polluter pays”

- Fraud investigation in the US to understand what Exxon knew about climate change in the 1970s
- Peruvian farmer requests German utility company RWE to pay for protective measures (Germany)
- Philippines Human Rights Commission (CHR) asked to investigate and acknowledge the complicity of 50 fossil fuel companies in causing extreme weather events
- Kivalina v. Exxon (US)
- <http://www.climatelaw.org/>

Other climate justice approaches

- Export credit agencies
- Pension and investment funds, fiduciary duties, sustainability reporting
- Legislation to allow for climate damage lawsuits (Climate Compensation Act, “Taking Climate Justice into our own Hands”)
- Fossil fuel extraction and other carbon taxes
- Climate Justice Fund, Climate justice movement...