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The Paris Climate Change Agreement – Business Must Adapt or Die

December 12, 2015 – the date that 196 nations reached a global agreement in Paris on climate change – may well be remembered as the critical turning point in mankind's battle to slow down and minimize the impacts of global warming. Under the Paris Agreement, each signatory nation pledged to reduce greenhouse gas ("GHG") emissions beginning in 2020, under a self-imposed goal known as an "individual nationally determined contribution" ("INDC"). Each signatory nation must publish an emissions inventory, as well as information necessary to track the nation's progress in achieving the INDC.

The Paris Agreement has detractors from across the political spectrum. For example, island nations threatened by rising sea levels say that the Paris Agreement's goal of limiting global warming to 2° Celsius (3.6° Fahrenheit) is insufficient to protect them from submerging. Climate change activists contend that under the deal's timetables the transition away from fossil fuels is too slow, leaving open the possibility of irreversible catastrophic damage to the climate. Professor James Hansen, the former NASA scientist sometimes called the father of climate change, bluntly stated: "It's a fraud really, a fake... there's no action, just promises."[i]

What is beyond dispute, however, is that the Paris Agreement has changed the status quo on consumption of fossil fuels. As noted by President Obama, "This Agreement sends a powerful signal that the world is fully committed to a low carbon future." Business leaders must heed that signal if they hope to thrive in a carbon-constrained global economy. They must understand how the Agreement works and how it could impact their business plans, and they must make changes to those plans as appropriate.

Partnerships

The foundation of all international climate talks is the United Nations Framework Convention on Climate Change ("UNFCCC"), a treaty adopted in 1992 by the governments of 194 countries, including the United States. One of the primary goals of the UNFCCC is avoiding "dangerous human interference with the climate system" by, among other things, reducing GHG emissions. Decision-making under the UNFCCC is governed by the Conference of the Parties ("COP"). The December 2015 meeting in Paris was the 21st meeting of the COP (hence the abbreviation "COP 21").

[i] "NASA Scientist calls Paris COP 21 Climate Talk Agreement a Fraud," *The Guardian* (Dec. 13, 2015).

The antecedents of the deal reached in Paris reach back to 1997, at COP 3, in Kyoto, Japan, where 193 countries entered an international treaty. Under the so-called Kyoto Protocol, 37 industrialized countries and the nations of the European Community agreed to binding targets for GHG emissions. Those binding emission targets were to be achieved from 2008-2012 (the "first commitment period"). Each of these 37 countries was required to submit an annual report of inventories of all anthropogenic GHG emissions from sources, as well as carbon offsets, under the UNFCCC and the Kyoto Protocol.

The rest of the parties to the Kyoto Protocol were not subject to any binding emission reduction targets; these countries are mostly low-income developing countries, and were expected to participate in the Kyoto Protocol by hosting emissions reduction projects financed by industrialized nations, which would generate tradeable "Certified Emission Reduction" units.

Perhaps predictably, few of the 37 industrialized countries that signed the Kyoto Protocol were able to achieve their emission reduction targets. Those that did, such as Russia, were aided by overall decline in productivity.

Summary of the Paris Accord

The 31-page agreement adopted in Paris was greeted with a standing ovation of the representatives assembled in the Le Bourget center where parties met for two weeks. Hailed as a breakthrough, its ultimate impact on global warming boils down to implementation by the signatory nations. Implementation, in turn, depends on the clarity of the agreement -- the meaning of various phrases and passages no doubt will be the subject of dispute. Many provisions are hortatory in nature. With those caveats in mind, the following is a summary of several of the major provisions:

A. Goal of Limiting Global Temperature Increase to 2 Degrees C

In 2009, at COP 15 in Copenhagen, the representatives agreed that the global temperature average should not be allowed to rise more than 2° C above pre-industrial levels. Numerous studies published since 2009, however, warned that a rise of 2° C would not avert many catastrophic changes in the climate, including rising seas that would submerge many island nations. Negotiators in Paris recognized that a target of 2° C may not be sufficient to prevent all of the adverse effects of climate change, but also understood that most developing countries regarded a 1.5° C target as unrealistic. The Paris Agreement reaffirms and retains the 2° C target, while urging efforts to limit the increase to 1.5° C.

