

PANAMA – BEST AND LAST CHANCE TO GET NEGOTIATIONS BACK ON TRACK

A civil society assessment of the climate negotiations

The climate talks in Panama represent the best and last chance to get negotiations back on track and prepare for success at the 2011 UN Climate Conference in Durban, South Africa. What are the key issues? And what needs to be done to prepare for success in Durban?

Setting the stage for success

The Durban climate conference is not going to be easy. The 2010 climate talks in Cancun addressed a number of easier issues leaving thornier ones such as the future of the Kyoto Protocol for Durban.

For Durban, many countries – particularly developing countries – seek an outcome that is based on science, on the multilateral system reflected in the Convention and its Kyoto Protocol, and on the deal agreed by all countries in the Bali Roadmap.

A handful of wealthy countries – including notably the United States – are now seeking to move the goalposts. They want to end the Kyoto Protocol and replace it with a “pledge based” approach under the Convention thus threatening to dismantle rules on developed countries, shift the burden to developing countries, and renege the Kyoto Protocol, the 2005 mandate for negotiations and the Bali Roadmap.

Durban, then, is shaping up as a clash of paradigms between those who believe that the world deserves and needs a science- and rules-based multilateral climate system building on the existing one in order to tackle perhaps the greatest challenge to face humanity, and those who apparently believe in a voluntary domestic driven system.

The elephant in the room

In the negotiations, the major stumbling block is the United States. It remains the only country to officially remain outside the Kyoto Protocol¹; its emissions have increased 16% since 1990 despite its promise under the Convention to stabilize and reduce emissions to 1990 levels by 2000; and it is now seeking to dismantle the global climate regime negotiated since 1992.

The US’ proposed “bottom up architecture” is a radical departure from the existing system and the deal struck by all Parties – including the US Bush Administration – in Bali. Based on its submissions, this approach involves “domestically derived mitigation commitments” and an outcome that is “legally symmetrical” for all countries, except the least developed. Under the approach supported by the United States there would be:

- **No negotiation of commitments.** The US support a “mitigation contribution” that is “domestically derived” and that it has “chosen to list” in an appendix.
- **No internationally binding commitments.** The US contribution would be achieved through means “provided for under their respective laws and policies”. They will have “targets” that can be reviewed but they will not be bound in international law to achieve them.
- **No comparability of efforts.** The US pledge does not take into account how it compares with other developed countries. A senior US negotiator has doubted the need for metrics to evaluate comparability.
- **No assurance of adequate efforts.** The proposed “pledge-based” approach does nothing to ensure an adequate level of effort, despite the Convention’s requirement that developed countries take on “equitable and appropriate contributions ... to the global effort”.
- **No effective rules on compliance.** The US prefers the “sunshine” of transparency, and domestic rules on compliance, over a legally binding international compliance mechanism such as exists already under the Kyoto Protocol.

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

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- **No aggregate target for developed countries.**

The US remains unwilling to agree a science-based aggregate target for developed countries. It instead prefers merely to aggregate the pledges offered by developed countries.

Such an approach would effectively “deregulate” the international climate system. The US supported the Cancun outcome because it prefigures just such an approach.

The US has camouflaged its real intent by sounding positive while shifting attention elsewhere (e.g. to China). According to its leaked 11 March 2010 communications memo, it seeks “to reinforce the perception that the US is constructively engaged in UN negotiations in an effort to produce a global regime to combat climate change”.

A race to the bottom

Inspired perhaps by the US, some Kyoto Parties (Canada, Russia and Japan) are refusing outright to undertake a second commitment period, despite their international obligations, the 2005 mandate for negotiations, and the 2007 Bali Roadmap. Yet they continue to sit in the Kyoto Protocol negotiations where they fail to negotiate in good faith.

Other countries (Australia, New Zealand, European Union, Switzerland and Norway) claim to support the Protocol, but are imposing “conditionalities” that would compel the same result to end it.

