

The calm before the storm: an assessment of the 23rd Climate Change Conference (COP 23) in Bonn

Wolfgang Obergassel,* Christof Arens,* Lukas Hermwille,** Nicolas Kreibich,*
Florian Mersmann,† Hermann E Ott‡¶ and Hanna Wang-Helmreich*

I Introduction

The 23rd Conference of the parties (COP 23) to the United Nations Framework Convention on Climate Change (UNFCCC) was held in Bonn between 6–17 November 2017 under the presidency of Fiji. The conference focused in particular on developing rules to implement the Paris Agreement and on raising ambition for climate protection. Since this was the first 'Oceanic' COP, special attention was also given to supporting the countries of the Global South in their efforts to reduce emissions, adapt to climate change and deal with the unavoidable impacts of climate change to which adaptation is no longer possible.

2017 has been marked by extreme weather-related disasters. These ranged from a series of devastating hurricanes in the Caribbean and the Gulf of Mexico to severe flooding in South Asia to catastrophic drought and extensive forest fires in Portugal. There was little sense of this in the negotiations, however, apart from the warnings issued by Fiji and other vulnerable countries. Nobody took over the reins of leadership, which the US had dropped following the change in administration. On the positive side, fears¹ that the US under its new administration might sabotage proceedings did not materialise: the US delegation was extremely small and kept a low profile.

Nevertheless, the change of administration in the US has left a vacuum in leadership, which was neither filled by the European Union (EU) nor by China. The EU was too preoccupied with its own affairs, Germany was disoriented owing to post-election negotiations and bound by its in-between role of being organiser of the COP while not having the presidency, and France lacked the power to lead, despite an impressive performance by President Macron. Also, although the People's Republic of China showed leadership among the group of middle-income nations, it primarily used this role to pursue its own interests, without focusing on the bigger picture.

As a result of this lack of political leadership, only the 'obligatory' part of the programme was fulfilled at COP 23:

although some progress was made in terms of technical details, the diplomats' work in preparation for the decisive Climate Change Conference in Poland in December 2018 was not facilitated as much as had been hoped for. The 'Talanoa dialogue', which the Fijian presidency got off the ground, is a ray of hope. It is a discussion process to take stock of the current level of effort that will last all year under the leadership of Fiji and Poland. It is unclear, however, in which way the results of this process will find their way into the negotiating texts.

The most important events of COP 23 probably took place outside of the diplomatic arena: one such event was an impressive appearance by the 'other America', a US-American alliance of states, cities, corporations and initiatives, which intends to compensate for Donald Trump's announced withdrawal from the Paris Agreement by introducing their own climate protection measures. Another example was the foundation of an alliance to phase out coal, founded by around 20 countries (along with a few US states and individual Canadian provinces).

The following analysis sums up the main developments and results of the conference.

2 A weak tailwind behind the rule book

One of the key objectives of the Bonn conference was to push ahead negotiations on the rules for implementing the Paris Agreement. The aim was to enable their adoption at the next Climate Change Conference in Katowice (Poland) in December 2018. The Paris Agreement only establishes the objectives and basic mechanisms of international climate policy after 2020, but the precise rules of how to implement the agreement have not been formulated yet, eg how the countries are supposed to report on the actual realisation of their contributions in order to ensure comparability of the various efforts made.² The Paris conference had established a dedicated subsidiary body for this purpose, the Ad Hoc Working Group on the Paris Agreement (APA). The requirement of the Bonn conference was to agree an initial negotiating text for the rule book as a basis for further negotiations next year. This requirement was only fulfilled in part.

* Wuppertal Institute for Climate, Environment, Energy.

** Institute for Environmental Studies (IVM), Vrije Universiteit Amsterdam.

† Zukunft – Umwelt – Gesellschaft.

‡ Client Earth, ClientEarth Germany.

¶ University of Sustainable Development, Eberswalde.

1 For an analysis of the US situation see Hermann E Ott, Lukas Hermwille and Wolfgang Obergassel 'International Climate Policy: Trumping Trump' (Wuppertal Institute for Climate, Environment and Energy 2017) <https://epub.wupperinst.org/frontdoor/index/index/docId/6789>.

2 For a detailed analysis of the Paris Agreement see Wolfgang Obergassel, Christof Arens, Lukas Hermwille, Nico Kreibich, Florian Mersmann, Hermann E Ott and Hanna Wang-Helmreich 'Phoenix from the ashes: an analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change, Part I' (2015) 27(6) *Environmental Law & Management* 243. Part II is available at (2016) 28 *Environmental Law & Management* 3.

2.1 Guidelines for national contributions

In the run-up to Paris, it had not been possible to agree on stringent guidelines for the content of the nationally determined contributions (NDCs), ie the national climate plans submitted under the Paris Agreement. The NDCs therefore differ considerably in their approach and are barely comparable. Part of the negotiations regarding the rule book is therefore to agree on stricter guidelines for future NDCs.

Negotiations on this matter got stuck very early on in the negotiations because the parties had strongly differing views on both the scope of the guidelines themselves and on the level of differentiation between developed and developing countries' NDCs. Especially the latter issue was discussed widely, with developed countries warning against a process of 'bifurcation' within NDCs. While they recognised that there would have to be a degree of differentiation in the level of detail of NDCs, the general approach should in their view be similar. On the scope of the guidelines, the parties were divided on how detailed guidelines could be so as to not allow for 'shaming' of countries, but also to not be so general that they would be rendered useless.

