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Durban: Post-COP17 Briefing

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Summary

The 17th annual UN Climate Conference (COP17) took place in Durban, South Africa from November 28 to the early hours of Sunday December 11, making it the longest climate summit on record.

A year after Cancun had resuscitated the process following its near collapse in Copenhagen, Durban's purpose was threefold. One, it needed to consolidate the process and advance the developments from Cancun. Two, it had to deal with the vexed question of the Kyoto Protocol's future. And three, it needed to give clarity to the direction and outcome of the overall negotiating process. In all three respects it largely succeeded.

Unfortunately, the conference failed to directly address the large elephant in the room – namely, the gap between country actions and the actual level of ambition required to avoid dangerous climate change. Parties again kicked agreement on firm emission reduction targets to the next COP.

Despite this, there is reason for optimism. The process remains alive and indeed has been strengthened. Countries remain committed to it and the principles that it embodies (e.g. international collaboration, rule-based environmental governance, collective responsibility etc). The agreement to reach a new global deal by 2015 also shows that parties recognize that 'bottom-up' action alone will be insufficient to address the emissions gap and that 'top-down' measures are still critical for scaling up action.

Perhaps most importantly, the operationalization of a range of new institutions and institutional processes could provide the basis for greater bottom-up action and transparency of efforts. Crucially, this would help build confidence and trust amongst parties. Since these are the elements so often missing from negotiations, Durban's long-term legacy may well be institutional.

It goes without saying that the next four to five years will be critical in determining whether the world moves to a low carbon development pathway or locks itself into a high carbon one. To achieve the former and avoid the latter, the debate needs to move from one of 'shared pain' to one of 'shared gain'.

In this regard the work of sub-national governments and the actions of business leaders will be essential. By demonstrating the 'art of the possible' at the practical level, these low carbon, clean-tech, resource-efficiency driven leaders can play a disproportionate role in building the confidence and enthusiasm for action that will deliver a truly ambitious and effective deal in 2015. Supporting and catalyzing this leadership is the focus of The Climate Group's own program of work in the lead-up to 2015.

Key Durban Outcomes

— Establishment of a new negotiating process – the 'Durban Platform' – to agree a new, legally binding global climate deal by 2015, with entry into force by 2020
— Extension of the Kyoto Protocol with agreement to a second commitment period from 2013 to either 2017 or 2020 (exact end date to be confirmed at COP18)
— Operationalization of a range of new 'Cancun' institutions and processes, not least the new 'Green Climate Fund'.

Implications from Durban

Political

— Reaffirmation of support for the process sends an important political message about countries' commitment to collective action and the overall direction of travel
— All major players provided with 'political wins' of some kind, allowing them to deal with domestic criticisms without undermining international progress. EU is arguably the biggest winner
— Exit of Canada, Russia and Japan from further Kyoto commitments could create a new 'low-ambition' group with the US, but impact as yet unclear. 2012 US elections could change things – for better or for worse
— Intentionally ambiguous language about future global deal papers over some key remaining divides between countries, but provides the space for continued discussion
— The shift to a single negotiating track beyond 2012 represents further erosion of the 'firewall' between developed and developing countries.

Environmental

— The window for keeping the global temperature increase below 2^{o}C has closed further, with parties committing to a deal in 2015 they should have closed in Copenhagen in 2009. Six valuable years have arguably been lost
— The continuing lack of certainty about emission reduction targets puts the world on a trajectory towards 3-4 ^{o}C of warming or perhaps more
— Any targets that are agreed next COP are likely (certain?) to be those already pledged (i.e. following Copenhagen), leaving a large 'ambition gap'
— On the upside, the new 'Review Mechanism', the draft findings from the next IPCC Assessment Report, and the mainstreaming of low-cost, low-carbon technologies in the next 4-5 years could provide the political motivation and means for much greater ambition by 2015. (That at least is the glass-half-full scenario).

Practical

— Some legal uncertainties remain about how the second Kyoto commitment period will enter into force on time, but practical impacts of a gap seem likely to be minor. Key Kyoto rules and flexibility mechanisms are likely to continue operating without being seriously impacted
— The operationalization of new 'Cancun' institutions and institutional processes are likely to have the most immediate impact on climate action
— New Monitoring, Reporting and Verification (MRV) reports and guidelines should provide developing countries with the kind of empirical information they need for better, more effective policy making
— The operationalization of the Green Climate Fund (GCF) has the potential to drive transformative financing in developing countries, but key issues e.g. sources of finance, need to be resolved first
— Establishment of a new Climate Technology Centre and Network (CTCN) could provide a critical hub for improving understanding of technology supply and demand needs at a practical level between governments, private sector technology providers and other stakeholders
— New work programs looking at establishing new market mechanisms and frameworks for their assessment, could see accelerated expansion of such mechanisms in the short to medium term
— Agreement on Adaptation Committee composition and modalities will bring coherence and strategic guidance to the broad suite of existing adaptation programs
— Decisions relating to Carbon, Capture & Storage (CCS) in the CDM, agriculture, and addressing deforestation, are all likely to have positive impacts in the near term.

Structure of this briefing

The remainder of this briefing is split into the following sections and subsections:

Part II: Key Outcomes

Part III: Implications from Durban

— *Political Implications*
— *Environmental Implications*
— *Practical Implications*

Part IV: Country Reactions

— *United States*
— *China*
— *European Union*
— *India*
— *Australia*

Part II: Key Outcomes

Table 1 below sets out details of the key outcomes from Durban. As with every COP, a range of other decisions were also agreed dealing with technical or implementation issues under the UNFCCC and the Kyoto Protocol. These are not covered here.

