

What happened in Durban?

Extract from *'What happened in Durban... what must happen next: A civil society analysis of the state of UN climate negotiations'*, 12 May 2012.

The Kyoto Protocol: An empty shell?

The Durban outcome confirms that a second period of commitments for developed countries will take place under the Kyoto Protocol starting 1 January 2013 and ending 31 December 2017 or 2020. In so doing, it maintains the system of rules embodied in the Kyoto Protocol for another period, due in substantial part to the willingness of the EU to remain in the Kyoto Protocol.

The decision, however, is weak on substance and, on close reading, enables developed countries largely to slip out of their obligations to negotiate future, legally binding multilateral mitigation commitments under the Kyoto Protocol. Among other things:

- » The decision merely 'takes note' of developed countries' existing weak pledges at Copenhagen and Cancun, rather than requiring the negotiation of adequate commitments during 2012. 'Take note' is language of no binding force. After six years of discussions, developed countries have 'played out the clock' and avoided multilateral negotiation of their mitigation contributions.
- » It fails to establish a clear process for converting these weak pledges into legally binding commitments (called Quantified Emission Limitation and Reduction Objectives or QELROS), meaning the weak pledges may be converted into even weaker final commitments.
- » It calls for future efforts to address accounting loopholes (such as 'surplus allowances' from the first period). However, it expands others (for example, land use) and includes no systematic process to address all loopholes and to limit carbon markets. In so doing, it fails to ensure that developed countries make real reductions rather than shifting the burden on to developing countries.
- » A number of countries have included footnotes declaring their participation dependent on the outcome of negotiations elsewhere, while some countries – Canada, Japan and Russia – have pulled out altogether. At the end of the Durban meeting, Canada formalised its withdrawal.



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An 'Indaba' meeting with a restricted number of countries invited to take part

In sum, the Kyoto outcome establishes a second period, announcing a start and (contested) end date. But on close reading, it is carefully worded to avoid any substantial obligations by developed countries, and it falls far short of what is required for an adequate and legally binding second period of commitments. At best, it becomes a filing cabinet for the weak mitigation pledges the developed countries have imposed on, rather than negotiated with, the poor.

Negotiation on the Kyoto Protocol will continue during 2012. However, the Durban outcome stacks the deck even more heavily against an outcome acceptable to developing countries and to citizens concerned that developed countries do their fair share and don't backtrack on their promises to combat climate change.

Inadequate ambition on mitigation

In Durban, developed countries held to the weak mitigation pledges they put forward in Copenhagen and Cancun. Whereas developing countries have offered up to 5Gt of reductions by 2020, developed countries – which have greater responsibility and capacity – have pledged a much lower 4Gt of cuts.

These, in turn, would be substantially undermined by certain accounting loopholes (around 4Gt) and by carbon markets, which shift the burden of emissions reductions to developing countries, while enabling developed countries to count these reductions towards meeting their own commitments. Developed countries, in other words, based on their current pledges and loopholes, could make no net contribution to curbing climate change by 2020.

While developed countries sought to escape their Kyoto commitments and retain their weak pledges, they pushed forward with a range of proposed new obligations for developing countries, including obligations for 'measurement reporting and verification', a 'registry', 'international consultation and analysis' and 'biennial update reports'.

The negotiations under the convention track addressed shared vision, mitigation, adaptation, as well as finance, technology and capacity, and a review in 2015.

A shared vision?

Under shared vision, the parties agreed to continue negotiating towards a global goal of substantially reduced emissions by 2050 and a peaking year. This is critical, as it defines the global pathway for reducing emissions, and therefore the chances of achieving a 2°C or 1.5°C goal or lower.

A number of developing countries, led by the African group and India, emphasised that defining these global goals (as well as level of effort by developed countries, and financing for developing countries) has significant equity implications.

Parties therefore agreed to consider issues of ‘equitable access to sustainable development’ at the first session in 2012. The outcome of this discussion is critical and will be relevant to continued negotiations under the Framework Convention, the Kyoto Protocol, as well as negotiations towards a new agreement or agreed outcome.

Carbon markets

Developed countries also succeeded in their demands for a new carbon market mechanism outside the Kyoto Protocol.

The Durban outcome defines a new market mechanism that is to operate under the guidance and authority of the Conference of the Parties (COP), which ‘may assist developed countries to meet part of their mitigation targets or commitments under the Convention’. This mechanism in fact risks transferring liability for failure to reduce emissions to the South in the form of financial debt, while counting the supposed reductions against developed countries’ targets even should a project not perform as planned.

