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From Kyoto to Durban: The Fits and Starts of Global Climate Change Negotiations

The 2011 outcomes from the UN's annual climate change meetings have again been met with both cautious optimism and charges that the process shows few signs of effectively addressing global climate challenges. The 17th Conference of the Parties (COP17) in Durban, South Africa, saw this dichotomy take on amplified relevance in the shadow of an expiring Kyoto Protocol. This NTS Insight takes this as an opportunity to review some of the fundamental structures that define climate change mitigation efforts at the international level, and to illuminate some of the primary points of contention that have dogged international negotiations from their inception. It argues that, while the COP17 did take steps to address some important foundational fracture points, the divisions that have long defined climate change diplomacy will not dissipate quickly. Policymakers would do well to consider this likelihood when accounting for the trajectory of future climatic changes.

By J. Jackson Ewing

The annual Conference of Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC) provides an encompassing forum for participants from around the world. Its large nature also creates challenges, however, and the 2011 meetings in Durban, South Africa, showed that major fissures remain present within global climate negotiations.
Credit: UNclimatechange/flickr.

Contents:

Introduction

The dust has settled on the most recent Conference of the Parties (COP) to the UN Framework

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Convention on Climate Change (UNFCCC) and, in what is becoming an annual occurrence, a cacophony of voices are offering widely varying post-mortems of the conference outcomes. Critical voices warn that the outcomes of the Durban conference lack the ambition, political will and visionary leadership needed to mitigate rapid climatic changes (Levi, 2011; Broder, 2011). These criticisms are not without merit. While the COP17[1] in Durban saw diplomatic convergence on some major issues, few hold illusions that the meetings will fundamentally affect the current trajectory of global atmospheric change. Others, however, remain cautiously optimistic, citing the eleventh hour agreement in Durban that exceeded many pre-conference expectations and injected new life into key elements of the UNFCCC process (Ballesteros et al., 2011). These contrasting narratives notwithstanding, a virtual consensus exists among observers of climate negotiations that stronger and more rapid actions need to be taken to prevent the crossing of key climatic thresholds. Disagreements centre on how to achieve such actions and on the nature of the fracture points in climate change negotiations.

This NTS Insight contributes to these discussions by illuminating some of the key impediments that have historically hindered UNFCCC progress on such bold ambitions, and by assessing the state of climate change mitigation efforts in light of the Durban outcomes. Given the pervasive difficulties that have defined mitigation talks, this NTS Insight takes the view that is important to rationalise rather than demonise the roots of negotiation deadlocks and to seek avenues for mitigating climate change that soberly comprehend the limitations faced by UNFCCC stakeholders.

This NTS Insight begins by revisiting the Kyoto Protocol, which loomed large in Durban, before reviewing the Durban outcomes on contentious mitigation issues. It then looks at the systemic factors that make these outcomes largely unsurprising, and unpacks some entrenched positions and challenges that should be accounted for when projecting future climate change agreements. It concludes by exploring several potential implications of contemporary climate negotiations.

^ To the top

Kyoto revisited

Fourteen years on, the Kyoto Protocol remains the most substantive and influential piece of international climate change legislation ever constructed. Despite its shortcomings, and its failure to achieve the widespread acceptance envisioned by its creators, the Kyoto Protocol has been a significant factor in climate change negotiations since its inception, and questions about how it should evolve and be actuated have dominated countless deliberations, including multiple negotiation tracks in Durban.

The Kyoto Protocol was a landmark agreement in the history of the UN Framework Convention on Climate Change (UNFCCC), and 14 years later, its principles continue to strongly influence global climate change mitigation strategies. In Durban, climate change activists called, both visibly and vocally, for the Protocol's extension.

Credit: UNclimatechange/flickr.

The COP3 in Kyoto delivered a compromise that placed binding emissions targets on Annex I (essentially developed) states while seeking only voluntary actions from non-Annex I (essentially developing) states (for the text of the Kyoto Protocol, see UN (1998)). This division is arguably consistent with the overarching principle within the UNFCCC of 'common but differentiated responsibilities'. The delineation also arose out of the need to quell fears among developing countries that emissions limits would undermine their respective development agendas.

