

Bangkok - 3 April 2011

FROM CANCUN TO BANGKOK

A preliminary analysis of the state of the climate negotiations

The climate negotiations at the UN Climate Conference in Cancun last December ended with many governments, commentators and the media hailing a success and celebrating that the climate negotiations are “back on track”. Cancun did deliver some new institutions and processes. But on the most important issue – reducing greenhouse gas emissions – a sober analysis of both the process and outcome of the Cancun Conference suggests reason for pause.

There is growing reason to believe the international negotiations are not back on track, but are rather moving in the wrong direction – towards a system of emissions reductions that is inadequate to avert climate change and could lead the world to some 5 degrees Celsius of average global warming. The Bangkok meeting of the UN climate negotiations must put negotiations back on course towards a successful outcome at the Durban Climate Conference in December 2011.

The promise of Bali

Under the Bali Roadmap agreed at the December 2007 UN climate conference, countries agreed an approach under which all countries would contribute to the solution of climate change in accordance with equity, historical responsibility and common but differentiated responsibilities.

They agreed to two tracks of negotiations under the Convention and its Kyoto Protocol. The agreement was that the current system would be maintained as the foundation of the global climate regime, and that we would build on this foundation in an equitable way.

Under the Bali Roadmap it was understood that:

- The negotiations to ensure developed countries take on binding emission reductions would continue and developed countries would adopt a second period of commitments under the Kyoto Protocol commencing in 2013;
- The United States, which is the only country to repudiate the Kyoto Protocol, would undertake comparable commitments under the Convention; and
- Developing countries would undertake nationally appropriate mitigation actions, enabled and supported by financing and technology that would be measurable, reportable and verifiable.

The bargain was to maintain the existing rules – including provisions on transparency and compliance under the Kyoto Protocol – and to lift up the standard of other countries (including the United States) through new negotiations under the Convention. Developed countries were also to honor their long-standing, but largely unimplemented, obligations to enable adaptation and provide substantial financial and technology transfers.

Deregulating the climate regime

Instead of honoring this plan, many developed countries have now indicated their clear intention to avoid binding obligations to reduce their climate pollution, kill the Kyoto Protocol and replace it with a weaker “pledge-based” system. At the same time, they are seeking to retain and expand their favored elements of the Kyoto Protocol (e.g. market mechanisms) to a new agreement, and to establish a system of voluntary pledges.

Underpinning their agenda are the objectives of, among other things:

- Agreeing a global limit on warming of 2 degrees C, which would threaten catastrophic impacts on the world’s impoverished and marginalized peoples while enabling a “softer landing” for developed countries’ economies, corporations and powerful economic interests.
- Avoiding binding targets for developed countries, which might limit their economic interests or consumption, and would be enforceable as a matter of international law through oversight and compliance mechanisms.
- Enabling developed countries to appropriate the largest possible share of the remaining atmospheric commons to support their national economic interests and corporations through weak national targets and carbon markets while imposing new obligations on developing countries through the back door.
- Limiting their responsibility and liability for climate impacts and costs by “capping” their responsibility through a pledge to “mobilize” a mere \$100 billion in 2020, a sum far too little to address the scale of the challenge, and by framing their commitment in terms of “mobilizing” from a “wide variety of sources” so there is, in fact, no obligation to provide any particular sum of public funds from the North, and these funds may thus be mobilized via markets and contributions by developing countries.
- Establishing markets and other false solutions that enable further consolidation of wealth and power to economic and financial interests in the developed countries, while enabling increased control over markets, industries, forests (e.g. via REDD), agricultural resources in developing countries, and shifting the burden of curbing climate pollution to developing countries and communities.

These proposals were reflected in the controversial Copenhagen Accord, which was agreed outside the formal negotiating process in Copenhagen leading to acrimony and dissent. They have now been enshrined in the Cancun outcomes, and embody a new agenda of “climate deregulation”, which seeks to dismantle the current climate regime, abandon the agreed science-based “top down” approach to negotiations, and replace it with a weaker pledge-based “bottom up” approach.

