

## **Definitions of verbs used in COP Decisions**

*All reasonable efforts have been made in providing the following information. However due to the circumstances and the timeframes involved, these materials have been prepared for informational purposes only and are not legal advice. Transmission of the information is not intended to create, and receipt does not constitute, a lawyer-client relationship. To the extent permitted by law any liability (including without limitation for negligence or for any damages of any kind) for the legal analysis is excluded.*

---

### **Introduction**

1. In this briefing paper we review and define the verbs used at the beginning of paragraphs in COP decisions in both:
  - a. the preambular text; and
  - b. the operative text.
2. Where appropriate, we will discuss how the verbs relate to others in respect of their relevant strength and give examples of how they have been used in the past.
3. This paper is restricted to a review of the verbs used at the beginning of the paragraphs and how the use of different verbs might affect the obligations created by the paragraph. However, it is important to stress that the substance of the paragraph itself is equally, if not more, important when determining what kind of obligation the paragraph entails. For example, “*decides* to establish” is a significantly stronger obligation than “*decides* to consider establishing” even though in both cases the COP has *decided* to do something.
4. In this briefing paper, we use COP to mean the Conference of the Parties or the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol or both, as the context requires.

### **Interpretation of words in international law**

5. In accordance with the rules of treaty interpretation as set out in Article 31(1) of the Vienna Convention on the Law of Treaties 1969 (VCLT), the verbs used in COP decisions to introduce the text or relating to actions to be undertaken by the COP should, as far as possible given the context, be given their ordinary meaning.
6. Notwithstanding that COP decisions are not treaties, we believe that the rules of interpretation set out in the VCLT would apply here. As far as we are aware the parties have not explicitly agreed to give any of these verbs any meaning other than their ordinary meaning.
7. However, the practice of the parties in the use of these verbs may give an indication as to how the parties intend to use these verbs more generally or their understanding of their meaning.
8. Importantly, the meaning of the verb used will be guided by where the verb arises (e.g. in preambular vs operative text) and the context, and so there are no hard and fast rules. Similarly, even with verbs which suggest that an obligation (whether legal or political) has been agreed to (e.g. ‘decides’ or ‘agrees’), it is important to note that it will be necessary to review the substance of the relevant paragraph to determine the kind of obligation it entails. For example, a paragraph ‘deciding’ to a particular act may be tempered by the fact that the

language used affords discretion to the parties ‘obligated’ to act. For example, a provision that states that the COP ‘decides that Parties *shall* use the revised guidelines...’ is stronger than one that states that the COP ‘decides that Parties *should* use the revised guidelines...’ since the latter phrase gives Parties a slight discretion.

9. With this in mind, we set out below verbs which are frequently used in the preamble and the operational paragraphs COP decisions and their ordinary meaning. The following lists are in alphabetical order (not in order to strength) and are not exhaustive of the options available to the parties. French and Spanish translations of the word, as used by the UNFCCC, appear below the English word.

### Preamble ‘verbs’

10. The first word of each paragraph in a decision usually ends in “ing” and denotes ongoing action and gives context to the operative part of the decision which follows the preamble. Below is a list of the most common “ing” words (or variants thereof).

