THIRD WORLD

RESURGENCE

ISSUE No. 269-270 KDN PP6738/01/2013 (031741) www.twn.my

After the Doha climate change conference ...

A push for market-based solutions?

ISSN 0128-357X

Double issue

Editor's Note

EVER since the debacle of the 2009 Copenhagen negotiations, expectations of success at United Nations climate talks have been so low that any modest progress has been characterised as a significant achievement.

And so it was with the outcome of the latest climate negotiations in the Qatari capital of Doha in November-December last year.

The major issue at Doha was the fate of the Kyoto Protocol (or more accurately, incorporation within it of a second period for commitments to limit carbon emissions, following the expiry of the first period in December 2012). Since the Kyoto Protocol is the only agreement which obliges the rich countries to undertake such emission reductions (developing countries are exempted on the basis of the principle of 'common but differentiated responsibilities'), it was clearly important to secure a consensus on this.

The fact that the developing countries did finally manage to secure, after protracted negotiations, agreement on a second commitment period (from 2013 to 2020) has therefore to be viewed as an achievement of sorts. However, when account is taken of the fact that the United States, the second biggest polluter in the world, has never been a party to the Protocol and Canada has abandoned it altogether while Russia, Japan and New Zealand have now refused to accept a second period of commitments, it should be clear that this success is worthy of only two cheers rather than the traditional three.

The other truly significant achievement at Doha was undoubtedly the success of the developing countries in bringing onto the agenda the issue of loss and damage caused by climate change to vulnerable countries. A decision was reached 'to establish', at this year's climate conference, 'institutional arrangements, such as an international mechanism, including its functions and modalities, … to address loss and damage'. To be sure, the fact that the 'functions and modalities' of such a mechanism will still have to be negotiated implies that we are still a long way off before the rich countries will accept it as the mechanism for evaluating the compensation payable by them for loss and damage caused by their policies. Nevertheless, it is clear that a decisive start has been made.

There was very little else at Doha to raise hope for the future. On other key issues, the rich countries displayed their usual callous approach. On reducing carbon emissions, despite pleas to display 'high ambition', they refused to budge from their previous, woefully inadequate reduction pledges even though they were fully aware that the aggregate of such reductions is insufficient to avert the fatal 2°C rise in global temperatures.

While refusing to face up to their responsibilities to prevent such global warming, at Doha the rich countries displayed an equal lack of concern for the plight of the poorer countries which are paying the price for their irresponsibility. They refused to make any credible financial commitment to enable these vulnerable countries to combat the adverse effects of climate change.

While the lack of real progress on the climate change front is depressing, what is also worrying is the current attempt to promote false solutions. The push to expand carbon markets in the developing world so as to create an international carbon market is particularly insidious. This move is being spearheaded by the World Bank, which not only has a whole unit specialising in it but 15 different funds and loads of money to woo developing countries into adopting such mechanisms. Regrettably, some expansion of carbon markets is also taking place in the African continent, albeit at the request of the host countries, in the drive by the UN Framework Convention on Climate Change (UNFCCC) secretariat to 'increase participation' in Clean Development Mechanism (CDM) projects under the Kyoto Protocol.

The promotion of a market-based mechanism as a panacea for the problem of climate change is particularly dangerous as it offers a way out for rich countries stubbornly persisting in their recalcitrant stance. If the carbon trading system is ostensibly the answer, then there is clearly no need to cut emissions, especially at a time when Western economies are still mired in a downturn. They can in good conscience expand economic growth without limit and pay for the indulgence by buying carbon credits from impecunious developing countries.

The fundamental flaw in this 'solution', which a number of studies have conclusively demonstrated, is that carbon markets do not reduce carbon emissions. They are therefore a false solution. More to the point, they do not work as a viable market, as the current crisis gripping the European Union's Emissions Trading Scheme (ETS) has revealed. As EU governments rush to bail out this collapsing market, more than 90 civil society organisations have come out with a call to abolish it. Perhaps the time has come to expand this fight to scrap the international carbon trading system as a whole. That might be the only way to force the rich countries to face the truth that there are no easy solutions to this most pressing problem of our times.

In our cover story for this issue, we consider the unsatisfactory outcome of the Doha climate conference against the backdrop of the moves to promote the international carbon market. To enable readers to appreciate the Doha outcome, we provide reports of the conference proceedings and analyses of its final decisions. We then turn to the issue of carbon markets and highlight the moves to promote such markets in the developing world. Finally, we round off with a piece on the latest scientific findings which validate the reality of climate change and its modus operandi. The message, and not only to climate sceptics, is clear: it takes a relatively small amount of warming to generate extreme weather. Hopefully it will act as a spur to more decisive action.

– The Editors

Third World
RESURGENCE
www.twn.my
No 269/270 Jan/Feb 13 ISSN 0128-357X

While the UN climate conference held in Doha on 26 November-8 December *(pic)* registered little progress in combatting climate change, moves to promote the false solution of carbon markets are proceeding apace. 16

HEALTH & SAFETY

ECONOMICS

COVER
After the Doha climate change conference: A push for market-based solutions?

WORLD AFFAIRS

HUMAN RIGHTS

WOMEN

MEDIA

VIEWPOINT

POETRY

THIRD WORLD RESURGENCE is published by the Third World Network, an international network of groups and individuals involved in efforts to bring about a greater articulation of the needs and rights of peoples in the Third World; a fair distribution of world resources; and forms of development which are ecologically sustainable and fulfil human needs.

THIRD WORLD RESURGENCE is published monthly by Third World Network, 131 Jalan Macalister, 10400 Penang, Malaysia. Tel: 60-4-2266728 Fax: 60-4-2264505. Email: twnet@po.jaring.my
Printed by Jutaprint, No. 2, Solok Sungai Pinang 3, 11600 Penang, Malaysia.
Cover Design: Lim Jee Yuan
Cover Photos: *(top)* Courtesy of IISD/Earth Negotiations Bulletin; *(bottom left)* Yvonne Miller

The UN and healthcare in Haiti in the time of cholera

There was widespread outrage at the recent announcement by a UN spokesman that the world body will not be paying any compensation to the victims of the 2010 Haitian cholera epidemic which originated from its peacekeeping contingent. In setting the outbreak of this epidemic in the context of Haiti's almost non-existent healthcare system, *Sokari Ekine* highlights the terrible price the Haitian people have paid for the absence of a proper healthcare infrastructure.

IT is impossible to talk about healthcare in Haiti without mentioning the 2010 earthquake and the subsequent cholera epidemic which so far has affected 630,000 people and taken the lives of 7,500. It would be easy to believe that cholera was a direct result of the devastation of the earthquake and the heavy rains of June, July and August. In fact the media spent much of 2010 speculating on the possibility of a medical epidemic.

Two million people were forced into overcrowded camps for internally displaced persons (IDPs) where living conditions were appalling. People were traumatised and fearful of further earthquakes, and even to mourn the dead was hard as the struggle to live became harder as months passed. Many women and girls in the tent camps were raped and lived with the fear of physical and sexual violence; food and clean water were scarce; latrines dangerously inadequate; and sewers overflowed. So why were so many healthcare providers and humanitarian aid agencies caught off-guard when in October, the first cases of cholera began to appear and not in the IDP camps as might have been expected? The answers to this question and others, such as why it spread so rapidly, who was responsible and what the response has been, all serve as an excellent lens through which to examine healthcare and the socioeconomic realities of the UN/US occupation of Haiti.

Cholera is an acute dehydrating bacterial infection spread through contaminated water and food. The source of the contamination is human faeces and the illness is exacerbated by poor sanitation, limited clean water, heavy rains and associated poor hygiene such as failure to wash hands after going to the toilet. Symptoms can be mild or severe, including leg cramps, white watery diarrhoea and profuse vomiting. They can appear within hours or over a period of days. However once severe symptoms appear, for those most vulnerable such as children, the elderly, pregnant women and those already malnourished or suffering from chronic illness, rapid dehydration can lead to death in just a few hours. Treatment for most people is surprisingly simple: oral rehydration therapy (ORT) and in severe cases, an intravenous rehydration with antibiotics.

A Haitian boy suffering from acute diarrhoea being provided an intravenous rehydrating solution by a nurse in the midst of the cholera epidemic in 2010. The epidemic is not over and numbers are expected to rise again once the rains start.

I visited Haiti in November 2010 and by then cholera was already embedded in Haitian lives. Banners and posters announcing the dangers and prevention of cholera hung from streets and decorated what walls were left standing. Radio and TV jingles blared out similar messages whilst schools, camp committees and women's organisations reinforced all these messages whilst trying their best to create hygienic environments and, most importantly, provide clean water.

A school run by SOPUDEP, a Haitian grassroots movement, did not escape cholera as many parents and students were taken ill. Their priority was to provide clean water through a mix of water treatment tablets and clorox as well as to reinforce basic hygiene regimes – with 700 children it was not an easy task and there were constant school closures as children or their parents were taken ill. Nonetheless they were able to avoid a local epidemic.

In the early hours of one morning, a diabetic friend was rushed to the Médecins Sans Frontières (MSF) hospital in Martissant 26 which at the time was one of their cholera treatment centres (CTCs). I arrived in the evening just as dusk was falling to visit my friend. As I waited outside, I watched as cholera patients came and were directed to the side entrance. Some walked, some were carried; frantic parents with a baby wrapped in a bundle but visible enough to know she or he would die very soon; an elderly woman in a wheelbarrow, shrunken and surely at the point of death. In Martissant 26 cholera was everywhere. It was unavoidable as vendors and customers vied with mountains of rotting refuse and pools of stagnant water lying amidst rubble and buildings destroyed by the earthquake.

Prior to October 2010 there had been no cases of cholera in Haiti for nearly a century. The first hospitalised case was on 17 October in Mirebalais, in the region of Haiti's longest river, the Artibonite. By 22 October cholera was confirmed and the outbreak in the coastal areas of St Marc was established. The disease was able to spread rapidly due to initial misdiagnosis, lack of ORT and an already overstretched medical infrastructure.

The first responders to both the earthquake and the cholera outbreak were largely ignored by Western media – the Cuban brigade, who had been in Haiti since 1998, along with the well-established MSF, also in Haiti for many years. At the start of 2013 these are the only two sizable medical teams left from those first 12 to 18 months. From an initial 72 CTCs in 2010/11, MSF, which now accepts all cholera referrals as well as walk-in patients, has just four CTCs, in Leogane (40 beds), Delmas 33 (80 beds), Carrefour (275 beds) and Cite Soleil/Drouillard (100 beds).

In order to place Haiti's health challenges in a Global South context, I asked Oliver Schulz, the head of the MSF mission in Haiti, how the country compares to African countries. He gave the example of the eastern Congo where in general there is a structure and willingness by the Ministry of Health to get involved. So within six months of MSF starting a cholera project the ministry is ready to take over. However in Haiti, because the disease is new and because there is neither the capacity nor the necessary health infrastructure, the government is unable to take over. As Schulz pointed out, the situation in Haiti is far too complex to justify simply pointing a finger at the government as they simply do not have the resources. In particular, Schulz was critical of the World Health Organisation (WHO) and UN; their role should be to support the government in developing a comprehensive healthcare infrastructure, yet despite years of talking, little has actually happened.

'Even with cholera some of the things we discussed two years ago are still being discussed. I do not know how much they are involved in activities like plans etc but it seems to me that by now we should have a national health plan and it seems to me normally WHO supports the government in making such plans as that's what they do in other countries.'

The problem with healthcare in Haiti is there is no system, no structures, no plan – at least not one that has been implemented. What healthcare facilities exist are wholly inadequate – insufficient medical staff, support staff, equipment and treatment – and mostly left to medical NGOs such as MSF, the Cuban brigade and a few faith-based and charity clinics. For example, there is one MSF hospital in Carrefour with 275 beds serving about 400,000 people. In Cite Soleil the figures are similar. In addition to the MSF hospital, there is a public hospital, St Catherine's, which, like most government hospitals, is staffed by excellent Haitian doctors but is rundown and under-equipped. The Charity Mission runs a small hospice for HIV/AIDS patients and a few other small clinics serve at least 250,000 people. Finally there is the Centre de Nutrition et Sante Rosalie Rendu, which has a paediatric clinic and sees up to 300 under-5s a day, many mothers travelling across the city to reach the clinic. The round trip from for example, Delmas to Cite Soleil can take up to four hours and three *tap taps* at a cost of about $2 – a long and costly journey. But the Haitian and American doctors are excellent and the clinic includes a nutrition centre for malnourished children who attend every day for six months or until their weight and overall condition has improved.

The public hospitals including the country's main teaching hospital and clinical and trauma referral centre, L'Hôpital Université d'Etat d'Haïti (Haitian State University Hospital or HUEH), are in a terrible condition and have effectively been abandoned by all those involved in running the country – the government, the UN, the US Agency for International Development (USAID) and other country donors, and the NGOs. HUEH was partially damaged in the earthquake – 150 nursing students were killed and two-thirds of the buildings destroyed. Even before the earthquake, it wasn't in great shape and the rebuilding of HUEH was supposed to be a priority, as shown in a 2010 proposal by medical aid organisation Partners In Health (PIH):

'Significant, strategic, and ongoing improvements to the comprehensive infrastructure, staffing, training, operations, and clinical practice of this central public health facility are investments in the future of all public health throughout Haiti... More immediately, HUEH is in a state of emergency. If conditions at the hospital are not improved in a matter of months, it will become the site of a second round of catastrophic deaths due to disease outbreak or total health system collapse. There has been a vision articulated by the Haitian leadership of the hospital, but they cannot implement it alone. Please join the effort to build Haiti back better by first investing in the health of Haiti's people.'

One medical improvement to HUEH, and which is exemplary of how things happen in Haiti, is the tuberculosis clinic set up in 2010 by an American volunteer, Dr Coffee, and a group of Haitian nurses. The clinic, initially operated under tents, is now housed in a building and has cared for over 1,000 TB patients since 2010.

Since 2004, when the Medical School of UNIFA (the University of the Aristide Foundation) was forcibly closed, HUEH had been the sole medical training centre in Haiti. UNIFA was founded by President Jean-Bertrand Aristide in 1996 in order to create an inclusive educational space for courses ranging from adult literacy to training doctors and nurses. In August 2011 the much-needed medical school reopened with 63 men and 63 women.

In the politics of US imperialism in Haiti, the contributions of UNIFA and the Cuban brigade doctors to the health infrastructure have been ignored by Western media. I doubt this is by accident, given the election of puppet and Duvalierist Michel Martelly, and the resurgent post-earthquake neoliberal agenda driven by the US, its allies and NGOs. Although the rebuilding of HUEH and other public health clinics has not taken place, the Paul Farmer-led PIH's state-of-the-art University Hospital of Mirebalais (HUM) has now opened. I asked a number of NGO personnel, doctors and Haitian activists why HUEH has been abandoned yet the PIH NGO hospital has flourished. The response was always the same – 'we ask the same question'. No one would question the importance of HUM to Haiti's health infrastructure. It is the largest post-earthquake project in the country and has taken three years to build. HUM has 300 beds, plus primary and secondary healthcare for up to 500 people a day. As a teaching hospital HUM along with UNIFA will provide doctors and nurses for Haiti. However questions remain as to the location and who will have access to the hospital.

There is no doubt that both the earthquake and cholera epidemic played a leading role in the funding and realisation of the PIH project. One of the uses of PIH founder Paul Farmer is that he is able to raise funds especially since he became a spokesperson for 'the machine that drives Haiti'. When questioned by journalist Ansel Herz about the stalling of a wage increase from $3 to $5, Farmer, the new voice of the occupiers, also stalled as he seemed to have forgotten his own treatise on 'pathologies of power'.

The public hospitals in Haiti, including the Haitian State University Hospital (HUEH, *pic*), the country's main teaching hospital and clinical and trauma referral centre, are 'in a terrible condition and have effectively been abandoned by all those involved in running the country.'

The inadequate provision of healthcare for the poor in Haiti and elsewhere, as Farmer himself has written over and over, is due in large part to structural violence and a pathology of greed which has left over two million people food-insecure, forces women into relationships which are detrimental and often abusive, and results in people dying needlessly of cholera or because they couldn't access simple surgery – as was the case for Elie Joseph.

In February 2012, Elie Joseph was diagnosed with a heart murmur which is a common congenital heart defect called ventricular septal defect (VSD) where the blood flows the wrong way, putting stress on the heart and lungs, which can lead to infections. The charity Haitian Hearts, which sends children suffering from heart-related illnesses to the Dominican Republic or the US, arranged for Elie to travel to the Dominican Republic for the 15-minute procedure which would fix his heart. Elie received his travel documents but his mother did not, so he was unable to undergo the operation. In December 2012, Elie Joseph died from pneumonia in the tent at Aviation camp where his parents are forced to continue to live three years after the quake. VSD is not an illness to die of and Elie is one child out of thousands who have died needlessly as a result of structural violence.

The violence of poverty is multifaceted so that even when healthcare is accessible there are still other obstacles to overcome. Gladis* lives with her three children aged six months, four and nine years in a camp in Delmas 33. She is fortunate because the camp is not too far from both the MSF cholera treatment centre in Delmas 33 and the La Paz clinic run by Cuban doctors. Gladis came to Acra camp a few days after the earthquake with her two children. Her home in Tabarre was destroyed in front of her eyes and she wandered the streets for three days disorientated, traumatised, sleeping and walking with the children till eventually she came to Acra. At that time there were no tents and people were sleeping in the open or under whatever makeshift covering they could find. It was about three months before the people at Acra were able to secure tents by searching out various NGOs themselves.

It was a dangerous time for women in particular as sexual violence was rampant. The only food and water was being handed out by NGOs and one had to queue for hours. Three years later, Gladis is hardly coping with her life and it is possible that only the support of her neighbours and the camp committee has kept her going. In October 2011 when she was about six months pregnant, Gladis caught cholera. It started in the morning and within a few hours she was unable to walk. Her neighbours gave her water with rehydration salts but these did not help. She had two problems – she would have to leave her children with neighbours and luckily hers were trustworthy. Secondly she had to get to the MSF treatment centre. She was in no condition to travel by *tap tap* or motorbike and besides she did not have the money. The only way was by car. Again Gladis was lucky as one of the camp leaders saw she was ill and suspected cholera. He had an old truck that just about ran and took Gladis, near death, to the hospital where she spent 15 days.

'I didn't know what was happening until after some days. I saw they had put me in the last room where many people were dying and I thought I would die too. So many people died, I don't know how many but every day they were dying...When I started to get better, I was able to eat. They gave us food sometimes three times a day.'

Although Gladis was released after 15 days, she was still ill suffering from headaches and a fever. But for the MSF her cholera had been treated and they needed the beds as new patients were arriving all the time. Gladis survived but she remains unwell, fearful and hardly able to breastfeed her baby. Again this is just one story. Although I have heard many complaints from women on the public hospital and clinics, I have only ever heard good things about the Cuban doctors, MSF and the paediatricians at Sante Rosalie Rendu.

The cholera epidemic is not over by far and once the rains start the numbers are expected to rise again. The estimate for 2013 is 118,000 cases. To put this in a global context, there were 160,000 cases in the whole of Africa in 2010, that is in a population of nearly one billion people compared to the 10 million in Haiti. I asked Oliver Schulz of MSF for his thoughts on the year ahead:

'My personal fear is that things will get worse before they get better. The structures are weaker today than in 2011/2012. Every year the structures deteriorate. There is no plan for cholera and without a WHO-supported comprehensive national healthcare plan with clear directives, clear action plans and milestones, it will not get better. Also many of the big agencies have left and there are too many unknown NGOs, charities and faith groups.'

Within weeks suggestions began to appear that the origins of the cholera epidemic lay with the UN, specifically a Nepalese contingent based near the Artibonite river, with the disease spreading through the base toilets. Initially the UN denied being responsible; however there has been mounting evidence of the UN being the source. By October 2012, two years after the outbreak, the evidence against the UN was irrefutable.

'We can now say,' US cholera specialist Dr Daniele Lantagne said, 'that the most likely source of the introduction of cholera into Haiti was someone infected with the Nepal strain of cholera and associated with the United Nations Mirebalais camp.'

In the hope of obtaining justice and reparations for the thousands of cholera victims, the Bureau des Avocats Internationaux (BAI) and Institute for Justice and Democracy in Haiti (IJDH) filed a groundbreaking suit against the UN on behalf of 5,000 victims. In addition to insisting on accountability, the suit demands that the UN:

• Install a national water and sanitation system that will control the epidemic;

• Compensate individual victims of cholera for their losses; and

• Issue a public apology for its wrongful acts.

The UN role in introducing cholera is one more abuse in a long list of violent acts against the Haitian people with no accountability, from sexual abuse and rape to the killing of innocent civilians. UN-appointed special envoy Paul Farmer suggested, as early as December 2010, a vaccination programme as part of a five-point intervention to halt the epidemic. However Haitians had little reason to trust a UN-led initiative even if it was supported by a world-renowned physician.

Three years later the only evidence of improvement in healthcare is the teaching hospital at Mirebalais. More than anything Haiti needs clean water, not just for cholera but for a range of illnesses and because everyone has a right to clean water. Provision of clean water however does not make money for pharmaceutical companies – being well does not make money for pharmaceutical companies. But a cholera vaccine every three years is highly profitable disaster capitalism at work. Rashid Haider explains the case against vaccination:

'The vaccines Shanchol and Dukoral contain large amounts of killed cholera bacteria, the latter having an additional component known as the recombinant B subunit of cholera toxin (rCTB). Both vaccines are two-dose oral vaccines that are taken with an interval of two weeks, and are meant to cause development of protection against cholera one week after the second dose.

'Harmon's assumption that these vaccines are 60 to 90% protective for a period of two to three years does not concur with facts. The Shanchol that is intended for field testing soon in Haiti had offered a poor protection of 45% during the first year of surveillance in a large-scale field trial in India in 2006. Dismal results were obtained in a large-scale field trial in Peru in 1994 when the two-dose vaccine Dukoral was tested.'

The alternative argument for a national water and sanitation system presents a far more sustainable and realistic solution to ending the epidemic and preventing new outbreaks. It is long-term, benefits everyone and responds to a range of preventable illnesses and improves the overall quality of lives. ◆

Sokari Ekine is a Nigerian social justice activist and blogger. This article is reproduced from Pambazuka News *(Issue 617, 20 February 2013, www.pambazuka.org).*

Transfer of technology and IPRs: A development perspective

Fifty years of discourse on technology transfer at various international fora has resulted in a more robust understanding of the concept. Over the same period transnational corporations and the rich countries from which they originate have sought to erect a wall of intellectual property rights (IPRs) to prevent any real transfer. *KM Gopakumar* considers the problem from a development perspective.

EFFORTS to establish an international regime for technology transfer on fair and equitable terms are still in progress even after 50 years. Three main efforts in this regard, viz., International Code of Conduct on Technology Transfer, Code of Conduct on Transnational Corporations and renegotiation of the Paris Convention, did not reach their logical conclusion. However, provisions on technology transfer have been incorporated into various legally binding and non-binding instruments including multilateral and bilateral instruments. The United Nations Conference on Trade and Development (UNCTAD) published a compendium of instruments on technology transfer. It lists 40 multilateral instruments containing technology transfer provisions, which include the UN Convention on the Law of the Sea (UNCLOS), the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC). However, there is little progress in translating these legal provisions into practice. Currently, negotiations on technology transfer issues are in progress in various international forums, especially at the UNFCCC, World Intellectual Property Organisation (WIPO), World Trade Organisation (WTO), etc.

Technology transfer includes 'not only the purchase and acquisition of equipment but includes the transfer of skills and knowhow to use, operate, maintain as well as to understand the technology hardware so that further independent innovation is possible.'

Fifty years of discourses on technology transfer at various international forums have brought a robust understanding on the concept of technology transfer. It is no longer understood in a narrower sense, for instance, the importation of hardware such as plants and machinery to developing countries. Technology transfer now includes 'not only the purchase and acquisition of equipment but includes the transfer of skills and knowhow to use, operate, maintain as well as to understand the technology hardware so that further independent innovation is possible by recipient firms' (cited in Shashikant and Khor, 2010).

Generally speaking, technological development capabilities are achieved in three phases: '(1) initiation stage, where technology as capital goods is imported, (2) internalisation stage, where local firms learn through imitation under a flexible IPRs [intellectual property rights] regime, and (3) generation stage, where local firms and institutions innovate through their own R&D [research and development]' (Khor, 2011). In other words, domestic technological development capabilities start with the accession and emulation of existing technologies from the developed countries. Later, firms innovate on the existing technologies. After achieving a certain level of experience in innovation, firms invent their own technology. The process of accession and emulation of existing technology is commonly described as catching up, which is important in moving up the ladder to develop inventive capacities.

An enabling policy framework is necessary at both national and international levels to facilitate the catching-up process. However, the success of such an enabling policy depends on the existing capabilities of a country in many areas such as infrastructure, educational and R&D institutions, laws and regulations, human resources, finance and entrepreneur development. The enabling policy framework should, therefore, aim at building capabilities in the abovementioned areas as well as aligning other policies on trade, investment and IPRs with the overall framework for enabling industrial development including technology development capabilities.

A technology-transfer-friendly IPR legal and policy framework alone cannot bring about technology transfer. Developed countries and transnational corporations (TNCs) advocate for a strong IPR regime at the national and international levels as a precondition for the transfer of technology. However, there is ample evidence to show that a strong IPR regime can act as an impediment to the transfer of technology.

IPRs and technology transfer

IPRs refer to a set of negative rights which prevent others from using the protected intellectual property (IP) without the authorisation of its owner. These exclusive rights are often abused by the owner of the rights and prevent the transfer of technology on fair and equitable terms. In other words, the existence of IP itself creates an asymmetrical relation between the technology seller and technology buyer, because IP protection in general, and patents in particular, prevent the use of protected IP on technology without the permission of the IP owner.

Apart from this, enhanced IP protection also impedes transfer of technology in many other ways, including: IP holders may simply refuse to license the technologies to firms in developing countries; patent holders may charge exorbitantly for the protected technologies; and IP holders while transferring the technologies may impose onerous conditions which prevent further innovation on the technologies. Strong IPRs also have a chilling effect on R&D on IP-protected technologies, especially related to reverse engineering. Hence, it is important that the IP regime at national and international levels should have safeguards to prevent the abuse of exclusive rights. Apart from the safeguards, there is a need to incorporate provisions to facilitate the transfer of technology.

In the absence of such safeguards and facilitative provisions, IPRs would scuttle or slow down the catching-up process in developing countries. During the catching-up process, the efforts are mainly to reverse-engineer existing foreign technologies but IPRs prevent the freedom to reverse-engineer. TNCs and their home developed countries advocate for a strong IP regime tilted towards protection of IPRs with little room for technology transfer facilitating provisions and public interest safeguards, because the majority of IP is owned by the corporations or individuals based in the Northern countries. A slowing down of the catching-up process would delay competition in technology-intensive manufacturing, services and agriculture and thus protect the market monopoly of TNCs.

Broadly there are eight types of IPRs: patents, copyright, trade secrets, trademarks, geographical indications, protection of plant varieties, industrial designs, and protection of designs of integrated circuits. Some of these IPRs, viz., patents, copyright, trade secrets, plant variety protection, industrial designs and protection of designs of integrated circuits, have direct implications on technology transfer. Patents, copyright and trade secrets impact all sectors of technology transfer. However, the protections on plant varieties and integrated circuit designs have sector-specific implications, i.e., on agriculture and the semiconductor industry.

A copyright protection regime without adequate flexibilities (limitations and exceptions) would impede the free flow of knowledge. This in turn would affect the quality of higher education, especially the quality of human resources. A lack of quality technical human resources compromises technological absorption capacity, which in turn affects adaptation and reverse-engineering capabilities. Similarly, protection of trade secrets covers all the tacit knowledge attached to technology. Most technologies have a tacit element which is critical for the smooth functioning as well as further adaptation and reverse engineering. Trade secret protection provides the legal cover to keep this from the public domain perpetually.

As far as patents are concerned, there is enough evidence to show the adverse effects of patent protection on technology transfer. For instance, a study by the UN Industrial Development Organisation (UNIDO) states that ‘Based on the experience of the Republic of Korea, it is argued that strong IPR protection will hinder rather than facilitate technology transfer and indigenous learning activities in the early stages of industrialisation...’. Further, it states that ‘Research findings indicate that the static effects of stronger IPR protection on prices, employment and output are likely to be negative for most industries in Lebanon’. On middle-income countries, the study concludes, ‘the beneficial impact of stronger IPR protection on domestic innovation and technology diffusion is to a certain extent offsetting the growth-enhancing benefits otherwise obtained from imitation and now precluded by the stronger IPR regime’. Further, Khor (2011) compiled nearly 10 studies documenting difficulties in obtaining environmentally sustainable technologies from their patent holders.

