

After Copenhagen, the Way Forward

Martin Khor

The UNFCCC Copenhagen Conference in December 2009 ended in some disarray and confusion because of a clash between two processes taking place.

On one hand there was the open, transparent and multilateral process of the UNFCCC and its two working groups on long-term cooperative action (LCA) and further action in the Kyoto Protocol (KP). They worked for the past two years to follow up on the mandate of the Bali Conference of December 2007, continued their work (including through late nights) for two weeks in Copenhagen and produced two reports with draft texts for further negotiations that were adopted by the Copenhagen Conference.

This was the real work formally taking place and built the foundation for another year of work after Copenhagen. The reports give a fair view of the state of play of the extremely complex negotiations. Everyone knew that Copenhagen could not produce a final detailed outcome, and the two reports should have been (and still could be) the stepping stone to the 2010 process.

On the other hand there was the



An unscheduled meeting between the leaders of the US, China, Brazil, India and South Africa led to an Accord which however was only 'taken note of' by the final Plenary meeting.

two-day meeting, on the sideline, and held in secrecy, of 26 or 29 (no public information is available) political leaders convened by the Danish Presidency of the Conference without the knowledge of the other member states or the other almost hundred political leaders who were present but not invited.

According to various reports, it was a messy and often stormy meeting, and headed for total failure until a last-minute understanding was reached by the leaders of the US and four developing countries (China, India, Brazil, South Africa). This process produced a Copenhagen Accord which was presented to the plenary which "took note" of it but did not adopt or endorse it.

The inclusive and well-ordered multilateral process and the exclusive and messy "group of 29" process (each going on without reference to each other) eventually had to meet. It did, in the final plenary, and the results were tumultuous. The consequences are messy and confusing.

Two months after, the reverberations of this confusing clash in Copenhagen are still being felt. Climate

change is too serious an issue to get lost in the confusion. Thus, the process for 2010 should get sorted out so that the negotiations can resume.

But on what basis? The existence of the Accord and how this may or may not fit into the multilateral process is being hotly debated. Some Western countries even proposed that the UN process be sidelined and a new process involving only the 29 leaders be created to make decisions more quickly. Or else to get an exclusive body like the G20 or the Major Economies Forum to take over the climate negotiations.

A press report (Guardian 14 January) said the US had doubts about yielding primary control of climate negotiations to the UN and quoted its top climate negotiator Todd Stern as wanting to design a regime different from the present one where it is "frustrating" to "debate whether a particular idea is consistent or not consistent with such-and-such an article of a previous agreement." He proposed setting up a "structure and a regime" that can solve this problem.

This sounds like the US does not want to negotiate within the UNFCCC

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with due respect for the legal tenets and provisions of this treaty, and would like to set up a new legal regime with different principles and provisions.

In this scenario, the basis for the negotiations would be the Copenhagen Accord, which would thus overthrow the two UNFCCC working group reports. The UNFCCC process itself would be slowed down or stopped. The Convention and its Kyoto Protocol themselves seem to be under threat.

The Danish Prime Minister and the UN Secretary-General seemed to opt for expanding the legally and substantially thin Accord into a full blown regime. In a 30 December joint letter to the 28 or 29 leaders who attended the exclusive Copenhagen meeting, they stated: "The Copenhagen Accord represents the essential first step in a process leading to a robust international climate change treaty....We must now work very quickly and diligently to get all the other Parties to sign onto the Accord."

According to media reports from Delhi, the Indian Prime Minister took exception to this letter and replied that it was India's understanding that the Accord was not a legal document and was not intended to lead to a treaty.

When the Executive Secretary of the UNFCCC sent out a notice to member states requesting them to write to him about their intentions whether to associate with the Accord, there were replies from some developing countries questioning his role in the Accord and his use of the phrase "In the light of the legal character of the Accord."

On 25 January, Mr. Yvo de Boer clarified on the UNFCCC website that the Accord does not have any legal standing within the UNFCCC process. He stated: "Since the Conference of Parties neither adopted nor endorsed the Accord, but merely took note of it, its provisions do not have any legal standing within the UNFCCC process even if some Parties decide to associate with the Accord."

Meanwhile, many developing countries indicated that for them the UNFCCC remains the only legitimate venue for the climate negotiations and called for the two working groups to resume their work, with an initial meeting to be held as soon as possible.

The Ministers of BASIC countries (Brazil, South Africa, India and China) at their Delhi meeting on 24 January underscored the centrality of the UNFCCC process and the decision of the Parties to carry forward the negotiations on the two tracks of the LCA and KP working groups.

They wanted all negotiations to be "conducted in an inclusive and transparent manner", an indication for their preference for the multilateral UNFCCC process instead of an exclusive 29-country process or the G20 or MEF.

And they called for meetings of the two working groups to be convened in March 2010 and ensure they meet at least 5 times before the Mexico Conference in December. They said these meetings are essential and funding, logistics and other procedural issues should not be a constraint to convene these meetings.

It is also significant that when China and India sent in letters to the UNFCCC secretariat providing information on their mitigation actions, they referred to several Convention provisions under which they were giving the information, and did not refer to the Accord at all.

The Association of Small Island States in a Press Statement on 3 February also reiterated its commitment to the UNFCCC as the primary forum for negotiations, and called for the two working groups to resume their work "as a matter of urgency" as well as negotiations to be conducted in a transparent and inclusive manner.

It is clear that the developing countries (including those whose leaders took part in the small-group meeting) do not want to abandon the UNFCCC process nor the Kyoto Protocol, in favour of a new process centered on the Accord. On the contrary, they want the UNFCCC and its working groups to be the basis for this year's climate talks which should start as soon as possible.

UNFCCC and the Way Forward

This is the right approach for the Way Forward. It would be a mistake to abandon or sideline the UNFCCC multilateral process because the needed climate action requires all countries to take part.

The LCA group has already made significant progress in clarifying the issues, placing them into structures, delineating the areas of agreement and providing options in text form in areas where there are disagreements. The foundation has been laid for progress this year and hopefully a conclusion.

It is not true that there has been no or little progress in the UNFCCC and that it would be impossible to reach an outcome in this venue. Those who argue for a more exclusive venue want to have an advantage in another format in which they have a better chance to get their views accepted, instead of having to go through the democratic multilateral route that has been so well charted out already.

The experience in WTO also shows that having an exclusive 'Green Room' process that is de-linked from the



A meeting of the BASIC countries' Ministers in Delhi in January called for an urgent resumption of the UNFCCC meetings by March. From left: The Ministers of Brazil, India, China and South Africa. Photo: Rajeev Bhatt



The big public space of the Copenhagen Bella Centre that was 'home' to thousands of delegates and NGOs in December 2009.

whole membership does not work and in the end wastes rather than saves time.

The Way Forward thus requires a quick resumption of the UNFCCC process, with the two working groups meeting again as soon as possible, and planning for a series of meetings leading to COP16 in December.

Proponents of the Accord can make use of its points to input into the UNFCCC process.

The reports of the two working groups adopted in Copenhagen can be used as reference documents for the resumed negotiations. Parties can be allowed to still advocate their submitted proposals.

The areas already agreed to can be consolidated and the options in areas where there is not yet consensus can be

seriously negotiated.