The co-facilitators tried to reconcile countries' positions in a one-page paper that only included headlines for caveats, general approach and procedural aspects, as well as preliminary material to develop further substance on the issue. However, that approach was not endorsed by the negotiating parties. Another document proposed by the co-facilitators contained 45 pages of preliminary material on the three main topics (features of NDCs, information to be provided by countries and accounting) in the form of the different options proposed, but again the parties could not find a way forward to streamline the document into a negotiating text. The end result of the conference was a text with more than 180 pages reflecting all countries' views giving different alternative options, containing numerous duplications and redundancies. That text was then forwarded as the co-facilitators' informal note to the next meeting (APA I-4), with a view that afterwards the co-facilitators would endeavour to streamline the text for further negotiations at APA I-5.³

2.2 Adaptation communication

According to the Paris Agreement, the parties should 'submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions'.⁴ As for national contributions, however, so far there is no guidance for these communications, thus impeding comparison and aggregation of information provided to assess plans for and progress in global adaptation efforts. In Bonn, informal consultations on this agenda item resulted in an informal

note by the co-facilitators. On 10 pages, a preliminary basic structure for further guidance for adaptation communications is outlined as a possible basis for further work. The document already contains options for headings, subheadings and content. However, so far, there has not been agreement on any text yet.

2.3 The transparency framework

The 'enhanced transparency framework for action and support'⁵ is considered a cornerstone of the Paris Agreement. It is to inform policy-makers at national and international levels on the design and implementation of climate change mitigation, adaptation and support policies while at the same time providing the basis for the global stocktake (see section 2.6). As its name indicates, the framework is to provide transparency on two issues: mitigation and adaptation actions (transparency of action), as well as support provided and received (transparency of support).

In Bonn, the parties in the APA negotiations had the challenging task to further specify the generic provisions from the Paris Agreement in order to allow for the adoption of common modalities, procedures and guidelines (the so-called MPGs) by the end of 2018.

With regard to transparency of action, the Paris Agreement mandates that all the parties 'shall' provide national inventory reports and submit information that allows tracking the progress towards NDC achievement. the parties 'should' further provide information on climate change related impacts and adaptation. the parties' reports on mitigation action and support are to undergo a technical expert review which is also to indicate potential room for improvement. Adaptation reports, in contrast, will not be part of this international assessment.⁶ These provisions are applicable to all of the parties, as the Paris Agreement does not in principle differentiate between developing and developed countries. However, the parties in Paris had agreed that '[t]he transparency framework shall provide flexibility... to those developing country the parties that need it in the light of their capacities' (Article 13.2 of the Paris Agreement).

With the question of how to integrate the flexibility provisions into the enhanced transparency framework, the issue of differentiation became the key point of contention in Bonn. The positions expressed in the negotiations largely reflected the parties' views from a round of submissions held prior to COP 23, where regarding most submissions of developing countries the parties (with the exception of the Alliance of Small Island States (AOSIS)) called for the MPGs to differentiate clearly between developed and developing countries, allowing the latter to determine by themselves the need for flexibility.⁷ Some developed countries, in contrast, in Bonn emphasised the need to have common MPGs for all the parties.

³ APA agenda item 3: Further guidance in relation to the mitigation section of decision 1/CP.21. Informal note by the co-facilitators http://unfccc.int/files/meetings/bonn_nov_2017/in-session/application/pdf/apa_3_informal_note_final_version.pdf.

⁴ Paris Agreement art 7.10.

⁵ *ibid* art 13.1.

⁶ *ibid* art 13.

⁷ Meena Raman 'What to expect at the Fiji COP?' (6 November 2017) <https://twtnetwork.org/climate-change/what-expect-fiji-cop>.

Differentiation in their view should be mainly limited to the area of support, where developing countries are not strictly required to report on support provided while reporting on support needed and received is limited to developing countries, in line with Articles 13.9 and 13.10 of the Paris Agreement.⁸

The co-facilitators tried to compile the different views on the application of provisions to different countries in one document. However, abbreviation of the text had led to mistakes, confusion and calls for its further improvement.⁹ In spite of these difficulties and the political controversies surrounding the question of differentiation, the parties were in the end able to agree on a document. This relatively concise document¹⁰ will be used as a basis for discussion in the process of further negotiations. The parties in Bonn, however, were not able significantly to reduce the number of possible formulations and options for the future transparency framework. It can be expected that the design of the transparency rules will still provide plenty of issues to discuss in the run-up to the forthcoming negotiations in Katowice.

2.4 Cooperative mechanisms under Article 6

Article 6 of the Paris Agreement comprises three approaches for cooperation between countries: 'cooperative approaches' under Article 6.2, a new mechanism to promote mitigation and sustainable development ('sustainable development mechanism', Article 6.4–6.7), and a framework for non-market approaches (Article 6.8 and 6.9). However, so far there is little clarity on how these approaches are supposed to function.

The 45th Session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 45) in Marrakech in 2016 had invited the parties to submit their views on operationalising Article 6 by March 2017, a move which was repeated at the end of the 46th SBSTA meeting in June 2017 in Bonn, calling on the parties to provide input in the run-up to COP 23.¹¹ While this approach reflected the degree of persisting divergence between the parties, these iterations laid the foundation for an intensive round of talks at and before the Bonn/Fiji COP in November 2017.

The stated goal of the co-facilitators was to give inputs by the parties a logical order and structure them, so that in the end a list of all issues could be produced which

would be endorsed by all of the parties. Yet during the discussions it turned out that divergence on many issues was still substantial. These cover basic topics such as scope and governance for Article 6.2, the types of activities eligible for Article 6.4 and how to ensure environmental integrity. Controversial issues are, for example, how to ensure that Article 6 does not support activities which would have taken place anyhow (additionality) and how the fact that all the parties now have taken on commitments relates to this issue.

