

Complex implications of the Cancun Climate Conference

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The 2010 climate conference of the UN Framework Convention on Climate Change (UNFCCC) which took place in Cancun (Mexico) on 29 November to 11 December was complex in both process and content, and in both aspects it will have an importance and ramifications that will take several years to unfold.

In substance, the conference outcome has set in train a process that will probably lead to very significant changes in the international climate regime. In particular, it may have laid the final groundwork for the demise of the Kyoto Protocol and thus of the crumbling of the foundation of the architecture agreed to in the climate conference of Bali in December 2007 which launched the Bali Road Map. In general, it weakened in operational terms the critical principles of equity and common but differentiated responsibilities by blurring the careful distinctions between developed and developing countries in their respective and qualitatively different types and levels of commitment and responsibilities, especially in mitigation or the efforts to combat emissions of Greenhouse Gases.

In terms of process, the Cancun conference saw the use of a combination of methods of work and decision-making that are not normally used in United Nations conferences. It may have set a precedent of sorts for a UN meeting by using World Trade Organization-style methods and processes to reach an outcome. Moreover, in the final sessions, the Chair of the conference gavelled

through the key decision documents despite the strong objection of one country, in so doing stating that this was in line with the consensus principle. In fact at the UN as well as at the World Trade Organization, consensus is taken to mean that no member present formally objects to the decision at hand. The Cancun conference Chair's interpretation of consensus may have ramifications for decision-making not only for future meetings of the UNFCCC but also for other UN fora as well.

Background to the Cancun conference

The Cancun conference was in fact a combination of six different meetings of the Convention and its Kyoto Protocol. The most important of these was the Conference of Parties (COP) of the Convention, the Meeting of the Parties of the Kyoto Protocol (CMP), and the sessions of the two ad hoc working groups on long-term cooperative action (AWG-LCA) and on the further commitments of Annex I parties in the Kyoto Protocol (AWG-KP). The AWG-KP had been formed in 2005 to negotiate the new emission-reduction goals of those developed countries that are Parties to the Kyoto Protocol (all are, except the United States), since the first commitment period ends in 2012, and the second period is scheduled to start in 2013. The AWG-LCA was formed at the Bali conference in 2007, to follow up on the Bali Action Plan whose aim is to fully implement the Convention's objectives, through enhanced actions in mitigation, adaptation, transfers of



A view of the dais during the opening of the high-level segment of the UNFCCC Climate Conference 2010 in Cancun



Photo by IISD ENB

AWG-LCA Chair **Margaret Mukahanana-Sangarwe**, AWG-KP Chair **John Ashe** and **Abdullah Alsaadi**, Chair of the G-77 and China

finance and technology to developing countries and a shared vision including on a long-term goal for global emission reduction.

The Bali conference clearly demarcated that the global climate talks would be maintained under the two tracks of the AWG-LCA and AWG-KP, known together as the Bali Road Map, and that both tracks would complete their work in 2009. This two-track road map is seen as a keystone by developing countries, as it is planned to ensure legally-binding and deep emission cuts by Annex I parties under the Kyoto Protocol track and a comparable mitigation effort by the United States (which it will make under the Convention's AWG-LCA track since it is not a Kyoto Protocol member), while in exchange the developing countries would agree to enhance their mitigation actions, supported by finance and technology transfers; with both the supported actions and the support being subjected to international review and verification.

Since Bali, the climate talks have been characterised by a clash of perspectives and paradigms, mainly along North-South lines, although there have also been considerable differences among developing countries. Generally, the developing countries have stressed the need to base the talks on the equity principle, that developed countries have to take the lead in mitigation through committing to deep emission cuts by 2020, and by providing substantial finance and technology to developing countries (so far there has been little of this since the Convention started in 1992), so that the developing countries will be able to enhance their own cli-

mate actions.