For developing countries, the key issues of finance and technology as well as adaptation can be expected to remain key priorities. The institutional aspects (a Fund under the authority of the COP, a technology policy and implementation mechanism under the COP) should be agreed on quickly, and the substantive issues as identified in the LCA Chair's Report should be further negotiated (such as the quantum, sources, channels and uses of funding; and the assessment, financing, access to affordable technology, the approach to innovation and IPR issues).

On mitigation, the Kyoto Protocol track should be pursued for ambitious targets for Annex I parties of the KP. The aggregate target should be in line with what science requires. The indi-

vidual national targets should be comparable, so as to have fair effort sharing.

For the US, which is not a KP member, the solution envisaged in Bali should be pursued, i.e. a Decision of the COP that contains the country's agreed reduction figure that is comparable with the commitments of the other developed countries.

The mitigation negotiations will also address developing countries' mitigation actions and the MRV (measurement, reporting and verification) treatment of actions that are supported by finance and technology (which themselves require a MRV system). Land and forest issues would also be treated specially in their present tracks.

On adaptation, there are issues of structure, financing and priorities that have also been identified, that can be further negotiated.

On shared vision, major questions include the integrated nature of all the issues, the long-term global mitigation goal and the equitable framework within which these goals are to be reached.

The main lesson of Copenhagen is that hiving off some countries into a separate track with a separate document is not the right way to conduct global climate negotiations. The way forward is to return to the multilateral forum, where the complex issues have to be sorted out into a final conclusion.

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New Publications and Papers

South Centre Papers on Climate Change

Access is on the website: http://www.southcentre.org/index.php?option=com_content&task=view&id=1131&Itemid=1

- [Comments on the Copenhagen Accord](#)
- [Climate Policy Brief \(No.2\): Copenhagen and After](#)
- [Climate Policy Brief: Copenhagen: Key Issues Facing Developing Countries](#)
- [The Climate and Trade Relation: Some Issues](#)
- [Carbon-Based Competitiveness, Trade and Climate Change: Perspectives of Developing Countries](#)
- [A Development-Oriented Approach in Making "Measurable, Reportable and Verifiable" Operational](#)
- [Accelerating Climate-Relevant Technology Innovation and Transfer to Developing Countries: Using TRIPS Flexibilities under the UNFCCC](#)
- [The Gap between Commitments and Implementation: Assessing the Compliance by Annex I Parties with their Commitments under the UNFCCC and its Kyoto Protocol](#)

Copenhagen Accord Yields Poor Results in Mitigation Pledges

Only 2 of 10 developed countries' pledges are sufficient to meet the 2 degrees target, and the current pledges lead the world to disastrous global warming of over 3 degrees

On 19 December, the Copenhagen Climate Conference ended in disarray. A Copenhagen Accord arising from an exclusive meeting of 26 political leaders was not adopted by the UN Convention on Climate Change, but only "taken note of."

Since then, there has been a campaign, including by the Danish Prime Minister and the UN Secretary General to get countries to "associate" themselves with the Accord.

The deadline was 31 January, the date mentioned in the Accord for developed countries to fill up their national emission reduction commitments in Appendix I while developing countries were asked to submit their mitigation actions to fill up an Appendix II.

The Accord is controversial because it arose from a meeting of only a few countries which was not on the official Conference agenda, while the Convention has over 190 member states.

Moreover the Accord threatens to displace the legitimate multilateral process mandated to follow up from the UNFCCC's 2007 Bali Conference. The reports of its two working groups

on the Kyoto Protocol and on Long-term Cooperative Action are supposed to be the basis for negotiations this year towards a final agreement.

The reports contain the drafts of texts (including options in areas where there is not yet consensus) for the final agreements. They were adopted by all countries in Copenhagen, unlike the Accord that was not adopted.

The battle is not just on which of the texts are to be used. Behind the different texts are competing approaches to tackling the climate change crisis.

The model agreed to in Bali was to set a binding overall target for developed countries to cut their collective emissions. This was initially set at 25 to 40 per cent by 2020 compared to the 1990 level.

Each developed country would then have to have a binding national target and these targets would all add up to the aggregate target.

The United States, which is not a member of the Kyoto Protocol, would also have an agreed national target, which has to be "comparable" to the efforts of other developed countries.

The binding nature of the emission targets imposes an international discipline on the developed countries, that turns their goals into legal commitments.

The developing countries, which had only a small role in emissions of the past, would not have binding emission targets. They would have to take mitigation actions that are supported by financial and technology transfers from the developed countries, and both the actions and the support would be measured and verified.

The Copenhagen Accord counters this understanding because the developed countries no longer have to make any binding commitments. Each country merely submits the emission reduction it is willing to undertake. There is also no longer an "aggregate target".

There is no requirement that the individual pledges have to add up to a credible overall goal. In the last two years' climate talks, the developing countries were demanding that the aggregate reduction commitment should be at least 40% by 2020 compared to 1990.

When it became clear in October that the developed countries were preparing to dump the Kyoto Protocol and its binding obligations, the developing countries had cried "Foul". China had even accused them of plotting a Great Escape from their obligations.

Alas, the Copenhagen Accord enables this Great Escape. Critics of the Accord predicted that the unilateral and now voluntary goals submitted by the developed countries could be far below what is required by science, or the need to limit global temperature rise to 1.5 or 2 degrees above the pre-industrial level.

These fears have now been proven to be justified. The pledges of some of the developed countries are so low that the overall reduction is only 13 to 19 per cent by 2020 compared to 1990, according to a paper by the World Resources Institute (WRI), using data the countries submitted to the UNFCCC.

The range is due to most countries stating that they would take on a more ambitious target only if other countries make a comparable effort. The United States, the biggest emitter, has given a low goal, that its 2020 emissions would be 17% below the 2005 level, which is



A major demand by NGOs (as well as developing countries) in Copenhagen was that Annex I countries should accept an aggregate target of at least 40 per cent emission cut by 2020 compared to 1990. This poster also says the target should come without offsetting to developing countries, i.e. that is all from domestic effort.

only 5% below the 1990 level. Thus, other countries have lowered or are likely to lower their own targets.

The best example is Canada, which has now said it would take on a similar figure as the US, 17% below the 2005 level by 2020. But this turns out to be 19% above (not below) the 1990 level (if LULUCF is included), because Canadian emissions have grown by a lot between 1990 and 2005.

The European Union has repeated its previous offer that by 2020 its member states would reduce their emissions collectively by 30% if others have a similar goal, but by only 20% otherwise. With the low ambition of the US, the EU is likely to take the lower figure.

Thus the individual targets set by the developed countries are likely to add up to nearer 13 per cent than 19 per cent.

Even if the high end of the pledges (19%) is realised, this does not meet the 25-40 per cent reduction that the Intergovernmental Panel on Climate Change (IPCC) indicated is necessary to stabilise greenhouse gas concentrations at 450 ppm or below. This is also the conclusion of the WRI paper, which warns that the pledges made will "certainly fall very short of goals to reduce concentrations below that level (450 ppm)."

The 450 ppm concentration level is usually associated with a global temperature rise of 2 degrees Celsius. The need for the temperature rise to stay below 2 degrees is also recognised by the Accord. Thus the pledges made by the developed countries do not even meet the Accord's own standard.

In a statement on 2 February, the scientific groups Ecofys, Climate Analytics and the Potsdam Institute assessed the pledges made by both developed and developing countries so far, and concluded that they add up to a level of emissions in 2020 that would be in line with a global temperature rise of over 3 degrees.

