

Hayama Proposal: Post 2013 International Framework on Climate Change

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1. Objective

To advance the currently stagnant negotiation of international framework on climate change, by presenting the “Hayama Proposal”, under which both developed and developing countries are to compromise.

2. Background

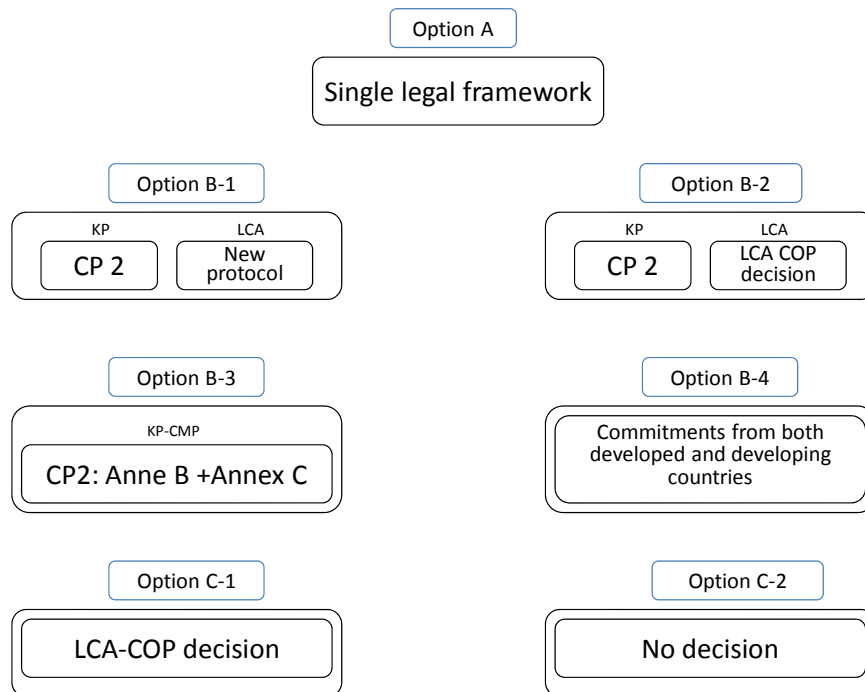
2.1. Assumed legal options

Global warming measures are the immediate and

pressing global issue that requires further reinforcement of international framework under the UN Framework Convention on Climate Change. Although the Kyoto Protocol First Commitment Period (CP1) from 2008 till 2012 is to end soon, the international community so far has failed to agree on the post 2013 international framework, with major contention on a legal format of the next international framework.

The following figure (Fig.1) shows seven major legal options or scenarios considered today.

Fig. 1 Seven options for post 2013 international framework



Note: CP2: Second Commitment Period of the Kyoto Protocol, LCA: AWG-LCA (Ad Hoc Working Group on Long Term Cooperative Action under the Framework Convention on Climate Change to review future framework), KP: AWG-KP (Ad Hoc Working Group on Further Commitments for Annex I Countries under the Kyoto Protocol to review developed countries’ post 2013 emission reduction targets), COP: Conference of Parties to the Framework Convention on Climate Change, CMP: Conference of Parties as the Meeting of Parties to the Kyoto Protocol, Annex B: Countries committed to quantified targets during the First Commitment Period of the Kyoto Protocol, Annex C: Countries without quantified targets during the First Commitment Period of the Kyoto Protocol but newly committing to quantified targets during the Second Commitment Period of the Kyoto Protocol (assuming emerging economies and the United States, etc., refer to Muller 2011 for this option).

Following section describes the actual negotiation positions of various countries in regards to the setting of the Second Commitment Period (CP2) by extending the First Commitment Period of the Kyoto Protocol.

In actual international negotiation forum, the US, Russia, Canada and Japan have already expressed clearly their non-support.¹ Developing countries, on the other hand, support the establishment of CP2. Other developed countries except the above four countries either have expressed their support, in many cases with certain conditions, or have not expressed their non-support at least.

