

# Nicaragua: the Paris Agreement is a path to failure

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## Background of the Paris Agreement

The history of climate change in international negotiations has over 20 years. The Intergovernmental Panel on Climate Change (IPCC) presented its first climate change report in 1990<sup>1</sup>. The IPCC is the leading international entity for the assessment of climate change; it was established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988 to provide a scientific view on the existing climate change and its possible impacts. Thousands of scientists from all over the world make contributions to the work of the IPCC<sup>2</sup>.

The Earth Summit, organized by the United Nations Conference on Environment and Development (UNCED), took place in 1992 in Rio de Janeiro, Brazil<sup>3</sup>. The Summit introduced the United Nations Framework Convention on Climate Change (UNFCCC), which has as the ultimate objective to:

... achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.<sup>4</sup>

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<sup>1</sup> Anthony Giddens, *The Politics of Climate Change* (Oxford : Wiley 2013), pp. 260-274

<sup>2</sup> Intergovernmental Panel on Climate Change. (n.d.). 'Organization' [WWW document] URL <http://www.ipcc.ch/organization/organization.shtml> (visited 2016, November 14)

<sup>3</sup> Earth Summit. (1997, May 23). 'UN Conference on Environment and Development (1992)' [WWW document] URL <http://www.un.org/geninfo/bp/enviro.html> (visited 2016, November 14)

<sup>4</sup> United Nations Framework Convention on Climate Change, New York, 9 May 1992, International Legal Materials (1992), 849.

The Conference of the Parties (COP) is the supreme decision-making body of the UNFCCC. All States that are Parties to the Convention are represented at the COP<sup>5</sup>. The Convention back then was signed by 166 nations (today it has 195 signatories)<sup>6</sup>. The parties agreed to calculate their emissions and report them periodically<sup>7</sup>. All nations accepted responsibilities but the developed countries have the obligation to take the lead: common but differentiated responsibilities approach<sup>8</sup>.

On December of 1997 at the COP3, the Kyoto Protocol<sup>9</sup> was adopted and entered into force on February, 2005. In brief, the Kyoto Protocol commits industrialized countries to reduce greenhouse gas emissions; the Convention by itself only encourages them to do so. It sets binding emissions reduction targets for 37 industrialized countries and the European Union; they would cut their emissions by at least 5 % relative to 1990 levels by 2008-2012 (the first commitment period)<sup>10 11</sup>. It did not include the developing countries since it recognizes that developed countries have a larger responsibility for the current level of greenhouse gas emissions in the atmosphere due to their industrial activity. The core of the Kyoto Protocol comprises reporting and verification procedures, flexible market-based mechanisms, and a compliance system<sup>12</sup>. The administration of George W. Bush, which was skeptical anyways about climate change, was worried that China would have a competitive advantage over the United States, since developing countries didn't have to make any emissions cuts. Neither US nor Australia put their names to the Kyoto Protocol, unlike all the other industrial countries<sup>13</sup>.

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<sup>5</sup> United Nations Framework Convention on Climate Change. (n.d.). 'Conference of the Parties (COP)' [WWW document] URL <http://unfccc.int/bodies/body/6383.php> (visited 2016, November 22)

<sup>6</sup> Supra note 1

<sup>7</sup> UNFCCC Article 12

<sup>8</sup> UNFCCC Articles 3 & 4

<sup>9</sup> Kyoto Protocol to the United Nations Framework Convention on Climate Change, 10 December 1997, UN Doc. FCCC/CP/1997/L.7/add. 1, 37 International Legal Materials (1998), 22.

