

International Negotiations on Climate Change; Global Outlook towards Road to Durban

General overview of UNFCCC and COP 16 outcomes

The outcomes of COP 16 have been interpreted variously by many commentators. While some of them see as successful in restoring confidence in the multilateral process and bringing negotiations back on the track (AWG LCA and AWG KP); many others allege that COP 16 outcomes have been complex in content as well as process. It has been emphasized that COP 16 laid the background for a final goodbye to the core principles of the KP viz. historical responsibility and common but differentiated responsibility. We view COP 16 as losing whatever the UNFCCC process had earned since the beginning of the negotiation. There was absolutely no progress on binding commitments and future of the Kyoto Protocol, which are the most contentious issues of the day. The COP 16 also pushed backwards all the tough decisions that it had to take and fracture lines between the developing and developed countries remain prominent. A closer look at some contentious and substantive issues and their outcomes follow;

The spirit of multilateralism: Though many claim that Cancun COP restored the faith in multilateralism which was under severe pressure after the Copenhagen debacle. However, the claim is exaggerated. Cancun COP opened a new process of negotiation where role of smaller countries were hugely undermined. The meetings were convened in small groups under leadership of the hosts and smaller countries were just informed and given the option of either take it or leave it. There has been a lot of discontent among the representatives of smaller countries about the process besides the content. The final outcome document was approved despite vociferous opposition of Bolivia which was swept under the carpet. The COP 16 witnessed sharp attack to the UNFCCC principles and general norm of international negotiation of one country one vote, transparency and respect for divergent opinion. Despite all efforts to restore multilateralism many countries including Japan, Australia, USA publicly expressed their lack of faith in the UNFCCC process and the multilateralism.

Balanced outcome: Despite the assurances of having a balanced outcome, the final outcome was heavily loaded in the favour of developed countries. While developed countries were let go away without making any binding commitments, developing countries were made to agree to a number of concessions including throwing open their efforts to MRV and ICA. While the developing countries demand for determination of date for final emission reduction commitments were rejected, the outcomes mainly depended on voluntary pledges which are definitely not enough to prevent rise in temperature below 2DC. Developing countries were subjected to a number of new disciplines, totally in contravention to the UNFCCC and KP and shifted the burden of containing climate crisis on the developing countries. This is reflected in the fact that the Cancun AWG-LCA text contains 20 operational paragraphs on developing countries' mitigation actions (most of them containing new obligations), compared to only 12 paragraphs on mitigation by developed countries. The ground is being prepared for a new system that would blur the differences that now exist in the mitigation commitments of developed countries versus the mitigation actions of developing countries, which would then replace the Kyoto Protocol and change the meaning of the UNFCCC itself. Cancun will be seen as a milestone in facilitating this regime change.¹

¹ Complex Implications of the Cancun Climate Change Conference, Martin Khor, December 25, 2010 vol xlv no 52 EPW

Compliance regime and second Commitment period of Kyoto Protocol: The Cancun COP made it more likely that there would be no extension of KP when it expires in 2012. There are a number of references in the text of both the tracks (AWG-LCA and AWG-KP) which manifests that. We already know the distaste of developed countries towards binding commitments and compliance of the KP. In all probability, the expiration of KP will be followed by merging the two tracks into one broader umbrella of shared vision. That would mean that there would be no binding commitments from developed countries. Both developed as well as developing country will contribute their efforts towards emission reduction, however, there would be no enforcement mechanism except of voluntary efforts. The COP also noted the commitments made by the country in the COP 15, however, that is woefully inadequate and at best can ensure only 16% reduction in emission as against the requirement of reduction in the range of 25% to 40% stated by the IPCC.

Green Climate Fund: The COP 16 agreed for a green climate fund of USD 30 billion by 2012 to be scaled up to USD 100 billion every year from 2020 onwards. While the developing countries have insisted that the funds mobilized from national resources and given by way of grants, the Cancun texts only mentions a wide variety of resources including public and private resources, market based mechanisms, grants and loans. The fund can be availed only by countries fulfilling the MRV and ICA compliance and after the satisfaction of the developed countries. While the amount of the fund falls far short of what has been suggested by various proposals (UNDESA and WB and G-77 and China to the tune of USD 600 Billion approx.); the major contentions surfaced also on the governance of the fund. The COP took a decision to have a 24 member Board with equal representation from developed and developing countries; China suggested proportional representation meaning thereby that representation from developing countries would overwhelm developed countries representation in the Governance. As regards the trustee of the Fund; while developed countries favor WB, developing countries stand in opposition to the proposal and want Trustee chosen through transparent bidding process. The COP also set up a Transitional Committee to design the Green Climate Fund.

