

Submission by Nepal on behalf of the Least Developed Countries Group on the ADP Co-Chairs' Non Paper of 7 July 2014 on Parties Views and Proposal on the Elements for a Draft Negotiating Text

The Least Developed Countries Group (LDC Group) welcomes the opportunity to comment on the ADP Co-Chairs' Non Paper on views and proposals on the elements for a draft negotiating text.

LDCs believe that the various views and proposals by Parties provide a useful way forward in our deliberations towards a new legal agreement to be concluded at COP 21 in Paris, 2015. Using the elements of these views the LDCs believe that the following elements should form the basis of the legal agreement to be concluded at COP 21. We have produced these elements in a form that could be readily transformed into the text of a legally binding agreement.

Paris Legally Binding Agreement

I. Preamble

- Being Parties to the United Nations Framework Convention on Climate Change
- Recalling the provisions of the Convention
- Acknowledging the role of the Kyoto Protocol and the Doha Amendment
- Recalling the findings of the IPCC Fifth Assessment Report
- Recalling decisions 1/CP.17, 1/CP.18 and 1/CP.19
- Recognizing that deep cuts in global emissions will be required to achieve the ultimate objective of the Convention and emphasizing the urgency to address climate change

II. Definitions:

(To be added once text complete)

III. Objective and Purpose

- The objective of the legal agreement is to establish a global approach to addressing climate change through enhancing action by all countries to reduce emissions of greenhouse gases and to provide adequate support for vulnerable countries, particularly LDCs, SIDS and countries in Africa, to address the impacts of climate change.
- Actions taken within this agreement shall play a significant role in ensuring that global greenhouse gas concentrations in the atmosphere must be stabilized as far below 350 ppm CO₂eq as possible, with temperature increases limited to as far below 1.5 degrees C above pre-industrial levels as possible.
- Actions taken under the agreement shall acknowledge that climate change is already happening and shall address current and future impacts
- Actions taken under this agreement shall take into account the most vulnerable to the consequences of climate change and provide priority action to those facing threats from the impacts of climate change.
- Actions taken under this agreement shall be a major contribution towards moving to a low greenhouse gas emission society that is compatible with sustainable development objectives and consistent with the principle of common but differentiated responsibilities and respective capabilities.
- Aim to achieve universal participation
- Agreement should strive to achieve early actions
- Leadership to be taken by Parties with greatest responsibility and highest capacity to respond
- Acknowledge that LDCs, SIDS, and countries in Africa are the most vulnerable to the impacts of climate change and should be given special consideration within the agreement

- All actions and processes established under this agreement shall respect the rights of Indigenous Peoples, ensure a gender sensitive approach and reflect the needs of people with disabilities

IV. Mitigation

- Parties included in Annex I to the Convention shall take economy wide quantified emission reduction commitments
- Parties not included in Annex I to the Convention, who are in a position to do so, shall also take economy wide quantified emission reduction commitments
- Economy wide quantified emission reduction commitments shall be inscribed in Annex A to this agreement
- Parties not included in Annex I to the Convention, which have not taken economy wide quantified emission reduction commitments, shall take emission limitation commitments in a form that is appropriate to meet their national circumstances
- LDCs are encouraged to develop and implement low carbon development strategies
- Emission limitation commitments and strategies as indicated above shall be inscribed in Annex B to this agreement
- Once an economy wide emission limitation reduction or emission limitation commitment is inscribed in either Annex A or Annex B, a Party may amend this commitment with approval of the Conference of Parties to this agreement.
- Such amendments shall be on the basis of increasing the effort to reduce or limit emissions
- The period of commitment shall be 5 years and shall continue on a 5 year basis until the year 2040, whereupon a review shall be taken
- Early action taken by Annex B Parties to reduce or limit their emissions prior to 2020 to meet their targets inscribed in Annex B may, if so requested, and approved by the Conference of Parties to the Convention, be counted towards the commitment period 2020-2025.
- Early action may include actions taken with respect to nationally appropriate mitigation actions
- Annex A Parties shall:
 - account for all emissions and removals in the land sector, unless such emissions and removals are considered negligible
 - account for all greenhouse gases
 - account for all sectors including aviation and maritime transport
 - use common metrics to account to measure greenhouse gas emissions and removals
 - use IPCC 2006 Guidance to account for all emissions and removals until the Guidance is amended and such amendments are approved by the Conference of Parties to this agreement
- Annex A Parties may undertake national emissions trading schemes to meet their commitments inscribed in Annex A
- The Conference of Parties may, at a later date, consider whether or not national emissions trading schemes established by Annex A Parties could be linked by an international emissions trading scheme
- In considering whether or not to establish an international emissions trading scheme the Conference of Parties to this agreement shall take into consideration whether such a scheme will result in:
 - net emissions reductions that would not have occurred in the absence of such a scheme
 - any environmental or social consequences
 - any governance issues
- All Parties shall make efforts to reduce emissions from deforestation and forest degradation and address the drivers of deforestation and forest degradation
- Existing modalities and procedures agreed by the Conference of Parties to the Convention with respect to reducing emissions from deforestation and forest degradation shall apply in this agreement
- All Parties shall ensure that all actions to reduce emissions from deforestation and forest degradation do not adversely affect the rights of Indigenous Peoples and local communities, nor exacerbate gender inequality