The United States proposed to establish Implementing Agreements in their national proposal submitted to the UNFCCC Secretariat for COP15 in 2009. (Government of USA 2009) This proposal raised a concern on the ignorance of the UNFCCC principle for “common but differentiated responsibility and capacity”. (Hyvarinen and Schwarte 2009) In addition, the United States is further inclining toward the evasion of any legally binding international framework, because of their national situation.

In pre-COP meeting in October 2011, Japan reiterated its clear intention of non-participation in CP2, and further proposed to establish a transition period² till the establishment of single legal framework and to apply a legal framework of so-called pledge and review for that transitional period, under which every major country is to indicate its target and actions. (Japanese Government delegation, 2011)

EU-27 adopted the approval of CP2 during the EU Ministerial Meeting on October 10, 2011, providing that a single legal framework will be built by 2015. (Asahi Shimbun, 2011)

Norway and Australia have not indicated their position on CP2, but submitted a joint proposal to the UNFCCC Secretariat about a roadmap for the adoption of a single legal framework by 2015, as in the case of EU. (Government of Australia and Government of Norway 2011)

Note that developing countries claim that the establishment of CP2 reflecting CBDR principle is the absolutely required condition for agreeing to enter into any agreement.

2.2. Factors of short-term timeframe negotiation

Considering international negotiation of short-term timeframe in the past few years (COP 17 and COP18), in addition to developing countries' strong adherence to CP2 and CBDR principle shown in the past, the US's strong insistence to impose equally legally binding commitment to emerging economies, and the time restrictions on international negotiation, it is not possible to make early agreement on Option A, B-1, or B-3, all of which require a long process to negotiate details and contents. Therefore, B-2 seems to be the option that has relatively better feasibility and more acceptable to many countries, as the amendment of the Protocol is possible when three-fourth of all 147 member country parties agree. In the case of Option B-4 and C-1, there is a strong possibility that even if some kind of agreement is adopted by COP or taken note, it will be a vague and abstract document. We must note that, in such case, it will lead to the worsening of trusting relationships among member countries, greatly dampening the momentum for the adoption of global warming measures.³

The following Table-1 indicates the actual contents and the strictness of commitments of Option B-2, B-3, B-4, C-1 and C-2.

¹ Refer to Asuka (2011) and others about the national situations of the US, Canada and Russia, non supporters of the Second Commitment Period of the Kyoto Protocol.

² Transition periods may signify the period between CP1 and CP2, as well as the period until a legal framework is built. The Government of Japan uses this term to signify the latter case.

³ Refer to the interview of Artur Runge-Metzger, EU negotiator, in October2011 (Bloomberg 2011), etc.

Table 1 Major factors of Option B-2, B-3, B-4, C-1 and C-2 in short term timeframe

Option	KP factors		LCA factors	
B-2	Strictness of commitment ↑ ↓	(One or combination of some factors shown below)	Strictness of commitment ↑ ↓	(One or combination of some factors shown below)
		➤ To agree on the partial amendments of KP's accounting rules, procedures and partial amendment of mechanisms		➤ To agree on quantitative reduction targets, compliance, and the details of mandates until the establishment of future legal framework, such as MRVs, NAMAs, mechanisms, etc. (COP decision)
		➤ To agree on CP2 (with quantitative reduction targets)		➤ To agree on the mandate that can make COP decision on LCA being eventually sublimated to a legally binding agreement in the future including emerging economies, though the time of sublimation is not determined.
		➤ To agree on CP2 (without quantitative reduction targets)		➤ To make political agreement on the possible sublimation of COP decision into legally binding agreement in the future, without mandates
	Weak	➤ To clarify CP2 as the period to "bridge" toward a single legally-binding framework	Weak	➤ Some COP decisions based on the Cancun Agreement, but obscurity on the compliance issue and future framework, etc. is to continue. (If no CP2, that is the Option B-4)
B-3	Agree on CP2 by adding new countries (such as emerging economies) to Annex C			
C-1	No agreement on CP2			
C-2	No agreement on CP2			No COP decision

Note: MRV: Measurement, Reporting and Verification, NAMA: National Appropriate Mitigation Actions that are appropriate emission reduction actions conforming to national situation, Mandate: an international agreement to build a concrete future framework that sets the next commitment period (for example, Berlin Mandate adopted at COP1 in 1994 that committed the creation of a protocol by COP3 in 1997. Here the mandate means "Order" or "Decision").