Technology Transfer: Progress was also seen on the technology front, with COP appointing a 20 member Technology Executive Committee, a technology centre and networks. Under pressure from the US, the text cleverly avoided any mention of IPR issues, which has been a highly contentious issue. Thus COP 16 accomplished what was started by COP 15 in terms of laying a background for the beginning of the end of a principled approach towards Climate crisis.

Post Cancun developments and the road to Durban

Post Cancun while there has been a substantial global investment in green energy and “politically correct” multilateral and bilateral events, the major fault lines between the developed and developing countries remain unaddressed despite several goading and sincere persuasion by the UNFCCC.

Global investment in clean energy projects saw a big rise last year and is poised for further strong growth. Investment topped \$243bn (£152bn) in 2010, a rise of 30% on the \$186bn spent a year earlier, according to the World Economic Forum (WEF). It added that more clean energy sources could now compete with fossil fuels. Higher energy prices were also likely to increase demand for clean energy, WEF said. According to the WEF figures, clean energy investment stagnated in 2009, with a 4% rise from a year earlier. Investment in Europe, the Middle East and Africa rose by \$19bn to \$94.4bn, while the

Americas saw a jump of \$17bn to \$65.8bn. In Asia and Oceania, investment rose by \$20bn to \$82.8bn. The report said \$51.1bn was invested in clean energy projects in China alone, a rise of 30% on 2009 levels.² China has also been investing heavily outside the clean energy sector, including in coal-fired power stations, in order to meet its rapidly growing demand for power. Many other countries have also increased their spending on fossil fuel energy projects since the downturn. The WEF said investment in small-scale clean energy projects took off last year, with global investment almost doubling to \$59.6bn. In Germany, for example, residential and commercial rooftop solar capacity grew by a record amount. However, high government debt levels following the global downturn meant that some countries have been cutting back on support for clean energy, the report found.

Simultaneously, the International Energy Agency (IEA) declared (May 2011) 2010 as having record jump in carbon emission. According to the IEA, the problem the UN process is seeking to address is growing faster than anyone predicted. If emissions this year rise at the same pace as last year, the world will exceed 32 gigatonnes of CO₂ in energy-related emissions alone in a single year. This is the level the IEA had expected emissions to reach by 2020, indicating that the growth of CO₂ emissions has been much quicker than expected. Unless these rises can be turned to reductions within a few years, the world will soon be well beyond what scientists say is the limit of safety.

UNFCCC negotiations and Bangkok Meeting (April 2011)

The developments at UNFCCC negotiations have been sluggish. The first round of inter-sessional climate talks in 2011 ended on 8th April with parties approving the formal agenda for the next meeting at Bonn and end of the year Conference of Parties (COP) at Durban. The agenda was adopted after three days of intense discussions and negotiations, which reflected sharp division between the developed and developing countries. While the developing countries wanted salient points of BAP (which were not deliberated enough at Cancun) to be a part of the agenda, developed countries wanted to go ahead with the Cancun decisions only.

173 countries and more than 2000 scientists, climate activists and civil society organizations participated in five day Bangkok climate change talks. Sharp differences emerged between developed and developing countries over the issue of future of the Kyoto protocol, which expires at the end of 2012. Reportedly most of the developed countries are not in favour of a binding second commitment period after the KP expires at the end of the next year and want AWG KP and AWG LCA merged with the focus on long term cooperative action and shared vision rather than binding commitments. Japan and Russia have led the opposition against a second commitment period while G 77 and China and other leading groups from the developing countries not only favour a second commitment period but enhanced levels of ambition but has also demanded that there should be no gap between the first and second commitment periods. China said "a compromise was reached at Cancun which should be the basis of moving forward and the compromise is clear on the second commitment period of Kyoto."

However, it was rather unfortunate the most of time was lost due to the debate on the agenda and there was not much headway on the substantive issues. Following a submission of the agenda by G77 and China for consideration of the parties in place of the agenda prepared by the Chair, developed and developing countries were pitted against each other. G 77 and China emphasized that the proposed agenda was structured to be inclusive the Bali Action Plan building blocks and was carefully balanced to address the concern of the Group, and allowed parties to move forward on the decisions taken at

² <http://www.bbc.co.uk/news/business-12910298>

Cancun as well as issues under the Bali Action Plan." US and Russia viewed the proposal as going backwards to include issues under Bali Action Plan and as reflected a questioning of the Cancun decisions. There was also severe criticism of an alternative agenda proposed by the chair, with developing countries alleging that it was beyond the mandate of the Chair to prepare the agenda and parties should be allowed to merge their differences by themselves.