What happened in Cancun?

In Cancun, a major objective was to avoid a re-run of the Copenhagen fiasco. At the same time, those driving the process understood that adopting the more transparent and participatory processes usually practiced within the United Nations would have made it difficult to impose their agenda.

Rather than restoring UN processes, as demanded by many developing countries, Mexico used its position as President of Conference of the Parties to convene WTO-style processes including small, exclusive meetings of selected Parties (known as “green rooms” in the WTO), informal consultations and “confessionals” conducted by pairs of Ministers (to find out Parties’ bottom line negotiating positions), back-room drafting processes, and informal plenaries to update Parties.

Meetings were claimed to be “open and transparent” but in fact it is still not known – even to many government delegations – who was invited to participate in which meetings, where they were held, and what was discussed. A final document was prepared outside the formal negotiating process, again without clarity on who served as its drafters, but presumably with input from powerful countries and the Mexican presidency. From this process the Mexican government presented final texts to all countries, offering them only a few hours to review it and – like in Copenhagen – to accept it on a “take-it-or-leave-it” basis.

The outcomes were predictably welcomed by the developed countries, which had achieved many of the objectives pursued in the Copenhagen process and Accord. Many developing country officials also publicly welcomed the outcomes, some clapping exuberantly in standing ovations, presumably celebrating that another Copenhagen-style collapse had been averted or that some of their demands were reflected (e.g. for new adaptation, finance or technology institutions), while in private many acknowledged the outcomes and process to be deeply flawed. Only Bolivia had the courage to speak out clearly about both the process and its outcomes.

The Cancun decisions

The decisions agreed in Cancun illustrate how the proponents of “climate deregulation” are gaining the upper hand. Among other things, the Cancun decisions:

- Postpone a decision under the Kyoto Protocol. Even though all countries have been negotiating a second commitment period of reductions under the Kyoto

Protocol since 2005, the Cancun outcome did not guarantee that, and failed even to set a deadline for conclusion of negotiations – reflecting a further weakening of the Kyoto Protocol negotiations.

- Open the doors to a regime that will be a flexible and voluntary “pledge and review” approach and not a system where all Annex I Parties will fulfill a set target. What risks emerging is not a stronger regime for reducing emissions but a voluntary regime which is less demanding on developed countries that are responsible for global warming.
- The document that was supposed to include developed countries’ commitments (document FCCC/SB/2010/INF X) did not exist and Parties did not know what these commitments would be when they agreed in Cancun. Parties basically signed a “blank cheque” enabling developed countries to list any mitigation commitment they choose – with no guarantee that they are fair, or science-based or sufficient to achieve any agreed global goal.
- The pledges subsequently circulated by the Secretariat for developed countries are basically those included in the Copenhagen Accord amounting to a mere 12 to 18% reductions in emissions compared to 1990 levels and even less once markets and loopholes are considered, which will contribute to catastrophic levels of warming.
- The decisions allow the Kyoto Protocol’s market mechanisms to continue and even expand, even without developed countries committing to a second commitment period of the Protocol, despite criticisms that carbon markets shift the mitigation burden from developed to developing countries, fail to deliver real reductions, and raise serious social and environmental concerns where they are applied.

The Cancun outcome on technology failed to address intellectual property, despite the various proposals on IPRs on the table. At present, 70-80% of clean technologies are in the hands of developed countries and it is they who hold the patents.

In relation to finance, the document claims that \$100 billion per year will be mobilized by 2020 but does not state whether this will come from developed countries or from the carbon markets. In previous proposals, the European Union said that 40% of their proposed \$100 billion Euros would come from developing countries, 20-40% from carbon markets, and 20-40% from public sources, including “innovative sources” to which developing countries would contribute.

