



**Response by the Royal Society for the Protection of Birds  
(RSPB) to the Consultative Communication:**

**The 2015 International Climate Change Agreement: Shaping  
international climate policy beyond 2020**

*(SWD(2013) 97 final)*

***Introduction***

We agree with the Commission on the urgent need for more ambition on climate change. We also agree with the findings of the IEA, UNEP's emission gap report and the World Bank that we are nowhere near being on course to stay below the internationally agreed global goal of two degrees Celsius. We note with concern that the lowest of the new IPCC 'representative concentration pathways' (RCP 2.6) will only stand a good chance of keeping us below two degrees if emissions peak at significantly less than they currently appear likely to be in 2020 and then decline almost linearly to zero by 2070, after which negative emissions will be required.<sup>1</sup>

We also agree with the Commission that the 'bottom up' nature of the Copenhagen/Cancun pledging process has not resulted in sufficient ambition and that this needs to be changed in the new 2015 agreement if the problem of climate change is to be adequately addressed. Furthermore, like the Commission, we consider that the 2015 agreement needs to reflect the fact that the World has changed considerably since the climate negotiations began in 1990. We disagree, however, on precisely how the new agreement should be structured so as to be most effective.

In this response we answer the questions posed by the Commission in the order that they are set out in the consultation document.

---

<sup>1</sup> See, for example,  
[http://www.c2sm.ethz.ch/news/scen\\_workshop/presentations/c2sm\\_ws10\\_plattner.pdf](http://www.c2sm.ethz.ch/news/scen_workshop/presentations/c2sm_ws10_plattner.pdf)

### **Question 1:**

*How can the 2015 Agreement be designed to ensure that countries can pursue sustainable economic development while encouraging them to do their equitable and fair share in reducing global GHG emissions so that global emissions are put on a pathway that allows us to meet the below 2°C objective? How can we avoid a repeat of the current situation where there is a gap between voluntary pledges and the reductions that are required to keep global temperature increase below 2°C?*

The current situation reflects what might be expected of a pledging process of the type used in the run up to Copenhagen and over the following year to Cancun. Countries are almost bound to pledge what they think they can achieve easily, and at least cost, if they are asked to voluntarily set unilateral one-off targets, independently of other nations. It is not surprising that the aggregate effect of the pledges is insufficiently ambitious.

There should at least have been a process in which countries made an initial pledge, the cumulative effect of all of the pledges was next evaluated to see whether they were likely to reach the agreed 2°C goal and, if not, the pledges were then revised so as to attain the goal. In effect, the first two parts of this process have occurred for the period ending in 2020, with pledges being made and their combined effect reviewed (by UNEP, the IEA and others) against the goal of staying below two degrees. The vital third stage of revising the pledges has, however, been omitted. We know what the emissions gap is but have no clear process for rectifying it, other than track 2 of the ADP process which is currently mainly about complementary measures outside the UNFCCC, such as cutting fossil fuel subsidies, possible action on bunker fuels in ICAO and the IMO and action on HFCs in the Montreal Protocol.

It may be recalled that the Kyoto process was not much better. It was not the systematic top down process that it is sometimes portrayed as being. On the final day of the negotiations, key ministers met and the EU haggled its way down from its proposed -15% target (by 2010 from 1990 levels) to -8%, whilst the USA argued up from zero to -7%. Some other nations had pre-prepared responses, such as Canada which was instructed by its Cabinet to take 1% less than the USA and so ended up with a far higher target than it wanted of -6% - having expected the USA to stay at zero, as announced by President Clinton a month or so beforehand. Others just guessed. It was widely agreed at the time that Kyoto was not going to solve the climate change problem. It was, at best, a small step in the right direction.

Currently, we are in a significantly better starting position than in either Copenhagen or Kyoto. We have a universally agreed global goal of staying below two degrees, which we did not have previously, and we are in a far better position to assess the emissions gap between the combined effect of country's pledges and emissions pathways which give a good chance of achieving the goal.

