

# The Proposal for a New Climate Change Council

## Discussion Paper

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### A. Introduction

1. At the conclusion of the **G20 Summit** in Rio de Janeiro<sup>1</sup> last year, President Lula of Brazil proposed the establishment of a ‘Climate Change Council’ (the **Council**).
2. While the proposal was not fully elaborated, reportedly the Council would be established under the UN with the purpose of supporting the UN Framework Convention on Climate Change (**UNFCCC**), including by accelerating the implementation of the Paris Agreement through **stronger governance**, expedited decision making, coordination of key actors, fragmented processes and mechanisms, and raising climate finance.
3. The intention is for the Council to be established in 2026 by a resolution of the UN General Assembly (**GA**). There is precedent for such an approach; for example, the establishment of the Human Rights Council.
4. This paper considers some of the issues and options related to the establishment of a Council.

#### Questions for consideration

- Is there a case for a new Council?
- If yes, what specific functions would it perform and what value would it add?
- Where and how should the Council be established?

## B. Is a Council needed?

5. The proposal seemingly seeks to respond to perceived frustration and disillusionment with the UNFCCC process; a process that is struggling—or not fit for purpose—in a post-negotiating context, stuck in a dynamic that evolved through treaty negotiation.
6. At the 29<sup>th</sup> Conference of the Parties to the UNFCCC (**COP29**), Parties adopted the remainder of the implementing guidance necessary to fully operationalize the Paris Agreement, together with the New Collective Quantified Goal on climate finance (the **NCQG**). This marked the end of over a decade of negotiations that included the adoption of the Paris Agreement. By the time COP30 starts, the first full turn of the Paris Agreement’s five-year ambition cycle—comprising the global stocktake (**GST**), submission of biennial transparency reports (**BTRs**), and submission of new nationally determined contributions (**NDCs**)—will also have been completed.
7. While its functioning could be improved, the Paris Agreement is working as intended in some respects<sup>2</sup>—predicted temperature increase by the end of the century has fallen from 4 degrees Celsius to 2.1 – 2.8 degrees C.<sup>3</sup> Nevertheless, global greenhouse gas emissions are still not in line with the Paris Agreement’s 1.5-degrees-C or even the ‘well below 2 degrees C’ limit. Meanwhile, 2024 was the first calendar year at above 1.5-degrees-C temperature rise,<sup>4</sup> and the last ten years have been the warmest years on record.<sup>5</sup> The impacts of such warming are increasingly widespread, severe, and frequent, and they are likely to escalate as the world settles into an overshoot pathway.
8. COP30 will take place in a context of high political and popular expectations (e.g., responding to the collective level of ambition of NDCs). However, there are no significant mandated deliverables or mechanisms to match those expectations (e.g., mechanisms to review the adequacy of individual NDCs).
9. There is also a radical ongoing shift in international relations and politics characterized by a reworking of traditional alliances, further hunkering down on narrowly construed national interests, a muscular emphasis on sovereign autonomy, and a dilution of investment in issues requiring global collective action. The rapidly changing geopolitical context has already begun to have an impact on climate action—with the withdrawal of the United States from the Paris Agreement, its associated funds, and the Intergovernmental Panel on Climate Change (**IPCC**), as well as a broader backsliding of commitments to retreat from fossil fuels, both from some countries and industry.
10. The mismatch between the urgency of addressing climate change in a rapidly closing window of opportunity that remains on the one hand, and the challenging political dynamic in an increasingly arcane negotiating context on the other, presents COP30 with an opportunity to evolve both the current UNFCCC regime<sup>6</sup> and the way that Parties engage with it.<sup>7</sup>
11. Could the establishment of a new Council help reform global climate governance (or at least sidestep the current unwieldy and sprawling governance architecture) and accelerate needed transformative climate action at pace?

