

It is often hard to make sense of what happens at the annual climate meetings, and easy to get cynical. For two or three weeks, climate politics gets intense worldwide news coverage. Acute pressure mounts over the two weeks to get some announcable achievement, which almost always happens after all-night negotiations on the final day. Then things move on. Given the long-standing and continuing failure of negotiations to achieve real, concrete progress in handling climate change, it's easy to write off the whole formal international process as empty greenwashing, by which people demand credit for tiny and symbolic actions, or for reaching agreement



on outcomes that are so abstract, aggregate, and far in the future that they don't require any costly or difficult near-term action. It gives you some sympathy for Greta Thunberg's summation of this year's COP, "blah-blah."

On reflecting on this year's COP, however, I saw it a little differently, and more optimistically, than I have the last few. It was clearer than in most past meetings that the formal negotiations are not the only place, or even necessarily the most important place, where things happen. In fact, you can think of these events as consisting of three concentric circles. The innermost circle is the official negotiations. The outermost is the mobilized citizens, with a heavy representation of young people, advancing their cries of alarm, demands, proposals, and ideas, out in the streets and in the Side Events. (Side events usually take place in a separate area established by the COP organizers for NGOs and civil society, which is usually inside the first level of venue security but outside the area for the people actually

involved in the negotiations). And the middle one is a shifting informal hybrid, which I increasingly think is where the most important action takes place.

It's pretty clear that neither the innermost nor outermost circle has yet achieved much concrete advance in dealing with climate change. The inner circle has the actual authority to enact new international obligations – or to be more precise, it sometimes has that authority: opportunities to do so come up only every several years, by prior determination. But it is so tied down by its structure of universal participation with consensus decision-making, with sharp political conflicts at play, that obstruction is easy and opportunities to push effective action through if there is any more than trivial opposition are rare. As a result, these meetings are usually a disappointment. (Note, however, that while these structural obstacles are real, they don't mean formal international processes can't do anything. On other environmental issues they have sometimes achieved a great deal. But this is a fair description of actual achievements in international climate negotiations thus far.) The outermost ring, for its part, is the pulse of the issue. What goes on out there is diagnostic of the state of popular climate debate and the level of alarm. But beyond those functions, the outer ring lacks the resources, authority, capabilities – and for that matter, the legitimacy – to make large-scale social change. The middle ring is the space of informal, improvised action by diverse actors, including national governments, international organizations, private business and industry, and environmental and other civil-society groups. It's the place where these diverse types of actor come together and are able to convene fit-for-task groups to undertake action without procedural formality and without obligations for universal participation. While this three-concentric-circle structure is virtually always present in significant international environmental negotiation, this year's COP was remarkable for the clarity of the situation, both in terms of how little the formal process did and for how much the informal processes did. To skip to the punch line, the in-between circle is the place with the greatest scope for effective action – but this possibility depends on the presence of both the inner and outer circles.

To elaborate on this, I'll provide a bit more detail on what happened at Glasgow in each of these circles. I find this perspective quite clarifying, particularly because news accounts of COPs often mix reporting of things happening in all three circles, so the opportunities and limitations re what can be accomplished in each are not clear.

The inner circle

These are the official negotiations, which take place inside closed or mostly-



closed rooms. The innermost circles are limited to members of national delegations, the Secretariat and its staff, and sometimes representative of official international organizations. If you go to one of these meetings, your status is determined by the type of organization you registered with, as represented by different colored ID badges. People credentialed as part of a NGO may sit in on the larger and more formal of the negotiation sessions, but not the smaller, hotter rooms where real negotiations take place. (And of course, at these meetings, “NGOs” describes a wildly diverse set of organizations, including for illustration Friends of the Earth, the University of California, the World Council of Churches, the California State Legislature, the International Brotherhood of Electrical Workers, and ExxonMobil – although ExxonMobil people usually get their credentials through some other organization, perhaps the American Petroleum Institute, the International Chamber of Commerce, or the World Business Council for Sustainable Development).

This official inner circle is now doing the business of the three separate international treaties in force for climate change: the 1992 Framework Convention on Climate Change (FCCC), the 1997 Kyoto Protocol (Yes, it still exists and is in force, although the United States is not a party), and the 2015 Paris Agreement. Each of these treaties includes provisions requiring the Parties to meet annually. They meet more often than that, but it’s the big annual meetings that are formally required. Interim meetings, typically 3 or 4 a year, involve lower-level officials doing preparatory work for the COP, preparing the agenda for larger-scale, official decisions taken at the COP, where nations are represented by higher-ranked officials, the head of delegation typically a Minister or Head of Government (a President or Prime

Minister). In an impressive display of administrative good sense, the meetings of Parties of the three separate treaties, although formally separate, take place at the same time and place each year. This is why the events are so confusingly named, because the meetings for each treaty have a separate name, acronym, and number. Thus, this year's Glasgow meeting was "COP26" – meaning that it was the 26th meeting of the Conference of the Parties to the FCCC, counting from the first COP held in 1995 in Berlin. This year's meeting was also "CMP16" (the 16th meeting of the Conference of the Parties to the Kyoto Protocol of 1997), and CMA3 (the 3rd meeting of the Conference of Parties to the Paris Agreement of 2015).