As we see it, there are two main ways of setting post-2020 targets. The first is the one already outlined: initial pledge, evaluation of the aggregate effect of pledges against the agreed goal and then a revision of the pledges so as to attain that goal, after which the pledges would become legally binding. The second is to have top down process in which

global emissions consistent with meeting the goal are assessed and binding targets are then allocated on the basis of fairness, equity, ability to act, etc.

The first approach seems the most likely to succeed and the latter is really not being discussed. Even the USA, the most important advocate of the so-called 'pledge and review' process, in which countries simply pledge whatever they think appropriate to their national circumstances, seems to be in favour of a review if not a subsequent upward revision of targets.

Any successful process to conclude the new agreement will need to include equity, preferably in the form of a review of equity alongside the review of pledges in the light of the two degree objective. At the recent ADP meetings in Bonn in early May and June, there was considerable interest in equity and how it could be incorporated in the 2015 agreement. In May, for example, Uganda raised the prospect of reviving the pre-Kyoto 'Brazilian Proposal' which seeks to ascribe countries' historical responsibility' for climate change in terms of their historical contribution to global temperature rise. Uganda's intervention received considerable support. In June, the Climate Action Network (CAN) launched its discussion paper on an equity reference framework similar to that discussed here. The paper attracted immediate support from the Least Developed Country Group and South Africa, and generally supportive comments from China, Brazil and the Africa Group. We discuss equity further in our answer to the next question.

A consequence of pursuing the type of review process outlined above is that initial pledges would need to be made well before the concluding 2015 meeting in Paris so as to allow time for the review of both their adequacy in meeting the two degree target and their equity. The right time for initial pledges to be made is probably at the leader's meeting called by the UN Secretary General in late 2014. The equity review process itself would need to be devised significantly earlier and a decision to have the review would probably have to be made at COP 19 in Warsaw at the end of this year.

The new 2015 agreement should include regular reviews of the adequacy of countries commitments for meeting the agreed goal. These reviews should be fairly frequent (every five years) to allow any updates in science to be accommodated and for member countries to revise their commitments accordingly. Regular reviews of countries' positions on a spectrum of equity criteria should also be conducted as countries national circumstances can change considerably in a short space of time. For example, in 1990 China's GDP per capita was \$1.1 and its per capita emissions were 3.5 tonnes yet by 2010 they had risen to \$6.8 and 8.3 tonnes respectively and continue to rise rapidly, by \$0.6 and 0.4 tonnes in 2011 alone.

Finally, we note that staying below two degrees will be extremely hard unless ambition is increased considerably before 2020, in line with the reports of UNEP, the IEA and the World Bank.

## **Question 2:**

*How can the 2015 Agreement best ensure the contribution of all major economies and sectors and minimise the potential risk of carbon leakage between highly competitive economies?*

It seems likely that all major economies will participate in limiting or reducing their emissions. Certainly, all major economies have already made pledges to 2020 and the indications are that they will continue to do so. It is an encouraging feature of the current climate talks that all governments agree on the need for action, even if this does not always involve significant action by themselves. This question would therefore probably be better phrased either as i) how all countries can participate ambitiously and approximately equally, whilst taking into account their national circumstances, or ii) how to discourage nations from holding back their climate ambition in relation to what their competitors are prepared to do.

This is a difficult issue to address because fears of losing competitiveness are often not rationally based. Even when fear of losing competitiveness, or space for development, is based on a reasonable estimates of costs these are often not compared to the likely damage costs of climate change, giving a strangely skewed picture of economic reality and national interest.

Having said this, there are courses of action that might at least alleviate the problem. A key to ensuring maximum participation, certainly by 'developing' countries, is likely to be addressing the issue of equity. As mentioned in answer to the previous question, we see a review of equity as being as necessary as a review of pledges in light of the two degree objective. Although equity means different things to different countries, it would be possible to have a number of indicators of development status, responsibility for the climate problem, ability to act, etc. that would place countries approximately along a broad spectrum upon which most could agree. These indicators would include emissions per capita and GDP per capita. If done well, this could result in countries feeling that fair efforts were being made by all. We address this matter further in answer to question 4.