### The case for a Council

12. The Paris Agreement, and the UN negotiating process supporting it, is fundamentally hamstrung in ways that limit the regime’s ability to deliver transformative climate action at pace.
13. The Paris Agreement has design features which enabled agreement and adoption at the time. These same features limit its effectiveness in addressing climate change. There are significant constraints on the extent to which the Agreement can review adequacy, monitor implementation, and generate accountability.
14. The Paris Agreement does not contain any mechanism to review the adequacy of individual NDCs. While the ‘nationally determined’ nature of NDCs is regularly emphasized—and is the linchpin on



which the Paris Agreement was based—the lack of any multilateral review of the adequacy of individual NDCs may ultimately be incompatible with the agreement’s goals within the necessary timeframe. There is a mismatch between the ambition, whether or not adequate, expressed in NDCs and their implementation. This mismatch also exists between current level of resources devoted to climate action and what is needed. Additionally, there is limited accountability for these mismatches

15. The UN negotiating process that supports the Paris Agreement is also fundamentally hamstrung by processes, practices, and dynamics that have emerged over time. The agenda is unwieldy, has numerous vestigial elements, often takes days to adopt, and consumes considerable negotiating time. The negotiating dynamics are confrontational and stuck in a blame-game loop, which in the context of consensus-based decision-making, results in incremental and faltering progress. Even where seemingly forward-looking decisions are reached, there are few processes that track implementation with them (e.g., transitioning away from fossil fuels). The first GST provided a valuable moment of reckoning for the international community on the gaps in climate action, and resulted in a number of significant global sectoral targets. At the same time, it struggled to effectively draw on the extensive learnings from the technical phase or to provide guidance on how to follow through on its outcomes and action them at the national level. The first indications of the efficacy (or lack thereof) of GST1 will not be known until countries submit their new NDCs, the vast majority of which are yet to come, having passed the February 10, 2025, deadline.
16. To shift from the current incremental levels of progress to the transformative levels of action that the latest science indicates is required, might require a fundamental reworking of both the Paris Agreement and the negotiating process that supports it. Both would require consensus, which is unlikely given the negotiating dynamics, especially in the context of the rapidly evolving and increasingly brittle geopolitical landscape.
17. Is the UN process capable of rapidly transitioning from a confrontational zero-sum negotiating dynamic, to one of enhanced international cooperative action (the second part of the GST mandate) to overcome a common threat, and in that context devise robust mechanisms and processes to review adequacy, monitor implementation, and generate accountability? The answer may well be in the negative, especially given the short time frame within which changes will need to be operationalized.
18. In this context, a well-crafted representative Council with a clear mandate and purpose, carefully identified functions, and robust mechanisms—that is separate from but complementary to the UNFCCC—could add considerable value.
19. The Council could **provide high-level political direction** and clarity, outside of the UNFCCC negotiating dynamic. The limits of the UNFCCC process in relation to reviewing adequacy, catalyzing implementation, and generating accountability are consciously negotiated limits. The strength of the UNFCCC process in this context lies in its norm-setting function—the ability to set norms for all, chart out a direction of travel, and regularly review collective progress. This norm-setting function extends to the provision of detailed rules, and an extensive institutional set up to implement them. The Climate Council could complement the UNFCCC’s legal heft and technical expertise by providing political direction in relation to contested areas such as adequacy and accountability. The UNFCCC process struggled, for instance, to provide clear guidance on tracking and delivering on GST1 targets. The Climate council could provide political direction and heft in such cases, with the expectation that technical negotiators would follow suit.
20. The Council could **strengthen accountability** by acting as a forum for receiving complaints, as the Human Rights Council does, from individuals and non-state actors, about gross violations of states’ due diligence obligations in relation to climate harms.<sup>8</sup> Where states are doing manifestly less than they should or not doing what they promised to, complaints could be taken to the council, which in turn could initiate enquiries, building on the reports provided by states in the UNFCCC process and their responses, and offer recommendations to the state. Such a complaints mechanism, even if it

does not result in binding decisions, would have considerable symbolic and signaling significance, catalyze individuals and non-state actors, and generate a sense of ownership of and investment in climate action. The recommendations from the Council would also likely strengthen the reasoning, and thus ability of national and regional courts, to deliver justice in the over 2,500 climate cases that are before them.

21. The Council could also **enhance coordination among key actors, fragmented processes, and mechanisms** by providing political clarity on goals and responsibilities of different actors, bridging silos and providing a platform for concerted action in specific issue areas. For instance, several challenges arise in issue areas that either extend beyond the scope of the UNFCCC or are not being effectively addressed by the UNFCCC process. These include:
  - anticipating and preparing for tipping points and systems collapse due to climate change
  - understanding and operating within planetary boundaries
  - facilitating better coordination and leveraging synergies across the Rio Conventions
  - understanding the increasingly important nexus between climate and security issues
  - contending with loss of territory, displacement, and migration
  - approaching the rapidly growing greenhouse gas impact of artificial intelligence
  - developing governance of carbon dioxide removal and geo-engineering
  - ameliorating the chilling effect of investment treaties on climate action.<sup>9</sup>
22. To the extent that the Climate Council can operate in a nimble, responsive, and politically astute manner to emerging challenges and obstacles to climate action, by coordinating actors, processes, and mechanisms across international treaty regimes, and in the private sector, it could add tremendous value in an increasingly fragmented governance landscape.