Consistent with this, the Cancun outcome frames developed countries’ finance responsibility as a “goal” to “mobilize” from “a variety of sources”. It does not, in fact, guarantee a single cent of “new and additional” finance from the developed countries, despite their commitments in this regard. At best, it risks establishing a \$100 billion ceiling on developed countries’ responsibilities, while guaranteeing no particular amount of funding to developing countries.

The Cancun outcome establishes the World Bank as the interim trustee to a new Green Climate Fund, though many

developing countries and civil society groups have opposed a role for the World Bank, with many groups critical of its donor-driven structure, heavy investments in fossil-fuel projects and a history of projects that abuse human rights.

In relation to shared vision, the decision enshrines a 2 degree C temperature goal, despite that this would mean a 3 degree C warming for Africa and many other locations. Recent science suggests that 2 degrees, far from being safe, represents the threshold between dangerous and very dangerous climate change. Safety will only be assured by keeping warming “well below” 1.5 or 1 degrees C.

Bolivia speaks for climate justice

For reasons such these, Bolivia could not agree to the Cancun outcomes – dubbed unilaterally by the Mexican hosts as the “Cancun Agreements”. Bolivia stood alone in the final plenary to demand an outcome that will in fact address climate change. Ambassador Solon stated:

We represent a small country which has principles and will not sell our country and we speak with the peoples of the world. There is no consensus for approval of this document.

He emphasized that framework leading to inadequate emission reductions could lead to catastrophic warming and with it “ecocide” and “genocide”. Despite Bolivia’s objections, the Mexican chair gavelled through the outcomes as formally adopted stating that one country could not prevent a consensus. Although Bolivia “stood alone” in the final plenary, it had the support of peoples, groups, social movements, networks, scientists academics across the world who support the Cochabamba People’s Agreement and understand the urgency of the crisis and need for action.

Undermining international institutions and democratic procedures

The decision by Mexico to override the express objections of a sovereign state and nevertheless claim “consensus” departs from established processes of the UN and of other international organizations including the WTO. At the WTO consensus is defined where “no member, present at the meeting, when the decision is taken, formally objects to the proposed decision”.

In a final plenary, Ambassador Solon said that consensus meant that no State was explicitly stating objection or rejection to the decision. He added:

You cannot say there is consensus. You can only “take note”. This is an attempt to violate rules of the Convention and the United Nations. Consensus is not by a majority. There must be an absence of explicit rejection of a decision. Despite our objection, the decision was adopted. We are going to apply to all international bodies to preserve the rules of consensus. We came here to negotiate and not to gavel an injustice. Not even in Copenhagen was this done and there was respect for the rule of consensus. The (Copenhagen) Presidency did not have the gall to hammer through a decision. Now there is a violation of rule. This is an

unhappy conclusion. I ask you to review your decision and return to the path of law.

The decision by the Mexican presidency, and those supporting it, raise serious questions about the rule of law, the sovereignty of states and the integrity of the United Nations system. It demands a response by all peoples and states committed to a system based on rule by law not power, and to outcomes that reflect the will of people and not merely those of the most powerful countries and groups.

An elite and corporate led agenda

Underpinning the shift in the UN climate negotiations towards a “deregulatory” pledge-based system are vested interests represented in Northern industrialized countries, international financial institutions, multinational corporations and elites in both the North and the South.

The position of the United States in international climate negotiations, for instance, is shaped substantially by its failure to secure domestic climate legislation, which in turn is the result of actions by powerful economic lobbies including the coal, oil, automotive, metals, fertilizer, chemical, agri-business and other special interests, and the lobbyists and politicians they fund in Washington.

Vested interests have opposed not merely domestic legislation and international emission reduction pledges, but also any curbs on emissions that would affect their interests. Some are architects of the effort to deny climate change altogether, attacking climate scientists and limiting the necessary climate action. They seek not merely to undermine the current inadequate pledges – which could lead the world to some 5 degrees C of average global warming according to the UN Environment Programme – but any effective climate action.