Table 1. Details of the Key Outcomes from COP17

Key Outcome	Details
1. New negotiation process – the 'Durban Platform' – to agree a new global climate deal established	- Officially the new process is the '*Ad Hoc Working Group on the Durban Platform for Enhanced Action'* - Includes all countries, both developed and developing - Negotiations to be concluded no later than December 2015 (i.e. COP21) - Outcome is *"...a Protocol, another legal instrument, or an agreed outcome with legal force…applicable to all Parties..."* - Outcome is *"…to come into effect and be implemented from 2020."* - Work to begin in the first half of 2012 when a 'work plan' will be developed - Parties have agreed to raise the level of ambition for action, informed by next IPCC report[1] (due 2015) and the new UNFCCC 'Review Mechanism' (see below)
2. Second Kyoto commitment period (2CP) agreed	- To commence 1 Jan 2013 for either five years (to 2017) or eight years (to 2020) – Parties to agree exact period at COP18 - Negotiations on new emissions targets to continue through 2012 and be agreed by COP18, when the 2CP negotiation process will be concluded (seven years after they began) - Key agreements also reached on emissions from land-use and forestry; emissions trading; and the use of project-based mechanisms. - EU, Norway, Switzerland, Australia and New Zealand have all committed to a 2CP – subject to certain conditions in some cases. - Japan and Russia have formally stated they will not take on further commitments - Immediately after COP, Canada officially announced its decision to withdraw from the Protocol in its entirety - Total global emissions likely to be covered under 2CP will be around 15% - down from approximately 30% for 1CP - Parties to assess and address the implications of the carry-over of unused carbon units from 1CP to 2CP in 2012

[1] The Assessment Reports of the Intergovernmental Panel on Climate Change (IPCC) provide a consensus opinion amongst countries concerning the latest findings from the climate science community.

3. Key elements of 'Cancun Agreements' operationalized	*Climate Finance* - '*Green Climate Fund*' (GCF) for mobilizing $100 billion per annum by 2020 given governing mandate, legal personality and operational directions - Tender process established for selecting host country of the GCF - UNFCCC Secretariat and the Global Environment Facility (GEF)[2] given interim responsibility for '*facilitating immediate functioning of the GCF'* - Interim arrangements to run no later than COP19 (December 2013) i.e. host country to be selected by then at latest - Separately, a '*Standing Committee*' to improve coherence and coordination of all climate finance under the UNFCCC established - Also, a work program on '*Long-term Financing*' established in 2012 with the aim of identifying sources for new GCF
	Monitoring, Reporting & Verification (MRV) – Dev'd Countries - Guidelines adopted for new 'Biennial Reports', which are to be submitted by developed countries from January 2014 - New 'modalities and procedures' also adopted for '*international assessment and review*' (IAR) of developed country mitigation targets, actions and other commitments
	Monitoring, Reporting & Verification (MRV) – Dev'g Countries - Guidelines adopted for new 'Biennial Update Reports', which are to be submitted by developing countries from Dec 2014 - New 'modalities and guidelines' also adopted for '*international consultation and analysis*' (ICA) of developing country mitigation actions - Details further elaborated and agreed of a mitigation action '*Registry*' for developing countries seeking financial and technical support
	Adaptation Committee - Modalities, membership and operating rules of the Adaptation Committee agreed, thus allowing for its effective, operational establishment in 2012. - Committee will provide coherence and enhanced action across the variety of UNFCCC adaptation initiatives already in existence.

[2] An independent international financial organization established by governments in 1991 as a multilateral funder of environmental projects in developing countries. The GEF acts as a financing entity for a number of UN environmental treaties, including the UNFCCC.

	Technology Mechanism - Terms of reference adopted for the '*Climate Technology Centre and Network*' (CTCN) – the operational arm of the '*Technology Mechanism'* established at Cancun - Tender process launched for selecting host of CTCN, with shortlist by mid-2012 and final decision at COP18
	New Market Mechanisms - New market mechanism '*defined*' (NB: rather than actually 'established') to '*enhance cost effectiveness and to promote mitigation action'* for both developed and developing countries - A work program for 2012 established to elaborate modalities and procedures for the new mechanism (NB: seen by some Parties as a big brother to the existing Clean Development Mechanism – CDM) - Separately, another work program also established to consider a '*framework*' for assessing new market mechanisms to ensure they meet environmental standards
	Review Mechanism - Scope and modalities of Review mechanism further defined - Confirmation that first review of adequacy of 'long-term global goal' (NB: yet to be agreed by Parties – see footnote 5) and progress towards achieving it, will start in 2013 and conclude by 2015
	Capacity Building - Annual '*Durban Forum'* established to discuss and share best-practice, experiences and ideas on capacity building - Forum to be held during each annual COP
	Deforestation and Degradation (REDD+)[3] - Agreement reached that finance for '*results-based actions*' can come from a variety of sources, e.g. public, private, multilateral, bilateral and alternative sources - 'Consideration' that market-based approaches could be developed to support results-based actions by developing countries

[3] Reducing Emissions from Degradation and Destruction (REDD) of forests. The '+' extends the definition to sustainable forest management and conservation and various related issues e.g. indigenous rights.

	Other issues - No progress on how to address international aviation and shipping emissions – '*consideration of issues to continue*' - New forum established to implement a work program to address the issue of '*Response Measures*'[4] - A number of difficult issues, including '*Shared Vision*'[5], Intellectual Property Rights (IPR), and certain REDD+ elements, were not resolved and simply carried forward to 2012
4. Process	As a result of the decisions taken in Durban there will be three parallel negotiations running in 2012: - The new 'Durban Platform' process - The existing 'Convention Track' (est. in 2007 at COP13)[6] - The existing 'Kyoto Track' (est. in 2005 at COP11)[7] Parties have agreed that both the Convention and Kyoto tracks will complete their work at COP18, ending the two-track 'Bali Road Map' process and leaving only a single track process from 2013

[4] This is a core issue for OPEC members who are concerned about the negative impact developed country 'response measures' (e.g. driving more fuel efficient cars) will have on their oil exports and hence their oil-dependent economies.

[5] 'Shared Vision' negotiations are meant to agree a common view and understanding of what the long-term goal (i.e. global emission reduction target) is and the factors affecting its achievement (e.g. finance, technology, how to share responsibility). The variety of views on the issue has made these negotiations complicated and difficult.

