



Copenhagen, the Accord, and the Way Forward

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Now that the dust has settled from the UN climate change conference in Copenhagen last December and countries have chosen whether or not to sign up to the Copenhagen Accord that resulted, it's a good time to step back and take stock.

Policymakers and the public had high expectations for the summit. Since the international community embarked on a new round of climate change negotiations in Bali in 2007, elections in the United States, Australia, and Japan raised developed countries' climate change ambitions. Key emerging economies—including China, India, and Brazil—announced their first ever nationwide climate change targets. Leaders from developed and developing alike spoke of the importance of international cooperation in addressing climate change and called for international action in Copenhagen.

Yet while political will to tackle climate change appeared to be building, international climate change negotiations were failing to deliver. The UN process launched in Bali struggled for two years to reach agreement on even the most basic issues between the 192 Parties to the UN Framework Convention on

Climate Change (UNFCCC). Despite a shared commitment to multilateral cooperation, positions on what form an international agreement should take and where the responsibility for reducing emissions should fall diverged significantly.

These two trends collided in Copenhagen when ministers and heads of state arrived to find a negotiation process in disarray and no consensus text on the table. Eager to achieve an outcome that reflected high-level commitment to the issue, leaders scrambled to produce an agreement that would both begin addressing the climate change challenge and build support for international cooperation in the years ahead. In the early morning hours on Saturday, December 19, the Copenhagen Accord was presented to the Conference of the Parties (the group of UNFCCC member countries referred to as the COP) for consideration. With six countries opposing, the consensus driven UN process was unable to formally adopt the accord. Instead, countries wishing to sign up to the accord were given until January 31, 2010, to do so.

This policy brief assesses the two-week Copenhagen conference, evaluates the Copenhagen Accord, and discusses key issues the international community will face moving forward. I argue that despite the chaos in Copenhagen, the accord is a significant step forward in addressing global climate change. And that because of the chaos in Copenhagen, the international community has a unique opportunity to go back to first principles and craft a more suitable and sustainable long-term approach to this challenge.

THE BALI CALL TO ACTION

On December 10, 2007, the Nobel Committee presented the peace prize to the Intergovernmental Panel on Climate Change (IPCC) and Albert Arnold Gore, Jr. "for their efforts to build up and disseminate greater knowledge about man-made climate change."¹ Vice President Gore's documentary *An Inconvenient Truth* had raised public awareness of the threat

1. Mjøs, Professor Ole Danbolt. 2007. Presentation speech by chairman of the Norwegian Nobel Committee, December 10. Available at www.nobelprize.org.

of global climate change and the IPCC's Fourth Assessment Report had increased public belief that human activity is largely to blame. Five days later in Indonesia, the 192 Parties to the UNFCCC agreed to step up international cooperation to address the growing climate change challenge.

The Bali Action Plan outlined a vision of a more comprehensive and environmentally effective approach: one that included mitigation commitments or actions from all countries, both developed and developing.

The "Bali Action Plan," which provided a roadmap for the negotiations to conclude in Copenhagen, recognized some of the shortcomings of the Kyoto Protocol (UNFCCC 2007). While the Kyoto Protocol included legally binding greenhouse gas (GHG) emission reductions, they applied only to the developed countries included in Annex I of the UNFCCC. And while these countries accounted for 60 percent of global GHG emissions when the UNFCCC was signed in 1992 (50 percent if emissions from land-use change are included), they will account for only 3 percent of the global growth in emissions going forward (figure 1). Even if all Annex I countries reduce emissions to zero by the end of the Kyoto Protocol's first commitment period in 2012, global temperatures would still rise to 3.3 degrees Celsius above preindustrial levels by 2100, and rise further after that.² The IPCC has warned that increases above 3 degrees will likely result in more frequent extreme weather-related events, decreased agricultural productivity, growing rates of malnutrition and infectious disease, increased risk of extinction for 20 to 30 percent of species, and sea level rises that threaten low-lying populations world-wide (IPCC 2007).

The Kyoto Protocol's mitigation shortcomings are compounded by the fact that the largest Annex I emitter, the United States, is not a party. Six months before the Kyoto summit in 1997, the US Senate passed the Byrd-Hagel resolution in a vote of 95-0, which urged the White House not to sign the protocol unless it mandated "new specific commitments to limit or reduce greenhouse gas emissions for

Developing Country Parties."³ While in the end the Clinton administration did sign the protocol, it was never submitted to the Senate for ratification. When President Bush took office in 2001, he formalized US opposition by withdrawing from the Kyoto Protocol as a signatory.

The Bali Action Plan outlined a vision of a more comprehensive and environmentally effective approach: one that included mitigation commitments or actions from all countries, both developed and developing. It also called for meaningful financial assistance to help poor countries reduce emissions and adapt to existing and future changes in the earth's climate, something largely absent from the Kyoto Protocol and increasingly important in light of recent science.

POLICY MOVEMENT AND RISING EXPECTATIONS

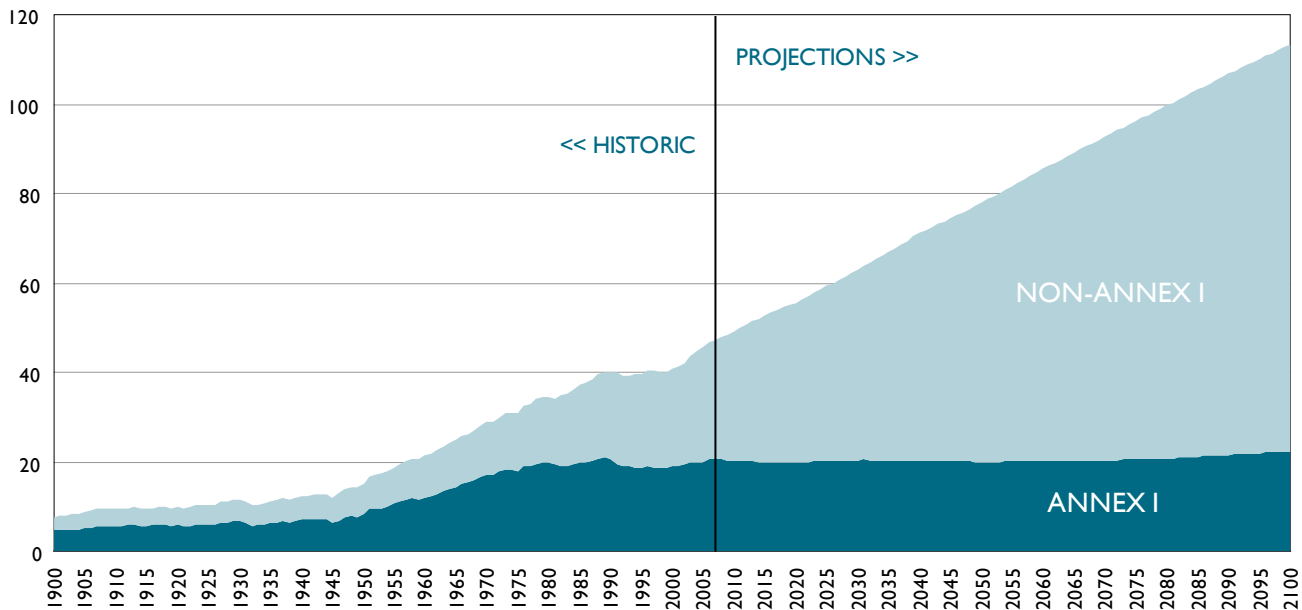
In the two years between Bali and Copenhagen, climate change politics and policies changed significantly in developed and developing countries alike. In Australia, the Labor Party defeated the Liberal Party in 2007 and Kevin Rudd replaced John Howard as prime minister the day the Bali conference began. Under Rudd's leadership, Australia ratified the Kyoto Protocol and moved forward with domestic climate change legislation. This was followed by a change of government in the United States and an about-face in US climate change policy. The Obama administration sought to put climate change in the top rung of both the domestic and foreign policy agendas. The White House included \$80 billion in clean energy investments in the American Recovery and Reinvestment Act of 2009, raised fuel economy standards for vehicles and worked with the House of Representatives to pass comprehensive clean energy and climate change legislation.⁴ The United States reengaged in UN climate negotiations, invigorated the Major Economies Forum (a grouping of the 17 largest economies started under the Bush administration as the Major Economies Meeting), and elevated climate change in key bilateral relationships. And then in August 2009, the Democratic Party of Japan won control of the Diet, ending over 50 years of almost continuous rule by the Liberal Democratic Party. Shortly after taking office, Prime Minister Hatoyama announced far more aggressive Japanese emission reduction targets than his predecessor had put forward.

