

Copenhagen and After



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NEW DELHI: 10 FEBRUARY 2010

Myth: *The climate change negotiations are about “saving the only planet we have!”*

Working paradigm of (all) negotiators:
Climate Change negotiations are primarily economic negotiations, to determine future global economic patterns and strategic potentials.

Recap: Bali Road Map

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- Negotiations under Art 3.9 of Kyoto Protocol for second commitment period after 2012 + some proposed amendments (AWG-KP)
- Negotiations under the UNFCCC for a comprehensive “Long-term cooperative action” (AWG-LCA)
- 9 Negotiation sessions held between Bali (Dec 2007 and Copenhagen (Dec 2009)

Bali Road Map...

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- Slow progress was made in the negotiations in both tracks due to deep differences in objectives of countries (and mistrust about their intentions).
- Before Copenhagen it became clear that closure was not feasible at Copenhagen, and that negotiations would have to continue
- The idea was mooted by several developed countries that Copenhagen should yield a “Political Declaration”, and give a mandate for negotiations under both tracks to continue

Copenhagen

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- Developing countries objected to any political outcome being reached in a “Green Room” process involving a few select countries
- Leakage of a so-called “Danish Draft” early in the negotiations at Copenhagen, which clearly reflected the views of the EU set the stage for serious confrontation between developed and developing countries

Copenhagen...

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- Danish Chair added to mistrust by denying the existence of a Danish draft, but periodically indicating that a draft text would be presented
- Serious negotiations could start on the draft Reports of the Chairs of the two AWGs (KP and LCA) only on Wednesday of last week. However, the key draft of the AWG-LCA Chair was not acceptable to the US and Japan as a basis for continuing negotiations

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- At this stage Danish Chair called a “Green Room” of Heads of State/Governments of 26 countries to directly negotiate a text
- Negotiations continued for 19 hours, and finally a draft Decision Text was agreed for consideration by the Plenary
- However, Plenary did not adopt the draft, and only “noted” its existence! It also extended the mandates of the AWG KP and LCA to continue negotiations for 1 year more

Developments since Copenhagen



- Danish PM and UN Secretary General had written to all Heads of State/Govt to endorse the Accord. However, the letter prejudices the eventual outcome (“a legally binding treaty”) as well as suggesting that actions and commitments are to be further negotiated and not “voluntary”
- Action of Danish PM and UNSG have been criticized by several developing countries on grounds of lack of mandate wrt the Accord which is not a UNFCCC Decision
- Several developing countries have rejected the Accord; of these Cuba has formally conveyed its rejection

Copenhagen Accord

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- **Status:** Not a multilateral outcome under the UNFCCC, a best a Plurilateral Accord between *acceding* States. Legally binding nature of accord is in doubt, but clearly, in political terms *acceding Parties* commit themselves to its provisions.
- US, EU, Canada, Japan, China, India, Brazil, South Africa, etc. – a total of 56 countries have conveyed their national goals to the UNFCCC Secretariat by 31.01.2010. However, their positions on “associating” with the Accord vary!

Accord...

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- Prime Minister on 05.02.2010 stated that the way forward is the two-track approach under the UNFCCC, signifying that the Accord should *not* be operationalized as a *stand-alone* agreement.
- PM also referred to the merit of a modest agreement that is actually implemented over an ambitious agreement that is not, signifying distancing from the notion of a legally binding agreement at CoP 16

Position of BASIC Group wrt Accord:

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- Support the Accord “which is in the nature of a political agreement...”
- Accord represents a “high-level political understanding among the participants on some of the contentious issues of the climate change negotiations.”
- *Affirmed centrality of UNFCCC process and Decision of Parties to carry forward negotiations on two-tracks (AWG-LCA and AWG-KP). Negotiations must be carried out in an inclusive and transparent manner.*

Submissions by BASIC Parties by 31.01.10

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- India: submitted “information on India’s domestic mitigation actions” in the context of Art 12.1(b), Art 4, esp 4.7, Art 10.2(a) of UNFCCC. *No reference to Copenhagen Accord!*
- China: communicated “information on China’s autonomous mitigation actions” in the context of Art 12.1(b), Art 4, esp 4.7, Art 10.2(a) of UNFCCC. *No reference to Copenhagen Accord!*

BASIC Parties...

- **Brazil:** indicated “the nationally appropriate mitigation actions that Brazil intends to take” in the context of Art 12.1(b), Art 4, esp 4.7, Art 10.2(a) of UNFCCC. *Copenhagen Accord is an important step to facilitate conclusion of the on-going two-track negotiations under the AWG-LCA and the AWG-KP*
- **South Africa:** reiterated that it will take nationally appropriate mitigation actions, in accordance with Arts 12.1(b), 12.4, 4.1, and subject to 4.7. Acknowledges that Copenhagen Accord captures political agreement on some contentious elements among those Parties that participated in its development and those other Parties that wish to associate themselves with it. As such Accord is a *political declaration* within the UNFCCC process *to provide valuable direction and impetus to further negotiations under the UNFCCC and KP.*

United States:

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- US has conveyed its “association” with the Accord
- Mitigation goal: *“In the range of 17% [by 2020 in relation to 2005] in conformity with anticipated US energy and climate legislation, recognizing that the final target will be reported to the secretariat in light of enacted legislation”*
- Clearly a highly conditional commitment!