[6] Officially the 'Ad-hoc Working Group on Long-term Cooperative Action Under the Convention' or the 'AWG-LCA'

[7] Officially the 'Ad-hoc Working Group on Further Commitments for Annex I Parties to the Kyoto Protocol' or the 'AWG-KP'

Part III: Implications from Durban

Political Implications

Support for process reaffirmed

The reaffirmation of support for the UN negotiating process by all parties was arguably the most important political signal delivered by Durban. While last year's COP in Cancun had resuscitated the process after Copenhagen, the risk remained that any number of issues on the table in Durban could have derailed the talks. The fact that parties were able to navigate their way through the maze of issues and deliver a number of substantive decisions conveys three important messages:

i) Countries still value the process and recognize its benefits
ii) Countries support a rules-based regime
iii) Countries remain committed to establishing a new, legally binding deal to tackle climate change collectively.

Although the speed and scale of action still falls short of what is required, the direction of travel is at least the right one. This is important as it will provide many governments (and by extension businesses) with the confidence to maintain existing climate programs and perhaps even increase the level of domestic ambition. The Australian Government, with its recent, and hotly debated, introduction of comprehensive climate legislation, is one obvious beneficiary in this respect.

'Intentional ambiguity' delivers political 'wins' for all major parties

In terms of the political implications for the major players, each can point to important 'wins'. For the EU, the conference was undoubtedly a political and diplomatic success. The three key outcomes that were achieved, particularly the establishment of a new negotiating process with a clear deadline, largely mirrored the EU's own objectives going into Durban. By taking the lead in supporting a second Kyoto commitment period, the EU also regained a degree of leadership within the negotiations. This enabled it to build a coalition of well over 100 countries (largely developing) in support of the new 'Durban Platform' process, putting pressure on the other major emitters to follow suit.

While admitting (as the EU had done) that the outcome was not all they had sought, the US, China and India can also point to important political gains. For the US this includes agreement on the new guidelines and modalities for monitoring, reporting and verification of developing countries' (read: China's) mitigation efforts. In terms of the new Durban Platform, the intentional ambiguity of the decision ('…*a protocol, another legal instrument, or an agreed outcome with legal force…applicable to all Parties…')* and its date of entry into force (2020), provides the US with enough wriggle room and/or time to deal with the domestic constraints that currently hamper its international engagement.

The ambiguity also works for China and India. It provides sufficient flexibility to negotiate how a future global deal might be applied and does nothing to obviously undermine the developing country interpretation of the 'common but differentiated responsibility' (CBDR) principle. That said, the shift to a single negotiating track from 2013 will put both countries under the spotlight in terms of new commitments that other parties (both developed and developing) will increasingly expect of them. In the meantime, both China and India can point to the success in securing a second Kyoto commitment period and the operationalization of the Green Climate Fund and other new bodies, such as the Adaptation Committee.

Beyond Kyoto: Bottom-up vs Top-down

Developing country success in 'saving Kyoto' (as many t-shirts in Durban demanded) was tainted by Canada's, Japan's, and Russia's refusal to join the second commitment period. All three countries are likely to consider Durban something of a success, since not only did they extract themselves from the Protocol, they also secured the single track process they have long argued for. The question now is whether Japan and Russia withdraw from the Protocol entirely as Canada did the day after the conference. In any case, all three have firmly aligned themselves with the US and a 'bottom up' pledge and review approach to climate action.

Whether there is any political fallout for Canada, Japan and Russia from leaving Kyoto remains to be seen, but in the eyes of environmental groups at least they have created a low-ambition, coalition of the unwilling. The extent to which this group supports any increase in ambition moving forward will depend to a large extent on the US. A shift in ambition – either positive or negative – following next year's Presidential election, will almost certainly calibrate the positions of the other countries in the same direction.

How the split of developed countries into two groups (i.e. EU-led 'top-downers' and US-led 'bottom-uppers') influences the Durban Platform process is yet unclear. On the one hand, the US-led approach may gain more traction, given that developing countries favor, and see the benefit of, bottom-up style commitments (at least for themselves). On the other hand, many developing countries also want to see top-down targets imposed on all major emitters, so the political momentum may swing behind the EU-led group. A hybrid outcome of some kind seems the most likely result.

Divisions remain but 'firewall' slowly eroding

What does seem clear is that the main issues that have divided developed and developing countries to date (e.g. common but differentiated responsibility – or 'CBDR' – level of ambition, provision of finance and technical support to developing countries) are unlikely to go away. Indeed, it seems certain they will reappear in the Durban Platform negotiations as parties begin discussion on the work plan for this new process in 2012. The extent to which issues and divisions are simply 'cut and paste' from one process to another will depend on how successfully parties manage to tie up the existing two-track process, which is meant to conclude over the coming year.

Durban also maintained (and arguably strengthened) an important political meta-trend, that began with the Copenhagen Accord. This is the gradual shift away from the simple binary division of countries as established by the UNFCCC in 1992.[8] The decision in Durban to move to a single negotiating track from 2013, and the convergence in the type of commitments countries are likely to take on, underlines that the so-called 'firewall' separating developed and developing parties is eroding. This transition to a more dynamic definition of country responsibilities and capabilities will take time and will be politically challenging. But from an environmental perspective such a shift is essential if the international community is serious about tackling climate change.

Environmental Implications

Six lost years?

The new 'Durban Platform' process is likely to be in many ways simply a continuation of the current 'Convention' track negotiation. This process was established five years ago at COP13 in Bali and should have concluded in Copenhagen with its own 'agreed outcome' covering all major emitters, including the US and China. In other words, Parties have committed, albeit in slightly stronger language, to an outcome in 2015 that they should have delivered in 2009. Given recent warnings from the likes of the International Energy Agency (IEA) about the closing window for action[9], countries may come to rue these 'lost years'. Nevertheless, this new agreement will cover all countries and all emissions, something as yet not achieved in the more than twenty years of climate negotiations.

Heading for a four degree world?

Durban did little to raise the level of ambition with respect to emission reductions. Indeed, mitigation targets or actions are conspicuous by their absence from the key decisions agreed in Durban.