The role of patents has been identified as one of the critical issues affecting technology transfer from the very beginning of the international discourse on technology transfer. A study has been undertaken on behalf of the UN General Assembly on patents and technology transfer. UNCTAD and WIPO further updated the same study in 1975. Three major international initiatives in the late 1970s and the 1980s, mentioned earlier, attempted to address the issue of abuses of patent monopoly with regard to transfer of technology. Developing countries demanded the renegotiation of the Paris Convention mainly to address concerns related to the local working requirement under it through its successive revision. Many newly independent countries in

Asia and Africa redrafted their domestic patent laws and refused to accede to the Paris Convention. Another major issue of concern at that time was the anti-competitive provisions in technology licensing agreements, especially in relation to patent licences.

However, the second half of the 1980s witnessed a reversal of approaches to IP due to pressure from developed countries. The conclusion of the Uruguay Round trade negotiations resulted in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the aegis of the WTO. The TRIPS Agreement sets minimum standards for all the abovementioned IPRs. However, the most onerous standards are related to patent protection. TRIPS standards on patenting include: expansion of patent protection to all technology areas, expansion of the duration of patent protection to a minimum of 20 years, inclusion of importation as part of the exclusive right of the patentee, national treatment for IP protection, regulation of compulsory licensing, etc. These standards curtail the policy space for developing countries to craft national patent laws to facilitate technology transfer and prevent abuse of patent monopolies. Thus the TRIPS Agreement virtually kicked away the ladder which had been used by many developed countries in their catching-up period before they developed their technology development capabilities.

Article 27 of the TRIPS Agreement obligates WTO member states to provide patent protection to all types of technologies, thereby virtually covering everything under the sun. This took away the policy space to exclude certain types of technologies from patent protection as had been done by many developed and developing countries. For instance, India had legislated a Patents Act in 1970 which excluded product patent protection for pharmaceutical inventions. Brazil excluded pharmaceutical inventions from patent protection altogether. Developed countries like Switzerland, Italy and Spain provided patent protection only in the post-World War II period.

The TRIPS Agreement obligates a minimum 20 years of patent protection. This long duration keeps the patented invention from the public domain for 20 years, which would seriously slow down the catching-up process. In the past, countries like India provided only seven years of process patent protection for pharmaceutical inventions.

Inclusion of importation as part of the exclusive patent right enhances the monopoly power of the patent holder considerably and virtually took away almost all compulsions for the local working of the patent. This provision allows the patent holder to import the patented article instead of making it locally and hampers technology transfer.

The TRIPS Agreement also places certain restrictions on the granting of compulsory licences. Except in cases of national emergency, extreme urgency or public non-commercial use or as a remedy for anti-competitive practices, the potential licensee, before seeking a compulsory licence, is required to make an effort to obtain a voluntary licence from the patent holder. This in a way delays the issuance of the compulsory licence. Further, 17 years of experience since the conclusion of the TRIPS Agreement show that political pressure is often exerted on developing countries against the use of compulsory licensing.

Expansion of IP protection beyond the level set by the TRIPS Agreement, through what are known as ‘TRIPS-plus’ standards pushed mainly through bilateral and regional free trade agreements (FTAs), has further narrowed the policy space for developing countries to pursue the catching-up process. Under these TRIPS-plus standards, ‘the important flexibilities, including transitional adjustment periods, policy space in implementation and the underlying public policy objectives of national systems, including developmental and technological objectives, are now largely foregone in different ways’ (Gehl Sampath and Roffe, 2012).

The accession of the majority of developing countries to treaties like the Patent Cooperation Treaty (PCT) leads to the increased flow of foreign patent applications in developing countries. The PCT allows a patent application to be filed in multiple jurisdictions, enabling TNCs to file patent applications in a large number of developing countries in a cost-effective way.

The lack of capacity in many developing countries to check abuses of patent protection, such as multiple patent protections secured on the same invention (popularly known as ‘evergreening of patents’) and ‘patent thickets’, has created further barriers to technology development capabilities.

The ongoing negotiations at the TRIPS Council or the Working Group on Trade and Transfer of Technology within the WTO have not resulted in any concrete outcomes. Technology transfer discussions within WIPO are taking place within three committees, the Standing Committee on Patents, Committee on Development and Intellectual Property and Working Group on Patent Cooperation Treaty. However, these discussions have not resulted in any norm setting to take forward the existing legal commitments on technology transfer. The Technology Executive Committee, established by the Conference of the Parties (COP) to the UNFCCC, has identified IPRs as one of the issues to be addressed.

IP protection is also enhanced by linking IP to the international investment protection regime through bilateral investment treaties (BITs). As the definition of ‘investment’ in BITs includes IP, investment protection remedies under these treaties, including investor-state dispute provisions, extend to IP. This threatens the use of flexibilities to facilitate transfer of technology such as compulsory licensing. Recently, pharmaceutical TNC Eli Lilly sent a legal notice to the Canadian government to initiate an investor-state arbitration procedure, citing the expropriation clause in the investment chapter of the North American Free Trade Agreement (NAFTA). Eli Lilly is disturbed by the Canadian courts’ interpretation and application of patentability standards (utility requirements) which has resulted in the invalidation of some of its patents on drugs like atomoxetine and olazapine. BITs also contain certain provisions like banning of performance requirements. Historically, performance requirements like requirements for local manufacturing or local sourcing of products played a crucial role in technology transfer.

Way forward

The above discussion clearly shows that IP protection and its enforcement has been moving towards a maximalist position over the last 50 years and erected a great wall of IP against transfer of technology. The complex web of IP, trade and investment has vitiated the efforts of developing countries to develop an international regime on technology transfer on fair and equitable terms. According to Gehl Sampath and Roffe (2012), 'the deeper specialisation patterns created by trade opportunities into primary commodities, weak systems of innovation and the knowledge economy have led to a wider technological gap between countries than ever before'. Therefore, it is important to interrogate the status quo to make qualitative changes. Some non-exhaustive ideas in this regard are discussed below.

Firstly, it is important to question the TRIPS Agreement and its implications on the development policy space of developing countries. Towards this end, it is important for developing countries to set up an international process to take stock of the TRIPS Agreement to assess how far its substantive provisions contribute to the achievement of its objectives mentioned in Article 7. According to Article 7 of the Agreement, 'The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.'

In July 2012, the Global Commission on HIV and the Law, which consists of 14 eminent individuals acting in their individual capacity and is supported by the UN Development Programme (UNDP), recommended suspension of the TRIPS Agreement. In the pharmaceutical context, the Commission recommended that 'The UN Secretary-General must convene a neutral, high-level body to review and assess proposals and recommend a new intellectual property regime for pharmaceutical products. Such a regime should be consistent with international human rights law and public health requirements, while safeguarding the justifiable rights of inventors. Such a body should include representation from the High Commissioner on Human Rights, WHO, WTO, UNDP, UNAIDS and WIPO, as well as the Special Rapporteur on the Right to Health, key technical agencies and experts, and private sector and civil society representatives, including people living with HIV. This re-evaluation, based on human rights, should take into account and build on efforts underway at WHO, such as its Global Strategy and Plan of Action on Public Health, Innovation, and Intellectual Property and the work of its Consultative Expert Working Group'.

Secondly, developing countries should either abrogate BITs or renegotiate the existing obligations in BITs, especially to exclude IP from the scope of the definition of 'investment' and also to regain policy space on performance requirements.

Thirdly, developing countries should negotiate as a collective group and in a coordinated way in the ongoing negotiations on transfer of technology in various international forums like the UNFCCC, WIPO and WTO.

Fourthly, least developed countries (LDCs) should pursue their request for extension of their transition period to implement the TRIPS Agreement, which clearly states (in Article 66.1) that 'The [WTO] Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period'.

Fifthly, LDCs should demand a comprehensive stocktaking of technology transfer obligations of developed countries under Article 66.2 of the TRIPS Agreement with a view to strengthening the effective implementation. According to Article 66.2, 'Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.' A study states that 'there was almost no evidence of additionality – that is, that new incentives had been put in place as a result of Article 66.2' (Moon, 2011).

Sixthly, developing countries including LDCs should not accept any more TRIPS-plus obligations thorough FTAs or other international legal instruments. However, certain developing countries have already entered into FTAs which contain TRIPS-plus provisions. Political pressure needs to be built to renegotiate such obligations.

Seventhly, at the national level, there is a need to develop an IP strategy with an objective to facilitate the emulation, innovation and invention of technologies by using the flexibilities within the TRIPS Agreement. However, the utility of flexibilities is mainly for the purposes of damage control and does not bring back the policy space of pre-TRIPS days. Towards this end, the IP strategy should incorporate the following elements:

- Implement a high threshold level of IP protection, especially for patent protection, to avoid patenting of incremental innovations as well as the extension of patent monopolies through evergreening or patent thicket strategies.
- Develop and implement guidelines for the disclosure of the invention through the patent specification in order to emulate the technology after the expiry of the patent or through a compulsory licence or government-use provision.
- Provide the policy and institutional framework to make use of

TRIPS flexibilities such as compulsory licensing or government use to facilitate technology transfer.

• Facilitate the flow of technology information contained in the patent application in order to enable catching up and further innovation.

Eighthly, at the national level, policy incentives should be provided for R&D and commercialisation models not based on IP protection, such as open-source models. ◆

KM Gopakumar is a legal adviser and senior researcher with the Third World Network.

References

Correa, Carlos (2005), 'Can the TRIPS Agreement Foster Technology Transfer to Developing Countries?', in *International Public Goods and Transfer of Technology under a Globalized Intellectual Property Regime*, Keith E Maskus and Jerome H Reichman (editors), Cambridge University Press.

Gehl Sampath, Padmashree and Pedro Roffe (2012), 'Unpacking the International Technology Transfer Debate: Fifty Years and Beyond', Issue Paper No. 36, International Centre for Trade and Sustainable Development.

Khor, Martin (2011), 'Climate Change, Technology and IPR', in *Technological Cooperation and Climate Change*, United Nations Development Programme.

Moon, Suerie (2011), 'Meaningful Technology Transfer to the LDCs: A Proposal for a Monitoring Mechanism for TRIPS Article 66.2', Policy Brief No. 9, International Centre for Trade and Sustainable Development.

Shashikant, Sangeeta and Martin Khor (2010), 'Intellectual Property and Technology Transfer Issues in the Context of Climate Change', Intellectual Property Rights Series No. 14, Third World Network.

UNCTAD (2001), 'Compendium of International Arrangements on Transfer of Technology: Selected Instruments', United Nations Conference on Trade and Development.

UNIDO (2006), 'The Role of Intellectual Property Rights in Technology Transfer and Economic Growth: Theory and Evidence', United Nations Industrial Development Organisation.

Argentina's hedge funds case threatens sovereign debt restructuring

The ongoing legal battle between hedge funds and Argentina over the nation's 2001 debt default is an urgent reminder of the need for a sovereign debt workout regime.

Bhumika Muchhala

SENIOR lawyers, fund managers and former policymakers are reported as saying that an initial New York court ruling against Argentina (as well as the sovereign debt crises in Europe) – in what has been dubbed by the *Financial Times* as the sovereign debt 'trial of the century' – highlights the weaknesses of the current ad hoc, contractual approach to government debt workouts.

Argentina was brought to court in New York by hedge funds led by Elliott Associates, creditors who have been claiming debt payments from the nation ever since its 2001 default. Argentina had reached an agreement with most of its private creditors to pay 25-35 cents for every dollar owed, in effect giving creditors about 30% of their money back in a restructured debt deal. However, some creditors such as Elliott Associates refused Argentina's restructuring deal, which in effect entailed a steep discount on the amount owed.

A subsidiary of Elliott Associates, NML Capital, is a US hedge fund that pioneered 'vulture fund' activity by winning a case against Peru in the 1990s, retrieving 400% what they paid for Peru's debt. Vulture funds purchase cheap debt from distressed companies or countries, and then seek repayment of the full face value together with interest, penalties and legal costs. If this repayment is not made by the borrower, the creditor can impound assets of the country or company in an effort to force repayment.

After years of pursuing Argentina through foreign courts, NML Capital impounded the Argentine naval vessel *Libertad* in the Ghanaian port of Tema on 2 October 2012. After months of seizure, the *Libertad* was recently released by an international tribunal and returned to Argentina on 9 January.

President Cristina Fernandez de Kirchner *(pic)* **has declared that Argentina would not bow to 'blackmail by vulture funds'.**

Argentine President Cristina Fernandez de Kirchner had condemned the *Libertad*'s seizure and clarified that there would be no negotiations with creditors. She was quoted in a BBC article published on 25 October as saying that Argentina would not bow to 'blackmail by vulture funds'.

She asserted, 'As long as I am president, they can keep the frigate but nobody is going to keep the liberty, sovereignty and dignity of this country.'

Elliott Associates has convinced the US Appeals Court that Argentina cannot continue to pay holders of its restructured debt while ignoring creditors that refused to sign up to the restructuring deal. This argument is based on an obscure legal clause that promises equal treatment to Argentina's creditors.

The implication is that if and when Argentina pays off its debt to its creditors which accepted the restructuring, it must also pay off its debt to holdout creditors such as Elliott Associates, at 100% of the original loan. This would require Argentina to pay $1.33 billion to Elliott Associates if and when it made any payments on its new debt.

However, a stay was issued on the case by the US Court of Appeals for the Second Circuit on 28 November 2012, and an appeal against the court decision will be heard on 27 February. (The court heard the parties' arguments on 27 February but may take weeks or months to reach a decision.) In the meantime, important aspects of the judgment still need to be confirmed by the US Court of Appeals, with the possibility that the case could end up in the Supreme Court.

If enforced, the ramifications for sovereign debt workouts would be enormous. A few creditors could prevent debt restructurings and negotiations, threatening the ability of sovereign states to achieve debt workouts and causing chaos in debt markets globally.

The creditors which accepted the restructuring receive payments from Argentina via banks based in New York, because when issuing the bonds Argentina placed itself under New York State jurisdiction. If the court ruling is enforced, the potential implications are such that the New York-based banks can only process payments from Argentina if the hedge funds are also being paid, something

President Kirchner has vowed not to do. If Elliott Associates is triumphant in the February hearing, one possible consequence for bond issuers is that they may prefer to go through jurisdictions such as London or Frankfurt rather than New York.

Ultimately, if the hedge fund wins, the Argentine government could face a choice of making debt payments to the hedge funds at 100% of the original loan, or be forced to default on payments to all creditors.

Debt restructuring mechanism and the IMF

Some experts and observers argue that the time has come to revisit the sovereign debt restructuring mechanism proposed by the International Monetary Fund (IMF) in 2002, while others call for sovereign debt resolution mechanisms supported by an international debt court that is independent of the IMF.

The sovereign debt restructuring mechanism drawn up by former senior IMF official Anne Krueger was envisaged as a kind of voluntary Chapter 11 for countries. Due to US opposition, however, it never materialised. (Chapter 11 refers to the relevant part of US domestic legislation that provides for debt restructuring for businesses in bankruptcy situations.)

Creating a sovereign debt restructuring mechanism, either inside or outside the IMF, will pose a formidable challenge in generating the political will, in which the role of the US Treasury and Congress is pivotal. The US Treasury would have to seek congressional approval for the necessary change to the IMF's articles of agreement. Capitol Hill is likely to be highly suspicious of allowing an international institution to override, in effect, US bankruptcy proceedings. Legal experts doubt whether the US has enthusiasm for this.

Meanwhile, Jubilee Debt Campaign activists have publicly opposed the IMF as the institutional home of a debt resolution court or mechanism. In a letter to the *Financial Times*, Nick Dearden of Jubilee Debt Campaign UK argues that a debt court cannot be taken seriously 'if housed in one of the biggest creditors in the world', and that 'no court of law would be taken seriously if judge and jury were drawn from the prosecution'.

However, a comprehensive debt resolution mechanism is urgently needed. Such a mechanism has the potential to redress the power imbalance between debtors and creditors, which has devastated the economies of southern Europe and many developing economies. A fair and development-oriented debt mechanism could also enshrine the legal principle of 'odious debt' and strive to ensure that a government's international duty to respect its people's social and economic rights is no longer subordinated to external debt payments.

Jubilee Debt Campaign also placed an advertisement in an Argentine newspaper, the *Buenos Aires Herald*, on 11 January. The advertisement declares support for Argentina's right to refuse to pay the vulture funds, condemns the decision of the New York court which implies that payment to vulture funds supersedes a state's right to protect its people under international law, and calls for a debt audit in Argentina to ascertain the extent of illegitimate debt which should not warrant repayment.

Campaigners recall that Argentina was driven to debt default at the end of 2001 after three years of economic recession where the country was following policy conditions attached to bailout loans by the IMF. Over half the population, some 20 million people, were living below the poverty line and the public debt ratio was 160% of GDP.

After its debt default, Argentina's economy started growing out of several years of stagnation in a matter of a few months. Subsequently, Argentina became the fastest-growing economy in the Americas. Eleven million people were pulled out of poverty and unemployment more than halved in the following five years.

UN expert calls out against vulture funds

Meanwhile, the United Nations Independent Expert on foreign debt and human rights, Cephas Lumina, has stressed that successful debt restructuring for deeply indebted countries will be made impossible if vulture funds are allowed to paralyse debt relief.

In a UN press release distributed on 13 December, Lumina urged world governments not to allow vulture funds, such as NML Capital, to purchase debts of distressed companies or sovereign states on the secondary market for a sum far less than the face value of the debt obligation.

'From a human rights perspective,' the UN expert said, 'reduced debt burdens and increased fiscal capacity contribute to the creation of the conditions necessary for the realisation of all human rights, particularly economic, social and cultural rights.'

Lumina called on states to follow the example of the Channel Island of Jersey and the United Kingdom, which have recently adopted legislation to prevent vulture funds from pursuing excessive claims against heavily indebted countries before their national courts.

The UN press release also highlighted the UN Guiding Principles on Foreign Debt and Human Rights, which were endorsed by the UN Human Rights Council in June 2012.

The Guiding Principles underscore that states, international financial institutions and private companies have an obligation to respect human rights, including the duty to refrain from formulating, adopting, funding and implementing policies and programmes that directly or indirectly contravene the enjoyment of human rights.

According to the principles, 'loan agreements should impose clear restrictions on the sale or assignment of debts to third parties by creditors without the prior informed consent of the Borrower State concerned. Every effort must be directed towards achieving a negotiated settlement between the creditor and the debtor.'

They also state that 'creditors should not sell sovereign debt on the secondary market to other creditors that have previously refused to participate in agreed debt restructuring'. ◆

Bhumika Muchhala is a researcher with the Third World Network in the area of finance and development.

Global trade war over local-content requirements

Efforts to regulate foreign investment with a view to promoting domestic manufacturing and employment have now come under challenge.

Burghard Ilge and Kavaljit Singh

Local-content requirements under India's solar power programme have been challenged by the US at the World Trade Organisation (WTO).

GLOBAL trade wars are looming over the establishment of local-content requirements in national laws. Some two months after Canada lost a case at the World Trade Organisation, the US has approached the WTO to challenge the local-content requirements in India's solar power programme. This growing trend could have serious implications for India's new foreign direct investment (FDI) policy on retail trade and other programmes intended to encourage domestic manufacturing and job creation.

On 19 December 2012, a WTO panel backed complaints from Japan and the European Union that the local-content requirements of Ontario's feed-in-tariff (FIT) programme for the renewable energy sector violate WTO rules because it requires participating firms to source up to 60% of their equipment locally.

On 6 February 2013, the US sought formal consultations with India at the WTO over local-content requirements and subsidy for the manufacturing of solar panels under the Jawaharlal Nehru National Solar Mission, an initiative launched in 2010 by the Indian government to promote solar power in the country.

At the WTO, a number of developing countries (from Brazil to Nigeria to Indonesia) are currently facing wrath over the imposition of local-content requirements in energy, telecom and infrastructure sectors on the grounds that such measures violate global trade rules. In the wake of the WTO panel ruling against Canada's FIT programme, many more disputes concerning local-content requirements are likely to be brought before the WTO in the coming months.

What are local-content requirements?

Local-content requirements (LCRs) are imposed to regulate investments with the intention of promoting growth of domestic manufacturing and creating local employment. LCRs are an integral part of performance requirements imposed on foreign investors which could include export obligations, location of an industry in a 'backward' region and mandatory technology transfer. In the past 60 years, LCRs and other forms of performance requirements have been widely used throughout the world to nurture the growth of infant industries and promote economic development in the host countries.

Canada's FIT programme

In 2009, the FIT programme was launched in Ontario province of Canada with the purpose of creating clean energy industries and jobs, developing renewable energy technology and improving air quality by phasing out coal-fired power generation by 2014.

At the insistence of the EU and Japan, the WTO dispute panel was formed to resolve the disputes concerning the local-content requirements of the FIT programme. In its ruling, the panel concluded that the LCRs imposed by Canada violate the WTO rules as the FIT programme discriminates against foreign suppliers of equipment and components for renewable energy facilities. The panel found that Canada has breached its obligations [under Article 2.1 of the WTO Agreement on Trade-Related Investment Measures (TRIMs) and

Article III: 4 of the General Agreement on Tariffs and Trade (GATT) 1994] and recommended that 'Canada bring its measures into conformity with its obligations under the TRIMs Agreement and the GATT 1994'.

On 5 February, Canada filed a notice of appeal to the WTO Appellate Body, which has the power to uphold or reverse the dispute panel's decision. The verdict of the Appellate Body will be keenly watched by policymakers and trade analysts.

WTO headquarters in Geneva. Many disputes concerning local-content requirements are likely to be brought before the WTO in the coming months.

India's solar power mission

The Jawaharlal Nehru National Solar Mission (JNNSM) was launched by the Indian government in 2010 as an important component of the National Action Plan on Climate Change. The JNNSM has set an ambitious target of achieving an installed solar power generation capacity of 20,000 megawatts (MW) by the year 2022 in three phases. Since India's solar power industry is still in its infancy, it has been given state support and protection.

The US has been a vocal critic of the LCR (and subsidy) clauses in the JNNSM. However, the LCR norms are only applicable to PV modules based on the crystalline technology while close to 60% of projects supported under Phase I of the JNNSM have opted for imported thin film solar panels – mostly made in the US. The US move is essentially aimed at annulling the draft guidelines on Phase II of the JNNSM (released in December 2012) which make it mandatory for all supported projects to buy locally-made solar equipment.

The LCR clauses were incorporated by India to protect the domestic solar industry against imports from China and the US since both these countries offer cheaper loans to Indian projects to buy their equipment. It is important to note that solar manufacturers in China and the US receive substantial state subsidies and loan guarantees from their governments. Since 2007, China's state-owned banks have given $18 billion in low-rate, preferential loans to domestic solar manufacturers. Consequently, the US had imposed tariffs on solar panels imported from China in an effort to protect its domestic solar manufacturers.

In the US, close to $14 billion in federal loan guarantees have been given to domestic solar projects since 2009, as part of an economic-stimulus package. Through its official export credit agencies (Exim Bank and the Overseas Private Investment Corporation), the US has been offering direct loans (buyer financing) and loan guarantees to Indian solar power projects, subject to the condition that they buy products made in the United States. Since 2011, Exim Bank of the US alone has financed seven Indian solar power projects with a total financing of $256 million.

The formal consultations at the WTO

After two years of consultations at the bilateral level, the US government initiated formal consultations with India at the WTO on this dispute on 6 February. If these consultations do not resolve the dispute within the stipulated 60 days, the US can request a WTO dispute settlement panel to hear its complaint. This move is strongly backed by the Solar Energy Industries Association, the trade association of the US solar energy industry. Apart from the US, Japan and the EU have also expressed their opposition to the LCR clause in the JNNSM.

The US government claims that the JNNSM discriminates against American solar equipment suppliers in two major ways: by requiring solar energy producers to use locally-made equipment; and by offering subsidies to producers who use domestic equipment. According to the US government, the local-content and subsidy clauses in the JNNSM violate key agreements of the WTO including:

• Article 2 of the TRIMs Agreement (which prohibits trade-related investment measures that are inconsistent with GATT Article III);

• Article III: 4 of GATT (which prohibits measures that discriminate in favour of locally-produced products versus imports);

• Articles 3 and 5 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement).

The US government appears confident that the LCR and subsidy clauses of the JNNRM would not find any support at the WTO review and India would be forced to withdraw these measures.

In its earlier bilateral negotiations

with the US, India maintained that the local-content clause in the JNNSM is primarily aimed at promoting domestic manufacturing and is fully consistent with India's existing obligations under the WTO agreements. According to the Indian government, since the JNNSM is essentially procurement of solar power by the government through a state-owned entity, there is no violation of WTO obligations. It has argued that India is not a signatory to the Government Procurement Agreement of the WTO and therefore exempted from the procurement procedures of this agreement.

The government has also stated that the local-content requirement clause is only limited to projects awarded under the JNNSM while a number of upcoming solar power projects in various states do not contain such clauses.

Undoubtedly, the promotion of clean energy and domestic manufacturing are laudable policy objectives but it remains to be seen whether India's position would find support at the WTO given the complexities and technicalities involved in the commercial resale of power by the state-owned entity.


Paul Noronha/Frontline

The local-content requirement in India's new policy on foreign investment in the retail trade could also come under challenge at the WTO in future.

India's FDI policy on retail trade: the next target?

One of the important provisions of India's new FDI policy on retail trade – released in September 2012 – relates to local-content requirement. The FDI policy document states, 'At least 30% of the value of procurement of manufactured/processed products purchased shall be sourced from Indian "small industries" which have a total investment in plant & machinery not exceeding US$1 million.' This condition is also mandatory for single-brand retail investors (such as Gucci and Ikea) if they invest beyond 51%.

The main intention behind this clause is to ensure that foreign retailers buy products from India and do not rely on cheaper imports from other countries. Just a few days after the policy announcement, the government diluted the LCR clause under pressure from foreign retailers, allowing them to meet this requirement over a period of five years.

What is even more astonishing is that the compliance with the LCR clause would be through self-certification of companies, then checked by 'statutory auditors'. In the absence of any penal provisions (such as heavy fines), the self-certification process may encourage foreign retailers to implement local-content and other norms in letter but not in the spirit of the law.

The official response

The Indian government has maintained that the LCR clause in the FDI policy on retail trade does not violate the TRIMs Agreement of the WTO. It has argued that retail trading is classified as a service, which is covered by another agreement, the General Agreement on Trade in Services (GATS), of the WTO. According to the official position, since India has not undertaken any commitments in retail services under the GATS framework, the LCR clause does not place India in breach of any obligations under the WTO.

The government was expecting a major rush by foreign retailers to enter the country but big players (including Walmart, Carrefour and Tesco) have expressed concerns over the domestic sourcing and back-end infrastructure norms. Till now, no member country has challenged the FDI policy at the WTO but a future challenge cannot be ruled out.

New policy initiatives

In 2011, the Indian government launched a National Manufacturing Policy which aims to raise the share of manufacturing from 16% currently to 25% by 2021-22 and to generate an additional 100 million jobs. To meet these ambitious objectives, a number of programmes to encourage domestic manufacturing have been introduced in the telecom, IT and electronic sectors. The Indian policymakers need to recognise that new programmes with some forms of LCR and subsidy provisions could be challenged at the WTO.

For New Delhi, the key priority should be to strengthen the current regulatory regime by bringing greater clarity and coherence into the country's national and international policy frameworks while seeking to revisit the disciplines of the TRIMs Agreement that restrict the pursuit of developmental objectives. ◆

Burghard Ilge is a policy researcher at Both ENDS (Amsterdam). Kavaljit Singh works with Madhyam (New Delhi). This article is reproduced from the Madhyam website (www.madhyam.org.in).

COVER

A ‘low ambition’ outcome in Doha

At the UN climate conference in Doha in December, the developed nations failed to commit themselves not only to the level of carbon emission reductions necessary to save the planet but also to the level of financial support required by developing countries vulnerable to the effects of climate change. *Martin Khor* reports.

Photo courtesy of IISD/Earth Negotiations Bulletin

The UN climate conference held in Doha on 26 November-8 December delivered little in terms of progress towards real actions to tackle the climate change crisis.

THE annual United Nations climate conference concluded in Doha on 8 December with ‘low ambition’ in both emission cuts by developed countries and funding for developing countries.

Parties to the UN Framework Convention on Climate Change (UNFCCC) adopted many decisions, including on the Kyoto Protocol’s second commitment period in which developed countries committed to cut their emissions of greenhouse gases.

Many delegates left the conference quite relieved that they had reached agreement after days of wrangling over many issues and an anxious last 24 hours that were so contentious that most people felt a collapse was imminent.

The relief was that the multilateral climate change regime has survived yet again, although there are such deep differences and distrust among developed and developing countries.

The conflict in paradigms between these two groups of countries was very evident throughout the two weeks of the Doha negotiations, and it was only papered over superficially in the final hours to avoid an open failure. But the differences will surface again when negotiations resume later this year.

Lost opportunity

Avoidance of collapse was a poor measure of success. In terms of progress towards real actions to tackle the climate change crisis, the Doha conference was another lost opportunity and grossly inadequate.

The conference was held at the end of a year of record extreme weather events. News of a typhoon in the Philippines which killed 500 and made 300,000 homeless reminded the conference participants of the reality of the climate crisis.

However, the dictates of economic competition and commercial interests unfortunately were of higher priority, especially among developed countries, which explains their low ambition in emission reduction.

They also broke their promises in the legally binding UNFCCC to provide funds and transfer technology to developing countries.