Thanks to these changes, and continued European lead-

2. All emissions scenarios in this policy brief are modeled using C-ROADS v2.09. The business-as-usual (BAU) scenario uses CO₂ emission growth rates from the International Energy Agency (2009) for 2005 to 2030 and accounts for all policy enacted through mid-year 2009. From 2030 to 2100, emission growth rates are an average of the 11 models included in Stanford's Energy Modeling Forum 22 (2009). Deforestation rates are assumed to remain constant at 2005 levels and no additional afforestation is assumed to occur.

3. Byrd-Hagel Resolution (S. Res. 98), United States Senate, July 1997.

4. White House Office of the Press Secretary. 2009. *President to Attend Copenhagen Climate Talks*. (November 25). Washington. Available at www.whitehouse.gov.

Figure 1 GHG emissions growthbillion tons CO₂e, includes land-use change.

Source: Historic emissions from CDIAC (2009). Future emissions growth from IEA (2009), and modeling results from EMF-22. Modeling performed using C-ROADS-CP v2.09.

ership on climate change, there were significant emission reduction targets from developed countries on the table when the Copenhagen conference began (table 1). The European Union pledged to reduce emissions 20 percent below 1990 levels by 2020 regardless of the outcome in Copenhagen and 30 percent if the conference produced a strong international agreement. Australia and Japan pledged to reduce emissions 25 percent under the same terms (from a 1990 base for Japan and a 2000 base for Australia). And two weeks before the start of the conference, President Obama pledged to reduce US emissions 17 percent below 2005 levels by 2020 and 83 percent by 2050, consistent with the climate and clean energy legislation that passed the House of Representatives that June.

And developed countries were not alone in ratcheting up their climate change ambitions. In his speech to the United Nations General Assembly in September, Chinese President Hu Jintao announced nationwide targets for forestry and clean energy. And in November, China announced a goal of reducing the amount of carbon dioxide (CO₂) emitted for each unit of economic output by 40 to 45 percent between 2005 and 2020. Two weeks later India followed suit with a carbon intensity target of 20 to 25 percent. By the time delegates arrived in Copenhagen, all large emerging economies had joined developed countries in announcing mitigation targets.

On top of this movement in domestic action, there were positive signs of international cooperation between the largest GHG emitters. At the Major Economies Forum (MEF) in L'Aquila Italy in July 2009, leaders representing 75 percent of global emissions pledged to “respond vigorously” to the challenge of climate change.⁵ The 11 developed country leaders agreed to “promptly undertaking robust aggregate and individual reductions” and the six developing country leaders agreed to “promptly undertake actions whose projected effects on emissions represent a meaningful deviation from business as usual.” The declaration called for global emissions to peak as soon as possible and recognized the scientific view that the increase in global temperatures ought not to exceed 2 degrees Celsius. While the declaration did not specify individual emission reduction targets or a specific global emission reduction goal, the leaders pledged to work together to define both by Copenhagen. The declaration also called for an urgent and significant scaling up of financial support for both mitigation and adaptation and closer cooperation on low-carbon and adaptation technology.

Cooperation on climate change played a prominent role

5. Major Economies Forum. 2009. *Declaration of the Leaders of the Major Economies Forum on Energy and Climate*. (9 July). Available at www.major-economiesforum.org. Global emissions estimates are from WRI (2009) and include land-use change.

Table 1 The impact of Copenhagen Accord pledges

Billion tons CO ₂ e, including land- use change	Emissions				Reduction from BAU			
	2005	2020			Billion tons		Percent	
		BAU	Low	High	Low	High	Low	High
Annex I	20.06	19.9	17.92	17.1	1.98	2.64	10	14
United States	7.45	7.29	6.4	6.4	0.89	0.89	12	12
European Union	5.14	4.79	4.39	3.84	0.41	0.95	9	20
Russia*	2.9	3.24	3.24	3.07	0	0.17	0	5
Canada	0.81	0.9	0.7	0.7	0.2	0.2	22	22
Japan	1.44	1.3	1	1	0.31	0.31	24	24
Australia	0.65	0.71	0.57	0.47	0.14	0.24	20	34
Other	1.67	1.66	1.63	1.62	0.03	0.04	2	2
Non-Annex I	24.71	35.74	33.55	32.61	2.19	3.12	6	9
China	6.74	12.63	12.31	11.59	0.31	1.03	2	8
India*	2.11	3.74	3.74	3.74	0	0	0	0
Brazil	2.23	2.39	1.6	1.56	0.8	0.83	33	35
South Africa	0.51	0.53	0.35	0.35	0.18	0.18	34	34
Mexico	0.75	0.85	0.8	0.62	0.05	0.23	6	27
South Korea	0.59	0.72	0.51	0.51	0.21	0.21	29	29
Indonesia	1.95	2.34	1.75	1.75	0.59	0.59	25	25
Other	9.84	12.53	12.49	12.49	0.04	0.04	0	0
Subtotal	44.78	55.64	51.47	49.71	4.17	5.76	7	11
Potential mitigation from international finance			0	-1.53	0	1.53		
Total	44.78	55.64	51.47	48.18	4.17	7.29	7	13

* For Russia (high-end) and India, the pledges listed in the accord do not result in a reduction below the business-as-usual pathway used for this analysis.

Source: Author's estimate of impact of Copenhagen Accord commitments as of March 2, 2010, based on forecasts from IEA (2009) and assuming constant deforestation rates under business as usual.

in bilateral meetings between key countries as well. Following the Major Economies Forum in L'Aquila, the United States and China signed a Memorandum of Understanding (MOU) to enhance cooperation on climate change, energy, and the environment during the US-China Strategic and Economic Dialogue in Washington, DC.⁶ The world's two largest emitters built on this MOU during President Obama's visit to Beijing in November by announcing a suite of clean energy initiatives. And with the Copenhagen conference three weeks away, President Obama and President Hu resolved to "take significant mitigation actions" recognizing the "important role that their countries play in promoting a sustainable outcome to the conference."⁷

6. US Department of State. 2009. *U.S.-China Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and the Environment*. (July 28). Available at www.state.gov.

7. White House Office of the Press Secretary. 2009. *U.S.-China Clean Energy Announcements*. (November 17). Available online at www.whitehouse.gov and White House Office of the Press Secretary. 2009. *U.S.-China Joint Statement*.

One week later, both the United States and China announced their emission reduction offers,⁸ and India announced a carbon-intensity target on the heels of a US-India Summit in Washington, DC, where President Obama and Prime Minister Singh had called for a comprehensive Copenhagen outcome that included mitigation offers from both developed and developing countries.⁹ The EU-India and EU-China Summits, also held in November, produced similar declarations of the importance of the climate change challenge and promises to tackle it together.¹⁰

(November 17). Available at www.whitehouse.gov.

8. Xinhua News. 2009. *China announces targets on carbon emissions cuts*. (November 26). Available online at www.news.xinhuanet.com and White House Office of the Press Secretary. 2009. *President to Attend Copenhagen Climate Talks*. (November 25). Washington. Available at www.whitehouse.gov.

9. White House Office of the Press Secretary. 2009. *Fact Sheet: U.S.-India Green Partnership to Address Energy Security, Climate Change, and Food Security*. (November 24). Available online at www.whitehouse.gov.

10. For information on the EU-China and EU-India summits, see <http://>

This flurry of high-level diplomacy and movement in domestic policy in the run-up to Copenhagen raised public expectations about the conference's outcome. Unfortunately the official UN negotiating process launched in Bali was moving in the opposite direction as delegates tussled over how to translate growing political will into a tangible agreement.

PROBLEMS OF LEGAL FORM AND NEGOTIATING FORUM

Two factors, more than any others, hampered the climate change negotiations launched in Bali: disagreement over the legal form of a Copenhagen outcome and the limitations of the UN as forum for negotiations.

Legal Form

While the Bali Action Plan recognized the need for the international community to do more to address global climate change in light of IPCC's Fourth Assessment Report, it did not specify exactly how that should occur. While most press accounts described the Bali Action Plan as a roadmap for a new legally binding international agreement to replace the Kyoto Protocol,¹¹ the Kyoto Protocol does not actually expire. While emission reductions are only specified for 2008–12 (known as the first commitment period), the Kyoto Protocol calls for Annex I countries to agree to further emission reductions from 2013, and for negotiations over this "second commitment period" to begin in 2005.¹²

And in part because there is no agreed end date for the Kyoto Protocol, the Bali Action Plan did not in fact call for a new international agreement in Copenhagen, but rather an "agreed outcome."¹³ Reconciling the existing Kyoto Protocol with the Bali mandate for a more comprehensive and environmentally effective approach made finding an "agreed outcome"

ec.europa.eu/external_relations/china/summits_en.htm and http://ec.europa.eu/external_relations/india/summit_en.htm, respectively.