A temperature rise of 2 degrees would be damaging enough to the environment and to economic activity. A rise of over 3 degrees would spell disaster in terms of sea level rise, glacial melting, flooding, agricultural productivity and human life in general.

The groups' assessment was made by their joint project, Climate Action Tracker. According to its statement: "Only 2 of the 10 developed countries' reduction targets submitted to the Copenhagen Accord qualify as 'sufficient' to keep global temperature rise below 2 degrees. The reduction targets of all countries currently associated with the Accord lead to a striking inconsistency

with the 2 degree goal defined in the very same Accord. The current pledges leave the world heading for a global warming of over 3 degrees above pre-industrial levels by 2100."

The Accord and its voluntary approach will not bring the required results, from these rapid preliminary assessments.

In recent days, many developing countries, including the BASIC group (Brazil, South Africa, China and India) as well as the association of small island states, have called for the speedy resumption of the negotiations under the UNFCCC and its two working groups.

This is a clear indication they do not want the climate talks to shift out from the UNFCCC to an exclusive venue such as the G20.

The road map agreed to in Bali, which includes binding targets for developed countries based on the needed aggregate goal and national goals that are comparable, should be followed. The Copenhagen Accord should help in this process, and not divert from it.

Otherwise valuable time will be used up in all kinds of wrangling, and we cannot afford to lose more time as the climate situation gets worse each day.

Martin Khor

Developed Countries' Copenhagen Accord Pledges for Emission Reduction from 1990

(Data in first three columns are in Gg CO₂ equivalent)

	Emission	Constraint on emissions by 2020		Percentage below 1990 levels by 2020	
	1990	Low	High	Low	High
Australia	453,794	384,172	303,294	-15%	-33%
Canada	540,227	641,076		19%	
EU	5,222,374	4,177,899	3,655,662	-20%	-30%
Japan	1,195,370	896,528		-25%	
Russia	3,359,567	2,855,632	2,519,675	-15%	-25%
US	5,257,278	4,968,274		-5%	
Belarus	107,101	101,746	96,391	-5%	-10%
Norway	37,406	26,184	22,444	-30%	-40%
Ukraine	852,887	682,310		-20%	
New Zealand	43,714	39,343	34,972	-10%	-20%
TOTAL	17,069,718	14,828,879	13,820,624	-13%	-19%

Note: This table is derived from data and tables in the World Resources Institute working paper, "Comparability of Annex I Emission Reduction Pledges". Data on absolute emissions are based on the UNFCCC Inventory and include LULUCF and exclude international bunkers. The percentage reductions are from pledges made by the countries by 2 February 2010 in reference to the Copenhagen Accord. 'Low' refers to low emission reduction pledges, 'High' refers to high emission reduction pledges, as some countries have put forward multiple pledges. To determine the aggregate reductions from 1990, the emissions budgets (low and high pledges) of the Annex I parties were considered and compared to aggregate 1990 emissions levels.

Copenhagen and After

This article by Martin Khor analyses what happened at the Copenhagen Climate Conference and what may happen next



Provided courtesy of ISD

HOW SHALL WE PROCEED? The UN Secretary-General, the Danish Prime Minister, the UNFCCC Executive Secretary and his colleague in a huddle at the final plenary session of the Conference of Parties in Copenhagen.

Introduction

The Copenhagen Climate Conference failed to deliver not because there was no final full agreement, not even because there was no “legally binding” political declaration on which a future agreement can be built, but because the Presidency of the conference and Western political leaders tried to hijack the legitimate multilateral process of negotiations that had been taking place before Copenhagen and at Copenhagen itself.

The hijack attempt failed and a weak Copenhagen Accord that the small group managed to come up with from their enclave during the conference was unable to get through the Conference of Parties, made up of the 193 members of the UN Framework Convention on Climate Change.

It was the intention of the Conference chairman, the Danish Prime Minister Lars Rasmussen, to first get a small group of leaders to reach an agreement and then to ram it through the Conference of Parties, giving the full membership little time to consider the document. However, decisions at the COP are made by consensus and objections from several developing countries first to the undemocratic process and second to the content of

the Accord meant that the COP only “took note” of the document, and did not “adopt” it.

In UN terms, taking note of a document gives it a low status. It means that the meeting did not approve or pass it, and did not view it either positively or negatively.

The non-adoption of a three page document from a secretive small meeting of some 26 leaders that should not even have taken place should not have spelt a disaster. Unfortunately in the immediate aftermath of the conference, it is being projected in the Western media by Western leaders and many commentators that a good deal had been blocked by some developing countries, with some blaming China for its stand in the small meeting and others blaming the countries, like Venezuela, Bolivia and Sudan, that spoke up against the process in the COP.

The reality is that almost everyone knew that a full agreement, or even the core of an agreement, could not be reached in Copenhagen, simply because there were still many fundamental points of disagreement that could not be bridged in time. The climate talks have been going on in two tracks, on the continuation of the commitments under the Kyoto Protocol for four years, and on the Bali Action Plan

on long-term cooperative action for two years.

Those involved in or following the process knew that Copenhagen could not conclude the negotiations in both of the working groups dealing with the issues, and that the talks would have to continue next year.

It is thus no cause for recrimination that the deadline set for end-2009 proved unrealistic, and that the talks should proceed along the same open, inclusive multilateral lines for another year. Copenhagen should have been designed as a stepping stone, and not as a final conclusion. Unfortunately, the host country Denmark and the UN leadership had the highest ambitions, and called on heads of states and governments to come to “seal the deal”, and 110 top leaders duly came. The Danish Presidency selected 26 among them and asked them to come up with an accord.

The Real Outcome of Copenhagen – Negotiating Texts from the AWG-LCA and AWG-KP

The proper procedure would have been to make use of the two weeks in Copenhagen to close as many of the gaps as possible and then to bring forward the most up-to-date documents arising from the two working groups (with the differing positions on unsettled issues as options or in square brackets) for extended work in the two working groups and set a new deadline for completion of the work for either June or December 2010.

For most of the two weeks at Copenhagen in December 2009, the work of the two groups on KP (Kyoto Protocol), and on LCA (long-term cooperative action) had been proceeding under the multilateral process, in an inclusive manner with all Parties able to submit proposals and language for the drafts, and to participate in drafting and in decisions. The meetings were conducted in a broadly transparent way, being mostly open-ended (open to all members) and when they were in small groups the full membership normally chose their representatives to attend, and the process was quite open. Most of the thousands of delegates from governments were diligently working on the many texts on the issues of the Bali Action Plan (involving mitigation, adaptation, finance, technology and a

shared vision) on the Kyoto Protocol's continuation.

Of course, being so participatory, the discussions tended to take a longer time. And since the issues are so important and complex, involving not just the science of climate change but the political economy of sharing the burden of curbing emissions and paying for costs of this and of adapting to climate change. As the issues involve massive transformation of national economies and growth strategies, the climate talks became the most complex global negotiations ever, more so than those at the WTO.

The G77 and China and its component countries continuously voiced their opinion that the working groups and their documents, so painfully put together through the bottom-up process that recognised the rights of members states big or small, should continue to be the basis of the negotiations. They continuously sought assurances from the Danish Presidency that the work in the working groups would not be hijacked by a small group. The Chairs of the working groups produced up-to-date reports containing draft Decisions that contained texts that in their view represented the latest state of play. These reports, which went through hours of discussion by thousands of the delegates representing all the members (in meetings throughout the two weeks of Copenhagen, that often went way past midnight) were prepared for adoption by

the Convention's COP and by the Kyoto Protocol's meeting of the Parties. They were eventually adopted, because they had gone through the democratic process, and the members had ownership of it.