The most important result in Doha was the formal adoption of the Kyoto Protocol’s second commitment period (2013 to 2020) to follow immediately after the first period expires on 31 December 2012.

However, the elements are weak. With original Kyoto Protocol Parties Russia, Japan and New Zealand having decided not to join in a second commitment period, and Canada having left the Protocol altogether, only Europe, Norway, Switzerland, Australia, and a few others (totalling 35 developed countries and countries with economies in transition) are left to make legally binding commitments in the second period.

Also, the emission cuts these countries agreed to commit to are in aggregate only 18% by 2020 below the 1990 level, compared to the 25-40% required to restrict global temperature rise to 2 degrees Celsius.

A saving factor in the Kyoto Protocol decision is the ‘ambition mechanism’ put in by developing countries, that the countries will ‘revisit’ their original target and increase their commitments by 2014, in line with the aggregate 25-40% reduction goal.

Also, the decision severely limited the amount of credits or surplus allowances that can be used during the second period. These credits were accumulated in the Kyoto Protocol’s first commitment period by countries that cut their emissions more than the targeted level.

According to the decision, these countries cannot use or trade most of the surplus allowances as a means to avoid current emission cuts.

The most important country affected is Russia, and on 8 December it strongly objected to the way the President of the Conference, Abdullah Hamad al-Attiyah of Qatar, bulldozed through the Kyoto Protocol decision even though it and two other countries tried to object.

A second major criticism of the Doha decisions is the lack of funds to be provided to developing countries to take climate actions.

In 2010, the Conference of the Parties to the UNFCCC in Cancun decided that developed countries would mobilise climate finance of $100 billion a year starting in 2020; and that $30 billion of fast-track finance would be given in 2010-12.

But there is a gap between 2013 and 2020. Despite the demand by developing countries that there be $60 billion by 2015, the decision adopted in Doha does not specify any number as a commitment. It only 'encourages' countries to provide at least as much as they had in the 2010-12 period.

The lack of a credible finance commitment led to an outcry by developing countries on the plenary floor. This lack of funds curtails their ability to undertake actions to combat climate change, especially since they have agreed in the 2010 Cancun and 2011 Durban conferences to take on more mitigation efforts.

The Doha conference also adopted a set of decisions under its working group on long-term cooperative action under the UNFCCC. The developing countries were pleased with paragraphs on equity, unilateral trade measures, technology assessment and a vague reference to the effects of intellectual property.

However, these decisions were very weak. Even then, the United States registered its disagreement to or reservations on these decisions, after the adoption of the text, giving a foretaste of how it will continue to object to future discussions on these issues.

A positive decision made in Doha was to prepare for the setting up by this year's conference of an 'international mechanism' to help developing countries deal with loss and damage caused by climate change. This also resulted from intense negotiations.

Activities meanwhile will include an expert meeting and preparing technical papers on this issue.

Developing countries hope that this programme will lead to new funds being channelled to those countries suffering from flooding, drought, sea-level rise and other forms of damage linked to climate change.

Rescuers evacuating a pregnant woman and her child from a flooded area after Typhoon Bopha struck the Philippines. News of the typhoon, which hit the Philippines at the time of the Doha conference, reminded the participants of the reality of the climate crisis.

The Durban Platform

The Doha conference also adopted a work plan for the new working group on the Durban Platform that was set up in December 2011. (The Durban Platform working group is mandated to negotiate 'a protocol, another legal instrument or an agreed outcome with legal force' concerned with emission cuts for the post-2020 period. This work is scheduled to conclude by 2015.) There were major fights in Doha over this, with many developing countries insisting that mention be made that the Durban Platform will operate on the basis of equity and common but differentiated responsibilities (CBDR), the operating principle of the UNFCCC.

The final text did not mention this principle, and even the reference to the June 2012 Rio+20 summit which endorsed the equity and CBDR principle was removed at the insistence of the United States.

What remained in the text was a reference that the Durban Platform's work will be guided by the principles of the UNFCCC. Even then, the United States in the final plenary placed a reservation that it rejected the use of this phrase in the negotiations in the Durban Platform group.

This reveals how much lacking in the spirit of international cooperation the United States and some other developed countries have become.

They are no longer willing to assist the developing countries, and incredibly are even objecting to the principles of the Convention being applied to negotiations to set up a new agreement that will be under the Convention.

More than anything else, this shows the tragic paradox of the Doha conference. It succeeded in adopting many decisions and kept the functioning of the multilateral climate regime alive, but the actual substance of actions to save the planet from climate change was absent, as was a genuine commitment to support the developing countries. ◆

Martin Khor is Executive Director of the South Centre. An earlier version of this article was published in The Star *(Malaysia) of 10 December 2012.*

Doha outcome on loss and damage opens door for new mechanism

One signal achievement of Doha was that the issue of 'loss and damage' caused by climate change has now been brought onto the agenda of the UN climate talks.

Doreen Stabinsky

ON the final day of the UNFCCC talks in Doha on 8 December, Parties adopted a decision on loss and damage associated with the impacts of climate change in developing countries as part of the final package of decisions adopted at the 18th meeting of the Conference of the Parties (COP 18).

The decision concluded a year of significant work under the Subsidiary Body for Implementation (SBI) work programme on loss and damage. The decision paved the way for further work under the continuing work programme, including the possible establishment of an international mechanism on loss and damage.

The inclusion of the phrase 'international mechanism' in the final decision was highly contested. According to sources, its inclusion was fundamental for developing countries, while the United States was completely opposed to even the mention of a mechanism.

The relevant paragraph in the final decision on loss and damage reads: 'Decides to establish, at its nineteenth session, institutional arrangements, such as an international mechanism, including its functions and modalities, elaborated in accordance with the role of the Convention… to address loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change.'

The final wording on this element of the decision was a compromise text tabled by the Qatari COP President, Abdullah Hamad Al-Attiyah, to be taken as part of the entire final package of decisions that included the agreed outcome under the Bali Action Plan, decision on the Kyoto Protocol second commitment period for emission reductions by Annex I Parties and a decision on further work under the working group on the Durban Platform for a new agreement in 2020.

Work programme

The phrase 'loss and damage' was first used in the UNFCCC context in paragraph 1(c)(iii) of the Bali Action Plan. Enhanced action on adaptation was to include consideration of 'means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change'.

A work programme on loss and damage under the SBI was established in 2010, as part of the Cancun Adaptation Framework (decision 1/CP.16). In this decision, Parties recognised 'the need to strengthen international cooperation and expertise in order to understand and reduce loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events'. (The decision defined slow-onset events to include 'sea level rise, increasing temperatures, ocean acidification, glacial retreat and related impacts, salinisation, land and forest degradation, loss of biodiversity and desertification'.) The work programme was to lead to recommendations for consideration by COP 18 (in Doha).

However, despite the establishment of the SBI work programme on loss and damage in the Cancun decision, the elements of the work programme were not defined until a year later at COP 17 in Durban (decision 7/CP.17).

In the COP 17 decision on the work programme, Parties agreed to hold a series of expert meetings on two of the three thematic areas identified for the work programme: assessing loss and damage and a range of approaches to address loss and damage. Submissions were requested in September 2012 on the possible role of the Convention, the third thematic area established by the Durban decision. A technical paper on slow-onset events was a final element of the work programme, although its publication in the first days of COP 18 meant it did not make a substantive contribution to negotiations.

Doha talks

Negotiations in Doha began with a pre-sessional meeting on 24 November, just prior to the opening of COP 18. At the 36th session of the SBI in May held in Bonn, negotiators had concluded that agreeing on recommendations in the short time allocated in Doha for the work of the subsidiary bodies would be difficult (the SBI was scheduled to close at the end of the first week of the Doha session), and the government of Norway offered to provide support for the pre-sessional meeting.

The SBI contact group on loss and damage formally opened on 27 November. At this first session, the SBI chair, Tomasz Chruszczow of Poland, provided delegates with a paper containing a list of possible elements to be included in the recommendations that would be made to the COP. A number of countries at the meeting of the contact group then reflected on the elements proposed and broader objectives for possible recommendations to the COP.

Bolivia, on behalf of the developing-country Group of 77 (G77) and China, said that the outcome of the week could not resemble the status quo. Too much work had been undertaken over the past year and with the level of understanding achieved, there was no justification for a decision that recommended just doing what was already being done. It suggested the need for an institutional arrangement in the form of an international mechanism.

The Gambia urged measures to strengthen international cooperation and reiterated the call for an international mechanism. It said that consideration should include impacts on agriculture, water, health, economic and non-economic losses.

Timor-Leste, on behalf of the least developed countries (LDCs), said that some adaptation cannot resolve losses and damage and that loss and damage goes beyond the capacity to adapt. It said it was necessary to now move from knowledge to action, and indicated a need to talk about the modalities and functions of an international mechanism.

Tanzania, speaking on behalf of the African Group, pointed to the submission on loss and damage made by the group, and emphasised that it was important to address compensation and rehabilitation of loss and damage.

Norway suggested focusing first on the structure of the discussions, to determine what needed to be done, and then answer the question of how, and with what modalities. It proposed to not start with a discussion of institutional arrangements. It was supported by Canada, New Zealand, the European Union, Switzerland, and the United States.

Switzerland proposed that approaches to address loss and damage could be addressed in existing processes, such as national adaptation plans (NAPs) processes.

The rest of the first contact group meeting was taken up by discussion on specific elements put forward in the chair's paper.

Informal consultations were held frequently over the next days, led by two co-facilitators appointed by the SBI chair: Lucas Di Pietro of Argentina and Don Lemmen of Canada. On 29 November, a draft negotiating text was tabled, based on text proposed by the G77 and China.

Informal consultations on a draft text continued all the way up to the final evening of 7 December, breaking around 5 am on 8 December. At that time, there was still no agreed text, with major divisions still existing between groups on one key provision – whether or not an international mechanism would be established.

As already noted, the COP President resolved these divisions by issuing his own compromise text, adopted without changes at the final plenary.

Other contested elements

Although the establishment of an international mechanism was the most divisive of the issues on the table, it was not the only important element of the final decision that had been intensely debated over the two weeks.

Many countries, in particular LDCs and countries from the Alliance of Small Island States (AOSIS), wanted the text to mention both compensation and rehabilitation as a function of the international mechanism.

However, the final decision text only mentions rehabilitation – 'how to identify and develop approaches to rehabilitate from loss and damage associated with the adverse effects of climate change' – as an element of further work needed under the ongoing work programme.

For much of the two weeks of negotiations, even the continuation of the SBI work programme on loss and damage was contested, with the United States arguing that the work programme was to complete its work and terminate with the COP 18 decision.

The final decision seems to recognise the work programme as open-ended, and directs the SBI at its 38th session (SBI 38) to elaborate activities under the work programme 'to further the understanding of and expertise on loss and damage associated with the adverse effects of climate change'.

The final decision defines the way forward on loss and damage under the Convention with three main elements. First, as noted above, COP 19 will establish institutional arrangements on loss and damage, potentially in the form of an international mechanism, and functions and modalities will be defined.

Second, the UNFCCC Secretariat will carry out three intersessional activities under the work programme, prior to SBI 39:

- An expert meeting to consider future needs, including capacity needs associated with possible approaches to address slow-onset events, and a report on this meeting for consideration by SBI 39;
- A technical paper on non-economic losses; and
- A technical paper on gaps in existing institutional arrangements within and outside of the Convention to address loss and damage, including those related to slow-onset events. The technical paper is to be considered in the work noted above in establishing new institutional arrangements on loss and damage and defining functions and modalities thereof.

Finally, the SBI is asked to elaborate activities under the work programme on loss and damage at SBI 38, 'to further the understanding of and expertise on loss and damage associated with the adverse effects of climate change'. In elaborating new activities, the SBI is asked to take into account further work needed as defined in the decision, including work to enhance the understanding of the risk of slow-onset events and approaches to address them; non-economic losses and damages; and how impacts of climate change are affecting patterns of migration, displacement and human mobility.

While the decision taken on loss and damage in Doha falls far short of the need of developing countries for a mechanism to address loss and damage, the breadth of the work outlined for COP 19 and the continued work programme goes some way to ensure that the COP 19 decision on loss and damage will finally establish the international mechanism. ◆

Doreen Stabinsky is Professor of Global Environmental Politics at College of the Atlantic in Maine, USA.

Divergent views over 'vision' of outcome under Durban Platform

At the 2011 climate conference in Durban, it was agreed that parties would work on developing a new legal arrangement by 2015 which would embody carbon emission reduction commitments after the year 2020. At Doha, roundtable discussions were held to consider the broad framework of this arrangement. *Meena Raman* reports on these discussions.

Photo courtesy of IISD/Earth Negotiations Bulletin

Roundtable discussions under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on 28 November. During the discussions several developing countries stressed, among others, the importance of the principles of equity and common but differentiated responsibilities.

WITH the conclusion of work by the Ad Hoc Working Groups under the Kyoto Protocol and the Bali Action Plan under the UNFCCC at the recently concluded climate talks in Doha, work will intensify this year under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) to develop 'a protocol, another legal instrument or an agreed outcome' to be completed no later than 2015.

Discussions under the ADP in Doha on the 'vision' of the outcome, which is to be implemented in 2020, saw divergent views among developing and developed countries and provided a foretaste of the views which can be expected this year in the working group's meetings.

Parties had, at the 17th meeting of the Conference of the Parties (COP 17) to the UNFCCC in Durban in 2011, agreed to 'launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties…' under the ADP. They had also agreed to 'launch a workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties'.

In Doha, the ADP co-chairs, Jayant Mauskar (India) and Harald Dovland (Norway), organised roundtable discussions around two workstreams – workstream 1 to deal with the post-2020 arrangements and workstream 2 on the pre-2020 'mitigation ambition'.

The roundtable discussions under workstream 1 were held on 28 November and 30 November. The ADP co-chairs asked Parties to address several questions which were as follows: how the principles of the Convention will be applied in the new agreement; how national circumstances and changes thereof should be taken into account; how the new agreement will be 'applicable to all' in practice, including approaches to defining differentiated commitments and ways to incentivise full and ambitious participation and ensure effective implementation and compliance arrangements.

Many countries spoke at the roundtable discussions. Several developing countries including India, China, Ecuador, Bolivia, Pakistan and Gambia [speaking for the least developed countries (LDCs)] said that on the issue of the new agreement being applicable to all, universality of application did not mean uniformity of application, and stressed the importance of the principles of equity and common but differentiated responsibilities (CBDR). Many of them also said that there should be no renegotiation and reinterpretation of the Convention and its principles under the new agreement.

Developed countries on the other hand, including the European Union, the United States, Russia, Japan, Australia, New Zealand and Norway, expressed the view that the new agreement being applicable to all means uniformity of legal application but not uniformity of commitments. Many of them stressed that the principles of the Convention (of CBDR) should not be applied in a static way but should be evolved for the post-2020 world, taking into account the responsibility and capacity of countries in relation to mitigation commitments, and called for a spectrum of commitments. On the principles of the Convention, New Zealand specifically said they were not up for negotiation, but up for re-interpretation with new circumstances, a view which is shared by all developed countries.

Dovland, the ADP co-chair, in his concluding remarks said that many issues were raised which included: the idea of 'bottom-up versus the top-down approach' (in deciding mitigation commitments); how to combine a pledge-and-review approach (on setting mitigation targets) while meeting the objective of the Convention (in stabilising greenhouse gas emissions); consideration for a spectrum of commitments, elements of a new agreement and references to principles.

India said that the post-2020 arrangements have to be built under the Convention. Hence, the principles of the Convention, namely the principles of equity and CBDR, will fully apply. The Rio+20 Conference has reiterated this principle very recently. Hence, this principle cannot be ignored, it added.

India said the CBDR principle is recognition of the scientific and environmental fact that the historical contributions of Parties to climate change are different. However, equity is a more fundamental principle which governs the manner in which the responsibilities and commitments are articulated and implemented. In devising the future arrangements, Parties will have to be conscious of this fact. The actions and commitments of Parties in the post-2020 arrangements have to be differentiated on the basis of equity in terms of historical contributions and the fundamental imperatives of social and economic development and poverty eradication.

Indian delegates at the Doha conference. India has said that Parties' actions and commitments in the post-2020 arrangements have to be differentiated on the basis of equity in terms of historical contributions to climate change and the fundamental imperatives of social and economic development and poverty eradication.

On the issue of national circumstances, India's view was that they are an important element as they provide choice to countries in choosing the form or nature of their actions. Their importance lies in providing them the policy space to determine how they can contribute sustainably to combating climate change. But this is a subjective fact. The choice of future arrangements should be also strengthened by the objective fact of equity which is expressed by the Convention's principles enshrined in Article 4. The objective fact of social and economic development and the overriding consideration of poverty eradication need to be captured when the idea of national circumstances is elucidated, said India.

For India, 'applicability to all' is a legal form question. It speaks to the issue of binding-ness which means that all Parties will contribute to global efforts. This is a huge advancement over the global arrangements that have so far existed. The fact that all developing countries have agreed to internationalise their actions following the Cancun climate conference (in 2010) is reflective of this universal responsibility. But applicability does not automatically translate itself to a binding nature of the commitments unless the principles of the Convention are also satisfied.

India believed that the binding-ness of the legal form will depend on how each of the countries gives legal force to what Parties can all agree or what is the agreed outcome. How Parties give it the legal force will be nationally determined.

India said that to encourage broader participation, assurance is needed on how the principles are applied and how the rules of compliance and consequences are operated. Parties need not only give an assurance that the social and economic and developmental imperative will be respected, but the considerations for equitable access to technology and finance are also smooth and facilitative. The arrangement should be operated in a manner that ensures that multilateral rules are fully respected and that the threat of unilateral actions is permanently removed. A big incentive for broader participation will be how comprehensively the new arrangement embraces all aspects of climate change including mitigation, adaptation, finance and technology transfer and how effectively the developed countries take the lead.

China said that the mandate of the ADP is to develop 'a protocol, another legal instrument or an agreed outcome with legal force under the Convention'. This means adherence to the provisions of the Convention, with no amendment, replacement or reinterpretation of the Convention and its annexes. The responsibilities and obligations of all countries in any period must be built on the principles of equity and CBDR. This was also underscored by the heads of state in the Rio+20 summit. Historical responsibility is another aspect that must be underscored in the new agreement. Hence, it is important for developed countries to take the lead in combating climate change. This is not to say that developing countries will do nothing but as was agreed under the Bali Action Plan (BAP), developing countries will continue to undertake nationally appropriate mitigation actions (NAMAs).

On the issue of how national circumstances and changes should be taken into account, China said the Convention already provided for this and national circumstances is not a new idea or concept, as evident in Articles 4.1 and 4.2 of the Convention as well as paragraphs 1(b)(i) and 1(b)(ii) of the BAP. The BAP approach is consistent with the Convention and its principles, especially of CBDR, and this can be the approach under the new agreement, while reflecting national circumstances. China stressed that the notion of national circumstances should not be abused by developed countries to avoid undertaking their commitments. Further, it should also not be used to begin categorising developing countries into various categories as this would amount to a renegotiation of the Convention. It would lead to prolonged and difficult negotiations that may not be able to conclude by 2015.

On the issue of applicability of any outcome under the ADP, China said it must ensure that universality of application is not uniformity of application, since the latter concept implies that there would be the same mandatory nature of obligations for both developing and developed countries, which would go against the principle of CBDR. China said further that the concept of 'applicability to all' is also not new as the Convention is applicable to all, as are the BAP and the Kyoto Protocol. In terms of defining the differentiated commitments, China said that differentiation can only be on the basis of equity and CBDR. This was recognised under the BAP in relation to the mitigation of Annex I and non-Annex I Parties.

The Durban climate conference in 2011 *(pic)* **had agreed to launch a process under the ADP 'to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties'.**

On ways to incentivise full and ambitious participation, China said that the provision of finance, technology transfer and capacity building to developing countries as reflected in Article 4.7 of the Convention is vital and there is also a need to address the issue of intellectual property rights (IPRs) which impede technology transfer. Developed countries should not take unilateral measures that will not be an incentive to participate, it added.

Gambia for the LDCs said the principles of the Convention applied to the ADP, and the new agreement must be an internationally legally binding protocol which is applicable to all. It called for universal participation based on the leadership of developed countries and said that the principles of equity and CBDR must apply. There should not be a weakening of the current climate regime. National circumstances cannot be abused for inaction. Universality of application does not mean uniformity of application. The special circumstances of groups like the most vulnerable, small islands and Africa as recognised by the Convention must be taken into account. It also stressed the need to take into account historical responsibility.

On the compliance system that can be in place, it called for lessons to be learnt from the existing rules-based regime, which needs to be stronger and lead to higher ambition. Strong compliance and accounting rules must be in place.

Ecuador said that any new instrument builds on what has been worked under the Kyoto Protocol and the BAP. The mandate of the ADP is under the Convention and all the principles will have to apply. The Durban Platform must strengthen the current multilateral rules-based system, including the principles of equity and CBDR. It is not for a new process for a new regime, which is a reinterpretation of the Convention. Historical responsibility is important and the ecological debt must be paid by developed countries.

On the issue of national circumstances, Ecuador expressed caution that this must not lead to the avoidance of undertaking commitments under the Convention. It should also avoid the re-categorisation of developing countries. On the new agreement, which is to be applicable to all, universality of application is not uniformity of application. Developed and developing countries should not have the same mandatory obligations. The principle of CBDR is important for developing countries who also have to address poverty and inequality. The greatest challenge is to maintain the right to development and also respect Mother Earth and the rights of nature.

Bolivia stressed the importance of the CBDR principle and that its basis is derived from history and science as the historical responsibility of developed countries has led to the climate crisis. There is also a need to take into account the special circumstances of developing countries, of which poverty is also a national circumstance. The structural situation of the economy must also be taken into account and the biggest challenge for developing countries is to eradicate poverty. There is a need for financial resources and technology transfer including the addressing of IPRs for developing countries to have access to technologies and to produce them to meet the climate challenge.

Singapore said that the post-2020 agreement has to acknowledge the national circumstances of Parties. Mitigation actions have to be nationally determined, and should not be imposed internationally. Each Party will decide itself what it would nationally contribute, taking into account its own national circumstances. On what aspects of national circumstances are important, Singapore said that they have to be considered in a holistic manner and changes can occur over time. It said that changes do occur in areas of socio-economic conditions and that is for the better as this is what development is about. The other aspect of national circumstances is aspects that do not change like being a small island or a landlocked country or countries whose economic structure deeply depends on agriculture or fossil fuels which aspects will not change as quickly. Aspects that do not change relate to the vulnerabilities or other physical or geographical attributes.

On the issue of 'applicable to all', Singapore said that this means that there are common legal obligations for all Parties and this legal obligation has to be the foundation of a new agreement which is applicable to all. However, having common obligations does not mean the commitments are common. Developed countries need to demonstrate leadership because of their historical responsibility, said Singapore. For any global agreement, it has to be equitable and politically acceptable, with the leadership of developed countries demonstrated in a visible and tangible way. On ways to incentivise the participation of all countries, one element was the provision of means of implementation for developing countries.

Pakistan said the principles of equity and CBDR are important and apply to the Durban Platform and developed countries must take the lead in mitigation. The nature of the obligations is in the Convention and historical responsibility is a key issue that cannot be ignored in taking into account the responsibilities of countries. The notion of 'applicable to all' does not override the principles of equity and CBDR and does not imply uniformity of application. Pakistan added that taking account of national circumstances cannot mean avoidance of action.

Urgency

Barbados said that its vision of the new agreement is to respond to the urgency of the climate crisis. A strengthened multilateral rules-based response must guide a new protocol from 2015. On principles, all of them must apply, including equity, CBDR and respective capabilities (CBDR-RC) and the precautionary principle. The Convention is a framework for action, and not an excuse for inaction. On the idea of being applicable to all, it said there must be legally binding obligations for all under the new agreement. The nature and time frame for implementation could be varied for some countries. It expressed concern that a pledge-and-review approach may not be climate-effective. The new agreement needs to build on the existing system under the Convention and the Kyoto Protocol. Providing the means of implementation is crucial for incentivising action.

South Africa said that the principles of the Convention must apply, reflecting the science, equity, CBDR-RC, prioritisation of development and the right to development and historical responsibility. It is important to ensure that what is done is fair, rules-based and gives content to the right to equitable sharing of atmospheric space informed by the cumulative historical responsibility and use of resources by Annex I Parties. The outcome should be balanced as regards mitigation and adaptation, with the provision of finance and technology transfer and for developing countries to achieve sustainable development. On the issue of national circumstances, it said that this is already part of the Convention as seen in the differentiated commitments between developed and developing countries.

South Korea said that the principles of CBDR and equity continue to be valid and relevant today and in the future and can accommodate a changed context. The new agreement should accommodate differing national circumstances. It echoed the views of Singapore that the 'one size fits all' and formulaic approach will not work.

The United States said that the principles of the Convention would apply but when it was drafted, it was meant to evolve over time. Things were not static in 1992 or today. There is a need to look at emission trends and the notion of capabilities in meeting the objective of the Convention. The question is not whether the principles apply but how they apply in the new agreement. The agreement needs to be equitable. In practice, mitigation commitments will vary around national circumstances.

The issue is how to craft a regime that is environmentally ambitious, applicable to all with countries acting consistent with their capabilities, said the US. 'Applicable to all' reflects the idea that the legal binding-ness is not different. Any rules for mitigation should apply to all, like reporting and review. Those rules must be flexible to accommodate national circumstances. The agreement must incentivise broad participation of countries and must be attractive for countries to join. It must also be fair where countries do not feel that they are forced to do something as it is not fair to push them. Their level of effort is similar to others in the same situation.

The US favoured a bottom-up approach, which is self-determined. It is not probable for countries to take actions that undermine their economic development. It said that another aspect of equity is fairness, which is to make commitments in a collective effort and that is also adequate, where Parties hold each other to account. The post-2020 agreement needs to be environmentally ambitious, and needs to have a process for incentives.

Russia said that the post-2020 outcome has to be universally applicable, legally binding and comprehensive. The participation of 'major emitters' is needed. It agreed with the US that only an outcome which is satisfactory to all would have Parties accede to it. It favoured a bottom-up approach. While the principles of the Convention are relevant, the issue for Russia is how they will be applied. The CBDR principle needs to take into account 21st century changes and socio-economic conditions. It suggested a reviewing of the annexes to the Convention. It also supported the view of other developed countries that the new agreement must be internationally binding but the quality in terms of the content and form could differ between developed and developing countries.

Japan said that the principles of the Convention will apply but their interpretation should not be fixed but needs to evolve according to the changes in the world in 2020. There needs to be a dynamic interpretation of the principles. As regards national circumstances, it was of the view that this depended on geo-political, economic and complex metrics with different parameters for the future framework. The notion of 'applicable to all' means universal participation and the new framework needs to be climate-effective.

Australia, referring to the UN Environment Programme (UNEP)'s Emissions Gap Report, said that there needs to be a broad platform of action. It supported international carbon markets for both developed and developing countries. On the principles to be applied to the new agreement, it said that CBDR-RC, equity and cost-effectiveness can be applied. There needed to be climate-effectiveness and wide coverage of the agreement.

On the issue of 'applicable to all', it said that this is not a one-size-fits-all approach. Parties have to do things in common and there are also differences. All Parties have a common responsibility to demonstrate to act and take action on mitigation. All Parties need to act on the same platform, with the same rules-based system. For wide participation, the agreement needs to accommodate the differences in responsibilities and capacities. The types of commitments may differ. It expects developed countries to take on ambitious economy-wide commitments while developing countries work within their capacity, but expects both to be legally binding.

Rules of the game

New Zealand said that Parties need to know the rules of the game. They want to know if national circumstances will be taken into account. Comparability (which it said is a form of equity) is another important idea where Parties need to know if others are doing their fair share. Actions must be self-nominated, and cannot be imposed by others. On the principles of the Convention, they are not up for negotiation, but up for reinterpretation with new circumstances. All Parties should have a common commitment to act; the type of legal binding-ness and level of commitment should reflect national circumstances. Rules set are common to all Parties, but with flexibility to reflect national circumstances.

The architecture of the new agreement, it said, could be a hybrid of top-down and bottom-up, with a top-down approach for the global goal, obligations to report and be accountable transparently, with obligations to take national action. The bottom-up approach could apply to choice of common rules to apply, and the level of commitment. The structure of the agreement should accommodate a range of applications – sectoral goals, actions regarding research and investment. The agreement should establish processes to encourage increased ambition over time. The agreement should encourage the global goal of climate change by incentives instead of punitive consequences.

The European Union said that the Convention principles do apply and it is clear that Parties do not renegotiate the Convention and its principles. However, this does not mean that the principles are static. For the EU, there is a need to see how the principles evolve especially in the post-2020 world. The EU is not looking at uniformity of commitments but at uniformity of legal application. All Parties will need to take on ambitious targets and it wanted to see how it is done in a way that takes into account Parties' responsibilities and capabilities. On the issue of applicability to all, the EU is for a new protocol which has legally binding obligations for all Parties. There has to be stringency and a reflection of a spectrum of commitments. Countries with the greatest responsibility and capacity have to take ambitious targets which are economy-wide and Parties with less capacity and responsibility take on less commitment. The EU said there is a need to have consideration about the architecture of the new agreement in 2013.