11. See New York Times. 2007. *Climate Plan Looks Beyond Bush's Tenure*. (December 16), which describes the Bali Action Plan as calling for a pact that "would take effect in 2012 when the Kyoto Protocol expires." See also Times of London. 2009. *Bully for Bali*. (December 16), which describes the Bali Action Plan as "a clear agenda for two years of talks aimed at negotiating a successor to the Kyoto framework."

12. UNFCCC (1998), Article 3 paragraph 9.

13. This is very different than the "Berlin Mandate" that launched the negotiations that produced the Kyoto Protocol. This 1995 decision by the Parties to the UNFCCC called for developed countries to agree to "quantified limitation and reduction objectives within specified time-frames, such as 2005, 2010 and 2020" in a "protocol or another legal instrument" (UNFCCC 1995).

far more challenging than the expressions of high-level political support would suggest. Early in 2008, the United Nations asked for recommendations on how to achieve the goals outlined in the Bali Action Plan. The range of responses they received, as well as subsequent national submissions to the UNFCCC Secretariat, demonstrates just how much disagreement there was between key players on what form a Copenhagen outcome should take.

The European Union

The European Union has long held a leadership position on climate change and enjoys some of the strongest domestic support for addressing the issue. Yet the fact that the European Union is subject to legally binding emission reductions under the Kyoto Protocol and the United States isn't is the source of continual angst for EU officials and considerable heartburn for European industries that compete internationally. Understanding the United States was unlikely to join the Kyoto Protocol, the European Union sought a single post-2012 agreement that merged the architecture of the Kyoto Protocol with the goals of the Bali Action Plan.¹⁴ Yet while the European Union placed considerable emphasis on the need for legally binding targets from the United States,¹⁵ they were open to continuing the legal asymmetry of the Kyoto Protocol in a new agreement. The European Union's June 2009 submission to the UNFCCC calls on developing countries to submit nonbinding low-carbon development strategies that outline where financial support to reduce emissions is needed.¹⁶

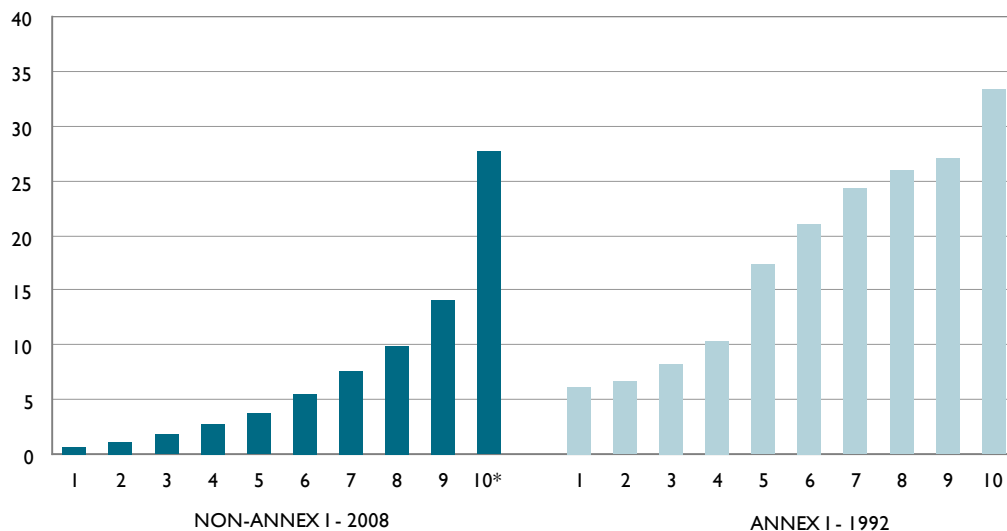
14. In its first submission to the UNFCCC following Bali, the European Union stressed that the conference "emphasised the need for a comprehensive post-2012 agreement to be reached by 2009." (FCCC/AWGLCA/2008/MISC.1). In Council of the European Union. 2009. *Presidency Conclusions*. Brussels. (October 29). Available at www.consilium.europa.eu the European Council "emphasises the need for a legally binding agreement for the period starting 1 January 2013 that builds on the Kyoto Protocol and incorporates all its essentials."

15. In submissions to the UNFCCC, they stated that a Copenhagen Accord "should set binding quantified emission limitation or reduction commitments for developed countries comprising at least all Parties listed in Annex I to the UNFCCC and all current EU Member States, EU candidate countries and potential candidate countries that are not included in Annex I to the UNFCCC" (UNFCCC 2009g).

16. "The EU proposes to include in the negotiation text the concept of low-carbon development strategies (LCDS), as the structure for developing countries to indicate their contribution to the global mitigation effort and to describe the nationally appropriate mitigation actions (NAMAs) they intend to undertake in order to realise this contribution, as well as to indicate what support would be necessary to enable these NAMAs" (UNFCCC 2009c).

Figure 2 Per capita Income of UNFCCC parties

by decile, 1992 and 2008, thousand real 2005 US dollars in PPP



*2006 data instead of 2008.

Source: World Bank.

The United States

While unwilling to join the Kyoto Protocol, the Obama administration made it clear that the United States was interested in a legally binding agreement provided that it was legally binding for developed and major developing countries alike.¹⁷ Countries could take different types of actions to reduce emissions based on their level of development (e.g., absolute emission reduction targets for rich countries versus policies and measures that slow the rate of emissions growth in emerging economies).¹⁸ But all countries with significant GHG emissions should list their actions in a Copenhagen agreement and be held accountable for meeting them in the same way.

What was not acceptable to the US was a new treaty that perpetuated the binary distinction between developed countries and developing countries embodied in the UNFCCC and the Kyoto Protocol (figure 2). Since the UNFCCC was signed in 1992, developing countries as a group have narrowed the income gap with developed countries, and the most affluent among them are now considerably richer than many countries listed as developed in its Annex I. In 1992, 20 percent of countries deemed “developed” and included in Annex I of

the convention, had per capita incomes between \$6,000 and \$8,000 (in real 2005 dollars, adjusted for purchasing power parity). By 2008, more than 40 percent of countries deemed “developing” under the UNFCCC had incomes at or above this level (figure 2), including South Africa at \$9,300 and Brazil at \$9,500. In 2010 China’s per capita income will pass the \$6,000 mark as well.

The fact that neither the UNFCCC nor the Kyoto Protocol includes a mechanism to adjust countries’ levels of obligation over time means the Ukraine (per capita income of \$6,700 in 2008) is expected to take on legally binding emission reductions while Singapore (per capita income of \$45,000, the third highest in the world) is not. The US position from the start of the negotiations was that an equitable, politically acceptable, and environmentally effective treaty would need to allow for “graduation” as countries get richer and have greater capability to reduce emissions.

This view was strongly supported by the US Congress. The American Clean Energy and Security Act, passed by the US House of Representatives in June 2009, states “it is the policy of the United States to work proactively under the United Nations Framework Convention on Climate Change, and in other appropriate fora, to establish binding agreements, including sectoral agreements, committing all major greenhouse gas-emitting nations to contribute equitably to the reduction of global greenhouse gas emissions.”¹⁹

17. See Stern, Todd. 2009. Speech to the Center for American Progress, June 4. Available at www.americanprogress.org. See also Obama, Barack. 2009. Remarks at United Nations Secretary General Ban Ki-Moon’s Climate Change Summit, New York, September 22. Available at www.whitehouse.gov.

18. See the US May 2009 submission to the UNFCCC (2009c).

19. US House of Representatives. 2009. *American Clean Energy and Security*

Australia, Canada, Japan, and Russia

Australia, Canada, Japan, and Russia had a combination of European and American concerns regarding the legal form of a Copenhagen outcome. As Annex I parties to the Kyoto Protocol, they, like the European Union, sought a single agreement with US participation that would encompass both the mechanisms of the Kyoto Protocol and the mandate of the Bali Action Plan.²⁰ But like the United States, these countries wanted legal symmetry in that new agreement between developed and developing countries and a way to expect more from developing countries over time.²¹ Australia proposed that a new treaty include “national schedules” where countries list their domestic mitigation actions and update them as their national circumstances change and abilities to reduce emissions increase.²² While the content of each country’s national schedule would differ based on level of development, the legal form would be the same: everyone would commit to carry out the actions they chose to list.