Another factor that might help widespread participation is couching pledges or targets in a common format so that they can easily be compared. That format should basically be an emission limitation or reduction target compared to a base year. It is understandable that major emerging economies have framed their current emission limitation pledges in terms of either reductions from business as usual or a decrease in emissions per unit GDP, because that affirms their right as developing countries to continue to develop. However, it also makes it difficult to compare their pledges with those of other countries because they are using different starting assumptions. Also, almost by definition, business as usual scenarios are unreliable.

There are always likely to be countries that find it difficult to undertake commitments that seem fair and equitable to others, such as the USA, or which only consider their own short-term economic advantage, ignoring damage costs, such as the current Polish government. The USA has a constitutional problem with participating in international agreements in that its electoral system tends rarely to result in the same party holding a majority in both houses

of Congress and having the Presidency. Consequently, it is hard either to pass domestic legislation supported by any particular President or to ratify treaties agreed by any particular Administration – unless there is existing, older domestic legislation on the subject.<sup>2</sup> It may be that the rest of the World may need to move on without the USA doing its fair share and, if so, the trick will be to not allow insufficient action by one country to prevent others from acting.

Offering incentives for participation or penalising non-participation are attractive but not necessarily easy options. Border tax adjustments against non-participants have, for example, been proposed but they could be complex, difficult to implement and might provoke the retaliatory raising of trade barriers more generally. Incentives can work better, especially for the poorer developing countries. For example, Ethiopia recently announced its intent to become carbon neutral by 2025, essentially by decarbonising its electricity sector and then using electricity for almost everything. Although Ethiopia plans to achieve its goal by itself, if needs be, financial and technical assistance will help a lot and should be provided.

We discuss the question about the inclusion of emission sectors in our answer to question 4.

### **Question 3:**

*How can the 2015 Agreement most effectively encourage the mainstreaming of climate change in all relevant policy areas? How can it encourage complementary processes and initiatives, including those carried out by non-state actors?*

Whilst we agree that mainstreaming climate change and encouraging complementary processes are good ideas, in principle, we find it hard to envisage how mainstreaming climate change in all relevant policy areas could be achieved in the 2015 international agreement. The chapeau of the agreement might contain references to other international agreements, but it would be difficult to include specific measures in the main body of the text, especially as binding commitments.

We consider that countries should be allowed to choose the sectors in which they take action on climate change, if only because national circumstances vary considerably. In Brazil, for example, the bulk of emissions come from forests and so it makes sense for Brazil to reduce emissions from deforestation as a priority, which Brazil has done. Priorities for Saudi Arabia, on the other hand, might include transport emissions. In the longer term, all countries will have to decarbonise almost completely and to do so they will need to tackle all, or almost all, sectors but the order in which they tackle them should be up to them.

---

<sup>2</sup> The USA has a long track record of not ratifying international treaties. An early example was when President Wilson strongly advocated a League of Nations to prevent further conflicts during the latter stages of, and after, the First World War. The League was duly founded but without the USA because the Senate refused to ratify the agreement. On the other hand, the USA had existing domestic legislation on trade in wildlife and was therefore able to play a constructive role in the establishment and operation of CITES.

On complementary measures, it is certainly possible to agree amongst nations in other international fora on actions that might have climate change co-benefits, such as the current initiatives to phase out fossil fuel subsidies in the G20, phase out HFCs in the Montreal Protocol and limit international aviation and marine emissions in ICAO and the IMO.<sup>3</sup> However, both history and current experience tells us that this can sometimes be hard. It has in the past, for example, proved impossible to reach any agreement on emission limitations in ICAO and it continues to be very difficult. In part, this is because the agreements have different remits to the UNFCCC, which need not overlap at all and can sometimes be contradictory. Part of the role of ICAO, for example, is to facilitate international aviation by providing the right to fly across other party's territories and the right to duty free products, including fuel. Any agreement concerning climate change, on the other hand, would want to restrict emissions, either by limiting flights or limiting fuel-use by a tax or an emissions trading scheme. It was thus right for the EU to prioritise its concerns about climate change by opting aviation emissions into the EU ETS but other countries may have other priorities.