The developed countries have emphasised the need for developing countries to take serious actions in mitigation, and that a category of developing countries (sometimes called advanced developing countries, major economies, or major emitters) should take on binding or almost-binding targets, and that all but the most vulnerable should be subjected to having their actions measured, reported and verified (MRVed) by an international process.

Some developed countries (notably the Europeans) have also wanted a stronger system to discipline Annex I parties' mitigation commitments, through a top-down approach of agreeing to an aggregate goal of emission reduction for all these countries taken together, based on what the scientific research indicates is needed to limit global temperature rise within safe limits, and then to have each country making a national commitment comparable to the others, that would all add up to the aggregate. This approach is also strongly advocated by the developing countries, and was agreed to as the one to be used when negotiating the Kyoto Protocol's second period's commitments. But this top-down approach is also vehemently opposed by the United States, as well as by others in the "Umbrella Group".

The Copenhagen Conference which ended in chaos in December 2009 saw the near triumph of an alternative United States-led approach, in which each developed country would pledge what it could do and a review would be conducted on whether its actions met the pledge. This bottom-up approach is contrary to the top-down approach agreed to in the Kyoto Protocol process, but it seemed to have been accepted in the Copenhagen Accord that was taken note of (but not adopted) in Copenhagen. Since then, this approach has been challenged by the broad spectrum of developing countries, including those which associated with the Copenhagen Accord.

Indeed, at the start of the Cancun conference, the developing countries and their groupings insisted that the continuation of the Kyoto Protocol (and its top-down approach) and a confirmation of the figures for its second period would be a condition for a successful outcome in Cancun. In contrast the United States stressed its top priority in getting the mitigation targets that all developed countries and some developing countries had pledged under the Copenhagen Accord accepted as the targets inside the Convention, and that developing countries agree to its proposal of a strong system of MRV (measuring, reporting and verifying) of devel-



Photo by IISD ENB

Press conference of the BASIC countries: Brazil, China, India and South Africa

oping countries' mitigation actions that are supported by international financing and of ICA (international consultation and analysis), a weaker form of MRV, for their actions that are domestically funded. In effect, the US wanted all the mitigation actions of developing countries first to be submitted to the UNFCCC and to be registered or recorded as intended actions or targets, and secondly to be subjected to international scrutiny through a combination of MRV and ICA. It made it clear that unless its goals were met on this, there could be no decisions taken on other areas, including on finance, technology transfer and adaptation. In the world-view of the US, developing countries would be treated in similar fashion to developed countries, and vice versa. The principles of equity and common but differentiated responsibilities would be greatly weakened in crucial operational terms.

The US strategy at Cancun earned it the criticism by developing countries and the civil society groups of holding the developing countries' modest demands hostage to its getting its way in mitigation (the bottom-up approach for developed countries and the increased actions of developing countries). Even on the eve of Cancun, there had already been near agreement by Parties to the modest demands of developing countries -- to establish a new climate fund under the Convention, to set up a technology transfer mechanism as well as a committee on adaptation policies, and to agree on measures to support forest-related activities. Even such a modest package would have given Cancun a claim to some success, given the low expectations to begin with. But the US in particular conditioned the acceptance of a decision on these issues on getting the result it wanted in mitigation.

Thus a minimal or modest result on issues already agreed on could not be accepted by the US. The issues near to agreement could not be obtained as an outcome unless everything else was agreed to. It was to be all or nothing, and the threat of a collapse was held out to be a real possibility; it was used as a leverage to get more and more of what the developed countries wanted. In a way this US strategy forced the Mexican hosts to decide on managing the conference overall on this risky all-or-nothing basis.

