

## The “Historic” Paris Climate Agreement: What It Means “At Home” for Canada and the Alberta Oil Sands

**By: Sharon Mascher**

**Matter Commented On:** The [Paris Agreement](#) under the United Nations Framework Convention on Climate Change

On Saturday December 12, 2015, French Foreign Minister Laurent Fabius declared consensus and gavelled the [Paris Agreement](#). While far from perfect, the Agreement is being hailed by many around the world as [historic](#) (see for example [here](#), [here](#) and [here](#)). Canadian Prime Minister Justin Trudeau is no exception, labeling the agreement “historic, ambitious and balanced” in a [Statement](#) issued following the conclusion of the Paris climate conference. The Statement goes on to say “[t]ogether with our international partners, we agreed to strengthen the global response to limit global average temperature rise to well below 2 degrees Celsius as well as pursue efforts to limit the increase to 1.5 degrees”. This is indeed historic as, in so doing, the international community agreed for the first time to increase the level of ambition beyond the 2°C maximum that has prevailed to date (see [COP 16 Decision 1/CP.16](#)). There is now a clear commitment within the Paris Agreement to hold temperatures to *well below* 2°C, and a more aspirational target to pursue a limit of 1.5 °C.

Canada played its part in pushing towards this position, [joining](#) a negotiating bloc called the [High Ambition Coalition](#), made up of the Marshall Islands, the European Union, the United States, Brazil, Australia and dozens of African, Latin American, Caribbean and Pacific countries, to support the position that global temperature increase should be held to 1.5 °C. As Prime Minister Justin Trudeau’s Statement says, “Canadians can be proud of the strong and positive role we played during these very important international negotiations to address one of the biggest challenges of our generation.” However, as the Statement rightly goes on to say “[t]here is much tough work that still needs to be accomplished both at home and around the world to implement the agreement.” As Canadian Environment Minister [reportedly said](#) at a closed plenary session in Paris, “If we want to achieve this temperature goal, everyone needs to be part of this. We need maximum participation where everyone puts their best efforts forward.” The purpose of this blog is to consider what those best efforts mean domestically for Canada and Alberta’s oil sands.

### Key Mitigation Provisions in the Paris Agreement

The Paris Agreement aims to strengthen the global response to climate change by, amongst other things, holding the increase in the global average temperature to well below 2° C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5° C above pre-industrial levels. (Article 2.2)

In order to achieve this long-term temperature goal, Article 4.1 provides:

Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty [emphasis added].

However rather than specifying binding emission reductions as did the Kyoto Protocol (at least for Annex I Parties), the Paris Agreement states that each Party “shall” prepare, communicate and maintain successive nationally determined contributions (NDCs) that it intends to achieve and “shall” then pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions (Article 4.2). So, all Parties – rich and poor, developed and developing – are required to prepare NDCs and pursue domestic mitigation measures to achieve them. This does not mean, however, that all Parties will be held to the same standard. The Paris Agreement is explicit that NDCs will reflect common but differentiated responsibilities and respective capabilities. It also continues to assign developed country Parties a leadership role - with Article 4.4 providing that Developed country Parties “should continue taking the lead by undertaking economy-wide absolute emission reduction targets” [emphasis added]. Developing country Parties, on the other hand, “should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances” [emphasis added].

It is interesting to note that Article 4.4 of the draft final agreement circulated on the afternoon of December 12, 2015 provided that Developed country Parties “*shall* continue to taking the lead”(emphasis added). However, the United States reportedly (see [here](#) and [here](#)) objected to the use of the word “shall” on the basis that the word placed greater obligations on developed countries than developing countries and the word was changed to “should” as a part of myriad of technical changes only moments before the final agreement was gavelled (see [here](#) at 6:56). However, given that the Paris Agreement is designed to enhance the implementation of the 1992 [United Nation Framework on Climate Change](#) (UNFCCC), to which 196 countries including the United States are [Parties](#), and given that Article 4.2(a) of the UNFCCC provides that all developed country Parties “*shall* adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs” [emphasis added] in order to take the lead, arguably ,developed country Parties, including the United States and Canada, are already subject to this obligation, and will continue to be subject to this obligation.