European Union



- Expressed willingness to be associated with the Copenhagen Accord.
- Reiterates its position on 2 deg goal requiring 50% reduction in emissions by 2050 in relation to 1990, 25-40% reductions by Annex I by 2020 and 80-95% by 2050; developing countries as a Group to reduce from “currently predicted emissions growth rate” by 15-30% by 2020; legally binding international agreement from 2013. 20% reductions by EU by 2020 and 30% in case of a “global and comprehensive agreement for post-2012 with comparable reductions by other developed countries and developing countries to contribute adequately according to their responsibilities and respective capabilities”. *Little prospect of enhancing their commitment to 30% reduction!*

Copenhagen Accord and India's prior positions

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• **India's Prior Position:**

- No legally binding commitments for developing countries
- Allocation of global carbon space on the basis of equal per-capita entitlements
- No "peaking year" for India's emissions

• **Copenhagen Accord:**

- Developed and developing countries have differentiated political commitments; legal binding is unclear
- No explicit allocation of carbon space. 2 deg global goal to be based on "equity"
- Concept of peaking for developed and developing countries is included; for the latter it is premised on the "overriding priority of social and economic development and poverty eradication"

Copenhagen Accord and India...

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- **India:**

- Developed countries to collectively reduce emissions by at least 40% below 1990 levels by 2020
- No international scrutiny, especially of adequacy, of domestic actions that do not receive international finance & technology support; international “measurement, reporting and verification” (MRV) for internationally supported actions

- **Copenhagen Accord:**

- No collective target for developed countries. Individual countries to indicate their targets by 31.1.10, *without any comparability of effort among them. Presently indicated “pledges are far short of this collective target*
- “International consultations and analysis under clearly defined guidelines that respect national sovereignty” following domestic MRV and reporting to UNFCCC; international MRV for supported actions. Scope to be determined in future negotiations

Copenhagen Accord and India...

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- **India:**

- Financial Mechanism to be under the guidance and accountability of the Conference of Parties under a new paradigm based on “responsibility” not “aid”, involving assessed, not discretionary, contributions from developed countries
- Technology: Developing countries to have full freedom to use flexibilities under TRIPS for compulsory licensing of IPRs to address climate change

- **Copenhagen Accord:**

- Accountability of Financial mechanism to CoP is unclear; will be subject of extensive further negotiations. Present indications of finance are \$ 30 bn total 2010-2012; scaling up to \$ 100 bn a year by 2020 from a multiplicity of sources including private sector
- Financial mechanism to provide resources for technology transfer; silent on compulsory licensing as also on developing country agenda of “full respect for IPRs rights”. *TRIPs provisions continue to be available*

Copenhagen Accord and India...

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- **India:**

- Resources to be provided for sustainable forest management and afforestation, in addition to reducing deforestation and forest degradation (REDD+)
- Resources needed for Adaptation are of same order as for mitigation; may be prioritized for SIDS and LDCs
- No “border measures” on climate change mitigation considerations

- **Copenhagen Accord:**

- Ambiguous formulation of REDD+ (mentions “enhancement of emissions removals by forests”)
- Significant resources provided for Adaptation (c. equal apportionment in 2010-2012 period); prioritized for LDCs, SIDS and Africa; however, new governance structure for Adaptation Funding does not give majority to developing countries
- Accord is silent, but may be pursued by national legislations subject to WTO provisions. Critical link with international accountability of actions of developing countries

Copenhagen Accord and India...

- **India:**

- Numerous proposals for reform of CDM and scale-up of carbon market

- **Copenhagen:**

- Simple reference to pursuing opportunities for using markets. Requires to be detailed subsequently and operationalized

● **Copenhagen: Overall Political Assessment**

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- **India and BASIC:** Significantly protected their development space; emerged as strong collective political bloc with common interests; significance beyond climate change
- **US:** Obtained its pre-conditions for passage of “cap and trade” Bill in US Congress, i.e. Internationalized action by China & India, transparency wrt their actions, Financing architecture to involve WB, existing MFIs). *However, actual passage of Bill remains in doubt.*
- **EU:** *Clear loser.* None of its key objectives were met: apportionment of carbon space distorted in favour of developed countries; comparability of mitigation actions with US; legally binding commitments of all developed countries and emerging economies. *Hold over SIDS and LDCs is fragile*
- **G-77:** Copenhagen revealed significant divergences within group!

International consultations and analysis



- “International consultations and analysis” is required for developing country actions that are not internationally supported. Specific guidelines, process, and institutional mechanism to be negotiated
- Pitfalls: Should not extend to review of adequacy of actions/policies, or to plant level international inspections

Implications for Carbon Market



- Accord refers to:” *We decide to pursue various approaches, including opportunities to use markets, to enhance the cost-effectiveness of, and to promote mitigation actions*”. However, this needs to be operationalized.
- Future of carbon markets, indeed of the Accord itself, depends critically upon the passage of the US “cap and trade Bill”.

Conclusions:

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- Copenhagen Accord has received only tepid endorsement from several major Parties (and no explicit endorsement by China, India). Unlikely to be operationalized w/o closure on AWG-LCA and AWG-KP
- Announced goals are extremely modest in relation to scale of problem
- Fate of US cap and trade Bill is key! Passage (and prospects of negotiations are impacted by controversy over IPCC findings)

Thank You for Your Attention!