The talks did not witness much progress on the fate of Kyoto Protocol. Japan and Russia reiterated that they would agree to a "second commitment period" under Kyoto, although both countries said they would be willing to consider participating in a wider global deal involving major developing countries, such as China and India. "We are not prepared to go forward with the binding obligation for ourselves which would not apply to the other major economies," the chief U.S. delegate Jonathan Pershing told a news conference. Chief EU negotiator Artur Runge-Metzger said Europe could not deal with climate change on its own. "Ideally, we would like a single legal framework, but it looks as if that's impossible. So we want other countries to do something, whether under Kyoto or some other way."

The observer organizations and civil society groups attending the talks felt that talks have not risen to the occasion. They alleged while Cancun represented a compromise in favour of the developed countries, they are trying further to regress from their stance and commitments. The efforts of developing countries like India, China, Brazil, South Africa and other smaller countries are not being matched by developed countries which are trying to circumvent the Kyoto Protocol provisions.

Other important events: Besides UNFCCC Meetings, there have been a number of multilateral and bilateral meetings which reveal countries intentions and preparedness towards Durban.

BASIC meeting in South Africa (28-29 May 2011)³: Ministers of Brazil, South Africa, India and China share a climate coordination platform and met for the seventh time in South Africa in Zimbali, near Durban on 28-29 May. With the next negotiation session taking place on 6-17 June in Bonn, the ministers reaffirmed the centrality of the negotiations under the two UN treaties, "recognizing that parallel and informal processes can also contribute to the formal negotiations in a supplementary manner, without however, undermining the transparent and inclusive multilateral process under the UNFCCC".

The ministers said that the 17th meeting of the Conference of the Parties (COP 17) to the UNFCCC and the 7th meeting of the Parties (CMP 7) to the Kyoto Protocol in Durban "must continue to work within the framework agreed in Bali, and in this context address the work programme agreed in Cancun, following the agenda agreed in Bangkok, with a view to complete the mandate of the Bali Road Map". They also called for an additional negotiation meeting in September/October in view of the volume of work.

The Zimbali meeting was the second BASIC ministerial meeting to take place since COP 16 in Cancun. The first meeting was convened in New Delhi, India in February this year where the ministers stressed that the Cancun Agreements "were not a substitute for the Bali Road Map" and thus, the latter "continues to be the template for future work" of governments.

The ministers stressed that "unilateral approaches, such as the inclusion of emissions from the aviation

³ Adapted from TWN Info Service on Climate Change (May11/04), 30 May 2011, Third World Network

sector in the EU Emissions Trading Scheme or establishing unilateral carbon accounting rules are inimical to multilateralism, and clearly not in line with the provisions and principles of the Convention, particularly the principles of equity and common but differentiated responsibilities and respective capabilities. With regard to the Kyoto Protocol, they said that the Protocol, including its multilateral definition of commitments and rules, is critical to environmental integrity of the climate change regime and that the second commitment period is central to a comprehensive and balanced Durban outcome.

They noted India's submission of three items to be added to the provisional agenda of the COP – equity and sustainable development; trade measures and climate; mitigation, adaptation actions and IPR (intellectual property rights) technology.

Fourth UN LDC Conference Adopts Istanbul Programme of Action (May 2011)⁴: Over 7,000 participants, including Heads of State and government, international organizations' representatives and non-governmental organizations (NGOs), gathered in Istanbul, Turkey, to attend the Fourth UN Conference on the Least Developed Countries (LDC IV) from 9-13 May 2011. The Conference aimed to assess the results of the 10-year Brussels Action Plan for the LDCs, which was adopted in 2001, and to agree on new measures and strategies for the sustainable development of LDCs into the next decade.

As the meeting came to a close, participants adopted the Istanbul Political Declaration and Programme of Action for the LDCs. In the Declaration, which serves as preamble to the Programme of Action, governments commit to further strengthen their support to the poorest countries by "creating a favorable environment for sustainable development, increasing productive capacities, diversification of economies and building the necessary infrastructure." The Declaration underscores that the ownership and primary responsibility for escaping poverty rests with the LDCs themselves, stressing the importance of good governance, inclusiveness, transparency, respect for human rights, reduced corruption and domestic resource mobilization. It also emphasizes, however, that those efforts must be given "concrete and substantial" international support "in a spirit of shared responsibility."

