



Doha: COP18 Briefing

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This year's UN climate conference (COP18¹) takes place in Doha, Qatar from November 26 to December 7. The basic objective of the meeting is to close two existing negotiating tracks and consolidate talks on a new global climate treaty under the 'Durban Platform' process, which was launched at last year's COP.

The summit will occur against the backdrop of an important milestone in the history of the global climate regime, namely the end of Kyoto Protocol's first five year commitment period, on December 31. Securing final agreement for the immediate launch of a second commitment period – from January 1 2013 – and concluding talks in this regard will be a defining feature of the meeting. In parallel, agreement to terminate existing 'Convention track' negotiations on so-called 'Long-term Cooperative Action' will form a second critical area of negotiation at this year's conference. A satisfactory conclusion (or otherwise) to these two processes, will determine the degree of progress made under the new Durban Platform process.

Doha is expected to be a lower key meeting than its predecessors in Cancun and Durban, in terms of public and media interest. But although no new initiatives or processes will be launched, much remains at stake. A patchwork of interconnected and finely balanced issues has created a negotiating house of cards for Parties to manage. Enlightened diplomatic choreography will therefore be essential for closing the existing negotiating tracks and for building faith and momentum in the new Durban Platform process from 2013.

This briefing note looks at these key issues and offers observations on some of the factors likely to influence negotiations in Doha.

¹ '18th Conference of the Parties'

I. DURBAN AND THE ROAD TO DOHA

The Durban Package

Last year's COP in Durban was generally recognized as an important step forward for international climate talks. In addition to decisions that 'operationalized' new finance, technology and adaptation institutions², countries also reached agreement on a finely balanced package aimed at delivering a new global climate treaty. This so-called 'Durban Package' consisted of:

- i. Agreement that a decision on a second commitment period (2CP) of the Kyoto Protocol to begin on January 1, 2013 would be made in Doha.
- ii. Agreement that parallel 'Convention track'³ negotiations on 'long-term cooperative action' should be wrapped up and the process 'terminated' in Doha.
- iii. Agreement to establish a new negotiation process – the Durban Platform – to negotiate a new global climate treaty by 2015, which would enter into force from 2020.

The Durban Package was very much a political compromise. It required a formal commitment to a 2CP by developed countries (at least those party to it), in exchange for agreement from other major emitters to launch the new Durban Platform process. A significant amount of constructive ambiguity in the decision texts helped to lubricate the final deal.

A bumpy path through Bonn and Bangkok

Such ambiguity has not been without its consequences. At the first meeting of the year in Bonn in May, different interpretations of the Durban Package quickly came to the surface.

Under the Durban Platform talks, countries disagreed about whether the process was focused solely on a post-2020 climate treaty (a mainly developing country view) or whether it was also to consider raising ambition in the more immediate 2012-20 period (the view of many developed and most vulnerable countries). The relevant Durban text is easily interpreted both ways. Negotiators took two weeks to agree an agenda and create two workstreams – one to consider the 'Vision' for a post-2020 treaty and another to consider 'Ambition' in the 2012-20 period.

The Convention track negotiations were similarly taxing. In Bonn, Parties were divided over the precise issues that were to be covered. Although the Durban text sets out specific areas for further work in 2012, such as mitigation and deforestation, many developing countries argued that other issues from the original COP decision⁴, which established the negotiations, remained unaddressed, such as intellectual property

² Decisions that established these institutions were agreed at COP16 in Cancun in 2010

³ 'Convention Track' negotiation outcomes cover all 195 signatories to the original UN Framework Convention on Climate Change (UNFCCC). This is in contrast to the Kyoto Protocol negotiations, which focus solely on new post-2012 commitments for those developed countries that have ratified the Protocol.

⁴ Known as the 'Bali Action Plan' and adopted at COP13 in Bali in 2007

rights. Developed countries by contrast argued that many of these issues were now being dealt with through the institutions and supporting processes that had been operationalized in Durban.

An additional one-week meeting in Bangkok in August continued discussion on these issues. Workshops and roundtables were used to informally exchange views and build greater understanding between parties. Although divisions still remained, UN climate chief Christina Figueres stated that discussion in Bangkok had created a “landing zone” for Doha.