The lack of quantifiable commitment explains why many observers have argued that Durban has placed the world on a trajectory towards 3-4^{o}C of warming, rather than the supposedly 'safe' 2^{o}C agreed to in Cancun. Parties have instead pushed any decision on targets (for developed countries) and mitigation actions (for developing countries) to COP18. It seems almost certain that the any final decision will simply inscribe the pledges countries originally made following Copenhagen and subsequently included in the Cancun Agreements.

The ambition gap

As commentators have previously noted[10], these pledges are likely to leave an 'ambition gap' in terms of where emissions are and where they need to be. Closing the

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[8] Codified in Annex I of the UNFCCC, which lists the world's 41 most developed countries as they were in 1992. These countries are referred to as Annex I parties, while all remaining countries are referred to as non-Annex I parties.
[9] The IEA's 2011 World Energy Outlook concluded that the world had a five year window to take action to avoid locking itself into a high-carbon pathway. See: http://www.iea.org/press/pressdetail.asp?PRESS_REL_ID=426
[10] See for example Project Catalyst's assessment http://project-catalyst.info/images/1.%20Limiting%20global%20warming%20to%202%20degrees/Publication

gap by COP18 seems unlikely at this stage for a number of reasons. The Obama administration, for one, has little desire or incentive to improve on its 17% target in the midst of a Presidential election campaign[11]. As noted already, this will calibrate the ambition of Canada, Japan and Russia.

The one bright spot could be the EU. Having secured agreement to a new global treaty by 2015, it may decide that it can now lift its 2020 target from 20% to 30%[12]. Equally, continuing financial and economic uncertainty in Europe could negate such ambition. Given the political restrictions on the US and EU, the major emerging economies are unlikely to move beyond their own existing pledges either.

If the Copenhagen/Cancun pledges are locked in at COP18, raising the level of ambition before 2020 through the UNFCCC process could prove difficult. Once attention becomes focused on the Durban Platform negotiations and the post-2020 period, countries may feel less pressure to increase ambition in the interim. Two factors give reason for optimism, however, one internal and the other external.

Reasons for hope?

The internal factor is the new Review Mechanism, which will deliver its first report by 2015 – informed in part by the next IPCC Assessment Report due out at the same time. It is hard to see how this report could be anything other than damning of countries' collective efforts, given what is already known about the consequences from the current lack of ambition. While the report will primarily inform the Durban Platform process, it many also spur more immediate action, perhaps through unilateral or plurilateral efforts, in the 2015 to 2020 period. This at least would be the hope.

Such additional efforts will depend to a large extent on the external factor; namely the expected mainstreaming over the next four to five years of a range of low-cost, low carbon technologies. If solar PV and wind energy, for example, gain wide spread grid parity with coal-fired power generation, governments are likely to be more willing to move faster and further than is the case today. The rapid cost reductions achieved across a number of technologies in the last five years, plus unilateral policy shifts already undertaken by both national and subnational governments, lends some confidence to achieving this glass-half full scenario.

Practical Implications

Implementing the 2nd Commitment Period (2CP)

Despite reaching agreement in Durban to implement a 2CP from January 1, 2013, the practicalities of how exactly this will happen are less clear.[13] The first step is the

s/1.%20Taking%20Stock%20%28on%20website%20already%29/Project_Catalyst_Taking_Stock_February22_2010.pdf

[11] The US' pledge is a 17% cut by 2020 compared to 2005 levels

[12] The EU's pledge is a 20-30% cut by 2020 compared to 1990 levels

[13] This problem was meant to have been avoided by starting negotiations seven years before the end of the first commitment period. This was in part ensure sufficient time for Parties to go through any domestic processes they were obliged to follow.

inscription of new targets in an amended Protocol. Parties have agreed to do this at COP18, i.e. less than a month before the 2CP is meant to begin.

The outstanding question is whether governments then need to revert to their parliaments for domestic approval. Australia and New Zealand, for example, have argued that they do in reservations included in the relevant Durban decision. Provisional application of treaties is not uncommon, however. New Zealand at least has done this in the past with other agreements, although whether it is prepared to do so again is not yet clear. The EU and its member states have not included any similar reservations.

The impact of a legal 'gap' between the first and second commitment periods is largely symbolic, however. In environmental terms, the on-the-ground effect of any gap – certainly in the 2012 to 2015 period – is likely to be minor. This is because the policies and measures determining climate action immediately post-2012 are already in place amongst the 2CP supporters.[14] Given there was no improvement in the overall level of ambition as a result of Durban, these parties are under little pressure to change these existing policies.

The one area where delayed domestic approval could impact countries is through denial of access to the Protocol's flexibility mechanisms, particularly the CDM. However, because the targets to be adopted under a 2CP are likely to be modest (which would reduce the need for additional carbon credits) and given that countries only need to account for their final target at the end of a commitment period, any short-term restrictions are unlikely to cause any concern for affected parties.

Another outstanding issue, which is set to be dealt with in 2012, is how to deal with unused emission allowances (or 'AAUs') from the first commitment period. These can be carried over to the second commitment period, but there is a concern from the EU in particular that unrestricted use will dilute the environmental effectiveness of action after 2012. Many of these allowances – often referred to as 'hot air' – belong to Russia and to a lesser extent other former communist states. A question for next year is whether Russia will still seek to sell these allowances beyond 2012 given it will not be bound itself under Kyoto.

Preservation of Kyoto flexibility mechanisms and rules

The decision to implement a second commitment period also ensures the preservation of the Protocol's flexibility mechanisms (e.g. the CDM) as well as the various technical rules governing land-use, forestry and emissions trading. This is an important outcome, not least because it avoids any 'reinvention of the wheel'. In theory, the Protocol's mechanisms and rules could be cut-and-paste into any other climate agreement. In practice this would likely prove difficult, with countries almost certainly seeking to renegotiate different elements. The preservation of the mechanisms and rules avoids this Pandora's Box. It also maintains a credible benchmark which any new mechanisms or rules (e.g. under the Durban Platform) would need to be developed from.

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[14] The EU and New Zealand, for example, have ETSs already in place, while Australia has just passed comprehensive climate legislation, including a price on carbon. Norway, Switzerland and Iceland have implemented similar climate policies and measures.