- All safeguards developed by the Conference of Parties to the Convention with respect to reducing emissions from deforestation and forest degradation shall apply to this agreement
- The Conference of Parties to this agreement may take decisions to enhance efforts with respect to safeguards mentioned above
- Efforts shall be taken to consider the impact of response measures with respect to the emission limitation commitments taken
- A permanent forum shall be established to operate under the Subsidiary Body on Scientific and Technological Advice under this agreement to consider the impact of response measures

V. Measurement, Reporting and Verification of Mitigation Commitments

- Annex A Parties shall produce biennial reports and be subject to international assessment and review as determined by the Conference of Parties to the Convention
- Technical experts teams shall be established to undertake international assessment and reviews
- The modalities for biennial reports and international assessment and review may be revised by the Conference of Parties to this Agreement
- Annex B Parties shall produce biennial update reports and shall be subject to the modalities and procedures for international consultation and analysis as determined by the Conference of Parties to the Convention
- The modalities and procedures for biennial update reports and international consultation and analysis may be revised by the Conference of Parties to this agreement

VI. Adaptation to the Impacts of Climate Change

- All Parties shall strive to take action to climate change-proof their present and future development and make all possible efforts to protect their citizens, ecosystems and the environment from the impacts of climate change
- Notwithstanding the provision above, actions by developing country Parties, particularly the most vulnerable such as LDCs, SIDS and countries in Africa shall be contingent on adequate and measurable finance, technology and capacity building support
- All actions to adapt to the impacts of climate change shall be based on the following principles: be country-driven, gender-sensitive, participatory and fully transparent, take into consideration vulnerable groups, communities and ecosystems, be based on and guided by sound science and traditional and indigenous knowledge, be integrated into relevant social, economic and environmental policies and actions
- The Adaptation Committee established by the Conference of Parties to the Convention shall also operate under this agreement
- The Least Developed Countries Expert Group established by the Conference of Parties to the Convention shall also operate under this agreement
- All Parties shall produce national adaptation plans and shall update these plans on a regular basis based on guidance from the Conference of Parties to this agreement
- Annex II Parties to the Convention, and those Parties in a position to do so, shall support LDCs in the implementation of national adaptation programmes of action, national adaptation plans and provide ongoing support to the Least Developed Countries Expert Group.
- All Parties are encouraged to explore means of integrating adaptation planning into all future development activities across all sectors
- All Parties are encouraged to produce, where appropriate, sub-national and local adaptation plans
- All Parties shall produce and implement adaptation education and public awareness programmes
- All Parties are encouraged to strengthen institutional capacity to respond to their adaptation needs
- Annex II Parties to the Convention, and those Parties in a position to do so shall provide financial, technical and capacity building support to developing country Parties, particularly LDCs, SIDS and countries in Africa to assist in the development of institutional capacity to respond to adaptation needs
- An international clearinghouse and repository for adaptation is established by this agreement