On Tuesday in the second week of the COP three long informal documents with a number of headers, sub headers and possible elements emerged, covering many duplications and in desperate need for sequencing and restructuring. The final SBSTA conclusions¹² request the SBSTA chair to produce draft negotiation texts based on the work done in Bonn and on the previous submissions by the parties until the next SBSTA session. This will enable the co-facilitators to produce a fresh, consolidated draft text, so that the parties have the opportunity to start discussing substance, provided that no major controversies re-emerge on structure and elements. Nonetheless, there is a great deal of work ahead and the co-facilitators' task of realigning and consolidating the text will be a difficult and delicate exercise. Thus, it could well be that the Katowice COP is going to focus on 'core elements' of the Article 6 rule book, as suggested by the EU, and shelving technical issues for later consideration.

On a different note, what remains unclear for the time being is the question of who is going to use Article 6 in practice. Within the EU, the traditional core source of demand for emission reduction units, only a small number of states consider making use of Article 6. While Canada and New Zealand continue to push solutions for market-based cooperation, the majority of the parties mentioning Article 6 in their NDCs are actually potential supplier countries, pointing to a substantial market imbalance for possible Article 6 cooperation.

2.5 Compliance

Article 15 of the Paris Agreement establishes a compliance mechanism which aims to promote the parties' implementation of and compliance with its provisions. The Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA) as the agreement's highest body is called upon to adopt the necessary modalities and procedures for its operation. The APA has a mandate to develop these rules. In Paris, it had already been decided that the committee overseeing the mechanism should consist of 12 members with recognized competence in relevant scientific, technical,

8 IISD 'Fiji/Bonn Highlights Wednesday, 8 November 2017: COP23 #4' (2017) 12(706) *Earth Negotiations Bulletin* 1 <http://enb.iisd.org/download/pdf/enb12703e.pdf>.

9 IISD 'Summary of the Fiji/Bonn Climate Change Conference: 6–17 November 2017' (2017) 12(714) *Earth Negotiations Bulletin* 1 <http://enb.iisd.org/download/pdf/enb12714e.pdf>.

10 Draft elements for APA agenda item 5: Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement: Informal note by the co-facilitators: final version (14 November 2017) http://unfccc.int/files/meetings/bonn_nov_2017/in-session/application/pdf/apa_5_informal_note.pdf.

11 Wolfgang Obergassel, Friederike Asche 'Shaping the Paris mechanisms Part III: An update on submissions on Article 6 of the Paris Agreement' (Wuppertal Institute for Climate, Environment and Energy 2017) <http://www.carbon-mechanisms.de/en/2017/submissions-iii/>.

12 Guidance on cooperative approaches referred to in Article 6(2) of the Paris Agreement. Draft conclusions proposed by the chair, FCCC/SBSTA/2017/L.26 (14 November 2017). Rules, modalities and procedures for the mechanism established by art 6(4) of the Paris Agreement. Draft conclusions proposed by the chair, FCCC/SBSTA/2017/L.27 (14 November 2017). Work programme under the framework for non-market approaches referred to in art 6(8) of the Paris Agreement. Draft conclusions proposed by the chair, FCCC/SBSTA/2017/L.28 (14 November 2017).

socio-economic or legal fields, to be elected by the CMA on the basis of equitable geographical representation, with two members each from the five regional groups of the UN and one member each from small island developing states (SIDS) and least developed countries (LDCs), while taking into account the goal of gender balance.

The conference in Bonn made little headway in terms of clarifying the way forward. In line with the treatment of other issues in the APA, the group decided to support the development of an 'informal note'. However, on all of the four main points of discussion, namely principles, systemic issues, linkages to other bodies and functions, the parties were unable to come together and agree on how the mechanism should take shape. While there is general agreement that the procedure should be 'facilitative, transparent, non-adversarial and non-punitive' (Article 15.2 of the Paris Agreement), there are divergent views as to whether the Committee should have a more active role, should receive information directly or through other bodies and whether it should be able to define its own rules. In the end, the Committee presented a compilation of views in a 'revised informal note' documenting the arguments made by the parties.

Looking forward to COP 24 in 2019, it appears unclear whether or not crucial aspects will be effectively addressed, such as how the compliance mechanism will be triggered and the kind of results expected. As with most other issues, COP 23 merely resulted in the exchange and documentation of the many divergent views. A successful finalisation of a compliance procedure will depend on political leadership on this and other areas.

2.6 Global stocktake

The nationally determined contributions that have been announced so far are clearly too low to keep the rise in temperature under 2°C: even if all the parties were actually to deliver on their commitments to their full extent, the expected increase in global mean temperature would be more than 3°C. This is why discussions under the Paris Agreement are scheduled to take place every five years on how much progress the global efforts have made and how they can be intensified. After this stocktake, the parties are supposed to announce new increased contributions. The rule book needs to clarify how this stocktake is to be carried out in concrete terms.

In Bonn, the delegates discussed 'building blocks' of the discussion process.¹³ There were differences of opinion on whether the process should be organised using the existing subsidiary bodies, or whether to establish a dedicated subsidiary body. There were also controversies on whether the process should take less or more than a year. The negotiators envisaged a preparatory, a technical and a political phase. The preparatory phase is to collect inputs, the technical phase is to assess these inputs in a series of dialogues and workshops, and the political phase

is to produce the final outcome. Inputs are envisaged to be compiled by the subsidiary bodies and/or the Secretariat, followed by identification of potential information gaps and calls for additional input.