In relation to forests, the outcome also prefigures markets for so-called Reducing Emissions from Deforestation and Forest Degradation (REDD) projects by stating that ‘market-based approaches could be developed to support results based actions’. The possibility is left open to expand these to agriculture and soil-carbon, presenting a major risk to farmers in developing countries, who may see part of their soil commodified and sold to foreign banks and companies to enable developed countries to increase pollution.

Overall, Durban represents a major victory for many developed countries that are seeking to extend the dimly unsuccessful carbon markets of the Kyoto Protocol.

Adaptation

Durban helped to elaborate the Adaptation Framework established in Cancun, including the new Adaptation Committee. It established a process of technical work and workshops on loss and damage. It also created a process to support the adaptation activities of Least Developed Countries.



Unfortunately, at the same time there was no agreement on a ‘comprehensive work programme on agriculture in non-Annex I Parties under the Adaptation Framework’, despite a call by African ministers prior to the Durban meeting.

Rather, the outcome – mainly an offering of workshops and papers – reflects the progressive downgrading of expectations on adaptation. Among other things, developed countries continue to blur the distinction between adaptation and other development processes, so they can characterise Official Development Assistance (ODA) as adaptation finance and limit the scale of their financial commitments. At the same time, efforts continue to narrow funding only to ‘most vulnerable’ countries, rather than to all developing countries, in accordance with the Framework Convention.

Finance and technology

The talks agreed to operationalise the Green Climate Fund (GCF) but failed to make real progress on long-term finance or its sources. Durban, in other words, agreed to set up a bank, but the vault remains empty. The GCF outcome is a mixed bag, with major concerns especially over the role of the proposed private sector facility, the approval process involving ‘nationally designated authorities’, the role of the interim trustee and the criteria for selecting the permanent trustee.

Developed countries failed to commit to any specific level of finance for 2013, or on the level of public finance to be provided by 2020. This follows a poor performance in delivering the \$30 billion for 2010–2012 pledged in Copenhagen and Cancun, very little of which has been disbursed, and even less of which is genuinely new and additional.



In Durban, governments did agree to two finance work programmes, one on long-term finance (under the COP) and another on sources of finance (under the Standing Committee). These will provide an opportunity to continue to raise the importance of finance to any climate deal.

On technology, Durban offered a few small developments, including a call for proposals on the Climate Technology Centre and Network. Developed countries blocked any outcome relating to intellectual property controls or technology assessment.

Durban Platform for Enhanced Action

Under the Durban Platform for Enhanced Action, parties are to negotiate a new ‘Protocol, another legal instrument or agreed outcome with legal force’. This is to be agreed by 2015 and to come into effect by 2020.

The mandate for negotiations says the new agreement will be ‘under the Convention’ but a major fight has been brewing during 2012 over the scope of the new outcome. Many developed countries want a deal focused mainly on mitigation, with lip service being paid to issues important to developing countries, such as adaptation, finance and technology.

More problematically, the US sees Durban as a major success because there is no explicit reference in the Durban Platform to equity – providing scope for its outcome to be based on ‘legal symmetry’ among rich and poor countries, and obligations on developing countries that are not conditional on their receiving the finance and technology they need. It also involves what the US calls ‘modernisation’ of the Framework Convention, meaning no differentiation between developed and developing countries, excluding the Least Developed Countries.

Even if countries are successful in securing an outcome that is both ambitious and equitable – one that would necessarily exclude the US based on its current policy – then the delay in implementation until 2020 means that climate action will be far too late. Small islands and Least Developed Countries have emphasised the science that shows that global emissions must peak by 2015 to have any reasonable chance of keeping warming below 1.5°C.

Recognising this, the Durban Platform includes a process to close the ‘ambition gap’ with a view to ensuring the ‘highest possible mitigation efforts by all Parties’. The US has already said its own pledge is not up for review, and so increased political pressure will be required to ensure greater leadership by those countries most responsible for the climate crisis.

To secure success in future discussions, we must see the UNFCCC as only one battleground in a much larger struggle and scale-up efforts to pressure those countries and actors – including domestic special interests, elites and corporations – that are undermining progress.

Full original text available at: http://twinside.org.sg/title2/climate/pdf/assessments/Bonn09/Durban_Assessment_Bonn12_Version_Print1.pdf This extract language and copy edited.

Initial signatories: Asian Indigenous Women's Network (AIWN), Council of Canadians, Friends of the Earth EWN, Institute for Agriculture and Trade Policy (IATP), International-lawyers.org, Nord-Sud XXI, Jubilee South - Asia/Pacific Movement on Debt and Development, Pan African Climate Justice Alliance (PACJA), Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), Third World Network.

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