Norway said that the principles of the Convention are only tools and means and are not objectives in themselves. Their application should be in the context of meeting the objective of the Convention. The principles should apply in a practical and operational way to enable climate-effectiveness. National circumstances must be taken into account. As regards the notion of applicable to all Parties, this means a common legally binding framework under the Convention. All Parties take basic commitments and there is a duty to act in a common endeavour. The differentiation of commitments should be within the common framework and the process should look at cumulative efforts.

Switzerland said that the principles under the Convention are important but the Convention and the regime should be dynamic. National circumstances are the heart of any regime. Some national circumstances (referring to physical circumstances of countries) may not change but others do change. On the issue of being applicable to all, the core idea is that each Party is committing to act and no one is excused. ◆

Meena Raman is a senior researcher with the Third World Network.

Durban Platform: Way forward on pre-2020 ambition

At Doha roundtable discussions were also held on climate mitigation efforts to be undertaken for the period before 2020. The following account by *Fauwaz Abdul Aziz* and *Meena Raman* gives a flavour of these discussions.

Several developing countries stressed that having pledges alone for emission reductions was not sufficient but what was important was the meeting of commitments under the UNFCCC and the Kyoto Protocol.

DISCUSSIONS on ways to enhance the ambition of countries to undertake climate action under the United Nations Framework Convention on Climate Change (UNFCCC) in the pre-2020 time frame are expected to intensify in 2013 under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

It will be interesting to see how these discussions will shape up under the ADP in the light of decisions from Doha on the outcomes and conclusion of work of the two previous ad hoc working groups under the Kyoto Protocol (KP) and the Bali Action Plan.

The work under the ADP encompasses two parts – one involves '…a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties…', and the other to 'launch a workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties'. The latter aspect of the work involves the pre-2020 time frame, while the former, the post-2020 agreement.

Discussions under the ADP in Doha on the 'pre-2020 ambition' are certain to provide a preview of the views which can be expected when the working group resumes its meeting sometime in May 2013.

In Doha, the ADP co-chairs, Jayant Mauskar (India) and Harald Dovland (Norway), organised roundtable discussions around two workstreams – workstream 1 to deal with the post-2020 arrangements and workstream 2 on the pre-2020 'mitigation ambition'.

The roundtable discussions under workstream 2 were held on 29 November and 4 December.

For the workstream 2 roundtable, the ADP co-chairs had posed several questions for discussions which included the following: How to increase the ambition of existing pledges from Parties and encourage those who have not yet submitted their pledges to do so; how international and national actions that are additional can be strengthened, encouraged, and supported by the Convention; the role of means of implementation in increasing ambition; how to catalyse actions and initiatives with the largest mitigation potential and how principles of the Convention will be applied in the context of enhancing ambition.

Many countries spoke during the roundtable discussions, with several developing countries stressing that having pledges alone for emission reductions is not sufficient but what is important is the meeting of commitments under the Convention and the KP. Some of the developing countries cautioned against a pledge-and-review system, saying that this would not be adequate to meet the targets required by science for emissions reduction. Some countries also stressed that the work plan on enhancing ambition must recognise the differentiation of the nature and level of obligations of Annex I and non-Annex I countries, in accordance with the principles of equity and common but differentiated responsibilities (CBDR) and with relevant provisions of the Convention.

Many stressed the importance of ambition not only on mitigation, but also on adaptation and on the means of implementation for financial resources and technology transfer. On the issue of supplementary actions, several countries emphasised the importance of these actions being additional to the pledges of countries under the UNFCCC. Below are some highlights from the discussions.

Raising ambition

India said that 'ambition' cannot only mean mitigation targets and goals. This should include not only pledges for mitigation goals but also the pledges for financing support expressed by Annex I countries from public sources in the mid-term till 2020 and the long term from 2020 onwards. Pledges for financing support of $30 billion by 2012 and $100 billion per year by 2020 were expressed by Annex I Parties in Cancun, it added. The relevant institutions for this purpose have been created. But, they have largely remained an empty shell. Hence, the first exercise in raising global ambition should include getting a specific commitment on financial flows during the mid-term and the long term.

On the work on raising mitigation ambition, India said that this should take place in light of the work done on legally binding targets under the KP and the comparable pledges and targets under the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA). India said that this work is still incomplete, and planning the work on mitigation under the ADP will be ineffective and premature if Parties do not address the ambition question in the other two working groups satisfactorily. In fact, said India, Parties may end up locking in low ambition in the KP and LCA tracks.

(India made these remarks when negotiations were still ongoing under the KP and LCA tracks. Since the conclusion of work under these two tracks and the adoption of the relevant decisions in Doha, various Parties and observers have viewed the outcome as one of low ambition, especially in terms of emission reductions and finance.)

On the issue of actions at the national and international levels that can close the ambition gap, India said that there are several ways in which this can be attempted. One is to drop the various conditions which Annex I countries have attached to their Cancun pledges. There should be no conditionality attached to the commitments of Annex I countries because these are mandated under the Convention. It will also introduce greater certainty in the pledges.

Secondly, the Annex I countries that have not yet pledged or inscribed their targets should do so urgently on a comparable basis. This should be captured through an update of the existing Subsidiary Body document in which targets of such countries, announced after Cancun, are inscribed. Also, if any of such Parties are willing to raise their ambition further under the Convention or its Protocol in the context of actions in other multilateral fora such as the International Civil Aviation Organisation (ICAO) or International Maritime Organisation (IMO), it must be ensured that such actions are in accordance with the principles of the Convention and should respect the national circumstances of member countries.

On the other hand, India said that the mitigation goals of non-Annex I Parties are in the nature of pledges and are contingent on the availability of relevant support as may be necessary. All developing countries have expressed their commitment to implement them by internationalising these actions. These commitments have to be respected as they have been made in the context of huge social and developmental constraints which are often overriding.

India said that it should be noted that all pledges of developing countries are compiled in an INF (information) document under the LCA. So, if there are any such countries who want to make new pledges, such pledges should be anchored in the LCA through a supplementary INF document. This will clearly preserve the voluntary nature of such countries as distinguished from the mandated targets of developed countries. It will be useful to remind Parties again that developing-country pledges are much higher in impact than the pledges of developed countries.

On how the Convention can strengthen and encourage the international cooperative initiatives in areas that have potential, India said that such initiatives may be laudable but Parties should remember that they are already part of the voluntary actions that countries take to meet their domestic goals. Unless these supplementary or complementary actions are already contemplated in the national strategy, they will bring no additionality to the table and will have no practical utility for the mitigation work under the Convention. Since countries have expressed their domestic goals in terms of economy-wide targets or numbers, the strategy of achieving such targets has to be governed by national choice. A sectoral strategy of achieving such targets through global initiatives is likely to compromise the flexibility of developing countries in devising their own strategy for achieving such targets. In several cases, such as that of black carbon, the science of such initiatives and its relationship with climate change is uncertain. It said that there are also extreme political sensitivities in India about agricultural methane which is related to the question of livelihood and food security. In view of such social and economic constraints, a sectoral strategy at the international level may be premature and may not yield the desired results. India also said that the work in both workstreams of the ADP should be built under the principles of the Convention and should have equal priority in planning the work for the future.

China said that the context for enhancing mitigation ambition is provided by the KP's second commitment period and that those Parties who are not party to the KP or would not abide by that treaty also have a responsibility to ensure comparability of their targets and actions under the AWG-LCA. Ensuring the ADP outcome results in strong mitigation ambition requires jumping off from a high base of commitments by developed countries that should be built up first under the AWG-KP and the AWG-LCA. Unfortunately, the signs are not encouraging, as the level of ambition is not what is expected.

China said that the design of the work plan on enhancing ambition must recognise the differentiation of the nature and level of obligations of developed and developing countries, and of Annex I and non-Annex I countries, in accordance with the principles of equity and CBDR and with relevant provisions of the Convention. It said that the organisation of the work of the ADP must therefore reflect this as well as the principles and provisions of the Convention, and that the voluntary mitigation efforts by developing countries are related to the extent of obtaining finance, technology transfer and capacity building, what has been long recognised in the history of the Convention and remains valid and relevant.

Supplementary actions outside the Convention are not a substitute for actions under the Convention and the KP. There should be a cautious approach in considering actions outside the Convention. Any supplementary and complementary actions shall be in accordance with the principles and provisions of the Convention.

On the issue of catalysing actions with the largest mitigation potential, China said it needs to be clear whose actions and initiatives are being referred to and how the 'potential' is defined. Under the Convention, developed countries have legal commitments under Article 4.2 and the KP to undertake emission reductions. Developing countries are supposed to be enabled and supported through finance, technology transfer and capacity building for their actions.

It asked if the mitigation potential is based on historical and current emissions or projected emissions. The definition of mitigation potential has to be clearly defined as to whether it is on the basis of capability to mitigate or is on the basis of projected emissions without taking into account the capability to mitigate. If it is the former, then the largest mitigation potential should be in developed countries with historical responsibility and commitments for emission reductions due to their financial and technological capabilities. As such, they have the largest mitigation potential and therefore should take the lead in undertaking mitigation actions and initiatives. If the largest mitigation potential is to be based on projected emissions to 2020 relative to business as usual, then this would unfairly shift the burden on to developing countries and would be contrary to the principles of equity and CBDR. In this regard, there is a need to enable and support mitigation actions through the provision of finance and technology transfer to developing countries so as not to have an inequitable outcome.

The Philippines said that pledges alone cannot be substitutes for real commitments under the Convention. It said that ambition requires a high jump-off base (for emission reduction commitments) under the KP and comparable actions under the AWG-LCA. Scientific targets for emission reductions cannot be reached through a pledge-and-review system. It also stressed the importance of means of implementation for developing countries. It asked how much finance and technological transfer developed countries are prepared to give to developing countries for their actions. It stressed the challenges developing countries face to support environmental, social and economic externalities. It also echoed China's comments regarding the issue of mitigation potential.

Significant contribution

Bolivia said that while only 87 Parties have made pledges to reduce their emissions and 105 have not, it is important to note that developing countries had contributed significantly to the mitigation efforts, and to a large extent were surpassing developed countries in terms of offers of mitigation. A big part of these efforts has been made with the developing countries' own resources. Developing countries need to have the means of implementing mitigation programmes and policies, and that means having financial and technological support from developed countries.

Bolivia said the costs of mitigation are very high and it is not simply an issue of making more efforts on top of what is already being done. Citing estimates from the United Nations Environment Programme (UNEP), Bolivia said mitigation would, by 2020, cost 404 billion euros. By 2030, this would rise to 864 billion euros, and this does not even count the costs of adaptation (loss and damage) that developing countries face. The World Bank, meanwhile, has calculated the cost of adaptation to be between $24 and $28 billion, and this will rise to almost $100 billion every year after 2030. Latin America, in particular, will be paying 49 billion euros per year for mitigation action by 2030, whereas Africa is going to need 34 billion euros per year by 2030 for mitigation action.

In response to various proposals by countries to consider 'other options' being used to increase actions of mitigation, Bolivia raised concerns over the implications of such actions relating to sub-national and sectoral processes. It asked if Parties were referring to 'sub-national commitments'. It was concerned about how such 'sub-national commitments' would impact the sovereignty of countries to define their own policies and said that such proposals might undermine the intergovernmental decision-making process.

Nauru, speaking for the Alliance of Small Island States (AOSIS), referred to the need for seeking the most cost-effective way to reduce emissions as quickly as possible by way of involving the energy, industry, transport, building, forestry, agriculture, and waste sectors. It suggested that the ADP consider opportunities for international actions outside the UNFCCC which can contribute to closing the mitigation ambition gap, including through the initiative of Parties and non-Party actors to provide information to the UNFCCC on such activities and projected outcomes, the quantification of action plans taken in terms of emission reductions and clarification of the extent to which such reductions are additional to those resulting from the implementation of existing actions.

Swaziland, speaking for the African Group of countries, reiterated that while all Parties want to do more, Parties are not at the same level of development and, therefore, have different challenges and priorities that immediately confront them. To a certain extent, developing countries want to take up mitigation actions, but they do not see the means of implementation for nationally appropriate mitigation actions (NAMAs). While there may be funding for reporting of the updates, collecting and understanding these reports and so on, these do not contribute in real terms towards addressing the global problem of climate change.

On the principles of the Convention, Swaziland was of the view that all are agreed that they are not up for renegotiation. The Convention does recognise that Parties are not at the same level of development and that for some to survive, they need assistance because they do not have the means. So it means the principle of CBDR still remains an important element on the way to 2020. Equity has been talked about extensively. There have been a number of workshops and meetings that are trying to further provide understanding of equity. It said that equity cannot be talked about without talking of historical responsibility. Referring to a remark from someone at a workshop that one cannot make the children liable for what their parents did, Swaziland in response asked: if the children benefited or inherited development or property from their parents, can't the children be held liable?

It said that the African Group had long called for greater means of support, since developing countries cannot channel the funds that are not there to try and address climate change when their people are hungry. Swaziland liked the idea of embracing low-carbon development, but did not support the same type of development where the levels of consumption were high.

Ethiopia said that while mitigation is important, adaptation is more important. It needed to survive and eliminate poverty at the same time as tackling the climate challenge in order to contribute its share of the collective responsibility to humanity. The emissions in 2010 in the country were around 115 million metric tons of CO2 equivalent or 1.8 on a per capita level. If there is continuation of business as usual (BAU), it would rise to 400 by 2030 and per capita emissions would be 3 tons per year. It was committed to having its economy growing but also for emissions to keep reducing so that by 2025, it will become a middle-income country but also have zero net emission.

Moving to the higher end

Brazil said that Annex I Parties have to move to the higher end of their pledges. It did not expect developed countries to be so reluctant to lead and remarked that some developed countries are even expecting developing countries to lead. It said that some developed countries were joining the KP's second commitment period to do less, not more. It also said that processes used outside of the UN should be clearly aligned with the Convention and supported the idea of efforts to engage in sub-regions and cities, stressing that Parties cannot fight climate change as governments alone.

Uganda reflected that the ADP is not about mitigation alone, adding that 'we must be alive in order to mitigate,' and that the task of the ADP is to balance this with that of building developing countries' resilience. It stressed the importance of sustainable development and that the real key to emissions reduction is technology for both mitigation and adaptation.

The Marshall Islands said that Parties are setting themselves up for a new agreement that addresses issues relevant to a very different world than the one now, stressing that unless Parties deal with the pre-2020 mitigation gap, it is difficult to contemplate the scale of obligations and commitments required for a future agreement. To address that, the Marshall Islands stressed the need to use this workstream to look at mitigation options within the real world.

South Africa said that pledges alone are not enough and actions matter. Supplementary actions should be additional to what has been pledged and have to be in line with what the Convention requires. Means of implementation are essential for encouraging Parties to do more. There is no contestation about the principles of the Convention, it added, but this is giving content to the principles in moving forward.

Ghana said that there is a need to define what supplementary actions are. It said that many years had been spent learning about the Convention, now it is for Parties to do what is expected of them. It stressed the importance of means of implementation for African countries.

Micronesia said that during the financial crisis, developed countries could come out with billions of dollars to tackle it but they now say it is hard to get $100 billion over 10 years for addressing the climate challenge. It added that supplementary actions should be additional to the current pledges. It said there is a need for people making key decisions on important topics to get together more often. It said there is a need to catalyse action on everything. It also underlined the need to think through systems that work.

The Dominican Republic said that Parties cannot see the world only through the eyes of equity. There must also be action. The CBDR principle is not an excuse for inaction. Instead, it is a call for action to all countries. Failure to act collectively will make sustainable development for developing countries impossible.

Costa Rica, referring to calls by developing countries for developed countries to take the lead in emission reductions, asked why developing countries could not take the lead too. It could not wait until 2020 for ambitious actions to be taken. It called for the building of a cycle of confidence and incentives for leadership in taking action.

Indonesia, referring to supplementary actions, said that there needs to be a common accounting system to ensure that such actions will have the same effect (in reducing emissions). The Convention could play a significant role in identifying and ensuring that actions taken outside it are comparable.

The United States said its eventual emission reductions turned out to be lower than what it had originally pledged. This was because of the US government's assumption at the time that it made the pledge that it could engage in a domestic carbon trade programme that would enable it to participate in the global climate regime. It expected a significant part of its emission reduction to have come from domestic action following the introduction of a cap-and-trade law. Since that law did not pass, it did not have the option of purchasing the offsets, which resulted in twice the amount of emissions by 2009.

Norway said that closing the emissions gap pre-2020 is a major issue, and Parties cannot afford to be negative, adding that mitigation is not a separate sector for investment, but is about making different types of investments in existing sectors. Some options are actually profitable, Norway said, especially in regard to efficiency, with other benefits such as reduced air pollution and energy security. Parties needed to understand sectoral options better and address the barriers to them.

New Zealand said that suggesting nothing is possible without means of implementation leaves 'respective capabilities' out of the question. On the flipside, it said that the key to ambition is confidence in the ability to act, and that everyone is doing their fair share.

Australia referred to the UNEP Emissions Gap Report which it found sobering but the key message is that it is technically and economically feasible to bridge the gap. It said there is much to learn from one another.

Japan wanted a focus on supplemental initiatives, including those at national, sub-national, regional and international levels. It referred to bilateral mechanisms relating to the Clean Development Mechanism (CDM). ◆

Fauwaz Abdul Aziz is a researcher with the Third World Network.

Doha concludes work on long-term cooperative action on climate change

Since the 2007 Bali conference, negotiations at the annual UN climate conferences have proceeded on two 'tracks': one devoted to the Kyoto Protocol, the other to establishing long-term mechanisms to combat climate change. *Hilary Chiew* and *Meena Raman* detail the outcome of the latter negotiations, which finally concluded in Doha.

FIVE years after its launch in 2007 to advance an agreed outcome under the Bali Action Plan, the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) ended its work with the forwarding of the outcome document prepared by its Chair to the 18th meeting of the UNFCCC's Conference of the Parties (COP 18) on 7 December.

Photo courtesy of IISD/Earth Negotiations Bulletin

Delegates at a meeting of the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) in Doha. The group ended its work at Doha with the forwarding of an outcome document to the Conference of the Parties.

The outcome document of the AWG-LCA was not adopted by Parties at the working group level, but there was agreement to forward the text of the outcome of its work to the COP for further consideration, as suggested by its Chair, Aysar Tayeb (Saudi Arabia).

Tayeb informed Parties at the conclusion of the plenary held on 7 December that the ministers of Singapore and Germany will conduct consultations on matters under the AWG-LCA.

In the 22-page proposed text by the AWG-LCA Chair which was a clean text with no brackets and options, the page on finance was blank with a note that read: 'Pending the results from the ministerial consultations'.

On 4 December, the COP President Abdullah Hamad Al-Attiyah had launched ministerial consultations by appointing the ministers of Switzerland and the Maldives to conduct bilateral consultations to find solutions on matters related to finance.

The closing session of COP 18, initially scheduled for the evening of 7 December, was postponed while bilateral informal consultations between ministers and Parties proceeded behind the scenes throughout the night on the AWG-LCA text.

When the revised document was presented by the COP President in the morning of 8 December (called 'revised proposal by the President'), there was text on finance, which urges all developed-country Parties to scale up climate finance to the joint goal of mobilising $100 billion per year by 2020 and for developed countries to further increase their efforts to provide resources of at least to the average annual level of the fast-start finance period for 2013-15.

This revised proposal by the President of the AWG-LCA outcome of work was adopted by Parties as part of the Doha package.

In the area of technology transfer, the final text had no explicit reference to the issue of intellectual property rights (IPRs). The earlier text from the AWG-LCA Chair's document provided for the Technology Executive Committee (in paragraph 64), 'in elaborating its future workplan, to initiate the exploration of options for implementing the following activities … with a view to recommending appropriate actions for consideration by the Conference of the Parties at its twentieth session: (a) Examining effective mechanisms that promote access to affordable environmentally sound technologies, reward innovators and increase the dynamic of global innovation; …'.

Developed countries including the US and EU had during the closing AWG-LCA plenary objected to the language in paragraph 64 as referring to the IPR regime and wanted its deletion. The final text adopted by Parties has reference to 'the exploration of issues relating to enabling environments and barriers including to those issues referred to in the report of the Technology Executive Committee (TEC)'.

[Paragraph 35(g) of the TEC report states that IPRs were identified as an area for which more clarity would be needed on their role in the development and transfer of climate technologies based upon evidence on a case-by-case basis. Thus the link to work on IPRs was made in a circuitous way to avoid the use of the term in the AWG-LCA outcome document.]

On unilateral measures, the earlier text of the Chair was watered down. The Chair's text in paragraph 57 requested 'the Chairs of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to convene, at their thirty-eighth sessions, a joint round-table discussion on unilateral measures in the context of Article 3, paragraph 5, of the Convention'.

The final decision in paragraph 54 welcomed 'the progress made in the work of the forum on the impact of the implementation of response measures being convened under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation' and invited 'Parties to continue to participate in the forum, including the sharing of views on policy issues of concern, such as unilateral measures'. Developed countries during the negotiations had been resistant to having any text on unilateral measures.

On cooperative sectoral approaches and sector-specific actions, the final decision adopted had no text on this matter. In the earlier version of the AWG-LCA Chair's text, there was reference in paragraph 42, which several developing countries in the Like-Minded Group of Developing Countries wanted deleted, as it was not consistent with Article 2.2 of the Kyoto Protocol.

(Paragraph 42 of the document stated: 'Also agrees that the limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from international aviation and maritime transport should be pursued in a multilateral manner, working through the International Civil Aviation Organisation and the International Maritime Organisation, respectively.' Article 2.2 of the KP, which only applies to developed countries in Annex I, states that 'The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organisation and the International Maritime Organisation, respectively.')

Dissatisfaction

During the final plenary of the AWG-LCA, both developed and developing countries registered their dissatisfaction with the 7 December text from the outset and called for improvements, with the former actively seeking ministerial intervention.

The smooth closing plenary of the AWG-LCA caught many Parties by surprise in the afternoon of 7 December with no objections to the Chair's proposal to forward the final document of the working group to COP 18 for consideration and adoption. Hesitating for a minute, Tayeb jokingly asked the Secretariat's staff if he should go ahead to gavel the decision before he brought down the gavel.

The European Union was prompted to seek confirmation that the decision was to forward the text for further consideration by the COP and Bangladesh said that it had wanted elaboration of the mechanism to facilitate access to climate technology for least developed countries (LDCs). Tayeb confirmed that the text was not adopted but only the decision to forward it for further consideration by the COP.

Following statements by groupings of Parties and countries, Tayeb noted the many reservations on the text. He said it was extremely striking that reservations were on the same issues but from opposite directions, adding that Parties were at the last stretch of a journey and that he had done his utmost best. He believed that Parties were close to the finishing line and under the guidance of the ministers, they would be able to cross the line.

Several developing-country Parties also recorded their appreciation for the leadership of Tayeb throughout the two weeks of tough negotiations.

Algeria, representing the Group of 77 and China, reiterated that a successful outcome lay in the issue of finance in which there must be clarity and certainty for the coming years to meet the need of developing countries in light of the imposition on them from previous decisions of Cancun (COP 16, 2010) and Durban (COP 17, 2011). In particular, it said clarity is needed for the financial resources gap from 2012 to 2020 besides other issues such as adaptation, mitigation and technology transfer.

Equally important is the ability of developing countries to engage first on adaptation then mitigation, the G77 and China said, expressing wariness at the emptiness of the various institutions set up with no effects on the ground. It further expressed concern on the lack of progress on adaptation and technology transfer as expressed by several members of the group and was grateful for the advancement of the AWG-LCA work despite the lack of flexibility shown by partners (referring to Annex I Parties).

It remained committed to all outstanding issues to be addressed appropriately in order to achieve a result that will fulfil the mandate of the Bali Action Plan (BAP).

The Philippines, speaking for the Like-Minded Group of Developing Countries, reminded Parties that they extended the AWG-LCA, not merely to close it, but to do meaningful work on all the unresolved issues to reach an ambitious, meaningful and comprehensive agreed outcome.The agreed outcome must comprehensively address all the elements contained in the BAP as an essential element for the success of Doha, which was one of the components of the Durban Package.

Parties must address all the elements under the AWG-LCA including ambitious and comparable emission reduction targets by the developed-country Parties, adaptation, finance, technology transfer and capacity building.

The creation of institutions for many of these issues reflects excellent progress but does not necessarily close the issues themselves, particularly as the key political issues of operationalising these institutions remained unaddressed, referring to means of implementation for developing countries.

Developed countries, it said, should rise to their historical responsibilities and honour their commitment to provide developing countries with financing, technology transfer and capacity-building support and to finance the effective operationalisation of the institutional mechanisms.

As such, it noted that the text that the Chair had forwarded to the COP for its consideration could be further improved. The text, it said, did not reflect the full and equitable and ambitious outcome that it was looking for. In this regard, it flagged the following issues:

• The finance element in the final agreed outcome must be meaningful and substantive, with clear commitments on mid-term financing and a process in place to increase ambition on financing; clarity and assurance needs to be made in relation to the provision of the means of implementation to meet the cost of new responsibilities that are being put on developing countries. There is a need for clarity on mid-term finance; a need to examine lessons learned from fast-start finance to see it has fulfilled commitments from Copenhagen; a need to establish mechanisms for measurement, reporting and verification (MRV) of developed countries' financial and technology support for developing countries;

• Mitigation ambition needed to be strengthened, particularly for Annex I Parties, including with respect to ensuring the comparability of their mitigation efforts and to increase their emission reduction pledges;

• The technology transfer text needed to be strengthened. In particular, the failure of the text to address IPR issues in the AWG-LCA was a serious concern as IPRs constitute a significant obstacle to successful technology transfer;


Photo courtesy of IISD/Earth Negotiations Bulletin

Chair of the AWG-LCA, Aysar Tayeb.

• On cooperative sectoral approaches and sector-specific actions, paragraph 42 needed to be made consistent with Article 2.2 of the Kyoto Protocol, and should not result in any reinterpretation or changing of the scope of such provision. This paragraph should be deleted;

• On adaptation, there was very weak linkage to climate financing. This gap needed to be addressed;

• The text on capacity building was very weak. The G77 had called for a work programme, but the text did not reflect any strengthened modalities for capacity building.

The Philippines said Parties talk about balance but in its view, it must be the balance among the building blocks of the BAP – mitigation, adaptation, finance, technology and capacity building. It further emphasised that where there is no text, it doesn't equate to agreement or conclusion. Lastly, it thanked the Chair for his guidance and leadership, which had enabled constructive work to be done during the 15th session of the AWG-LCA.

Nauru, speaking for the Alliance of Small Island States (AOSIS), noted that Parties had agreed to the text being transmitted to the COP for further consideration and that the text was a decent basis to work from. It would like to see a stronger call for urgent actions. It lamented the complete absence of ambition in terms of mitigation by developed countries, where it has not seen any movement forward since Copenhagen (COP 15, 2009). At the very least, it added, Parties expected to enforce the rules-based approach towards accounting rules particularly in the interests of comparability.

On the contrary, on mitigation by developing countries, it saw clearer reference to efforts. It warned that finance was a missing element of the Durban outcome and it could not be left out of the Doha package. It was willing to work on the text at the level of the COP as it was the last chance.

Representing the African Group, Swaziland said the proposed text lacked ambition on mitigation and adaptation as well as the various means of implementation. While appreciating the hard work of the appointed ministers aimed at reaching landing ground on issues related to finance, it reiterated that the proposed text was weak with no indication of commitment from developed countries especially for the mid-term period of 2013 to 2020. It also lamented that the current level of ambition on mitigation was weak and looked forward to a text that would strengthen it.

Gambia, speaking for the LDCs, recognised the shortcomings of the proposed text but believed that Parties could still work on it and hoped to have time for Parties to engage positively.

Speaking for the Arab Group, Egypt said it accepted the decision to forward the proposed text to the COP for further consideration with the belief that Parties would look at the proposed text with overall balance in the three tracks (with the other two tracks being the negotiations under the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol and the Ad Hoc Working Group on the Durban Platform for Enhanced Action).

It said the AWG-LCA had worked for five years to ensure sustained implementation of the Convention but it had yet to see a concrete outcome on financial resources, which was key to a successful outcome in Doha.

It also wanted to see clear comparability of mitigation efforts among Annex I countries in the AWG-KP but has yet to see such commitments in terms of numbers (quantified emission limitation and reduction objectives). It said the objective of creating institutions needs concrete time-bound operationalisation and market mechanisms are not an end in themselves but require mitigation ambition, which has remained low.

It also wanted paragraph 42 of the proposed text deleted as there was no reference to the Convention's principles and provisions particularly the principle of common but differentiated responsibilities.

Great expectations

China began by conveying its condolences to the people of the Philippines who were affected by typhoon Bopha and expressed its strong solidarity with them to get through this very difficult time and rebuild their homes soon. It then recorded its sincere appreciation to the Chair for his insightful and excellent leadership guiding Parties through the two intense weeks with arduous tasks towards an agreed outcome.