Notably, negotiators devoted significant amounts of time to the question of how to include equity considerations in the stocktake, including through dedicated technical dialogues and calls for inputs. Equity has so far been one of the most intractable issues in the negotiations, with most countries cherry picking criteria of equity (such as historical versus future emissions), which would shift most of the perceived burden of reducing emissions to other countries. In Bonn, several countries noted that equity was not only about sharing costs, but also about sharing the benefits of climate action.

Many countries were keen to reaffirm that the stocktake will only 'inform' the preparation of future NDCs. Contributions are to continue being nationally determined; the international process is not to create any compulsion of any kind as to their substance.

2.7 Outlook

Overall, the conference in Bonn did not set the scene particularly well for COP 24 in Katowice. On the contrary, in 2018 there will still be substantial work to do in order to produce the text in a form that is ready for adoption. The prospects for the effective implementation of the Paris Agreement therefore remain uncertain, especially since the next climate change negotiations in Katowice will be held under the Polish presidency. The Polish government shows little ambition in terms of climate policy, and many observers therefore fear that the next summit will take place under more difficult conditions. Thus, everything must be done over the next few months under the Fijian presidency to prepare the decisions for Katowice in the best possible way. The Bonn conference has already noted that an additional preparatory meeting may be necessary in 2018.

3 In the slipstream: little solidarity with the Global South

Although, geographically, Bonn was the venue for the conference, the host in terms of content was Fiji. Therefore, topics that are of great relevance to the developing countries in general and small island states in particular were prominently discussed at this 'Pacific' or 'Oceanic' COP.

3.1 Loss and damage

The last year saw multiple headlines about devastation caused by extreme weather events. With Fiji holding the COP presidency, the expectations were particularly high regarding progress in the area of impacts of climate change where adaptation is no longer possible. These impacts, referred to as loss and damage, range from deaths during hurricanes to the loss of settlement areas owing to sea level rise.

¹³ Revised building blocks for APA item 6 (GST) (version of 11 November 2017) http://unfccc.int/files/bodies/apa/application/pdf/short_revised_templat_11_nov2017_1400.pdf.

The topic of loss and damage was recognised as the third pillar of necessary climate actions in the Paris Agreement, along with emission reductions and adaptation to climate change. Nevertheless, it is being negotiated in a separate, rather technical UNFCCC workstream to the Paris Agreement under the Warsaw International Mechanism for Loss and Damage (WIM). The WIM is to study impacts and provide support to victims and governments of vulnerable developing country parties.

In Bonn, an ongoing five-year work plan was agreed for the WIM, which aims at achieving an increase in active knowledge sharing. The final text highlighted the importance of loss and damage, noting the parties' concerns 'on the increasing frequency and severity of climate-related disasters'.¹⁴ This text was finally included against strong resistance by, in particular, Australia and the USA. However, the final text is lacking significant specifics developing countries had hoped for, such as decisions on the extent to which each country should address the prevention and handling of loss and damage.

Financing for loss and damage remains a highly contentious issue in the negotiations. While the COP decision adopting the Paris Agreement states that the inclusion of loss and damage in the Paris Agreement 'does not involve or provide a basis for any liability or compensation',¹⁵ the COP decision establishing the WIM names 'enhancing action and support, including finance'¹⁶ as one of the WIM's functions and the Paris Agreement states that the parties 'should enhance ... support ... on a cooperative and facilitative basis with respect to loss and damage'.¹⁷ Nevertheless, in Bonn, even for the work of the WIM Executive Committee, the parties were only encouraged 'to make available sufficient resources',¹⁸ while further financing for loss and damage has not even been negotiated. Also, financing for any potential insurance protection against climate-related damage remained an unanswered question in Bonn. An expert group on action and support called for by the G77 plus China could not be established owing to heavy resistance by industrialised countries.

Raising the importance of loss and damage in the negotiations is a key issue for developing countries. Thus, at COP 23, LDCs and the AOSIS repeated previous calls of the G77 plus China to include loss and damage as a permanent agenda item in the biannual negotiations

of the Subsidiary Bodies (SBs). Instead of an annual review of the report of the WIM's Executive Committee, negotiations under the SBs would take place all year long. In essence, negotiations under the SBs would move the issue of loss and damage from the technical to the political sphere, as the technical work of the SBs prepares political agreements in the UNFCCC negotiations. Industrialised country parties, however, dismissed this call out of fear of the installation of a forum for compensation claims.

In the end, the parties compromised on convening an expert dialogue at the next sessions of the SBs in May 2018 which will address the question of support in the handling of loss and damage. This dialogue will also tackle the issue of financing. Its outcome will feed into the review of the WIM, which is scheduled for 2019 and may become important because the WIM is to serve the Paris Agreement after 2020. Furthermore, a task force on displacement will prepare recommendations with a view to averting, minimising and addressing both cross-border and internal displacement related to the negative impacts of climate change. Finally, COP 23 saw the launch of the Fiji clearing house for risk transfers and the UNFCCC repository of information on insurance and risk transfer, as well as the launch of the InsuResilience Global Partnership, which is to bring affordable insurance to millions of vulnerable people around the world. However, these initiatives can only be part of the puzzle regarding the handling of loss and damage.

3.2 Financing

How ambitious climate protection measures can be financed worldwide has been a hotly contested issue for years – and it came up again in Bonn, with unexpected severity. One crucial question is what really applies as climate financing and how to report both the level of resources provided by developed countries and their use in developing countries. As expected, no decisions were made in this regard.

