

CANCUN CAN DELIVER A GOOD OUTCOME, BUT ONLY FROM A GOOD PROCESS

A civil society assessment of the climate negotiations

This year has seen millions of people affected by the adverse climate impacts worldwide. The task of the UN Climate Convention and its Kyoto Protocol, to dramatically and immediately reduce greenhouse gas emissions, has thus never been more urgent. Scientists have consistently noted the rapidly diminishing window for taking action.

Cancun can and must deliver a successful result. The key to doing so is a process that is fair and inclusive, reflects historical responsibility and builds on best practices, while avoiding the pitfalls that led to the acrimonious ending of the December 2009 Copenhagen Climate Conference. Cancun must deliver a good outcome from a good process.

A history of inclusiveness

Transparency and full participation by all UN members in UN processes are fundamental principles in decision-making in the UN system.

UN members have succeeded in reaching consensus in many difficult areas. All countries agreed to the UN Framework Convention on Climate Change (UNFCCC), and the establishment of the Kyoto Protocol.¹

Final stages of negotiations sometimes require smaller settings to hammer out difficult compromises. When the time comes, established UN practices provide avenues that have worked for decades.

Concerns in Cancun

The Cancun climate conference is departing from these processes.

The Presidency of the Conference of Parties, Mexico, has convened a small group of countries mainly aimed at reaching agreement on the most sensitive topic, the mitigation efforts of developed and developing countries. These issues have been taken out of the legitimate negotiating processes, the two AWGs, and are instead being discussed in this small group.

Concerns include:

- Parties need to be able to work on the negotiating text that they tabled and that reflects their proposals. Instead, the AWG-LCA Chair introduced a

new document before the meeting, which does not reflect many of the key proposals by developing countries for a science based and equitable outcome.

- Text should come “bottom up” from within the negotiating tracks, the AWGs. Yet rumors abound that the Mexican Presidency will introduce text in a “top down” manner, through the two Chairs of the AWGs, and that this text will be introduced informally to Ministers without first discussing in the formal negotiating process.
- When the time comes for small group negotiations to hammer out the difficult compromises, negotiations must be democratic, transparent and inclusive, and should follow established UN practices. Instead, we already see a small group selected by the Mexican Presidency. Some Parties, but not others, are invited.

Shadows of Copenhagen

To many delegates, there are substantial parallels with the December 2009 Copenhagen climate conference at which an exclusive, un-transparent and undemocratic process led to the meeting ending in acrimony, undermining trust and leading to the controversial Copenhagen Accord.

The Accord was produced by an exclusive group of 28 countries selected by the Danish Presidency and

¹ Subsequent to its creation the United States did not ratify the Kyoto Protocol

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tabled on a “take-it-or-leave-it” basis in the final hours of the conference.

As a result of concerns about the process and substance of the Accord, it was not adopted by the Conference of Parties. The UNFCCC Secretariat has confirmed that the Accord’s provisions “do not have any legal standing within the UNFCCC process even if some Parties decide to associate themselves with it”²

Same strategy, different tactics?

The meeting here in Cancun has similarities and differences with Copenhagen. The Presidency is more sophisticated. They have announced that some consultations are taking place, but without full transparency on where and when the meetings are held, and on what basis Parties are selected.

They claim the meetings are “open”. Some Parties, after discovering that meetings are taking place, have asked to be included. In some cases, the configuration of Parties has varied – a practice known as “variable geometry” in WTO “Green Room” parlance. But in fact, most Parties were not informed where or when the meetings were taking place or did not receive an invitation, preventing a majority of countries from participating in practice.

And it seems the texts produced by this process may be placed on the table by the Chairs of the two tracks, rather than the President, cloaking them with a legitimacy lacked by the Copenhagen Accord. This however places the Chairs in a difficult position, as they risk serving as the scapegoats in the event the strategy fails.

At the same time the Chairs and two AWGs may issue new documents emanating from the work done in in the AWGs, adding to the confusion about where the texts are coming from.

While the tactics have evolved, the overarching strategy remains the same – an exclusive and small-group process that concentrates control, while lacking the legitimacy of recognized UN practices –

sending a foreboding signal to many attending the negotiations.

Risks of an un-transparent process

A principal concern is that the process in Cancun will be used to pressure governments to accept the phasing out of the legally binding Kyoto Protocol and its replacement with only a voluntary system of domestic pledges.

The danger is that the small group will be pressured to agree to a bad deal and then pass on this deal to all other countries to adopt. Being afraid of being blamed for a failure in Cancun if they reject it, governments may end up adopting a Cancun outcome that is a disastrous from an environmental and equity point of view.

This danger especially arises from the pressures exerted by the United States, which is promoting the “pledge and review” approach, and Japan, which has stated at Cancun that it will never accept an extension of the Kyoto Protocol. The fear is that Mexico, as host country, will try to appease these and other developed countries by asking developing countries to give in to their demands. And that developing countries will feel they have to accept the bad deal because they are afraid of being accused of causing a failure in Cancun.

Killing Kyoto

The worst effect of such a deal would be the demise of the Kyoto Protocol. Under this Protocol, developed countries have to make legally binding emission reduction commitments as individual countries and collectively reach an ambitious target that is based on what science requires, which is at least 25-40% by 2020 compared to 1990 (based principally on European-funded studies summarized in the IPCC Fourth Assessment Report), or more accurately the 40-50% emission cuts as demanded by the developing countries.