The US strategy paid off for it. It seemed as if the conference was organised to revolve around meeting the requirements of the most powerful country, the United States, so that very modest progress could be allowed to be made in other areas, and that Cancun would thus be saved from being termed a total failure. This was perhaps the greatest irony at Cancun, that the developed country with the weakest political capacity to offer anything concrete or adequate in its own climate mitigation commitment, should be calling the shots. Instead of Cancun becoming a forum where the US would be pressurised to

take on more action, it became a venue in which the US could extract the maximum price out of developing countries just so that some very modest progress (mainly the establishment of institutions) could be shown to the world. And in the process, the world and its climate paid the heaviest price, the downgrading of developed countries' mitigation from a binding and top-down system of disciplines to one of voluntary pledges.

Complicated WTO-type processes used in Cancun

The acceptance of a set of decisions that constituted the Cancun outcome that were so weighted against the developing countries would probably not have been achieved if the open and participatory process normal in the UN had been used, with the negotiators and experts (senior officials from capitals and international diplomats based at the UN) in charge. Usually the negotiators would have almost-finalised texts for the Ministers to consider and adopt, or else a decision would be taken to transfer the unfinished work to another round of negotiations. At Cancun, a few drafting groups (especially on finance) were still doing their work in attempts to narrow the differences. However, the usual negotiators and their processes were overtaken by a series of new methods of work that are often used at the World Trade Organization but not at United Nations meetings.

The host country, Mexico, organised meetings in small groups led by itself and a few Ministers which it selected. There were small "Green Room" meetings, informal consultations and "confessionals" (in which individual delegations are asked their positions) conducted by pairs of Ministers and by the Presidency of the conference (Mexico), informal plenaries to inform all participants on what was going on, and texts written or issued by facilitators and eventually put together by Mexico.

The convening of a group of 40-50 delegations midway through the conference was reminiscent of many past WTO Ministerial meetings, where the practice is dubbed the "Green Room". This was accompanied by



A view of the room during an informal stocktaking session

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Bruno Tseliso Morapeli Sekoli, Lesotho, for the LDCs, and **Pablo Solón**, Bolivia, on behalf of ALBA, during a press conference

the selection of pairs of Ministers to co-facilitate consultations on particular issues, which is what was done at the WTO Ministerials in Doha in 2001 and in Cancun in 2003. As at the WTO meetings, the co-facilitating Ministers at the climate talks in Cancun were not selected by the members, but appointed by the host country, Mexico.

The final document was produced not through the usual process of negotiations among delegations, but compiled by the Mexicans as the Chair of the meeting, and given to the delegates for only a few hours to consider, on a take-it-or-leave-it basis (no amendments were allowed).

At the final plenary, Bolivia rejected the text, and its Ambassador, Pablo Solon, made a number of statements giving detailed reasons why. Bolivia could not accept a text that changed the nature of developed countries' commitments to a voluntary system of pledges, nor to accept the low pledges they had made, which would lead to a disastrous degree of global warming, which its President had termed eco-cide and genocide. It could also not accept an undemocratic process through which its proposals (on mitigation, the use of market mechanisms, and on the need to address IPRs) had been swept aside.

Bolivia made clear it could not adopt the text and that there was thus no consensus. The Mexican Foreign Minister Patricia Espinosa said that Bolivia's views would be recorded, that one country could not prevent a consensus, and declared that the text was adopted.

Thus, the Cancun meeting had a novelty, a new interpretation of "consensus" that is not normal at the UN. At the WTO itself, where decision-making by consensus has been the rule, consensus is also defined in the usual way. A footnote in the Marrakesh Agreement that established the WTO defines it as such: "The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting, when the decision is

taken, formally objects to the proposed decision".

At Cancun, the events of the last day were not and are still not clear generally to the participants. Up to now, it is not known which meetings were arranged by the Conference Presidency and with who, or which countries or persons did the drafting or the overall piecing together of the final text. The Mexican way of organising the writing and later the adoption of the Cancun text raises questions about the future of UN negotiating procedures, practices and decision-making. The importation of WTO-style methods may in the immediate period lead to the "efficiency" of producing an outcome, but also carries the risk of conferences collapsing in disarray (as has happened in several WTO ministerial meetings) and in biases in the text, which usually have been in favour of developed countries, which are better organised and have the ability to master the procedures, mechanics and politics of behind-the-scenes decision-making processes.