While leaving Parties to determine their NDCs the Paris Agreement, unlike the Copenhagen Accord, creates a process to ensure Parties ratchet up their ambition over time to achieve the long-term temperature goals. Thus, all Parties “shall” communicate an NDC every five years (Article 4.9). This obligation takes effect in 2020 when the Paris Agreement is due to come into force (Article 21). Significantly, the national ambition in each Party’s successive NDC “will” represent “a progression” beyond the Party’s then current NDC and “reflect its highest possible ambition” (Article 4.3). Commencing in 2018, a five-yearly “global stocktake” will be undertaken to assess the collective progress towards achieving the purpose of the Agreement and

its long-term goals (decision 1/CP.21 at paragraph 20 and Article 14) and the outcome of the global stocktake “shall” inform Parties in updating and enhancing their NDCs (Article 14.3 and Article 4.9).

Parties are also required to account for anthropogenic emissions and removals corresponding to their NDC in a manner that promotes “environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting”. To ensure transparency and methodological consistency between the communication and implementation of NDCs, this accounting must be carried out in accordance with methodologies and common metrics assessed by the Intergovernmental Panel on Climate Change and adopted by the Parties to the Paris Agreement at their first session (Article 4.13 and UNFCCC/decision 1/CP.21, cl 31).

### **Implementation Gaps in Achieving the Long-Term Temperature Goals**

Despite this “historic” Paris Agreement, the Conference of the Parties acknowledges that implementation gaps in both the pre-2020 period (see decision 1/CP.21, preamble and paragraphs 106-122) and the post-2020 regime stand between meeting the long-term temperature goals. Perhaps most significantly, the decision adopting the Paris Agreement “[n]otes with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the [intended nationally determined contributions](#) [communicated by Parties to the UNFCCC Secretariat in the lead up to Paris COP21] do not fall within least-cost 2 °C scenarios but rather lead to a projected level of 55 gigatonnes in 2030.” Assuming the intended nationally determined contribution are fully implemented, this translates to warming in the range of [2.7-3.7°C](#) by 2100. Necessarily, therefore, a much greater global emission reduction effort is required to hold the increase in the global average temperature to well below a 2 °C temperature rise, let alone the 1.5 °C that Canada supported.

For many, a serious shortcoming of the Paris Agreement is its failure to create legally binding reduction commitments or to include sanctions or penalties for non-compliance with those portions of the Agreement that are legally binding. Rather, an “expert-based and facilitative” committee will be formed under the Agreement to “facilitate implementation and promote compliance in a “transparent, non-adversarial and non-punitive” manner (Article 15). With transparency mechanisms in place to communicate non-compliance, any failure to comply with commitments under the Agreement does leave Parties open to the political stick of naming and shaming. While it hasn’t been a deterrent to major emitters such as Canada and the United States in the past, the “historic” gains of the Paris Agreement may have changed this. As a former Clinton advisor is [quoted](#) as saying, “Meeting national emissions pledges will emerge as a key measure of international moral and diplomatic standing after a Paris agreement, with countries reluctant to flout their targets and risk being treated as pariahs.”

### **What the Paris Agreement Means for Canada and Alberta**

In [Canada’s National Statement at COP21](#), Prime Minister Justin Trudeau promised that “Canada can and will do more to address the global challenge of climate change.” Given its bottom-up NDC based approach, the Federal government’s pre-2020 and post-2020 commitment to addressing climate change will play a large role in determining what the Paris Agreement means “at home”.

At present, Canada's formal commitments are reflected in the Intended Nationally Determined Commitment (INDC) [submitted](#) to the UNFCCC Secretariat by the former Harper government in the lead-up Paris. This INDC puts forward “an economy-wide target to reduce our greenhouse gas emissions by 30% below 2005 levels by 2030.” Excluding forestry, this target [translates](#) to an emission reduction of 2% below 1990 levels.

Not surprisingly, even before the more ambitious long-term temperature goals were agreed to in Paris, Canada's INDC was rated “[inadequate](#)”. This problem is compounded by the fact that Canada has yet to formulate a credible climate change plan to meet its less than ambitious 2020 targets (see [here](#) and [here](#)) or the 2030 targets put forward in Canada's current INDC.