II. KEY AREAS OF NEGOTIATION IN DOHA

Negotiations in Doha will be framed and driven by the three elements of the Durban Package.

Secure Kyoto Protocol Second Commitment Period

The negotiation process to agree a 2CP for the Kyoto Protocol is now in its seventh year. In one sense this is remarkable given the relative simplicity of the negotiation. This, after all, has never been a negotiation over a new treaty but simply a process to agree a new set of emission reduction targets for developed countries. The final, practical outcome to seven years of talks will be little more than a new table of numbers appended to an otherwise unchanged Protocol.

The process of course has never been this simple. Kyoto track negotiations have always been tied to the broader debate regarding the need for a comprehensive and ambitious global climate regime that included all major emitters, not least the US and China. Consequently, developed country Parties to the Protocol have never been likely to agree new commitments in the absence of comparable efforts from their economic competitors. The Convention track negotiations (see next section), which were meant to conclude in Copenhagen, were supposed to have delivered this, but failure here meant that the Kyoto talks have also staggered on. And so, negotiations have come down literally to the wire, with just a few weeks to resolve outstanding issues before the first Kyoto commitment period expires.

The critical issues under negotiation are:

Who's in?

It is clear already that a post-2012 Protocol will be a shadow of its former self. Japan and Russia have declared that they will not be making any new commitments, although some observers believe Russia could still opt in for political reasons. Canada meanwhile is withdrawing from the treaty entirely. This leaves the 27 members of the EU, plus Australia (subject to conditions), Belarus, Kazakhstan, Iceland, New Zealand (possibly), Norway and Ukraine. Collectively, these economies represent around 15% of global emissions, a far cry from the 55% of 1990 emissions that the first commitment period (1CP) covered.

Level of ambition and quantification

Despite clear scientific evidence for the kind of reductions required from developed countries (i.e. a 25-40% cut on 1990 emissions by 2020), the level of ambition for a 2CP remains uncertain. At present the only numbers on the table are those pledged in the aftermath of the Copenhagen summit. These range from a 5% to 40% cut, with conditions attached in nearly all cases. The EU, for example, has for some time pledged to increase its target from 20% to 30% if other major emitters take comparable action⁵. In Doha, these ranges need to be nailed down to specific targets and also

⁵ Recent analysis of EU emission figures by the NGO Sandbag showed that when the purchase of emission offsets is taken into account, the EU has in fact already achieved its 20% target.

turned into ‘quantified emission limitation and reduction obligations’ (or ‘QUELROs’ in UN jargon) – essentially, empirical greenhouse gas reduction targets in tons of carbon dioxide⁶.

Length of commitment period

There are two options on the table for the length of the next commitment period. Developed countries, led by the EU, are seeking an eight year period. This option would align the end of the 2CP with the start of the new global climate treaty in 2020. It also fits with timeframes of domestic policy measures already in place in some developed countries. Developing countries, however, have argued for another five year period on the grounds that an eight year period risks locking in a level of ambition that could prove to be insufficient. The EU has sought to bridge this difference by suggesting an eight period with a midpoint review to evaluate ambition levels.

Access to flexibility mechanisms

The Protocol’s flexibility mechanisms – that is to say the Clean Development Mechanism (CDM), the Joint Implementation (JI) process and international emissions trading – are arguably the treaty’s most successful and innovative elements. The majority of countries wish to preserve them as a result – even Parties that have indicated they will not join a 2CP (i.e. Japan and Russia). Although this latter point may seem counter-intuitive, there is logic to it. By retaining access to the CDM, for example, non-committing countries have ready-made carbon offset mechanisms should they decide to implement a domestic emissions trading scheme. On a practical level, developed countries also argue that the CDM is only viable if there is sufficient demand for its offset credits, so the more countries with access, the greater the demand. Developing countries oppose this ‘have-cake-and-eat-it’ approach. They argue that only those Parties that join the 2CP should be allowed access to the flexibility mechanisms. Some developing countries are also seeking to delay access to the mechanisms, even for committing countries, until full ratification has taken place in order to pressure a rapid entry into force of the 2CP.