The reports that were adopted will form major reference points when the negotiations resume next year, probably in February. The adoption of these two reports, together with two brief Decisions extending the mandate of the two working groups and setting the new deadlines on conclusion of the work would have been sufficient. The Danish Prime Minister in a closing speech could have declared that the issues were complicated, that consensus had been found in some areas, and significant progress had been made in other areas in the last two years and more time is needed for a full agreement and he could have exhorted everyone to do their utmost to complete the work within half a year or a full year. No one should have blamed him for this reflection of reality.

If on top of this business outcome the Danish Presidency wanted a brief political statement to take into account the presence of the political leaders, it could have logically asked the Chairs of the working group to consult with the delegates and extract the core elements that now enjoy consensus in the approved documents and make it the basis of a separate political statement. The statement could also have reaffirmed the main principles underlying

the negotiations, and laid out the main challenges ahead, such as listing the major issues of contention that require urgent attention, setting the new deadlines, and reaffirming the highest political commitment to finishing the work. Such a declaration, based on the results of and reflecting the reality of the bottom-up negotiating process, could have given a political impetus

based on a spirit of goodwill and international cooperation to the climate talks when they resume.

Most of the work in the two-week stay in Copenhagen was carried out in the two working groups, on long-term action and on the Kyoto Protocol. There was some progress made in the long-term action group while the Kyoto Protocol group has hardly made any progress.

The two working groups will resume work next year and the hope is that they will finish their work by June or December 2010.

Collision of Two Processes

Instead, the organisers of the conference chose to convene the small group of leaders, perhaps hoping that they would produce a consensus on the key contentious issues where the negotiators could not. But it was a major gamble, as such an exclusive meeting would always justifiably be open to criticism that the meeting and the process of holding it was not legitimate, and that the outcome document does not enjoy consensus and is biased. That the meeting itself was taking place in the last two days of the Conference was not announced, nor who had been invited, or what they were going to produce.

At some stage, the secretive process of the small exclusive meeting, and the open process of the multilateral Convention members would have to meet. It met or rather collided, with explosive results, at the final official plenary convened at 3 a.m. on 19 December, after the conference was supposed to have ended on 18 December.

When Rasmussen placed the Copenhagen Accord to the Conference of Parties, he was severely criticised for embarking on an exclusive and illegitimate process that violated the UN Charter, principles and practices. A battle then ensued between those Parties that rejected the Accord both for the flawed process and its inadequate contents and those Parties (mainly Western) that insisted that the Accord be adopted even if it did not enjoy consensus. The Danish Prime Minister did not distinguish himself for consistency nor fairness, first making one ruling and then making a contradictory one, and repeating these overturning of decisions continuously as the night



Claudia Salerno Caldera of Venezuela (Right) called on the President of the COP to allow a discussion immediately on the process at the final Plenary.

turned into morning. Eventually when it was clear that the rules of procedure made it impossible to convert a non-adoption into an adoption of the Accord, a compromise was reached for the Copenhagen Accord to be merely "noted" and not adopted by the Conference.

The attempt by the Danish Presidency to impose an over-riding track of a small leaders' meeting with its own Accord onto the only legitimate multi-lateral two tracks of the KP and LCA with their own reports, was the reason why Copenhagen will be considered a disaster. Since a 26 leaders' enclave had been created, a few of the high-profile leaders were fixed on getting an agreement of their own out of Copenhagen, which they now considered to be their own symbol and criterion of success.

This raised at least two problems. Firstly the Western high-profile leaders like Obama of the US, Brown of the UK, Merkel of Germany and Sarkozy of France had now for domestic political reasons to come home with what they could claim a success, and that meant a "deal", even if this had to be imposed on the other countries. Secondly, for every top leader invited, there were three or four others that were not. Rasmussen claimed that a "representative group of leaders" had been invited to the small party. But there would always be doubts how "representative" would a group be whose members are selected by the host country and not by the membership of the Convention.

These few leaders (notably Obama and Brown) then announced to the media that they had succeeded by coming up with a Copenhagen Accord. These media interviews themselves, viewed by delegates in the Conference centre even before they had seen the document and many hours before the plenary introducing the document had started, contributed to the deep sense of grievance of the delegates that they had been taken for granted and that their role in the script of the Presidency and the Western leaders was merely to rubber stamp the illegitimate meeting and its offspring.

The majority of countries were not invited, were kept in the dark and many were slighted. The Venezuelan President Hugo Chavez, who was not

asked to be in the small group, in his plenary speech denounced the "top secret" document being negotiated by the exclusive meeting and declared his country would not accept what came out of it.

When it was clear at the concluding plenary that the Accord was not going to be adopted, some of the Western delegations could barely control their wanting to link the funds they were offering to the developing countries' acceptance of the Accord, or what a developing country delegate called a "bribe." Ed Miliband, the UK's Climate Minister, was blunt about this linkage. Those which support the Accord have to register this support. The concerns he raised must be duly noted "otherwise we won't operationalise the funds." The United States said it wanted an arrangement through which Parties can associate with the Accord. It said there are funds in the Accord, and "it is open to any Party that is interested."

This implies that Parties that do not register their endorsement of the Accord would not be eligible for funding. This attempted linkage of finance to the acceptance of the Accord is of course not in line with the rules of the Climate Convention, in which the developed countries have committed themselves to provide developing countries with the funds needed for them to take climate related actions. Funding the actions of developing countries does not require that a new agreement or an Accord be established.

Understanding the Copenhagen Accord

The actual Copenhagen Accord itself is only three pages in length. What is left out is probably more important than what it contains.

The Accord does not mention any figures of the emission reduction that the developed countries are to undertake after 2012, either as an aggregate target or as individual country targets. This failure at attaining reduction commitments is the biggest failure of the document and of the whole Conference.

It marks the failure of leadership of the developed countries, which are responsible for most of the Greenhouse Gases retained in the atmosphere, to commit to an ambitious emissions tar-

get. While the developing countries have demanded that the aggregate target should be over 40% reduction by 2020 compared to 1990 levels, the national pledges to date by developed countries amount to only 13-19 per cent in aggregate.

Perhaps this very low ambition level is the reason that the Accord remains silent on this issue, except to give a deadline of 31 January 2010 for countries to provide their targets.

Earlier versions of the Accord contained an indication that there would be an aggregate figure (denoted as X in the draft) for Annex I countries collectively. The final version does not have the figure nor an indication it would be filled up later.

This system of unilateral national pledges for emission reduction is extremely dangerous and a lowering down of the Kyoto system where Annex I parties are set a binding aggregate target and then binding national targets for each country.

In its place, the Accord only asks each country to inform the rest what it is prepared to do. There is no collective assessment of whether each country's pledge is adequate, no system of ensuring there is comparability of effort and no mechanism to assess (let alone ensure) whether the aggregate level of emission is adequate in meeting the scientific requirement.

The only 'peer review' by members is on whether the developed countries implemented what they announced, but no review of the announced pledges themselves.

