

## **‘Chinese Dream’ in Paris: Legal and Policy Commitments in the New Climate Change Regime**

Eric Yong Joong Lee\*

*The agreement is not perfect, however, this does not prevent us  
from marching forward with this historic step.*

Xie Zhenhua (China’s Special Envoy on Climate Change)

### **1. Beginning: Paris Accord**

The Paris climate change conference among the UNFCCC parties (COP 21) was a dramatic turning point of human struggle for an emission free world. On December 12, 2015, all of the 195 UNFCCC member States and the European Union unanimously adopted a historic accord by consensus to reduce greenhouse gas emissions.<sup>1</sup> It has been widely recognized that the earth’s atmosphere is growing warmer due to greenhouse gas emissions generated by fossil fuel use.<sup>2</sup> The conference aimed to respond to this global question by adopting a comprehensive agreement to curb such excessive emissions.<sup>3</sup> This Paris Agreement will take over the role of the Kyoto Protocol after 2020 in a more comprehensive manner.

The Paris Agreement includes a long-term goal of “holding the increase in

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\* Professor of International Law at Dongguk University – Seoul, Korea; President of YIJUN Institute of International Law. B.A.(U. Washington), M.P.A.(Seoul N. U.), LL.M.(Leiden), Dr.iur. (Erasmus). ORCID: <http://orcid.org/0000-0001-5640-490X>. The views reflected in this article are his own. Readers’ comments are cordially welcome. The author may be contacted at: [grotian@hotmail.com](mailto:grotian@hotmail.com) / Address: 562 Gwangnaruro, Kwangjin-gu #201 Seoul 05033 Korea

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”<sup>4</sup> as an ideal stage.<sup>5</sup> Article 4(1) of the Paris Agreement calls for controlling “global peaking of greenhouse gas emissions as soon as possible” and the “rapid reduction ... of greenhouse gas emissions in the second half of this century.”<sup>6</sup> The Paris Agreement is the first universal climate accord that all the UNFCCC member States have signed. It should have a more fundamental influence on the global greenhouses gas control mechanism than the current Kyoto Protocol.

The greenhouse gas emissions will be first controlled by each member’s voluntary submission of contributions. This newly adopted bottom-up model is called the Intended Nationally Determined Contribution (“INDC”). By December 12, 2015, 186 countries had published their action plans.<sup>7</sup> The collective progress towards achieving the purpose of this Agreement and its long-term goals (global stocktake) will be periodically assessed.<sup>8</sup> The first global stocktake will be undertaken in 2023 and then every five years thereafter.<sup>9</sup> The member States will not be able to lower their targets and are encouraged to raise them. In addition, the countries will aim to achieve carbon neutrality in the second half of the century.<sup>10</sup> Fully respecting equity and the principle of “common but differentiated responsibilities,”<sup>11</sup> this Agreement requests developed country parties to assist developing country parties with financial support in order to achieve their commitments.<sup>12</sup> Developed countries agreed to provide USD 100 billion in Copenhagen (COP15) for developing countries by 2020. The Green Climate Fund was established in 2010.

China was a main actor in Paris. As the world’s top emitter of greenhouse gases (about 25 percent), she was charged with a leading role in this landmark deal towards a “truly universal agreement on climate change.”<sup>13</sup> While setting up the new global climate change regime, China’s role was dominant. Her legal and policy commitment over the Paris accord should be carefully re-examined.

## **2. Roadmap: From Copenhagen to Paris**

### *A. Copenhagen: Painstaking Footstep*

The Copenhagen Conference of 2009 (COP15) was a painstaking process for

everyone. The parties were not well intermingled with each other to adopt the global consensus for the revolutionary GHG reduction. In Copenhagen, China's influence was apparent, but ambiguous.<sup>14</sup> With strong economic growth for the past decades, China resembled a developed country in many ways. She was already the biggest carbon emitter on the earth. Nevertheless, China positioned herself as a developing country without historical responsibility, even demanding financial and technological aids from the developed side.<sup>15</sup> This ambiguous position caused tensions within developed as well as developing countries.

In Copenhagen, China did not want a legally binding commitment to reduce emission, but a voluntary option with a highly ambitious goal to control it. China announced plans to reduce emission by 40 to 45 percent per unit of GDP compared to 2005 level by the year 2020.<sup>16</sup> However, the US had no intention of announcing any concrete pledges for long-term climate funding.<sup>17</sup> The two-week course of negotiation was messy. The results were not very significant.