Emerging Economies

While large developing countries like Brazil, South Africa, India, and China (a grouping known as BASIC) had all announced more ambitious domestic climate policy in the run-up to Copenhagen, they were extremely reluctant to be internationally bound to their mitigation actions. The existing legal structure of the Kyoto Protocol, which all developed countries had agreed to (though the United States later pulled out), contains no obligations for developing countries. While BASIC countries were willing to do more than ever before to reduce emissions, they stood to gain little by volunteering those goals as new legal obligations.

Act of 2009. H.R. 2454, 111th Congress.

20. See, for example, the following passage from Australia’s March 2009 submission to the UNFCCC: “From the perspective of legal certainty, operational efficiency and simplicity, the most effective legal structure for a post-2012 outcome would be a single new protocol that unifies action under the Convention and builds on the relevant provisions of the Kyoto Protocol” (UNFCCC 2009h).

21. See from Australia’s March 2008 submission “There is considerable variation in the circumstances of the 191 countries in the UNFCCC. Accordingly there can be many different approaches to differentiating and grouping countries according to such circumstances” (UNFCCC 2008b). See also from Japan’s August 2008 submission “An idea to respond to this situation is to categorize non-Annex I Parties into groups based on stages of economic development etc. and to encourage each Party to take suitable actions matched to its own group, in accordance with the principle of equity and the principle of ‘common but differentiated responsibilities and respective capabilities’” (UNFCCC 2008a).

22. UNFCCC (2009f).

In addition, energy and climate policy is different than other areas where developing countries have taken on international commitments in the past. In trade, for example, policymakers have a high degree of certainty that once policy is enacted to reduce tariffs as part of an international agreement, the tariffs will actually be reduced—all it takes is a phone call to the customs bureau. The outcome of energy and climate policy is less clear as the effectiveness of mechanisms like feed-in tariffs to spur renewable energy, standards to improve building efficiency, and carbon pricing to reduce emission all depend on a host of factors outside the policy domain. Even in the United States, where the Congress is considering cap-and-trade legislation, the fact that the cap only covers 85 percent of the economy creates uncertainty about the ability to meet defined targets. And in rapidly growing developing countries where meaningful energy policy is just being tested and energy demand is highly volatile, the uncertainty is even greater.

Finally, even if BASIC countries were confident about their current targets, they were leery of what might be expected of them down the line. Any Copenhagen agreement would likely include a review of adequacy—an assessment of whether collective emission reductions are enough to achieve defined environmental goals, such as limiting global temperature increases to 2 degrees Celsius above preindustrial levels. Assuming developed countries make good on their offers and start moving toward emission reductions of 80 to 90 percent in 2050, by 2020 it will fall to BASIC countries and other emerging economies to ratchet up their level of ambition if the world is coming up short. Agreeing to legally binding, though moderately ambitious, commitments now could put them in a position in the coming years where they are compelled to take more aggressive and less politically palatable steps.

Because of the highly preferential legal structure of the Kyoto Protocol, reluctance to be bound to emission reduction results during a period of policy formation and experimentation, and concern about opening the door to further obligations, BASIC countries sought two Copenhagen agreements: a second commitment period under the Kyoto Protocol with legally binding commitments for developed countries, and a new agreement with economywide emission reduction commitments from the United States and nonbinding mitigation actions from developing countries.²³

23. From China’s February 2008 submission to the UNFCCC: “The two-track approach negotiation processes under the Convention and the Kyoto Protocol show that the Convention and the Kyoto Protocol are the foundation of addressing climate change by the international community in the future” (UNFCCC 2008c). From India’s February 2008 submission: “The most important aspects of mitigation are binding GHG reduction commitments post 2012 by Annex I Parties. These are being discussed separately

Vulnerable Countries

While 133 of the 151 developing country parties to the UNFCCC often negotiate collectively as the G-77, their interests differ greatly. The Kyoto Protocol works well for BASIC countries because it limits obligations to Annex I countries but doesn't meet the needs of the poorest and most vulnerable developing countries. First, the Kyoto Protocol provides only limited resources to help developing countries reduce emissions, and provides almost nothing to help vulnerable countries adapt to climate change. Second, with only developed countries required to reduce emissions, the Kyoto Protocol falls far short of the global emission reductions needed to protect vulnerable countries from the consequences of a world that is greater than 2 degrees Celsius warmer than preindustrial levels.

As a result, the poorest and most vulnerable developing countries—e.g., the African Group, Least Developed Countries (LDCs), and the Alliance of Small Island States (AOSIS)—were more enthusiastic about the prospect of a new agreement following the 2007 Bali conference. In submissions to the UNFCCC in February 2008, LDCs called for agreement on a “global mean temperature increase and peaking year for CO₂” and to “determine global mitigation targets for post-Kyoto climate regime.”²⁴ Out of G-77 solidarity, vulnerable countries never called explicitly for legally binding commitments from large emerging economies, but called for binding global emission reduction targets that translate into de facto commitments for the biggest developing countries.

Negotiating Forum

Reconciling differences between these groups proved impossible at the working level in a UN negotiating process where consensus between all 192 parties to the UNFCCC is required to move forward. Despite eight formal negotiating sessions

in the Adhoc Working Group (AWG) under Kyoto Protocol, which also has a December 2009 deadline. These should be pursued vigorously and be independently adopted at CoP-15/MoP-5” (UNFCCC 2008c). From China's March 2009 submission: “According to Paragraph 1 (b) (i) of the BAP, all Annex I Parties, whether they are Parties to the Kyoto Protocol or not, shall commit to legally-binding quantified emission reduction targets. Emission reduction targets committed by developed country Parties to the Convention shall be comparable to targets committed by developed country Parties to the Kyoto Protocol.... Nationally appropriate mitigation actions by developing countries shall be country-driven, in conformity with the legitimate and prior needs of developing countries for sustained economic growth and eradication of poverty. The form of specific actions shall be subject to the determination of each developing country, taking into account its respective capacities and specific national circumstances” (UNFCCC 2009i).

24. UNFCCC (2008c).

between Bali and Copenhagen, accounting for 73 days in total, very little progress was made. During the first half 2009, the UNFCCC secretariat invited countries to propose text for an outcome of the Long-term Cooperative Action (LCA) negotiating track, the process charged with implementing the Bali Action Plan. In advance of the June UNFCCC meeting in Bonn, the chair of the LCA attempted to distill these submis-

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sions into a consensus text. It ran 53 pages with multiple options listed for key issues and significant portions bracketed (reflecting a lack of agreement).²⁵

Two months later, rather than narrowing these differences, negotiations had lengthened the text to 199 pages with even less consensus.²⁶ There was considerable disagreement on all five core elements of the Bali Action Plan: (1) a shared vision for long-term global emission reductions; (2) specific mitigation commitments and actions by developed and developing countries; (3) helping vulnerable countries adapt to climate change; (4) cooperation on low-carbon and adaptation technology; and (5) financial support for mitigation, adaptation, and technology cooperation. And while much of this was substantive, finding common ground was hampered by uncertainty over the fate of the Kyoto Protocol and disagreement on the legal form of a new Copenhagen agreement.

By the fall of 2009, it became clear the UN process would not be able to deliver a new treaty in December, due in large part to different views on which countries should be legally bound. Hoping to prevent disagreement over legal form from derailing the high-level political support that was building in advance of Copenhagen, the Danish chair sought to reset expectations for the conference's outcome. Addressing a group of legislators from around the world in late October and citing the fact that “virtually all countries with major emissions have adopted ambitious climate legislation” or are “mounting new plans and political momentum to get them approved,” Danish Prime Minister Rasmussen called for the international

25. UNFCCC (2009d).

26. UNFCCC (2009e).

community to capture this “wave of change” with a political accord that contained all the elements of a final deal. The accord would be immediately operational while work continued toward a legally binding agreement.²⁷ He pledged to engage a “growing number of leaders” as part of “Copenhagen Commitment Circle” that could begin to build momentum toward this kind of outcome.