More immediately, the continuation of the Kyoto 'flex-mechs' will also help rebuild confidence in the future of carbon markets. The negotiating uncertainty over recent years, for example, has battered CDM prices and led to a steep decline in investment in CDM projects. Although the precise demand for off-set credits remains unclear, the direction of travel (particularly with the agreement to develop a 'new market mechanism' – see below) should give comfort to the many businesses engaged in global carbon markets.

Institutional strengthening

Understandably, the Durban Platform and the continuation of Kyoto were the headline issues for COP17. However, the operationalization of the various 'Cancun' institutions and institutional processes (see Table 1) seems likely to have more immediate and practical impact on international climate efforts. These new bodies, funds, processes or networks are set to influence domestic policy, climate finance & investment, adaptation, technology transfer and carbon markets, well before any outcome from the Durban Platform process is agreed, let alone implemented. In this respect they represent a victory for the bottom-up approach to climate action. This is to be welcomed since institutions and processes provide transparency and so build trust and confidence amongst parties. Given that these have been the missing elements to securing a new global deal, it may well be that Durban's lasting legacy is institutional.

MRV: implications for domestic policy

The agreement on new monitoring, reporting and verification (MRV) guidelines and modalities could have important domestic policy implications for developing countries. Although developed countries also face new MRV commitments as a result of Durban, these can be seen as an evolution of existing and already comprehensive measures. The change for developing countries is more substantive.

While portrayed by many developing countries as a significant concession on their part, the move to 'Biennial Update Reports' and the introduction of an 'International Consultation and Analysis' process is undoubtedly a positive step. So long as financial and technical support is forthcoming, developing countries have much to gain from implementing these new MRV processes. This is because they will provide governments with the empirical data and hence confidence needed for making informed decisions about the most appropriate climate policies and measures for their economy.[15] In short, better data means better policy and better, more cost-effective outcomes.

Climate finance and investment

[15] Incidentally, this transparency is also likely to rebut arguments often heard in developed countries that developing countries are not taking climate action.

Along with establishment of the Durban Platform and the extension of the Kyoto Protocol, the operationalization of the new Green Climate Fund was arguably the other major achievement of Durban and a milestone in climate finance negotiations.

Despite this, there is no guarantee the fund will deliver the transformational impact on climate financing in developing countries it was established for. A number of inter-related issues first need to be resolved. The outstanding issues are: i) how to fill the fund (i.e. sources of finance); ii) the proportion of total funding the GCF should manage and; iii) the role of the private sector. Until these issues are dealt with the GCF will remain a shadow of its potential self.

The new 2012 work program on 'Long-term Financing' is set to address all three issues to varying degrees. Reaching agreement will require compromise from all parties. The main divisions are well known. In short, developing countries wish to see: the majority of funds come from public sources (around $100 billion per annum by 2020); the GCF to act as primary vehicle for managing the flows[16]; and the private sector to play a minor role in both sourcing and delivering of finance.[17] The general developed country position is effectively the reverse on all three points.

In theory, parties could come to some accommodation by COP18 that effectively resolved these issues. In practice (and based on past form) it seems likely that given the opportunity to extend negotiations under the Durban Platform, parties will inevitable choose (or be forced) to do so. In the interim, the GCF will probably still be capitalized in some manner, such as through unilateral commitments by a few large donor parties e.g. the EU or Japan. But this funding is likely to be in the hundreds of millions of dollars rather than billions sought and mainly from public sources. The prospect of a fully financed, multi-billion dollar fund remains more distant and much closer to 2020 than 2012.

Greater progress is not inconceivable, however. Developed countries, for example, could choose to channel much of their existing $10 billion per annum in climate finance through the GCF, rather than the bilateral and other multilateral avenues they currently use. This would go a long way to building trust with developing countries.

Demonstrating how these public funds could then leverage ten times (or more) of low-cost private sector finance, would also help dispel much developing country unease with private sector investment.

Sectoral agreements to address international aviation and shipping emissions could also offer some hope. If these resulted in the use of levies (for shipping) or emission

[16] The establishment of the GCF as a $100 billion standalone mega-fund seems optimistic given that the World Bank – the largest existing international financial institution servicing developing countries – is a 'mere' $40 billion per annum operation. Countries are unlikely to have much appetite for creating a similar sized institution, let alone one more than twice as large.

[17] Many developing countries remain sceptical about the role of private sector financing. In part this is because it is seen as a way for developed countries to avoid existing financial commitments; in part because private financing is seen as 'unreliable' (think 'capital flight' experiences); and in part because of concerns that private sector profit motives will not align with countries' economic development priorities.

trading schemes (for aviation), this could unlock significant and new sums of climate finance in the tens of billions of dollars. Unfortunately, while pragmatic solutions do exist for these sectors, political and strategic negotiating considerations currently preclude their implementation for the foreseeable future.[18]

Any lack of short to medium term financing for the GCF will have an important knock-on effect. The other institutions and processes operationalised at Durban will only be fully effective when adequate funding is made available to them. Adaptation work in particular will be affected by the failure to capitalize the GCF quickly. This is because financing for adaptation is generally less attractive to private sector investors and is therefore more reliant on concessional public lending and grants, which the GCF will provide.

Against this backdrop it is also important to keep in mind that finance to support climate or clean energy related activities in developing countries will not stop in the absence of a fully functioning GCF (although it may be of a lower volume). Saliently during COP, Bloomberg New Energy Finance announced that somewhere in the world the trillionth dollar had been invested in the low carbon / clean tech sector since 2004, the year BNEF (or NEF as it was then) was established.

This fact usefully underlines a number of points. First, a global fund is not a necessary precursor to large scale investment. Second, governments at all levels can do much on their own to attract low carbon investment in the absence of a global agreement. Third, $100 billion dollars per annum in funding represents only a fraction of the financing that is needed over the coming decades. And fourth, the role of the private sector is critical to delivering climate finance at the speed and scale necessary.