<p><i>Acknowledging</i></p> <p><i>Conscientes</i></p> <p><i>Reconociendo</i></p>	<p>This means to admit to be true or real or recognising the existence of a certain fact. This has been used previously to acknowledge “that the global nature of climate change calls for the widest possible cooperation by all countries”.</p>
<p><i>Having concluded</i></p> <p><i>Ayant conclu</i></p> <p><i>Habiendo llegado a la conclusión</i></p>	<p>This means either that the COP has made an assessment based on information and come to a conclusion, or formally notifying the parties that the COP has agreed an agreement with another party.</p>
<p><i>Having consideration of / having considered</i></p> <p><i>Ayant examiné</i></p> <p><i>Habiendo examinado</i></p>	<p>This means thinking carefully about something in order to make a decision. When used in the preamble of a decision, it is usually followed by a paragraph in the operative text which ‘decides’ to do a certain thing. Things that are considered are often recommendations and conclusions of UNFCCC / KP bodies or other organisations such as the IPCC.</p>
<p><i>Having note of / noting</i></p> <p><i>Notant</i></p> <p><i>Tomando nota / tomando conocimiento</i></p>	<p>This means to ‘recognise the existence of’ and as such is similar to ‘recognising’ above. In the past it has been used to put parties on formal notice of an agreement or statement but is not an endorsement of the content thereof (e.g. the Copenhagen Accord at COP15 or the Geneva Ministerial Declaration at COP2) or to note the existence of a report or other document or findings contained therein (e.g. the IPCC’s Third Assessment Report).</p>
<p><i>Having reviewed</i></p> <p><i>Ayant examiné</i></p> <p><i>Habiendo examinado</i></p>	<p>This means to have looked at or examined.</p>

<i>Reaffirming</i> <i>Réaffirmant</i> <i>Reafirmando</i>	This means to maintain as still being true and is often used to restate or re-endorse previous beliefs of a particular state of affairs (e.g. reaffirming that regional, subregional and national workshops are valuable forums for sharing experiences and lessons learned).
<i>Recalling</i> <i>Rappelant</i> <i>Recordando</i>	This means, in the context of COP decisions, to bring one's thoughts back to matters previously considered and is used by the COP to refer to articles in the UNFCCC / KP or (paragraphs in) previous COP decisions to which the present decision relates (e.g. Recalling the provisions of Article 3 and Article 12 of the Kyoto Protocol when referencing the CDM). Parties also use the phrase ' <i>Cognizant</i> ' of in a similar way (e.g. <i>Cognizant</i> of Decisions 7/CMP.1, 1/CMP.2, 2/CMP.3 and 2/CMP.4).
<i>Recognising</i> <i>Considérant / conscientes / reconnaissant / sachant</i> <i>Reconociendo / reconociendo conscientes / señalando</i>	This is a synonym of 'acknowledging' but has been used by the COP in decisions to indicate 'recognition' of a fact that relates specifically to the UNFCCC or the KP (e.g. activities undertaken to fulfil obligations under the UNFCCC or KP).
<i>Reiterating</i> <i>Exprimant/ Réitérant</i> <i>Reiterando</i>	This means to say or do again and is similar to 'reaffirming' but is usually used to restate facts (rather than beliefs) – e.g. that the "COP and GEF shall jointly determine the aggregate GEF funding requirements for the purpose of the Convention."
<i>Welcoming</i> <i>Félicitant/accueillant</i> <i>Acogiendo con satisfacción/Acogiendo con beneplácito</i>	This means to receive or accept positively and is usually used where the COP has received information from UNFCCC / KP bodies or other organisations which informs the present decision.

### Operational paragraph 'verbs'

11. The text of decisions may or may not require parties to do something depending on the verb at the start of each paragraph. The most common verbs are set out below.

<i>Adopts</i> <i>Adopte</i> <i>Aprueba</i>	This means that the COP votes to accept. It is the wording used when the COP / CMP agrees a text which they intend to turn into a treaty or where they agree the text of amendments to the UNFCCC or KP.
<i>Agrees</i>	This is similar to 'decides' and is used to denote an agreement made between the parties. It is arguably less formal and slightly weaker than 'decides'. However, the two are often used