The Kyoto and Paris agreements are each separate treaties adopted under the FCCC. Each of them was adopted at some prior COP, after parties at some still-earlier COP made a political (i.e., not legal) decision to authorize negotiations of the new instrument. These prior political decisions, which are usually themselves given catchy names, provide authorization for parties to negotiate a new treaty under the FCCC and guidance regarding the broad aims and boundaries of those negotiations, but don't have legal force beyond that procedural, internal-to-the-negotiations character. Thus did the "Berlin Mandate" of 1995 (adopted at COP1) lead to the adoption of the Kyoto Protocol in 1997, and the "Durban Platform for Enhanced Action" of 2011 (adopted at COP17) lead to the adoption of the Paris Agreement in 2015.

When parties are not negotiating new treaties, the regular business of these meetings is conducted via "decisions": text adopted under one of the existing treaties regarding implementation, interpretation, or elaboration of existing legal obligations, without creating new ones (that would require amending one of the treaties, or adopting a new one). Each COP produces roughly 20 to 30 decisions, on matters ranging from the most tiny and routine (e.g., authorizing funding for the Treaty Secretariat), through mechanical matters of greater substantive significance (e.g., clarifying matters previously left ambiguous, like this year's decisions on carbon markets related to Paris Article 6), through statements of intent to do larger new things like negotiate a new treaty or establish a new international institutions.

The largest decision adopted this year, and the main focus of negotiations and political conflict, was called the "Glasgow Climate Pact." But with three separate treaties implicated, you might reasonably wonder under which Treaty the Glasgow Climate Pact was adopted. Trick question: the answer is all three. There are actually three separate decisions, one adopted under each treaty, all called the Glasgow

Climate Pact. And in case that is not confusing enough, the texts of these three decisions, while carefully coordinated, are not identical, because each decision must conform with and refer back to its own treaty. This time, because the important decisions concerned implementation and interpretation of provisions of the Paris Agreement, the biggest decision – and the one that reflects the agreed resolutions of key points being negotiated – is the Glasgow Climate Pact Decision under the Paris Agreement. If you're reading through a Glasgow decision and puzzled that you're not seeing the text you expected, you're probably looking at the wrong Glasgow Climate Pact Decision – either the one adopted under the FCCC, or the one adopted under the Kyoto Protocol.

The Washington Post and Lawfare both provided helpfully annotated versions of the crucial Glasgow decision, the one adopted under the Paris Agreement. The highlights of this decision are the following:

First, parties adopted an accelerated schedule for updating their "Nationally Determined Contributions" or NDCs. The Paris Agreement is organized around NDCs: statements of what each nation plans to do to contribute to resolving climate change. The Paris agreement specifies procedural requirements for NDCs, but not their substantive contents. Each nation has full discretion to determine what it says it will do, how, and by when; they are only legally bound in the requirement to make this statement, following specified procedures, on a specified schedule, and to submit to various review and assessment procedures thereafter. Parties submitted their first NDCs for the 2015 Paris meeting, and most submitted an update for 2020, but the schedule thereafter was not fully agreed. The expectation was that the requirement to regularly update these and review them with others would generate pressure for nations to progressively increase their stated ambitions, and to achieve what they said they would. At this year's meeting it was confirmed that these would generally follow a 5-year cycle, with updated NDCs submitted by 2025 covering plans for 2030-2035, submitted by 2030 to cover 2035-2040, and so on. But in addition, for this round in particular, the Glasgow Climate Pact requests that parties accelerate their next NDC update, submitting it by the end of 2022 to strengthen their 2030 emissions target (Article IV, para 29, PDF).

Second, this year's COP (finally) completed the "Paris Rulebook," guidelines for implementing the provisions of the Paris Agreement. This was supposed to be done by the 2018 COP in Poland, three years after Paris, but a few contentious matters were only resolved in Glasgow. The completed Rulebook includes a bunch of details regarding the timing and contents of NDCs, the associated information reporting

requirements, and the procedures of the "Global Stocktakes." These are the periodic reviews of NDCs and overall progress, which are to be done once each cycle, 3 years after each NDC update and 2 years before the next one – so the accelerated updates requested by end 2022 will be available to consider in the first Global Stocktake in 2023.