### **The case against a Council**

23. Although the UNFCCC process may appear to be moving at a glacial pace from the outside, the shifts, innovation, and experimentation within the regime itself in response to advancing science and to accommodate long-standing political contestations have been remarkable. States have experimented with differently designed legal instruments, with provisions covering a spectrum of legal character, and varied forms of differentiation between and among countries. The last decade has seen countries come together under the multilateral UNFCCC process to successfully adopt the Paris Agreement and the guidance needed to fully operationalize it.
24. The years since the adoption of the Paris Agreement have also seen a strengthening of the norm-setting functioning of the climate regime with the mainstreaming of 1.5 degrees C as the benchmark temperature limit; the bringing forward of the date to achieve global net-zero emissions to 2050; and the establishment of various sectoral targets, such as transitioning away from fossil fuels and tripling of global renewable energy capacity by 2030. There is an argument that the Paris Agreement is working, and all efforts should be channeled into making it work faster and better.
25. Given this progress, focusing on the establishment of a new Council might be unnecessary and **divert political attention** from where it needs to be: the implementation of more ambitious climate targets. It will also **divert limited financial resources** to the setting up a new UN institution rather than strengthening existing ones where there might be more gains to be made for lesser investment.
26. There is also a risk that a new Council could **undermine the legitimacy and salience of the UNFCCC process**—the only forum where 197 countries spanning the breadth of interests, from the vulnerable to major emitters, come together to address climate change, and one which regularly attracts the

participation of a significant number of world leaders.

27. The Council could also further **entrench fragmentation** of climate governance, ironically contributing to the very problem it purports to address, by creating yet another potentially conflicting site of governance of climate. It could also lead to conflicts or at least mismatches between COP decisions (based on consensus) and Council outcomes (based on some form of majority decision-making).
28. Yet perhaps the most compelling argument against the creation of the Climate Council is that it is ultimately likely to be hamstrung by the same ideological contestations, deeply entrenched differences, and lack of political will (in some quarters) that the UNFCCC process faces. **The creation of a new UN institution, however well designed, is unlikely to overcome political dysfunction.**

### C. Political considerations

29. There are several political challenges that would need to be overcome to establish a Council. The foremost of these would be to secure the support of a critical mass of countries to both: (i) establish the Council (e.g., sufficient numbers to pass a GA resolution); and (ii) ensure that the Council would be relevant, effective, and sustainable (e.g., include most if not all of the G20, as well as widespread support of vulnerable developing countries). Given the current geopolitical situation, achieving both will be difficult.
30. The political challenge would not be limited to convincing countries to support the proposal, but also existing international bodies and institutions engaged in climate action, not least the UNFCCC itself.
31. Surmounting these challenges will require Brazil, as the originator of this proposal, a core group of willing countries, and/or the UN Secretary General to champion the establishment of this Council among the wider UN membership. To illustrate the difficulties of this task, the GA resolution requesting the International Court of Justice for an Advisory Opinion on the rights and responsibilities of states in relation to climate harms was ultimately adopted by consensus, but took Vanuatu and a core group of states nearly two years of diplomacy and negotiations behind the scenes to reach agreement. Earlier attempts by Samoa and Palau to garner support to move the GA in this respect were unsuccessful.

### D. Practical considerations

32. Turning President Lula's idea into reality would require the elaboration of several elements, including:
  - **Council Purpose, Mandate and Scope/Terms of Reference:**
    - As foreshadowed above, the purpose could include:
      - providing high-level political direction to catalyze and support ambition
      - strengthening accountability
      - enhancing coordination among key actors, processes, and mechanisms
      - others?
    - This could be achieved, inter alia, by:
      - facilitating regular diplomatic engagement/exchanges among high-ambition states, non-Party stakeholders (**NPS**), international financial institutions, sub-national governments, and others
      - informing policy development in key emerging areas, including in light of the latest science
      - raising climate finance through public and private channels, and catalyzing shifts in investment and finance flows
      - performing a quasi-judicial function by receiving complaints from individuals and non-state actors, initiating enquiries, seeking responses from states, and making recommendations