<sup>10</sup> Kyoto Protocol Article 3

<sup>11</sup> United Nations Framework Convention on Climate Change. (n.d.). 'Making those first steps count: An introduction to the Kyoto Protocol' [WWW document] URL

[http://unfccc.int/essential\\_background/kyoto\\_protocol/items/6034.php](http://unfccc.int/essential_background/kyoto_protocol/items/6034.php) (visited 2016, November 14)

<sup>12</sup> Ibid

<sup>13</sup> Supra note 1

Later on in 2007 at the COP13, a new negotiation process was arduously achieved in Bali in order to substitute the Kyoto Protocol<sup>14</sup>. Parties adopted the Bali Road Map<sup>15</sup> including the Bali Action Plan<sup>16</sup>. These agreements did not contain a single commitment or any recognition of the Kyoto Protocol's problems and small impact. Later, on the way to the Copenhagen negotiation meetings in 2009, there were significant advances in contending climate change such as the US return to the climate negotiations with President Obama and the pledges to reduce carbon emissions of other very influential nations; even the Chinese government was engaged. In consequence of this, many were optimistic about Copenhagen. A total of 122 prime ministers and presidents attended, making it one of the largest world leader gatherings outside the UN headquarters. However, the entire meeting was chaotic and disjointed. Furthermore, the delegates failed to reach binding emissions reductions<sup>17</sup>. Despite all of this, the Copenhagen Accord was agreed and contained the goal of holding the increase of global average temperature below 2 degrees Celsius<sup>18</sup>. By 2010, the short statement was signed by more than 100 countries accounting 80 % of global greenhouse gas emissions. The next COP was held in Cancun, Mexico in 2010 where the expectations were low but the outcome was positive. A reworked version of the Accord was adopted<sup>19</sup>. The Cancun agreements set targets and actions by 2020, including the major emitters. The 2°C target mentioned above was officially adopted in Cancun<sup>20</sup>. In Durban in 2011, a formal mandate was accepted to develop a protocol, another legal instrument or an agreed outcome with legal force applicable to all Parties<sup>21</sup>.

Finally, it was on 12 December of 2015 at the 21<sup>st</sup> Session of the COP to the UNFCCC at Le Bourget in the North of Paris, when the Paris Agreement (PA) was adopted<sup>22</sup>. As of November, 2016, 193 members to the Convention have signed it and 113 have ratified it<sup>23</sup>.

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<sup>14</sup> Supra note 1

<sup>15</sup> Supra note 1

<sup>16</sup> UNFCCC, Decision 1/CP.13, Bali Action Plan, UN Doc. FCCC/CP/2007/6/Add.1.

<sup>17</sup> Supra note 1

<sup>18</sup> UNFCCC, Decision 2/CP.15, Copenhagen Accord, UN Doc. FCCC/CP/2009/11/Add.1.

<sup>19</sup> Supra note 1

<sup>20</sup> UNFCCC, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention. UN Doc. FCCC/CP/2010/7/Add.1.

<sup>21</sup> UNFCCC, Decision 1/CP.17, Establishment of an Ad Hoc Working Group on the Durban Platform for Enhanced Action, UN Doc. FCCC/CP/2011/9/Add.1.

<sup>22</sup> UNFCCC, Decision 1/CP.21, Adoption of the Paris Agreement, UN Doc. FCCC/CP/2015/10/Add.1

<sup>23</sup> United Nations Framework Convention on Climate Change. (2016, November). 'Paris Agreement – Status of Ratification' [WWW document] URL [http://unfccc.int/paris\\_agreement/items/9444.php](http://unfccc.int/paris_agreement/items/9444.php) (visited 2016, November 23)

The PA entered into force on 4 November 2016<sup>24</sup>. The PA is a treaty of 12 pages, 29 articles and 16 preambular paragraphs. It aims to keep the global temperature rise well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit this increase even further to 1.5 degrees Celsius<sup>25</sup>. The heart of the PA is the nationally determined contributions (NDCs) where Parties put forward their best efforts to achieve this aforementioned goal. The NDCs have to be submitted every 5 years by each Party<sup>26</sup>. As of November, 2016, 109 parties have submitted their first NDCs<sup>27</sup>. The PA covers the relevant issues of mitigation, adaptation and implementation (capacity building, finance, and technology transfer). It also includes procedural and institutional measures<sup>28</sup>. The PA is a legal agreement upon its Parties, even if it is repeatedly soft and mainly procedural. It has no distinction between developed and developing countries no more, but still assumes the principle of common but differentiated responsibilities and respective capabilities. The PA's foundations are based on a new hybrid architecture as it responds to a rules-based regime enclosed in an international treaty (top-down), including the production and communication of Parties' contributions aligned with their priorities (bottom-up) and anchored outside the agreement in a registry reviewed by the UNFCCC Secretariat. The PA represents a balance between international legal firmness and respect for national sovereignty<sup>29</sup>. An enhanced transparency framework is established in order to build mutual trust and promote effective implementation<sup>30</sup>. Moreover, a transparent, non-adversarial and non-punitive mechanism to promote compliance was also established<sup>31</sup>. The well-thought-out and so-called impossible PA is the result of arduous negotiations and meetings throughout many years. Along with its fresh approaches and enhanced mechanisms balancing ambition, differentiation and support<sup>32</sup>, it is expected to be the turning point in the battle to save the planet from climate change. It is still too early to talk about its success, but the PA is already a remarkable achievement in international negotiations. Important