2.3. Common ground for developed and developing countries

As stated above, developed countries are currently divided into those nations (regions) supporting CP2, and those not supporting CP2. Therefore, in order to avoid losing the momentum on global warming

measures due to negotiation failure, coming international negotiation forum will likely provide various compromises on the table. From such viewpoint, above Table-1 is rearranged in terms of the actual elements involved in CP2 negotiation and the strength of compromises as shown in Table-2.

Table 2 Compromise options of CP2 negotiation proposed for developed and developing countries

Compromise options for developed countries		Compromise options for developing countries	
Degree of compromise ↑ ↓ Weak	➤ To ratify the one with quantitative reduction targets listed in Annex B	Degree of compromise ↑ ↓ Weak	➤ To agree participate in a single legal framework with reduction commitments at relatively earlier stage after 2015.
	➤ To ratify the one with quantitative reduction targets listed in Annex B under certain conditions		➤ To agree to make the LCA conclusion legally binding
	➤ To agree on the provisions of incentives countries ratifying the one with quantitative reduction targets listed in Annex B		➤ To mitigate the demand for developed countries' quantitative targets
	➤ As a transitional measures, to recognize CP2's significance tentatively, but not to determine quantitative reduction targets, nor to ratify the agreement		➤ To allow CP2 non-supporting countries to participate in the discussion of Kyoto Mechanism designs ⁴
	➤ To politically recognize the significance of CP2		➤ The softening of some countries opposing market mechanisms
			➤ To review conditions proposed by developed countries side

“Ad Hoc Working Group on Long Term Cooperative Actions under the Framework Convention on Climate Change” (LCA); and 2) whether there is CP2 or not, LCA framework will be created sooner or later. However, the contents of KP's discussion affect, to a certain degree, the contents and progress of discussion at LCA group. Moreover, how each country participates in the KP discussion will likely influence the discussion on the concrete obligations and rights acceptable to that country.

3. Major factors of Hayama Proposal

With the above background, we find the need for more flexible negotiation on CP2 commitment because of the following reasons: 1) developing countries consider CP2 establishment as the absolute prerequisite in agreeing on any other agreement; 2)

equity viewpoint such as the concept of equal per capita emission or the difference in historical emission volume is essential in building an agreement on global warming measures; 3) it is necessary to avoid losing trust between developed and developing countries and to prevent the fragmentation of a framework; and 4) developed countries taking more flexible responses will be the only way to invite developing countries' compromises or concessions (Teng 2011).

Based on above viewpoint, IGES Climate Change Group announced the “Hayama Proposal ver. 1” at the side event held during UNFCCC Preparatory Meeting in Bonn, in June 2011. The “Hayama Proposal ver. 1” is an option under which both developed and developing countries make compromises with an aim to build a single legally binding framework (single Protocol or a new protocol) around 2020.

Since then, the Proposal underwent modifications and additions through further discussions with stakeholders in national and international forum. The result is this “Hayama Proposal ver. 2”. In this Ver.2,

⁴ If not supporting CP2, the use of Kyoto Mechanism may not be allowed. Refer to Takamura (2010, 2011) and Prag et al. (2011), etc. for the consequence of CP2 non-supporter Kyoto Protocol parties, especially the effects on the market trading system of carbon credits market trading.

we are to discuss about the possible compromises in negotiation within a given timeframe, mainly concerning legal format, compliance, and new flexibility mechanisms, Next Ver.3 will discuss about financial and technology mechanism, MRV, COP decision on LCA etc.