Carry-over of emission units

The issue of ‘hot air’ – excess emission allowances created as a result of skewed emission baselines in many former Soviet bloc countries⁷ – is considered one of the major weak points of the 1CP. Many countries (both developed and developing) are seeking to avoid a repeat of the situation under the 2CP by limiting the amount of surplus emissions units that can be carried over. There is general consensus that limitation of some kind is needed to ensure the environmental integrity of the 2CP. The point of debate is around the level of restriction.

⁶ Or more precisely ‘tons of CO₂ equivalent’ or ‘tCO₂^{eq}’. This unit takes account of all GHGs emitted by a country in addition to CO₂, such as methane and nitrous oxides.

⁷ In 1990, the base year for calculating countries’ emission levels, many eastern European countries still had large, inefficient and highly polluting industries. With the economic slump that followed the collapse of communism in these states’ emission levels plummeted. The consequence of this was that when Kyoto was signed in 1997 many of these countries ended up with a total emission allowance far greater than they needed. This excess ‘hot air’, which under Kyoto rules can be traded with other countries, was seen by many to undermine the environmental ambition of the first commitment period.

Legal continuity

Having left final agreement on a 2CP to the 59th minute of the 11th hour, there is considerable uncertainty about the immediate legal nature of the next commitment period. The intention in starting negotiations on a 2CP seven years before it commenced⁸ had been to avoid this situation, by leaving adequate time for domestic ratification once negotiations had been concluded. Both Australia and New Zealand, and recently the EU, have stated that they require parliamentary ratification before the 2CP gains any legal standing – a process that could well take months (or indeed longer). Developing countries, however, are seeking ‘provisional application’, pointing to the long-standing use of this legal procedure in international trade talks⁹ and other areas.

In one sense, the lack of legal certainty has little practical consequence as it will not materially affect immediate emission reduction trends. However, resolving the issue is important for political reasons. It is, after all, one of the main, tangible demonstrations of how seriously developed countries view the Protocol and their obligations to addressing climate change in general.

Terminate ‘Convention track’ negotiations

Bringing the Convention track negotiations to a satisfactory conclusion is a critical objective for Doha. Success here (and in the Kyoto track) would consolidate and simplify the overall negotiating process, leaving Parties to focus solely on the Durban Platform process from 2013.

A brief history and unfinished business

The Convention talks, which were established at COP13 in Bali in 2007, were originally intended to conclude in Copenhagen in 2009 with agreement on a new global climate deal that brought all major emitters under a single, comprehensive treaty. Although Copenhagen failed to deliver, the talks continued and in the subsequent three years have achieved some notable successes, including:

- i. Securing mitigation pledges covering over 80% of global emissions, including those from all the major emitters.
- ii. Adoption of the 2°C degree limitation goal.
- iii. Establishment and operationalization of new institutions for finance, technology, and adaptation.
- iv. Substantive progress on a range of issues including monitoring, reporting and verification (‘MRV’), new market mechanisms and capacity building.
- v. Establishment of a formal review process in 2013 to assess the level of collective climate action ambition.

⁸ A mandatory requirement set out in Article 3.9 of the Protocol

⁹ Famously, the General Agreement on Tariffs and Trade (GATT) – the predecessor of the World Trade Organisation – functioned for decades on the basis of ‘provisional application’ of the agreement.

Despite this progress there remains unfinished business for negotiators, with countries divided over what issues have and have not been adequately addressed. The mandate of the process is substantial, providing ample opportunity for disagreement. The main issues under negotiation are: mitigation, adaptation, financing, technology, MRV, sectoral issues (e.g. international aviation and maritime transport), market mechanisms, deforestation and capacity building. The task of negotiators in Doha is either to formally conclude work on each of these areas or find new homes for them within other bodies or processes of the UNFCCC regime. Options include the UNFCCC's permanent Subsidiary Bodies¹⁰, the COP itself¹¹, or the new Durban Platform negotiation process.

Equity, responsibility and the 'firewall'

Many developing countries favor transferring any outstanding issues to the Durban Platform process. Part of the motivation behind this is the desire to preserve the framework and principles of the Convention track process. This includes the principle of 'common but differentiated responsibility' (CBDR) and the so-called 'firewall' that categorizes countries into distinct developed and developing country groups based on their level of economic development in 1990. Developed countries, not least the US, oppose any continuation of the 'firewall' arguing that any post-2020 deal needs to reflect the economic and political reality of the present not the past. Smaller developing countries, particularly the small island states and least developed countries support this view. Developing countries across the board, however, strongly support the CBDR principle and the need for equity in any agreement. The challenge for negotiators (particularly going forward under the Durban Platform) is finding a balance between equity and responsibility that properly reflects current levels of economic development.