² UNFCCC Secretariat, Notification to Parties, 25 January 2010

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“Other environmental negotiations provide examples of best practice”

However, in the new “pledge and review” system, championed by the United States and promoted in the Copenhagen Accord (which was not adopted in Copenhagen), the developed countries set their own targets, which may or may not meet the reduction that science requires.

Acceptance of this system would mean the killing of the legally binding Kyoto Protocol and its replacement by a system of voluntary pledges by developed countries. At the same time it could result in an enlargement of carbon markets and continuation of off-setting mechanisms in the other track of negotiations.

This climb-down of commitments by developed countries is likely to be the result of the “Green Room” process convened by the Mexican Presidency of the conference. This is because the United States (which is the only developed country not to be in the Kyoto Protocol) insists on its demands being met otherwise it will not agree to set up a new climate fund under the Convention. For many, it was hoped that the fund would be the main or even the only result of the Cancun conference.

Courting climate catastrophe

The voluntary system of pledges under the Copenhagen Accord will lead the world down the path to climate change disaster. A new UNEP report on the “Emissions Gap” shows that under the Copenhagen Accord's pledges, developed countries will actually increase their emissions by 6% in the worst scenario or will only reduce their emissions by 16% in the best scenario (by 2020 compared to 1990).

The study concludes that with the Copenhagen Accord pledges, the world would move towards global warming of 2.5 to 5 degrees Celsius before the end of this century. Since many scientists and over 100 governments believe that the safe limit is below 1 or 1.5 degrees, this would subject hundreds of millions of the most vulnerable people to inhumane conditions and violate their human rights. To avoid such a catastrophe and the risks for runaway global warming, the Cancun conference must reject the Copenhagen Accord system of voluntary pledges and in-

stead reaffirm the Bali Roadmap and the continuation of the binding Kyoto Protocol system.

Shifting the burden

Another danger is that although they downgrade their own commitments, the developed countries will shift the burden of emission reductions to the developing countries to undertake. They are pressuring the developing countries to agree to list their planned mitigation actions in the Cancun outcome, and to subject the eventual results to a system of international scrutiny termed “international consultation and analysis.” This is irrespective of whether the actions are financially supported internationally.

Such an outcome in Cancun would be extremely inequitable, as well as environmentally disastrous. Thus, this approach must be rejected. So too must be the “Green Room” process that has started in Cancun.

A better way forward

There is a better way forward. The key elements of a good process at a minimum must be:

- **Democratic.** All countries are represented or elect their representative to the small group, and have equal voice.
- **Inclusive.** No country should be excluded from the process or from selecting their representatives to the small group. All groupings should be represented. Negotiating representatives should not be the only people in the room, other countries should be present to observe, provide advice and to be consulted.
- **Transparent.** All countries should be aware of how the process is going to work in advance and agree to it. There should be clearly structured report backs and consensus on moving forward.

Essential to a transparent process in the full participation of civil society. The UNFCCC must live up to the best practices of other UN forums, including other multilateral environmental agreements. Currently it is lagging far behind.

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“The “Green Room” method of the World Trade Organization... should not be imported into the UNFCCC”

Building on established practice

Established UN practices meet these requirements. The procedures and practices of contact groups, informal consultations and “Friends of the Chair” (FOC) have produced outcomes over many decades. In each of these approaches, the process is agreed and the outcome is reported back to the full membership, for further discussion and agreement.

In each case, Parties to the treaty concerned agree to the procedure and there is transparency in the terms of reference for the small groups and in cases of FOC, the selection of the Friends. This has not happened so far at the UNFCCC in Cancun.

Other environmental negotiations provide examples of best practice. Negotiations under the Convention on Biological Diversity and the Cartagena Biosafety Protocol have successfully employed small group processes that are democratic, inclusive and transparent.

A deal that works in practice

A deal in Cancun should build on best practices to deliver a good outcome from a good process. The Cancun conference will be a success if it decides to adopt an equitable and environmentally ambitious mitigation scheme. This should honor the Bali Roadmap and ensure:

- The adoption of the second commitment period of the Kyoto Protocol so that it can start on time by 2013, since the first period expires in 2012.
- At the same time, the US must make a comparable legally binding mitigation commitment under the Convention.

- The developing countries will strengthen their mitigation actions, supported by developed countries in providing finance and technology transfer, and both the actions and the support will be measurable, reportable and verifiable.

Additionally, outcomes must be agreed to:

- Establish an adaptation framework for action including a new adaptation committee, fund and mechanism to address loss and damage.
- Establish a new global climate fund, under the authority of the Conference of Parties, and with an equitable and democratic governance system. Sources of finance must be public and include no role for carbon markets. The World Bank must have no role in establishing the climate fund or in managing or governing climate finance.
- Establish a new mechanism under the Convention to carry out technology transfer and development, and link these structures to the climate fund. Technologies must be assessed to ensure they are useful, clean and socially sound. Barriers – including intellectual property – must be removed.

The outcomes should build on the results of the April 2010 World People’s Conference on Climate Change and the Rights of Mother Earth.

The Cancun meetings should be held in an inclusive and transparent manner. The “Green Room” method of the World Trade Organization, in which a small selected group takes the decision, and then the other members are asked to accept it, should not be imported into the UNFCCC.

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