The Kyoto Protocol contains the foundations of market-based strategies that remain relevant for current climate mitigation efforts (for more on market-based instruments, see Olmstead and Stavins (2011), Aldy et al. (2003a) and Cooper (2001)). The Protocol created mechanisms that aggregated the global atmospheric commons for the sake of mitigation efforts. The reasoning here was that since emissions reductions in one place were just as climatically valuable as those in another, Annex I parties should be given a range of options for reducing global greenhouse gas (GHG) levels. They need not confine their emissions reduction efforts to their own states; they could also assist other states in such endeavours. Such flexibility was operationalised primarily through the Clean Development Mechanism (CDM) and the Joint Implementation (JI) scheme, together with the issuance of emissions units called certified emission reductions (CERs, also known as 'carbon credits').

The CDM calls on Annex I states to help developing countries pursue sustainable development through channels such as capital flows, technical assistance and clean technology transfers. In return, the assisting states are rewarded with a quantity of CERs corresponding to the emissions impacts of given projects, which could then be counted towards their emissions reduction targets under the Kyoto Protocol. The JI has a similar structure, except that it allows for Annex I countries to assist other Annex I countries in return for CERs.

These Kyoto Protocol structures led to the emergence of a carbon market whereby states could buy CERs to help them reach their domestic emissions reduction commitments or sell credits if their reduction efforts outstripped what they had pledged internationally. Through this market-oriented approach, the Kyoto Protocol sought to encourage symbiotic relationships in which the interests of Annex I countries (being able to demonstrate emissions reductions) and non-Annex I countries (gaining assistance for clean energy or low-carbon development) would converge. If the system functions as envisaged, all parties would benefit from the slowing and ultimate reversal of the global GHG problem without enduring overly painful costs.

Shortcomings and struggles

As is well-documented, the Kyoto Protocol has struggled to realise its lofty aspirations, and its implementation problems exemplify many of the challenges still plaguing the UNFCCC process (see Aldy and Stavins (2010)). The first stumbling block was the lack of commitment to the binding targets of the Kyoto Protocol, most conspicuously revealed by the failure of the US to ratify it. Despite the US playing an active role in the 1997 construction of the Protocol, there was never enough support in the US Senate to bring the country into the binding emissions framework. The US was at the time the world's largest emitter and continues to be responsible for almost one-fifth of global GHG emissions (Gregg et al., 2008; IEA, 2011). The Protocol, and its effects on anthropogenic climate change, was greatly reduced in scope without the accession of the US to its standards.

This was exacerbated by the fact that, under the Protocol, emissions commitments for non-Annex I countries were non-binding. Developing countries in 1997 considered binding commitments to be untenable – a position that has in many ways remained unchanged – as such targets could undermine their development potential, and prevent them from achieving vital improvements in state capacities and the welfare of their citizenries. Moreover, these countries have framed the global GHG problem as a legacy of past emissions in the developed world, arguing that the responsibility for taking the most immediate steps must therefore lie with the Annex I nations. Regardless of the position one takes on the justness of the developing countries' arguments, this dual arrangement – binding commitments for Annex I countries and voluntary commitments for non-Annex I countries – has in practice resulted in an increasingly smaller share of global GHG emissions being bound by Kyoto Protocol targets.

China, for example, overtook the US as the world's largest emitter in 2007 and its energy consumption and GHG production continue to accelerate far quicker than that of Annex I countries (Gregg et al., 2008; Swartz and Oster, 2010). More broadly, the rapidly rising per capita emissions of growing economies such as those in China, India, Brazil, Indonesia and South Africa are quickly tipping aggregated global GHG emissions further towards the developing world; and because of inescapable demographic, economic and social realities, these trends are certain to become more pronounced (Homer-Dixon, 2008; Goldblatt and Watson, 2012). With some of the highest emitting countries in the developed and the developing world not subject to binding targets, it would be impossible for the world to attain the oft-discussed climate target of CO2 concentrations at or below 450 parts per million (ppm) (Olmstead and Stavins, 2011).

Despite these problems, the Kyoto Protocol has remained pivotal for a number of reasons, and Durban represented the final chance for addressing the future of the Protocol at the highest levels of UNFCCC negotiations.[2] With the Kyoto Protocol's first commitment period set to expire at the end of 2012, there was a need for countries to agree on some action, whether it be an extension of the Protocol, a new treaty or certain stop-gap measures. Failing that, the world would have been left without an international legal mechanism for quantitatively limiting states' GHG emissions. This would have been a troubling prospect, particularly given that advances in climate science since the Kyoto Protocol have strengthened understandings of GHG risks and provided greater clarity about the implications of continuing high emissions. From a climate science perspective then, having an operational treaty, however flawed, would be preferable to having none at all.