Technology Development and Transfer

Agreement on making the Technology Mechanism fully operational in 2012 was another important achievement of Durban. The key decisions related to the adoption of the terms of reference (ToR) for the new Climate Technology Centre and Network (CTCN) and the launch of a tender process for selecting a host organization for the Centre. The CTCN is intended to act as the operational arm of the Technology Mechanism, working closely with the Technology Executive Committee (TEC), the mechanism's strategic arm.

The CTCN's agreed mission is *"…to stimulate technology cooperation and to enhance the development and transfer of technologies and to assist developing country Parties…in order to build or strengthen their capacity to identify technology needs, to facilitate the preparation and implementation of technology projects and strategies…to support action on mitigation and adaptation and enhance low emissions and climate resilient development."* Crucially, there is no mention in the ToR of intellectual property rights (IPR), a divisive subject and a red-line issue for developed countries.

All going well, the host for the Centre will be selected at COP18 meaning that a functional and *"…lean, cost-efficient organizational structure within an existing*

[18] See for example: http://www.theclimategroup.org/our-news/news/2011/12/7/cop17-aviation-and-maritime-transport--the-perennial-problem-sectors/

institution…" (to quote the ToR) should be operational in 2013. The Network part of the CTCN will consist of existing institutions, organizations or initiatives, whether national, regional, intergovernmental, sector, academic, private sector or other.

What remains unclear at this point is the impact the CTCN will have in terms of tangible technology development and transfer impacts. As alluded to in the preceding section, much is likely to depend on finance and in particular the capitalization of the GCF. Avoiding overlaps and also partnering, as appropriate, with other intergovernmental organizations will also be important to the CTCN's success and reach.

Another factor likely to influence its effectiveness includes the support – both practical and political – the CTCN receives from major industrialized countries (i.e. those with the technology to transfer). Both the CTCN and the Technology Mechanism in general are likely to have limited impact if they are treated by wealthier nations as political fig leaves for action.

Engagement with business will of course be essential. The good news is that the ToR place no restriction on private sector engagement and indeed recognizes private sector partnerships, organizations or initiatives as potential participants within the Network. The fact that the CTCN is also separated by a good distance from the UN negotiating process, should also help ensure that its work remains focused on the practical rather than the political.

Overall, the full operationalization of the Technology Mechanism in 2012-13 will add further institutional strength to the UNFCCC process. The Mechanism will not however act as the primary conduit for actual technology transfer or development. Instead its main benefit will be providing the platform for greater bilateral, plurilateral and multilateral cooperation. This should provide the transparency for better understanding both technology demand and supply needs amongst countries, building trust and confidence in the process.

New Market Mechanisms

The agreement to *'define a new market-based mechanism…to enhance the cost-effectiveness of, and to promote, mitigation actions…of developed and developing countries'*, is not the most headline-grapping outcome from Durban. In the longer-term however, it may be one of the more influential if, as hoped by some parties (e.g. the EU), it leads to the creation of a sector-based big brother to the project-based Clean Development Mechanism (CDM).

The decision to establish a work program to develop the new mechanism is the result of three years of discussions. That parties have finally managed to reach agreement reflects in part the bottom-up emergence of market based measures in many countries – both developed and developing. Whereas any discussion of sectoral based mechanisms three to four years ago was difficult, the issue is no longer the flash point it once was. Emission trading trials in China and India's introduction of its 'PAT' energy efficiency scheme no doubt have played their part in this shift.

The implementation of any new mechanism is likely to be some years away, however. Although a decision will be made at COP18 about the work program, it seems probable that these discussions will be subsumed into the Durban Platform process. Any final agreement could then be pushed back as far as 2015.

What may have more impact in the meantime is a second work program established in Durban. This will consider a '*framework*' for assessing whether new market mechanisms '*…meet standards that deliver real, permanent, additional and verified mitigation outcomes…*'. The aim of this work is to '*deal with the world as it is, rather than how it might*' as one negotiator put it. In other words, it will provide an international benchmark for assessing the variety of existing and planned market based mechanisms being implemented at national and subnational level. This approach is being pushed by countries such as New Zealand, Australia and the US who have such systems in place or are planning to (e.g. in California). These countries want to find a way for linking these mechanisms to improve market liquidity and build on what they have already, rather than limiting discussions to new top-down systems of the 'CDM 2.0' variety.

Of course, the development of a new top-down mechanism and the emergence of bottom up approaches are obviously not mutually exclusive. But from a practical perspective at least, 'dealing with the world as it is' would appear a more effective and efficient way of expanding the use of market mechanisms.

Other issues

The decision on the composition, modalities and operating procedures of the *Adaptation Committee* was another important institutional outcome from Durban. Adaptation initiatives have proliferated over the years as a result of various COP decisions. The new committee provides a much needed mechanism for bringing coherence and overall guidance so that resources and impacts are maximized in this critical area.

Proponents of *carbon capture and storage (CCS)* achieved an important victory with a decision that clears the way for CCS projects under the CDM. This has long been a controversial subject for a number of reasons, including the perceived safety of the technology and whether CCS projects could meet the sustainable development criteria required by the CDM. Given that the International Energy Agency has stated that CCS will be essential for achieving the deep emission cuts needed by 2050, the decision in Durban is arguably a helpful step in the right direction. Whether any projects are ever implemented remains a moot point, however. CDM offsets prices have never moved much beyond 20 Euros, while many experts believe a carbon price of over 100 Euros is needed for commercializing CCS.[19]

Agriculture was another area that enjoyed some progress. The sector is responsible for around 14% of global emissions and remains an essential pillar of many developing country economies. Despite these pertinent points the issue has lacked a regular process or forum for discussion. As a result of agreement reached in Durban, countries will now *'exchange views'* on the matter at the next meeting of the UNFCCC's Subsidiary Bodies in mid-2012. A small victory, but one that could lead to greater things.

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[19] See for example http://www.theclimategroup.org/_assets/files/CCS-report.pdf

The deforestation negotiations (or '*REDD+*') were also advanced, with agreement that 'results-based' finance could come from a variety of sources, including the private sector. Parties also *'consider that…appropriate market-based approaches could be developed…to support results-based action by developing countries'.* Although the implementation of a formal REDD+ mechanism does not yet appear to be on the horizon, these developments indicate progress towards this goal.