It said it came to Doha with great expectation for a successful and meaningful conclusion of the work of the AWG-LCA, which should address all the elements of the BAP, in particular ambitious and comparable emission reduction targets by the developed-country Parties, adaptation, finance, technology transfer and capacity building and for Parties not to leave any key issues off the table, such as equitable access to sustainable development, technology-related IPRs and unilateral measures.

It acknowledged the ups and downs in the past two weeks and even thought that the arduous tasks were going to be mission impossible in Doha. However, with Tayeb's strong leadership and collective efforts of all Parties, they were able to walk out of the gloomy and hopeless situation of becoming 'desperate housewives' (referring to Tayeb's effort at producing a text for the outcome of the working group).

(During the Bangkok session in September, China said the outcome of the Doha negotiations was analogous to a Chinese proverb, that a good housewife will find it difficult to prepare a meal without the right ingredients.)

China was however very concerned about many important issues including ambitious and comparable emission reduction targets by the developed-country Parties, adaptation, finance, technology transfer, market, sectoral approach, equitable access to sustainable development, technology-related IPRs and unilateral measures failing to come to a satisfactory outcome.

It urged all developed-country Parties to rise to their historical responsibilities and honour their commitment to provide developing countries with financing, technology transfer and capacity-building support and to finance the effective operationalisation of the institutional mechanisms. Finally, it said the 'meal' prepared by Tayeb was just like the food in the Qatar National Convention Centre that was not so delicious but at least offered Parties 'something to eat', drawing applause from the floor.

Echoing China, India also expressed its appreciation of the Chair's hard work and patience as well as his vice Chair (Marc Pallemaerts of Belgium)'s skilful and insightful steering of the meetings. It reiterated its call for a comprehensive package and that no issue should fall off the table. It too wanted paragraph 42, that was inconsistent with Article 2.2 of the Kyoto Protocol, to be deleted.

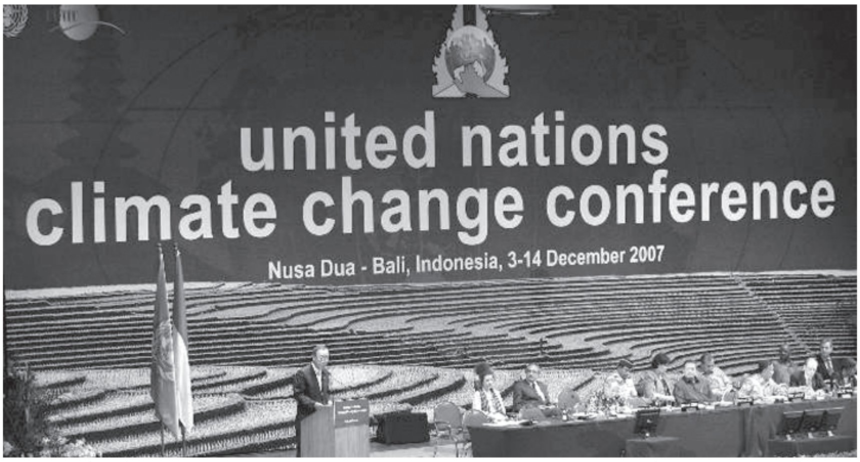
Venezuela wanted to make clear that it did not approve of the text as there were lots of amendments that needed to be made particularly in sectoral approaches, the use of market mechanisms and paragraph 42 that violated the principle of CBDR. It later came back to add that it had since received instruction from its capital to place on the record that Venezuela had reservation in total and reserved its rights on all substantive issues when it deemed appropriate.

Ecuador appreciated the important document reached thus far after long hours of work but noted that there were some areas in which it would like to see improvement in all subject matters of the text, such as REDD-plus, response measures, various approaches and technology.

Bolivia said it understood that finding an agreement among Parties was difficult but the negotiation was not yet over. On finance, it did not want an empty shell fund which simply cannot be operationalised and an institutional framework that cannot carry out technology transfer. It does not see commitment from developed-country Parties but the reverse is true with the hope placed on the market mechanism as replacement to public funding that is not forthcoming.

It warned that Parties must not place their trust in the carbon market that is not providing any guarantee. On mitigation by developed countries, it said there is a huge imbalance in the obligations placed on developing countries concerning common accounting rules and methodologies. It stressed that there was still a lot of work needed as it did not want to leave with the prospect of more carbon markets and empty promises.

Indonesia reminded Parties that in Bali, Parties charted a roadmap and promised that all the building blocks of the BAP will be accomplished. It said the Cancun and Durban COPs established the infrastructure and the task in Doha was to complete the work of the AWG-LCA. It said the most important element of the AWG-LCA on finance was missing and hoped the ministerial intervention would see Parties showing flexibility.



The AWG-LCA had been established to address a wide range of issues identified in the Bali Action Plan of the 2007 climate conference held in Bali ***(pic)*****.**

Argentina was pleased with paragraph 2 (in the shared vision part of the document) which acknowledged the equity and CBDR principle but had concerns over the lack of text for finance, technology transfer and capacity building. It said any activities that developing countries must carry out must go hand-in-hand with support by developed countries.

(Paragraph 2 read: 'Also decides that Parties' efforts should be undertaken on the basis of equity and common but differentiated responsibilities and respective capabilities, and the provision of finance, technology transfer and capacity-building to developing countries in order to support their mitigation and adaptation actions under the Convention, and take into account the imperatives of equitable access to sustainable development, the survival of countries and protecting the integrity of Mother Earth'.)

It also wanted paragraph 42 to be deleted to avoid legal problems. It believed that Parties could still improve on the language to ensure fair transition to allow for inclusion of workers' welfare and creation of decent jobs, which is part of poverty eradication and the development agenda of developing countries.

Nicaragua said it was important to have real negotiations before the final adoption of the text by the COP. It said a funding mechanism that has no transparency is pointless and why the Green Climate Fund when Parties are not able to use it, adding that there is also no point in discussing the mitigation by developed countries under the AWG-LCA if there is still no agreement on finance and an ambitious second commitment period under the Kyoto Protocol.

Malawi agreed that the text was a basis for further discussion. It also registered that it was not ready to adopt the text in its current status and especially that it was weak in terms of means of implementation.

Saudi Arabia said that in the last minute of the lifetime of the BAP, the most challenging task was closing the AWG-LCA. It said some good progress was made but it was insufficient as there were serious concerns that some issues were rejected without logic, pointing to the work programme to address economic diversification of developing countries. It accused developed countries of using the approach of mass destruction, in reference to not everyone will be happy with all paragraphs but for the sake of working in a constructive manner, Parties only need to stick to their respective redlines and not resort to mass destructive tactics.

Brazil said it concurred with many concerns raised by developing countries and also wanted paragraph 42 (on sectoral approaches) to be deleted.

The European Union said the work on the BAP for the last five years has delivered and Parties should be proud to close the AWG-LCA and AWG-KP as well as the various institutional set-ups.

It welcomed the hard work of the Chair in helping Parties to conclude their work and reckoned that the proposed text was an important step to a successful outcome though it believed that it needed changes for the final shape. It said the text should be balanced. Top priorities for the EU are pre-2020 mitigation, accounting and transparency across all tracks. It objected to the language on unilateral measures as there was already the forum on response measures and it could not accept interference with the IPR regime and wanted deletion of that.

The Environmental Integrity Group, represented by Switzerland, conceded that some areas needed more work and believed the differences could be resolved by the COP.

Australia echoed the EU on the achievements of the AWG-LCA and said that the Doha deal though imperfect was still deliverable, adding that it was ready to engage but not without the ministers having an opportunity to engage.

Canada said further work was needed and compromise was within reach. It called on ministers to seek convergence and said that the text could not be a take-it-or-leave-it text. If that was the case, Canada would leave it.

The United States registered its objection to paragraph 2 (reference to equity and CBDR in shared vision), paragraph 8 on mitigation of developed countries (on comparability of efforts among developed-country Parties), paragraph 41 on sectoral approaches, paragraph 47 on various approaches (a work programme to elaborate a framework for such approaches), paragraphs 57 and 58 on response measures (to request the Subsidiary Bodies to convene and report the outcome of a roundtable discussion on unilateral measures) and paragraph 64 on IPRs (in technology development and transfer). It supported the text to be considered by the COP but stressed that in its current shape it was not acceptable to the US.

Echoing the US, Japan said it could not accept the text and looked forward to a packaged agreement by the COP. ◆

Hilary Chiew is a senior researcher with the Third World Network.

Negotiators buy more time for agriculture discussions

As climate change poses a threat to food production, the need to limit carbon emissions to protect the agricultural sector is of paramount importance. The discussions on agriculture at Doha were inconclusive and the issue will be taken up at this year's negotiations.

Doreen Stabinsky

A view of the dais during a meeting in Doha of the Subsidiary Body on Scientific and Technological Advice. The SBSTA has been mandated to consider issues related to agriculture.

Photo courtesy of IISD/Earth Negotiations Bulletin

THE topic of agriculture under the UN Framework Convention on Climate Change will continue to be discussed, with no decision adopted at the Conference of the Parties in Doha.

At the final plenary of the Subsidiary Body on Scientific and Technological Advice (SBSTA) on 1 December, Parties decided to continue their exchange of views at the next meeting of the subsidiary bodies in Bonn in June 2013. (The other subsidiary body is on implementation of the Convention, the SBI.) Strong differences over how to strike a balance between mitigation and adaptation and how to reflect the principles of the Convention in the draft decision prevented agreement in the short time period allocated for SBSTA issues.

The 2011 Durban decision on the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA), 2/CP.17 (paras. 75-77), under the item on cooperative sectoral approaches and sector-specific actions, had requested the SBSTA at its 36th session to consider issues related to agriculture. According to decision 2/CP.17, the aim was to exchange views and for the COP to adopt a decision at COP 18 in Doha. The exchange of views in Bonn at SBSTA 36 in May 2012 had not resulted in any text, and Parties continued the exchange in Doha starting on 28 November.

George Wamukoya from Swaziland and Alexandra Conliffe from Canada were appointed as co-facilitators by the SBSTA chair, Richard Muyungi of Tanzania.

At the first contact group meeting on 28 November, Conliffe opened the meeting, noting the importance of agriculture as an agenda item in Doha to determine further steps on the issue.

Malawi spoke on behalf of the African Group, expressing their interest in having a decision in Doha. They noted there was an ongoing exchange of ideas in the group, but put forward possible elements of a decision. The elements started by making reference to the objective of the Convention, the role of agriculture and food security, the importance of small farmers and the role of agriculture in the economy. The group proposed a process for submissions, which would be compiled by the Secretariat, then an in-session workshop on adaptation.

The Gambia, on behalf of the LDCs, agreed with Malawi, adding the SBSTA should request Annex I Parties to mobilise resources in support of moving the agriculture agenda forward.

The European Union noted the very useful exchange of views in Bonn, expressing an interest in building on that dialogue. They pointed to the uniqueness of the agriculture sector, emphasising that food production is very sensitive to climate change and that impacts of climate change on food production are a threat for all. They also noted that adaptation is most important for smallholder farmers.

They echoed the view that Article 2 of the Convention requires the stabilisation of atmospheric greenhouse gas concentrations to ensure that food production is not threatened, and that there was a need to produce more food while not increasing emissions. The EU also pointed out the view that adaptation and mitigation are closely linked and need to be dealt with together. They emphasised the need to increase resilience, productivity and efficiency. They called attention to the wide range of practices and technologies available to this end and pointed out that the SBSTA's work could address the specific and technological challenges in the agriculture sector.

Ethiopia said that the group should follow the mandate of the SBSTA, with a focus on food security, climate change impacts and different scenarios.

Tanzania said they were ready to engage and wanted a SBSTA decision to enable the work to begin. They noted that agriculture was not only about food security, but also the livelihood of the local community, and negotiations should be undertaken in that context. They further noted that sustainable development must be the priority for the work.

The Philippines emphasised that agriculture was not only about food and livelihood security, but it was also a crucial pillar of national security. The brunt of climate impacts is borne not only by the agricultural rural sector, but all who depend on it. They stated that SBSTA work must focus on and place due emphasis on adaptation, to enhance the ability of the agriculture sector to adapt to climate impacts.

Papua New Guinea agreed that food security is a very significant issue and said they will insist on coordination between agriculture and REDD+.

Bangladesh emphasised the special nature of agriculture. They noted that agriculture could be defined not merely as production, but also as including processing and distribution. This fact had implications for adaptation and mitigation, they added. They also noted that agriculture was a cultural issue.

Uruguay pointed out that as the consideration of agriculture was under the SBSTA process, it should be guided by the mandate of Article 9 of the Convention (on the SBSTA). They noted that to maintain productivity and food production, it will be difficult for the agriculture sector to reduce emissions, and the emissions in developing countries will be increasing. They added that there are real win-win opportunities to increase food production without increasing emissions. A key challenge then will be identifying actions to build resilience and reduce emission intensity. They said that there is a need to expand the understanding of practices that can deliver multiple benefits.

The United States drew attention to relevant themes that they saw emerging about both process and substance. They said that the issue of adaptation and mitigation is a false dichotomy and that experts believe there are synergies. They added that if this could be fully explored, without imposing anything on anyone, the appearance of the dichotomy would go away. Beyond this, they suggested looking at what the SBSTA could do to influence other activity within the UNFCCC, such as driving appropriate activities of the technology centre through SBSTA recommendations.

Botswana highlighted that agriculture is very key for them and issues of food security very important. They said that yields are declining, impacts are being felt now, and that shifts in rainfall are leading to a lack of hope among people. They made a request for considering loss and damage, related to the urgent and real situation of agriculture, and underscored the need also for national adaptation plans to put this in perspective. They also highlighted that there are equity issues related to mobilising resources to developing-country economies.

New Zealand mentioned a need to consider the production aspects of agriculture, including productivity and efficiency. They said they wanted the focus of the work to be scientific and technical, guided by the mandate of the SBSTA under Article 9.

China stressed that agriculture plays an important role in regard to food security, and that food security is of great importance for developing countries. They said that work on agriculture under the SBSTA should be consistent with the principles and provisions of the Convention, in particular with the principle of common but differentiated responsibilities. They said the discussions should emphasise how to fulfil the objective of the Convention, that food production is not threatened. They noted that agriculture is most vulnerable to the impacts of climate change due to low adaptation capacity and there has already been a serious impact on food production in developing countries. They added that for developing countries, adaptation is more important than mitigation. They suggested discussion on how to provide means of support through finance, technology and capacity building to help implement adaptation actions. This would include helping farmers use climate-friendly technologies for food security, to address climate change and achieve sustainable development.

Egypt also supported considering principles such as common but differentiated responsibilities and equity, and major points of technology transfer and finance.

India emphasised the importance of the Convention principles, echoing China. They said it was important to give primacy to adaptation. They noted the differences between adaptation and mitigation and added that it was important to segregate the two and keep an emphasis on adaptation.

Costa Rica expressed the position that adaptation and mitigation are synergetic.

The contact group then moved into informal negotiations over several days, led by the co-facilitators. Discussions focused on the two tracks of substance and process, although many countries emphasised that decisions on process could not be taken until the substance of the work had been decided.

SBSTA chair Muyungi reconvened the contact group on 1 December to close the contact group in advance of the SBSTA closing plenary. Many countries made statements in the contact group about the way forward, asking for more time to continue discussions in order to have a decision resulting from Doha.

The Gambia noted the achievements of the week.

India noted that since discussions at the last meeting of the SBSTA in May, Parties had moved further apart. They said they did not see that further progress could be made at this meeting, and their understanding was that the agenda item should be taken to the next session of the SBSTA.

Costa Rica indicated that they

would like to see something come out of Doha and proceed with negotiations on the text over the next week.

Ethiopia, New Zealand, the European Union, Uruguay, South Africa and Tanzania also reflected positively on the work accomplished during the week and agreed to move forward towards a decision.

Argentina said that momentum was building between the technical negotiators and that the work should continue at the negotiator level before deciding to send a decision to the ministerial level. They noted that the negotiators knew what the issues were and what they had to solve.

Kenya pointed out that there were areas with commonalities and suggested the decision should focus on areas where they see convergence.

Malawi also indicated their desire to continue engaging in order to have a substantive decision taken at COP 18.

China said they knew that agriculture was a crucial issue for all developing countries. They noted a lot of problems with the text, however, and difficulties that needed to be solved. They said more time was needed to discuss the topics and solve these problems and supported India in their suggestion to defer a decision to the next meeting of the SBSTA.

The chair then explained to the Parties the process, indicating that the SBSTA closing plenary would commence in an hour. He suggested that the COP president might give him a mandate to continue negotiations after the closing of the plenary, and that his expectation was to try to do that. He said he would request the COP president to give him a new mandate and more time, suggesting that negotiations might continue all day on 3 December. He said from his experience, the negotiations might get more time. However, the discussions needed to close in the contact group in order to move to the SBSTA closing plenary.

Japan noted that they wanted to get an outcome in Doha.

Nicaragua reflected that a lot of progress had been made. They indicated that a lot of concerns still existed about mitigation, adaptation and common but differentiated responsibilities but asked to work for another two hours to decide if the work would require more time.

Argentina reiterated that progress had been made on the issue and asked to be given more time before concluding, keeping the discussions at the technical level and continuing negotiating up to the last minute, as there was spirit in the room to continue.

The chair emphasised that he had no mandate to continue the negotiations and that he needed to close the contact group in order to proceed to the SBSTA closing plenary. He said his dream was to have a decision here in Doha.

The contact group had not drafted the chair's conclusions for their work, so there was not an L. document to be considered during the closing plenary on 1 December. As each agenda item must actually be closed during the plenary accompanied by a concluding L. document, containing at least procedural conclusions for the agenda item, when the item was opened during the final plenary a procedural decision had to be crafted on the spot. At that point, numerous delegations took the floor to suggest to the chair how to move forward.

India noted that agriculture was a very important agenda item and expressed great disappointment that despite best efforts the group was not able to reach consensus. They emphasised that issues connected with agriculture are of vital concern to India, as agriculture is not only a source of economic growth, but also a source of livelihood. They said the issue should be approached with great seriousness and a decision on the item should be presented to the Parties for further consideration. However as there was yet no decision to report to the COP president, they suggested that recommendations from the SBSTA should state that they could not come to a conclusion for lack of time and that the discussion should be carried forward for further discussion at the next SBSTA.

Uruguay said that agriculture is vital for food security and it affects climate change. They expressed the view that the SBSTA should also focus on the technical and scientific elements related to agriculture to maintain food production and food supply. They stated that the agriculture sector might not be able to cut emissions, as there was a need to feed a growing world population, and that an increase in emissions was more likely to be seen in countries with agricultural-based economies. They noted there was an opportunity to develop strategies to increase food production while reducing emissions. They also noted the need to focus on adaptation issues. They expressed the desire to move the issue forward, asking for more time to reach an agreement at this meeting.

Algeria said that the path laid out by India was wise, as they did not think it wise to put the burden of resolving this issue on ministers. They noted that there were issues not yet worked out technically, requiring further consideration on the technical level.

Bangladesh noted their dependence on agriculture and the importance of food security for the country. They said it was unfortunate that consensus could not be reached and that there was no outcome during this meeting. They expressed hope that this agenda item be given due time and importance, especially given the great length of deliberations. They said it was prudent to take the matter to the next SBSTA session – that if it could not be delivered in Doha it should be transferred to the next session in Bonn.

Venezuela endorsed the position taken by India, flagging the importance of the agriculture issue for developing countries. They questioned why a technical issue would be passed to the presidency of the COP, in light of the fact that more time was needed, and requested a clarification of this from the chair.

The chair responded that he was not passing a technical issue to the COP president, but merely reporting the facts on the situation, consistent with his role as SBSTA chair.

Brazil stated that they were disheartened by the lack of progress, noting that technical discussions never got going. They said Parties engaged in a bracketing exercise, with a rearrangement of paragraphs, but little that was technical. They noted very little was tried in the context of discussions. Brazil said they had sought to ensure more time at the end of the contact group to enable more technical engagement, but that this was not possible. They indicated agreement with others that agriculture is an issue that demands technical, not political, consideration, and said that the presentation of the issue at the COP would be dangerous and unproductive to reach a good agreement. They suggested the best treatment would be to continue the work by the SBSTA at its next session, allowing a decision to be reached through adequate technical consideration.

The Gambia, on behalf of LDCs, stated that agriculture is very essential to the development of Gambia and all LDCs, emphasising that the sector was vital to the survival of LDCs. They suggested that any discussions deviating from Article 9 would not do justice to the discussions. They proposed to continue the agenda item at the next SBSTA, hopefully making a decision there.

Argentina noted the constructive debates and attitude to come to a decision, but said that there was not sufficient time in technical discussions to get to more fundamental issues. They said that in order to negotiate at a technical level more time would be required. They agreed that the most appropriate way forward would be to continue at the next SBSTA, in order to arrive at a decision that reflects a balance between Parties, with valid scientific basis.

The European Union reminded Parties that in their opening statement, they had noted there was much to do in Doha. They said progress was made, but that the European Union still had concerns on some issues. They said it was important to initiate work on both adaptation and the contribution of agriculture to mitigation and food security. They said this should be done as soon as possible and the message addressed to the COP.

Ethiopia said everyone was aware of the decision passed in Durban requesting the SBSTA to adopt a decision. They noted that not all Parties are against technical things, and that more technical work was needed. They said they would be happy if the COP would decide to give agriculture more time now, rather than move the item to the next session.

Nicaragua noted their concern with what they were hearing and that some wanted to throw a spanner into the works. They said that as a small country that survives and bases its economy on agriculture, the issue of agriculture was closely linked to sovereignty and food security. They said that the whole lack of consensus needed to be discussed, and expressed concern that it is a problem when procedures are not respected based on the fact that there is no consensus. They suggested that the issue needed to be discussed further at the next SBSTA, rather than passing it on to ministers at the COP.

Cuba fully supported the proposal to postpone the discussion until the next meeting of the SBSTA. They noted the multifaceted nature of agriculture. They said that because the ministers would hold discussions on other issues, the matter should not be passed up to the COP, so that ministers' attention was not asked for prematurely. They added there was a need for more discussion on the technical level at the next meeting of the SBSTA.

Continuation of discussions

The SBSTA chair said discussions could not continue. As there was no consensus, he would report accordingly to the COP. He said that the SBSTA would continue discussions according to rule 16 of the rules of procedure, which states that 'Any item of the agenda of an ordinary session, consideration of which has not been completed at the session, shall be included automatically in the agenda of the next ordinary session, unless otherwise decided by the Conference of the Parties.'

India raised a point of order asking under which agenda item of the COP this matter would be dealt with in the closing plenary, to which the chair responded agenda item 3, the reports of the subsidiary bodies.

Bolivia said there was a lot of technical work that still needed to be done. They emphasised that agriculture cannot be seen from an exclusively mitigation point of view, expressing concern about turning natural resources into mitigation measures. They said that 37% of the country produces agriculture goods that allow the rest of the country to eat, stressing that the agriculture sector cannot be allowed as part of the carbon market or viewed with purely a mitigation perspective. They added that agriculture must be viewed from adaptation and food security perspectives.

Costa Rica noted the importance of agriculture in the country not just for food security and production. They said that in 2007, the country promised to deliver carbon neutrality by 2021 and the agriculture sector was part of that effort. They noted that agriculture is the second largest emitting sector in the country and stressed the need to have the problem turned into part of the solution. They said they had wanted to reach an agreement on agriculture at this COP, a stance shared by more than 35 countries in the agriculture contact group.

The chair concluded that he had made his decision and invited Parties to speak on the topic at the high-level segment.

The final SBSTA report reflects the outcome of the final SBSTA plenary discussion on agriculture: 'After several interventions by Parties, the SBSTA Chair ruled that there was no consensus amongst Parties to refer this matter to the COP for further consideration. The SBSTA Chair proposed and the meeting agreed that, in accordance with rule 16 of the Draft rules of procedure being applied, SBSTA would continue its consideration of this agenda item at its thirty-eighth session. The SBSTA Chair undertook to make a factual report on this to the COP President.' ◆

BASIC ministers disappointed over North's low ambition

In a joint statement issued after their 14th Ministerial meeting on climate change, held in February in Chennai, the BASIC (Brazil, South Africa, India and China) group of countries expressed their disappointment on the lack of commitment displayed at Doha by the developed countries to tackle climate change.

Meena Raman

Ministers from the BASIC countries addressing the media after their meeting on climate change in Chennai, India. The ministers have voiced disappointment over the low level of mitigation ambition pledged by developed countries.

MINISTERS from the BASIC countries expressed disappointment over the low level of mitigation ambition pledged by developed countries at the climate talks in Doha and over their lack of commitment to any roadmap to ratchet up the provision of finance to developing countries.

They said this in a joint statement issued at the conclusion of the 14th BASIC (Brazil, South Africa, India and China) Ministerial meeting on climate change held in Chennai, India, on 15-16 February.

The Ministers, in the statement, expressed disappointment over the low level of mitigation ambition pledged under the second commitment period of the Kyoto Protocol and hoped that 'developed countries who have taken commitments under the 2nd commitment period of the Kyoto Protocol will raise their ambition level in 2014 in consonance with science and their historical responsibility. At the same time, they strongly emphasised that developed countries which are not part of the Kyoto Protocol or have not joined the 2nd commitment period must equally raise their ambition in the same timeframe and take on comparable mitigation commitments under the Convention.'

The Chennai meeting was attended by Jayanthi Natarajan, Minister for State Environment and Forests of India; Xie Zhenhua, Vice Chairman of the National Development and Reform Commission of China; Carlos Augusto Klink, Secretary for Climate Change and Environment Quality, Ministry of Environment, Brazil; and Alfred James Wills, Deputy Director General, Department of Environmental Affairs of South Africa.

Abdullah Bin Hamad Al-Attiyah of Qatar, President of the 18th meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 18), also participated in the meeting.

Second commitment period

According to the joint statement, Ministers 'welcomed the decision on operationalisation of the 2nd commitment period and the consequent amendments to the Kyoto Protocol as a key element of the Doha Climate Gateway. They appreciated the leadership shown by those developed country Parties which have joined the second commitment period. They reaffirmed that the Kyoto Protocol remains a key component of the international climate regime and an essential basis for ambition within the regime. They called for Parties, particularly developed country Parties, to ratify the amendments as soon as possible so as to ensure legal certainty.'

The Ministers emphasised that 'one of the key issues to be considered in the run-up to COP 21 is the question of ambition under both the Kyoto Protocol and the Convention'.

'They stressed that Annex I Parties should raise ambition and, in this context, also take into consideration the latest available scientific evidence on climate change trends, the impact of historical emissions of developed countries at the global level and the Intergovernmental Panel on Climate Change (IPCC) report which indicates that aggregate emissions of greenhouse gases by Parties included in Annex I should be reduced by at least 25-40% below 1990 levels by 2020.'

The statement also said that the 'Ministers stressed that actions of others can be enhanced further with greater provision of finance and technology transfer. They urged that, in the overall interest of raising global ambition, the developed countries must take the lead and scale up ambition not just in mitigation but also in adaptation, finance, technology transfer and capacity building.'

They also reiterated that 'developing countries, including the BASIC countries, have done much to raise the global ambition. They have voluntarily presented their ambitious nationally appropriate mitigation actions at the international level and have agreed to a regime of transparency of actions. These actions constitute far greater in quantum and impact than those of the developed countries. Keeping in mind the need to enhance global effort, Ministers urged the developed countries to come forward and reciprocate the gesture and efforts of developing countries.'

The Ministers reaffirmed the centrality of the principles and provisions of the UNFCCC process. In this regard, 'they welcomed the Doha decision on an agreed outcome pursuant to the Bali Action Plan that Parties' efforts should be undertaken on the basis of equity and common but differentiated responsibilities (CBDR) and respective capabilities, and should be supported and enabled by finance, technology transfer and capacity building directed towards developing countries and should take into account their imperatives of equitable access to sustainable development'.

They 'underlined the importance of means of implementation to enable the mitigation and adaptation actions in developing countries and stressed that the obligations of developed countries to provide financial, technology transfer and capacity building support to developing country Parties must be fulfilled to enhance the implementation of the Convention. They reiterated the importance of achieving the goal of providing US$100 billion per year by 2020 as committed by developed country Parties and underscored the need for a clear roadmap in this regard.'

The Ministers also 'expressed disappointment on the lack of commitment to any roadmap to ratchet up the provision of such finance and called upon Annex I Parties to continue to provide, in the short term, at least the same level as "Fast Start Finance" till the roadmap is delineated. They underscored the need for the Global Environment Facility to provide additional financial resources to developing countries, including for preparing National Communications and Biennial Update Reports.'

They 'underscored that the early and meaningful operationalisation of the mechanisms set up in recent years to support developing countries, including the Green Climate Fund, Technology Mechanism, Adaptation Committee etc. needs to be prioritised'.

The Durban Platform

Welcoming the advancement in work of the Durban Platform and the planning of work through the decision adopted at Doha, the Ministers 'reiterated their belief that the work of the Durban Platform was not taking place in a vacuum but rather is based on and must build on the work carried out by parties under the Bali Road Map with its two tracks of the Kyoto Protocol and Long-term Cooperative Action.'