The main issues: mitigation, finance and MRV

Three central issues are likely to dominate Convention track negotiations: mitigation (for both developed and developing countries); finance; and MRV. Reaching some kind of accommodation on these issues will be key to determining whether the overall track can be brought to a conclusion.

With respect to **mitigation**, the most likely outcome would seem to be a decision that acknowledges the existing post-Copenhagen pledges¹² as the main product of these particular mitigation talks. While clearly inadequate in terms of the emission cuts required, and little reward for three years of talks, such an outcome is probably all that current politics will allow. To even obtain this, however, certain other trade-offs or conditions may be required. For example, the EU may place conditions on its acceptance of a Kyoto 2CP, such as the legally binding nature of its new targets given the absence of similar commitments from other major emitters. To bring small island states and other vulnerable developing countries on board, any decision would need to acknowledge the inadequacy of the pledges from all major emitters (developed and

¹⁰ i.e. the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA), which meet twice a year.

¹¹ As the supreme decision making body of the Convention, the COP, in plenary session, can deal with any issue on its agenda as it sees fit.

¹² Which generally are either absolute or relative reduction targets for 2020

developing) and make it clear that the 2012-20 'Ambition' discussions under the Durban Platform must bridge the ambition gap.

Having now established the new **climate finance** institutions, the key issue for Parties in Doha is figuring out how to find the actual funds, particularly for the immediate 2012-20 period. The three years of so-called 'Fast Start Finance' promised in Copenhagen comes to an end this year. Although there is disagreement over whether developed countries have fully met their promise of providing US\$10 billion per year, observers acknowledge that increased amounts of funding have been delivered. But with austerity measures beginning to bite in OECD countries and short- to medium-term growth prospects poor, there is little political appetite for major new climate finance commitments by developed countries. Funding of some level will be delivered, but not at the scale sought by many developing countries.

Closing these discussions will likely require a political 'fudge' of some sort. A report from a high level group set up after Durban to consider options for 'Long-term Finance', may provide a path for Parties to follow. Options could include transferring some elements of the issue to the Durban Platform process and technical or implementation issues to the new financial institutions themselves, or the UNFCCC's permanent Subsidiary Bodies. The role of the private sector in raising climate finance is also likely to feature prominently in discussions.

Monitoring, reporting and verification (MRV) negotiations are arguably of most importance to those seeking to enhance environmental integrity in the negotiations i.e. the EU and the most vulnerable developing countries. The MRV talks take place in a cross section of the negotiations (including under the Kyoto Protocol). In the Convention track, there are several processes to negotiate MRV covering the efforts of non-Kyoto developed countries (i.e. the US and Canada) as well as processes to clarify developing country pledges.

MRV is a contentious issue – both the US and China have little current interest in a Kyoto-style regime – although each would like to see far greater disclosure from the other. At present, there is an impasse with developing countries, which are reluctant to push developed countries for more accountability in the fear the favor could be returned. Only the EU and the most vulnerable countries are actively championing more environmental integrity.

MRV discussions also cover financial and technical support from developed to developing countries. These negotiations are more complex, and still ongoing. Current provision of such support is not uniformly measured or reported. A key element of the new Green Climate Fund (operationalized in Durban) will be to develop the rules and requirements for how countries report on their financial and technical obligations.

As the Protocol and Convention tracks wind down, MRV will inevitably have to form part of the Durban Platform negotiations on a new post 2020 treaty, since no agreement would be credible without such a regime. But in the interim period to 2020, it is possible that two systems will need to co-exist.

Termination, continuation or limbo?

The danger of not reaching some kind of consensus on these main issues and others under the Convention track, is the risk of negotiating limbo. Although Parties agreed in Durban that the objective in Doha is to “terminate” these talks, a COP decision is still required to do this. Equally, however, a formal decision is also necessary to continue talks if closure is not achieved. If Parties cannot agree one way or the other, the process would in effect be suspended, acting as a drag (or worse an anchor) on new negotiating efforts under the Durban Platform.