The biggest previously unresolved part of the Rulebook was the treatment of international cooperation and emissions trading, implementing provisions of Paris Article 6. Three separate paragraphs in Article 6 deal with accounting rules for bilateral transfer between parties of "mitigation outcomes" (i.e., emissions or their reductions – Article 6.2); a not-yet-implemented multilateral mechanism to facilitate and approve such transfers, similar to the Clean Development Mechanism under the Kyoto Protocol (Article 6.4); and non-market approaches to facilitate international cooperation (Article 6.8). Glasgow clarified the accounting rules under 6.2 to reduce (but not fully eliminate) the risk of double-counting reductions when emissions are traded, and to clarify the extent to which remaining credits from older trading systems can be used under Article 6 (pretty tight, better than expected, but not as tight as it could have been).

Other matters addressed in the formal inner circle included a few points that have no binding legal force, but that represent the current state of debate on some matter and provide informal support or precedent for future actions. Several of these got big headlines despite not representing any legally binding agreement. One example is the first explicit mention of fossil fuels as the main driver of climate change and a statement of resolve to cut them. This is in Paragraph 36, in language softened at the insistence of China and India, to "phasedown" rather than "phaseout" of unabated coal power, and to add the word "inefficient" to "phase-out of inefficient fossil fuel subsidies." An important advance, although less than it was made out to be since this language all sits in a hortatory paragraph that "calls upon" Parties to do these things. A second such example is the text that kept alive the discussion of "Loss and Damage" – the term of art for measures responding to climate damages that remain after adaptation, presumably financial and technical support (but don't call it compensation). The industrialized countries' price for keeping Loss and Damage alive was to downgrade the mode of dealing with it from a "mechanism" (the Warsaw International Network for Loss and Damage) to a "network" (the Santiago network for averting, minimizing and addressing loss and damage) and a "dialogue" (the Glasgow Dialogue between Parties, relevant organizations, and stakeholders to discuss the arrangement for the funding of

activities to avert, minimize, and address loss and damage) (Paragraphs 61-74).

All in all, this is not much, certainly not much relative to the extremity and urgency of the climate-change threat. But it's not nothing either. Particularly given the procedural formality of the negotiations and the long lead-times for adopting any concrete new commitments or actions, much more than this would not have been possible. In fact, by the grand procedural schedule in the sky this COP was on track to be a small one, mostly cleaning up unresolved implementation matters and preparing the ground for more substantial advance in NDC ambition in conjunction with the 2023 Global Stocktake. In this context, the agreement to accelerate the next revision of NDCs to be submitted before that Stocktake represents real progress, even if small relative to the need.

Of course, the COP also decides where future meetings will be held. It was agreed that the 2022 COP will take place in Egypt, which has just enacted a new law restricting peaceful protest (so don't expect the same level of activity in the outer ring as in Glasgow), the 2023 COP in the United Arab Emirates.

The Outer Circle:



This is the space for citizens, especially young activists; and for NGOs, especially the smaller, more grassroots-based, less resource-rich NGOs that greatly outnumber the small number of professional, resource-rich NGOs we've all heard of (although the groups here aren't completely resource-starved either: it costs money to get to Glasgow, and while many small NGOs find partners, sponsors, or other ways to get there, not everyone who wants to be there is there.)



This circle spills over a wide area, from right outside the meeting venue to streets throughout the host city. It's noisy, it's disorganized, it's a crazy expressive mix of manic, angry, and despairing, it's a cacophony of mixed messages at high volume – and it's fun. For climate activists anywhere in the world, this is the gathering of the clans – even when it's not in Scotland. The people here benefit from the world platform, where they can get intense global press coverage, especially for people who have clever messages or eye-catching demonstrations. They also benefit from unparalleled opportunity for coordination, networking, and formal and informal training. Among other things, this is a place where climate activists who might be lonely, isolated, or actively threatened in their home countries get heightened connections, prominence, and mutual protection and support. It's also where a ton of ideas get thrown out, exchanged, and argued over. Thousands of people trying to promote new policy ideas, new campaign strategies, new technologies, or new businesses related to climate change are here, taking advantage of the globally influential audience right nearby, the huge global platform, and the opportunity to work out and argue over ideas in the dense primeval soup. huge platform, getting in front of a globally influential audience, and working out and arguing over ideas in the dense primeval soup.

Most of the people here have no direct authority, and little in the way of resources to make more than symbolic actions. And among the resources they are lacking is the information or expertise to identify actions that have a chance of making a difference. This is the place for denouncing the folly, recklessness, and injustice of what's going on without being expected to say what to do about it; the place for stating big aspirational demands, without having to generate concrete, specific, achievable steps. None of this is to criticize these folks. Coming up with the practical actions and the feasible political compromises is not their job, nor should it be. Their job is to signal the overall degree of concern, alarm, outrage. Even if the

connection with the suits inside the room is indirect, it matters a lot when the outer ring generates a protest that attracts 100,000 people.