Imperilling the Earth

The reconceived climate agenda proposed by these vested interests, set out in the Copenhagen Accord and embodied in the Cancun outcomes threaten to lead the world down the path of global warming disaster. The UNEP report on the “Emissions Gap” shows that the Copenhagen Accord's pledges will result in developed countries actually increasing their emissions by 6% in the worst scenario or reducing by 16% in the best scenario (in 2020 compared to 1990).

It concludes that under current pledges, the world will move towards global warming of 2.5 to 5 degrees Celsius before the end of this century. Many scientists and over 100 governments believe that the safe limit is below 1 or 1.5 degrees, so this threatens to destabilize the Earth’s climate system, subject hundreds of millions of people in the world to inhumane conditions that seriously violate their human rights.

Current levels of warming have already begun “triggering” major “tipping points” in the Earth system – such as methane from Arctic tundra, die-back of the Amazon or loss of ice-sheets and glaciers – with 2 degrees of warming threatening to trip a chain of events that cause warming to spin rapidly out of control. Warming “beyond 1 degree C may elicit rapid, unpredictable and non-linear responses that could lead to extensive ecosystem damage” (UN Advisory Group on Greenhouse Gases, 1986).

'It is not too late to avoid the catastrophic impacts implied by 5°C of warming which, according to the UN Environment Programme, could result from the current course. With a concerted effort by all, and an effort to honor the Bali Roadmap, outcomes that preserve our fragile planet can be agreed this year in Durban.'

Get back on track in Bangkok

Bangkok provides a chance to correct course and avoid this catastrophe. Yet the agenda proposed by the new US Chair of negotiations under the Convention (Bali Action Plan) seeks to enshrine the new deregulatory approach, while failing to follow the structure of the Bali Action Plan, or even the structure of the Cancun decision. Instead, it picks and chooses certain elements, while shifting key issues on mitigation – surely the crux of the climate negotiations – into informal “workshops” and off the formal negotiating agenda.

The starting point for “getting back on track” is to ensure all issues are considered in a balanced manner, with balance between the two tracks of negotiations, and on all issues under each track. Parties must conclude the various “undertakings” set out in the Cancun decisions, including new institutions for adaptation, technology and finance.

At the same time, they must also recognize the explicit understanding among Parties in Cancun that “through this decision, not all aspects of the work ... are concluded, and nothing in this decision shall prejudice prospects for, or the content of, a legally-binding outcome in the future” (Decision 1/CP.16). Consequently, further work is required under both tracks of the negotiations to ensure an outcome that honors the Bali Roadmap, and fully implements the Convention and its Kyoto Protocol. Among other things:

- Parties must formally commit to conclude negotiations under the Kyoto Protocol, in order to ensure there will be “no gap between the first and second commitment period”, as legally required by the Protocol negotiations. African governments have been among the strongest in defending the Kyoto Protocol. The Durban meeting must thus conclude the Kyoto negotiations, and cannot be the occasion on which Kyoto is killed.
- Negotiations under the Protocol must close the “mitigation gap” between developed countries’ pledges and what science and equity require. Developed countries must re-commit to an ambitious second commitment period. Europe must lead the developed countries, and not continue to use delaying tactics.
- Developed countries must radically increase the scale of their mitigation reduction commitments, without shifting the burden to developing countries through offsetting, or through using loopholes such as creative land-use accounting and surplus allowances. The current proposals for mitigation, markets and loopholes threaten not merely the negotiations but the adequacy of global efforts to tackle climate change.
- Negotiations under the Convention track must be restructured to reflect the Bali Action Plan, and all relevant

elements must be reinserted into the agenda. It is not for the Chair to unilaterally narrow the negotiations, or to exclude issues addressed in the Bali Action Plan, which called for the “full, effective and sustained implementation of the Convention”.