However, an important decision on the future architecture of international climate financing was made in Bonn. The Adaptation Fund, originally set up under the Kyoto Protocol, will also come under the umbrella of the Paris Agreement in the future. The dispute about this was only resolved long into the last night of the conference. This means that the continued existence of this important fund is secured in the future. However, the sources that are to contribute to the fund in the future remain unclear. As the proceeds from the Clean Development Mechanism (CDM) have all but come to a standstill, the Adaptation Fund has had to rely on voluntary contributions from developed countries for years.

This year, Germany has already pledged €50 million for both the Adaptation Fund and the Least Developed Countries Fund respectively on the first day of the conference, followed by Sweden with an additional €18.7 million for each of the two funding mechanisms, with Belgium pledging a further €10.25 million for the Least Developed Countries Fund.

14 Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts. Draft conclusions proposed by the chair, FCCC/SB/2017/L.5 (14 November 2017) <http://unfccc.int/resource/docs/2017/sb/eng/105.pdf>.

15 Decision 1/CP.21, Adoption of the Paris Agreement, FCCC/CP/2015/10/Add.1 (29 January 2016) para 51 <http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>.

16 Decision 2/CP.19, Warsaw International Mechanism for loss and damage associated with climate change impacts, FCCC/CP/2013/10/Add.1 (31 January 2014) <http://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf>.

17 Paris Agreement art 8.3.

18 Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts. Draft conclusions proposed by the chair, FCCC/SB/2017/L.5 (14 November 2017) <http://unfccc.int/resource/docs/2017/sb/eng/105.pdf>.

4 Under steam: reinforcing climate protection efforts

4.1 Climate protection before 2020

The negotiation mandate agreed at the United Nations Climate Change Conference in Durban in 2011 involved two negotiation tracks: first, the negotiation of a comprehensive agreement for the period after 2020, which was concluded with the adoption of the Paris Agreement in 2015 and, secondly, achieving an increase in efforts, especially on the part of the developed countries, for the period up to 2020. This negotiation process has not delivered any tangible results so far. A number of technical expert meetings were held in the context of a technical examination process, which examined the reduction potentials and policy options available for several sectors. This process delivered valuable analytical results. However, there were no visible, specific reinforcements of efforts on the part of the countries.

In Bonn, the topic was at the top of the agenda again for a number of reasons. First, the main building block of the efforts to be made before 2020 has not yet come into force, namely the Doha Amendment containing the second commitment period of the Kyoto Protocol covering the period from 2013 to 2020. In particular, the EU was caught in the cross-fire of criticism here, as it has not even managed to ratify the Doha Amendment owing to the abstention of Poland. Furthermore, the developing countries have not seen any visible progress in the implementation of the commitment by the developed countries to increase their financial support to at least US\$100 billion per year by 2020. Finally, developing countries complained that there was no negotiating space in the agenda to discuss these concerns. They thus demanded that 'climate protection before 2020' should be an agenda item in itself, which the developed countries initially rejected.

Ultimately, however, the developed countries relented and agreed with the developing countries to conduct two additional dialogue processes (facilitative dialogues) on global emission reductions and provision of support in 2018 and 2019. Furthermore, by 1 May 2018, the states are to submit information on the progress they have made in increasing their efforts. The UN Climate Change Secretariat is to prepare a synthesis report based on this information. In addition, the parties to the Kyoto Protocol were asked to ratify the second commitment period.¹⁹ The EU has, in the meantime, submitted its instrument of ratification.

4.2 Stocktake and increasing efforts

In addition to the global stocktake process laid down in the Paris Agreement (see above), the decision adopting the Paris Agreement also envisaged a first review of global efforts to take place in 2018, initially also referred to as 'facilitative dialogue'. After the review, the states are to

announce new and increased contributions by 2020. The Bonn conference had the task of specifying the terms on which this review is to be carried out. As the Paris Agreement does not come into effect until 2020, the modalities for the facilitative dialogue were negotiated separately from those of the Global Stocktake. Effectively, however, the design of the process in 2018 will set a precedent for the design of the Global Stocktake, which is to be carried out every five years from 2023.

The design of the facilitative dialogue was jointly prepared by the Moroccan presidency of COP 22 and the Fijian presidency of COP 23. One key question in the negotiations was the extent to which the parties were going to commit to the process. In an early draft decision, the parties would simply have 'taken note of' the design. In the decision finally adopted,²⁰ the COP 'welcomes with appreciation' the design of the process and 'launches' it.

Now renamed the 'Talanoa Dialogue' – named after a Fijian term for a transparent and participatory dialogue – the process is scheduled to start in January 2018. The outgoing Fijian presidency and the incoming Polish presidency will preside over the dialogue together. This is intended to defuse concerns about the lack of commitment on the part of the Polish government. The Talanoa Dialogue will be structured around three questions: Where are we? Where do we want to go? And how do we get there? First, during a 'technical' phase up to the end of the year, information on these three questions will be compiled during multiple sessions. An essential point in this regard is that not only states but also sub-national and non-state stakeholders are invited to provide analytical and policy relevant input. Another important contribution will be the special report by the IPCC on the 1.5°C target, which is to be published in autumn 2018. The UNFCCC Secretariat is to establish an online platform under the guidance of the Fijian and Polish presidencies to facilitate access to all these inputs. Finally, the parties are to draw conclusions at ministerial level during the 'political phase' at COP 24.

The COP also decided that the outcome of the Talanoa Dialogue will feed into the 2019 stocktake on pre-2020 ambition.²¹ The Talanoa Dialogue and the pre-2020 stocktakes will thereby form an ongoing discussion process on raising ambition.