The following depicts concrete points of “Hayama Proposal Ver. 2”.

3.1. Legal format and timeframe

As discussed above, the Hayama Proposal is to assume Option B-2 for a short term and a single legal framework for mid-term, and to review and propose the conditions and processes needed to realize such assumptions. The Option B-2 is a combination of CP2 and COP decisions under LCA as described in Table-1 and Table-2, and does not preclude what county will commit to what. However, to make the negotiation advance by finding compromises, it is more preferable to review the possibilities and conditions under which many countries can commit to CP2. Therefore, the Proposal contemplates that

each country is to make its commitment for CP2 or COP decision on LCA in progressive order of stringency, while having some kind of incentives and seeking a balance with other countries’ commitments, and then, if a certain condition (transition condition) is met, that country will step up the commitment in accordance with timeframe described later.

Considering the timeframe for making commitments, the current negotiation situation as of October 2011 indicates that it is unlikely that COP 17 in December 2011 will result in the agreement on the details of both CP2 and LCA. Therefore, the Hayama Proposal recommends the following timeframe for the transition scenario from Option B-2 to Option A (Elements of agreement and the conditions for transition). (Refer to Fig.1) On the other hand, it is possible to have all the negotiation conditions on the table and agree on the actual design of a single legal framework at once, rather than moving in the progressive order from first, second, and then third agreement.

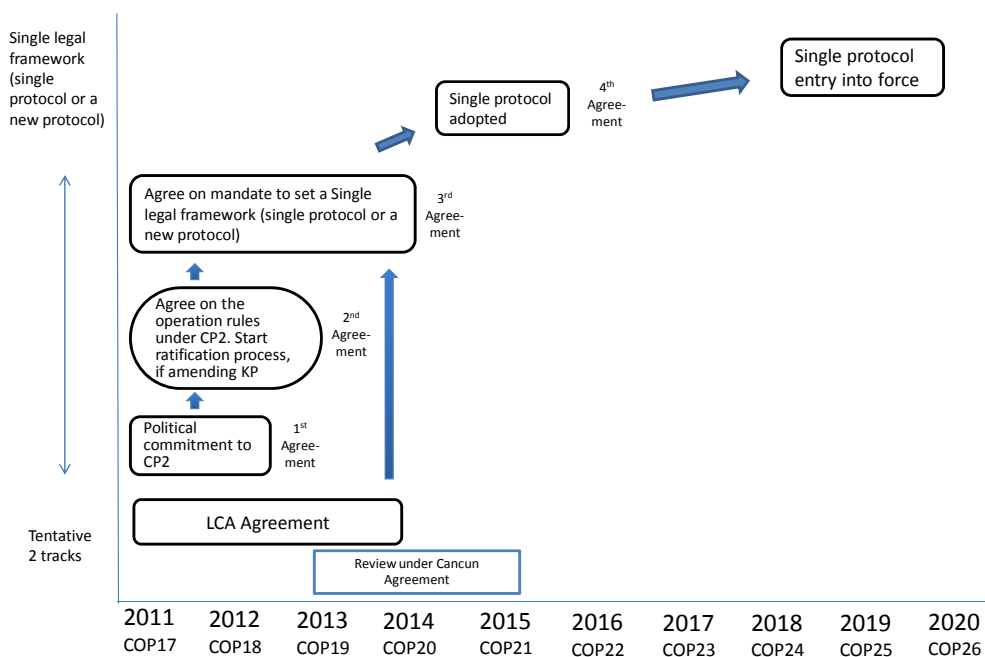


Fig. 2 Images of negotiation progress and timeframe for a single protocol (new protocol) under the Hayama Proposal

First agreement factors: COP17 (Year 2011) or COP18 (Year 2012)

Most of developing and developed countries agree to make political commitments for CP2. Some developed countries do not adopt quantitative targets, and do not immediately start the ratification process. However, many countries including developed countries declare their recognitions of CP's significance to the international community.