They also 'welcomed the decision in Doha that acknowledges that the work of the Ad hoc working group on the Durban Platform (ADP) shall be guided by the principles of the Convention. This understanding was the basis for the agreement on the Durban Platform at COP 17.'

They 'reaffirmed that the objective of the Durban Platform is to enhance efforts of all Parties by further strengthening the multilateral rules-based climate regime and ensuring the full, effective and sustained implementation of the Convention after 2020'.

The Ministers added that 'the Durban Platform is by no means a process to negotiate a new regime, nor to renegotiate, rewrite or reinterpret the Convention and its principles and provisions. As agreed by all Parties, both the process and the outcome of the Durban Platform are under the Convention, in accordance with all its principles and provisions, in particular the principles of equity and CBDR and respective capabilities.'

In the context of the ADP, the Ministers 'stressed that the pre-2020 ambition should primarily be addressed in the context of actions of parties under Kyoto Protocol 2nd commitment period and the agreed outcome pursuant to Bali Action Plan and in accordance with the principles and provisions of the Convention, respecting the nationally appropriate mitigation actions already presented'.

They further 'underlined that the new market-based mechanism under the Convention requires the enhancement of emission reduction commitments by developed countries given their current low levels of ambition. In this context, the new market-based mechanism should be guided by the principles of the Convention, including CBDR and equity, and promote environmental integrity. They also emphasised that the framework for various approaches should not be decided in isolation and should also include the scope and nature of such approaches.'

According to the joint statement, the Ministers further 'underlined that the principles of the Convention should underpin the on-going discussions in the International Civil Aviation Organisation (ICAO) on international civil aviation emissions and in the International Maritime Organisation (IMO) on maritime emissions'.

'In the context of international civil aviation negotiations in ICAO, they rejected the unilateral approach of the EU under the EU-Emissions Trading Scheme and reiterated the importance of adhering to multilateralism. Further, there was a need to focus on the entire basket of measures and considerably enhance work on non-market-based measures. The discussion on market-based measures in ICAO, even if these market-based measures are undertaken within the national jurisdiction, should be based on the principles of the UNFCCC, environmental integrity, voluntary participation and not prejudge the outcome of the negotiations in the UNFCCC,' said the statement further.

The Ministers 'reaffirmed the importance of multilateralism in addressing climate change in accordance with the principles and provisions of the Convention and reiterated their strong opposition to any unilateral measures on international aviation and shipping as well as similar intentions regarding other sectors'.

They further emphasised 'the importance of adaptation and loss and damage for developing countries and underlined that particular focus should be given to enhance risk management, risk reduction, climate resilience and disaster response and to clarifying the institutional mechanism for addressing loss and damage'.

They also 'recognised the importance of the 2013-15 "review" under the UNFCCC and welcomed the reaffirmation that the review was not a review of the Convention itself and must include a review of the implementation of the commitments under the Convention'.

The Ministers also 'noted the recommendation of the BASIC experts to organise an international conference on scientific and technical aspects of black carbon and the need for further work for enhancement of knowledge and understanding of the potential role of black carbon in global warming, besides reduction of the extant uncertainty'.

They further 'noted the recommendation of the BASIC experts to devise a work programme on aspects, such as equity and the market-based mechanism, considered relevant in the context of international climate change negotiations. They requested BASIC experts to provide inputs for the 2013-15 review under the UNFCCC.'

The Ministers also 'requested the experts to engage on the IPCC 5th Assessment Report and inform them periodically'. They 'underlined their commitment to [the] unity of the BASIC countries and stressed the utmost importance of the unity of G77 and China, and reaffirmed the commitment of BASIC countries to strengthen it'.

The Ministers also 'underlined the urgency of tackling climate change, and reiterated their continued efforts to enhance South-South cooperation'.

The next BASIC Ministerial meeting will be held in South Africa in the second quarter of 2013. ◆

This article is reproduced from the South-North Development Monitor (SUNS, *No. 7528, 19 February 2013), which is published by the Third World Network.*

Twisted logic: no money for adaptation unless the rich can emit more and profit from it

The Adaptation Fund, which is supposed to help vulnerable developing countries adapt to climate change, has now been made dependent on carbon markets which in effect free the rich countries from their obligations to meet their emission reduction commitments, says *Nathan Thanki*.

The degree to which developing countries are able to adapt to the adverse impacts of climate change depends on the provision of adequate financial resources.

THE old axiom 'adapt or die' haunted the halls of the UNFCCC's 18th Conference of the Parties in Doha last December.

As has been made clear over 20 years of apathy and inaction within the negotiations, the industrialised world will do everything it can to avoid making serious emissions reductions. The resulting 0.8-degree-Celsius warming, and certainty of a further 0.8 degrees, means that those who are particularly vulnerable are forced to adapt to the adverse impacts of climate change.

For the majority of humanity living in the developing world the response to the climate crisis represents an additional burden. The degree to which the countries of the South are able to cope with the crisis depends, and always will depend, on the provision of adequate financial resources. This is true of mitigation action as well as adaptation action: as the Philippines wryly noted in Doha, 'We would like to do mitigation action, but first we must stop drowning.' The failure to provide adequate, predictable, and additional resources marks a double tragedy: not only does it undermine global efforts to curb emissions, it also undermines the poverty alleviation and sustainable development priorities of the South. Failure on finance is tantamount to condemning much of the world to poverty and vulnerability, and future generations to a 4-degree warmer world. And that's putting it politely.

Although there has been, since Copenhagen, an unelaborated and meagre promise from the industrialised nations for $100 billion in climate finance by 2020, there is no reason to believe it. For one, the desperately needed trust-building 'fast-start finance' $30 billion – used as a bargaining chip by the industrialised countries to avoid serious emissions reductions – has been proven to be redirected aid money, usually in the form of loans, and usually for projects that the donor nations prioritised (read: creating 'enabling' conditions for carbon markets). It has not been subject to agreed measuring, reporting, or verifying, which has led to serious discrepancies, and has largely been done bilaterally with no clear rules for eligibility and access. Basically, it was everything climate finance should not be.

The industrialised countries tell a different story, which they did gleefully in Doha at fast-start finance 'side-events' amid incredulous looks from their Southern counterparts. But they need to get their stories straight. They say the $30 billion was a 'one-off' that shouldn't be expected again while at the same time saying there is no need to worry about a lack of clarity on sources and measuring of long-term finance. They then applaud themselves for, among other things, establishing institutional arrangements like the Green Climate Fund (GCF).

Everyone is very excited about the GCF, and I suppose they should be. It took a long, hard negotiation process (driven by the developing countries) to arrive at it, and finally we have a counterbalance to the other 'operating entity' of the UNFCCC's financial mechanism, the Global Environment Facility (GEF), which developing countries have criticised for being overly donor-driven and unresponsive to COP guidance, among other things.

Matters pertaining to the GCF,

and its relationship to the governing body of the UNFCCC (the COP) were also on the table in Doha, but let's leave that for another day because we're overlooking some simple facts. The Green Climate Fund is not yet operational, and in any case is empty. Supposedly the GCF will allow for direct access of money for real on-the-ground projects – but there are also recurring concerns around private sector involvement and a potential imbalance between adaptation and mitigation funding. The adaptation gap that currently exists is huge – since inception the GEF has given $3 billion to mitigation projects and only $300 million for urgently needed adaptation.

A meeting of the Adaptation Fund Board which supervises and manages the Fund. While the Fund directly addresses developing countries' adaptation needs, its continued survival is being made dependent on carbon market mechanisms.

One Fund that we do not have to wait around for any longer is the Adaptation Fund. Born of a decision in 2001, it took eight years to become operational – which tells you something about the heel-dragging of the powerful nations. Yet it does exist, and has boots on the ground. It too allows direct access, provides money exclusively as grants (no loans which add to the vicious debt cycle) and is away from GEF control, even if the World Bank is the trustee. Basically, it is a Fund considered extremely important by the developing countries as it directly, and in a proper manner, addresses their adaptation needs.

But the Adaptation Fund is on life support. The report of the Fund's Board in Doha showed that unless something urgent is done, it could cease to exist. There have been donations, but nowhere near enough; fast-start finance oddly overlooked the Adaptation Fund. Projects in the pipeline may now miss out on expected funding.

Part of the solution, now part of the problem, is that the Fund is supported by carbon markets: 2% of sales of Certified Emissions Reductions (CERs) under the Clean Development Mechanism (CDM) of the Kyoto Protocol go into the Fund. The CDM is a 'flexibility mechanism' of the Protocol – a way for Parties to avoid failing to meet their (unambitious) commitments by paying for projects in developing countries that reduce emissions (it's very debatable if this is actually the case) which the Parties can then use to offset their own emissions.

In theory this would keep the Fund full. Reality, however, has a way of intervening and inconveniencing. The price floor has fallen out of the carbon market. As it now hovers at a mere 80 cents per tonne, the low price of carbon in the CDM means that the mechanism is failing. The real crime is that we are seeing an (ultimately futile) effort to ensure its survival by taking the Adaptation Fund hostage. New Zealand and Australia have listened to developing-country concerns, and in response, they have replied: the solution to this problem lies in our being able to access carbon markets. This orthodoxy is not limited to Parties: Halldor Thorgeirsson, the Director for Implementation Strategy at the UNFCCC secretariat, told me via Twitter, 'The Adaptation Fund depends on vibrant carbon markets since it get [sic] a share of the credits flowing from the CDM.'

In one fell swoop, the provision of resources to adapt to climate change has been made dependent on market mechanisms, when in fact what is needed is for the industrialised nations to meet their legal obligations and provide new and additional funding.

It gets worse though. Here's the killer: New Zealand, Australia, Japan and other rich nations want the CDM to be open to Parties that are not undertaking a second commitment period of emissions reductions under the Kyoto Protocol. This is an affront. What they are saying is: there will be no money to adapt unless you let us emit more and benefit from it! It is a sick and perverse logic that was smuggled into the discussion at Doha, where the major battles were around the future of the Convention itself.

In the end we were left pondering a fairly ambiguous decision that allows those industrialised nations who have parted with the Kyoto Protocol to 'participate' in its flexible mechanisms without buying or selling the credits. On an optimistic day we might take that at face value and say that effectively neuters the threat, but you can rest assured of two things. One: the imprecise definition of 'participate' is pregnant with the possibility of revisiting the whole issue of access. Two: the overwhelming push for 'new market mechanisms' is only beginning. In the meantime, and in the absence of the promised finance, it's still a case of 'adapt or die' for the world's most vulnerable. ◆

Nathan Thanki is a third-year Davis Scholar studying Human Ecology at the College of the Atlantic in Maine, USA. He focuses his studies on ecological economics, international environmental diplomacy and law, and identity politics. With the activist group Earth in Brackets he has attended several UN negotiations on biological diversity, sustainable development, and climate change, where he has tried to translate technical jargon for a broader activist audience. The above is a revised version of an article which appears on the Earth in Brackets website (www.earthinbrackets.org).

The World Bank and 'market readiness': A 'carbon bible' for Southern countries

While the rich countries are refusing to make the minimum carbon emissions cuts to save the planet, moves to promote market-based 'solutions' are proceeding apace. In a World Bank evangelisation crusade using a 'carbon bible', Southern countries are urged to advance legislation for assuring the provision of carbon credits. In parallel, a new 'Business Partnership for Market Readiness' aims to enhance the potential for international carbon trading models to emerge around the world. However, carbon markets have had, through the implementation of 'emissions saving' or offset projects, devastating social and environmental consequences.

Joanna Cabello

THE World Bank Carbon Finance Unit (CFU) comprises 15 different funds and uses money contributed by governments and companies in OECD countries 'to purchase project-based GHG [greenhouse gas] emission reductions in developing countries and countries with economies in transition'. The Bank initiated these mechanisms in 1999 which have grown from $145 million to $2.3 billion since 2000. The recently adopted Partnership for Market Readiness (PMR) fund focuses specifically on getting 'middle-income' countries to 'build readiness for using market mechanisms on a large scale'.

Launched during the climate talks in Cancun in 2010 and operational since April 2011, the PMR is a 'global partnership of developed and developing countries that provides funding and technical assistance for… piloting market-based instruments for GHG emissions reduction', using 'domestic emissions trading schemes (ETS) and scaled-up crediting mechanisms'. The aim is to develop carbon offsets 'beyond the existing CDM [Clean Development Mechanism]'.

In this way, the PMR sets the framework for carbon trading evangelisation across the South, targeting 16 'middle-income' countries: Brazil, Chile, China, Colombia, Costa Rica, India, Indonesia, Jordan, Mexico, Morocco, Peru, South Africa, Thailand, Turkey, Ukraine and Vietnam. On the other side, the fund has, as of December 2012, received pledges of $93.5 million from: Australia (12.5), Denmark (5.1), the European Commission (6.5), Finland (5.3), Germany (6.5), Japan (14.4), the Netherlands (7.0), Norway (5.8), Sweden (6.0), Switzerland (8.4), the UK (11.0) and the US (5.0). The largest share of this money will be allocated to creating systems for monitoring, reporting and verifying emissions in order to develop a system of tradable carbon credits.

Pushing ahead

By launching the PMR, the World Bank intends to push ahead with carbon markets regardless of the outcome of the UN climate negotiations. The same happened in 2007, when it launched its Forest Carbon Partnership Facility (FCPF), a 'market readiness' initiative for Reducing Emissions from Deforestation and forest Degradation (REDD+). As Benoit Bosquet, the Bank official who led the development of the facility, put it at the time, 'The facility's ultimate goal is to jump-start a forest carbon market.' This despite the lack of any UN agreement on REDD carbon markets.

As the European Commission points out, 'Regardless [of whether] the final decision on the establishment of new carbon market mechanisms will [be] taken under [the] auspices of the UNFCCC or via bilateral or multilateral agreements, the demonstration actions like the PMR will improve understanding on the options for practical implementation of new and scaled-up carbon market mechanisms.'

Promoting 'market readiness' is strategically important for the Bank and its financial backers in order to open up national (especially Southern) economies for carbon markets. By including technical, institutional and policy readiness elements, measures involve assessing what sectors to include in the trading; calculating a 'baseline' of existing emissions; creating a system of measurement, reporting and verification (MRV); and establishing a carbon credit registry and transaction log – which are basic instruments to account for carbon. The fund also paves the way for legal changes, including the drafting of new laws and regulations required to implement carbon markets. In this regard, the programme closely follows the format adopted in the 'REDD-readiness' activities of the FCPF fund.

During the PMR assembly meeting in May 2012, Mexico presented its process for 'market readiness' including a new 'climate change law' that allows for a voluntary emission reductions trade system. The pro-carbon-trading Mexican branch of The Nature Conservancy stated that 'this law is a starting point to which other norms have to be added, including the Mexican policies related to REDD+', which are undertaken in parallel under the FCPF fund. This however faces much opposition from the ground. Indigenous *campesinos* (peasants) in Mexico's Chiapas state, for example, declared: 'REDD+ is the new face, painted green by the climate crisis, of an old and familiar form of colonialism that advances the appropriation of lands and territories through dispossession, forced displacement, or the permanent leasing of land by indigenous communities.'

Under the PMR, each participant country has to elaborate a 'market readiness proposal'. Its approval determines the funding allocation decision – and the amount of funding. The PMR Secretariat will appoint two to four 'experts' to assess each proposal. A main criterion for evaluation is the 'role and relevance of market instruments to a country's overall mitigation strategy and rationale for the target sector/programme(s)/areas', including institutional arrangements that cover all 'market relevant elements'. The PMR expects five to six countries to start the implementation phase in 2013. It has agreed to a minimum funding of $3 million and maximum of $8 million per implementing country participant.

As the European Commission explains, each 'beneficiary country' will initially be allocated $200,000 to identify relevant sectors for the scheme, with an average of $5 million subsequently spent on 'programme implementation' in each participating country. Some $3 million will be dedicated to establishing systems for data collection, monitoring and reporting. However, much of the human and financial resources will have to be allocated by the 'beneficiary countries' themselves, with the PMR placing 'sources of additional finance' as a prerequisite for funding allocation.

Under this evangelisation crusade using a 'carbon bible', Southern countries are urged to advance legislation for assuring the provision of carbon credits. However, carbon markets have had, through the implementation of 'emissions saving' or offset projects, devastating social and environmental consequences. Territorial struggles, moreover, intensify as the rights to lands are separated from the rights to access and use as well as the rights to carbon. For this, laws are being 'adjusted' to open up national economies to 'free carbon markets' behind what seems to be technical, apolitical discourse. As a scheme created from above, carbon markets are designed and promoted by many of the same players involved in destroying the environment.

The Business Partnership for Market Readiness (B-PMR)

In October 2012, IETA, the International Emissions Trading Association, launched a new 'Business Partnership for Market Readiness' with the aim of enhancing the potential for international carbon trading models to emerge around the world.

The carbon traders lobby group is mobilising its membership of over 150 companies to assist in building business readiness for the new carbon markets 'in their infancy', working in close cooperation with the World Bank, its PMR and host governments. This scheme was conceptualised after several emissions trading sessions were carried out for Chinese industries and major emitters in Beijing in April 2012. Despite IETA's track record of influencing EU climate policy in the interest of its members, mainly with a view to expanding carbon markets while locking in a fossil-fuel-dependent economy, the B-PMR will, it is claimed, 'bring good business practices to host countries'.

The B-PMR is an initiative governed by the IETA Secretariat and the B-PMR Committee with underwriting from: Alstom, Baker & McKenzie, BP, Camco, Enel, GDF Suez, GreenStream Network, Morgan Stanley, Norton Rose, Rio Tinto, Shell and Statoil. IETA is the main lobby group for carbon traders. It represents most of the players with any significant interest in carbon trading, including companies such as Chevron, E.ON, ConocoPhillips and Drax Power Ltd. and many banks such as Deutsche Bank, Citigroup, BNP Paribas and Goldman Sachs International.

A series of 'Industry-to-Industry Emissions Trading Dialogues for the Next Generation of Carbon Markets' are being planned to prepare businesses in the PMR jurisdictions to operate in a new market and to help them to 'build their capacity to gain value from the market'. The B-PMR will also seek to assist in the policy development processes, as well as to inform discussions on the 'New Market Mechanisms' under design in UN talks.

The expansion of carbon markets in Southern countries represents what Henry Derwent, president of IETA, has referred to as 'a sectoral overcoming of common but differentiated responsibilities'. New market mechanisms attempt to chip away at the idea, enshrined in the UN Framework Convention on Climate Change, that industrialised countries have the current and historical responsibility for the climate crisis, and seek to extend further obligations to Southern countries, which until now have not been obliged to monitor their emissions.

Carbon markets leave the current system based on the logic of unlimited growth unchallenged, benefitting those players which created the climate crisis in the first place and neglecting, intentionally or otherwise, its destructive social and environmental impacts on the ground as well as the already serious consequences of climate change, especially for more vulnerable groups. ◆

Joanna Cabello is a researcher with Carbon Trade Watch and is also part of the Environmental Justice Project of the Transnational Institute (TNI). A fully referenced version of this article is available on the Carbon Trade Watch website (www.carbontradewatch.org), where it first appeared.

Carbon markets cannot deliver, say researchers

A recent report by a dozen researchers from around the world has charged that the move to establish carbon markets under the Clean Development Mechanism (CDM) in Africa has failed and is hurting the most vulnerable populations.

Nick Meynen and Khadija Sharife

THE financialisation of markets – a natural extension of capitalism – has created the perfect neoliberal storm. No longer are markets strictly limited to tangible goods and services, i.e., the real economy. These days, it extends to the expansion and proliferation of intangible and speculative assets such as carbon, locating emissions reduction in a futures market controlled by polluting elites. Better understood as 'first world' government politically-backed property rights over atmospheric ecosystems functions, emissions trading markets – specifically that of carbon – represent a bubble propped up by those seeking to eliminate a) origin and 'real seat' accountability in reductions and b) reparations from polluting elites for the lethal impacts. Nowhere is this scam more prominent than in Africa.

Yet, as EU carbon emissions permits drop to a record low price of under 6 euros a ton with no hope of recovery, many wonder why EU policymakers are trying to keep a zombified carbon market alive despite its obvious failings. The overload in credits is caused partly because limits on discharges were set before the euro area entered recession in 2008 and have not been tightened. Yet, the Clean Development Mechanism (CDM) market has even deeper flaws and is hurting and costing the EU, the climate and Africans. A recent report – 'The CDM Cannot Deliver the Money to Africa: Why the Carbon Trading Gamble Won't Save the Planet from Climate Change, and How African Civil Society Is Resisting' – explains why.

The 120-page report was published as part of the EJOLT (Environmental Justice Organisations, Liabilities and Trade) project. In the report, a dozen researchers from around the globe, under the guidance of Professor Patrick Bond from the Centre for Civil Society at the University of KwaZulu-Natal in South Africa, examine in full detail – and through case studies from South Africa, Niger, Kenya, Mozambique, Ethiopia, the Democratic Republic of the Congo and Tanzania – why and how the CDM has failed.

The West's strategy to reduce emissions is causing more harm than good to Africa – the continent that contributes the least to climate change but that suffers the heaviest. Disguised as a 'solution' to the climate change crisis, the CDM is now creating further injustice as the most vulnerable populations suffer the adverse impacts of mitigation and adaptation policies. This is not to mention a massive loss of the EU's supposed credibility as a leader in democracy, transparency and climate change legislation. Here are some of the key problems with the CDM:

• The idea of inventing a property right to pollute is effectively the 'privatisation of the air'.

• The most polluting corporations and the World Bank – which is most responsible for fossil fuel financing – are the driving forces behind the market. They engage in systemic corruption to attract money into the market even if this prevents genuine emissions reductions. Examples of proven fraud, suspected fraud and double-counting cover the big majority of projects.

• Many projects, such as monocultural timber plantations, forest 'protection' and landfill methane-electricity projects, have devastating impacts on local communities and ecologies.

• The carbon sequestered is often far more temporary (as trees die) than the carbon emitted.

• Carbon markets are fast becoming a multi-trillion-dollar speculative bubble, similar to exotic financial instruments associated with Enron's 2002 collapse.

• As a 'false solution' to climate change, carbon trading encourages merely small, incremental shifts, and thus distracts us from a wide range of radical changes we need to make in materials extraction, production, distribution, consumption and disposal.

After the launch of the report last April, the EJOLT team asked all companies that were written about for a reaction, through EJOLT partner Business and Human Rights. Four companies responded. None was able to challenge the fundaments of the research and the report's conclusions.

The authors of the report suggest an immediate moratorium on all new carbon credits in the CDM and the EU Emissions Trading Scheme (ETS) as a first step. Following this, they argue that the CDM and the ETS should be decommissioned – while maintaining and upgrading the level of emission cuts the EU has committed to. Finally, this decommissioning should not decrease adaptation money for Africa but increase it, for the simple reason that they have the right to compensation for the considerable damage caused by these carbon markets. A fair plan to stop climate change must look beyond market solutions to market failure and move towards recognition of responsibility for breaking the climate, binding emissions cuts and transfers to victims in order to foot the bill for the climate debt.

The full report is available on the EJOLT website www.ejolt.org. ◆

Nick Meynen is head of EJOLT's media arm. Khadija Sharife, an investigative journalist based in South Africa, is coordinator of EJOLT at the Centre for Civil Society at the University of KwaZulu-Natal.

NGOs call on EU to abolish its emissions trading system

The European Union's Emissions Trading Scheme (ETS), the world's largest carbon market, has been experiencing a price collapse in recent months. Moves to salvage it have provoked a storm of protest from civil society groups who have called upon the EU to scrap it altogether. *Kanaga Raja* reports.

HIGHLIGHTING several 'structural failures' of the European Union's carbon Emissions Trading Scheme (ETS), over 90 civil society organisations have called for the scheme to be scrapped in order to make room for climate measures that work.

The call came in a joint declaration titled 'It is time to scrap the ETS!', released by the groups on 18 February, just before the Environment Committee of the European Parliament voted on an EU proposal on the issue.

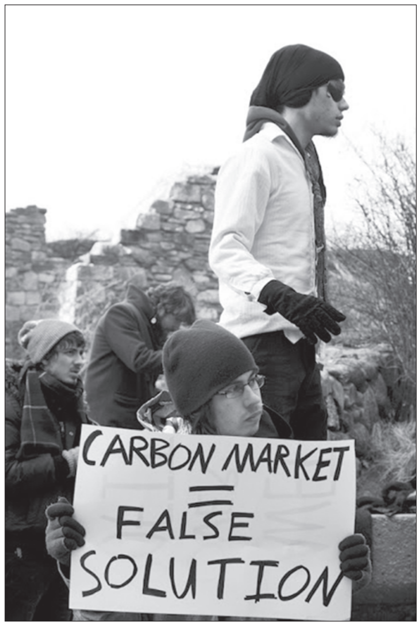
'After seven years of failure, the EU's claims that it can "fix" its collapsing Emissions Trading Scheme (ETS) no longer have any credibility. We believe that the ETS must be abolished no later than 2020 to make room for climate measures that work,' said the joint declaration.

In a press release accompanying the joint declaration, the organisations concluded: 'It is time to stop fixating on "price" as a driver for change. We need to scrap the ETS and implement effective and fair climate policies by making the necessary transition away from fossil fuel dependency.'

(The press release explained that on 19 February, the Environment Committee would be voting on an amendment to the EU ETS Directive, and that this proposed amendment was to adapt the auction timetable and enable the back-loading of permits.)

The groups have highlighted what they say are many structural loopholes facing the ETS, which the reform proposals that have been put forward by EU policymakers will not be able to fix.

Among the signatories to the joint declaration are ATTAC (Austria, France); Biofuelwatch (UK, US); Beyond Copenhagen Collective (India); several country chapters of Friends of the Earth; Confederation Paysanne (France); Carbon Trade Watch; Corporate Europe Observatory; Ecologistas en Accion (Spain); Global Forest Coalition; GRAIN; Indigenous Environmental Network; International Rivers (US); Oilwatch America Latina; REDD-Monitor; South Asia Network on Dams, Rivers & People; Third World Network; TNI – Transnational Institute (Netherlands); and World Rainforest Movement.



A protest against resorting to carbon markets to tackle climate change. Carbon markets like the EU's Emissions Trading Scheme close the door to other, genuinely effective climate policies.

According to the press release accompanying the joint declaration, the EU ETS created the biggest carbon market in the world and now serves as a model for other countries.

'China is setting up a system with EU support and is planning to link it to the EU ETS. Other countries and regions such as Brazil, Korea, Australia, California in the US and Quebec in Canada have similar plans. The failures of the ETS will also be exported to other areas, as it will be used as a model for trading other "ecosystem services" such as forests, biodiversity, water, soils and landscapes,' it cautioned.

'Although advertised as a way to fix the failing ETS, it [the European Commission's proposal] is nothing but a drop in the ocean. The EU's flagship policy to address climate change has diverted attention from the need to transform the system's dependency on fossil fuels and growing consumption, resulting in increased emissions. After seven lost years, it's time to make space for effective and fair climate policies,' said Joanna Cabello of Carbon Trade Watch, one of the declaration's signatories.

According to the joint declaration, the EU ETS was introduced in 2005 and gave rise to what is currently the largest carbon market worldwide.

It includes 'cap and trade' and 'offsets' systems which allow participants to buy and sell emissions permits and offset credits in order to comply with their reduction targets or simply to make a profit on the market. The idea is to reduce industrial greenhouse gas emissions cost-effectively by creating incentives for climate-friendly innovations and so move industry onto a low-carbon path.

'But the scheme has failed to do so. The EU's fixation on "price" as a driver for change not only has locked in an economic system dependent on polluting extractive industries – with fossil fuel emissions increasing sharply in 2010 and 2011. The failure is also set to spread more widely insofar as the ETS is used as a template for other carbon markets proposed for countries such as Brazil and Australia and as a model for other "ecosystem service" markets in biodiversity, water and soils,' said the joint declaration.

It noted that EU governments and the European Commission are determined to maintain the ETS as the central pillar of the EU's climate change policies, with Phase III getting under way in 2013.

Structural failures

The joint declaration went on to highlight a number of 'structural failures' of the ETS which it said cannot be fixed.

Firstly, it said that the ETS has not reduced greenhouse gas emissions. Benefiting from an excess of free emissions permits as well as cheap credits from offset projects in Southern countries, the worst polluters have had little to no obligation to cut emissions at source.

Indeed, the groups added, offset projects have resulted in an increase of emissions worldwide: even conservative sources estimate that between 1/3 and 2/3 of carbon credits bought into the ETS 'do not represent real carbon reductions'.

'The reductions reported after 2008 in the EU can be attributed mainly to the economic crisis – with the majority of studies agreeing on the little evidence for a causal link between reductions and the ETS.'

Export of industrial production to Southern countries is another source of 'reductions'. A study published in the Proceedings of the US National Academy of Sciences estimates that in some European countries, 'imported' emissions – not counted as European emissions – add up to more than 30% of the total.

Secondly, the joint declaration said that the ETS has worked as a subsidy system for polluters. The first two phases of the ETS (2005-07, 2008-12) allocated free permits according to historical emissions, acting as a de facto subsidy for the biggest polluters.

'The over-allocation of permits enabled the continued use of existing technologies and rubbed out any incentive for a transition towards low-carbon production processes.'