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<sup>24</sup> Ibid

<sup>25</sup> Paris Agreement Article 2

<sup>26</sup> Paris Agreement Articles 3 & 4

<sup>27</sup> United Nations Framework Convention on Climate Change. (2016, November). 'NDC Registry (interim)' [WWW document] URL <http://www4.unfccc.int/ndcregistry/Pages/Home.aspx> (visited 2016, November 23)

<sup>28</sup> Annalisa Savaresi, 'The Paris Agreement: A New Beginning?', *Journal of Energy and Natural Resource Law*, 34.1, (2016), pp. 16-26

<sup>29</sup> Sandrine Maljean-Dubois, Matthie Wemaëre, 'The Paris Agreement: A Starting Point towards Achieving Climate Neutrality?', *Carbon and Climate Law Review*, 10.1, (2016), pp. 1-4

<sup>30</sup> Paris Agreement Article 13

<sup>31</sup> Paris Agreement Article 15

<sup>32</sup> Supra note 29

details are yet to be decided in forthcoming discussions, starting in Marrakech on November, 2016.

### **Nicaragua's national context**

Nicaragua is a tropical country located in the center of the Central American isthmus with 130,374 km<sup>2</sup> and 5,071,670 inhabitants (year 2000). It's divided in 12 Departments, 2 Autonomous Regions and 153 municipalities. Due to climatic and topographic characteristics, it has 21 basins and three major natural divisions: Pacific, Central and Atlantic or Caribbean. Thus, in the North and Central Pacific regions there is a rainy season from May to October and a dry season from November to April; while in the Caribbean there is rain pretty much all year long. The average annual precipitation varies from 800 mm to 5,000 mm; and the average annual air temperature varies from 18 °C to 28 °C. In 1998, poverty affected 72.6 % of Nicaragua's households. In 2000, the international environment was mostly unfavorable, the prices of the main export products remained low and inflation reached 9.9 %. Although, the GDP increased 4.3 % due to the higher volume of exports. Also in 2000, unemployment fell to 9.8 %. Most jobs were generated in the agricultural, construction, trade and social services sectors. As to health services, according to 1998 data, 8.5 % of the population don't have access to it. In 1998, the share of public spending on health represented 5.4 % of GDP, which placed Nicaragua above the Central American average (3.8 %). With regard to energy, the National Interconnected System (SIN) is powered by 14 generating plants. The gross production of the national electricity reached 2,463.5 GWh in 2001. The energy sources used were bunker and diesel oil accounting 83.6 %, and renewable energies such as hydropower and geothermal accounting 16.4 %. The net annual emissions of greenhouse gases for 2000 were 49,220.19 CO<sub>2</sub> Gg. Comparing the 1994 and 2000 greenhouse gas inventories you can conclude that the emissions have increased. The net annual emissions of CO<sub>2</sub> in the energy sector were 32.5 % higher in 2000 than in 1994. Conversely, the LULUCF sector in 1994 was the main drain of CO<sub>2</sub>, and by 2000 it became the main source. Deforestation in parallel with the population growth is a very important environmental problem. Between 1960 and 1998, 6.3 million hectares with natural vegetation cover were switched to agriculture and cattle ranching fields. The substantial forest cover was reduced in half. By 1997, 1,000 tons of garbage were produced daily in Managua accounting 60 % of the country's waste. This represents another major