The politically vexed issue of *'Response Measures'* (see footnote 4 for background) may also have been satisfactorily addressed. Parties have agreed to establish a forum to implement a work program on the issue. Crucially, this will '*consolidate all progressive discussions relating to response measures under the Convention'*. If this results in the issue disappearing as tactical blocking measure in the negotiations, many countries, both developed and developing, are likely to consider it a small miracle.

One area conspicuous by its lack of progress was international aviation and maritime transport. Parties could not agree on language intended to provide guidance to either the International Civil Aviation Organization (ICAO) or the International Maritime Organization (IMO). *'Consideration of issues'* will therefore continue at future sessions. The outcome is disappointing but not unexpected. For the EU at least there was a silver lining: the lack of discussion minimized a high profile public spat with a range of countries about the upcoming inclusion of international airlines in the EU-ETS.[20]

[20] On Dec 21st the European Court of Justice ruled that the inclusion of international aviation in the EU-ETS was legal and conformed with international laws. This removes all outstanding legal obstacles to the inclusion of all international airlines (above a particular threshold) in the ETS from Jan 1st 2012.

Part IV: Country Reactions

Policy staff in The Climate Group's main offices provide an insight into country and regional reactions to Durban.

United States

Evan Juska, Head of US Policy

For the second consecutive year, the US delegation left the UNFCCC climate negotiations happy. They came to Durban hoping for progress on the main components of the Cancun Agreement, and that's what happened - with further agreements made on the structure of a Green Climate Fund, international technology centers, adaptation committee, and process for ensuring the transparency of countries' mitigation pledges.[21] While these agreements don't grab the headlines, they are meaningful, as they will to a large extent determine the how successful any future treaty can be in practice.

Furthermore, the common interpretation that the newly agreed negotiating process will end in a deal that includes mitigation obligations for all countries also represents (at least in theory) the realization of the US's number one goal in the negotiations to date: the elimination of the current distinction between "developed" and "developing" country obligations.[22]

For the moment, the "breakthrough" seems to be based more on the ambiguity of the agreed text than on any fundamental change in countries' positions. The text calls for "*a protocol, another legal instrument or an outcome with legal force…applicable to all Parties*." But while politicians in the US are hailing it as "*an important moment where all nations will be covered in the same roadmap*"[23] Chinese delegates are highlighting the fact that it keeps intact the principle of "*common but differentiated responsibilities*" – the main justification for the developed/developing country distinction.[24] Ambiguous text that accommodates various interpretations has been essential to securing the broad agreement needed to move the UNFCCC process forward. But, as is often the case, whether they affect any real changes in countries' positions remains to be seen.

The agreement to establish a second commitment period under the Kyoto Protocol (albeit without the participation of major developed countries like the US, Canada, Japan and Russia) should also work to the US's favor by relieving some of the tension created by disagreement over the treaty's future, which tended to exacerbate countries' differences and threaten progress in other areas.

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[21] On the Green Climate Fund particularly, the US was granted its long-held wish that the Fund be housed outside of the UN.
[22] As determined by Annex I and Non-Annex I countries in the Kyoto Protocol
[23] http://www.businessweek.com/news/2011-12-12/obama-winning-climate-debate-as-china-moves-toward-legal-accord.html
[24] India's environment minister described similar text as akin to "signing away the rights of 1.2 billion people."

Overall, Durban delivered enough progress to keep the UNFCCC process moving forward, and even to strengthen the US commitment to it. "*We're pleased (with the final decision)*," Todd Stern, the US's lead negotiator said.

Indeed, at some point in the near-future though, well-designed Funds will need to be filled with money, and mitigation pledges, in all their transparency, will need to be met and strengthened. With a 2015 deadline for reaching a new agreement, the US now has two new Congresses to actually do the things its recent negotiating victories have made possible.

China

Changhua Wu, Greater China Director

Although Durban did not deliver all that China was seeking from COP17, the Chinese government has reason to be satisfied with the overall outcome. Going into Durban, China, along with the other BASIC countries,[25] had stated that securing agreement on a second Kyoto commitment period was its number one priority. It had joined other developing countries in calling for the operationalization of the new Green Climate Fund, and had also underlined the importance of respecting the principle of common but differentiated responsibility (CBDR). The key outcomes in Durban are well aligned with China's pre-COP objectives.

The statement by chief climate official, Xie Zhenhua, at the end of the first week that China was ready to implement a legally binding deal from 2020, was an important signal of China's commitment to international climate action. The challenge for China now is ensuring the conditions it laid out for signing up to a global deal are all met, including respect for the CBDR principle, as well as developed country support for adaptation, technology transfer and capacity building.

Agreement to a 2020 global deal puts China's own efforts and actions under the spotlight. This was highlighted by how Chinese and Western media report the Durban outcome. While Chinese reports stressed the continuation of the Kyoto Protocol, Western media focused on the 2020 global deal and its inclusion of China and other emerging economies.

China is fully aware of the fact that it is in its own interests to develop a low carbon, high growth economy. Its 12th Five Year plan is geared towards this restructuring. Happily, this change is in line with the international community's growing expectation regarding China's green development and its role within the negotiating processes.

Over the coming decade, China's policy direction will be even more intensively focused on low carbon growth. By 2020, China intends to be a model of industrial redevelopment and low carbon transformation.

[25] BASIC – Brazil, South Africa, India and China

European Union

Luc Bas, Director of European Programmes and International States and Regions

Durban was a much needed and important political and diplomatic success for the EU. The outcome is close to the road map the EU had proposed going into the conference.

The EU's conditional support for a second Kyoto commitment period was its trump card in the negotiations. It's willingness to preserve the Protocol allowed it to build a coalition with well over 100 developing countries. This provided the EU with the core support it needed for agreement on a pathway for a new global deal, and at same time put pressure on the likes of the US, China and India to come on board as well. Encouragingly, one EU minister complimented China on having shown *'it wants to take on new responsibilities and play a new role in the world.'*

Understandably, EU ministers have heralded Durban as a 'breakthrough' in negotiations. At the same time, however, there is recognition and disappointment that ambition is still lacking. The agreement that countries have now committed to reaching in 2015, is what they should have achieved in Copenhagen.