Another omission was the lack of assurance that the Kyoto Protocol would continue, with developed countries taking on emission reduction commitments in a second period starting 2013. The continuation of Kyoto was a top priority demand of the G77 and China, while the developed countries have announced their intention to set up a new agreement altogether, which the developing countries fear will not have the strict disciplines of Kyoto.

The Accord recognizes the broad scientific view that global temperature increase should be below 2 degrees Celsius, and agrees to enhance cooperative action, on the basis of equity.

This echoes the view recently affirmed by India that accepting a target



In Copenhagen, the Working Group on Long-term Cooperative Action (AWG-LCA) met for long hours and it should convene again as soon as possible. Photos shows the Chair (M. Zammit of Malta) and Co-Chair (M. Luiz Machado of Brazil).

of temperature limit, whether it be 2 or 1.5 degrees, has to come with a burden-sharing framework, with equity as its basis.

The Accord states the collective commitment of developed countries to provide new and additional funds of US\$30 billion in 2010-2012 through international institutions. It is unclear how new the funds will be, since the developed countries have already committed to contribute billions of dollars to the World Bank's climate investment funds.

It also states the developed countries will jointly mobilize US\$100 billion a year by 2020 for developing countries. This is weak as the commitment is for "mobilising" funds and not a guarantee or pledge of actual funds.

The actual quantum is also doubtful since the Accord also says that the sources of the funds will include public and private sectors, bilateral and multilateral and alternative sources. The US\$100 billion is not said to be "new and additional", so it may include existing funds or already planned funds.

The Accord also contains a lengthy paragraph on the mitigation actions by developing countries, and how these should be measured, reported on and verified (MRV). This was reportedly a heated topic at the small heads-of-state meeting, with US President Obama pressing the developing countries, particularly China, to undertake more MRV obligations.

The Accord is a thin document, containing hardly any new commitments by developed countries, with a weak global goal, and attempts to get developing countries to do more.

It is a sad reflection of the Copenha-

gen Conference that this thin document is being held up as its main achievement, and even then it was only "noted" and not adopted by the UNFCCC's membership.

In the immediate days following the Conference, some developed countries, particularly the UK, seem to be targeting China for the failure of Copenhagen. They accuse China of leading a blockage of certain items from being included in the Accord, especially a target of a global emissions cut of 50% by 2020 compared to 1990, and a target of 80% emissions cut by developed countries in the same period.

In fact, these targets, especially taken together, have been highly contentious during the two years of discussion in the LCA working group, and for good reasons. Together, they imply that developing countries would have to commit to cut their emissions overall by about 20% in absolute terms and at least 60% in per capita terms. The acceptance of the 50% global cut and 80% developed countries' cut would also have locked in a most unfair sharing of the remaining global carbon budget as it would have allowed the developed countries to get off free from their historical responsibility and their carbon debt.

They would have been allocated the rights to a large amount of "carbon space" without being given the responsibility to undertake adequate emission cuts nor to make financial and technology transfers to developing countries to enable and support them in their mitigation and adaptation actions.

As these targets are absent from the Accord, the UNFCCC members remain able to consider what is a fair and equi-

table way to share the costs and burdens of adjustment to a climate-friendly world, when the negotiations resume in 2010.

The Way Forward

There is a lot of confusion following Copenhagen on the way forward. The existence of the Accord and how this may or may not fit into the multilateral process is being hotly debated. Some Western Countries even proposed that the UN process be sidelined and a new process involving only the 26 leaders be created to make decision more quickly.

It would be a mistake to abandon or sideline the UNFCCC multilateral process because the needed climate action requires all countries to take part. Forming a new 'track' with only some countries with the aim of converting the Accord into a new treaty or protocol, and then imposing it on the rest, is not inclusive and is likely to be counter-productive.

The way forward requires a quick resumption of the UNFCCC process, with the two working groups meeting again as soon as possible.

Proponents of the Accord can make use of its points to input into the UNFCCC process. They can try to convince the others of the validity of their positions. Among the supporters of the Accord there may also be differences in interpreting the meaning of some of its points and paragraphs.

And other countries that have not associated with the Accord or that have different positions can put forward their views.

The multilateral forum of the UNFCCC and its several bodies, working groups, drafting groups and informal consultative groups have a good record of conducting its work in the past. It is unfair to castigate it as a useless system that cannot produce results.

Within the UNFCCC system and its practices are transparent and democratic methods of consultations and decision-making, through which regional groups and interest-based groups and their selected representatives have been able to participate. The way forward is to rebuild the process in this multilateral frame and not to cause fragmentation.

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South Centre's Comments on the Copenhagen Accord: Contents and Legal Aspects

By Vice Paolo Yu, Programme Coordinator & Legal Advisor, South Centre



Provided courtesy of ISD

European leaders meet with US President Obama at Copenhagen. Now they seem to want the Accord to take on a life of its own.

Developing countries should be cautious when considering how to respond to the Copenhagen Accord. This is the central message of an Informal Note on "Comment on the Copenhagen Accord" that the South Centre published on 18 January.

The Note cites many reasons why caution is needed. First is the controversial and undemocratic manner in which the Accord was presented to the COP plenary, which could be a precedent for similar behaviour in future.

Second, the Accord was not adopted by the Conference but merely "taken note of".

Third, its contents are imbalanced and in many ways have negative implications for developing countries, including that it is inconsistent with UNFCCC principles, especially common but differentiated responsibilities, and it effectively denies the historical responsibility of developed countries.

Fourth, this denial could also imply a denial by developed countries of their obligation to provide finance and technology, altering the whole balance of differentiated responsibilities under Article 4.7.

Fifth, "associating" with the Accord may have serious political and legal implications for developing countries. These include:

- Taking on of international political commitments to undertake mitigation actions and be subject to more stringent MRV modalities without obtaining the corresponding benefits such as the full financing and technology that the developed countries are obliged to provide.

- Seriously imposing constraints on one's negotiating and policy space in the continuing negotiations in the LCA and KP working groups and undermining already previously-agreed G77 and China positions in these negotiations; and

- Association with the Accord would imply associating with its contradicting of the UNFCCC and Kyoto Protocol principles and provisions, and thus also implying agreement that such principles and provisions will not be fully and effectively implemented or may in fact be derogated from, especially by developed countries.

In this context, there are various options that can be logically considered, including:

- Unconditional acceptance or association with the Accord;

- Association subject to specified conditions, interpretations, reservations, and understandings on the extent, parameters and meaning of such association;

- A "wait and see" approach, especially to consider whether the developed countries' emission reduction commitments in the Accord's Appendix I will be adequate.

- Non-association with the Accord; and

- Explicit rejection of the Accord.

Given the analysis in this Note, it would not be wise for developing countries to take the first option of an unconditional association with the Accord. At the least, developing countries should not be in any hurry to write in to associate with the accord. A "wait and see" approach should at least be taken. For example, in the event that the emission reduction figures to be submitted by Annex I Parties (to fill in Appendix I) are not adequate, this may play an important part in determining a judgment on the value of the Accord.

To agree to associate with the Accord before seeing its entire contents would be to grant a "blank cheque" to the proponents of the Accord, by accepting a document before some of its most important components are revealed.

Further, developing countries will also have to weigh the serious consequences of whether to associate with a document that in practical terms does away with the Kyoto Protocol and its most essential elements, and which contradicts and undermines key principles of the UNFCCC, including that of common but differentiated responsibilities, and which will disadvantage developing countries in many ways.