problem because 94 % of the solid waste is thrown to the open without any treatment; similar happens to wastewater, most of it is discharged into the ocean or river without any treatment. The main hazards due to climate change in Nicaragua are: floods, droughts, forest fires, among others<sup>33</sup>. From 1996 to 2015, Nicaragua was the fourth country most affected by extreme weather events with a total of 44 events in this period<sup>34</sup>. Nicaragua's worst events have been Hurricane Mitch (1998) and Hurricane Felix (2007), they both were category-five. Hurricane Mitch caused at least 3,800 deaths, most of them because of mudslides. Hurricane Felix destroyed thousands of homes and caused 130 deaths. Not only cyclones cause damages and losses in the country, but also climate change has impacts in the agriculture. Since 2006, Nicaragua has been losing \$200 million a year in lost production<sup>35</sup>.

### **Nicaragua and its national climate policies**

The government of Nicaragua has made significant progress in recent years regarding climate change policies and laws. In 2009, a resolution of the National Assembly<sup>36</sup> amended the General Law on the Environment and Natural Resources<sup>37</sup>. Consequently, it urges the Executive Power to formulate and impulse a Policy of Adaptation to Climate Change, in order to include adaptation and mitigation in the sectoral planning<sup>38</sup>. There is also the Decree No. 9-96, Regulation of the General Law on the Environment and Natural Resources, which aims to establish the general regulatory rules for the environmental management and sustainable use of natural resources<sup>39</sup>. On 2010, the National Environmental and Climate Change Strategy was approved. It consists of five guidelines: environmental education for life; environmental defense and protection of natural resources; water

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<sup>33</sup> Nicaragua. Ministerio del Ambiente y los Recursos Naturales. (2008). Segunda comunicación nacional ante la Convención Marco de las Naciones Unidas sobre Cambio Climático.

<sup>34</sup> Germanwatch, 2016: Global Climate Risk Index 2017 [Sönke Kreft, David Eckstein and Inga Melchior]. Germanwatch e.V, pp. 32.

<sup>35</sup> The Nicaragua Dispatch. (2012, November 27). 'Nicaragua ranks third for vulnerability to climate change' [WWW document] URL <http://nicaraguadispatch.com/2012/11/nicaragua-ranks-third-for-vulnerability-to-climate-change/> (visited 2016, November 22)

<sup>36</sup> Nicaragua. Resolution A. N. No. 003-2009, Approved on 2009, June 17. On Climate Change and Adaptability in Nicaragua.

<sup>37</sup> Nicaragua. Law No. 217. Approved on 1996, March 27. General Law on the Environment and Natural Resources.

<sup>38</sup> Ibid Article 60

<sup>39</sup> Nicaragua. Decree No. 9-96. Approved on 1996, July 25. Regulation of the General Law on the Environment and Natural Resources.

conservation, recovery and harvest; mitigation, adaptation and risk management of climate change; and sustainable management of land<sup>40</sup>. Nicaragua also has Decrees on the Creation of the National Office of Clean Development, National Cleaner Production Policy, Regulations on the Exploration and Exploitation of Geothermal Resources Law, Regulations on Hydrocarbons Supplies, Regulations on the Exploration and Exploitation of Hydrocarbons Law, Regulations on Electricity Industry Law. Furthermore, the country has the Promotion of Electricity Generation with Renewable Sources Law and the Conservation, Promotion and Sustainable Development of the Forest Sector Law<sup>41</sup>. Another important fact is that since November, 1999, Nicaragua ratified the Kyoto Protocol<sup>42</sup>.