- appointing special rapporteurs and climate change experts to monitor and report on particular areas of concern
  - providing mediation services in relation for instance to disputes between states or between states and fossil fuel companies
  - clarifying the relationship and value add of the Council vis a vis existing bodies and institutions, while avoiding duplication of efforts or conflicting mandates.
- **Council membership:**
    - Who would sit on the Council? This could follow the template of the Human Rights Council with a representative sub-set of states from the five UN regions, or it could follow the groups recognized in the UNFCCC process, including for instance least developed countries (*LDCs*) and small island developing states (*SIDS*).
    - How would they be chosen? They could be chosen by election from all the member states of the UN, and for a limited term, while ensuring that seats are rotated among all the member states.
    - Would members be only UN Member States? Or would NPSs or international financial institutions (*IFIs*) be included? NPSs and IFIs could be elected by Member States with limited or full participation rights.
  - **Council governance structure:**
    - How would the Council reach decisions? This could be by a majority of the members present and voting, as in most committees of the GA,<sup>10</sup> and/or through special voting arrangements for decisions on particular issues or relating to particular Member States.
    - How often would it meet and where? This could be on regular basis, including immediately preceding the annual COP period, and/or in response to particular situations and needs that may arise.
    - How would it be structured to perform its different functions? This could be through one body or different committees and entities to perform specific functions, as for instance, the complaint procedure which would require a dedicated committee.
    - How would it be institutionally supported? This could be through a Secretariat in one location, or through support provided by rotating Presidencies and hosts.
    - Where would it be located?
33. A very clear articulation of the functions that the Council would seek to carry out, and its value-add, would be required to make the case for establishing a new body. In other words, form should follow function. An important initial step could be a thorough mapping of gaps in governance and coordination, incorporating an analysis of the mandates of existing bodies.
34. If successfully established, the new Council would need to be funded and resourced. Could it be funded from existing climate finance sources? Or something new? The private sector? Voluntary Member State contributions?
35. The Council could be designed to support and complement the UNFCCC process, including its rule-making function, rather than supplant, replicate, or undermine it.

## E. Procedural considerations

36. In addition to ensuring the necessary political steps to establish an effective Council, there would be several procedural steps that would have to be undertaken, depending on how the Council were to be established.
37. For example, establishment under the UNGA would require the proposal of a resolution that



addresses aspects such as those listed above, its negotiation, and ultimately its adoption by a majority (either simple or two-thirds) of UN Member States.<sup>11</sup>

38. The General Assembly might be the most appropriate and receptive forum, as it has recently adopted two significant decisions relating to climate change. The first imparted universal recognition to the human right to a clean, healthy, and sustainable environment.<sup>12</sup> The preambular recitals of this resolution highlight the triple planetary crises of climate change, biodiversity loss, and pollution. The second significant GA Resolution, adopted by consensus, requested an Advisory Opinion from the International Court of Justice on the rights and responsibilities of States in relation to climate harms.<sup>13</sup>
39. The Human Rights Council, established by a GA resolution in 2006,<sup>14</sup> replaced the United Nations Commission on Human Rights, which had been plagued by concerns relating to its credibility and effectiveness.<sup>15</sup> Any proposal for a Climate Council would benefit from the lessons learned from the establishment, membership, functioning and evolution of these institutions. In particular, like the Human Rights Council, members elected to the Climate Council should be expected to uphold the highest standards, fully cooperate with the Council, and be evaluated under a universal periodic review mechanism during their membership.<sup>16</sup>
40. Other possible, if less desirable, options for addressing the substantive, governance, and process weaknesses that the proposal to establish the Council is seeking to address could include:
  - negotiating a new instrument under the UNFCCC—although this will likely suffer from the same challenges the Council is seeking to address
  - utilizing the UN Security Council—but given the unrepresentative nature of participation and decision-making, as well as its dysfunction in recent years, including in relation to earlier attempts to address climate change, and the current geopolitical situation, this does not seem like a viable option.

## **F. Conclusion**

41. Regardless of whether a new Climate Council is ultimately established, President Lula's proposal has sparked an important debate as to whether global governance on climate change needs to be strengthened, and if so, how. Is the existing governance regime capable of dealing with the full complexity of the climate challenge, encompassing issues as wide-ranging as sustainable growth, security, displacement, and shared ecosystems?
42. One has to imagine the world in 2035, 2050, and 2100 and ask, informed by the projections of the latest science of the IPCC, whether current systems will be fit for purpose in the future that awaits us.