Three weeks later, Prime Minister Rasmussen flew to Singapore to meet with the 20 heads of state gathered for the annual meeting of the Asia-Pacific Economic Cooperation (APEC) summit to discuss how to achieve such an accord.²⁸ In Beijing following the APEC summit, US President Obama and Chinese President Hu agreed in a joint statement that:

“...while striving for final legal agreement, an agreed outcome at Copenhagen should, based on the principle of common but differentiated responsibilities and respective capabilities, include emission reduction targets of developed countries and nationally appropriate mitigation actions of developing countries. The outcome should also substantially scale up financial assistance to developing countries, promote technology development, dissemination and transfer, pay particular attention to the needs of the poorest and most vulnerable to adapt to climate change, promote steps to preserve and enhance forests, and provide for full transparency with respect to the implementation of mitigation measures and provision of financial, technology and capacity building support.”²⁹

The joint statement from the US-India summit in Washington on November 24 set a similar goal for a Copenhagen outcome.³⁰ And European leaders were also beginning to recalibrate their expectations. Following a meeting with Prime Minister Rasmussen on November 19, German Chancellor Merkel and French President Sarkozy acknowledged that a new treaty would not be possible during the December conference but that a politically binding accord could still contain all the substance of a full legal agreement to be completed in 2010.³¹

27. Available online at http://copenhagen.globeinternational.org/includes/documents/cm_docs/2009/p/prime_minister_lars_lkke_rasmussen_mp_speech.pdf.

28. Weisman, Jonathan. 2009. APEC Leaders Move to Rescue Copenhagen Deal. *Wall Street Journal*. (November 14).

29. White House Office of the Press Secretary. 2009. *U.S.-China Joint Statement*. (November 17). Available at <http://www.whitehouse.gov>.

30. White House Office of the Press Secretary. 2009. *Joint Statement between Prime Minister Dr. Singh and President Obama*. (November 24). Available at www.whitehouse.gov.

31. O'Donnell, John. 2009. Germany's Merkel repeats call for climate cut rules. *Reuters*. (November 19).

COLLISION IN COPENHAGEN

The Copenhagen conference ran for two weeks, with working-level negotiations during the first week, followed by ministerial negotiations, ending with the arrival of 110 heads of state. Two rounds of UN negotiations during the fall (Bangkok in October and Barcelona in November) had made little progress. The 199-page negotiating text had been reduced to 163 pages, but there was still no consensus on key issues.³² This is what the delegates had to work with when they arrived on December 7.

The fundamental disagreements over the nature of a Copenhagen outcome that had hampered the negotiations since Bali were immediately on display day one of the Copenhagen conference. Then on December 8 one of the various draft texts prepared by the Danish government in the run-up to the conference in an attempt identify areas of political consensus was leaked.³³ While the Danes had engaged a number of developed and developing countries in this process, not all 192 countries had a seat at the table and the conference host was criticized for running an exclusive and nontransparent process.

Reaching agreement in UN climate negotiations requires a strong and credible chair that can elevate the dialogue to a ministerial level, convene a representative small-group process to broker a deal, and introduce a consensus text that's seen as equitable to all sides. The leaked text weakened the Danes' ability to play this role. In addition, growing suspicion among developing countries that Europe, Canada, Australia, Russia, and Japan were trying to “kill” the Kyoto Protocol in favor of a new agreement prompted a number of developing countries to block progress in the LCA until they saw movement in the Kyoto Protocol track.³⁴ As discussed above, large developing countries stood to lose from any erosion of the legal asymmetry of the Kyoto Protocol and the rest of the developing world wasn't yet convinced they had much to gain from a new agreement given how slowly negotiations had proceeded during the past two years.

That changed in the last three days of the conference. Shortly before Copenhagen began, developed countries had announced their intention to provide a combined \$10 billion per year by 2012 to support mitigation and adaptation in developing countries.³⁵ While developed countries acknowledged that number

32. UNFCCC (2009b).

33. Vidal, John. 2009. Copenhagen climate summit in disarray after “Danish text” leak. (December 8). *The Guardian*. Available at www.guardian.co.uk.

34. Ward, Andrew. 2009. Deadlock threatens Copenhagen climate deal. *The Financial Times*. (December 14). Available at www.ft.com.

35. White House Office of the Press Secretary. Statement from the Press

would need to scale up considerably by 2020, no specific figure had been offered. Vulnerable countries were reluctant to see the G-77 give away its only real negotiating leverage—the 2020 emission reduction commitments of its larger members—without firm 2020 finance numbers in return.

The international community does not necessarily need to choose between a UN process aimed at producing a legally binding agreement and a small-group process seeking to begin work now on a politically binding basis

On Wednesday, December 16, Ethiopian President Meles Zenawi announced that \$100 billion per year in 2020 would be a sufficient offer from developed countries.³⁶ This was considerably lower than the previous requests from the G-77, which ranged between \$200 billion and \$500 billion. Then on Thursday, December 17, Secretary of State Clinton announced in Copenhagen that the United States was prepared to “work with other countries toward a goal of jointly mobilizing \$100 billion a year by 2020 to address the climate change needs of developing countries.”³⁷ But she made it clear that the offer was contingent on the conference producing a “strong accord in which all major economies stand behind meaningful mitigation actions and provide full transparency as to their implementation.”

With Secretary Clinton’s announcement, a key G-77 demand had been met and a large number of developing countries now had something to lose if Copenhagen failed to produce an agreement. Yet while the pieces of a political deal were starting to come into place, with the Danish chair discredited there was still no clear pathway to deliver an outcome. So when heads of state arrived late Thursday night and early Friday morning, they found the negotiating text no further than at the start of the conference.

With one day left before the close of the conference the Danish chair, with the support of a number of leaders, made

one more attempt to convene a representative set of players to broker an agreement. Meeting all afternoon Friday and into the early morning hours, this group of roughly 30 countries drafted the Copenhagen Accord.³⁸ Speaking later in defense of the accord, the representative from Grenada identified most of the participants, which included both key developed countries (Japan, Canada, Australia, the United States, Russia, and several European states), large developing countries (China, India, Brazil, Mexico, and South Africa), and representation from vulnerable country groups (Grenada and the Maldives on behalf of AOSIS; Lesotho and Bangladesh on behalf of LDCs; and Algeria and Ethiopia on behalf of Africa).³⁹ Most were represented at the head-of-state level, with the exception of the BASIC countries. The leaders went paragraph by paragraph through the text (an almost unprecedented event in multilateral diplomacy) and were able to reach agreement on the most fundamental issues in the negotiations. Where the BASIC country representatives in the meeting did not have sufficient authority, President Obama was able to broker agreement through a separate session with Chinese Premier Wen, Indian Prime Minister Singh, Brazilian President Lula, and South African President Zuma.

Early Saturday morning, Prime Minister Rasmussen presented the Copenhagen Accord to the full Conference of the Parties (COP) for consideration. While it reflected the political will at the highest level of a broad representative group of countries, UN procedures required that it be accepted by all 192 Parties to the UNFCCC to have formal standing. Six countries spoke out against the accord—Sudan, Venezuela, Cuba, Bolivia, Nicaragua, and Tuvalu—thus preventing it from being adopted as a COP decision. A statement by Sudan equating the accord to the Holocaust prompted developed and developing countries alike, including those most vulnerable to the impacts of climate change, to rise in its defense. After several attempts to have the accord adopted through a COP decision with the same six countries opposing, the best the body could do was “take note” of the document. The United Nations announced that those countries wishing to sign up to the accord (or “associate” with the accord as the United Nations describes it) could do so by notifying the UNFCCC secretariat of their intent by January 31, 2010.

Secretary on the United Nations Climate Change Conference. (December 4, 2009). Available at www.whitehouse.gov.

36. Eilperin, Juliet, and David A. Fahrenthold. 2009. At Copenhagen, both rich and poor nations offer concessions. *Washington Post*. (December 17). Available at www.washingtonpost.com.

37. Clinton, Hillary. 2009. Remarks at the United Nations Framework Convention on Climate Change, Copenhagen, December 17.

38. United Nations. 2009. Copenhagen Accord to advance climate change action. (December 19). Available at www.un.org.

39. Webcast of event available online at http://www7.cop15.meta-fusion.com/kongresse/cop15/templ/play.php?id_kongressmain=1&theme=cop15&id_kongresssession=2761.

ASSESSING THE OUTCOME

The Copenhagen Accord is a three-page political document covering all five pieces of the Bali Action Plan and reflecting agreement on the three key substantive issues in the negotiations: mitigation, transparency, and finance.⁴⁰

Mitigation

On mitigation, the accord calls for “deep cuts in global emissions...so as to hold the increase in global temperatures below 2 degrees Celsius.” Annex I parties commit to take on quantified economywide emissions targets for 2020 to be listed in Appendix I of the accord by January 31, 2010. Non-Annex I parties agree to implement domestic mitigation actions to be listed in Appendix II of the accord by January 31, 2010.