- The international clearinghouse and repository for adaptation shall be coordinated by the Adaptation Committee with assistance from the UNFCCC Secretariat
- The international clearinghouse and repository for adaptation shall be a repository for:
 - National adaptation plans
 - Adaptation technologies and methods
 - A roster of adaptation experts
 - Biennial adaptation support reports
 - Information on research, development, demonstration, diffusion, deployment and transfer of technologies, practices and processes, and capacity-building for adaptation, with a view to promoting access to technologies, in particular in developing country Parties;
- Regional adaptation centres shall be established in all major regions to help facilitate a regional knowledge-base on the most appropriate adaptation responses for the region.
- Regional adaptation centres shall should provide capacity building on adaptation responses and facilitate research into adaptation measures.
- Annex II Parties to the Convention, and those Parties in a position to do so, shall provide financial, technical and capacity building support to assist in the establishment of regional adaptation centres
- All Parties are encouraged to strengthen and improve climate-related research and systematic observation for climate data collection, archiving, analysis and modelling in order to provide decision makers at the national and regional levels with improved climate-related data and information
- Annex II Parties to the Convention, and those Parties in a position to do so, shall provide financial, technical and capacity building support to developing country Parties, particularly LDCs, SIDS and countries in Africa to strengthen and improve climate-related research and systematic observation for climate data collection, archiving, analysis and modelling
- Annex II Parties to the Convention, and those Parties in a position to do so shall provide additional support to enhance global observation systems, including the Global Ocean Observing System, Global Terrestrial Observing System and Global Climate Observing System,
- The systems mentioned above are encouraged to downscale their observations and modelling and provide particular attention to developing countries, particularly LDCs, SIDS and countries in Africa
- All existing UN institutions and international and national financial institutions are encouraged to provide information to the international clearinghouse and registry for adaptation on how they development assistance programmes and finance incorporate climate proofing measures

VII. Loss and Damage

- The Warsaw International Mechanism for Loss and Damage and related institutions shall operate under this agreement once it enters into force
- Revisions to the operations of the Warsaw Mechanism for Loss and Damage and its related institutions shall be determined by the Conference of Parties to the Convention until this agreement comes into force
- All Parties are encouraged to develop early warning systems to address climate change related disasters
- All Parties are encouraged to develop climate change risk management planning for climate change related disasters
- An international climate change displacement coordination support mechanism is hereby established
- The purpose of the international climate change displacement coordination support mechanism is to provide assistance to people displaced by the impacts of climate change including measures to provide support for:
 - emergency relief;
 - assistance in providing organised migration and planned relocation
 - compensation measures

- A clearinghouse for insurance and risk transfer systems is hereby established
- The purpose of the clearinghouse for insurance and risk transfer systems is to:
 - provide a repository of information on available of insurance and risk transfer schemes that are available to regions, nations and communities
 - Provide guidance on developing comprehensive climate change risk management strategies
 - provide a free service brokerage to assist Parties find the best insurance and risk transfer schemes to meet their circumstances
 - facilitate financial support to assistance Parties find the best insurance and risk transfer schemes to meet their circumstances
 - facilitate financial support to assist Parties rehabilitate after the impacts of climate change disasters
- The special needs of LDCs, SIDs and countries in Africa shall be incorporated in the operation of the clearinghouse for insurance and risk transfer
- The clearinghouse for insurance and risk transfer systems shall be coordinated by the Executive Committee of the Warsaw International Mechanism for Loss and Damage Board
- The Conference of Parties to this agreement shall commence a process no later than the first conference of Parties to this agreement to establish a compensation regime to support developing countries, particularly LDCs, SIDS and countries in Africa affected by slow onset events
- All existing international institutions and financial institutions are encouraged to cooperate with the measures developed in this agreement

VIII. Technology Development and Transfer

- The Technology Mechanism, including the Technology Executive Committee and the Climate Technology Centre and Network shall operate as a support mechanism for this agreement
- The Conference of Parties to this agreement may develop specific recommendations for the operation of the Technology Executive Committee and the Climate Technology Centre and Network
- The Conference of Parties to this agreement shall develop policies and measures to facilitate the removal of barriers and the creation of enabling environments to support the technology development and transfer to and in developing countries
- The Conference of Parties to this agreement shall develop modalities to support research, development, demonstration and deployment, including endogenous technologies in developing countries
- The Conference of Parties to this agreement shall develop procedures for removing barriers to technology development and transfer created by intellectual property rights regimes

IX: Capacity Building

- The Durban Platform on Capacity Building shall operate under this agreement
- The Conference of Parties to this agreement may make decisions regarding the Durban Platform on Capacity Building
- All Parties shall endeavour to enhance capacity building in all areas of climate change action to achieve the objectives of this agreement
- The Conference of Parties to this agreement shall develop procedures for the regular review and update efforts to enhance capacity building
- An institute for capacity building shall be established by this agreement
- The institute for capacity building shall operate as a consortium of tertiary institutions in all major regions of the world
- The purpose of the institute for capacity building is to build capacity in developing countries as a means of strengthening the ability and effectiveness of mitigation and adaptation actions