The extent to which the UNFCCC can have an effect upon complementary measures and processes thus depends, to a large extent, upon the goals of those other processes and the degree of political will in countries to prioritise climate change over other issues. Many substances that deplete the ozone layer are also greenhouse gases and so there has long been significant complementarity between the UNFCCC and the Montreal Protocol. (Indeed, the fast phase out of gases which is possible under the Montreal Protocol can be more effective than the 'basket of gases' approach used under the UNFCCC.) Similarly, subsidising fossil fuels is expensive, especially in times of economic stagnation when many governments are seeking to cut back on spending and so eliminating subsidies is a win-win solution both for climate change and economically. Flying is, on the other hand, popular and so restricting flights or increasing the cost of aviation is something that many governments are reluctant to do.

One way around 'problem' regimes like ICAO might be to bring all greenhouse gas emissions under the remit of the UNFCCC, except for the ozone depleting substances which are specifically singled out by the UNFCCC as being covered by the Vienna Convention and its Protocols, notably the Montreal Protocol.

Finally, it is worth noting that some major nations, such as Brazil, systematically seek to keep particular issues in their own treaty silos. They actively maintain biodiversity interests in the Convention of Biological Diversity (CBD) and climate change interests in the UNFCCC but discourage interaction between them. It may be hard to change this core element of foreign policy in some countries.

---

<sup>3</sup> The International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO).

#### **Question 4:**

*What criteria and principles should guide the determination of an equitable distribution of mitigation commitments of Parties to the 2015 Agreement along a spectrum of commitments that reflect national circumstances, are widely perceived as equitable and fair and that are collectively sufficient avoiding any shortfall in ambition? How can the 2015 Agreement capture particular opportunities with respect to specific sectors?*

As mentioned earlier, we see equity being at the core of a 2015 agreement and essential in helping to maximise both participation and ambition. A large amount of work has been done in setting out equity principles and various metrics have been devised which attempt to categorise countries according to their development status, ability to act, historical responsibility for emissions and so on. The results given by the different metrics vary depending upon the emphasis given to particular parameters, such as GDP per capita. However, all credible metrics tend to group countries in roughly the same position on an equity spectrum and so it would be possible to use a wide range of metrics in tandem.

Whilst we would prefer to see emission reduction targets for countries allocated on a top down basis, taking into account equity and the need to stay below two degrees, realistically we do not see this as likely to attract widespread support. What might work, as we mentioned earlier, is a process in which countries make initial pledges which are reviewed in light of the global goal and equity and then revised. This might not be perfect, because some countries would probably not revise their pledges upwards sufficiently or would balk at the equity review, but the process would, at least, be seen as fair and would make very obvious who should be doing what.

The current Annexes in the Convention are clearly an anachronism with Annex I developed countries being defined as OECD members and the former Soviet bloc in 1992, Annex II containing only the OECD countries (able to give financial assistance) and with all other countries being 'developing'.<sup>4</sup> Yet the OECD (traditionally the developed country club) has now expanded to include not only the many members from the Soviet bloc that are now in the EU, such as Poland, but also some countries which the Convention still defines as developing, such as Chile, Israel, South Korea and Mexico. Moreover, some Annex I countries which were in the Soviet bloc would now scarcely qualify as 'developed', such as Belarus - which is 63<sup>rd</sup> on the World Bank GDP per capita list sandwiched between Uruguay and Botswana. Of the top ten richest countries (in terms of GDP per capita, World Bank 2005-11) only four are classed as 'developed' by the UNFCCC: Luxembourg, Norway, Switzerland and the USA. The others are classed as 'developing': Qatar, Macau, Singapore, Kuwait, Brunei, and the UAE with four of these six countries also being amongst the top five emitters per capita.

