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Paris Agreement: Careful with single-mindedness on legal bindingness

Auteur

Thomas Spencer
Associate Researcher

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The most important thing in these climate negotiations is that the Paris Agreement creates credibility and confidence. And legal form is one of the tools to do so. But it is by no means the only one.

The content of the Paris Agreement, the targets it contains, the direction of domestic policy in key countries, seeing that business is starting to move on the necessary solutions—all of these can help to create an agreement in Paris which starts to change the game on climate change. Within the agreement, the mechanisms to ensure the transparency of action and finance are particularly important. We need to go beyond emissions to understand more about how countries will reach their targets with concrete policies. The long, slow process of [multilateral assessment](#) that was completed

for 17 countries in Lima this week also highlights the need for independent technical institutions to be the core of this transparency regime. We shouldn't burden negotiation groups with this technical process. Having said all this, the issue of the so-called legal form of the new climate agreement is clearly one of the key crunch points. Renowned economist Lord Nicholas Stern was widely [quoted](#) yesterday saying that a legally binding treaty was 'not necessary' for the Paris climate talks. This question won't be solved here in Lima, but more and more discussions are taking place as negotiators start to get to grips with the issue. The most important thing to hammer home is that legal bindingness is not a black and white issue. There are hybrid models that combine legally binding and non-legally binding provisions. We can play with international and domestic law. The creativity of lawyers is near inexhaustible. Moreover, the legal force of an agreement combines its formal legal nature with its mechanisms to ensure the transparency and accountability of countries' commitments (as noted above). Saying that a legally binding agreement is 'not necessary' overlooks this scope for nuance. Rather than sticking to a black and white approach to legal bindingness, it would be good for countries to begin to explore the concrete range of options on legal form, and how they can be best combined. IDDRI has done so in a recent [publication](#).

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