The Programme is the fruit of several months of pre-Conference negotiations and specifies joint action by LDCs and their development partners, covering 27 priority areas, including: infrastructure building; energy access; disaster risk reduction (DRR); human capital enhancement through health measures; and the empowerment of women and youth. Under the Programme of Action, developed countries agree to support national disaster reduction and mitigation programmes in LDCs, and to facilitate South-South transfer of lessons learned on disaster preparedness.

Bakary Kante, UN Environment Programme (UNEP) Director of the Division of Environmental Law and Conventions, speaking on behalf of the UNEP Executive Director Achim Steiner, noted that environmental change including climate change, biodiversity loss and land degradation, is escalating social and economic impacts and scarcities.

Fukushima Daiichi Nuclear reactor meltdown in Japan: The recent nuclear plant meltdown at Fukushima, Japan has not only raised the issues of nuclear safety but also questioned the rationale of nuclear energy. As a response to the horrific accident, China froze further approvals to nuclear power plants, until the safety conditions are reviewed, Italy called for one year moratorium, Germany shut down its oldest power plants and plans to switch off all its 17 plants by 2030. While US remain tight-

⁴ Adapted from TWN Info Service on Climate Change (May11/04), 30 May 2011, Third World Network

lipped (Obama having sanctioned USD 32 billion subsidy to nuclear energy programme) India called to review the safety standards of all its plants. Public opinion against nuclear energy roared all over the world where people met to mourn the dead in Japan and extend support and solidarity to the surviving.

The accident has the potential to have significant impact on climate negotiations. Japan, which has already declared its intention to desert KP, can put forward the accident as an excuse to be able to comply with reduction commitments. Several European and Asian countries, which have put their nuclear energy programme on a review or halt, can express their inability in the changed circumstances to reduce their dependence on fossil fuel and invest in green energy simultaneously.

EU Japan Meeting on climate change (May 2011): President of the European Council, President of the European Commission and Japan's Prime Minister reaffirmed the close partnership between the EU and Japan and discussed climate change, green growth and energy at the 20th EU-Japan Summit. In their joint press statement, Summit leaders reaffirm the importance of greening the economy for achieving sustainable development.

During the Summit, which took place on 28 May 2011, in Brussels, Belgium, the leaders agreed to start the process for parallel negotiations for a comprehensive free trade and a binding cooperation agreement covering political, global and other sectors in a comprehensive manner. In the joint press statement issued at the conclusion of the Summit, the EU and Japan underscore that climate change remains an urgent global issue, and agree to cooperate with a view to exerting leadership together in the field of climate change, promoting the development of safe and sustainable low-carbon global economies, consistent with the international objective of limiting the increase in global average temperature below 2°C. To this end, they indicate their commitment to strive for steady implementation of the Cancun Agreements and the adoption of a robust, global, fair, effective, comprehensive and legally-binding agreement with participation by all major economies. The Durban Climate Change Conference in December 2011 is expected to constitute a stepping stone in this direction.

Approach of major groups and countries; how they stand in 2011 towards road to Durban

The US: With a Republican majority in the U.S. House of Representatives and a diminished Democratic majority in the Senate, the mood of the 112th Congress (which runs from 2011 through 2013) regarding climate change is markedly different from that of the 111th Congress (2009 – 2011). Rather than debating measures to reduce U.S. greenhouse gas (GHG) emissions, the focus has been on preventing the U.S. Environmental Protection Agency (EPA) from regulating GHG emissions under its existing authority. US has seen a lot of support to the Amendments in the Clean Air Act, which seeks to rip EPA off its authority to regulate CO₂ as a pollutant. The EPA was invested with this power by a Federal Supreme Court decision in EPA Vs. Massachusetts, in which the court laid down that CO₂ is a pollutant. The landmark decision obliged US to take efforts towards reduction in CO₂ emissions and EPA to monitor CO₂ emissions. The senators who pushed these amendments alleged that climate change is the biggest hoax of the century, and regulation of CO₂ interferes with the development of the country. Though four Bills seeking amendments have been defeated, it shows the widespread belief in the US parliament on climate change. In the circumstances it is less likely that US will take any ambitious reduction commitments.