#### *B. Durban: A Platform for Significant Advances*<sup>18</sup>

The Durban Conference of 2011 (COP 17) was a breakthrough towards a more comprehensive and flexible carbon emission reducing system. By a Platform, the Durban Conference made a number of significant advances as follows:

1. It created a structure to negotiate a new agreement with commitments and actions with more countries;
2. It recognized that the Copenhagen commitments and actions were as insufficient to keep global temperatures from rising more than 2°C; and
3. It established the Green Climate Fund to assist the poorest countries not just in reducing their greenhouse gas emissions, but in adapting to the changes in the climate.<sup>19</sup>

Durban launched a new process toward a substantial advance over the voluntary approach taken at Copenhagen.<sup>20</sup>

China came to Durban with two issues for negotiations. The first question was whether to adopt an agreement with legally binding force.<sup>21</sup> The second question was whether to apply the emission cap as part of domestic policy. China's

emissions experts indicated they were looking for a way to establish absolute emissions caps.<sup>22</sup> These indications suggested that China would consider a different approach from that of COP 15. By implementing the Copenhagen target under the 12th Five Year Plan, the Chinese leadership might have fully recognized the level of her emissions and the capacity to manage them. As a result, China had more practically recognized the gap between what the international community asked and what she could implement.<sup>23</sup>

China changed not only her statement but also her ‘style’ to provide for more flexibility. In Durban, China hosted multiple events every day, inviting governments, NGOs and academics.<sup>24</sup> Throughout the process, Chinese negotiators eventually acknowledged that every party had different viewpoints on the emission issue. China chose to compromise.<sup>25</sup> Adhering to the Kyoto Protocol and the creation of the Green Climate Fund as important agenda, China agreed to negotiate in order to adopt a new universal agreement of fundamentally reducing greenhouse gases in the post-Kyoto Protocol era with legal binding force. Yet, the Durban Platform does not refer to “common but differentiated responsibilities,” a basic principle of both the UN Framework Convention for Climate Change and its Kyoto Protocol. China wanted to omit such language in the official document.<sup>26</sup>

### 3. Climate Deal: China v. US

Another aspect of the Paris Agreement is the climate deal between the two biggest CO<sub>2</sub> emitters in the world: China and the US. It was triggered by President Obama’s Beijing visit in December 2014, during when both reached a historic climate change deal to cut greenhouse gases emission. After the summit, the two leaders delivered the climate announcement. Here, President Obama pledged to cut US emissions to 26-28 percent below 2005 levels by 2025.<sup>27</sup> Responding to this proposal, President Xi Jinping addressed that China would reach a peak in carbon dioxide emissions ‘around 2030’ and then 20 percent of China’s energy would come from sources other than fossil fuels.<sup>28</sup>

This joint climate announcement was re-confirmed by the US-China Joint Presidential Statement on Climate Change.<sup>29</sup> It was released just before the Paris conference in September 2015 when President Xi Jinping visited Washington.<sup>30</sup>

The Statement described a common vision for the Paris climate conference, ambitious domestic climate action policy, climate cooperation, and commitments to global climate financing.<sup>31</sup>

These joint deals led to the two biggest emitters' consensus for the post-2020 low carbonized global economy on the eve of the Paris climate conference. In the joint statement, President Xi Jinping proposed three noticeable elements. First, China promised to launch a national emissions trading system by 2017.<sup>32</sup> China is introducing a national cap-and-trade system,<sup>33</sup> a considerable development compared to the US's absence of the federal level carbon pricing program.<sup>34</sup> Second, China agreed to promote "green power dispatch" to prioritize renewable power and more efficient fossil fuel power generation (i.e. supercritical systems).<sup>35</sup> This could potentially have a significant impact on China's greenhouse gas emissions by more utilizing China's renewable energy capacity.<sup>36</sup> Third, China agreed to commit USD 3.1 billion in "the China South-South Climate Cooperation Fund" for developing countries.<sup>37</sup> Even though this finance is not a kind of the Green Climate Fund (which is to provide financing from developed to developing countries), China is prepared to help the developing world mitigate and adapt to climate change.<sup>38</sup>

#### 4. Contribution

Based on these processes, on June 30, 2015, China finally submitted the following INDC to the new global climate agreement as the action plans by 2030:<sup>39</sup>

- Peaking of carbon dioxide emissions around 2030 and making best efforts to peak early;
- Lowering carbon dioxide intensity (carbon dioxide emissions per unit of GDP) by 60 to 65 percent from the 2005 level;
- Increasing the share of non-fossil fuels in primary energy consumption to around 20 percent; and
- Increasing the forest stock volume by around 4.5 billion cubic meters from the 2005 level.<sup>40</sup>

China has set goals to reduce energy intensity in her last two five-year plans.

