

The nature of INDC obligation

Decision 1/CP.19 and decision 1/CP.20 decided in context of the new agreement to be adopted at the Paris COP, and to be implemented from 2020, requested countries to develop their intended nationally determined contributions (INDC). The term "intended" in INDC is an important term and implies the intentions of the country towards contributing to the global climate change challenge. It is an expression of what government of country thinks is possible to do within its national context and its capabilities. It also reflects on countries responsibility in contributing to climate change and, hence, its responsibility to address the issue by reducing the GHG emissions within its economy.

Thus the INDC submitted by the countries presently have no legal status. They are only expression of intention by the country. The new agreement to be finalized at Paris COP will include a process through which the intended NDCs will be formalized as NDCs. The present negotiation text states that "Parties shall/should submit/communicate their NDC upon joining/accepting the agreement/ratifying the protocol". Thus the present INDCs are initial voluntary expression of a country's NDCs. On finalization of Paris agreement countries will have opportunity to formally join the agreement and submit a revised NDC, if they join the agreement.

The nature of NDC will be defined by the new Paris agreement. The nature will depend on the nature of agreement, i.e., whether it is a legally binding protocol like the Kyoto Protocol or an agreement with legal force and the compliance mechanism in the agreement. There are three possible options being discussed in the current negotiation text:

- (i) NDC are voluntary and would be submitted as national schedules (NS), maybe through the existing reporting channels, such as, biennial update report (BUR) or national communication (NC). The NSs may be displayed on the UNFCCC website either as done now in the INDC portal or may be compiled in an attachment to the agreement, the attachment being made available on the UNFCCC website. This is similar to treatment of NAMAs under the Convention. Countries will report progress through existing reporting channels (BURs and NCs) and this will be subject to international consultation and analysis (ICA) and international analysis and review (IAR) for developing and developed countries, respectively, as per transparency framework developed under Copenhagen agreement.
- (ii) Countries on finalization of agreement formally submit the final NDC which will then be included in the Annex to the agreement. Countries will report the progress in implementation through the BURs and NCs. Though not internationally legally binding but a review process in the agreement would assess how countries are meeting their NDCs. This may not result in any consequences but will still include individual review of country.
- (iii) Countries adopt a legally binding protocol and NDCs are included in Annex to the Protocol. In this case the NDCs will be legally binding. The NDCs will be submitted along



with the ratification of the protocol thus expressing countries willingness to take internationally legally binding actions. The compliance mechanism of the Protocol will define the consequences of the countries failing to meet their commitments.