5 Close to the wind: pioneer alliances and non-party actors

With great fanfare, outside the formal diplomatic negotiations in Bonn, the founding of an alliance to phase out coal was announced: led by the United Kingdom and Canada, around 20 nations (as well as individual Canadian provinces and US states) set up the 'Powering Past Coal Alliance'. The member countries of the alliance have agreed to phase out existing traditional coal power and restrict financing for its future use. Fifteen EU Member States are part of the alliance along with the United Kingdom, including France,

¹⁹ Draft decision 1/CP.23, Fiji Momentum for Implementation, FCCC/CP/2017/L.13 (18 November 2017) <http://unfccc.int/resource/docs/2017/cop23/eng/l13.pdf>.

²⁰ *ibid.*

²¹ *ibid.*

Portugal, Denmark, the Netherlands and Italy. Germany is the only major EU Member State to remain outside it so far. By the end of the year 2017, this alliance had grown to include 26 countries, eight subnational governments and 24 businesses and organisations.

The formation of pioneer alliances is an essential means of advancing the global negotiations that are based on the consensus principle.²² Other climate clubs should follow, for example for the promotion of renewable energies, for adaptation to climate change or for climate protection financing. Pioneer alliances, in which nations (and subnational stakeholders) join forces, bring forward new ideas which otherwise would have no chance against the resistance of procrastinating states. A sectoral approach, which breaks down the challenges associated with the transformation of whole national economies into individual sectors would probably be particularly valuable.²³ The Powering Past Coal Alliance is a loosely knit alliance without a legal basis in international law. For other alliances, such as a genuine decarbonisation alliance, for example, there might be a need for a firmer legal foundation.

The civil society programme in the 'Bonn Zone' on the fringe of the diplomatic negotiations was particularly impressive. Especially positive was the strong presence of the 'other America' at Bonn. The 'We are still in' coalition of US states, cities, businesses and other stakeholders who wish to remain true to the targets of the Paris Agreement, was a major presence in Bonn. It was very clear that, although the new US president had turned away from the Paris Agreement, at least half the country has not done so. It remains to be seen, however, whether this subnational, pro-Paris coalition in the United States can really compensate for the dismantling of the national climate policy by the Trump administration.

The Global Climate Action Agenda (GCA) agreed in Paris provides the platform for a large number of initiatives, alliances and concrete measures. A high point of COP 23 was the publication of the first Yearbook on Global Climate Action. Particularly important here is that there is a mandate to link these non-governmental activities more closely with the technical examination processes within the framework of the diplomatic negotiations. Early in 2018, there is supposed to be a meeting at which further themes and the inclusion of sub-national stakeholders will be debated. Outside of the diplomatic circles, a major event to organise sub-national activities for climate protection will take place in September 2018 in California: a 'Global Climate Action Summit' hosted by Governor Jerry Brown.

22 Hermann E Ott, Christof Arens, Lukas Hermwille, Florian Mersmann, Wolfgang Obergassel and Hanna Wang-Helmreich 'Climate policy: road works and new horizons: an assessment of the UNFCCC process from Lima to Paris and beyond' (2014) 6 *Environmental Liability* 223, 235 ff; Hermann E Ott 'Internationale Klimaklubs: Endlich auf die Überholspur' [*International climate clubs: Finally in the fast lane*] (2014) 139 *Politische Ökologie* 139 90.

23 Sebastian Oberthür, Lukas Hermwille, Gauri Khandekar and Wolfgang Obergassel 'Strengthening international climate governance: the case for a sectoral approach' (Free University 2017) <https://www.cop21ripples.eu/resources/pb-strengthening-international-climate-governance-the-case-for-a-sectoral-approach/>.

6 Frames of reference: climate protection in a wider context

It was remarkable to note that climate protection is increasingly seen in a wider context. A large number of side events discussed the connections of climate protection with gender issues, human rights, the fair treatment of employees affected by economic restructuring (just transition), as well as the UN Sustainable Development Goals. After a closer connection to these issues was formulated in the preamble to the Paris Agreement for the first time, there are now intensive discussions to decide how these connections can be made concrete.

There was also one success in this regard in the diplomatic negotiations, when the conference adopted a Gender Action Plan (GAP). The plan recognises that gender-responsive climate policy 'requires further strengthening in all activities concerning adaptation, mitigation and related means of implementation ... as well as decision-making on the implementation of climate policies. The GAP recognizes the need for women to be represented in all aspects of the UNFCCC process and the need for gender mainstreaming through all relevant targets and goals in activities under the Convention as an important contribution to increasing their effectiveness'. The plan provides for a work programme for the next two years, including activities on, for example, capacity building, enhancing gender balance and policy coherence.²⁴ However, financing for these activities relies on voluntary contributions from the parties and is not yet secured.

The COP also strengthened the Local Communities and Indigenous Peoples Platform, a forum for the exchange of experiences and sharing of best practices established at COP 21 in Paris. The respective COP decision further specifies the functions of the platform (building and sharing knowledge, building capacities, and integrating diverse knowledge systems, practices and innovations in climate policies and actions) and mandates the SBSTA with the further operationalisation of the platform.²⁵

7 Other ongoing business

7.1 Finance

Apart from ongoing and often complicated negotiations on finance commitments and reporting thereof (see above), this year's round of decisions on finance was largely unremarkable in its outcomes. Negotiations on finance got tangled up early because developing countries demanded more clarity by industrialised countries about their current and planned provision of financial and other means of implementation, especially in the period before 2020. Industrialised countries are very hesitant to agree to formal reporting requirements in this regard, as this would have implications on their national budgeting processes.