Now that the January 31 deadline has passed it’s possible to assess how comprehensive and environmentally effective the accord has the potential to be. The United Nations has posted a list of countries that have signed up to the Copenhagen Accord along with a catalogue of their emission reduction commitments.⁴¹ As of March 2 the list includes 106 countries (40 developed and 66 developing), accounting for 81 percent of global emissions and 76 percent of global population. Of these countries, 72 have listed specific national emission reduction plans.

How far Do the Current Pledges Get Us?

To evaluate the environmental impact of the listed national actions, I measured them against what is projected to occur under business as usual (BAU).⁴² The BAU trajectory chosen for this analysis captures all national policy enacted through mid-year 2009 but excludes policy only under consideration. It results in growth of global greenhouse gas (GHG) emissions from 45 billion tons in 2005 to 56 billion tons in 2020 to 113 billion tons by 2100. By the end of the century atmospheric GHG concentrations reach 1,055 parts per million (ppm) and global temperatures rise more than 4 degrees Celsius.⁴³

40. UNFCCC (2009a).

41. Available online at <http://unfccc.int/home/items/5262.php>.

42. The BAU scenario used in this analysis takes emission growth rates projected by the International Energy Agency’s 2009 World Energy Outlook (IEA 2009) from 2005–30. From 2030–2100, emission growth rates are based on an average of the 11 models included in the Stanford University Energy Modeling Forum exercise (2009). This results in an emissions pathway in the middle of the range of projections used by the Intergovernmental Panel on Climate Change (http://www.grida.no/publications/other/ipcc_sr/?src=/climate/ipcc/emission/).

43. Atmospheric concentrations and global temperature changes modeled

Against this BAU trajectory, the national pledges currently listed in the Copenhagen Accord would reduce emissions to between 49.7 and 51.5 billion tons in 2020 (table 1, figure 3, and figure 4). That’s 7 to 11 percent below BAU. The range is due to the fact that several countries have provided both “low” (less ambitious) and “high” targets either conditional on other countries’ actions or due to uncertainty about the impact of domestic actions. If the \$100 billion in international financial assistance called for in the Copenhagen Accord materializes and half is used for emission reductions (the other half helping countries adapt to climate change), it could reduce emissions to as low as 48 billion tons (or 13 percent below BAU).⁴⁴

Here some caveats are required. While developed country targets are defined as absolute reductions below a base year, developing country targets are somewhat more relaxed in that they are defined either as a reduction in the amount of CO₂ emitted for each unit of economic growth (China and India) or as a reduction below BAU (everyone else). These standards allow developing countries more latitude to achieve the economic growth they need to lift their populations out of poverty.

The actual impact of a specific carbon-intensity target for developing countries, however, depends on how fast their economies grow—faster-than-expected growth will lead to higher emissions. And the impact of a BAU target depends on what the country in question thinks will happen in the absence of policy action. As no country other than Brazil has specified a BAU pathway to date, there is some uncertainty about the emission reductions their targets will ultimately deliver. Finally, achieving the full 1.53 billion tons of mitigation possible through international financial assistance would require that none of those emission reductions get counted against developed country targets (as occurs with international offsets) and none of the major developing countries use international financial assistance to meet the targets inscribed in the Copenhagen Accord. Neither is likely to be entirely the case.

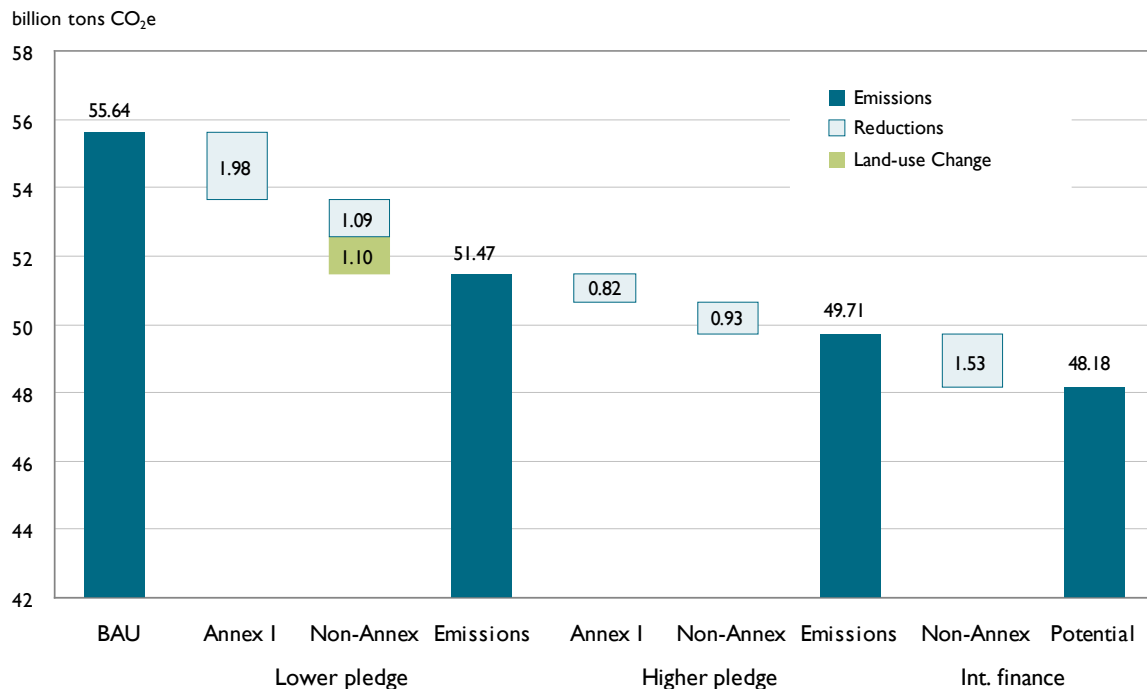
Are the Copenhagen Commitments Consistent with a 2-degree World?

The Copenhagen Accord only contains emission reduction commitments through 2020. Whether we limit global

using the C-ROADS platform (<http://climateinteractive.org/simulations/C-ROADS>).

44. Mitigation potential through international financial assistance calculated using the international allowance price in 2020 forecast by the Energy Information Administration under the American Clean Energy and Security Act of 2009 (<http://www.eia.doe.gov/oiaf/servicerpt/hr2454/index.html>).

Figure 3 GHG emission reductions from Copenhagen Accord in 2020



Source: Author's estimate of impact of Copenhagen Accord commitments as of March 2, 2010, based on forecasts from IEA (2009) and assuming constant deforestation rates under business as usual.

temperature increases to 2 degrees Celsius also depends on what countries do after 2020. Recent analysis has called for global emissions to peak by 2020 at between 40 and 48 billion tons to have a reasonable chance of meeting a 2-degree long-term temperature goal.⁴⁵ That's based on an assessment of what kind of emission reductions post-2020 will be technically and politically feasible. Higher emissions in 2020 will require steeper and more costly reductions thereafter.

Accurately assessing mitigation potential and cost post-2020 requires comprehensive analysis of economic growth trajectories, technological change, and natural resource profiles country-by-country. In the coming months, energy and climate modelers will be doing just that, and providing us with a clearer sense of where the Copenhagen Accord commitments leave the world in 2020.