And the people in official roles very much keep their eyes on what's happening here and wander through now and then to check what's happening. I've said that this level achieves nothing directly, but sometimes it can achieve a lot indirectly. It's not unheard of for officials, IGOs, or even members of the Secretariat to slip a quiet word to activist acquaintances, suggesting particulars of the timing, messaging, or targets of demonstrations or statements that might be particularly helpful in putting pressure on a recalcitrant party, and so get (a little) more movement in the inner circle.

The Middle Circle

In between the official inner circle of formal negotiations and the outer circle of citizen protest and activism sits a diffusely bounded zone of informal entrepreneurship and activity by a wide range of actors: national governments, NGOs, international organizations, and also private firms and investors. It has become routine to announce new initiatives in technology, social entrepreneurship, or philanthropy at COPs. But this one was extreme in the scale, number, and diversity of initiatives announced, including the following:

- The Global Methane Pledge, initially announced by the US and EU at the September Major Economies Forum, under which more than 100 countries have made a (voluntary, non-binding) pledge to cut national methane emission at least 30 percent from 2020 levels by 2030.
- The US-EU Deal on Steel and Aluminum, to reduce international trade conflicts over these sectors and adopt coordinated sectoral emissions reductions, together with trade provisions to press other producers to follow these measures or risk loss of export markets;
- A pledge by 450 private financial firms controlling $130 Trillion in assets to

deploy climate finance in pursuit of the 1.5C target;
- The US-China bilateral declaration, including undertakings to cut emissions of methane and CO2, expand climate finance, and adopt other measures to pursue the Paris 1.5°C target;
- A pledge by more than 140 countries, representing more than 90% of the world's forests, to stop and reverse deforestation by 2030 – backed up by about $20 Billion of funding;
- Dozens of new members joining the Powering Past Coal Alliance, an initiative launched by the UK and Canada in 2017, with pledges to phase out unabated coal plants, now augmented by a new "Global Coal to Clean Power Transition Statement," now with more than 100 members (national, sub-national, business, and NGO) including more than 40 national governments;
- And no doubt I'm overlooking several more.

None of these is legally binding; they mostly lack provisions for enforcement, monitoring, or even standardized reporting; some don't even precisely specify what's being promised. So statements about how big a contribution they will make need to be taken with a grain of salt. They will probably fall short of initial optimistic estimates, sometimes by a lot.

But arrangements like these also offer some serious advantages relative to formal international action. Initiatives like these can provide vehicles for ad hoc groups of leaders to jointly undertake action – moving first and taking the early risks to demonstrate feasibility and make later adjustments as needed. Their procedural informality and flexible participation enables action among those ready to take it. They allow coordinated action from private as well as public actors, making it possible to mobilize larger financial flows with fewer constraints. In contrast to formal international law-making, they offer no possibility for obstruction: if the most ambitious think you are not being constructive or not acting in good faith, they are under no obligation to keep including you. And of course, once they get going, learn how to do it, and demonstrate feasibility, these can readily expand participation. In fact, when major economies are involved in the start of such initiatives, they can often find ways to make it attractive for others to join or follow – as, for example, the US/EU steel and aluminum initiative suggests there may be significant trade advantages for other producers to join in the new standards. Such initiatives may even provide initial pilot tests for subsequent actions that might be taken with more specificity and legal force. In sum, these are a strange mix of innovative action including some real ambition, with some boosterish over-confidence, and

sometimes a smidgen of magical thinking, greenwashing, and hypocrisy. But as Jon Elster brilliantly pointed out, hypocrisy can be a powerful force for social good, insofar as hypocrites have to make real changes in their behavior to avoid an embarrassingly large gulf between their words and their deeds. In assessing such initiatives, it thus helps to approach them with a sense of humor, or at least irony – insofar as this stance is possible on a matter as grave as climate change. Even if these are vague, unenforced, and sometimes vehicles for cheap virtue-signaling or hypocrisy, they still hold the prospect of mobilizing stronger, more serious action than is presently coming out of the formal international law-making in the inner circle.

I strongly suspect that this middle circle depends – in the effectiveness of actions that come out of it, perhaps even in its existence – upon both the inner and outer circles, which feed it authority, convening power, resources, and vivid signs of the urgency of the task. So for all that we love to criticize the slow, formal, clumsy weight of the official legal process, and for that matter to dismiss the noisy, disorganized outer circle, it may be that these are both necessary for real progress, even if the proximate site of that progress is in the strange, labile space in between these.