Despite the highly unorthodox methods, as far as the UN processes and meetings are concerned, the final texts found general agreement or at least acceptance with all the delegations except for Bolivia. The approval of developed countries is easy to understand, for most of their positions are reflected in the final texts, and many of their delegations were clearly pleased at the concluding session. The acceptance by developing countries requires more complex understanding. One significant factor was the involvement of several Ministers who were concerned more with the general political aspects, rather than the nitty-gritty detailed content of the many issues and their implications. Another factor was that many of the delegations found one or more items in the texts that they had been fighting to get; this could make more palatable an outcome that overall is imbalanced.

Finally, the acceptance of an inadequate and imbalanced outcome was seen by many developing country delegations as the price to pay for getting a result at Cancun, because another collapse would have knocked another hole into the reputation of the UNFCCC and seriously set back the multilateral climate change process from which it may not recover. The choice presented to them was a take-it-or-leave-it text (with no amendments allowed) in a all-or-nothing approach, accompanied by an appeal not to sink the multilateral system. The risk (and political price) of being blamed was perceived to be too high for those delegations that may have wanted to raise concerns or even an overall objection.

Inadequacies and Imbalances in the Cancun Outcome

Although most of the delegations were either relieved or glad that multilateralism had been preserved at Cancun, many negotiators from developing countries were privately expressing deep disappointment and serious con-

cern that the final texts did not reflect a balanced outcome, that in fact the developing countries had made major concessions and that the developed countries had largely got their way and moreover escaped from their commitments. Moreover, there was serious concern that from a climate-environmental point of view, the texts fell far short, and had actually gone backwards, in terms of controlling the Greenhouse Gas emissions that cause climate change. One senior negotiator of a developing country summed up his feelings, as he was leaving Cancun: "We saved the system but the climate and people were sacrificed."

The Cancun conference suffered an early blow from Japan's bold announcement that it would never ever agree to making another commitment under the Kyoto Protocol. The protocol's first commitment period will end in 2012 and the deadline for finalising the emission-reduction figures for the second period had long passed in 2009. The developing countries had made it their main demand, that the figures for the Kyoto Protocol's second period be finalised in Cancun, or at least that a clear road map be drawn up for the finalisation in 2011. However, this goal was rudely swept aside by Japan's aggressive stand on Day 1 and the conference never recovered from that blow.

The final text failed to ensure the survival of the Protocol, though it sets some terms of reference for continuing the talks next year. Various parts of the two main texts (on AWG-LCA or the Convention track and AWG-KP or the Kyoto Protocol track) carry the implication that there need not be a second period of the Kyoto Protocol. These include references to documents, and footnotes, that imply that the mitigation targets of developed countries had been "anchored" in the Convention track and not in the (or also in the) Kyoto Protocol track. The Cancun meeting in fact made it more likely for the developed countries to shift away from the Kyoto Protocol and its binding regime of emission reduction commitments, to a voluntary system in which each country only makes pledges on how much it will reduce its emissions.

In the Kyoto Protocol (KP) system agreed to for the second period, a top-down aggregate reduction figure based on what science requires (taken generally to be the Intergovernmental Panel on Climate Change report's estimate of 25-40% by 2020 compared to 1990, and taken by developing countries to be a more ambitious 40-50%) would first be agreed on, and then developed countries would have to make their national commitments and these would all have to add up to the aggregate. In the voluntary pledge system, there would not be an agreed prior aggregate figure, and no system of ensuring that the sum of pledges is ambitious enough to meet the scientifically required level.