Such a void would also represent a serious institutional setback for UNFCCC mechanisms. The CDM, JI and CER frameworks all rely to various degrees on an overarching climate mitigation treaty, a role filled by the Kyoto Protocol since it came into force. Without such a treaty in place, these mitigation frameworks would risk becoming rudderless or even unworkable, and as such a voluminous amount of financial, human and intellectual capital could be rendered obsolete. Less tangibly, many developing states would view the abandonment of the Kyoto Protocol as a 'breach of trust' on the part of wealthy high-emitting states (IISS, 2011). Such abandonment, one could argue, would signal the shelving of the foundational UNFCCC premise of common but differentiated responsibilities for addressing climate change and mark the refusal of developed nations to acknowledge past culpability for the current global GHG level (UN, 1992). It should be noted that past culpability remains a contentious issue. On the one hand, it is implicitly and at times overtly acknowledged within UNFCCC statutes that comparatively high emissions have helped Annex I countries achieve development successes and that these past emissions continue to affect global climate calculations. However, many Annex I countries are wary of the use of the language of culpability because of fears that they will be called upon to make recompense for future losses that are deemed to be attributable to climate change.

^ To the top

Durban: Rescue or stop-gap?

Negotiations at Durban, as has become the norm at the UN Framework Convention on Climate Change (UNFCCC) annual meetings, went late into the final weekend. While this shows resolve and determination, some parties to the process have voiced opposition to what they see as unsatisfactory 'last-minute' deals.

Credit: UNclimatechange/flickr.

The decision in Durban to extend the Kyoto Protocol into a second commitment period is therefore being touted as one of the COP17's most important contributions. The Kyoto Protocol hobbled into Durban with many obstacles in its path: Japan, Russia and Canada had publicly declared that they would not be a part of any second commitment phase;[3] the US political climate had made its accession to future Kyoto Protocol commitments a non-starter; and EU declarations had not provided clarity as to what would be required at Durban to keep the Protocol alive. The EU did ultimately champion the Kyoto Protocol in Durban however, with the vocal support of developing states that both benefit from its market mechanisms and see it as the linchpin of the differentiated responsibilities of developed and developing states.

The second commitment phase will begin on 1 January 2013 (on the heels of the expiration of the current commitment period), but it remains unclear which countries will join the EU in this effort (Ballesteros et al., 2011). Also, the individual emissions caps for the various parties to the Kyoto Protocol were left to be negotiated at the COP18 in Qatar. Thus, the second implementation phase of the Kyoto Protocol is an even hollower shell than its predecessor, but the Durban meetings did ensure that the Kyoto Protocol mechanisms underlying the emissions trading schemes would remain in existence.

Tentative step towards inclusiveness

In addition to extending the Kyoto Protocol, the COP17 produced the Durban Platform for Enhanced Action as the foundation for prospective agreements in 2015. The Platform emerged from the Long-Term Cooperative Action (LCA) negotiating track, the avenue within which the UNFCCC's grandest ambitions are typically pursued. The LCA deliberations were unsurprisingly among the most contentious at the COP17, but also yielded Durban's potentially most compelling contributions. The Platform provides the foundations for a more inclusive approach to climate change mitigation and maps out a new time-frame for reaching a longer-term agreement. Point two of the Platform states that parties to the UNFCCC will 'launch a process to develop a protocol, another legal instrument or a legal outcome under the Convention *applicable to all Parties*' (UN, 2011; italics added). The language – 'legal instrument or a legal outcome' – represented a compromise between fiercely contested positions on the binding nature of future agreements. It represents a quite complex (Werksman, 2011) and potentially waffling (Levi, 2011) middle-road. However, the larger take-away from this clause was that future negotiations could see the blurring of Annex I and non-Annex I divisions, particularly where emerging and/or high-emitting economies are involved.

Inclusiveness has, more than any other issue, been the source of attention for the Durban talks. Reactions to the Platform have been largely tepid in many developing countries, which have consistently called for developed-world action to precede any future emissions reductions burdens that they might face. One official news report from China, while signalling some overall optimism for the Platform, stated that '[t]he days of wrangling in Durban have again revealed the lack of political will from some developed countries and their willingness to ignore their historical responsibilities' (Zhu, 2011). This sentiment was shared by several other high-profile voices from the developing world. Seyni Nafo, spokesperson for the 54-state Africa Group in the UN forum, lamented for example that the countries 'historically responsible for the [climate] problem' are explicitly 'backing out' of their duties, while former Costa Rican President José María Figueres likened the negotiations to the Occupy movements and called upon developing states to not leave Durban without significant concessions from the Annex I states (Eurostep, 2011). These positions suggest that traditional lines between developed and developing states are unlikely to fade into obscurity in the foreseeable future.