<Transition conditions>

- To clarify the conditions adopted by countries that have expressed their support for CP2 with conditions
- Countries already expressed their non-support to CP2 are to come down from their non-supporting position. (For example, to express their political commitments)
- Compromise from developing countries side. (For example: some emerging countries to start reviewing the possibility of making internationally legally binding reduction targets, to mitigate the requirement for quantitative targets of developed countries, to start reviewing the possible introduction of Sector Crediting Mechanism (SCM), and to allow countries not ratifying CP2 to participate in the discussion of Kyoto Mechanism designs, etc.)
- Some emerging economies are to introduce emissions trading system or carbon tax, thereby increasing the visibility of carbon constraints.
- Both developed and developing countries are to deepen their understandings on the presumptions for the quantified targets proposed by each country.

Factors for the Second Agreement: (After COP17 (2011), either COP18 (2012) or COP19 (2013))

Most of developing and developed countries is to agree on the partial amendment of KP's accounting rules, procedures, and mechanisms, and developed

countries with quantitative reduction targets are to proceed with the ratification process.

<Transition conditions>

- To elaborate the accounting rules on quantified targets
- To nurture common understandings on Kyoto Mechanisms, SCM, and bilateral offset mechanism (Accounting of emission reductions, governance system, market demand and supply relationship of credits, conformity with WTO rules that prohibit export subsidies, feasibility)
- To agree to review the possible provision of incentives for countries ratifying CP2 with some kind of quantified target listed in Annex B.

Third Agreement factors: (After COP17 (2011), either COP18 (2012) or COP19 (2013))

Most of developing and developed countries is to agree on the mandate to determine a single protocol in the future. Developed countries without any quantitative targets are to determine reduction targets, if they are somewhat convinced of developing countries' commitments and the applicability of mechanisms, and to start the KP2 ratification process.

<Transition conditions>

- To clarify the developing countries' commitments
- To stipulate the principle of "common but differentiated responsibility(CBDR)" under a single legal framework
- To elaborate accounting rules on quantified targets
- To nurture common recognition on Kyoto Mechanisms and bilateral offset mechanism (Accounting of emission reductions, governance system, market demand and supply relationship of credits, conformity with WTO rules that prohibit export subsidies, feasibility, etc.)

Fourth Agreement factor: COP 24 (2018) to COP 26 (2020)

Most of developing and developed countries are to adopt a comprehensive legal format (single protocol or new protocol) that merges CP3 and COP decisions, and agree to aim for its entry into force from year 2020.

<Transition conditions>

- To clarify the US's commitment (acceptance of legally binding agreement)
- To clarify the quantitative targets of developing countries legally binding in the international community
- To stipulate CBDR principle in a single legal framework

3.2. Principle of common but differentiated responsibility and capacity

As described later, the quantitative emission reduction (control) targets pledged by some emerging countries under Cancun Agreement shall be made legally binding internationally either under KP2 or by COP decisions. However, these emerging countries' pledges shall reflect the principle of common but differentiated responsibility, by reviewing the possible differentiation in: 1) stringency of MRV, 2) strength of penalty against the case of non-compliance, and 3) special measures imposed on accounting rules for quantified targets (for example, special provisions for forestry sinks in specified countries under the Kyoto Protocol)

3.3. Incentives for countries actively engaging global warming measures

Regardless of commitments, to review the possible introduction of some kind of incentives or disincentives to countries depending on the activeness in engaging global warming measures (for example, to allow the use of Kyoto Mechanisms, mitigation of trading conditions such as tariff,

alleviation of compliance/MRV conditions, to implement trade measures such as border tax adjustment etc.).

3.4. Compliance system

As described above, no penalty for non-compliance shall be placed on developing countries including emerging countries. In the case of developed countries, any penalty against the non-compliance of quantitative targets shall be the type that encourages compliance, if possible. For instance, it is possible to incorporate factors other than quantitative target into the determination of compliance, such as financial and technological assistances to developing countries, domestic investment in renewable energy, and reduction of fossil fuel subsidies. Moreover, a system to send the warning in the cases of extensive deviation from the plan or estimate of GHG emission trajectory can be introduced.