Additionally, China committed to reducing the carbon intensity (carbon dioxide emissions per unit of GDP) 40-45 percent below her 2005 level by 2020.<sup>41</sup> The intended goal for 2030 - lowering CO<sub>2</sub> intensity 60 to 65 percent from the 2005 level is based on these goals.<sup>42</sup>

Low-carbon growth is inevitable for China's future development. However, China will face a number of challenges in achieving her own INDC targets such as economic structure, energy resources, energy efficiency, technological capacity, policy basis, international environment, etc. The following could be referred to as those challenges:<sup>43</sup>

1. Accessibility to natural resources will increase the risk of failing the INDC targets;
2. As China is still in the process of industrialization and urbanization, there would be a constant increase of energy consumption and carbon emissions;
3. It will be vital to cultivate the young generation to adopt a low-carbon consumption model and lifestyle;
4. Technology is another major challenge facing China in achieving its INDC objectives. China's overall technological level lags behind, with limited R&D capacity of key technologies, especially in low-carbon and adaptation technology;
5. To achieve mitigation and adaptation targets requires huge investment and construction costs. Some of the incremental investments bring about economic returns, while a majority of them are just huge economic costs; and
6. China is relatively weak in a sound statistical and accounting system for GHG emissions, monitoring, regulation, and calculation of GHG emissions, as well as in law enforcement capacity.<sup>44</sup>

## 5. 'Green Development'

The Paris Agreement is a historic landmark. The next step is the implementation of these climate change commitments. The following implementation plans are needed for China's 'Green Development.' First, the climate commitments should

be incorporated into the 13th Five-Year Plan (2016-2020).<sup>45</sup> Second, coal usage should be drastically restricted because most of China's carbon emissions are due to coal burning.<sup>46</sup> Third, a clean electricity dispatch from renewable sources should be prioritized.<sup>47</sup> Fourth, 50 percent of all new urban buildings should meet the green building standards by 2020.<sup>48</sup> Fifth, the share of public transit in all motorized urban transport should reach 30 percent by 2020, presenting the potential for larger reductions in CO<sub>2</sub> emissions.<sup>49</sup> Sixth, highly potent and short-lived climate pollutants like HFCs and black carbon should be reduced. Seventh, the domestic rules for monitoring and reporting GHG emissions including the GHG Monitoring and Reporting System should be strengthened and developed.<sup>50</sup> Last, green and low-carbon policies and regulations should be strengthened with a view to strictly controlling public investment flowing into both domestic and international projects with high pollution and carbon emissions.<sup>51</sup>

## 6. Epilogue: 'Chinese Dream'

China announced that it would reduce carbon dioxide emissions per unit of GDP by 60 to 65 percent from 2005 levels by 2020. This means that by 2020, carbon intensity should drop by 40-45 percent, and 15 percent of primary energy will come from non-fossil source.<sup>52</sup> In 2014, China invested USD 90 billion in renewable energy. Such a drastic shift of national climate change policy may be inferred from the environmental crisis that China has been facing. China's air pollution is getting more serious, as shown by the issuance of a 'red alert' in 2015. Such 'toxic skies',<sup>53</sup> are mainly due to the excessive coal consumption which comprises 70 percent of China's energy sources. The Chinese leadership must recognize that the environment is fundamental to their politics. Thus, the fact that China is changing her main energy source into nuclear power and deciding to place climate change on the national agenda can be viewed as a promising progress. Another eco-friendly renewable energy, however, will fully replace the nuclear power in the near future for a more secure and sustainable world. Renewable energy will be a key factor of the 21st century's world politics as well as economy. Without taking the paradigm shift for granted, no country could play a leading role in global society. President Xi Jinping stated: "Nowadays, everyone

is talking about the Chinese Dream... In my view, realizing a great renewal of the Chinese nation is the country's greatest dream."<sup>54</sup> What would be a 'great renewal' of China is another concern for us.

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