The Canadian government must do more, indeed *much more*, if it is to meet the Paris Agreement commitments. This means putting forward emission reduction targets consistent with holding global temperatures to well below 2 °C, or more (in)credibly the 1.5 °C goal the Canadian government supported in Paris backed by a comprehensive implementation plan. It means putting forward a plan that aims for a peaking of emissions as soon as possible and undertaking rapid reductions thereafter so as to balance anthropogenic emission by sources and removals by sinks of greenhouse gases in the second half of this century. Prime Minister Trudeau has [promised](#) that his government will do just this. He proposes to meet with the provinces within the next 90 days to formulate national emissions reduction targets, with Canada's current INDC the “[floor](#)” for Canada's ambition, and to develop a concrete “pan-Canadian climate change framework”. And while the specifics of the at plan are, of course, yet to be determined, [Prime Minister Trudeau](#) and [Environment Minister Catherine McKenna](#), have made two significant commitments – the Canadian government will eliminate fossil fuel subsidies (estimated by the International Monetary Fund to be \$34 billion) and will put a price on carbon.

These commitments, in turn, will impact Alberta's oil and gas sector – and particularly the emissions intensive oil sands - something that any credible pan-Canadian climate plan must necessarily do. Indeed, when Canada's emissions are [broken down into major economic sub-sectors](#), the fastest growing source of emissions, and the most significant, is the oil sands. This is despite the efficiency gains have been realized for in situ oil sands operations and bitumen upgrading facilities, driven in part by Alberta's [Specified Gas Emitters Regulation](#). In fact, absent new measures Environment Canada's 2014 [emissions trends report](#) projected that oil sands emissions would drive increased emissions from the oil and gas sector of 45 Mt CO<sub>2</sub>e (to a total of 204 MtCO<sub>2</sub>e) between 2005 and 2020, offsetting the emission reductions made in other sectors. Environment Canada's projections do not, of course, consider the measures in Alberta's new “[Climate Leadership Plan](#)”, announced in the lead up to Paris. While the details of the Plan have still not been worked up, it seems clear that despite its strides forward, it does not go far enough to meet the ambition of the Paris Agreement. In relation to the oil sands sector, Alberta's Climate Leadership Plan promises to do two things. First, Alberta will adopt an oil sands specific emission performance standard with a \$30/tonne carbon price applied to any additional emissions. While the details of how this standard will operate have not been released, it appears that Alberta is proposing some form of baseline and credit system, with only the portion of emissions from any given facility above the performance standard exposed to the \$30/tonne carbon price. It remains to be seen, therefore, what sort of carbon price signal an individual oil sands operation would be exposed to under the Alberta Plan and whether it will be sufficient to drive technological innovation in the sector. The second oil sands specific aspect of the Alberta Plan is the promise to legislate a maximum emissions limit of 100 Mt/year on Alberta's oil

sands. With oil sands operations currently emitting roughly 70 Mt/year, the Alberta Climate Leadership Plan leaves “room” for emissions from the oil sands to grow by 30 Mt /year. The Canadian government has [stated](#) that any new federal plan will be “flexible to the circumstances and policy approaches of the provinces and territories”. However, absent rapid deployment of carbon capture and storage, it is difficult to see how there is room for this level of emissions growth in pan-Canadian climate plan designed to meet the commitments in the Paris Agreement.

Ultimately, it may not be Canada, alone, that decides what effect the Paris Agreement will have on oil sands operations, or indeed the fossil fuel sector as a whole. As the Alberta government recognized in the [Climate Leadership Discussion Document](#) released back in August, tools such as California’s Low-Carbon Fuel Standard mean that emissions-intensive production methods “will be disadvantaged in one of North America’s largest transportation markets”. As countries around the world strive to meet their Paris Agreement commitments – aiming to peak emissions as soon as possible and undertaking rapid reductions thereafter so as to achieve carbon neutrality by the second half of this century – one would expect that this will increasingly be the case.

## **Conclusion**

As Prime Minister Trudeau said in his Statement following the conclusion of the Paris Conference, “[t]here is much tough work that still needs to be accomplished both at home and around the world to implement the agreement. He went on to say that “years from now, today may very well be the day our children look back to as the beginning of an ambitious global effort to finally fight climate change. I am proud of the role Canada is playing in reaching this historic and balanced agreement, and I am confident that the world will rise to the challenge of addressing climate change.”

Well, the post-Paris celebrations are now over and it is time for Canada to get down to the tough work of implementing the Paris Agreement. I, for one, hope that my children will be able to look back on this day as the beginning of Canada’s ambitious efforts to give effect to this historic international agreement.

To subscribe to ABlawg by email or RSS feed, please go to <http://ablawg.ca>  
Follow us on Twitter [@ABlawg](#)