3.5. Flexibility Mechanisms

The eligibility to use Kyoto Mechanisms without questions or conditions is given only to those developed countries that have made political commitment to CP2. Those countries without CP2 commitment shall be allowed to use a new flexible mechanism, provided that they eventually conform to COP decision on the modalities requiring them to warrant environmental integrity and conformation with WTO rules that prohibit export subsidies, by ensuring additionarity, and preventing double-counts.

4. Future deployment of the Proposal

In regards to above Hayama Proposal, we must note that there are several points of abstraction as states below.

First, the response against so-called "giga ton gap". As identified in UNEP report (UNEP 2010), there is a huge gap between the emission reductions target to control temperature rise within 2°C since the industrial revolution and the sum of emission reduction targets pledged under the Cancun

Agreement. At present, however, it is practically difficult to bridge the gap by making substantial changes to quantitative reduction targets pledged by various countries. We certainly realize the importance of such problem, but have not been able to present any solution in the Hayama Proposal. On the other hand, the proposal can contribute to prevent fragmentation of a framework needed to attain 2°C target.

Secondly, the domestic politics of the United States. As well-known, the global warming measures are the partisan issue in the United States. The rising popularity of climate skeptics such the Tea-Party makes it more unlikely that the US will take any active actions against global warming. Nevertheless, the result of next year's election may lead the US to further retreat from global warming measures. On the other hand, the international community cannot afford to continue waiting for the United States. Moreover, considerable number of countries is using the United States as a scapegoat to avoid global warming measures. For this reason, the Hayama Proposal somewhat disregards the United States that is not likely to take any action.

Thirdly, the Proposal does not address the equity issue in details, and especially avoid the discussion of historical responsibility in emissions, for which developing countries are keen to discuss. This is because of the fundamental difficulty in comparing quantitative reduction targets for developed and developing countries, while taking equity issue into consideration. In regards to the issue of emerging countries, the Proposal asks emerging countries to adopt their commitments from the viewpoints of their responsibilities as major power in the world and of political dynamism in the international community, rather than asking whether they are developing countries or not.

The Hayama Proposal also takes a certain risk, as it is proposing the implementation of some trading measures (for example border tax adjustment) against the countries that are not actively employing global warming measures. Such proposal is likely to invite opposition from many countries. Moreover,

there may be a problem of conformity with WTO rules. However, the proposal must be attractive to those countries that are more concerned on bearing unilateral burden despite their wishes to advance global warming measures. For this purpose, it is essential that the Proposal provides some kind of draws (incentives or disincentives).

Note that the Hayama Proposal is developed by reviewing the current national situation and political contexts of Japan. As known, Japan's immediate problems include: 1) how to develop discussion and make proposal for post-2013 international framework, while there is a possibility that CP2 will be established in the Kyoto negotiation track by majority vote; and 2) whether to withdraw its quantitative target of minus 25% or not. How Japan will make political judgment depends on how it determines the institutional designs for addressing various issues, including the departure from dependence on nuclear power plants currently under heated discussion in Japan, fixed price purchase of renewable energies (FIT), energy savings, emissions trading system, and global warming measure tax, and therefore it is quite unpredictable. Still, there is no denying that the discussions on global warming measures are remained low key in Japan at the moment.

Nevertheless, international and national discussions on global warming measures are rather on the regress in comparison with the ones before COP 15 in 2009. Under such situation, it is important to advance international negotiation, while nurturing and strengthening the trust among countries. For this, we consider it is critical to prevent the fragmentation of an international framework, by building an agreement, however partial.

So it is essential to continue exerting our efforts to explore concrete compromises through extensive discussions with many stakeholders. Furthermore, It is important to make this Hayama Proposal aim for advancing international negotiation by throwing a ball at, or by placing a card on, the negotiation table in consideration of its current stagnancy.

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