24 Draft decision -/CP.23, Establishment of a gender action plan, FCCC/SBI/2017/L.29 (13 November 2017) <http://unfccc.int/resource/docs/2017/sbi/eng/l29.pdf>.

25 Draft decision -/CP.23, Local communities and indigenous peoples platform, FCCC/SBSTA/2017/L.29 (15 November 2017) <http://unfccc.int/resource/docs/2017/sbsta/eng/l29.pdf>.

The final decision on long-term finance by the COP²⁶ reiterates previously-made commitments of developed countries towards increasing the volume of climate finance to annually US\$100 billion by 2020, with the goal to achieve a better balance between mitigation and adaptation components.

Long-term finance will be taken up in 2018 through an in-session workshop, as well as a ministerial dialogue organised by the COP 24 presidency with a focus on access to finance. The pathway towards achieving the long-term finance goal may also be subject to discussions under the forthcoming Biennial Assessment of climate finance flows of the Standing Committee on Finance that is due next year.²⁷

7.2 Technology

Work on technology transfer continued its slow but steady process at this COP. Under the Poznan strategic programme on technology transfer, the Global Environment Facility (GEF) is again invited to allocate financing in support of developing countries' technology needs assessments, and in piloting priority technology project in those countries. The GEF is invited to include information in its future reports to the COP on collaborative activities between GEF focal points and the designated entities of the Climate Technology Centre and Network (CTCN).

The CTCN in its report highlighted that it had completed almost 30 requests for technical assistance, with a further pipeline of 111. The Technology Executive Committee (TEC) reported on its work in 2017, which had strongly focused on adaptation in the water and agriculture sectors. The COP has requested both bodies to monitor and evaluate the impacts of their respective work, and encourages the TEC to enhance the linkages between its work and NDC development, as well as adaptation planning.²⁸

Meanwhile, the technology framework under the Paris Agreement has not progressed beyond initial discussions on scope and questions of linkages to the transparency framework. The SBSTA has been requested to prepare an initial draft of a potential technology framework by March 2018.²⁹

7.3 Kyoto mechanisms

The deliberations on the Kyoto mechanisms CDM and JI at CMP 13 mirrored the dwindling importance of these

instruments, which have seen carbon prices near zero for years owing to lack of demand. There was no decision with regard to guidance to Joint Implementation, and the CDM guidance³⁰ merely calls for the CDM Executive Board to continue streamlining the standardized baselines framework and keep supporting designated national authorities in developing standardized baselines. It further encourages the board to continue working with international finance institutions in order to find other sources of demand for CDM credits. Finally, the decision urges the parties to deposit their instruments of acceptance of the Doha Amendment. The negotiations on the reform of the modalities and procedures of the CDM was again postponed to the intersessional meeting in 2018.

8 Outlook

8.1 More wind in the run-up to Katowice?

While the Talanoa spirit was invoked again and again, in practice many of the technical negotiations were rather 'Talanoa-free' zones, marked by traditional bickering among developed and developing countries and various groups among them.³¹ The Fiji-in-Bonn conference thus lost much of that spirit which had made the Paris Agreement possible: the profound knowledge that all countries are 'in the same boat' regarding climate change and that only a joint effort will suffice to avert catastrophe.

Bonn fulfilled the obligatory task to produce a document to make an agreement on the set of rules for Katowice possible. The quality of the documents will, however, not be particularly helpful, since they in general do not reflect the outcomes of negotiations but are merely compilations of negotiation positions. Thus, the volume of text increased to 266 pages in the course of the negotiations – in fact, the central document swelled from 47 to more than 180 pages in Bonn. Therefore, quite some diplomatic work and political leadership will be needed over the next year.

Even this is only the precursor to the real work, namely the drastic reduction of global greenhouse emissions as quickly as possible. In order to keep the temperature limits of the Paris Agreement, most countries would need to increase their climate protection contributions massively and then implement them. However, in many countries there is massive resistance to introducing and implementing the necessary restructuring of national economies.

The scope for ambitious decisions at the international level is therefore limited. International policy can seldom take decisions which have not previously been prepared at the national level. But it can play the role of a pace-maker for national discussions by placing the subject on the political agenda again and again and compelling national

26 Draft decision -/CP.23, FCCC/CP/2017/L.5, Long-term climate finance <http://unfccc.int/resource/docs/2017/cop23/eng/l05.pdf>.

27 Don Lehr, Lili Fuhr and Liane Schalatek "We will not drown, we are here to fight": An assessment of the Fiji Climate Change Conference COP 23 in Bonn' (2017) <http://klima-der-gerechtigkeit.de/2017/11/22/we-will-not-drown-we-are-here-to-fight/>.

28 Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network. Revised draft conclusions proposed by the chairs. Recommendation of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation, FCCC/SB/2017/L.4/Rev.1 (15 November 2017) <http://unfccc.int/resource/docs/2017/sb/eng/l04r01.pdf>.

29 Technology framework under art 10(4) of the Paris Agreement. Draft conclusions proposed by the chair, FCCC/SBSTA/2017/L.22 (13 November 2017) <http://unfccc.int/resource/docs/2017/sbsta/eng/l22.pdf>.

30 Draft decision -/CMP.13, Guidance relating to the clean development mechanism, FCCC/KP/CMP/2017/L.2 (15 November 2017) <http://unfccc.int/resource/docs/2017/cmp13/eng/l02e.pdf>.

31 Harald Winkler and Joanna Depledge 'Fiji-in-Bonn: will the "Talanoa spirit" prevail?' (2018) 18(2) *Climate Policy* 141 <https://doi.org/10.1080/14693062.2018.1417001>.

policy to account for its actions. The five-year cycle of stocktaking and subsequent resubmission of nationally determined contributions prescribed in the Paris Agreement should precisely fulfil this function.