Implications of the Contents of the Accord

In substantive terms, the Copenhagen Accord has the following implications and effects.

First, it lays the foundation for weakening the Kyoto Protocol as the multilateral treaty instrument for developed countries' binding emission reduction

commitments. Under the Kyoto Protocol's present approach, developed countries have to collectively achieve an aggregate emissions reductions target (a "top-down" approach) and this target should be based on what is scientifically required; there is an arrangement regarding the respective share of each country for meeting this aggregate figure; and there is a compliance system, all within a legally binding framework.

The Copenhagen Accord would do away with this framework by replacing it with a "bottom-up" and voluntary pledge-based regime. Under this regime, developed countries would be able to do whatever they want in terms of emission reduction targets.

In particular, the Accord merely requests Annex I Parties to submit the national emission reduction target that they are prepared to take on, in order to fill the table in its Appendix I. The adverse consequences of this new system include:

- There is no aggregate mid-term (e.g. 2020) emission reduction commitment for developed countries that is commensurate to the science and the development needs of developing countries (i.e. at least 40% below 1990 levels) as the basis and reference point that Annex I Parties' individual mitigation targets should collectively achieve;
- Each country is free to submit its own national emission reduction target, without such target being sub-

jected to agreement by all Convention Parties, irrespective of the adequacy of such a target. Thus the conditions are encouraged for low levels of national and aggregate mitigation ambition on the part of Annex I Parties;

- The comparability obligation in paragraph 1(b)(i) of the Bali Action Plan is lost in essentially omitting any obligation on the part of developed countries to ensure that their individual national mitigation targets are comparable with each other in terms of figures, legal nature, and timeframes;

- The foundation for the creation of market-based mechanisms similar to but outside of the Kyoto Protocol's flexibility mechanisms is established;

- Annex I Parties' mitigation commitments take place outside of the framework of a legally binding treaty instrument that is consistent with the provisions of the UNFCCC.

Second, it creates the potential for changing the balance of obligations under the UNFCCC by laying the basis for a new set of mitigation and MRV obligations for developing countries that weakens or even does away with the principle of common but differentiated responsibilities and respective capabilities in the UNFCCC. This includes, for example, more frequent reporting by developing countries delinked from the UNFCCC obligation of developed countries to provide financial support for such reporting; country-focused (rather than aggregate) and

more in-depth review procedures for developing country national communications that could be similar to or even more stringent than how developed country national communications are treated

Third, the Copenhagen Accord reinterprets the commitments of developed countries to provide or mobilize climate financing to support developing countries' climate change-related mitigation and adaptation actions in ways that are conditional and highly ambiguous and uncertain as to quantum, source, modality, institutional architecture, and channel of delivery and access

Fourth, it creates a parallel framework of climate change-related "commitments" and actions, thereby laying the foundation for a shift away from the UNFCCC per se as the primary multilateral treaty instrument for global long-term cooperative action on climate change or for amendments to the UNFCCC that could change the current balance of obligations in the UNFCCC. In fact, many aspects of the Accord are inconsistent with the UNFCCC's provisions and principles.

Fifth, it recognizes the science relating to a 2 degrees Celsius global temperature increase but does not elaborate on how this would be achieved. It also talks about equity but does not define clearly how equity considerations are to be addressed, what it means, and the modalities for achieving equity.

As such, notwithstanding that the Accord is not formally per se an agreed outcome of COP15, its contents could very well shape and influence the discourse and negotiations under the AWG-LCA and the AWG-KP leading up to COP16 in Mexico in December 2010. UNFCCC Parties that associate themselves with the Copenhagen Accord are likely to use it as the basis or the blueprint for proposals on how to draft a new treaty instrument under the UNFCCC as an outcome of COP16.

Legal and Political Aspects

"Takes Note Of"

The Danish Presidency of COP15 had, in the early hours of 19 December 2009, brought forward the text of the Copen-



During a long wait for the plenary to start, the political leaders of South Africa, China, India and Brazil held an impromptu meeting in the crowded lobby in Copenhagen. They took part in the birth of the Accord, and the question is how they see its future status and role.

hagen Accord and asked the COP to consider its contents for adoption as a COP decision. However, many Parties that were not part of the group that negotiated the Copenhagen Accord objected with respect to both the procedural aspects and the substantive content of the Copenhagen Accord, eventually resulting in the “takes note” decision by the COP.

In the annex to its Decision 55/488, adopted on 7 September 2001, the General Assembly reiterated “that the terms ‘take note of’ and ‘notes’ are neutral terms that constitute neither approval nor disapproval”. This decision and interpretation has been reiterated by the General Assembly on many occasions since then.

This means that, in accordance with the practice of the United Nations, the COP was neutral and neither approved nor disapproved the Copenhagen Accord. It also means that the Copenhagen Accord per se is not an official outcome of COP15 and was produced external to COP procedures, since the COP only notes its existence and did not take any decision to incorporate it into the body of COP decisions or other documents coming out of COP15 as a document that is officially agreed to by the COP.

Although the Accord is contained or attached to a decision of the COP15, it is legally an external document that the COP notes exists but which it has no opinion of. That is, the Copenhagen

Accord is not, per se, an official outcome document of COP15 but rather is an external document whose existence is only “noted” by the COP. During the final plenary of COP15, the external nature of the Accord vis-à-vis the UNFCCC process was made clear by various countries that insisted that the Accord should not bear the logo of the UNFCCC so as not to give it a veneer of legitimacy as a UNFCCC document.

The Meaning of “Association” with the Copenhagen Accord

On 30 December 2009, Denmark “in its capacity as COP15 Presidency” circulated a note verbale to the Missions in New York inviting UNFCCC Parties “to inform the UNFCCC Secretariat in a written form at their earliest convenience of their willingness to be associated with the Copenhagen Accord.”

The legal authority of Denmark as COP15 President on its own to invite UNFCCC Parties to “associate” themselves with the Copenhagen Accord is questionable. Nowhere in the COP’s Rules of Procedure does it allow the COP Presidency to invite Parties to undertake any proactive actions in relation to any document or instrument that is external to the COP process.

The Copenhagen Accord has been billed by developed countries as a politically binding agreement among those countries that are part of it that is intended to shape how these countries act in terms of addressing climate

change. But the heads of state/government-level nature of the negotiation process for the Copenhagen Accord, its actual final status vis-à-vis COP15 and its work, and especially the subsequent “association” process for it triggered by the Danish Presidency’s invitation, all create a situation in which the Copenhagen Accord becomes an instrument that creates certain international law obligations for the countries that associate themselves with it.

In essence, association with the Copenhagen Accord in writing would essentially be a unilateral declaration on the part of the associating Party of its willingness to be bound – in both political and international law terms – to the provisions of the Copenhagen Accord.

The Accord would create international law obligations for such associating Parties. At the very least, it can be seen as an international political commitment that would be the basis for their political negotiating positions for any further international policy-making including in the UNFCCC.

That no deadline was included on when to associate with the Accord would allow for an open-ended virtually year-long “association” process. The advocates may try to get more countries to join and then try to bind them to the Accord’s positions during the negotiations in the UNFCCC and even elsewhere.