B. Individual Nationally Determined Contributions

This is the key tool under the Paris Agreement for controlling emissions of GHGs globally. Each signatory nation must submit its own INDC, which specifies its goal for reducing GHG emissions beginning in 2020, as well as a plan for achieving those reductions. Each country must develop a new INDC every five years, with the expectation of making incremental progress. Importantly, the INDCs, which are set forth in an appendix to the Paris Agreement, are not binding obligations, leading many critics to label them ineffective. The public nature of the commitments and the transparency of the process for tracking progress toward stated goals, however, are expected to place pressure on countries to fulfill their INDC obligations.

Notably, the INDC's submitted by the 196 signatory nations will fall short of limiting temperature rise to the 2° C goal. The hope, however, is that countries will increase their commitments in future years as trust in the scheme grows.

C. Finance

Who pays for the costs of climate change has long been a point of tension between developed and developing nations. Developing countries assert that developed countries emitted the bulk of carbon emissions presently in the atmosphere and thus should bear the bulk of financial responsibility for limiting GHGs going forward, rather than saddling poor countries with costs they can ill afford as they work to raise their standard of living. The Paris Agreement includes no specific commitments to finance. But the prefatory language that precedes the Agreement (commonly referred to as the "Paris Decision"), "strongly urges developed countries to scale up their level of financial support, with a concrete roadmap to achieve the goal of jointly providing US$100 billion annually for mitigation and adaptation..."

Concurrent with the financial pledges made through the Paris Agreement, many national governments offered new financial pledges. Collectively, developed countries pledged $19 billion to help developing countries, including an announcement by Secretary of State John Kerry that, by 2020, the United States will double its support for adaptation efforts to $800 million a year. Subnational governments also offered pledges, including 1 million euros from the city of Paris for the Green Climate Fund, and CA$ 6 million from Quebec for the UNFCCC's Least Developed Countries Fund. In addition to the national and subnational commitments, Microsoft founder Bill Gates and 27 other major investors launched the Breakthrough Energy Coalition to steer more private capital into clean energy deployment.

Private Firms Must Plan For a Carbon-Constrained Economy

Make no mistake about it: whether or not the Paris Agreement succeeds in reducing global GHG emissions at a level sufficient to minimize the predicted impacts of climate change, a powerful signal has been sent by the Paris Agreement. The shift to less carbon-intensive sources of power is officially in motion, and the consequences are vast. Businesses must quickly pivot and factor these changes into their business plans.

One obvious place for a business to begin its analysis is to review the INDCs of nations where it plans to establish operations or to source key components or raw materials. Those INDCs could alter the assumptions on which those plans were based or disrupt supply chains. Businesses must quickly reassess the wisdom of those plans and revise them to reflect the new energy paradigm.

The good news is that businesses have time to react. INDCs have been published, but many do not go into effect until 2020. Climate change officers should develop five-year plans that account for the effects of INDCs in regions where operations are located or are planned. Furthermore, climate change officers should monitor changes in INDCs over the next five years, and modify the plans as necessary. A key element of success will be establishing a network of on-the-ground monitors in countries where operations are in place or are planned. Without such a network, even the best-laid plans are sure to go awry.

About Peter Gray

Peter L. Gray is a co-founder of the Association of Climate Change Officers and serves as an ex-officio member of ACCO's Board of Directors. Mr. Gray is a partner with the law firm Dentons US LLP, where he co-chairs the firm's Environmental Practice Group.

About ACCO

The Association of Climate Change Officers is a 501(c)(3) non-profit membership organization for executives and officials worldwide in industry, government, academia and the non-profit community. ACCO's mission is to define, develop and support the functions, resources and communities necessary for effective organizational leadership in addressing climate-related risks and opportunities. For more information about ACCO, please visit www.ACCOonline.org.

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