We therefore agree, in principle, with the concept of a spectrum of commitments that reflect current national circumstances, which are seen as fair and equitable and reflect a degree of historical responsibility for climate change. Yet abandoning or even trying to revise Annex I is likely to prove troublesome because many countries are deeply attached to the idea of

---

<sup>4</sup> OECD, Organisation for Economic Cooperation and Development.

having a clear division between developed and developing countries, even if the placing of this division is increasingly out of date and a gross oversimplification in many cases. Many 'developing' countries consider, as mentioned in the Convention, that developed countries should take the lead in tackling climate change and they correctly feel that, so far, they have not. Moreover, a major revision would probably be time consuming, even if all nations agreed that revision was needed. Also, there would need to be periodic revisions in the future too as nations circumstances change, just as they have changed in the twenty years or so since the Convention came into force.

Pragmatically, it might therefore be necessary to keep Annex I and to encourage countries that are clearly developed but not in Annex I, such as South Korea and Singapore, to take on similar commitments to those in the existing Annex. These would be economy wide, legally binding commitments to reduce emissions well below a historical base year (1990).<sup>5</sup> In fact, if an equity review were employed, not all countries in Annex I would have the same target and so there would be a spectrum of commitments in Annex I. For non-Annex countries, there would similarly be a spectrum, again defined by the equity review process.

We note that certain country groupings may not help in terms of obtaining a fair and equitable spectrum. For example, the BASIC countries have little in common in terms of their national circumstances, other than feeling that they are all under pressure to take on targets. Both their emissions and GDP per capita are significantly different and any equitable distribution of targets would not place all four countries in the same, or even a similar, place on a spectrum of commitments.

The consultation question mentions possible opportunities for sectoral agreements or commitments. In general, we do not favour sectoral agreements because they can have the effect of acting against the interests of poorer countries whilst favouring richer ones, essentially by allowing the richer countries to offset their emissions in poorer ones. However, the extent to which we object to them would depend upon the type of sector and the detail of any agreement. For example, we would favour an international sectoral agreement covering aviation emissions, if that comprised a cap and trade scheme and there were a means of protecting poorer countries that are heavily dependent upon aviation, such as Small Island Developing States (SIDs). On the other hand, we would find it harder to back a sectoral agreement on agriculture where the intensive industrial agriculture of, for example, the USA bears little comparison to, and would be inappropriate for, some poorer countries.

---

<sup>5</sup> We know that some developed countries prefer a more recent base year than 1990, notably the USA, and this is, in part, because their emissions rose up to around 2000 and so reducing emissions from 2005 looks better. However, they are not kidding anyone and merely infuriate a number of developing countries which recall that Annex I Parties said, in the Convention, that they would try to stabilise emissions at 1990 levels by 2000.



There is potential for developing countries to link some sectors to an international cap and trade scheme, as originally proposed for REDD+ by Papua New Guinea and others.<sup>6</sup> However, given the likely number of REDD+ 'credits', the cap and trade scheme would need to be large, including all current Annex I countries and probably others too, so as to avoid flooding of the system.

### **Question 5:**

*What should be the role of the 2015 Agreement in addressing the adaptation challenge and how should this build on ongoing work under the Convention? How can the 2015 Agreement further incentivise the mainstreaming of adaptation into all relevant policy areas?*

Adaptation will clearly be a key part the 2015 agreement, as the ADP co-chairs said several times at the recent ADP meetings in Bonn. It is not clear how adaptation will be included, however. There are already many initiatives under the Convention that are meant to deal with the issue of adaptation and its associated finance: the Least Developed Country Work Programme, the Nairobi Work Programme, the Cancun Adaptation Framework, National Adaptation Plans, the Adaptation Fund, the Green Climate Fund, the Work Programme under the COP on long-term finance and the new work on Loss and Damage.