- Workshops under the Convention (Bali Action Plan) track of the negotiations must not repeat discussions that have already happened under the Kyoto track, wasting more valuable time. Discussions about developed countries’ mitigation under the Convention must focus on the United States, which is the only developed country to have repudiated the Kyoto Protocol.
- Workshops must not collapse the distinction between developed and developing countries, which have clearly differentiated responsibilities under the Convention and under the Kyoto Protocol. “International assessment” of developed countries’ mitigation commitments is distinct and separate from “international consultation and analysis” of developing countries’ mitigation actions, and should remain so.
- In terms of finance, greater transparency is required from developed countries on the provision of short-term financial resources, as preliminary analysis indicates that very little of the pledged \$30 billion between 2010-2012 is “new and additional” but rather just a re-branding of existing funding, including Overseas Development Assistance. The submission of information by developed countries by May 2011 must illustrate how developed countries plan to fulfill their commitment to provide “new and additional” resources. Financing for forests must be public and not market-based.
- Parties must acknowledge that the \$100 billion pledged in longer-term finance is just that – a pledge. It is a “number of convenience” for the developed countries, and is based on no clear scientific or technical analysis. Further work is required to fulfill the Convention’s requirement for the “determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of the Convention” (Article 11.3(d)). Further work is also required on the sources of finance, with a clear firewall between public finance required from developed countries and other sources, and an explicit exclusion of carbon markets including in the area of forestry.

Bangkok represents a chance to reflect on the Cancun process and outcomes, and to get the negotiations back on track towards outcomes that implement the Convention and its Kyoto Protocol and secure a safer future for all of us.

350.org
 African Biodiversity Network (ABN)
 African Trade Network
 Agency for Cooperation & Research in Development (ACORD) International (Africa)
 Aitec-IPAM (Association internationale de techniciens, experts et chercheurs - Initiatives pour un autre monde) (International network)
 ATTAC France
 Canadian Ecumenical Justice Initiatives
 Center for Cultural Interchange (USA)
 Center for Encounter and active Non-Violence Austria
 Centre for Cultural Exchange
 Conservation South Africa as a representative of the Climate Action Partnership
 Corporate Europe Observatory (CEO)
 Ecologistas en Acción (Spain)
 Ecology and Climate Change Action Network, Asia
 Economic Justice Network of the Fellowship of Christian Councils in Southern Africa
 Energy and Climate Policy institute for Just Transition (Republic of Korea)
 Federação de Órgãos Para Assistência Social e Educacional (FASE) Brazil
 FERN
 Focus on the Global South
 Freedom from Debt Coalition (Philippines)
 Friends of the Earth - EWN
 Friends of the Earth Cyprus
 Friends of the Earth Malta
 Friends of the Siberian Forests, Russia
 Fundacion por el Futuro (Spain)
 Future Energys South Africa
 Gaia Foundation, UK
 General Agricultural Workers Union of Ghana TUC
 Ghana Trade And Livelihoods Coalition (GTLC)
 Xarxa de l'Observatori del Deute en la Globalització (ODG - Debtwatch), Catalonia, Spain
 Global 2000, Austria
 Greenheart Music
 Institute for Agriculture and Trade Policy (IATP)
 International Forum on Globalization
 International-Lawyers.Org
 Jubilee South Asia/Pacific Movement on Debt and Development
 Legal Rights and Natural Resources Center - Kasama sa Kalikasan (Philippines)
 Legal Rights and Natural Resources Center/ Kasama sa Kalikasan - Friends of the Earth Philippines (LRC/KsK-FoE Phils)
 Maendeleo Endelevu Action Program (MEAP) Nord-Sud XXI
 Pan African Climate Justice Alliance (PACJA)
 Participatory Ecological Land Use Management (PELUM) Association Kenya (Network 37 groups)
 Polaris Institute, Canada
 Red Mexicana de Accion frente al Libre Comercio (RMALC)
 Sahabat Alam Malaysia
 Society for Threatened Peoples International
 Thai Working Group for Climate Justice
 The Council of Canadians
 Third World Network (TWN)
 Timor-Leste Institute For Development Monitoring And Analysis - La'o Hamutuk
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 What Next Forum