For the time being, I've used a back-of-the envelope approach to ballpark whether meeting the 2-degree target is possible given the commitments in the Copenhagen Accord by imposing the following two constraints on post-2020 action:

1. *Equity:* No country should be required to make cuts that result in lower per-capita emissions than the European Union in 2050 (including emissions from land-use

change), assuming the European Union reduces emissions 80 percent below 1990 levels by 2050.⁴⁶

2. *Cost and feasibility:* No country should be required to reduce fossil fuel emissions between 2020 and 2050 at a greater annual rate (adjusted for economic growth) than the United States under the American Clean Energy and Security act of 2009 (83 percent below 2005 levels by 2050).⁴⁷

I modeled these post-2020 emissions pathways, along with the 2005–20 actions listed in the Copenhagen Accord, using the C-ROADS modeling platform developed by Climate Interactive, the Sustainability Institute, and MIT.⁴⁸ The result was a peak in atmospheric GHG concentrations between 487

46. From 2050–2100 all countries' per capita emissions converge at 1 ton.

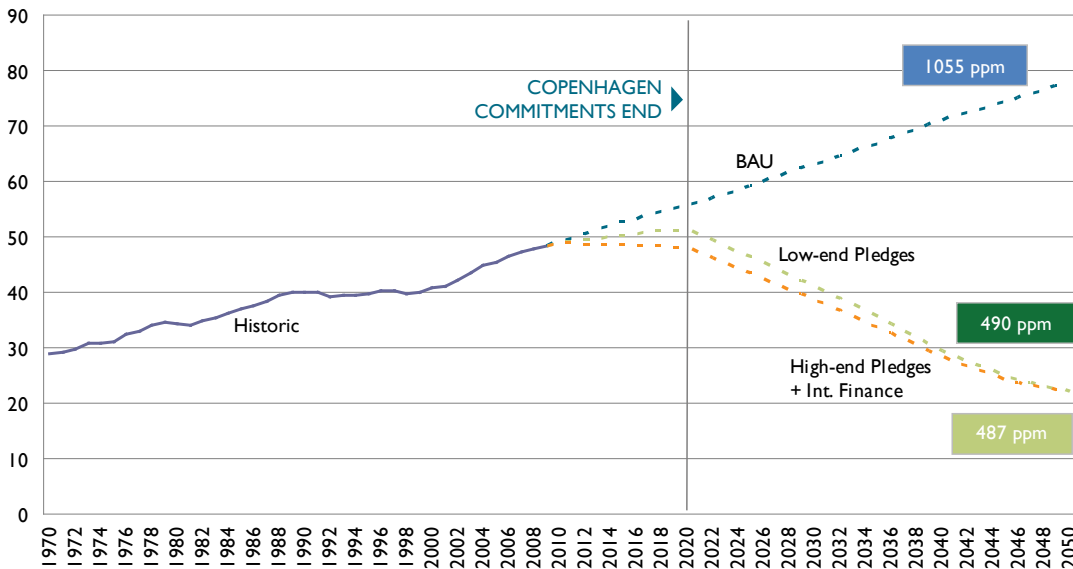
47. For Brazil and Indonesia, a significant reduction in deforestation is required to achieve per-capita equity with the European Union in 2050.

48. Information on C-ROADS is available at <http://climateinteractive.org/simulations/C-ROADS>. GDP and population growth in my analysis differ from the C-ROADS defaults. GDP growth estimates are from the International Energy Agencies' 2009 World Energy Outlook for 2005–20 (IEA 2009), and from the 11 models included in Stanford's Energy Modeling Forum (2009) for 2020–2100. Population growth estimates are from the UN Population Division for 2005–50 (2009) and from EMF-22 for 2050–2100 (Stanford 2009).

45. See for example Bowen and Ranger (2009).

Figure 4 Carrying the Copenhagen commitments forward

billion tons CO₂e - potential emission reductions following the pledges in the Copenhagen Accord and resulting atmospheric concentrations in 2100.



Source: Historic emissions from CDIAC (2009). BAU emissions projections based on IEA (2009) and Stanford (2009). Emission reduction pathways are author's estimates based on Copenhagen Accord commitments as of March 2, 2010, and post-2020 assumptions described in this Policy Brief.

and 490 ppm (figure 2). Translating that into temperature change is challenging because of uncertainty about the behavior of the climate system. The C-ROADS model shows a likely temperature increase in the 1.3- to 2.4-degrees Celsius range with a “best guess” of 1.8 degrees. This is lower than estimates from the Intergovernmental Panel on Climate Change (IPCC) whose “best guess” on the impact of a 450- to 500-ppm world is between 2.1 and 2.4 degrees Celsius.⁴⁹ Either way, if countries follow through on their pledges and follow on with more aggressive action, it looks like keeping global temperature increases below 2 degrees Celsius is still within reach. Of course, the more countries ratchet up mid-term action, the better the chances get.

The accord calls for an assessment by 2015 of the effectiveness of the national actions listed in the appendices. This review would include consideration of whether to strengthen the long-term goal from 2 degrees Celsius to 1.5 degrees Celsius. Though implied by the temperature goal, the accord does not specify a global emission reduction target, such as a 50 percent cut by 2050, which developed countries, LDCs, AOSIS, and African countries had sought.

49. See IPCC (2007).

Transparency

On transparency, the mitigation actions of both developed and developing countries will be subject to international scrutiny. Annex I country mitigation actions will be evaluated using existing guidelines. This consists of annual expert reviews of the greenhouse gas emission inventories and reports on national actions submitted to the UNFCCC coupled with an in-country expert visit at the invitation of the submitting party. Non-Annex I countries agreed to also provide greenhouse gas inventories and report on the effectiveness of their actions in reducing emissions (every two years) to the UNFCCC secretariat. These reports will then be subject to international consultation and analysis, using guidelines to be determined by the Conference of the Parties. Developing country actions supported by international finance and technology assistance will be subject to more stringent international verification. The provision of financial support and progress on technology cooperation will also be subject to international scrutiny.

Transparency was a key issue in the negotiations and a significant sticking point in talks with BASIC countries. Subjecting developing country actions to international consultation and analysis erodes the strict asymmetry between Annex I and non-Annex I countries enshrined in the Kyoto Protocol and builds confidence that all major economies are

standing behind their commitments. While in the end the BASIC countries acquiesced to the transparency provisions sought by the US, the guidelines for international review of developing country actions are yet to be determined, ensuring this continues to be a contentious issue in the years ahead.

Finance

On finance, the accord calls for the establishment of a “Copenhagen Green Climate Fund” to support mitigation, adaptation, and technology cooperation. Developed countries pledged a combined \$30 billion between 2010 and 2012 and \$100 billion per year by 2020, and a “significant portion” of that funding is to flow through the new fund. The poorest and most vulnerable developing countries will have priority in receiving financial assistance. The accord also called for a high-level panel “to study the contribution of the potential sources of revenue.”⁵⁰ On February 12 the United Nations established such a panel called the “Advisory Group on Climate Change Financing,” co-chaired by British Prime Minister Gordon Brown and Ethiopian President Meles Zenawi.⁵¹

Other Issues

The accord provides less detail on technology cooperation and deforestation. These were two issues where the working-level negotiations during the conference had actually made meaningful progress. How that work relates to the Copenhagen Accord is not defined. And there are a number of places where the accord makes reference to the convention or relies on decisions by the Conference of the Parties (such as setting guidelines for how developing countries report emissions or establishing mechanisms like the High Level Panel on finance) even though the accord has no formal standing under the UNFCCC. Finally, the accord does not specify a pathway or timeline for transitioning to a legally binding treaty. These are critical questions that countries who sign up to the Copenhagen Accord will need to address in the coming months to translate this agreement into action.

MOVING FORWARD

Negotiated directly by heads of state, the Copenhagen Accord reflects a high level of political will to address the climate change challenge. By attracting a broad and representative

group of countries, the accord has the potential to significantly advance international action. If countries associated with the accord carry out the commitments they have inscribed in its appendices, the world stands a chance of averting the worst consequences of climate change. Transparent reporting on the effectiveness of these mitigation actions to the international community will increase confidence in the group’s ability to meet this common challenge. And if the financing called for in the Copenhagen Accord is realized, global emission will be reduced further and the most vulnerable countries will be better equipped to adapt to the warming already occurring.

Because the COP did not formally adopt the Copenhagen Accord, the pathway forward is unclear. Furthermore, despite widespread calls to turn the Copenhagen Accord into a treaty at the next Conference of the Parties this December in Cancún, Mexico, the underlying issues of legal form and negotiating forum that plagued the past two years of climate talks have not gone away. The fact that the Copenhagen Accord is politically binding and that the two formal UNFCCC negotiating tracks (the Kyoto Protocol and the LCA) are set to continue allowed the parties to reach agreement on substance without compromising their position on these institutional and process questions, which will have to be squarely addressed going forward.

Broadly defined, there are three principle options for implementing the Copenhagen Accord and advancing international climate negotiations.

The UN Treaty Approach

A wide array of countries, both developed and developing, have called for turning the Copenhagen Accord into a legally binding agreement through the UN negotiating process leading up to Cancún in December.⁵² A treaty adopted by all 192 Parties to the UNFCCC would indeed be the strongest and broadest possible statement of global political will and provide a firm foundation for building the finance, adaptation, and technology cooperation institutions and mechanisms called for in the Copenhagen Accord (Werksman and Herbertson 2009).