Whilst this host of initiatives is welcome, in theory, it sometimes seems that they may have served to isolate the subjects of adaptation and finance from the main negotiating process rather than include them in it. The process tends to assume that once it has set up an institution or process to deal with a problem then that problem is, or will be, dealt with. In practice, that is not the case with adaptation.

As the consultation paper points out, climate change impacts, and hence adaptation needs, vary considerably from country to country and from region to region and so it is hard to be prescriptive about adaptation, except that it clearly needs to be fully integrated into spatial planning, coastal area and water management, agriculture and health. Yet these are things that are generally best done locally and regionally rather than via the international process. What the international process can do is help to broadcast successful instances of adaptation. For example, as the consultation points out, ecosystem-based adaptation has been seen to deliver benefits and so could be highlighted.

Currently, the biggest single problem with the adaptation is that far too little finance is flowing to practical work in countries. The fast start finance initiative finished at the end of last year and, apart from a few government announcements in Doha, very little further finance seems to be flowing – certainly not on the scale the would lead to the US\$ 100 billion per year agreed in Copenhagen and Cancun. We note that, at the time of writing, the Green Climate Fund is empty.

---

<sup>6</sup> Papua New Guinea, Costa Rica, Bolivia, Central African Republic, Chile, Congo, Democratic Republic of the Congo, Dominican Republic, Nicaragua.  
<http://unfccc.int/resource/docs/2005/cop11/eng/misc01.pdf>

## **Question 6:**

*What should be the future role of the Convention and specifically the 2015 Agreement in the decade up to 2030 with respect to finance, market-based mechanisms and technology? How can existing experience be built upon and frameworks further improved?*

We are not sure whether new institutions under the Convention are required for finance, although we are certain that more finance is required if both mitigation and adaptation are to be accelerated in developing countries. Yet most of the traditional donors in northern countries are still recovering from the financial crisis and the recovery seems set to continue for some time. Governments are thus unlikely to increase public spending much and many may cut it further. Many businesses have also been hard hit and are reluctant to spend, especially on adaptation which is generally unlikely to provide the returns on investment that business requires. The best hope for significant investment therefore remains the sources identified in the report on innovative sources of finance of UN Secretary General's High-level Advisory Group on Climate Change Financing (the AGF).<sup>7</sup> Some of the initiatives mentioned in the report are being pursued but more effort could be made.

We have been disappointed with the discussions so far on new market mechanisms for the 2015 agreement. These have largely centred on the production of offset credits by developing countries but with no mechanism for creating demand for such credits. We consider that there is a place for a cap and trade scheme in the new agreement and that discussions on it should start soon. For such a scheme to work effectively, the participant countries would need to have commitments couched in similar terms (economy-wide targets from the same base year, etc.) so that consistent annual budgets can be calculated, as in the Kyoto Protocol. The participants would also need to be seen to be making roughly the same amount of effort, consistent with national circumstances, so as to prevent free riding. Common and reliable accounting would also be essential as a trading scheme clearly cannot work if it is not possible to reliably quantify what is being traded. Given these conditions, the cap and trade scheme would probably need to include only the more advanced, more developed countries, although not necessarily just the current Annex I.

We consider that cap and trade schemes work best if emission allowances are auctioned and so, assuming ambitious caps, significant revenue could be raised for mitigation and adaptation in poorer countries. REDD+ might be linked to such a cap and trade scheme if REDD+ countries (voluntarily) took on significant emission reduction objectives as part of a sectoral commitment. However, the REDD+ estimates of emissions and removals would have to be reliable and their aggregate effect would not have to be large enough to depress the carbon price. The CDM model of allowing potentially unlimited numbers of uncapped credits into a capped system is not an example to follow. The EU's own experience with the effect of CDM credits in the EU ETS should serve as an object lesson of what not to do.

---

<sup>7</sup>[http://www.un.org/wcm/webdav/site/climatechange/shared/Documents/AGF\\_reports/AGF\\_Final\\_Report.pdf](http://www.un.org/wcm/webdav/site/climatechange/shared/Documents/AGF_reports/AGF_Final_Report.pdf)

We have reservations about the current trend to try to link national cap and trade systems. For any link to work well domestic legislation, targets and accounting systems need to be very similar and they usually are not. Cobbling together cap and trade systems based on different criteria is likely to simply result in confusion and, probably, free riding by one or more participants. It is better to design a scheme that accommodates all participants from the outset.