## G. References

- <sup>1</sup> 'G20 in Brazil,' *Valor International*, accessed March 27, 2025, <https://valorinternational.globo.com/g20-in-brazil/>.
- <sup>2</sup> Kaveh Guilanpour, *The Paris Agreement: A Moment for Reflection* (Washington, DC: C2ES, January 2025), <https://www.c2es.org/document/the-paris-agreement-a-moment-for-reflection/>.
- <sup>3</sup> United Nations Framework Convention on Climate Change, *Outcome of the first global stocktake*, Decision 1/CMA.5, ¶ 18 (March 15, 2024), <https://unfccc.int/documents/637073>.
- <sup>4</sup> World Meteorological Association [hereinafter WMO], *State of the Global Climate 2024* (Geneva, Switzerland: WMO, 2025), [https://library.wmo.int/viewer/69455/download?file=WMO-1368-2024\\_en.pdf&type=pdf&navigator=1](https://library.wmo.int/viewer/69455/download?file=WMO-1368-2024_en.pdf&type=pdf&navigator=1).
- <sup>5</sup> National Centers for Environmental Information, "Assessing the Global Climate in 2024," *National Oceanic and Atmospheric Association*, January 10, 2025, <https://www.ncei.noaa.gov/news/global-climate-202413>.
- <sup>6</sup> Harro van Asset, Lavanya Rajamani, Kaveh Guilanpour et al., *Re-invigorating the UN Climate Regime in the Wider Landscape of Climate Action* (Arlington, VA: Center for Climate and Energy Solutions [hereinafter C2ES], November 2023), <https://www.c2es.org/document/re-invigorating-the-un-climate-regime/>.
- <sup>7</sup> Guilanpour, *The Paris Agreement: A Moment for Reflection*.
- <sup>8</sup> Due diligence obligations in relation to climate change extend beyond the Paris Agreement. The advisory opinions from the International Tribunal on the Law of the Sea [hereinafter ITLOS] characterized this obligation as 'objective' and potentially 'demanding' in the context of the Law of the Sea. See, ITLOS, *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion (May 21, 2024), [https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory\\_Opinion/C31\\_Adv\\_Op\\_21.05.2024\\_orig.pdf](https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf); It has also been canvassed extensively by States in their statements and comments to the International Court of Justice [hereinafter ICJ] in relation to the Advisory Opinion on Climate Change. See, 'Obligations of States in respect of Climate Change: Written Proceedings,' *ICJ*, accessed March 27, 2025, <https://www.icj-cij.org/case/187/written-proceedings>.
- <sup>9</sup> See for instance, *Rockhopper v. Italy*, ICSID Case No. ARB/17/14, (2022) <https://climatecasechart.com/non-us-case/rockhopper-v-italy/> (an Energy Charter Treaty award requiring Italy to pay €190 million plus interest to a UK oil and gas company over a ban on offshore drilling).
- <sup>10</sup> United Nations, *Rules of Procedure of the General Assembly*, A/520/Rev.17, Rule 125 (2008), <https://documents.un.org/doc/undoc/gen/n08/233/16/pdf/n0823316.pdf>.
- <sup>11</sup> Whether the decision to establish a Climate Council requires a simple majority or 2/3 majority of those present and voting will depend on whether the decision is considered one that relates to 'important question' or 'other questions'. See, United Nations, *Charter of the United Nations*, Article 18, <https://legal.un.org/repertory/art18.shtml>.
- <sup>12</sup> United Nations General Assembly, *The human right to a clean, healthy and sustainable environment*, A/RES/76/300 (2022), <https://documents.un.org/doc/undoc/gen/n22/442/77/pdf/n2244277.pdf>.
- <sup>13</sup> United Nations General Assembly, *Working Capital Fund for 2023*, A/RES/77/266 (2023), <https://documents.un.org/doc/undoc/gen/n23/005/30/pdf/n2300530.pdf>.
- <sup>14</sup> United Nations General Assembly, *In larger freedom: towards development, security, and human rights for all – Report of the Secretary-General*, A/59/2005 (March 21, 2005), [https://www2.ohchr.org/english/bodies/hrcouncil/docs/gaA.59.2005\\_En.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/gaA.59.2005_En.pdf).
- <sup>15</sup> United Nations General Assembly, *Human Rights Council*, A/RES/60/251 (April 3, 2006), [https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf).
- <sup>16</sup> United Nations General Assembly, *Human Rights Council*, A/RES/60/251, ¶ 9.