The first of these stocktakes is set to take place next year with the Talanoa Dialogue. The full calendar of climate diplomacy should contribute to keeping climate protection in the news and high on the political agenda. In December 2017, the Bonn COP was followed by the One Climate Summit in Paris, a conference on climate financing hosted by the French President Macron. In 2018, there will follow the series of events foreseen by the Talanoa Dialogue, the negotiating rounds of the UNFCCC in Bonn in May, possibly a further round of negotiations in the late summer; and COP 24 in Katowice at the end of the year. In addition, September will see the publication of the IPCC special report on the 1.5° target and the Global Climate Action Summit, hosted by the Governor of California Jerry Brown to further dynamise the sub-national and non-state stakeholders. In 2019, a climate summit is to follow at the level of heads of state and government, hosted in New York by UN Secretary-General António Guterres.

At the moment, process is the most important factor in the implementation of climate policy imperatives. It must be hoped that keeping the issue at the top of the agenda for the years to come will contribute to achieving the urgently needed increase in nationally determined contributions by the 2020 deadline. In Bonn, old clashes of interest emerged, which were covered for a while by the Paris spirit. For success in Katowice next year, it will be essential for all countries to rediscover the central message of the Paris Agreement: that in the face of the coming storms on a finite planet, we are all in the same boat.

8.2 Charting the course towards higher ambition?

The Talanoa Dialogue has the potential to play a key role in 2018, but its mandate is limited. The Dialogue will not prepare COP 24 in its entirety; it is limited to taking stock of current efforts and trying to create momentum for enhanced action. Negotiation of the Paris rulebook will continue to take place within the normal diplomatic process of the APA at its next session in May and probably an additional session in late summer. It is thus unclear in which ways the results and the 'spirit' of the Talanoa Dialogue will find their way into the APA negotiations – and how far they might be able to influence the outcome.

In the best of worlds, the Dialogue will send the message that enhancing action is urgent – and possible. The Dialogue should acknowledge the gap that currently looms between the level of action that has been pledged and what would actually be needed to stay within the temperature limits adopted in the Paris Agreement. Following from that, the parties should commit to increase the ambition of their NDCs by 2020. The Dialogue could also send positive messages by highlighting specific regional or sectoral opportunities for mitigation that also yield sustainable development benefits such as clean air or enhanced energy access. For many countries such broader

sustainable development benefits are at least as important as the climate benefits of actions; positive interlinkages should therefore be highlighted and further explored. The Dialogue might also put a special spotlight on high performers or overachievers in order to help create a race to the top.³²

8.3 A new captain needed?

Under the Obama administration, the US had been one of the key drivers behind the adoption of the Paris Agreement. While the US under the new Trump administration did not actively undermine the process in Bonn to a great extent, it left a vacuum in leadership which was not filled by anybody else. The Bonn talks generally exhibited a low level of energy. Negotiation of implementation rules is certainly not as exciting as negotiation of a new treaty, but it is the implementation rules that will decide whether Paris actually will have any teeth. At the current pace of the negotiations, Katowice might become another The Hague, where negotiations at COP 6 in the year 2000 collapsed in a situation that bears certain similarities, with the parties being unable to agree on the implementation details of the Kyoto Protocol.

On the positive side, there are a number of actors and groups of actors that might evolve to fill the current leadership gap effectively. French President Macron seems intent on donning the mantle of guardian of the Paris Agreement. He convened the 'One Planet Summit' in Paris shortly after the Bonn COP to create new momentum for climate protection. The capabilities of France are currently somewhat stymied as its traditional ally Germany currently only has a caretaker government in place. There currently seems little prospect that Germany will adopt an ambitious position similar to Macron's. Nonetheless, whatever its colour, while the next German government will probably not be very ambitious in terms of actual emission reductions, it can be expected at least to play a robust role in the diplomatic process.

Another group that has ostensibly donned the mantle of leadership is the Powering Past Coal Alliance. Its membership is an interesting mix of industrialised and developing countries, of sub-national governments and business organisations. It remains to be seen whether it will focus its efforts outside the diplomatic process or also try to coordinate positions within the UNFCCC.

More directly tied to the UNFCCC process, the Ministerial Meeting on Climate Action (MOCA) was convened by Canada, China and the EU in 2017 in reaction to the US reversal of position. A first meeting in September 2017 garnered pledges from most of the 34 attending developed and developing countries to push forward with the completion of the Paris rulebook by COP 24. A second meeting is to be convened in 2018.

While not so much in the spotlight at this COP, older initiatives also continue to make progress, such as the

32 Karen Brandon 'Ratcheting up ambition: COP 23 sets the stage for the 2018 Facilitative Dialogue (18 October 2017) <https://www.sei-international.org/news-archive/3783>.

International Solar Alliance led by India and France or the Africa Renewable Energy Initiative.

Given this plethora of initiatives inside and outside the UNFCCC, some commentators argue that leadership is no longer about one country or a group of countries: 'The days when you looked to one country to be able to actually lead the transition are gone. We're now in a

new era, where we are actually seeing more shared distributed leadership emerging, where 200 countries have collectively contributed to the global effort'.³³ In this optimistic perspective, various countries will take the lead and contribute to the overall effort in various ways, without having one single captain responsible for taking the ship safely to port.

33 Mohamed Adow, 'Christian Aid', quoted in 'COP23: Key outcomes agreed at the UN climate talks in Bonn' <https://www.carbonbrief.org/cop23-key-outcomes-agreed-un-climate-talks-bonn>.