Consolidate new Durban Platform negotiations

The bar for success under the Durban Platform process (generally referred to by its official acronym, ADP¹³) is arguably lower than for the Kyoto and Convention track negotiations – although this doesn’t make the talks any less fraught. As a new process, the objective in Doha is simply to embed and solidify the negotiations in two ways:

- i. Consolidate understanding of the issues for negotiation over the coming three years under both workstreams.
- ii. Agree a work program for the process, with a particular focus on 2013 but ideally with major reference points to 2015 as well.

Consolidate issues for negotiation

Under **Workstream 1** (focused on the post 2020 treaty), Parties are expected to discuss a variety of issues including: how the existing principles of the Convention will apply to the new agreement; how to take account of national circumstances (particularly the change thereof since 1990); how to incentivize participation; and how to take into account the work of the other processes and institutions of the UNFCCC (e.g. the outcomes from the Protocol and Convention tracks).

Under **Workstream 2** (focused on raising ambition in the 2013-20 period), Parties will be looking at (among other things): how to increase the ambition of existing pledges; which actions could catalyze the greatest amount of mitigation; how to showcase and share best practice; and the application of Convention principles in enhancing action. Parties would do well to use this workstream to take on board the actions and lessons learnt by the non-state actors already implementing low carbon initiatives, such as sub-national governments, cities and businesses.

Both workstreams will cover unresolved issues close to the hearts of developed and developing countries. Under Workstream 1, for example, the discussion about national circumstances is, for countries like the US, very much about breaking down the so-called ‘firewall’ between developed and developing country actions. Under Workstream 2, the debate on the application of Convention principles is in part about dealing with the concerns of many developing countries, that some mitigation actions by developed countries are in effect disguised trade measures. The unilateral and disputed inclusion of international aviation in the EU’s emissions trading scheme is seen as one such measure¹⁴.

¹³ ADP: ‘Ad-hoc Working Group on the Durban Platform for Enhanced Action’

¹⁴ The EU’s decision on 12 November to suspend inclusion of international aviation in the EU-ETS pending the outcome of talks at the International Civil Aviation Organisation (ICAO) during 2013 should go some way to healing divisions on this issue in the UNFCCC.

Agree a work program for 2013-15 period

With the ADP still in its formative stage, any work program for 2013 is likely to be kept fairly broad. The main task for Parties is to agree the number of intersessional meetings to hold and the form they should take. The latter is the more substantive issue. Agreeing to hold a number of high-level, ministerial meetings, for example, could give the process greater momentum. More likely, however, is a negotiator-led program focused on workshops, roundtables and informal discussions in order to 'build confidence'. If this route was taken, some way of providing regular political input would need to be found. This is important, since past experience has shown the limitations of a negotiator-led process. Too often talks have been undone by an unhelpful focus on the minutiae of the debate, while the bigger political picture has been missed.

Whether Parties can agree to milestones beyond 2013 is not certain. On the one hand, setting firm milestones provides an incentive for progressing negotiations. On the other, failure to meet targets can undermine confidence in the process and trust between Parties. A set of imprecise and ambiguous milestones for 2014 and 2015 is the most probable outcome in the circumstances.

III. SOME OBSERVATIONS ON PROSPECTS FOR DOHA

The sum total of these three intertwined processes is a complex and delicately balanced conference. Add in the parallel plenary meetings of the Convention and Protocol, plus those of the permanent Subsidiary Bodies, and Doha becomes not one meeting, but seven¹⁵. Although COPs are normally complex creatures, Doha seems certain to set a new benchmark. This will likely create a very hectic and time constrained atmosphere – hardly the ideal setting given the already challenging status of the different negotiating processes.

There are, however, reasons for optimism, driven by both positive and negative external events. On the positive side the re-election of President Obama is likely to raise expectations among other Parties about the direction of US climate policy. Although an immediate change in ambition is very unlikely in Doha, the President's referral to climate change in his election speech will not have gone unnoticed in other capitals. This should help mend some of the bridges that have been damaged over the last 12 months as US negotiators played a defensive game during the long US election season. In a similar vein, the transition in China's leadership offers the prospect of a shift in position. Outgoing President Hu's recent speech to the Communist Party Congress hinted at this. President Hu laid out ambitious environmental goals for China in the coming decade and also underlined China's support for international efforts to address climate change. Doha is unlikely to see any immediate change in China's position, but as with the US, any indication of greater ambition for 2013 and beyond could help improve the negotiating atmosphere.