Whether as a politically binding agreement, or as an instrument to which various UNFCCC Parties would unilaterally declare themselves to be associated with, the Copenhagen Accord could very well change the basic international policy regime governing global action on climate change. This is because it could become the blueprint for a new international regime of rights and obligations that both developed and developing countries take on in the place of the UNFCCC and its Kyoto Protocol. Such a new regime of rights and obligations, if based on the Copenhagen Accord, would have the potential to drastically curtail the development prospects of developing countries, while also lowering the emission reduction obligations of the developed countries.



South American presence at Copenhagen: President Lula of Brazil, President Chavez of Venezuela and President Morales of Bolivia meet at the conference hall.

Pressure on Poor Led to Failure at Copenhagen

Bernarditas de Castro Muller

The summit was a culmination of attempts by rich countries to steamroller the G77 into accepting a deal not in their interests, according to the G77's Coordinator.

The failure of negotiators to agree a significant deal in Copenhagen was not due to two weeks of frenetic diplomatic wrangling, it was the culmination of years of attempted bullying and bribery by rich nations, in order to steamroller the developed world into accepting a deal that was not in their interests.

The EU for example made sustained attempts to influence and pressure developing nations – something that only served to increase their cohesion. They bribed where they could, promising the same recycled financing and maybe more to come if countries bent to their demands. And they bullied when they could not bribe.

The UK financed workshops in selected vulnerable countries and de-

ployed climate envoys. One of its envoys told “intransigent” negotiators that the UK would mobilise a group of vulnerable countries to pressure the major developing countries – such as China, Brazil and India – into committing to emissions reductions, contrary to their obligations under the climate treaty.

Meanwhile, everybody waited to see which way the US would go. The whole process went into slow motion until the new US administration took over early in 2009. The US did begin to engage, but only to make more noise in the negotiations, dampening hopes for a US emissions reduction target. It promised recycled financing, most of it to be spent domestically, and above all warned that everything depended on



Bernarditas Muller at the Copenhagen Conference

US congressional approval. This ensured nothing would happen until mid- to late-2010.

What occurred in Copenhagen was the culmination of the frustrations many developing countries have about the lack of transparency and inclusiveness in the process. Rumours of a “Danish text” – the now infamous document prepared by rich countries outside the negotiating process and leaked to the Guardian in the first week of the conference – were circulating weeks before Copenhagen. When confronted with these rumours, the Danish presidency firmly denied the text's existence.



Negotiators from developing countries will play key roles when the UNFCCC working groups meet again.

From left : Ambassador Lumumba Stanislaus-Kaw Di-Aping of Sudan (Chair of G77 in Copenhagen), Ambassador Mrs. Dessima Williams of Grenada (Coordinator of AOSIS), and Mr. Su Wei, head of China's delegation.

At the beginning of the second week, new procedures were introduced that delayed negotiations for at least two days. The G77 group of developing nations was blamed for these delays, while developed countries stalled in the closed negotiating rooms.

But to the press outside, rich countries continued to push the message that "the G77 is blocking negotiations".

The G77 negotiators continued to engage in negotiations, hoping for these to be part of the final agreed outcome. We waited in vain. What took place behind closed doors was backroom wheeling and dealing. I took part as part of the Sudanese team in the first meeting, where the big G77 countries were trying to revise the text. Small gains were made, but largely the revisions suggested were ignored. Sudan dropped out of the final backroom negotiations when it became clear that little more could be accomplished for small developing countries.

The final plenary, which all members from all parties must attend, broke out in confusion when the Danish prime minister and conference chairman, Lars Løkke Rasmussen, marched in after making the delegations wait for nearly five hours without any explana-

tion. He took the microphone to announce that a deal (the Copenhagen accord) was done, and secretariat personnel frantically distributed the text. Countries had just an hour to read the text and come up with their positions.

Rasmussen then closed the session without following normal procedures of soliciting views of parties and proceeded to march out again, leaving pandemonium on the floor. The only way to be allowed to speak in the subsequent debate was to ask for points of order, which were not heeded until delegates began banging name-plates on the table. During the interventions, the chairman looked on, glaring at the proceedings, turning now and then to consult the secretariat. No courtesy nor proper attention were accorded to the speakers. The claim that only three or four countries spoke against the accord is false.

The intervention of Ed Miliband, the UK's climate change minister, focused on the paragraphs concerning financing, saying they would not be put into operation unless countries signed up to the accord. The US made a similar point. Tuvalu, in speaking against the accord, likened the financing offered to the "30 pieces of silver"

Judas Iscariot received to betray Jesus. It is sad to say but pledges of financing have a way of evaporating over time, and financing done through existing institutions are unpredictable, difficult to access, conditional and selective.

The parties decided to continue with the negotiations, while taking note of the accord which, on many of its provisions, undermines the developing countries' positions in these negotiations.

Copenhagen represented a complete breakdown of trust among the parties. To build it up again, under the shadow of a the Copenhagen accord, is immensely challenging. The holidays might provide time for reflection, and the firm resolve of the New Year should be to do something, finally, please, to address climate change and its adverse effects.

Bernarditas de Castro Muller has been the Coordinator of the G77 and China in the UNFCCC's Working Group on Long-term Cooperative Action, including at the Copenhagen Conference.

(This article was published in Guardian .co.uk on 23 December 2009)

New Papers and Publications

South Centre's Papers on the WTO for the Seventh WTO Ministerial Conference

Access is on the website: http://www.southcentre.org/index.php?option=com_content&task=view&id=1117&Itemid=1

- [Draft Paper by Martin Khor, Executive Director of the South Centre: Analysis of the Doha Negotiations and the Functioning of the WTO](#)

Policy Briefs:

- [Is Development Back in the Doha Round?](#)
- [The Proposed Special Safeguard Mechanism \(SSM\) in the WTO: Is it still 'Special'?](#)
- [State of Play of the GATS Negotiations: Are Developing Countries Benefiting?](#)

Analytical Notes:

- [The Extent of Agriculture Import Surges in Developing Countries: What are the Trends?](#)
- [The Volume-based Special Safeguard Mechanism \(SSM\): Analysis of the Conditionalities in the December 2008 WTO Agriculture Chair's Texts](#)
- [The Price-based Special Safeguard Mechanism \(SSM\): Trends in Agriculture Price Declines and Analysis of the Conditionalities in the December 2008 WTO Agriculture Chair's Text](#)
- [Comparing the Special Safeguard Provision \(SSG\) and the Special Safeguard Mechanism \(SSM\): Special and Differential Treatment for Whom?](#)

“The Multilateral Process Must Be Respected in Future”

G77 Chair criticises Copenhagen’s undemocratic process and calls for return to UN’s multilateral practices.

A meeting of the UN General Assembly was held in New York on 21 December 2009 at which the UN Secretary-General Mr. Ban Ki-Moon gave a briefing. Below is the statement made at the meeting by the Permanent Representative of Sudan, Ambassador Abdalmahmood Abdalhaleem Mohamad, Chair of the G77 and China.

The Group of 77 and China thanks the Secretary General for convening this meeting so soon after Copenhagen. The truth is that those of us who went are still recovering not just physically but also psychologically.

The Conference was supposed to be one of the most important meetings even held by the UN or by mankind in history. Its topic is a most serious one, how to save the world and humankind from climate change.

Unfortunately, the results were far below what we expected. The developing countries are not responsible for most of the emissions accumulated in the atmosphere but we will be most affected by climate change, so we have the most to lose. We thus took Copenhagen and its preparations very seriously. We worked very hard in the two working groups on long-term cooperation and on Kyoto Protocol. These two groups were the main venues where most of the work went on in Copenhagen, and our delegates worked sometimes till 5.00 a.m. to try to draft compromise texts.