Others, however, have framed the Durban talks as a boost for the future comprehensiveness of climate mitigation efforts. Christiana Figueres, Executive Secretary of the UNFCCC and someone who is arguably duty-bound to keep confidence in climate negotiations alive, tweeted that the agreement signals a 'remarkable new phase in [the] climate regime' while at the same time calling for greater ambition in the future (Figueres, 2011). Leading US negotiator Todd Stern went further with his praise, noting that '[f]or the first time, we agreed that by 2020, all countries will be covered under the same legal regime. This is a breakthrough in climate negotiations … [and] it sets us on a path toward a very different kind of global agreement, with obligations that will extend to countries responsible for the vast majority of global emissions' (Stern, 2011). Stern goes on to provide figures demonstrating the increasing share of global emissions coming from developing countries, mentioning China, India, Brazil and South Africa by name, and arguing that the inclusion of these countries will lead to the US being more open to future UNFCCC agreements (Stern, 2011). Speaking in support of the EU position, the United Kingdom's Energy and Climate Change Secretary Chris Huhne stated that the Platform 'is a significant step forward in curbing emissions to tackle

global climate change. For the first time we've seen major economies, normally cautious, commit to take the action demanded by the science' (Durban climate, 2011). Taken together, these points seem to suggest that a new phase of more inclusive climate change negotiations is emerging.

^ To the top

Eroding skirmish lines?

Such seemingly competing narratives can obscure the implications of Durban, which are defined more by consistency than change. The acquiescence of large developing-world emitters to the possibility of future emissions restrictions appears on the surface to remove a primary sticking point that has dogged climate negotiations since their inception. Indeed, the characteristics and goals of the Platform do represent a shift that will strongly influence the direction of future mitigation talks. However, it is difficult to not see shades of past UNFCCC shortcomings in certain Durban outcomes.

Christiana Figueres was appointed Executive Secretary of the UN Framework Convention on Climate Change (UNFCCC) after her widely praised leadership as the Chair of the Cancun meetings in 2010. Figueres has applauded the outcomes of the 17th Conference of the Parties (COP17) in Durban, but warned that greater urgency will be needed in years to come.

Credit: UNclimatechange/flickr.

First, there is the conspicuous issue of the postponement of the majority of difficult decisions until 2012 and then 2015, and the deferment of the primary implementation phase for a future agreement until 2020. This recalls the previous UNFCCC strategy of designating the COP15 in Copenhagen as *the* meeting at which to reach a comprehensive agreement on the way forward for climate change mitigation. The Bali Roadmap, negotiated two years prior at the COP13, was geared in large part towards finding compromise in Copenhagen as were the contributions of the COP14 in Poznan. In part as a result of these expectations, the relative failures of the Copenhagen meetings created a crisis of confidence in the UNFCCC process that continues to affect the organisation's effectiveness (Ewing and Kuntjoro, 2011). Moreover, the delay does not bode well for the sorts of actions called for by the scientific community; as it provides a significant window during which many countries are not obliged to take on commitments. Speaking to this point as it relates to China, Canadian Minister of the Environment Peter Kent criticised the Platform on the grounds that it 'provides, at least until 2020, a continuing loophole for China to claim to be a developing country without responsibilities' (CCE, 2011).

Second, even as progress is made on issues of inclusivity and shared responsibility, the host of technical challenges that have problematised previous agreements will not dissipate easily. Mitigation approaches based upon carbon markets, for example, remain rife with uncertainty. For one, national governments usually make poor traders (Hahn and Stavins, 1999; Olmstead and Stavins, 2011). The cost-effectiveness of emissions trading schemes depends upon the participants being effective cost minimisers, a task at which countries have so far proven far less adept than private firms (Olmstead and Stavins, 2011).

Verifying the actual emissions reductions achieved through international arrangements for the purpose of issuing CERs is also a challenge. For one, it is difficult to assess what the level of emissions would have been without a particular input such as a CDM project.[4] This becomes a problem for climate mitigation when emissions reduction projects, and by extension valuable credits, are pursued for economic gain but make little actual difference in what would have been the path of emissions in a given case.