The groups cite research by CE Delft estimating that almost all of the cost of compliance with the ETS was passed through to consumers. The study suggests that windfall profits from passing through these 'costs' reached 14 billion euros between 2005 and 2008.

Electricity producers, too, are free to pass on to consumers the full 'opportunity cost' of compliance by increasing electricity prices, resulting in windfall profits of anywhere between 23 billion euros and 71 billion euros in the second phase.

The groups noted that industry lobbying has guaranteed that over 75% of manufacturing industry will continue to receive permits for free at least until 2020 (meaning extra revenue to polluters instead of state coffers of around 7 billion euros per year). Every attempt to end this handout has met strong lobbying from energy-intensive industries.

In Phase III, only the energy sector will be required to buy permits at auction, and even then, exceptions have been made for utilities in Central and Eastern Europe, including those with a high dependence on coal for electricity generation.

'None of this should be surprising, as the ETS was designed to appeal to industry. Oil giant BP, with the support of the UK government, was among the firms who lobbied the EU in its favour,' said the civil society organisations.

Thirdly, the joint declaration underlined that the ETS is characterised by volatile and declining carbon prices. Carbon prices have been continuously unstable, and declining overall since 2008. The historical minimum was reached in December 2012 with permits selling at 5.89 euros and offset credits at 0.31 euros.

'According to market analysts, there is no prospect of prices reaching levels that would [incentivise] any changes in energy-generating capacity. Even if very predictable high prices could somehow be engineered – which is the opposite of what the ETS is designed to deliver – they would be insufficient to incentivise the structural changes needed to address climate change in the absence of other measures.'

Fourthly, the joint declaration stressed that the ETS increases social and environmental conflicts in Southern countries. The ETS allows companies to use offset credits generated from 'emissions saving' projects implemented largely in Southern countries. The idea is that each tonne of additionally 'saved' carbon generates a credit that allows another tonne to be released somewhere else.

It noted that the Clean Development Mechanism (CDM), the biggest offset scheme, 'has been demonstrated to bring severe social and environmental consequences to communities where the projects are implemented, including land and human rights violations, displacements, conflicts and increased local environmental destruction'.

Yet, it added, in spite of growing evidence of negative impacts, offset use in the ETS grew by 85% in 2011. Many of the companies using offsets have also been selling their (freely awarded) permits, buying CDM credits at a significantly lower price and pocketing the difference.

'The offset projects under the [CDM have] actually increased emissions while causing land grabs and human rights violations, community displacements, conflicts and increased local environmental destruction,' said Isaac Rojas of Friends of the Earth Latin America and Caribbean (ATALC) in the press release.

'Other new market mechanisms and related financial products (such as forest carbon offsets and biodiversity offsets) follow the same logic which allows, and offsets, deforestation, forest degradation, biodiversity loss and water pollution,' he added.

Fifthly, the joint declaration said that carbon markets are particularly susceptible to fraud. 'To create tradable carbon units, measurement of pollution that has or has not occurred has to be carried out using proxy measures and other unreliable and often unverifiable calculation procedures open to abuse.'

In addition, it noted, in 2010, a vast 'carousel fraud' in the EU ETS was revealed to have cost the public more than 5 billion euros in lost Value-Added Tax (VAT) revenues. A German court jailed six people involved in a 300 million euro fraud selling carbon permits through Deutsche Bank, and courts in London jailed 11.

The groups pointed out: 'Big companies like steel producers ThyssenKrupp and Salzgitter have been outed as fraudulent carbon profiteers when, in December 2010, even pro-trading World [Wide] Fund for Nature demanded (unsuccessfully) that "the EU put a halt to the use of fake offsets".'

A few weeks later, credits from the Austrian and Czech governments were stolen, leading to a suspension of ETS market trading. The UN also had to disqualify its main CDM verification agency in 2009, and in 2011, had to suspend Ukraine due to emissions under-reporting fraud.

Sixth, the joint declaration said that public money is being squandered on setting up carbon markets that are unable to achieve a public purpose. 'Taxpayers are being forced to cover the cost of the legislation, regulation and much of the quantification that carbon markets require, as well as the cost of enforcement against fraud, theft, corruption, and tax evasion.'

It added that industries covered by the ETS 'gain subsidies for continuing to pollute, while governments allocate tax monies to compensate for excess emissions or to make up for the generous hand-out to ETS companies'.

It is estimated that Spain, for example, will need to buy more than 159 million offset credits abroad to achieve its Kyoto commitments.

'At a time when citizens are shouldering severe impacts from the economic crisis and "austerity" packages, scarce public money is being frivolously diverted toward corporate and banking sectors that created many of the problems in the first place,' the groups stressed.

'At a time when EU citizens are shouldering the cost of the economic crisis, they are also being forced to bear the cost of the legislation, regulation and much of the quantification of emissions that carbon markets require, as well as the costs of measures against fraud, theft, corruption, and tax evasion. Meanwhile, big polluters such as Arcellor Mittal and Lafarge make millions of windfall profits with over-allocated permits,' said Belen Balanya of Corporate Europe Observatory in the groups' press release.

Seventh, the joint declaration emphasised that the ETS locks in a fossil-fuel economy. 'The ETS reinforces the logic of overproduction and consumption based on fossil fuels. It allows more pollution while implementing "clean development" projects which in practice mainly harm local populations and environments. Coal fire plants, shale-gas, hydraulic fracturing and destructive infrastructure projects are being expanded in Europe.'

The ETS is not only increasing the environmental and climate debt that the industrialised North owes the Global South, it is also exacerbating the climate crisis worldwide – to the particular detriment of vulnerable groups, the declaration stressed.

Even the International Energy Agency has now admitted that at least two-thirds of remaining known fossil-fuel deposits have to be kept underground if the world is to achieve the goal of having a reasonable chance of limiting global temperature rise to 2 degrees Celsius (in itself an insufficient target).

'The ETS, if it is allowed to continue, will render this impossible,' the groups warned.

Finally, the joint declaration said that the ETS closes the door to other, genuinely effective climate policies at the same time that it reinforces false solutions such as nuclear energy, large-scale dams, agro-fuels and industrial tree plantations.

'For example, it discourages regulation that is seen to interfere with the carbon price. And instead of promoting a "zero-waste" philosophy, it encourages automated methane-capture schemes which require more rotting rubbish and which drive out informal waste-pickers and recyclers.'

In addition, it noted, the logic of pollution trading is now being applied to other arenas, such as biodiversity and water crises, resulting in the commodification and financialisation of more and more of nature's capacities, functions and cycles.

'The dangers are severe; avoiding them requires that the ETS be acknowledged openly as the disastrous precedent that it is. Failure to stop the ETS will result in yet more corporations profiteering at the expense of local populations, including Indigenous and forest-dependent peoples, small-scale farmers and women hosting ecosystem offset projects, together with communities living next to the facilities that buy the credits.'

Only one option

The groups cautioned that insisting on trying to 'fix' a system that is broken from the start diverts attention and resources away from just and effective policies. Exporting the ETS failure to other countries in the name of 'leadership' amounts to another wave of intervention in Southern countries, increasing the social and environmental debt of the North, they added.

Although European decision-makers preparing to review the ETS appear inclined to try to 'fix' the scheme for a post-2020 phase, the civil society organisations affirmed that there is only one option possible with a clear climate benefit: to end the scheme once and for all.

'The struggle against the ETS is the struggle for social, environmental and climate justice. It is a struggle for transforming our energy, transport, agricultural, production, consumption, distribution, disposal and financing systems. We call on civil society organisations and movements to endorse this call and join the fight to abolish the ETS,' the groups concluded.

To read the full text of the declaration or to sign on to it, go to scrap-the-euets.makenoise.org. ◆

Kanaga Raja is the Editor of the South-North Development Monitor (SUNS) *published by the Third World Network. This article is reproduced from* SUNS *(No. 7529, 20 February 2013).*

Democracy is the solution to the climate crisis

A healthy planet can only thrive in a healthy democracy, says *Maude Barlow*.

CAN democracy in crisis deal with the global warming crisis? Yes! But only by addressing the crises of democracy and climate together.

I see four steps.

Rein in the power of Big Oil

The crisis of democracy is largely fuelled by the unprecedented power of transnational corporations, and the richest, most powerful industry sector in the world is Big Oil. Not only does it influence elections, in many countries, it often sets domestic and international policy. In my country Canada, the energy industry wrote Prime Minister Stephen Harper and outlined the six environmental protections it wanted gutted so that it could build new pipelines – east, west, and south – unimpeded. In two recent budgets, our government fully complied, leaving our land, water, and air unprotected by law. Big oil companies, like other industry giants, are protected by bilateral, regional, and global trade and investment agreements that allow them to sue governments at will. US-based Occidental Petroleum successfully sued Ecuador under the US-Ecuador Bilateral Investment Treaty for $2.4 billion in compensation when that country terminated its contract after Occidental broke its terms.

The power of these corporations to influence politics and policies, as well as the trade deals that insulate them from the rule of law, must be ended if we are ever to move to alternative and sustainable forms of energy. Ending corporate rule would go a long way to restoring democracy.

The power of big oil companies to influence politics and policies must be ended if we are ever to move to alternative and sustainable forms of energy.

Reject carbon markets

Many environmentalists promote a market model to reduce greenhouse gas emissions. Governments set a cap on emissions and then sell emission permits that can be traded, bought, and sold in the market in the belief that putting a price on emissions will encourage reductions. But this market model is part of the problem. Carbon trading in effect privatises the atmosphere by creating a new form of property rights over natural resources and is predicated less on reducing emissions than on the desire to make carbon cuts as cheap as possible for large corporations. Carbon trading very narrowly measures success simply in terms of cost effectiveness and ignores issues of power, social justice, inequality, and community control over local ecosystems. Most important, carbon trading maintains the essence of the current growth model that has led us – and the planet – to the current crisis.

Carbon offsets are another ‘created commodity’ that lets consumers and corporations trade alleged good behaviour – such as investing in a tree plantation far away – on the open market in order to offset their right to continue to pollute. The carbon offset market is a multi-billion-dollar unregulated industry that permits the growth in trade of all kinds and lulls the public into thinking something real has been done for the planet.

Saying no to carbon trading will take the ‘solution’ to the climate crisis out of the market, where it is not open to public scrutiny, and pave the way for legislation that is transparent and accountable to the public, thereby addressing the current democratic deficit.

Promote climate justice

Climate justice is a worldview that sees the climate crisis as an ethical issue as well as an environmental one. It recognises that those most impacted by the climate crisis are often the least responsible for it and places greater onus on the countries of the industrialised North to curb their emissions. Climate justice is critical of the consumption and growth patterns of the wealthy. It exposes how the causes and effects of a consumer lifestyle perpetuate endless energy demands and relate to poverty, human rights abuses, inequality, and structural economic exploitation around the world. Climate justice recognises the unequal burdens created by climate change and the resulting struggle over land, water, culture, food sovereignty, and human rights. It is also highly critical of the false solutions put forward by governments and the energy industry, such as mega-dams, agro-fuels, tree plantations, and carbon markets. Hence the slogan, 'Change the System, Not the Climate'.

Defending the social and environmental rights of communities around the world, particularly those of indigenous peoples, is central to finding the solution to the climate crisis. So is recognising that local communities know best how to care for their land, water, and air. Climate justice requires addressing four key themes, says Mobilisation for Climate Justice: root causes, rights, reparations, and participatory democracy.

Climate justice advocates seek to expose how the consumption and growth patterns of the wealthy perpetuate endless energy demands and relate to poverty, human rights abuses, inequality and structural economic exploitation around the world.


One huge part of the solution to the climate crisis is the restoration of watersheds and the protection of surrounding wetlands and forests.

Protect water

When most people think of the climate crisis, they think only in terms of greenhouse gas emissions and global warming. If they think about water at all, it is as a victim of the climate crisis, not as part of the cause. However, human demand for water is escalating out of control, and we are quickly destroying our supplies of accessible water. This, in turn, is creating deserts that contribute to warming. We are now mining the groundwater far faster than it can be replaced by nature. Water is moved – from where nature has put it in watersheds and aquifers – either for flood irrigation for food production, or to supply the voracious thirst of mega-cities, where it is usually dumped as waste into the ocean. A recent study by Marc Bierkens of the International Groundwater Resource Assessment Center at Utrecht University says that a full quarter of the rising of the oceans is linked to the displacement of land-based water. Water is also lost to ecosystems in the form of virtual trade – water used in the production of crops or manufactured goods that are then exported. And urbanisation, deforestation, and wetland destruction greatly destroy water-retentive landscapes and lead to the loss of precipitation over the affected area.

One huge part of the solution to the climate crisis is the restoration of watersheds and the protection of surrounding wetlands and forests. Replenishing lakes, rivers, and groundwater will allow water to return to the atmosphere to regulate temperatures and renew the hydrologic cycle. This requires tough new laws to protect water, and that, in turn, protects the health and livelihoods of everyone who lives on that watershed.

A healthy planet can only thrive in a healthy democracy. Any solution to one crisis must be a solution for both. ◆

Maude Barlow is the National Chairperson of the Council of Canadians and chairs the board of Washington-based Food and Water Watch. This article is reproduced from the website of the Center for Humans and Nature (www.humansandnature.org).

Killer heatwaves and floods linked to climate change

Killer heatwaves, floods and storms are increasingly caused by climate change, new research reveals.

Stephen Leahy

SCIENTISTS in Germany say they have found how greenhouse gases from burning fossil fuels are helping to trap the jet stream, resulting in extraordinary weather such as the 2010 Pakistan flood and the 2011 heatwave in the United States.

Human-driven climate change repeatedly disturbs the flow of atmospheric waves around the globe's northern hemisphere, said lead author Vladimir Petoukhov of the Potsdam Institute for Climate Impact Research (PIK) in Germany.

Giant atmospheric waves called Rossby waves are meanders in the strong, high-altitude winds known as jet streams and have a major influence on weather. These wave movements are caused by the difference in temperatures between the cold air from the Arctic and hot air from the tropics.

When the waves shift north, they suck warm air from the tropics to Europe, Russia, or the US, and when they swing down, they do the same thing with cold air from the Arctic, said Petoukhov.

'During several recent extreme weather events, these planetary waves almost freeze in their tracks for weeks,' he said. 'So instead of bringing in cool air after having brought warm air in before, the heat just stays.'

This unnatural pattern is due to human heating of the climate through emissions of greenhouse gases that result from burning fossil fuels, according to the study published in *Proceedings of the National Academy of Sciences* in the week of 25 February.

However, this heating of the atmosphere is wildly uneven. The Arctic is warming two to three times faster than the global temperature rise of 0.8°C and that affects the Rossby waves and is slowing the jet stream.

Previous research

'[Our research] complements previous research that already linked such phenomena to climate change,' said Hans Joachim Schellnhuber, a co-author of the study.

Inter Press Service (IPS) previously reported research showing the dramatic loss of Arctic sea ice and rapid warming of the region was affecting weather patterns in the northern hemisphere.

The unprecedented expanse of ice-free Arctic Ocean has been absorbing the 24-hour sun over the short polar summer. The heat in the water must be released into the atmosphere if the ice is to re-form in the autumn.

'This is like a new energy source for the atmosphere,' Jennifer Francis, a researcher at Rutgers University, told the *Guardian*.

Major declines of Arctic summer sea ice as in 2011 and 2007 have been linked to colder winters in the UK and northern Europe, Francis said. The record ice loss in 2012 has been followed by a cold and stormy winter over much of Europe.

'The jet stream is clearly weaker,' said Francis. That means weather systems, be it rain or dry conditions, are slow to move on and last longer. Ultimately, this can result in 'blocking' events, such as the conditions that produced the terrible heatwave in western Russia during the summer of 2010 and floods in Pakistan, she said.

Last summer, Greenland experienced a similar blocking anti-cyclone, resulting in a record surface melting of its ice sheet. 'Blocks act like a traffic jam, slowing down weather patterns elsewhere,' Francis said.

Scientists are surprised by how extreme these changes have been with a relatively small amount of warming. That has prompted some to speak out politically to urge emission reductions. On 25 February, a group of Canadian and US scientists pleaded with the Canadian government to stop the expansion of the Alberta tar sands oil projects and take real steps to reduce carbon emissions.

Canada ranks 58th out of 61 countries according to the 2013 Climate Change Performance Index.

'The Canadian government has no credible plan for stabilising greenhouse gas emissions, much less reducing them,' Danny Harvey, a University of Toronto climate scientist, said in a statement.

Canada needs 'across-the-board deep reductions', Harvey said. 'Continued expansion of the oil sands operations runs counter to this imperative.'

The tar sands, also called oil sands, are responsible for about 300 million tonnes of CO_2 a year (production and consumption) – more than most countries. The industry, supported by the Canadian and Alberta governments, hopes to triple this amount.

In recent weeks, they have been heavily lobbying the new Obama administration to get approval for the Keystone XL pipeline. If President Obama approves it, Keystone XL will bring 800,000 barrels of tar sands oil south from Alberta to the US Gulf Coast every day for many years.

That decision is expected in a few weeks.

Last December, at the UN climate conference in Doha, Qatar, Schellnhuber declared: 'The first law of humanity is not to kill your children.' – *IPS* ◆

WORLD AFFAIRS

Honduras: War on the peasants

Since the 2009 coup when the country's lawfully elected government was toppled, Honduras' agro-oligarchy has intensified its bloody campaign to grab the land of subsistence farmers. *Eric Holt-Giménez* and *Tanya Kerssen* reveal how this 'War on Peasants' is being fuelled by the US 'War on Drugs'.

TWO more peasants were assassinated by paramilitary units on 2 February in Honduras. This brings the murder of subsistence farmers and indigenous leaders to over 60 since the Honduran coup d'etat in 2009.

Juan Peres and Williams Alvarado were members of the Peasant Movement for the Recovery of the Aguán (MOCRA), an organisation that seeks to protect peasant cooperatives from the rash of land grabs being carried out in Honduras.

In a country where a quarter of the arable land – the best land – is already monopolised by less than 1% of the farmers, the Honduran 'agro-oligarchs' want to acquire the 10% of Honduran land still owned by its peasantry (who make up 70% of the country's farmers).

People holding pictures of victims killed in the 'War on Peasants' in Honduras. Peasants trying to resist the rash of land grabs are often targeted by paramilitary groups and mercenaries hired by large oil palm growers.

It is easy to understand their voracity. The global demand for palm oil has tripled from two million to over eight million tons over the last decade. Thanks to renewable fuel targets in the US and Europe (that neither can fill with their own stock), lucrative markets are opening for agro-fuels. Financial investors view agricultural land as an $8.4 trillion market. The planet's land rush is heating up and Honduran elites are not going to be left behind in their own backyard. The Aguán Valley – where the two peasant activists were murdered – is the theatre for relentless grabs of peasant land.

Women have also been threatened – a form of intimidating whole families. On 23 October 2012, Karla Yadira Zelaya, spokesperson of the Unified Peasant Movement of Aguàn (MUCA), was kidnapped at 6:30 am at a bus stop in the area of El Carrizal. Karla was blindfolded while her captors interrogated her for three hours about the whereabouts of MUCA's leadership, before she was thrown out of the car.

The Afro-Indigenous communities in the Moskitia region are also being affected. A letter sent by Hon. Hank Johnson and 57 other Congresspersons to the US Department of State and the Department of Justice on 25 January called for a credible investigation into the US Drug Enforcement Administration (DEA)-instigated killings of civilians in Ahuas, including a youth and one pregnant woman. They also mention that Miriam Miranda, the Afro-Indigenous/Garifuna leader who has denounced collusion between government and narco traffickers in land seizures, has received death threats.

Indigenous and peasant people are caught between the land grabbers and the War on Drugs. On 11 May 2012, four indigenous villagers, including a 14-year-old boy, were killed during the course of a drug interdiction raid in Ahuas. Three others were seriously wounded. At least 10 DEA agents participated in the mission as members of a Foreign-Deployed Advisory Support Team (FAST), a DEA unit first created in 2005 in Afghanistan. According to the *New York Times*, Honduran police agents that were part of the 11 May operation told government investigators that they took their orders from the DEA.

How did the poor people living on Honduras' vast extensions of land become so 'expendable'?

This did not just happen overnight. The country has been militarised for over half a century, allowing the country's infamous 'ten families' to carry out national business with impunity since the Cold War. During Ronald Reagan's war against the Sandinista government of Nicaragua in the 1980s, vast areas of the border zone were occupied by US-trained 'contras' that violently displaced thousands of subsistence farmers.

There are three new elements at play today, however, that have reset the stakes and increased the human rights abuses in Honduras: the global pressure for agricultural land, the drug wars and the Honduran coup of 2009.

The coup that deposed democratically-elected Manuel Zelaya in June 2009 was angrily denounced by Latin American governments. The United States temporarily suspended aid to the coup government. An election largely recognised as fraudulent was held in November, thus allowing the Obama administration to resume aid to the country. President Porfirio 'Pepe' Lobo was in Washington DC for a photo-op in October 2011, in an effort to let the world know that Honduras was open for business. He quickly pushed legislation to favour investment in agro-fuels, tourism, forestry and mining. This turned up the pressure on Honduran land.

A protest march demanding 'No more killings of peasants in the Aguan' region of Honduras.

Honduras is one more case in the epidemic of global land grabs (what the World Bank likes to call 'large-scale land acquisitions') sweeping the planet. Hundreds of thousands of peasants and indigenous people are being violently displaced to make way for massive agro-fuel projects, hydroelectric dams, paper mills, gold mines and tourist resorts. In many cases buying up land is simply a hedge for investors. Estimates vary, but somewhere between 50 million and 227 million hectares have been grabbed, globally.

The difference in Honduras is that its land is being grabbed primarily by Hondurans. The agro-oligarchy set their sights on peasants' land back in the 1990s. The peasant organisations fought back through legal means, and were making progress towards reclaiming grabbed land and resolving disputes under the Zelaya administration. (All of this was reversed under Lobo, suggesting that crushing the peasant movements trying to reclaim their lands was a driving motivation behind the 2009 coup.)

The Honduran congress has found a novel way to open up land to foreigners through its new 'Charter Cities' law. Large areas of privatised territories are governed autonomously and bolstered by foreign investments. In what many are calling a 'mini-coup', the second version of this law was passed after the four judges who ruled the first attempt unconstitutional were fired. The 'uninhabited' lands targeted by Charter Cities are, as it happens, the ancestral territories of Honduras' Afro-Indigenous peoples. One Canadian investor, known as the Porn King because of how he made his fortune, has driven Garifuna inhabitants from their lands around the once-pristine bay of Trujillo, in order to build a jetty for tourism cruise ships.

The rulers of Honduras are able to carry out these land and power grabs largely thanks to the country's renewed militarisation with the War on Drugs. For over a decade, the Atlantic coast of Honduras has been a drug superhighway whose traffic, economy and cartel control were only gingerly disputed by the DEA and the Honduran military. With the coup, the Soto Cano US airbase near Tegucigalpa was given a $25 million facelift and two Atlantic naval bases were expanded. In 2011 the Pentagon increased its contract spending in Honduras by 71% to $55 million. Five more military bases have since been upgraded – spreading the US military presence to the entire country (General John F Kelly, head of the US Southern Command, just paid a visit to Honduras in January). The remilitarisation of Honduras has ushered in a thriving cottage industry of paramilitary units available to the highest bidder. Just imagine who has the inkling – and the money – to buy them.

The result has been called the 'War on Peasants'. Land that was distributed to peasants in the 1960s and 1970s is now violently up for grabs. Often organised in cooperatives, peasant farmers are desperately trying to fend off the grabbers. They have formed intra-regional federations and 'observatories' in an attempt to protect themselves legally and politically from dispossession. The leaders of these peasant organisations are targeted by paramilitary groups and mercenaries hired by large oil palm growers.

The silence on the part of the Obama administration is possible in part because Honduras is the 'unknown country' off the radar for most North Americans. Sanitising the violence of land grabs with terms like 'large-scale land acquisitions' and suggesting that they are 'forms of investment' in agriculture only serves to distort the issue. The drumbeat of the War on Drugs further drowns out the reality of human rights abuses on the ground. Even the media's exclusive attention to the War on Terrorism diverts our attention from the terror being visited upon Honduran peasants.

With all the high talk these days of saving the world from hunger, how is it no one steps forward to protect farmers when they are gunned off their land? ◆

Eric Holt-Giménez is executive director at the Oakland, California-based Food First (Institute for Food and Development Policy), where Tanya Kerssen is Research Coordinator. She is the author of the just released book Grabbing Power: The New Struggles for Land, Food and Democracy in Northern Honduras. *This article is reproduced from the Food First website (www.foodfirst.org).*

India undercuts tribal rights

The Indian government has recently moved to remove a key provision in forestry legislation which was designed to protect tribal peoples from major infrastructural projects that endanger their lands and livelihoods.

Ed McKenna

OVER a decade ago, the Dongria Kondh tribe – tucked away in the Niyamgiri hills, a mountain range in the eastern Indian state of Orissa – found itself under attack.

For centuries the tribe had lived peacefully in the hills, worshipping the sacred 'mountain of law' and protecting the forests surrounding it. But when the London-based Vedanta Resources mining conglomerate discovered a rich deposit of bauxite atop the same mountain, the community found their ancient land suddenly up for grabs.

Virppi Venell/IPS

An Adivasi tribesperson walks down a forest path in India's Chhattisgarh state. The rights of India's forest-dwelling communities to resist projects damaging to their environment and livelihoods are now under threat.

In 2006 the company inaugurated a factory at the foot of the mountain to convert the exceptionally high-quality bauxite into aluminium. Almost immediately, the tribal population began to feel the impacts of pollution in the air and water.

A huge push by international NGOs, local forest rights groups, tribal representatives and legal advocates finally managed to shut down the factory in 2012.

A crucial step along the way to victory was the amendment of the 2006 flagship Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, making it mandatory for developers to first obtain the consent of *gram sabhas* (or village councils) before commencing work on projects that would affect forest-dwelling communities.

Today, the fruits of that hard-won struggle – which secured some degree of protection for the rights and environment of endangered tribal communities in India – are once again under threat.

In February the Ministry of Environment and Forests (MoEF) retracted the clause in the 2006 Forest Rights Act (FRA) that gave tribal groups the power to reject major infrastructure projects that endanger their land and livelihoods.

The ruling, made public on 5 February, stated that 'linear' projects – meaning those involving the construction of roads and canals, and the laying of pipelines, optical fibres and transmission lines – will all be exempt from the need to acquire consent of village communities affected by the clearance, diversion and pollution of their forest land.

The government thus gave itself – and its many private partners – the green light to divert forests or displace tribal communities at will.

The ruling also effectively renders powerless the guideline contained within the FRA that 'no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed'.

Dr Swati Shresth from the Global Forest Coalition told Inter Press Service (IPS) the MoEF's ruling is 'a continuation of land grabbing and a violation of the rights of traditional forest dwellers in the name of development, economy and national good'.

The decision to exempt linear projects is the first step towards diluting the FRA, according to Ashish Kothari from Kalpavriksh, one of India's oldest development and conservation NGOs (see box).

'Over the last few years the government has hardly implemented the FRA, and now that communities are asserting their rights by using it to resist projects they consider damaging to their environment and livelihoods, the government is desperate to find ways to bypass them,' Kothari told IPS.

The recent controversial decision has sparked an outcry resulting in letters of protest to the Prime Minister's Office (PMO) signed by a coalition of international rights organisations including Oxfam and Rights and Resources, as well as a letter of protest signed by a large group of Indian lawyers.

Ruling against resistance?

For over seven years, India's village councils have leveraged provisions in the FRA to block attempts by the South Korean Pohang Steel Company (POSCO) to forcibly acquire their land.

In early February there were attempts to evict farmers from their land in the Jagatsinghpur district of Orissa, in order to make way for a giant, $12-

billion steel plant with a capacity of four million tonnes.

Various Indian and international organisations – including South Korean NGOs – have registered their disgust at the violent attempts to forcefully acquire the land.

According to a statement released on 3 February by the All India Forum of Forest Movements (AIFFM), 'Around 4,000 families who will be affected by the project do not want their homes and livelihood sources to be ceded for construction of the integrated steel plant.'

Thanks to the new ruling, these communities no longer have a legal leg to stand on in defence of their land.

In response to concerns that the recent decision could diminish the state's capacity to safeguard tribal rights, Tribal Affairs Minister Kishore Chandra Deo assured IPS that the government 'will always remain committed to strengthening the *gram sabhas* of India'.

In fact, last year, the Tribal Affairs Ministry wrote, 'The consent of the *gram sabha*, with at least a 50% quorum…is the bare minimum that is required to comply with the Act before any forest area can be diverted, or destroyed.'

That even this 'bare minimum' requirement has now been revoked does not bode well for tribal rights.

'By withdrawing this major provision, the government can pretend to hold "consultations" in the form of public hearings but negate the core principle of the FRA – the right of communities to determine what happens to their environment,' Shresth told IPS.

Making way for growth

According to Sanjay Basu Mallick from the AIFFM, 'This [decision is supposedly] about the county's flagging GDP and creating access for mining industries in the name of economic development.