### **Question 7:**

*How could the 2015 Agreement further improve transparency and accountability of countries internationally? To what extent will an accounting system have to be standardised globally? How should countries be held accountable when they fail to meet their commitments?*

We agree with the consultation document that a robust common accounting framework is needed for the new agreement so as, for example, to enable the comparison of pledges as we mentioned earlier. Similarly, if the new agreement is to contain market-based mechanisms, such as a cap and trade system, then a common accounting system will be essential. For some poorer countries it will take some time for them to reach the highest levels of reporting and accounting but that should be the aim for all. The more advanced countries should account fully. The IPCC Guidelines for National Greenhouse Gas Inventories, upon which all reporting and accounting should be based were first published in 1994 and so countries have had plenty of time to get used to the idea.

There are certain lessons that can be learnt from past experience of accounting. For example, in the run up to agreeing the Kyoto Protocol there was concern over the high degree of uncertainty associated with some land use emissions. This led to the development of a system of LULUCF accounting in which it was optional to account for certain activity, such as forest management or grazing land management.<sup>8</sup> Whilst this was understandable at the time, it tempted countries to account for activities that gave them credits and not account for those that gave debits. This led to some very perverse outcomes. In the EU for example, burning biomass was defined as carbon neutral because it was assumed that the emissions would be accounted for under the LULUCF activity of forest management – but a country might choose not to account for forest management resulting in the very real emissions from biomass burning not being accounted for at all. The new agreement should not repeat this mistake and should use ‘land-based accounting’, as is written into the Convention.

Another lesson from LULUCF accounting under the Kyoto Protocol was that many countries said that as countries gained experience of estimating uncertain emissions they would gradually reach the stage where their estimates were reliable. In fact, because they could pick and choose the activities that they wished to account for there was no incentive to improve accuracy and so estimates remained unreliable. Mandatory accounting, on the other hand, provides strong incentives, as Australia has recently found when including land use in its emissions trading scheme.

---

<sup>8</sup> LULUCF, Land Use, Land Use Change and Forestry.

As mentioned earlier, penalties for non-compliance can prove difficult in international agreements, which countries can simply leave if they wish, as Canada recently showed by leaving the Kyoto Protocol. Incentives tend to work better and non-compliance is probably best penalised by the withdrawal of benefits, such as not being allowed to trade in the Kyoto Protocol.

Similarly, compliance regimes probably work best when they are seen as facilitative rather than punitive, as the Kyoto Protocol system tries to be. The Montreal Protocol's non-compliance procedure and Implementation Committee are often held up as good examples but even they can have perverse effects. For example, Russia and several other countries from the former Soviet bloc were found to be in non-compliance in the mid-1990s and Russia said 'sorry' and came back into compliance. However, Russia found the experience humiliating and so, during the Kyoto Protocol negotiations, Russia set about trying to ensure that the Kyoto system could not do the same thing as the Montreal one.

### **Question 8:**

*How could the UN climate negotiating process be improved to better support reaching an inclusive, ambitious, effective and fair 2015 Agreement and ensuring its implementation?*

It is certainly true, as the consultation document points out, that the UNFCCC process has become very complex over the years and agendas have become extremely crowded with debates upon technical issues. The resolution of important issues has been subject to extreme delays because of the multiplicity of agenda items. This situation should be helped by closing down the Kyoto Protocol and LCA tracks at the last COP in Doha to leave only one negotiating track on the 2015 agreement, although still with a host of agenda items under the SBSTA and SBI.

