ACHIEVING CONSENSUS IN CLIMATE CHANGE

This panel was convened at 9:00 a.m., Thursday, March 31, 2016 by its moderator Hari Osofsky of the University of Minnesota Law School, who introduced the panelists: Susan Biniaz of the U.S. Department of State; Lisa Benjamin of The College of the Bahamas; Daniel Bodansky of Arizona State University Sandra Day O'Connor College of Law; and Yamide Dagnet of the World Resources Institute.

Introductory Remarks by Hari Osofsky*

It is an honor and a pleasure to welcome you and to have the opportunity to moderate a conversation among some key participants and experts about the December 2015 Paris Agreement on Climate Change, which is a crucial step forward in our multilateral climate change regime.

For those of you who do not know me, I am Hari Osofsky. I am a professor at the University of Minnesota Law School, where I am the faculty director of the Energy Transition Lab. Most relevant to this panel, though, I chaired the American Society of International Law's Observer Delegation to the Paris negotiations and cochair its international environmental law interest group.

Everyone in the room probably knows that in December 2015, we had a major new agreement on climate change in Paris. I am really grateful to the Program Committee for including this late-breaking conversation on the program. This agreement, which is often referred to as historic, is really an important step forward. We have an amazing group of speakers today who can bring a range of perspectives on this topic.

This is one of the nontraditional panel formats. We thought rather than have people stand up and give sequential talks on the Paris Agreement, that it might be more interesting to do it in a roundtable format. What I am going to do, as your moderator, is ask a series of questions of our amazing panelists in four main topic streams. We are going to talk some about the road to Paris, the negotiations themselves, the agreement that came out of the negotiations, and the future and where to go from here.

But before I do that, I want to just very briefly let you know who our wonderful panelists are.

Daniel Bodansky is the Foundation Professor at the Sandra Day O'Connor College of Law at Arizona State University. He is an extremely accomplished academic with deep expertise in international environment law and climate change, but most relevantly for our panel, he served as the Climate Change Coordinator and Attorney Adviser at the U.S. Department of State, in addition to consulting for the United Nations in the areas of climate change and tobacco control. Since 2001, Professor Bodansky has worked with the Center for Climate Change and Energy Solutions, also known as C2ES, formerly the Pew Center on Global Climate Change, as a consultant and adviser, and he participated in a dialogue involving senior negotiators in the lead up to Paris. He also provided advice to the Swiss Government pre-Paris on possible provisions to include in the agreement. And he participated in a number of different expert meetings.

Lisa Benjamin is an assistant professor at the College of the Bahamas, where she teaches international and Caribbean environmental law, international trade, intellectual property, and company law. She is the founder of their Environmental Law Clinic and a co-founder of the

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Climate Change Initiative at the College of the Bahamas, a member of the Bahamas Trade Commission, and a director of the Bahamas Protected Areas Fund. Most relevant to our conversation today, though, she was a member of the Bahamian delegation to the United Nations Framework Convention on Climate Change (UNFCCC) Advanced Durban Platform Negotiations, and is a member of the Compliance Committee in the Facilitative Branch of the UNFCCC.

Sue Biniaz has been in the Office of the Legal Adviser for the State Department since the 1980s. She headed the Office for European Affairs, and the Office for Oceans, Environment, and Science before spending seven years as a Deputy Legal Adviser. She has been a principal U.S. government lawyer on the climate change negotiations since 1989, including on the Framework Convention, the Kyoto Protocol, the Copenhagen Agreement, and the Paris Agreement.

Yamide Dagnet is a senior associate with the Climate Program of the World Resources Institute (WRI) and leads the UNFCCC work at WRI. In the run-up to the Conference of Parties 21 (COP21), she managed the Agreement for Climate Transformation 2015 project focused on the COP21, which is, for anyone who does not know, the Conference of Parties that resulted in the Paris Agreement. Previously, she worked for the UK Department of Energy and Climate Change, where she was the UK and EU lead negotiator on transparency issues, managed the UK Greenhouse Gas Inventory, and was the UK deputy focal point for the Intergovernmental Panel on Climate Change. She also worked for the Ministry of Environment and Sustainable Development in France as a focal point for the EU neighborhood policy and twinning program, and is a project manager for bilateral cooperation with Eastern European countries and Central Asia.

We have an enormous depth and breadth of expertise on climate change generally, and the Paris Agreement in particular. What I am going to do, without any further ado, is move us into the first set of questions. As I said, we are going to start in the past and really think about the road to Paris first.

The first thing that our panelists are going to speak to is how this agreement emerged from the lessons that we learned both from efforts to create the Kyoto Protocol and the difficulties that we had at the Copenhagen negotiations. I am going to turn to each of them to talk briefly regarding how it evolved from that, and maybe also to discuss this debate over a one-track versus two-track approach and how that evolved into the Paris Agreement.

Remarks by Daniel Bodansky*

I will just start with a little bit of the history. After the Kyoto Protocol came into force, the question became, what to do next? That question really emerged in 2004–2005. The Kyoto Protocol's first commitment period dealt with the five-year period from 2008 to 2012. The issue was what to do post-2012. The Kyoto Protocol originally was intended to be of indefinite duration with a first commitment period, a second period, and so forth and so on. Developing countries therefore pushed to begin negotiations on developed country targets under the second Kyoto commitment period. But the Kyoto Protocol only encompassed about a quarter of global emissions, and there was not a huge appetite among countries with Kyoto emission targets to negotiate new targets, unless the countries not covered by the Kyoto Protocol took parallel action. So, a parallel process was launched by the 2007 Bali Action

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