### **Nicaragua and the Paris Agreement**

At the informal preparatory ministerial consultation on the COP21 held in France from 20 to 21 July, 2015, Secretary for Public Policy of Nicaragua, Paul Oquist, noted that his government highlighted the lack of political will of developed countries to meet their financial commitments. He also said that most countries agreed on the need to reach an ambitious, transparent and differentiated agreement, where everyone is committed to reduce the emission of greenhouse gases and avoid global warming to 2 °C; the countries also agreed on transparency and accountability in order to have success at the COP21. He highlighted that G77 countries, which include Nicaragua, emphasized that these negotiations should be guided by the principle of common but differentiated responsibilities. Besides, he called on countries to comply with means so that vulnerable countries, like Nicaragua, can allocate funds to adaptation projects. Oquist pointed out the need for developing countries to assume responsibilities such as the INDCs<sup>43</sup>. This is

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<sup>40</sup> Euroclima. (n.d.). 'Nicaragua' [WWW document] URL

<http://www.euroclima.org/es/paises/item/161-nicaragua> (visited 2016, November 18)

<sup>41</sup> Ministerio del Ambiente y los Recursos Naturales. (n.d.). 'Marco Legal' [WWW document] URL

<http://marena.gob.ni/index.php/marco-legal> (visited 2016, November 18)

<sup>42</sup> United Nations Framework Convention on Climate Change. (n.d.). 'Status of Ratification of the Kyoto Protocol' [WWW document] URL

[http://unfccc.int/kyoto\\_protocol/status\\_of\\_ratification/items/2613.php](http://unfccc.int/kyoto_protocol/status_of_ratification/items/2613.php) (visited 2016, November 22)

<sup>43</sup> Euroclima. (2015, July 27). 'Nicaragua propone financiar políticas para enfrentar cambio climático' [WWW document] URL <http://www.euroclima.org/es/servicios-de-informacion/noticias/item/1709-nicaragua-propone-financiar-politicas-para-enfrentar-cambio-climatico> (visited 2016, November 18)

contradictory, since Nicaragua is one of the countries that didn't submit its INDC<sup>44</sup>. Parties to the Convention were invited to communicate their INDCs prior to the Paris COP21<sup>45</sup>.

Nicaragua is one of the countries that didn't sign the PA. Last March, Oquist expressed that the operational elements of the PA will not meet its target of limiting the global temperature increase to 2 °C. He made reference to conclusions from prior Paris reports of the UNFCCC stating that the proposed reductions (INDCs) have the capability of limiting the temperature rise to around 2.7 °C by 2100. Furthermore, Nicaragua calculated that the INDCs submitted for December, 2015 will generate 55 gigatons of CO<sub>2</sub> by 2030, which implies a global temperature increase of 3 °C. Oquist highlighted that the current form of the PA will lead the world to a 3 °C increase in temperature and this would mean, in most developing countries, a dangerous increase of 4 °C. His government does not believe the INDCs will be better in 5 years. He explained that the low ambition of 1.5 °C wanted by developing countries and 2 °C wanted by developed countries is leading to less execution of the commitments. Nicaragua wants another mechanism based on historical responsibilities. In a preliminary pre-COP21 meeting, Oquist said:

The 10 largest emitters are responsible for 72 percent of the emissions. The 100 smallest are responsible for 3 percent of the emissions. If you're the CEO of a company and you have an overrun that you reckon is in the range of 2.7 to 3.5, let's say billions of something, and you want to bring it down to the 1.5 to 2 range that's acceptable: are you going to work on the hundred cases that have 3 percent or on the 10 cases that have 72 percent? It's a no-brainer. The only way you can get that reduction is out of the big emitters.<sup>46</sup>

This actually makes sense. If big emitters do their part and truly commit, they could stop global warming by themselves. Why involve the small emitters? Why would small emitters worry about a problem they haven't cause? Even worse, why would they make efforts to solve it while they are suffering its terrible consequences? That's a reasonable way to see it

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<sup>44</sup> United Nations Framework Convention on Climate Change. (n.d.). 'INDCs as communicated by Parties' [WWW document] URL <http://www4.unfccc.int/Submissions/INDC/Submission%20Pages/submissions.aspx> (visited 2016, November 21)

<sup>45</sup> UNFCCC, Decision 1/CP.19, Further advancing the Durban Platform. UN Doc. FCCC/CP/2013/10/Add.1.