Shifts in position are not only being driven by positive externalities. Climatic events since Durban may also influence the negotiations more than at past COPs. This is not least because some of the most dramatic events have affected wealthy countries, with spill-over impacts around the world. The record-breaking drought in the US, for example, pushed climate back onto the domestic agenda in America, but it also hit many poor countries hard as global grain shortages saw prices skyrocket. Similarly, the economic and human cost of Hurricane Sandy was felt by poor and rich countries like, underlining that severe climate impacts have no respect for borders. The record loss of Arctic sea ice over the summer should also have given even the most heal-dragging of governments pause for thought. And with former UN climate chief, Yvo de Boer, recently remarking that initial findings from the IPCC's¹⁶ next Assessment Report "are going to scare the wits out of people", pressure can only mount for action.

Whether Parties choose to act on these warnings will depend to a large extent on the positions taken by the main negotiating groups. In Durban, an informal alliance made up of the EU, small island states and a range of progressive developed and developing country Parties, was instrumental in creating the pressure and negotiating space that delivered the Durban Package. It is unclear whether a similar alliance can work in Doha given a divergence in priorities among some Parties over the year. Meanwhile, the

¹⁵ The seven meetings are: the Convention COP; the Protocol COP; Subsidiary Body meetings (x2); and the three negotiating tracks

¹⁶ The first part of the Intergovernmental Panel on Climate Change's Fifth Assessment Report is due to be released in September 2013. This section will cover the 'Physical Science of Climate Change'.

number of formal and informal negotiating groups continues to grow. The once hegemonic G77+China developing country block is increasingly divided. A new 'Like-minded Developing Country' (LMDC) Group, consisting of India, China, the OPEC countries and a variety of larger developing countries has been created to defend what might be regarded as traditional G77+China positions. These positions, however, have become increasingly untenable for a growing number of smaller and progressive developing countries, particularly the island states. These Parties argue that large developing emitters (like the LMDC members) must also take greater climate action. Although the BASIC group – which was so influential in Copenhagen – continues to exist, this too seems divided, with Brazil and South Africa generally seen as moving away from some of the positions they shared with India and China. This shifting relationship among developing countries is creating more uncertainty within the negotiations, but also more pressure points for change, which is a positive development.

As with all COPs the effectiveness of the COP President will be critical to success in Doha. Previous meetings have shown what a good or bad President can do for a COP (refer to Cancun and Copenhagen, respectively, for supporting evidence). The Qatari Presidency is certain to be intriguing and could mark an important milestone for the Gulf oil states in UN negotiations. Traditionally, this group (led by Saudi Arabia) has tended to act as a brake on international climate action, defending national interests based on the extraction and use of fossil fuels. They have also sought to position themselves firmly in the developing country camp, despite having per capita GDP and emission levels similar to the majority of developed countries. Indeed, Qatar has the highest per capita emissions in the world at around 50 tCO₂^e – approximately double that of the US. On a GDP per capita basis it is also the world's second wealthiest country behind Luxembourg. Although the Gulf States can point to a growing number of low carbon initiatives, for example Masdar, the International Renewable Energy Agency (IRENA) and a recent flurry of major solar PV announcements, COP18 will put the region firmly under the international climate spot light for the first time. This can only be a good thing, ratcheting up the pressure on a key region to play its part, and be seen to play its part, on climate change. This would be no small achievement from Doha.

Overall, and despite the complexity that negotiators will face, a Doha deal of some kind will be done. As with every COP, there is considerable uncertainty as to whether such a deal will be good or bad; a comprehensive package or a political band-aid. But with external events gathering pace (not least in the climate sphere) and a considerable amount of negotiating momentum built up through Cancun and Durban, Parties would be foolish to squander the opportunity to consolidate the negotiating process and finally put the world on a path to an effective global climate regime. Pretty it won't be. But then no COP ever is.

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