X. Finance: General

- Annex II Parties shall take primary responsibility for providing financial support for the implementation of this agreement

- Notwithstanding the above provision, all Parties, in a position to do so are encouraged to provide financial support for the implementation of this agreement.
- LDCs are exempt from the above provision
- The Green Climate Fund established by the Conference of Parties to the Convention shall operate under the guidance of the Conference of Parties to this agreement for activities developed under this agreement
- The Conference of Parties to this agreement jointly with the Conference of Parties to the Convention may develop specific additional modalities for the operation of the Green Climate Fund with respect to activities developed under this agreement
- The Conference of Parties to this agreement shall explore further options to simplify access procedures to funds from the Green Climate Fund
- Financial support provided under this agreement shall be regularly scaled-up and shall be subject to a triennial review by the Conference of Parties to this agreement
- The Conference of Parties to this agreement shall develop modalities for leveraging and freeing up private finance to support the implementation of this agreement

XI. Finance: Mitigation

- An international assessment and review mechanism for mitigation finance is hereby established to assess financial commitments made by Annex II Parties to the Convention, and other Parties if they so wish, for the purposes of assisting Parties who have inscribed mitigation limitation commitments in Annex B to this agreement
- The Conference of Parties to the Convention shall determine the modalities for the operation of the international assessment and review mechanism for mitigation finance.
- The Conference of Parties to this agreement may determine additional modalities for the operation of the international assessment and review mechanism for mitigation finance once the agreement enters into force
- The Green Climate Fund shall provide finance to support mitigation readiness activities in developing countries
- Readiness activities and results-based actions to reduce emissions from deforestation and forest degradation in developing countries shall be supported by a funding window of the Green Climate
- Annex II Parties to the Convention, and those Parties in a position to do so are encouraged to provide additional financial support to readiness activities and results-based actions to reduce emissions from deforestation and forest degradation in developing countries
- An international renewable energy and energy efficiency bond facility is hereby established.
- The purpose of the international renewable energy and energy efficiency bond facility is to provide developing country Parties with interest-free loans for financing the development and deployment of renewable energy and energy efficiency technologies.
- Purchasers of renewable energy and energy efficiency bonds shall be provided interest payments through funding provided by the Green Climate Fund.
- An international renewable energy and energy efficiency bond commission shall be established under the guidance Green Climate Fund Board to facilitate:
 - the issuance of bonds
 - the issuance of renewable energy and energy efficiency loans
 - the issuance of interest payments
- The rules, modalities and guidelines for the operation of the international renewable energy and energy efficiency bond facility shall be determined by the Conference of Parties to this agreement.
- Each Party, to the extent feasible, shall also develop a system of national renewable energy and energy efficiency bonds to complement the international system.
- The establishment of the bond facilitate shall not negate the need for Annex II Parties and those Parties in a position to do so, to provide direct technology support to Parties not included in Annex I, particularly LDCs consistent with Article 4 paragraph 9 of the Convention.

XII. Finance: Adaptation

- The Green Climate Fund shall allocate at least fifty percent of its resources to adaptation measures
- The Adaptation Fund shall operate under this agreement under the guidance of the Conference of Parties to this agreement for activities developed under this agreement
- In addition to the Green Climate Fund and the Adaptation Fund, the Least Developed Country Fund shall provide support for adaptation actions for Least Developed Countries
- Annex II Parties to the Convention, and those Parties in a position to do so, shall provide biennial adaptation support reports indicating the level of support they are providing to developing countries, in particular, LDCs, SIDS and countries in Africa to meet the adaptation needs of these countries
- The Secretariat shall maintain a registry of biennial adaptation support reports and publish these reports on designated web site.
- All finance for adaptation to assist developing countries , in particular, LDCs, SIDS and countries in Africa to meet the adaptation needs of these countries shall be grant based on not subject to loan agreements
- The financial mechanism established under the Convention shall provide information on how all disbursements include provision for climate-proofing measures
- International financial institutions are invited to provide information on how their development assistance finance incorporates climate-proofing measures in all forms of support
- The International Civil Aviation Organisation and the International Maritime Organisation are encouraged to develop a levy scheme to provide financial support for the Adaptation Fund
- In establishing the levy scheme ICAO and IMO are encouraged to take into consideration the needs of developing countries, particularly LDC, SIDS and countries in Africa heavily reliant on tourism and international transport of traded goods

