

A Victory for Multilateralism?

A commentary on the UNFCCC negotiations in Cancun, Mexico

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An IISD Commentary

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Foreign Affairs Minister Espinosa, the President of COP16, and Christiana Figueres, Executive Secretary of the United Nations Framework Convention on Climate Change (UNFCCC), introduced a very simple concept at the opening of the Cancun negotiations: “do not let the perfect be the enemy of the good.” To everyone’s surprise, the Parties to the UNFCCC actually took their advice to heart and successfully revived the endangered multilateral climate change negotiations, but it was far from easy. The final gavel did not come down until 6:30 on Saturday morning and serious questions remain. Unlike Copenhagen however; the negotiations ended with a note of optimism that this process can still yield significant results.

Most importantly, Cancun injected some vital confidence into the process. By the end of Copenhagen, while many (including this author) thought that an important precedent had been set in the Copenhagen Accord—namely that we finally had all major emitters inscribing economy-wide mitigation commitments/actions under one chapeau—the process that got us to that point and the roll out of that decision, once it was made between the U.S. and the BASIC countries (Brazil, South Africa, India and China), was close to disastrous. As a result, the Copenhagen Accord came out as only an information note, with no status as legal decision of the Parties. What was achieved in Mexico was essentially the formal adoption of the terms agreed to at Copenhagen, without ever explicitly saying so. The Long-Term Cooperative Action (LCA) text addressed developing country priorities about financing; adaptation; technology transfer, reduced emissions from deforestation and degradation (REDD); and support for the development of nationally appropriate mitigation actions (NAMAs). Furthermore, developed countries’ priorities around developing a robust monitoring, reporting verification regime; establishing new market mechanisms; and putting an anchoring mechanism for the inscription of mitigation commitments under the Copenhagen Accord in place were also important aspects of the final deal.

Surprisingly, no such mechanism for anchoring industrialized country emission reduction targets under a second commitment period to the Kyoto Protocol was provided in the Kyoto Protocol final text. For now, this represents a moral victory for Japan and Russia, who have indicated that they would never sign any additional commitments under the Kyoto Protocol post 2012. In fact, Japan’s decision to draw their line in the sand on this issue was roundly condemned by most of the Parties and CAN, with others wondering about the wisdom of raising this issue at Cancun. Would it not be better to let sleeping dogs lie, and, at Cancun, first focus on closing some substantive agreements (monitored, reported and verified systems or MRV, financing and REDD+ in particular)? That way, the Parties might be more accommodating in defining the legal form of the eventual agreement throughout the year. The issue essentially boils down to whether or not there should be a difference on the “bindingness” between developed and developing countries’ mitigation commitments/actions.

The decision reached, while including a text from the Kyoto track, leaves most assuming that the negotiations on this track are nearly dead. Even though the G77 and China, led by the BASIC

countries, strongly asserted throughout the two weeks that they were fully committed to the Kyoto track, the result suggests there was some softening on this stance. Without any mandatory “anchoring mechanism” in the text, it appears that Annex B Parties (all industrialized countries with the exception of the U.S., which did not ratify the Protocol) will have the option of deciding whether they would inscribe their second group of commitments under the Kyoto Protocol. With the U.S. and major developing country emitters almost certainly devising a legal form with less “bindingness” than the Kyoto regime, it is hard to imagine any Annex B Party, including the EU, would agree to inscribe their targets as an amendment to the Kyoto Protocol.

This has huge implications for the evolution of the climate change regime, even if we assume that a comprehensive deal is within our grasp, whether at Durban or some time thereafter. The development of the new regime is commonly characterized as a bottom-up approach, in contrast to the top-down *modus operandi* of the Kyoto Protocol. The international offsets regime is likely to be defined by individual countries and not sanctioned by some international oversight mechanism such as the Clean Development Mechanism (CDM) Executive Board. Countries are also likely to play a much more autonomous role in deciding how they will be accounting for their greenhouse gas emissions, including land use and land-use change activities. The U.S. and China have already made it clear that neither would accept international penalties for non-compliance with mitigation commitments/actions. And, with regard to financing, we are no longer looking at the traditional notion of public funding being the sole source for providing the US\$100 billion per year to developing countries to help them address climate change. Instead, the text refers to “mobilizing” adequate funding, very much leaving the door open for active private sector engagement in providing such funds.

The final LCA agreement has a number of curiosities, none of which could be re-examined for fear of opening up the text at that late hour in Cancun. For example, reference is made to exploring the possibility of establishing a “non-market” mechanism in the section of the text dealing with new market mechanisms. No one I spoke with was clear as to what such a “non-market” mechanism might represent, although there is speculation that it might refer to some sort of pricing mechanism for bunker fuels in the aviation and maritime industries. Equally puzzling were TWO distinct paragraphs calling for the establishment of a new market mechanism, clearly implying that what is envisioned are two distinct market mechanisms, with no clear definition as to what one would actually look like. And while countries agreed to establish a Technology Mechanism to facilitate the effective deployment and diffusion of appropriate technologies, the issue of Intellectual Property Rights appears to have completely disappeared: no mention of it is made anywhere in the text. While this may be a relief to most industrialized countries, it still begs the question as to why developing countries appear to have become so accommodating on an issue on which they were so vigilant in the past. Within the KP, there was also a surprising last minute consensus decision supporting carbon capture and storage (CCS) as a legitimate CDM activity. An issue strongly

supported by a number of Umbrella Group and OPEC countries, the adoption of this decision probably helps to explain why Saudi Arabia was as non-confrontational as this author has ever seen them be in these negotiations.