It is hoped that the Durban outcome will stimulate EU climate action but this is likely to be minor in the short term. The agreement to a second Kyoto commitment period will see the formal inscription of the EU's existing 2020 pledge made after Copenhagen. The key question here is whether the EU keeps its 20% pledge or raises its target to 30% now that a pathway to a new global deal has been agreed.

Given the current economic turmoil in Europe, efforts to increase energy efficiency and expand renewable energy need to be seen as part of the solution to Europe's current crisis and not as an additional cost. Ambitious climate action can create millions of sustainable jobs in Europe, while the rising costs of fossil fuel imports provides another reason for raising ambition now. Waiting until there is greater certainty about what other major emitters are actually prepared to sign up to in 2015 is not in Europe's self-interest.

The one area where international expectations are likely to hang heavy on the EU is finance. Despite present financial difficulties, many developing countries will be looking to the EU to contribute significant start-up capital to the GCF. The inclusion of international aviation in the EU-ETS from January 1st and the revenue this is expected to generate will no doubt be focused on by both developing countries and climate finance campaigners. A good piece of recent news is the ruling of the European Court of Justice in favor of aviation's inclusion in the ETS.

India

Aditi Dass, Lead Consultant

The outcome from Durban was arguably a mixed result for India. On the one hand the commitment to a second Kyoto commitment period and the establishment of the GCF delivered a number of India's core objectives for the meeting. On the other, India's attempts to have three new items added to the formal COP agenda were resisted by many countries and led to long 'informal consultations' outside the main negotiating process.

India has argued for some years now that these three issues – the prohibition of unilateral trade measures, equitable access to sustainable development, and intellectual property rights – are critical to maintaining equity amongst countries. During the final hours of the conference, Environment Minister Ms Jayanthi Nataragan argued that India had shown more flexibility than any other party, noting: "*These three items were not taken on the centre-stage but parked somewhere. Yet, we have gone along. We have walked the extra mile. We did not issue a threat. Please do not hold us hostage and force us to say final goodbye to CBDR. We cannot give up the principle of equity*.''[26]

India's success in having the text which establishes the Durban Platform altered so that reference to 'a legal outcome' was changed to 'an agreed outcome with legal force' provides it with the negotiating room to continue arguing for its core objectives. As Minister Nataragan put it "*How do I give a blank cheque, to sign away the rights of 1.2 billion people of India without even knowing what this legally binding agreement is?*" [27] Despite this success, the shift to a single track negotiation from 2013 will still put pressure on India as other countries seek additional commitments from it after 2020.

Overall, however, the domestic reaction to India's performance appears to have been positive. Elements of the Indian media struck a somewhat triumphalist tone. The Times of India, for example, noted that '*India took over centre stage as a force to reckon with, regained its position as the leader and moral voice of the developing world as the EU and the US were forced to address its demands*'. It added that environment minister Jayanthi Natarajan had become '*the voice*' of the developing world.

The Hindustan Times also painted the outcome as a victory for India. It noted that the two main players at the conference were the EU climate commissioner Connie Hedegaard and Minister Natarajan. The pair ultimately prevailed, it said, thanks to an impassioned speech that '*ensured India's main concern – the inclusion of the concept of equity in the fight against climate change – became part of the package*.'

Australia

Caroline Bayliss, Australian Director

Durban was an important success for Australia, not least because of its impact on domestic climate discussions. Following its recent fight to pass comprehensive climate legislation, the government has unsurprisingly welcomed the result. It has argued the outcome represents a significant breakthrough, shows other countries are acting, and thereby justifies the recent introduction of the carbon price in Australia.

Prime Minister Julia Gillard has said Durban represented a *'remarkable step forward'*, which *'means the world is showing it's acting on climate change'*. She slammed

[26] http://moef.nic.in/index.php
[27] Ibid

comments from '*doomsayers'* in the opposition who predicted nothing solid would come out of the international talks held in Durban, South Africa.

Climate Change Minister Greg Combet echoed the PM, noting that Durban is a *'Massively historic step that has not been achieved before…. One thing is absolutely clear, nobody can sustain an argument that Australia is out there alone in the world tackling climate change. Every single country in the world has committed to an agreement to take effect from 2020.'*

Enthusiasm from the Green Party (which holds the balance of power in the Senate) has been more measured, with the Greens arguing the deal isn't strong enough and that Australia should have played a more constructive role. Green Party Senator Christine Milne asked *'What hope does a decision to make a decision to act later give to many of our Pacific neighbours already suffering? … It will massively increase the price of taking action in the post-2020 world.'*

Unsurprisingly, the Coalition Opposition (which has a strong tendency towards climate scepticism) has argued that there was no outcome and Durban simply proves that Australia is acting alone with its carbon price. Opposition leader Tony Abbott remarked *'That Durban has broken up without any significant outcomes just proves that this is going to be a do-nothing decade for global action on climate change…It demonstrates that Australia's carbon tax is an international orphan and it is confirming that electricity prices in Australian are going to go up and up and up'.*

Some business groups have echoed the opposition's view, with the Australian Industry Group believing the country was still acting too fast compared to other nations. Its CEO stated *'We are still out there with a very challenging target and high prices in the initial years at a time when international carbon prices are very vulnerable given the economic crisis in Europe.'* She said the three-year fixed price of $23 a tonne is still double the current global market rates.[28]

NGO reaction by comparison has been largely optimistic, although like the Greens, concern has been expressed about the need for greater urgency and ambition. The Climate Institute noted, for example, that Durban *'…delivered real progress on a potential global deal and should help create a stronger ambition and action. It should also lead to a smarter and deeper debate around action in Australia.'*

[28] Which of course underscores the argument for moving more quickly to the inherent cost effectiveness and flexibility of an ETS!

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