<i>Convient</i> <i>Conviene</i>	interchangeably (see, for example, Decision 1/CMP.1 (Decision establishing the AWG-KP) and Decision 1/CP.13 (Decision establishing the AWG-LCA)).
<i>Approves</i> <i>Approuve</i> <i>Aprueba</i>	This means to confirm and is often used to approve or endorse budgets, staffing plans or conclusions from UNFCCC or KP bodies.
<i>Authorises</i> <i>Autorise</i> <i>Autoriza</i>	This means to give authority or official power to someone else or some other body. It does not necessarily require that person or body to carry out what they are authorised to do, unless the context so requires. This verb is usually used so as to allow another UNFCCC or KP body (other than the COP) or the Secretariat to carry out a function that it would normally undertake for itself, such as establish advisory panels or exercise discretionary budget powers.
<i>Decides</i> <i>Décide</i> <i>Decide</i>	This means that the parties have, collectively, agreed to do that which is then set out in the decision. Any 'decision' would bind parties (at least politically) and is the most robust thing the COP can do. For example, decides was used in the Bali Action Plan decision establishing the AWG-LCA: " <i>decides that the process shall be conducted under a subsidiary body under the Convention, hereby established and known as the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, that shall complete its work in 2009 and present the outcome of its work to the Conference of the Parties for adoption at its fifteenth session</i> ".
<i>Encourages</i> <i>Encourage</i> <i>Alienta</i>	This is similar to 'urges' but a weaker variant of it. In practice, it is the equivalent of 'hoping' that someone will do what they are 'encouraged' to do. It has often been used to 'encourage' parties to provide information to the COP.
<i>Emphasises</i> <i>Souligne</i> <i>Poniendo de relieve</i>	This has a similar meaning to 'stresses'.
<i>Expresses</i> <i>Exprime</i> <i>Expresa</i>	This is usually used in conjunction with 'appreciation', 'gratitude' or 'concern or disappointment'. The first two are a way of giving thanks and are usually used to thank countries for hosting conferences or support given to the UNFCCC bodies by the UN or other organisations. 'Expresses concern or disappointment' is a way for the COP to make a statement signalling that they are unhappy with something that has transpired, such as the late payment of contributions. The COP often uses 'notes with concern' to make the same point.

<i>Insists</i> <i>Insiste</i> <i>Insiste</i>	This means to be to be emphatic, firm, or resolute on some matter of desire, demand or intention. This is a very strong direction to whomever it is directed that the COP intends that the intention should be complied with.
<i>Invites</i> <i>Invite</i> <i>Invita</i>	This means to request the presence or participation of another in a kindly, courteous, or complimentary way. It allows the invitee a discretion as to whether they will comply with the invitation. It has been used, for example, to 'invite' Annex I Parties to make further financial contributions, and for developing countries to avail themselves of programmes, advice and funds which are already available.
<i>Recognises</i> <i>Reconnaît</i> <i>Considera</i>	This has the same meaning as 'recognising' as set out in the section on "Preamble 'verbs'" above.
<i>Recommends</i>	This means to suggest a course of action. This is similar to, but weaker than, 'urges'.
<i>Requests</i> <i>Prie / demande</i> <i>Pide</i>	This is the act of asking for something to be done, especially as a favour or courtesy. Strictly speaking, there is no requirement that the act asked of be done. It is usually used when asking the subsidiary bodies (SBSTA or SBI), the Secretariat or other bodies (e.g. the GEF) to do certain things (e.g. hold workshops) or to provide information which would then be considered by the COP.
<i>Stresses</i> <i>Souligne</i> <i>Destaca</i>	This means to give emphasis to something without deciding to do something about it and has been used, for example, to emphasise the need to involve experts from developing countries.
<i>Takes note of</i> <i>Prend note</i> <i>Toma nota</i>	This has the same meaning as 'noting' as set out in the section on "Preamble 'verbs'" above.
<i>Urges</i> <i>Prie instamment / engage instamment</i> <i>Insta</i>	This means to impel or insist on some action. To urge is stronger than 'to request', but weaker than 'to require' someone to carry out some action. This is often used to direct action from non-UNFCCC bodies such as the GEF (over which it does not have authority), when encouraging Parties to comply with discretionary obligations (e.g. to increase financial support for developing countries) or when asking parties to do something they should have already done (e.g. submit national communications).
<i>Welcomes</i> <i>Se félicite / accueille</i>	This has the same meaning as 'welcoming' as set out in the section on "Preamble 'verbs'" above.

<i>Acoge con agrado</i>	
-------------------------	--