'But in human terms this is an undemocratic step towards total neglect of the development and welfare of forest communities,' he told IPS.

Growth in Asia's third-largest economy slowed to its weakest in nearly a decade to 6.2% in the fiscal year ending in March 2012, announced the International Monetary Fund in a report released early February.

'In 2011/12, India's growth rate was 6.5%. That figure is expected to drop to 5.4% in 2012/13,' said the IMF.

The international lending organisation blamed a lack of investment in infrastructure and delays in land clearance for industrial projects as major reasons for the drop in GDP.

Prime Minister Manmohan Singh's government is taking steps towards boosting the economy, including a raft of pro-market reforms announced in 2012. Despite these reforms to restore growth, the IMF believes that 'more needs to be done'.

Last November, a leaked report from the Prime Minister's Office recommended 'diluting' tribal rights, likely in response to pressure from mining conglomerates and related industries to expedite clearance on major projects. According to the National Highways Authority of India, a total of 101 infrastructure projects, including 32 road projects, have been stalled due to clearance delays.

'The PMO has been lobbying the MoEF to amend the 2009 order due to increasing pressure from the private sector on him to speed up clearance for large mining operations to commence,' Basu Mallick told IPS.

The MoEF finally buckled last December, when it announced that existing coal-mining projects could bypass the process of a public hearing, as stipulated in the FRA, and receive a one-time capacity expansion of up to 25%.

That move now finds echo in the recent reversal of the FRA provision for tribal consent, experts say.

'The broad context to this is that in the blind pursuit of economic growth, processes such as local community consent are seen as impediments rather than essential aspects of a genuine democracy,' Kothari noted. – *IPS* ◆

Environment impacts

ACCORDING to Ashish Kothari from the conservation NGO Kalpavriksh, linear projects outlined as crucial for economic development often lead to a host of highly negative environmental consequences.

'Roads, railway lines and transmission lines through forests cause fragmentation and risk killing animals (dozens of elephants have been killed attempting to cross railways),' he told IPS.

'They also divide villages or clusters of villages, with serious impacts on social and economic relations. Linear projects through waterways can impact breeding of species by blocking their movements.' ◆

Manipadma Jena/IPS

Women from the Bhumia tribal community carrying baskets of tree bark and dried cowdung gathered from the forest.

Senegal growing up over marriage

Senegal is progressing, albeit slowly, in its campaign to eradicate child marriage.

Issa Sikiti da Silva

WHEN Abdoulaye Ba heard his local Imam in Dakar, Senegal, speaking out against child marriage, he found that the idea was not very palatable to him. As head of his family, he had intended to marry off his three teenage daughters.

Ba told Inter Press Service (IPS) that he had had 'big plans' for his daughters aged 12, 14 and 17. But now he is realising that it might not be the right thing for his children.

He talks about the issue with his Imam, Ibrahima Niasse, from time to time, he said. 'I think the more we talk and he puts his arguments on the table, the more I begin to understand that whatever reasons we have for pushing our kids to wed at an early age, they are nothing but a myth.'

Marriage before the age of 18 is a common practice in Senegal, with 16% of young women getting married and giving birth before reaching 15, according to a recent report by Senegal's National Agency of Statistics and Demography.

A '2010 USAID-Senegal Gender Assessment' report, published in April 2012, states that the country ranks 27th out of 68 countries surveyed in terms of girls marrying before the age of 18.

But Niasse has decided to speak out against the practice. 'I used to resist change, but now I'm convinced that this practice is indeed evil and has nothing to do with Islam,' Niasse told IPS. 'My approach is easy and very friendly, it starts like a family visit and a simple chat, and later we start debating it.'

The Imam is among a growing number of people in this West African nation calling for the abandonment of early marriage, according to Tostan International, a human rights NGO operating in the country.

Asked how his message was being received, Niasse said, 'So far, so good. *Inshallah*, one day they [people] will change [their minds about child marriage].'

Issa Sikiti da Silva/IPS

Child brides in rural Senegal at work. Marriage before the age of 18 is a common practice in Senegal, with 16% of young women getting married and giving birth before reaching 15.

By now, some 427 communities in southern Senegal have abandoned the practice, according to Tostan International. But more people like Niasse are needed to spread the message.

'Because Imams are already respected leaders in their communities, and are sought after for advice, they are already well placed to spark positive change in their community,' Amy Fairbairn, a spokesperson for the organisation, told IPS.

'We find that when women, men, children, [and] community and religious leaders learn about human rights and the rights of all the members of their communities, they lead their own social change.'

In addition to being a human rights abuse, child marriage constitutes a grave threat to young girls' lives, health and future prospects, according to the 2012 report 'Marrying Too Young – End Child Marriage' released by the United Nations Population Fund.

Leela* is a case in point. At only 18, she has been married for two years already and has a one-year-old child. Unable to go to school and forced into an early marriage by her family, she feels trapped.

'I don't like this so-called marriage. But I have no choice, since my parents forced me to marry this older man, who happens to be the son of my aunt. I have no formal education and therefore no future.'

'I feel imprisoned,' she told IPS.

She said her husband prohibited her from befriending girls her age in their area, telling her that the city's unmarried women are 'prostitutes and devils who can easily poison her mind'.

But not everyone is convinced that early marriage is wrong. Aissatou Diakhate, 62, was 15 when she married her cousin.

'What's the fuss about this so-called child marriage? This is our tradition and culture – something we inherited from our forefathers and which we are merely practising,' Diakhate told IPS.

'Girls nowadays wear mini-skirts and run after boys, and the next thing, a girl will tell her mother that she is pregnant or infected by some odious disease. It's better to give her in marriage to someone older who will take care of her and guide her to the way of religion before she shames her parents, and brings dishonour to the family. Is that a sin? We need to be left alone.'

Fairbairn said that consensus to abandon child marriage takes time to build across social networks and must be community-led. Tostan, for one, encourages community members to make a public declaration abandoning early marriage.

'In areas where the decision to abandon child/forced marriage is met with resistance, communities organise outreach with all stakeholders until consensus is reached.'

Niasse is optimistic that more people will change their minds about early marriage, but he is realistic, too.

'This practice has been in our country for many decades, it won't go away overnight. It will take time.' – *IPS* ◆

* *Name changed to protect identity.*

South America: A panorama of media democratisation

While not without controversy, the moves over the last decade and a half by a number of Latin American governments to democratise the media have resulted in the redefinition of media from a commodity to a people's right. *Alexandra Hall* traces the changes.

MEDIA in Latin America have traditionally been consolidated into the hands of a few wealthy families and large media conglomerates. Over the last decade and a half, however, several governments in the region, including Venezuela, Ecuador, Argentina, Bolivia, and Uruguay, have moved to democratise media. These governments have redefined the concept of communication from a commodity to a people's right. They have moved to redistribute the airwaves, prioritising local community stations and passing laws to prevent the discrimination of marginalised groups in broadcasted content. These steps have not been without controversy.

Although grassroots movements and community activists applaud them, organisations such as the Inter American Press Association (IAPA), the Committee to Protect Journalists, and Human Rights Watch have labelled them a threat to press freedom in the hemisphere. Below is a short panorama of the most groundbreaking or controversial media-democratisation steps in Latin America over the past 15 years, and some of the responses from local actors.

Venezuela

In 2000, Venezuelan lawmakers reformed the country's Organic Telecommunications Law in order to guarantee access to communication as a human right and establish three types of media: private, state and community. In 2002, manipulated television footage from mainstream Venezuelan channels was used to justify

A community radio station broadcasting from a Caracas neighbourhood. Community media in Venezuela has received significant support from the government.

a short-lived coup d'etat against President Hugo Chávez. After Chávez returned to power, the government began providing support for community media produced in Venezuela's poor barrios by authorising the legal operation of 30 community TV and radio broadcasters.

In 2004, the National Assembly passed Venezuela's most controversial media regulation, the Social Responsibility in Television and Radio Law (Ley Resorte), which prohibits outlets from airing content that incites hatred, intolerance, racism, criminal activity; disturbs public order; discredits elected authorities; or incites disrespect for laws.

Three years later, Venezuela's National Telecommunications Commission (CONATEL) chose not to renew RCTV's concession in response to the channel's open support for the 2002 coup. The non-renewal withdrew RCTV's right to air content on public airwaves, but the station continues to operate on cable and satellite TV. A new public access network, TVes, began to broadcast in RCTV's place. In 2009, CONATEL announced the closure of 32 private radio and TV stations whose licences had expired, which had violated regulations, or were reluctant to pay mandatory fees. The concessions were reassigned to community media. In late 2010, the National Assembly reformed the Ley Resorte to expand its scope to the Internet.

The spectrum of Venezuela's airwaves has changed dramatically as a result of these policies enacted over the past 14 years. While in 1998, the broadcast spectrum included 331 commercial and 11 public access FM stations, in addition to 36 private and eight public television broadcasters, by April there were 499 private, 83 public access, and 247 community radio stations, as well as 67 commercial, 13 public service, and 38 community television concessions.

The US Senate Foreign Relations Committee and mainstream US human rights organisations, like Freedom House and Human Rights Watch, typically ally with Venezuela's opposition commercial media, which have condemned the Chávez administration's media policies. They criticise community media for being clients of the state that merely reproduce government ideology. Venezuelan grassroots media producers deny these claims and stress that dramatic improvements have taken place in media inclusion since the government began offering concessions and subsidising telecommunications projects for community media.

Uruguay

In 2007, Uruguay's General Assembly passed the Law for Community Broadcasting, formally recognising community TV as a sector of the nation's airwaves. Beforehand, community, alternative, and non-profit media, including university TV and radio stations, were considered to be operating illegally. By the end of the first year of the law's implementation, 38 community radio stations had been recognised by the Uruguayan government. Four years later, over 100 are in operation. With the recent digitisation of TV, the government predicts that dozens more will be created over the next year.

According to former National Telecommunications director Gustavo Gómez, economic interests have firmly resisted the changes in regulation and diversification of content, but by inviting media owners to participate in the elaboration of this law it has helped to avoid polarisation.

Argentina

In 2009, Argentina's congress passed the Audiovisual Communications Services Law to change the unequal concentration of media ownership by redistributing broadcasting licences among three sectors: 33% private, 33% public, and 33% non-profit. The law limits the number of concessions any broadcaster may hold to 10 and establishes that concessions be renewed every 10 years instead of 20 so that licences are recycled more frequently and smaller outlets have more opportunities to compete.

Shortly after its passage, the United Nations Special Rapporteur for Freedom of Opinion praised the law as 'a stride forward in Latin America against the increasing concentration of media'. However, according to the director of Argentina's Radio Production Center, Francisco Godinez Galay, media ownership has yet to be significantly adjusted.

The law has garnered strong opposition, particularly from Grupo Clarín, Argentina's largest media conglomerate. Grupo Clarín is particularly critical of Article 161, which the company fears could force it to break its monopoly, decreasing the company's concessions to just 10 in one year. Grupo Clarín supporters also argue that the law is a pretext to unfairly target media companies critical of Cristina Fernández de Kirchner's government.

The Coalition for Democratic Broadcasting, a group composed of hundreds of grassroots organisations and independent media producers, prepared 21 points for the law, many of which were included in the final legislation. Nevertheless, independent media groups like the National Alternative Media Network believe the classification of 'non-profit media' hinders the participation of some local and community broadcasters because they have to compete with powerful religious associations and unions for concessions.

Bolivia

In 2009, 61% of Bolivian voters approved the Bolivian Constitution, which states that 'media are forbidden from directly or indirectly forming monopolies or oligopolies'. The following year, Congress passed the Law Against Racism and Any Form of Discrimination, which reformed the penal code to ban media from promoting racist or discriminatory ideas. Private media networks in Bolivia labelled it the 'muzzle law', warning that it could be used as a pretext to target those media that oppose the presidency.

In 2011, Bolivia's National Congress passed the General Telecommunication, Information and Communication Technologies Law, which is modelled after legislation in Argentina and Ecuador, except that 17% of broadcasting licences are reserved for indigenous, peasant, or rural organisations and 17% for urban civil society organisations. Private media criticise that proportional redistribution of concessions will decrease the number of licences held by current media owners. Nevertheless, Eduardo Rojas, executive director of the Redes Foundation for Sustainable Development, an organisation that helped to write the new telecommunications regulations, says that the digitisation of TV and radio is expected to expand the number of broadcasting frequencies fourfold and that the expansion of public and community media in peripheral regions won't affect private media concessions, which concentrate in the country's metropolitan centres.

Ecuador

Ecuador's Organic Communications Law has been in a congressional stalemate for two years. Like the laws in Argentina and Bolivia, it would redistribute the broadcasting frequencies into three equal sectors: 33% private, 33% public, and 34% community. According to José Ignacio López Vigil of the community radio organisation Radialistas Apasionadas y Apasionados, while Ecuador's 2008 constitution officially recognises community media, they hold almost no concessions.

If passed, the law would require regional and national broadcasters to air 40% nationally produced content and 10% independent programming. Fifty percent of on-air music would be required to be nationally produced. According to López Vigil, broadcast-licence holders would be limited to one television station and one FM and one AM radio frequency. Advertising that targets children and adolescents as well as any discriminatory or hate-inciting homophobic, sexist, or racist content could be legally processed under the law. At present, 71% of radio and 85% of TV is private in Ecuador. ◆

Alexandra Hall is a graduate of Columbia University's Institute of Latin American Studies. She is a producer and co-host of NACLA Radio. *This article is reproduced from* NACLA Report on the Americas *(Fall 2012), which is published by the North American Congress on Latin America (NACLA).*

VIEWPOINT

'Culture' as a camouflage of reality

'Culture' has now become the buzzword to explain the failings of an intractable social and economic reality, says *Jeremy Seabrook*.

WHEN I was a child – before a National Health Service was established in Britain – the great 18th century bulk of the Infirmary shadowed the streets where we lived. The people would pass by hurriedly, believing that these were places where people went to die; once inside, you would be lucky to see the light of day again. When my grandmother fell and broke her hip, she lay in bed for 13 weeks before succumbing: this only confirmed what everybody thought they knew about hospitals.

The National Health Service (NHS) was to have done away with such prejudice. The welfare state, benign, compassionate and kindly, would transform the way we thought about health and sickness. The fear of being ill because of the cost would be lifted from the people. No more would women hide the growth beneath their pinafore, struggling on until they could scarcely walk, nor men cough until their lungs had wasted away beyond help.

Hospitals were transformed. Light and airy wards, the latest technology, miracle drugs and the best of treatment for all would lift the stigma of hospitals as holding-stations for the dying. The old superstitions would be swept away. The wonders of modern medicine replaced the fatalism that when your time had come there was nothing to be done about it.

The recent scandal at the Mid Staffordshire Health Trust in the West Midlands, described in detail in his report by Robert Francis QC, tells a story that makes one wonder whether those people who saw hospitals as antechambers of death were not perhaps, after all, right. Hundreds of patients died needlessly between 2005 and 2009. The report is a catalogue of neglect and denial by staff obsessed with targets and the managerial 'throughput' of patients rather than with the care and comfort of individuals. It was only thanks to the tenacity of a group of people whose loved ones had died needlessly, often from causes unrelated to their original condition, that the inquiry was held at all. The concerns of grieving relatives were originally brushed aside, denied or ascribed to a desire to 'make trouble'. The corporate culture was the culprit.

The inquiry into the Mid Staffordshire hospital scandal pins the blame on an unhealthy 'culture'. 'Cultures, malleable, as readily put on or set aside as a garment, have become the arena in which change is possible.'

The report made 290 recommendations, including regulation of 800,000 health care assistants who do much of the basic care of patients, a legal 'duty of candour' compelling staff to own up to errors and managers to face disqualification if they fail to 'deliver' good care, and a prohibition on personnel concealing medical and procedural errors.

It is, however, the general conclusions which ought to give pause for thought. Francis declared, 'Individuals and indeed organisations acting in accordance with a culture, even a negative or unhealthy one, cannot always be held personally responsible.' Much is made of the 'culture' of the NHS, which focussed on systems and ideology rather than the needs of patients.

Cultural determinants are to blame, and the eminent QC is at pains to exculpate those individuals who bore the values of that 'culture'. Despite the excessive number of deaths, no one can be found to accept responsibility: the culpable can bathe in the healing waters of an impersonal culture.

Defective 'cultures'

In the week when the 'culture' of hospitals came under attack, the culture of banking was also – yet again – in the spotlight. The Royal Bank of Scotland was fined £390 million for its role in rigging the inter-bank lending rate, the so-called Libor rate. There was a culture of manipulation; safeguards, watchdogs, audits, systems and controls were all faulty. Some brokers believed the rules did not apply to them. A culture of impunity has been discovered in banks which, because of their critical importance in sustaining the economy, must not be allowed to collapse.

This does not exhaust the list of defective 'cultures' in Britain which came to light recently. Michael Gove, the Education Minister, forced to abandon some of his 'reforms' of the education system, nevertheless insists that he will continue to tackle 'the culture of competitive dumbing down', and demands 'a decisive shift in the culture', away from 'small-c conservatism'.

Why is there suddenly so much talk about 'cultures'? How come that the apologists of the status quo have become anthropologists, Malinowskis of the shires, Talcott Parsonses of suburbia? How can Conservatives talk so glibly about changing cultures, as though this could be accomplished by the flick of a switch? What term of convenience is this, and what is this benign euphemism designed to conceal?

It is now acknowledged almost without challenge that Western society has reached such a state of perfection that it requires no alteration; is this not the template for a whole world anxious to emulate our achievements? Equally true is it that the economy is also unchangeable: in spite of the failure of banks, the tenets of balanced books and deregulated finance now have the allure of scriptural revelation, and fairy-stories for adults are now widely circulated about geese that lay golden eggs, magic wands and financial wizardry. Since these great monuments to universal civilisation are no longer susceptible to improvement, the concept of 'culture' has been introduced as a painless (and one suspects, quite ineffective) alternative. It can be flourished like a banner at all the recalcitrants and deniers of progress, since cultures are now discovered to be as mutable as the British climate.

The culture of banking was in the spotlight when the Royal Bank of Scotland was fined £390 million for its role in rigging the Libor lending rate.

This is why we hear of a 'culture of bullying' in schools, a 'culture of disrespect', a 'culture of violence', a 'culture of neglect', a 'culture of alcohol-fuelled crime'. Cultures, malleable, as readily put on or set aside as a garment, have become the arena in which change is possible.

Easy response

Culture, then, is camouflage, the easy can-do response to intractable social and economic reality. As far as the Health Service is concerned, the policies of the Coalition government – with its insistence on savings, cuts and organisation changes – will lead to an even more business-driven model, which was at the root of the callous myopia of personnel under the same baleful imperative. Privatisation of health care by stealth is the objective beneath all the prescriptions for shifts in institutional culture, and the demand that we change 'the way we do business'. Stress on the aberrant culture of banking has, of course, a quite different aim – the maintenance of the existing order, mending the system and preserving the primacy of London in the global financial services sector, since money is the principal item of manufacture in this former workshop of the world. The educational cultural change is in the interests of reverting to a more rigidly hierarchical structure, where the vocation of power is distinguished from the lesser callings of the multitude.


The proposed educational cultural change in the UK is 'in the interests of reverting to a more rigidly hierarchical structure, where the vocation of power is distinguished from the lesser callings of the multitude'.

One lesson from the distant and discredited 1940s might be useful. My relatives, who distrusted the Infirmary, retained a justifiable diffidence in their response to all official efforts to improve, correct or chasten them. Such scepticism is required more than ever now, in a dispensation from which both society and the economy have absconded, and where we are left with nothing but the anthropological cult of cultures in and out of which we can slip at will. ◆

Jeremy Seabrook is a freelance journalist based in the UK.

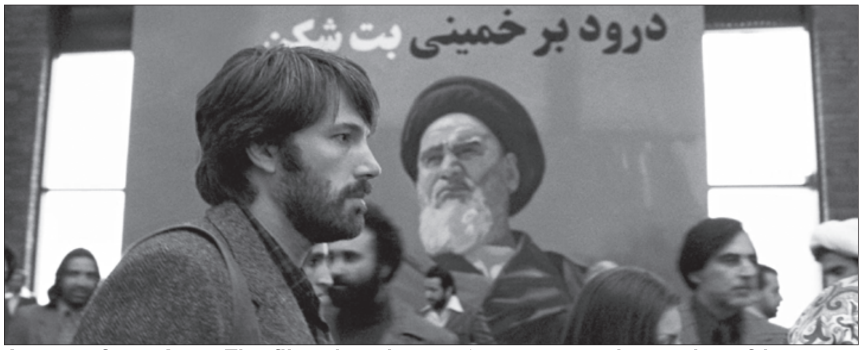
VIEWPOINT

Argo as Orientalism and why it upsets Iranians

Ben Affleck's Oscar-winning film, *Argo*, about the escape of some US diplomatic personnel from Iran during the 1979 US embassy hostage crisis functions as American propaganda and a sort of neo-Orientalism, says *Juan Cole*.

THE taking of US diplomatic personnel hostage by radical Iranian activists and angry crowds in November of 1979, and then the backing for this action of the government of Ayatollah Ruhollah Khomeini, was profoundly illegal. I know some of the former hostages, and deeply sympathise with their trauma. Nothing justifies what was done to them.

But Ben Affleck's otherwise fine, Oscar-winning film, *Argo*, about the escape of some US embassy personnel functions as American propaganda and a sort of neo-Orientalism. That it was based on a memoir of the incident by a former Central Intelligence Agency (CIA) operative involved in the rescue is part of the problem. That memoir is a primary source and valuable, but good history, and good storytelling about history, weights sources and tries to correct for their biases. *Argo* does not. Some of the Iranian objections to the film are equally grounded in propaganda concerns, but some are legitimate.



A scene from *Argo*. The film plays into a 'war on terror' narrative of innocent Americans victimised by essentially deranged foreign mobs.

Lack of context

It isn't just that the memoir slights the massive contribution of the Canadian embassy and Canadian diplomats to the mission and plays up the relatively minor CIA role. (Virtually every good idea that contributed to the success of the rescue came from Canada, but somehow American movie audiences insist that it all has to be about us.) Nor that Britain's important role is denied and even denigrated. Nor is my main objection that a whole series of exciting events are invented that never occurred. It is that the entire context for these events is virtually absent and the Iranian characters are depicted as full of mindless rage.

Although the film begins with an info-dump that explains that the US screwed over Iran by having the CIA overthrow the elected government in 1953 and then helped impose a royal dictatorship in the form of the restored Shah, that part of the film is emotionally flat. It tells, it doesn't show. It is tacked on. It does not intersect with the subsequent film in any significant way. It therefore has no emotional weight and does little to contextualise the Iranian characters (none of whose names I think we even learn).

Former hostage and superb American diplomat John Limbert makes the same point in *Foreign Policy*:

'*Argo* highlights the negative attitudes that the two countries have held toward each other for decades. Its brief introduction attempts to provide historical context behind the embassy takeover, but the film does not convey the prevailing Iranian sense of grievance – real or imagined – that led to the 1979 attack, and to the emotional response in the streets of Tehran . . . More than three decades later, the same atmosphere of suspicion, mistrust, and festering wounds dominates Iranian-American relations.'

You could have had Iranian characters angry that the American-backed Shah or king, Mohammad Reza Pahlevi, had arbitrarily imprisoned them or their friends among the dissidents, and had subjected both intellectuals and members of openly revolutionary groups to torture and murder in prison. That would not in any way have justified what was done to Foreign Service Officers of the US State Department, but it would have humanised the Iranian villains of the piece and made the film more complex and less like a comic book.

Argo could have been a moment when Americans come to terms with their Cold War role as villains in places like Iran. It could have been a film about what intelligence analysts call 'blowback', when a covert operation goes awry. Instead it plays into a 'war on terror' narrative of innocent Americans victimised by essentially deranged foreign mobs.

Muhammad Sahimi writes on the Tehran Bureau website:'Mehdi Rezaei, an MKO member, was arrested in April 1972 and executed that September at the age of 20, after enduring horrific torture. Ali Asghar Badizadegan, one of the MKO's founders, was forced into an electric oven according to his comrade Lotfollah Meysami. He was burned so badly that he became paralysed, and the SAVAK refused to turn over his body after he was executed in May 1972. As Ali Gheissari writes in *Iranian Intellectuals in the Twentieth Century*, under Sabeti the Committee was also "responsible for the arbitrary detention, interrogation, and torture of many university students during that period".'

The Shah's feared secret police, and his entire repressive regime, did not function completely on their own. They had been installed by the US in cooperation with far-rightwing Iranian generals and the Iranian equivalent of billionaires, and SAVAK and the regime continued to have close links to the CIA. It is alleged that some of the torture techniques used by the Shah's SAVAK were taught to them by the CIA. And, it is further alleged that the CIA itself had front groups on and was active in spying on Iranian campuses, in parallel to operations such as COINTELPRO in the US. The anti-Shah Iranian students piecing together shredded US embassy cables in Tehran weren't looking for photos of the escaped diplomats, as *Argo* implies. (There was no last-minute identification of them or car chase on the tarmac – that was all made up.) They were looking for evidence of the ways the intelligence officials under cover at the embassy had been monitoring them and their friends and putting them in torture cells.

Shah Mohammad Reza Pahlevi *(right)* **with US President Dwight Eisenhower during the latter's 1959 visit to Iran. 'The US government did whatever it could to back the Shah and protect him from international criticism.'**

Such spying on Iranian dissidents was a very minor part of what US intelligence was doing in Iran at that time – allegedly only three field officers even knew Persian. Mostly they were using Iran as a listening base to spy on the Soviet Union. But keeping Iran subservient and docile was key for Washington to remaining able to deploy its petroleum for Western economic success versus the Warsaw Pact and Communist China, and to being able to use Iran for monitoring the USSR. Hence, some resources were also devoted to repressing critics of the Shah. And while liaising with SAVAK to arrest intellectuals and dissidents may have been a subsidiary effort for the Agency, for those whose lives were ruined by the Shah's apparatus of repression, it rather bulked large.

Iranian students with one of the American hostages after occupying the US embassy in November 1979. *Argo* 'does not convey the prevailing Iranian sense of grievance... that led to the 1979 attack'.

The US embassy personnel taken captive were not responsible for the Shah and what he did to the Iranian people, but the US government did whatever it could to back the Shah and protect him from international criticism.

The Iranian crowds are depicted in the film as irrational mobs. The Revolutionary Guards at the airport are depicted as angry puritans, worried about Marvel artist Jack Kirby's somewhat salacious storyboards for the proposed *Lord of Light* film that the CIA optioned for the operation (based on a novel by Roger Zelazny). No Iranian character in the film who has a legitimate grievance against US policy is permitted to be sympathetic or to have any intimate moments that would humanise him or her.

The film tells but doesn't show some of the US atrocities in Iran. It shows the plight of the hapless US diplomats. In making that key dramatic decision, and then in Orientalising the Iranian protagonists as angry and irrational, the film betrays its subject matter and becomes propaganda, lacking true moral or emotional ambiguity. Roger Zelazny's and Jack Kirby's *Lord of Light* would have been more nuanced. ◆

Juan Cole is Richard P Mitchell Collegiate Professor of History at the University of Michigan in the US. His most recent book is Engaging the Muslim World *(Palgrave Macmillan, 2009) and he also recently authored* Napoleon's Egypt: Invading the Middle East *(Palgrave Macmillan, 2007). This article is reproduced from his Informed Comment website (www.juancole.com).*

Chile's *Pablo Neruda* (b. 1904), arguably Latin America's greatest poet, died 40 years ago but the circumstances of his death (whether he was the victim of the Pinochet dictatorship) have recently come to the fore. We publish below the opening poem from his *Canto General* (General Song), his epic history of Hispanic America.

Amor America (1400)

Pablo Neruda

Before the wig and the dress coat
there were rivers, arterial rivers:
there were cordilleras, jagged waves where
the condor and the snow seemed immutable:
there was dampness and dense growth, the thunder
as yet unnamed, the planetary pampas.

Man was dust, earthen vase, an eyelid
of tremulous loam, the shape of clay –
he was Carib jug, Chibcha stone,
imperial cup of Araucanian silica.
Tender and bloody was he, but on the grip
of his weapon of moist flint,
the initials of the earth were
written.

No one could
remember them afterward: the wind
forgot them, the language of water
was buried, the keys were lost
or flooded with silence or blood.

Life was not lost, pastoral brothers.
But like a wild rose
a red drop fell into the dense growth,
and a lamp of earth was extinguished.

I am here to tell the story.
From the peace of the buffalo
to the pummelled sands
of the land's end, in the accumulated
spray of the antarctic light,
and through precipitous tunnels
of shady Venezuelan peacefulness
I searched for you, my father,
young warrior of darkness and copper,
or you, nuptial plant, indomitable hair,
mother cayman, metallic dove.
I, Incan of the loam,
touched the stone and said:

Who
awaits me? And I closed my hand
around a fistful of empty flint.
But I walked among Zapotec flowers
and the light was soft like a deer,
and the shade was a green eyelid.

My land without name, without America,
equinoctial stamen, purple lance,
your aroma climbed my roots up to the glass
raised to my lips, up to the slenderest
word as yet unborn in my mouth.

Translated by Jack Schmitt