<sup>46</sup> Telesur. (2016, April 20). 'Nicaragua Resists Climate Imperialism by Refusing to Sign COP21' [WWW document] URL <http://www.telesurtv.net/english/opinion/Nicaragua-Resists-Climate-Imperialism-By-Refusing-to-Sign-COP21-20160420-0050.html> (visited 2016, November 21)



and also a very selfish one. Another way to see it is from the PA approach and the 193 Parties that signed it<sup>47</sup> where they believe there is a common cause and a common path for everybody to be in.

In principle, India, Bolivia, Venezuela and El Salvador agreed with Nicaragua's point of view<sup>48</sup>. Although at the end, these four countries signed the PA<sup>49</sup> and submitted their respective INDCs<sup>50</sup>. When Paul Oquist was asked about Nicaragua's INDC he replied that they were not going to submit it because voluntary responsibilities 'is a path to failure'<sup>51</sup> and they were not going to be accomplices to taking the world to 3 to 4 °C and the destruction that this implies<sup>52</sup>. Nicaragua is one of the 11 countries that didn't submit a pledge to cut greenhouse gas emissions prior to Paris; 180 countries presented their targets<sup>53</sup>.

Nicaragua also criticizes the contribution of a US\$ 100 billion fund from developed countries to finance adaptation costs in developing countries, since the Economic Commission for Latin America and the Caribbean estimated that the cost of adaptation in Nicaragua reaches up to US\$ 2 billion. This is equivalent to more than a year of the Nicaraguan government's budget. The cost of Nicaragua of recovering from Hurricane Mitch in 1998 was around US\$ 3 billion. Besides, there are those that say history shows that the wealthy Western nations never fulfill the financial promises they make to multilateral initiatives<sup>54</sup>.

During the COP21, Oquist asserted that Nicaragua is making efforts on mitigating climate change. Their actual emissions are 4.8 million tons of CO<sub>2</sub>. The country is 52 % renewable since 2007 and will be 90 % on 2020. They have been using geothermal, wind and sun power. Moreover, they have committed to 11 millions tons in the forest sector to be cut in

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<sup>47</sup> Supra note 23

<sup>48</sup> Supra note 46

<sup>49</sup> Supra note 23

<sup>50</sup> Supra note 44

<sup>51</sup> Supra note 46

<sup>52</sup> Supra note 46

<sup>53</sup> Democracy Now! Independent Global News. (2015, December 4). 'We do not want to be an accomplice: Nicaragua Rejects Global Consensus on Voluntary Emission Cuts' [WWW document] URL [https://www.democracynow.org/2015/12/4/we\\_do\\_not\\_want\\_to\\_be](https://www.democracynow.org/2015/12/4/we_do_not_want_to_be) (visited 2016, November 21)

<sup>54</sup> Supra note 46

the next five years. Also important to note that the Grand Interoceanic Canal that is being built represents 32.5 million tons per year of cut from maritime commerce<sup>55</sup>.

Oquist, on his discourse at the High Level Meeting of United Nations on the Paris Agreement in April, 2016, made reference to the Sustainable Development Goals to continue expressing their disagreement with the PA<sup>56</sup>. He mentions the Goal number 13, "Take urgent action to combat climate change and its impacts"<sup>57</sup>, and how the PA does not assist the countries in reaching this Goal thus showing incoherence and no synergy between development regime and climate regime. He also claimed that there is no funding for loss and damage, and the attempts to make developing countries to give up any demand for compensation and to forgive developed countries' responsibilities for the problem<sup>58</sup>.

Some opinions alleged that rich countries manipulated the COP21 into embracing the concept of universal responsibility to address climate change instead of the concept of shared but differentiated responsibilities requested by developing countries many years ago. After the COP21 ended, Oquist noted that rich countries took over the timetable in order to avoid discussions on climate justice. He also said the French Foreign Minister, Laurent Fabius, approved the COP21 decisions by acclamation and hence a protest arose against this process and the fact that Fabius was not acknowledging other developing countries in the closure<sup>59</sup>.