In promoting a new treaty under the Convention all seem to be operating under the misguided notion that sometime soon the US will be ready to agree to a new treaty. Anyone who has followed US politics over the last decade, let alone recently, might question the wisdom of this.

A new “mitigation treaty”

Some developed countries have called for negotiations towards a new legal treaty to be launched in Durban. Australia and Norway, for instance, propose a mandate for a new treaty with “binding mitigation commitments by both developed and developing countries”, except the least developed. Notably, the

proposal so far does not explicitly condition corresponding agreements on the Bali Roadmap on issues of adaptation, finance, technology and capacity.

A narrowly focused “mitigation treaty” under the Convention offers a “triple win” for the developed countries. It would provide:

- New mitigation commitments (versus actions) for the developing countries;
- Weaker mitigation commitments than already applicable to the developed countries under the Kyoto Protocol; i.e. voluntary emission pledges determined domestically, and
- No new commitments on the other Bali “building blocks” – adaptation, finance, technology and capacity – all of which are critical to developing countries.

Australia and Norway suggest such a treaty could exist alongside the Kyoto Protocol, but they understand all too well that no developed country will continue in the Kyoto Protocol if they can “jump ship” to a weaker treaty under the Convention. And no one expects a Convention-track treaty to be stronger than the Kyoto Protocol, particularly if they expect the US to participate.

Plan C: Expand the Kyoto Protocol?

Some countries are now discussing an old proposal with a new makeover – i.e. creating mitigation commitments for developing countries through an Annex C in the Kyoto Protocol. This “Plan C” has the advantage of “saving” the Kyoto Protocol. But it imposes new binding commitments on developing countries, when the deal in Bali was for “nationally appropriate mitigation actions” and disregards the principles of equity, historical responsibility and differentiated responsibilities and capabilities. It does not guarantee any treaty outcome under the Convention track on adaptation, finance, technology or capacity. And negotiating a new Annex C requires substantive changes to the Kyoto Protocol, an outcome that would itself take considerable time.

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“...[developed countries] have available around 4Gt in accounting “loopholes” meaning they could comply with their pledge with no actual mitigation.”

All of these approaches – a new “mitigation treaty” and an “expanded Kyoto Protocol” – involve caving into Annex I countries’ efforts to manufacture a crisis in Durban involving the second commitment of the Kyoto Protocol, and to move the goalposts rather than honor the Bali Roadmap. None of them ensures a balanced approach across and within the two tracks. None ensures legally binding outcomes on adaptation, finance, technology or capacity. And none immediately addresses perhaps the greatest problem – the profoundly inadequate ambition by Annex I Parties to reduce their emissions.

Mitigation: close the gap

To keep global warming below 2°C, around 12Gt of climate pollution must be cut globally by 2020 according to UNEP (around 14 is probably required to be in line to keep warming below 1.5°C). In Copenhagen developing countries have already pledged more than 5Gt of reductions with the support of finance, technology and capacity. They are willing to do their part, subject to delivery of finance, technology and capacity in accordance with the Convention.

So to keep warming below 1.5°C a gap remains of around 9Gt (i.e. 14 minus 5). Despite this, developed countries have offered less than 4Gt of reductions, an effort considerably less ambitious than that offered by developing countries, and despite their “differentiated responsibilities and capabilities”. Moreover, they have available around 4Gt in accounting “loopholes”, meaning they could comply with their pledges with no actual mitigation. Carbon markets would make this outcome even worse. They could, in other words, make no net contribution to reducing emissions by 2020.²

In addition, developed countries are insisting that new market mechanisms be introduced in the negotiations to further enable the rich countries to offset their emission reductions. In a world that needs to move to no carbon emissions in over just a few decades, there is clearly no room for off-sets. Rich countries must do maximum reductions at home, as

fast as possible. *Simultaneously*, they must provide substantial support through finance and technology to enable developing countries to tackle the historic challenge of moving out of poverty while eventually cutting emissions. For developed countries to avoid or delay inescapable transformation of their industry at home by off-setting though low-hanging fruit in developing countries is not an option. Expansion of the CDM and proposals for new market mechanisms must therefore be rejected in the negotiations leading up to and beyond Durban.