It is also true that COPs often give rise to unrealistic public expectations, even when there are no great breakthroughs likely (as in Doha which was largely procedural) whilst at the same time failing to respond to scientific evidence. Having COPs at longer intervals, rather than annually, might have the advantage of avoiding expectations of ground breaking progress at every meeting but it is probably inappropriate at present, when we need significant progress at every meeting if we are to achieve an ambitious deal in thirty months or so. Also, we need continued high level political attention during that period.

Having rules of procedure would help in UNFCCC decision making and rules should be adopted. Certainly, the need to have consensus on everything in an agreement frustrates ambition, just as it does in the EU itself when setting targets. There may be opposition to having rules but probably less than last time when rules were blocked at Intergovernmental Negotiating Committee meeting 11 in New York just before COP 1, largely by Saudi Arabia ably backed by Don Pearlman from the Global Climate Coalition (mainly US heavy industry).<sup>9</sup>

---

<sup>9</sup> It was also at INC 11 that NGOs were banned from talking to delegates on the floor of debates when most delegates became fed up with Mr Pearlman and his antics.

We agree that having a different COP president each year does not work very well, with notable exceptions like Mexico which, in effect, worked for another eighteen months behind the scenes before and after its presidency. Shared, two year presidencies or even three-year presidencies might work better, with shared presidencies being appointed for a particular job, such as from COP 18 to COP 21 for negotiating the 2015 agreement.

As mentioned earlier, the technical workload in the subsidiary bodies is already heavy and likely to get heavier. There is thus a good case either for having more meetings or longer meetings of the subsidiary bodies. Nominally, there are two weeks of negotiations in May or June in Bonn and two more weeks at the COP at the end of each year; but the Bonn sessions are usually truncated by two days by the opening and closing plenaries, and the sessions at the COP are normally curtailed to just the first week. Whilst more meetings might be costly, it should be possible to have three week subsidiary body meetings in May or June and two week meetings before the COP itself starts in November or December.

Predictably, we agree with the consultation's view that there might be more opportunities to strengthen the contributions of stakeholders. For example, even in informal workshops, whilst both business and environmental NGOs are often asked to give presentations, they are rarely allowed to make interventions from the floor except in very short, prepared, speeches on behalf of broad constituencies.

The consultation mentions strengthening the role of the UNFCCC Secretariat. We are not sure if this is necessary and it may be undesirable. The Secretariat already has considerable power and influence.

### **Question 9:**

*How can the EU best invest in and support processes and initiatives outside the Convention to pave the way for an ambitious and effective 2015 agreement?*

There are number of things that could be done to improve matters but there is one thing which they EU needs to do above all, which is lead by example. In the past, the EU has been the UNFCCC leader, certainly in the developed world. It has pushed progressive agendas and proposed comparatively ambitious targets. However, it has recently failed to lead by example. It has not adopted a 30% target for 2020, let alone a 40% target which is the minimum required. It appears, on the basis of the 2030 package consultation, to be considering an even more inadequate target of 40% for 2030. The EU would do well to revisit the processes by which it sets its own targets, in particular using qualified majority voting rather than consensus.

The phase out of fossil fuel subsidies under the G20 offers the prospect of large emission reductions but, in practice, the initiative is not working well. Instead of phasing out subsidies nations are quibbling about the definitions used in the original agreement and, as of late 2012, no fossil fuel subsidies appear to have been reformed, let alone phased out. The EU might try to reinvigorate the initiative.

The recent initiative by the USA and China to phase out HFC's should be encouraged and supported by the EU.

Emissions from international shipping and aviation are a continuing and increasing problem and neither are currently regulated internationally. We are sceptical about the current talks in the IMO and ICAO succeeding. If the discussions in ICAO do not succeed within the year, the EU should lift the suspension of the EU ETS from covering all flights.

Emissions from deforestation and degradation account for about 15% of all emissions, more than the entire EU. The rapid implementation of REDD+ could thus have a huge effect and should be accelerated.

### ***Further information***

If you require further information on this consultation response, please contact John Lanchbery by email at [john.lanchbery@rspb.org.uk](mailto:john.lanchbery@rspb.org.uk) or by telephone on +44 1767 693275.