President of Nicaragua, Daniel Ortega, insists on his message in the UN General Assembly 2015:

The government and people of Nicaragua hope that from the Paris COP21 Conference will emerge a commitment to climate justice along with an indispensable indemnification policy, converted into direct and unconditional cooperation. Those responsible for the emissions, and responsible for the climate depredation, degradation and dislocation must recognize our losses and

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<sup>55</sup> Supra note 53

<sup>56</sup> Telesur. (2016, April 26). 'Nicaragua: the Paris Agreement Negates Sustainable Development' [WWW document] URL <http://www.telesurtv.net/english/opinion/Nicaragua-the-Paris-Agreement-Negates-Sustainable-Development-20160428-0049.html> (visited 2016, November 22)

<sup>57</sup> United Nations. Resolution adopted by the General Assembly on 25 September 2015. A/RES/70/1

<sup>58</sup> Supra note 56

<sup>59</sup> Supra note 46

contribute to recovery so as to reinstate the right to health and to life of our Mother Earth and of the peoples of the world.<sup>60</sup>

Nicaragua is giving all of these objections about the climate negotiations and the PA, but what solution are they offering? What do they want other countries to do? Oquist indicated that China, the United States and Europe accounts for half of the emissions therefore they need to increase their level of ambition. He said they should reforest, get more sinks of CO<sub>2</sub> and improve on fuel efficiency<sup>61</sup>.

Pessimists believe the failure of the PA is going to become more evident over time and that the majority of the countries will be the ones paying the consequences of climate change. They affirm climate justice will only be a reality when countries combine in a way to 'defend their common interests against the endless aggression of the global corporate elites and their bought and paid-for, anti-democratic, rich country governments'<sup>62</sup>. Other countries that have not signed the PA are: Iraq, Syrian Arab Republic and Uzbekistan<sup>63</sup>.

## Conclusions

The PA is not perfect, but it's the first step of a long common journey towards healing the planet from the harm that we've all caused. Getting to this point has not been easy. It's impossible to please everybody. Every country has its priorities and interests. That's why in order for all countries to be on board a different approach was taken. This new approach takes into account national priorities (NDCs)<sup>64</sup> but also global responsibility. Nicaragua claims that the PA is not fair to developing countries, but the PA is based on common but differentiated responsibilities and respective capabilities<sup>65</sup>. Nicaragua claims funds for the most vulnerable countries, but the PA commits developed countries to provide financial resources to developing countries for their adaptation and mitigation<sup>66</sup>. They also claimed the INDCs are not enough to keep the temperature rise under 2 °C, but the PA commits the

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<sup>60</sup> Supra note 46

<sup>61</sup> Supra note 53

<sup>62</sup> Supra note 46

<sup>63</sup> Climate Analytics. (2016, November 21). 'Paris Agreement Ratification Tracker' [WWW document] URL <http://climateanalytics.org/hot-topics/ratification-tracker.html> (visited 2016, November 22)

<sup>64</sup> Paris Agreement Articles 3 & 4

<sup>65</sup> Paris Agreement Article 2

<sup>66</sup> Paris Agreement Article 9

countries to enhance their level of ambition<sup>67</sup>. What solution is Nicaragua putting on the table? Binding targets just for the biggest emitters? That clearly didn't work with the Kyoto Protocol. It's understandable that Nicaragua is not satisfied; they have suffered many consequences of the climate change. But that's exactly why 193 UNFCCC members<sup>68</sup> have come to an agreement. Even if it's not flawless. Only 4 countries didn't sign the PA<sup>69</sup>. Honduras, the most at climate risk country of the world<sup>70</sup>, signed it and ratified it<sup>71</sup>. Why not contribute to the common cause? Why be part of the problem instead of part of the solution? The Government of Nicaragua is taking actions to cut the greenhouse emissions but remember the African Proverb that says: 'if you want to go fast go alone, if you want to go far, go together'. There should be a dialogue with Nicaragua and talk them into reconsider their position and join this global effort. Climate change affects all of us, is not about whose fault is it anymore; it's about what everybody can do to contribute to solve it.

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<sup>67</sup> Paris Agreement Article 4

<sup>68</sup> Supra note 23

<sup>69</sup> Supra note 63

<sup>70</sup> Supra note 34

<sup>71</sup> Supra note 23

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