From the beginning of the Conference, the G77 and China and our individual countries sought an assurance that there would not be any surprises in the form of a text dropped from the Presidency or worked out by a small group of Parties, as this would be untransparent and undemocratic, and against the principles and practices of the UN. At the opening session itself on 8 December, we stated that no parallel tracks of negotiations should be created.

We were given this assurance. Even when the second week began we were assured by the Presidency of the Conference that the real work was being done in the two working groups and their subsidiary drafting groups. Unfortunately some of the key issues being negotiated were then removed from some of the key drafting groups, for example on shared vision. The issues were transferred to somewhere else but we did not know to where.

Then in the early hours of 19 December, after the conference was supposed to have ended on 18 December, the Conference of Parties was finally convened and we were informed for the first time by the Presidency that a small representative group of leaders had come up with the Copenhagen Accord, and that the COP was invited to look at it and adopt it.

This way of running a UN conference is unhealthy, to say the least, what more a meeting of a treaty-based organization like the UNFCCC, which is charged with preventing the most dangerous threat the world has known.

It was said that the 26 countries were a representative set of countries. But who is representative of who has to be decided by the whole body. It is not the prerogative of the host country to select who it thinks can represent the world.

Before the vast majority of delegations were informed even about the small meeting, some leaders of powerful countries were already informing the media that an agreement had been reached.

It was only hours later than a Copenhagen Accord was shown to the COP members with a request we study it and join the consensus.

There was an easy assumption that the COP of 192 nations would simply rubber stamp a document hastily put together by 26 countries. We are disappointed that this way of conducting business was done. It disrespects the



Ambassador Abdalmahmood Abdalhaleem Mohamad

hard work put in by thousands of delegates in the open-ended working groups that were discussing these issues in a transparent and democratic way. It is disrespectful of the United Nations and its member states.

Of course having the participation of all Parties consumes time. But this is what works in the end. On such a crucial issue like climate change on which the lives of the people in each country depends, the decision-making process must be democratic and participatory. If indeed a smaller group is negotiate on behalf of all, then this decision has to be taken by all, the mandate and terms of reference must be agreed to by all, and the choice of countries must be made by all.

This is the most important lesson to draw from Copenhagen. We now know what happened when the Copenhagen Accord was given over to the COP. Because of the inappropriate process and the lack of time to seriously consider the contents, it was not possible to adopt the Accord. The Parties decided to “take note” of the Copenhagen Accord. The meaning of the term “takes note” may not be well known to the media or the public but in the UN context it is known to us. It is a neutral term that means the document is not adopted, nor is it viewed either positively or negatively. Each member can have its own opinion on it.

Although the Copenhagen Accord is not a document agreed to by consensus, I am sure that each of us will study it thoroughly now that we have more time, and each of the Members can draw lessons from it and key points from it and they have the opportunity to feed these points into the negotiations next year in the two working groups. The points in the Accord can thus provide contributions and inputs

into the negotiations.

It should not be misunderstood that the G77 and China or our members have over-prioritized process over substance. In this case, our concern about process is also primarily a concern on substance. We do not want texts of substance that we have worked on together with our partners in Annex I countries in the working groups to be superseded or deleted by texts of substance coming from a select group.

It must be recorded that the Copenhagen Conference was not only or mainly about the 26-country meeting or the Accord. It mainly consisted of the work in the AWG-LCA and the AWG-KP. We are glad to note that there was some progress in various issues in the AWG-LCA, with the text advancing in several areas. Of course there are still many options and square brackets in the various texts. This is to be expected since it was known that Copenhagen would not reach a full agreement.

We are much more disappointed that the work on the Kyoto Protocol was much slower and that up to now we do not have the numbers for emission reduction commitments for Annex I parties in aggregate or as individual countries. This is the biggest substantive failure in Copenhagen, that these most vital figures of all are still missing. They are missing in the report of the AWG-KP. They are also missing in the Copenhagen Accord. Thus the developed countries did not take the lead as they promised in Copenhagen.

We believe that obtaining adequate numbers in line with what science demands is still our most important task.

Mr Secretary General, we are most disappointed that the comprehensive deal was not sealed in Copenhagen. But we must also remember that in the last two years we have made good progress in defining the issues, in defining our different positions, and in clarifying the methodologies and narrowing the options. There is a good foundation to base our work for the future. The G77 and China believes that there is no substitute for all of us, big or small countries, to work hard through the participatory and open-ended channels of the AWG-LCA and the AWG-KP to advance our work, in line with the mandates of the working groups and in accordance with the principles and provisions of the Convention and the Kyoto Protocol.

We know that we now have a new deadline to complete the work by December 2010 in time for or at the COP 16.

We therefore propose the following. The work should progress along the two tracks as mandated in Bali. There should be an assurance as soon as possible from Annex I parties in the Kyoto protocol that they intend to remain in the Protocol and undertake a 2nd commitment period beginning 2013.

Top priority must be given to agreeing on the figures for Annex I emission reduction in the 2nd commitment period.

The figures must be credible. Many developing countries have proposed that the aggregate figure is more than a 40% cut by 2020 compared to 1990.

Annex I members who are not a Party in the Kyoto Protocol should undertake a comparable effort inside the Convention through the AWG-LCA track.

Developing countries will undertake nationally appropriate mitigation actions which are supported and enabled by finance and technology and a method of measuring, reporting and verifying is to be worked out for the supported NAMAs and the financing and technology transfer.

The new and more effective structures for finance and technology transfer, both of which should be under the authority of the COP, should be estab-

lished. The quantum and sources and uses of funds and the critical issues in technology are to be worked out.

In adaptation, a strengthened mechanism to give this issue the highest status it deserves, and the provision of adequate financing, must also be worked out.

These are some of the key issues that we have to and we can succeed in finalizing in the next 12 months.

Indeed we should give ourselves a stricter deadline. We should finish in a comfortable period before December 2010, so that we can have a much more predictable and smooth Conference in Mexico, with the decisions already agreed to before the Conference itself, and thus we can avoid the problems and tensions that we had in Copenhagen.

Mr Secretary General, the G77 and China are very committed to the multi-lateral process and especially to the UNFCCC which we consider the only legitimate body in which the international decisions can be taken on climate change policies. We understand that it may take a little bit more time and effort to forge a consensus among so many members of the Convention and the Kyoto Protocol, and often the differences of views makes it more complicated for the issues to be resolved.

Nevertheless we believe it is vital to invest in this truly bottom up and democratic process because the issues are so important and affect all countries, and moreover the best guarantee of an enduring and sustainable implementation of what is agreed is that we all have ownership of the decision-making process and of the decisions.

Mr Secretary General, like all our partners, the G77 and China is disappointed that we did not achieve more in Copenhagen. However we believe we did make significant progress in Copenhagen and we are committed to working even harder in the next year to come to final conclusions on both the Convention track and the Kyoto Protocol track.

Climate change and its effects continue to threaten us and we must all make the utmost effort to close the remaining gaps between us and to conclude a comprehensive deal that is both environmentally ambitious and that is just and fair and balanced.

SOUTH BULLETIN

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The South Bulletin is published by the South Centre, an intergovernmental think-tank of developing countries

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