Another technical challenge results from a combination of the differentiated emissions goals of various parties to the UNFCCC and the nature of the globalised economy. There is a risk, arguably already apparent, that when emissions targets restrict certain activities in countries that acquiesce to them, these activities will simply be outsourced to other areas that do not face similar restrictions, thereby causing carbon leakage. The *China Daily*, for example, in its recap of the COP17 noted that the movement of manufacturing from the developed to the developing world was accelerating the latters' emissions increases (Zhu, 2011). In such cases, decisions that may make economic sense within the framework of a carbon market will do little to solve (and may in some cases even exacerbate) the global GHG problem.

^ To the top

Conclusion: The implications of Durban

Overarching the difficulties in global climate negotiations is the ideological and philosophical schism separating countries that are at different development stages. This problem stems from the attempt to simplistically bifurcate development levels into 'developed' and 'developing', or in climate parlance into Annex I and non-Annex I countries. These divisions do not effectively capture the development continuum seen around the globe and have proven to be crippling for getting the parties with the most influence over the global climate to

speak in a common language, much less to reach substantive agreements. This is an area that the COP17 should be applauded for tackling more explicitly than any of its predecessors, but the years of divided camps have left a legacy that will extend into more inclusive deliberations in the future.

Concerns related to culpability for the climate problem, differences in the capacities to address the issue and the necessity for developing states to rapidly grow their economies are not set to disappear. Entrenched negotiating divisions will therefore not dissipate quickly, and there is little reason to predict pronounced shifts in climate mitigation approaches until at least 2015 and likely 2020. Given that climate change issues strike at the core of how societies develop, it is unsurprising that climate negotiations have been fraught with discord. However, leading science suggests that there is a relatively small temporal window for significantly reducing GHG emissions if acute warming is to be avoided.

Assessing the appropriate pathways for realising such reductions is beyond the scope of this NTS Insight (see Aldy et al. (2003b), Bodansky (2004) and Barrett (2010) for a discussion of proposed options). However, it is clear that successful approaches must avoid politically prohibitive costs, temper the divisions that separate countries along the development continuum, and draw from visionary narratives that emphasise the gravity of the climate situation for future generations. The characteristics needed for successful mitigation efforts are not new, but the importance of realising them is amplified with every passing COP. The COP21 in 2015 appears to be the latest date circled on the climate calendar for reaching a paradigm-shifting mitigation agreement, and Durban, despite its difficulties, has contributed to the incremental, often troubled, yet stubbornly progressive trajectory of international climate change negotiations.

Climatic changes are of course indifferent to the deliberations of humankind and, in a final assessment of Durban, it must be noted that scientifically developed emissions targets are again taking a back seat to political expedience. This may be lamented but it should come as little surprise. Finding compromise on climate change mitigation, an issue that strikes at the foundations of how economies function, will always be arduous, and the rapidly changing socioeconomic circumstances found in countries throughout the world only magnifies these challenges.

However, as mitigation efforts are pushed towards the next decade, observers and policymakers should look soberly at the adaptation requirements that these delays will likely foment. There is currently a 40 per cent gap between the goal of limiting global warming to 2 degrees Celsius over pre-industrial levels and the current emissions targets set for 2020 (see UNEP (2010) for an assessment of this gap). The 450ppm threshold that has acted as the scientific backbone of the climate talks appears increasingly unlikely to be attained. In the words of Keith Allott, Head of Climate Change for the WWF-UK, the Durban outcome 'leaves us legally bound to a world of 4C warming' (Durban climate, 2011). Even if Allott's warning proves overly pessimistic, it is apparent that the fits and starts of global climate mitigation talks are likely to be the norm for years to come, and that this reality has far-reaching implications.

^ To the top

Notes

1. Meetings of the Conference of the Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC) are assigned numbers based on their order, starting with the original COP in 1994.
2. It must be noted that the annually convened COP is only part of a larger UNFCCC process that sees meetings take place throughout the year. However, COP meetings have the highest level of political representation, the widest mandates, and, by extension, the most at stake.
3. Canada's position actually went further in that it declared that it would not meet its previously negotiated targets and would remove itself from existing Kyoto Protocol commitments. This move serves as a reminder of the limitations of 'binding' emissions targets that exist without any strong punitive or reciprocal repercussions. Russia, meanwhile, is the world's fourth largest emitter and its absence from the Kyoto Protocol represents another significant blow.
4. Reducing Emissions from Deforestation and Forest Degradation Plus (REDD+) represents another scheme for which this problem, referred to as additionality, is particularly pronounced. See Ewing (2011).

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^ To the top

About the Centre:

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