But there continues to be fundamental disagreement about which countries should be legally bound under such an agreement. The United States, Australia, Japan, Canada, and Russia continue to insist that while the content of countries’ commitments may differ based on level of development and

50. UNFCCC (2009a).

51. Gronewold, Nathaniel. 2010. U.N. Gets Rolling on Copenhagen Accord, Forms Finance Panel. *New York Times*. (February 12). Available at www.nytimes.com.

52. See for example: *Submission by Spain and the European Commission on behalf of the European Union and its Member States*. (February 12, 2010); Jiabao, Premier Wen. 2010. *Letter to Danish Prime Minister Rasmussen*. (January); and *Japan’s submission on the process of the AWGs in 2010*. Available at www.unfccc.int.

capabilities, all countries must be bound to their commitments in the same way under a new treaty. BASIC countries continue to reject this approach. Chinese Premier Wen has called for a “binding” outcome in Cancún that includes a second commitment period to the Kyoto Protocol for Annex I Parties, comparable emission reductions commitments from the United States, and voluntary mitigation actions from developing countries with financial and technology support from developed countries.⁵³ This view has been echoed by other emerging economies.

The relationship of the Copenhagen Accord to the two official UN negotiating tracks is also the subject of considerable dispute. In a joint communiqué following a January 24 meeting in India, the BASIC countries welcomed the accord, but “underscored the centrality” of the LCA and Kyoto Proto-

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col, and the negotiating texts from these sessions that were left on the table full of brackets in Copenhagen, in moving toward a legally binding agreement at COP16 in Mexico.⁵⁴ In subsequent submissions to the UNFCCC, China, India, Brazil, and South Africa have all individually indicated that they see the Copenhagen Accord as a document that can inform the LCA and Kyoto Protocol negotiating tracks where appropriate.⁵⁵ Speaking at the Center for American Progress in early February, US Special Envoy for Climate Change Todd Stern rejected this interpretation of the accord, describing it as “an operational document with landmark provisions” and that it can’t “be cherry-picked, since, like any meaningful agreement, it represents a fair balance.”⁵⁶

Unless these differences can be resolved over the next nine months, there is little chance of a treaty in Cancún. And even if the major players can reach agreement, a COP decision will still require consensus of all 192 Parties to the

UNFCCC. Going down this path without addressing the underlying issues of legal form and negotiating forum will almost certainly produce a process—not unlike the current Doha Round in international trade negotiations—that drags on indefinitely sapping the international community’s appetite for the challenge.

The Small-group Political Approach

The chaos in Copenhagen and the shortcomings of a consensus-driven UN negotiating process have left many observers looking for an alternative forum to implement the Copenhagen Accord and advance international climate change cooperation. Since most countries set their climate policy through domestic legislation rather than international negotiations and meaningful penalties for noncompliance are not on the table, the necessity of a treaty is open for debate. Indeed, many argue that demanding commitments that are internationally legally binding reduces ambition because countries need to ensure a healthy margin between what they commit to and what they think they can actually achieve.

A politically binding, rather than legally binding, approach opens up a range of possible negotiating forums other than the UNFCCC. The most promising existing institutions are the G-20 and the MEF, each with its own strengths and weaknesses. The G-20 has considerable support from both developed and large developing countries after its success in responding to the global financial crisis over the past two years. There are already two G-20 summits scheduled this year, one in June and another in November. The G-20’s broad scope could be an asset or a liability. Addressing climate change alongside global economic and financial issues would allow for a more integrated approach to a low-carbon future. But limited bandwidth during G-20 summits could limit the amount of time spent addressing climate change issues. A G-20 energy/environment ministerial, similar to the current G-20 finance ministerial, could help address this issue. Getting the G-20 to take up climate change in a meaningful way would also require consent of the member countries.

The MEF is a more focused forum with an existing mandate to address climate change. Much of the Copenhagen Accord reflects consensus achieved at the MEF Leaders Meeting last July. The MEF also launched a Global Partnership aimed at accelerating international technology cooperation and produced 10 technology action plans in November that start to chart the pathway to a low-carbon future. The MEF does not have as much international credibility as the G-20, however, both because it was created and has been chaired by the United States and because it was criticized in the run-up to Copenhagen as an exclusive process.

53. Jiabao, Premier Wen. 2010. *Letter to Danish Prime Minister Rasmussen*. (January). Available at www.unfccc.int.

54. *Joint Statement issued at the conclusion of the Second Meeting of Ministers of BASIC Group*. (January 24, 2010). Available at www.moef.nic.in.

55. See *China’s Submission of Views on the AWG-LCA and AWG-KP*. (February 15, 2010); *India’s Submission on the Work of AWG-LCA and AWG-KP*; *Brazil’s submission to the UNFCCC*. (February 10, 2010); and *South Africa’s submission to the UNFCCC*. (February 4, 2010). Available at www.unfccc.int.

56. Stern, Todd. 2010. Remarks at the Center for American Progress, Washington, February 9. Available at www.americanprogress.org.

Both the G-20 and the MEF would need to find a way to give vulnerable countries a voice. While not a significant source of greenhouse gas emissions, island states, least developed countries, and African states have the most to lose from a warming world and are thus important stakeholders in climate change negotiations. Their voice will be critical in implementing the Copenhagen Accord, both to give it credibility and to pressure developed and developing countries alike to meet their emission

The hybrid approach would prevent near-term substantive action from being held hostage to disagreements over legal form, but would also help build support for a treaty by demonstrating that meaningful international cooperation is possible.

reduction commitments. The G-20 and the MEF could include representatives of AOSIS, LDCs, the African Group, and other appropriate country groupings, for climate-related discussions through a G-20+5 or MEF+5 process.

The countries that drafted the Copenhagen Accord could also set up a new forum. This “Climate 30” (C-30) would have both a stake in the accord and credibility with key constituencies. The challenge would be in convening such a grouping. The call for a C-30 summit would need to come from both developed and developing countries, and would stand the best chance of success if they were countries other than Denmark, China, the European Union or the United States.

While a small-country grouping would prove more workable in reaching political agreement on key climate change issues, it’s unclear how successful it would be in establishing the mechanisms and institutions called for in the Copenhagen Accord. Some relationship between a Copenhagen Accord and the UNFCCC would still be required. More importantly, it’s clear that while they support the Copenhagen Accord, BASIC countries are committed to the UNFCCC as the primary negotiating vehicle and the asymmetry of the Kyoto Protocol as the preferred legal paradigm. Getting China, India, Brazil, and South Africa to agree to advance climate change negotiations through a small group process will be extremely difficult if they see it coming at the expense of the UNFCCC.

Finally, while a political agreement is arguably sufficient to address the climate change challenge over the next decade as countries formulate domestic policy and gain confidence in its effectiveness, by 2020 the need for a more top-down approach

will grow. Every year that passes the number of possible emission pathways that will keep global temperature increases below 2 degrees Celsius diminish. As we move down the emission reduction curve there is less room for uncertainty or experimentation and the need for an international treaty that divides up acceptable global GHG emissions between countries grows.

The Hybrid Approach

The international community does not necessarily need to choose between a UN process aimed at producing a legally binding agreement and a small-group process seeking to begin work now on a politically-binding basis. The formal UN negotiations will continue, with meetings for the coming year already being scheduled. Delegates can resume the two-track negotiations informed by the political agreement reflected in the Copenhagen Accord as they try to resolve the legacy of the Kyoto Protocol with the Bali mandate and seek consensus on a legally-binding outcome.

At the same time, the G-20, MEF, or a new “C-30” should seek to implement the Copenhagen Accord to build upon the momentum of the past two years and begin work immediately to reduce emissions and provide financial assistance to those in need. Where possible, this small-group process would look to the UNFCCC to establish financing, technology, and transparency guidelines and mechanisms, but if consensus through the UNFCCC is not possible, the small-group process could do this work or turn to other institutions. The fact that the COP only “took note” of the accord makes this strategy possible, because the UNFCCC does not have exclusive rights to its provisions. It reflects political will of a broad and representative group of countries at the highest level and those countries should be held to account in whatever forum they meet.

The hybrid approach would prevent near-term substantive action from being held hostage to disagreements over legal form, but would also help build support for a treaty by demonstrating that meaningful international cooperation is possible. It will be challenging, given the path-dependency of the UNFCCC and the reluctance of emerging economies to engage in a negotiating form that might lead to greater commitments. Copenhagen has provided a unique opportunity to face hard truths and rethink our approach. It’s critical we do so, as the international community’s commitment to tackle this challenge can’t survive a repeat in Cancún, and the climate doesn’t have time for a Doha-like approach.

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