On some of the more divisive issues, the authors of the LCA text were quite ingenious: they included all perspectives, leaving it to a later date to decide what the specifics of the decision should be. For example, in the section addressing MRV for developing country actions, one can discern both U.S. and Chinese perspectives in separate paragraphs. Then there was the decision NOT to include any reference to agriculture as a potential area for exploring mitigation opportunities. Agriculture is a priority for many countries in the negotiations, including Canada, so it will be interesting to see how and whether the issue might get reintroduced into the negotiations over the next year. Clearly, much work remains to be done.

A quick word on Canada's role and profile in the negotiations: Although Canada did manage to win the Fossil of the Year award for the second year running (for reasons mostly outside of these particular multilateral negotiations from what I understand), Canada played a relatively quiet and, on one key issue, diplomatically astute role. One would assume, given Canada's record in honouring its Kyoto targets, that they would be very strong aligned with Russia and Japan in refusing to inscribe their targets under a second Kyoto commitment period. They probably are, but they never came out and said so; instead, Canada simply stated that, at the end of the day, their goal is a comprehensive agreement with legally binding targets for ALL major economies, but that Canada would not be doctrinaire on the particular form that it should take. Very deftly handled, in this author's view. The government also continued to play a constructive role in other elements of the negotiations, particularly land use-related activities, and apparently played a compelling role in the back-door negotiations for recognizing geological storage as a legitimate CDM activity. Interesting; this may represent a softening of the Canadian government's position on eventually participating in an international carbon market. But that should not detract from the fact that Canada is still the only Kyoto Party to expressly state that it has no intent of meeting its Kyoto targets, whether through domestic actions or international purchases. As such, it is likely that it will continue to be a "target" of pointed criticism from many quarters, particularly the environmental constituency.

A victory for multilateralism? A qualified "yes" if we are talking about keeping the UNFCCC negotiations alive, but to claim that it represents a critical boost for multilateralism in the broader diplomatic world would be preliminary. Yes, we did see some important developments: not only divisions within the G77 and China (the Alianza Bolivariana para los Pueblos de Nuestra América or ALBA alliance, led by Bolivia, with some Organization of the Petroleum Exporting Countries (OPEC) countries were isolated) but also even fissures within OPEC, with the United Arab Emirates and Kuwait breaking away from the more hard-line position of Saudi Arabia. At the end of the day, only Bolivia remained steadfast in its opposition to the Cancun Agreements and, to be fair,

the final texts did not reflect, in any significant way, its positions or approach to these negotiations. The real surprise was that, while a few countries supported Bolivia in the first tranche of discussions on Friday night in Cancun (Venezuela, Cuba, Saudi Arabia to name a few), Bolivia was left isolated when the final decisions were being gavelled down. By the end of the negotiations, the Mexican Presidency addressed the Bolivian delegate quite directly, stating that the rule of consensus cannot be used as a veto mechanism. We have seen this on numerous previous occasions, probably the most significant time being at Kyoto, where Chair Estrada stated that he saw “substantial consensus” in the hall and then would use that as the basis for gaveling through a number of Kyoto Protocol articles.

Strong kudos to Mexico and the UNFCCC Secretariat, under Christiana Figueres, for achieving success in Cancun. But let’s not march forward too brashly in these negotiations. It is critical that the bar for expectations not be set too high for Durban. None of the substantive issues have been fully resolved—that is what Durban should focus on: getting full agreements around REDD+, MRV and financing governance issues, and making significant progress in other areas, especially the market (and potential non-market) mechanisms. We also need considerable elaboration on how the role of the private sector can be enhanced in the implementation of the financing decisions.

Decisions are only as effective as the extent to which they are implemented. In that respect, the vast majority of the achievements at Cancun—on financing, adaptation, technology transfer, capacity building, REDD+—carry substantial dollars with them. Given the frightening debt to gross domestic product ratios we currently are seeing with most OECD countries, and a new Congress in Washington that is considerably more conservative on international funding for climate change, prospects for meeting these commitments may not be the best. Finally, we need to be aware of the potential price of striking deals in the UNFCCC. The price of consensus at times may be so high that the effectiveness of the agreements, for example about carbon trading, may be severely compromised. For example, there are already a few concerns that the decision to allow for CCS under the CDM carries so many onerous stipulations that few may be interested in actually pursuing this option.

Final thought? Let’s not make the mistakes of Copenhagen a second time; let’s continue to take a pragmatic step-by-step approach that will slowly build confidence in this very tenuous regime. Are we too late in addressing what the science of climate change tells us? Unfortunately, most certainly; but it is also the case that late is better than never, which is the risk we run if we play out another saga of brinkmanship at Durban like the one that transpired at Copenhagen.

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