In April 2011, coinciding with Bangkok Climate Conference Mr. Todd Stern, chief US climate envoy in a conference at New York said that the US is opposed to a climate deal that does not bring aboard both wealthy and developing countries as feuding over nations' commitments dominated UN-led talks in

Bangkok. He added that developing countries fixation with binding commitment was unworkable and prevented countries from doing what they are offering. He also said that the countries do not need a binding treaty to reduce their emissions and they can do it without a treaty.

The EU Approach: The negotiations till now have been driven mainly by the EU's desire to have a strong agreement. While EU remains steadfast in its commitment to invest in clean energy (led by Germany), there have been very few developments, which show their interest in raising ambition of their commitments from a declared 20:20:20 to 30% reduction which it is competent of. According to the BBC report based on a leaked draft of the Road map of the European Commission, the Commission is also set to recommend that some of the 20% reduction can be achieved through buying emission credits from overseas, rather than entirely through cuts at home.⁵ However, as regards second commitment period EU has put conditionality (include adequate response from the developed countries) for agreeing to a second commitment period.

Japan: Japan has repeatedly and publicly reiterated its intention to get out of KP and it is highly likely that it will agree to go into second commitment period of KP. Nuclear accident and its aftermath present an ideal condition where it can show its inability to take enhanced binding commitments. However, Japan has showed leadership in making contribution towards the proposed Green Climate Fund has provided USD 15 Billion towards green initiatives in developing and less developed countries.

China: China has taken giant steps towards clean development path in the last couple of years. It has invested \$51.1bn in 2010 in clean energy projects representing 30% increase from the previous year. 'With China's introduction of the 12th five-year plan on March 5, 2011, many new and expanded strong policy initiatives and green targets in the plan are clear evidence of China's emphasis on low-carbon policies. Over the next 10 years, China is expected to spend 740 billion U.S. dollars in renewable energy products according to 'China Daily', an English language publication. 'Already it accounts for 50 percent of total global investments in wind energy, and leads the world in solar energy investment and development.' as regards the approach of China towards negotiation, it remains close in its association with G 77 and Basic countries, which are not willing to compromise any further on an equitable deal.

BASIC Countries: The basic countries in May 2011 at Zimbali, South Africa reaffirmed their determination to constructively engage with others to develop an ambitious and realistic outcome, urging Annex 1 Parties (developed countries) to fulfil their commitments under the UNFCCC and the Kyoto Protocol and to demonstrate this in concrete terms. The Zimbali meeting was the second BASIC ministerial meeting to take place since COP 16 in Cancun. The first meeting was convened in New Delhi, India in February this year where the ministers stressed that the Cancun Agreements "were not a substitute for the Bali Road Map" and thus, the latter "continues to be the template for future work" of governments.

Umbrella group: The Umbrella group comprising US, Australia, Canada and Japan have already expressed their dissatisfaction with KP and developing countries fixation with a single binding agreement and has repeatedly said that this is not an ample time for having one single binding treaty. The group has also expressed a keen desire not to have a second commitment period of KP. The group feels that until and unless major developing countries like China, India, Brazil, South Africa etc. will be subjected to similar reduction commitment, it would prefer not to go into the second commitment period of KP. The group also feels that emphasis on having binding commitment is preventing developed

⁵ <http://www.bbc.co.uk/news/science-environment-12647657>

countries from contributing towards climate stabilization. Of late the group has started saying that nations can do mitigation on their own, if they are really interested and it should not be dependant on a treaty (KP) as it addresses only 27% of total emissions.

International negotiations and India

Internationally India is seen as a leader of sorts in its climate change initiatives. In the international negotiations the position of India has seen significant shift. While initially India's basic bargaining plant was equity in emissions and per capita; nationally India is seen as having conceded a lot of ground by declaring 25%-30% reduction in its emission intensity (India's statement in Copenhagen COP, 2009) and its intentions take MRV and ICA and open its efforts to international monitoring regime. India has substantial contribution in insisting on inclusion of afforestation, reforestation and joint forest management and turning REDD into REDD+. However, inclusion of afforestation and reforestation in REDD remains highly contentious and widely seen as an effort to take control of forests and common property resources by government and private parties. India has also made detailed submission on how to operationalize MRV to MEF and UNFCCC. India has also maintained its stand on ambitious and binding emission reduction commitments by developed countries in accordance with their historic role, extension of Kyoto Protocol to second commitment period, fast start finance and technology transfer with flexible IPR regime and no unilateral provisions under WTO which may discourage climate change initiatives by developing countries. Presently, among others, India has been emphasizing carbon budget approach and equity in available atmospheric space.