Finance: Bait and switch

Finance is a key outcome for Durban. Yet disbursement of the \$30 billion “fast-start” finance pledged in Copenhagen and Cancun has been slow, little is demonstrated to be “new and additional”, there is no finance pledged for 2013, and \$100 billion pledged for 2020 is inadequate and fails to state how much will be from public sources. There is, consequently, still much progress required on finance.

A successful Durban Conference will ensure clarity on the sources and scale of finance going forward. It will operationalize the Green Climate Fund with legal personality, an independent secretariat and adequate initial capitalization under the authority of the Conference of the Parties.

It will also put in place a common reporting format and an assessed scale of finance contributions for developed countries. And it will operationalize the Standing Committee on Finance to ensure greater coherence on global climate finance. In Panama, Parties should seek to make substantial progress on these issues, as the basis for success in Durban.

Leadership anyone?

Annex I countries must radically increase ambition by agreeing a science-based aggregate target, comparable individual efforts, and appropriate sources and scale of finance.

² Stockholm Environment Institute, Annex I pledges, accounting “loopholes”, and implications for the global 2C pathway (June 2011)

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They must:

- Increase the ambition of their mitigation commitments;
- Tighten accounting rules and methodologies to eliminate loopholes; and
- Expand finance, technology and capacity commitments to developing countries.

Failure to do so risks a major failure of leadership. In Panama, all Parties should recognize the major failings in Annex I mitigation ambition, and explore ways to close the mitigation gap.

Benchmarking success

Ultimately, success in Durban must be measured against the objective of the UN Climate Convention. Are we on track to avoid dangerous interference with the climate system? And will this be done in a time frame that protects ecosystems, food production, access to water, and enables sustainable societies?

Measured by this yardstick, negotiations remain blatantly off track. A UNEP report confirms that countries' pledged emission reductions are too weak to avert dangerous climate change, and could cause warming up to a catastrophic 5°C. Warming in Africa and other large land-masses would occur at much higher levels, heralding impacts not experienced in the history of human civilization.

Indeed, current levels of warming have already begun “triggering” major “tipping points” in the Earth system – such as Arctic methane, Amazon dieback or loss of icesheets – with 2°C of warming threatening to trip a cascade of events that cause warming to spin out of control. In fact, warming

“beyond 1°C may elicit rapid, unpredictable and non-linear responses that could lead to extensive ecosystem damage”, the UN Advisory Group on Greenhouse Gases concluded already back in 1986.

Success in Durban

Urgent action is required if we are to stabilize the Earth's climate system and protect all of our earth's ecosystems and peoples. This must go beyond “measuring, reporting and verifying” mitigation commitments. It requires scaling up the ambition of those commitments. To avoid collision with nature's boundaries, we have to change course, and not merely measure, in increasingly minute detail, the rapidly narrowing distance to catastrophe.

To secure success in Durban, all countries should follow the bargain struck in Bali. They should maintain the existing rules – including provisions on transparency and compliance under the Kyoto Protocol – and lift up the standard of other countries (including the United States) through new negotiations under the Convention. Developed countries are to honor their long-standing, but largely unimplemented, obligations to enable adaptation and provide substantial financial and technology transfers.

To ensure success in Durban developed countries should stop moving the goalposts and play by the rules. They should fulfill their second commitment period under the Kyoto Protocol, and honor and build on the strengths of the existing climate regime reflected in the UN Climate Convention.

**Friends of the Earth England, Wales
and Northern Ireland**

Friends of the Earth US

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**Jubilee South – Asia/Pacific Move-
ment on Debt and Development**

**Pan African Climate Justice
Alliance (PACJA)**

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