XIII. Finance: Loss and Damage

- The Green Climate Fund shall establish a funding window for Loss and Damage
- A Financial Technical Panel shall be established under the Warsaw International Mechanism on Loss and Damage Mechanism to, *inter alia*:
 - Establish regional risk pools to support regional risk transfer schemes
 - Provide support for various insurance arrangements, including micro-insurance initiatives
 - Develop modalities for compensation finance for slow onset events

XIV. Finance: Technology Development and Transfer

- Parties included in Annex II to the Convention, and other Parties if they so wish, shall provide financial support to assist developing countries, particularly LDCs, SIDS and countries in Africa create the appropriate enabling environment to allow the development and import of technologies to meet the mitigation and adaptation needs of these countries
- Developing countries are encouraged develop South-South financial support mechanisms to promote technology development and transfer mechanisms in developing countries
- The Green Climate Fund shall provide finance to support technology development and transfer for both mitigation and technology transfer in developing countries

XV. Finance: Capacity Building

- Parties included in Annex II to the Convention, and other Parties in a position to do so, shall provide financial support to assist developing countries, particularly LDCs, SIDS and countries in Africa to meet their capacity building needs
- The Green Climate Fund shall provide finance to support capacity building in developing countries

XVI. Compliance:

- A Compliance Committee shall be established
- The Compliance Committee shall have two branches:
 - enforcement branch

- facilitative branch
- The role of the enforcement branch is to review the compliance with commitments made by developed country Parties and those developing country Parties that have made economy wide quantified emission reduction commitments, with respect to their commitments on mitigation, as well as commitments with respect to adaptation, finance, technology transfer and capacity building
- The role of the facilitative branch is to review the implementation of contributions made by developing countries and to assist in them in their efforts to meet these contributions
- The Enforcement Branch of the Compliance Committee shall review:
 - Biennial reports
 - Reports of technical expert teams who have undertaken reviews as part of the international assessment and review process
- The Enforcement Branch may recommend actions to be taken against Parties who fail to make progress towards commitments taken under Annex A and commitments with respect to adaptation, finance, technology transfer and capacity building.
- The Facilitative Branch may recommend actions to assist Parties who have made commitments in Annex B to fulfil these commitments.
- The Compliance Committees may establish technical expert panels to assist them in their task.
- The Compliance Committee shall report annually to the Conference of Parties to this agreement.

XVII. Secretariat

- The Secretariat established by Article 8 of the Convention and related provisions shall apply *mutatis mutandis* to this agreement.
- The Conference of Parties to this agreement may determine additional functions for the Secretariat

XVIII. Immunities

- Each Party to this agreement shall accord to the persons exercising their functions on any board, panel, group or other institution established by this agreement during their journey to and from the place of meeting, immunity from legal process
- The Conference of Parties to this agreement shall determine the modalities for the operation of immunities

XIX. Settlement of Disputes

- The provisions of Article 14 of the Convention on settlement of disputes shall apply *mutatis mutandis* to this agreement

XX. Amendments

- The provisions of Article 15 of the Convention relating to amendments shall apply *mutatis mutandis* to this agreement
- Notwithstanding the above provision, amendments to the Annexes to the agreement shall be adopted by the Conference of Parties to this agreement and shall apply forthwith without the requirement for a ratification procedure

XXI. Annexes

- Annexes to this agreement shall form an integral part of this agreement
- Any Party may make proposals to amend the annexes

XXII. Voting

- The provisions of Article 18 of the Convention relating to the right to vote shall apply *mutatis mutandis* to this agreement

XXIII. Depository

- The Secretary-General of the United Nations shall be the Depository of this agreement.

XXIV. Open for Signature

- This agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention.

XXV. Entry into Force

- The agreement shall enter into force 30 days after the date of deposit of the tenth instrument of ratification, approval, acceptance or accession.

XXVI. Provisional Application

- A Party to the Convention which intends to ratify, approve, accept or accede to this agreement may at any time notify the Depositary that it will apply this agreement provisionally for a period not exceeding the time of entry into force of the agreement.

XXVII. No reservations

- No reservations may be made to this agreement.

XXVIII. Withdrawal

- The provisions of Article 25 of the Convention relating to withdrawal shall apply *mutatis mutandis* to this agreement

XXIX. Texts

- The provisions of Article 26 of the Convention relating to authentic texts shall apply *mutatis mutandis* to this agreement

Annex A**Annex B**

21 October 2014