The Cancun text also "took note" of the emission reduction targets that developed countries gave under the Copenhagen Accord and has placed them in a document under the Convention, thus for the first time "anchoring" the Accord's pledges inside the Convention, thus fulfilling a prime goal of the US. But these are overall such poor targets that a recent UN Environment Programme report warned that if they are implemented the developed countries by 2020 may decrease their emissions by only a little (16%) in the best scenario (i.e. the top end of the range in the pledges is implemented), or even increase their level (by 6%) in a bad scenario (if the bottom end of the range is implemented and if various loopholes to the reduction figures are allowed). The world would be on track for a temperature rise of 3 °C to 5°C by century's end, which would be catastrophic.

The text urges developed countries to increase the ambition of their mitigation targets, and refers to the IPCC recommended target (thus making an indirect reference to the 25-40% aggregate emission-reduction figure), and thus hints that the pledges made should be taken as only an initial starting point. But this "urging" is of far weaker quality than the Kyoto Protocol's binding top-down system, and the AWG-LCA's obligation for developed countries that are not Kyoto Protocol parties (i.e. the United States) to make a comparable effort. In fact, this "urging" paragraph is what is left of the two pillars of developed-country mitigation in the three-pillared Bali mitigation architecture. The two pillars were the binding Kyoto Protocol top-down second-commitment period, and paragraph 1(b)(i) of the Bali Action Plan that mandates comparability of effort of all developed countries (aimed at obliging the US to undertake a mitigation commitment inside the Convention track, comparable to the level taken by other Annex I countries in the Kyoto Protocol). With the crumbling of these two pillars, the developed countries are now focusing on shifting the weight of the architecture to the remaining third pillar – the mitigation actions of developing countries.



Photo by IISD/ENB

A view of the room during the mitigation drafting group

Many earlier drafts (for example the 13 August 2010 text which compiled the proposals made by Parties) contained the option that developing countries put forward or endorsed, that the developed countries' commitments must achieve the reduction of their aggregate emissions by either 30, 40, 45 or 50 per cent (reflecting the various proposals) and that the developed countries which are Kyoto Protocol members shall make their commitments in the second period of the protocol, while non-protocol developed countries (the US) would have its reduction figure reflected in the AWG-LCA's decision under the Convention. This option, which is faithful to the architecture agreed to in the Bali Road Map, and which reflects the science-based and top-down approach, has been eliminated in the Cancun outcome. The replacement of this option with the voluntary national pledging system (accompanied by a weak "urging" paragraph) in which the Kyoto Protocol is not even mentioned prepares the ground for the replacement of one regime with another. This laying of the foundation for "regime change" is perhaps the single most important implication of the Cancun outcome.

Even as it facilitates the "great escape" of developed countries from their commitments, the Cancun text introduced new disciplines for developing countries. Indeed what is really new in the Cancun outcome is the vastly expanded mitigation obligations placed on developing countries. As the two developed-country pillars of the Bali mitigation architecture is almost-fatally weakened, the attempt is made to shift the burden of propping up the edifice to the third pillar, the developing countries' mitigation efforts. The developing countries are now obliged, through the Cancun text, to put forward their plans and targets for climate mitigation, which are to be compiled in a document and later in several registries to be regularly updated. It is a first step in a plan by developed countries (they have been quite open about it) to get developing countries to put their mitigation targets eventually as commitments in national schedules. An analogy has been made with the tariff schedules or services schedules in the World Trade Organization. Some developing countries have submitted information to the UNFCCC on the announcements made of their national targets; these are now to be registered, with the prospect of their becoming more formal and binding than originally expected when the information was provided; and other developing countries will now be pressed to also submit similar information.

The Cancun text also obliges developing countries to report on their national emissions, mitigation actions and their effects in national communications reports once every four years, and to also submit biennial update reports on the same topics. In other words, the

reporting will be once in two years. These reports (to include information on mitigation actions, details of emissions, analysis of impacts, methodologies and assumptions, progress on implementation and information on domestic MRV) are to be subjected to scrutiny by other countries and by international experts. The Cancun text in fact gives a lot of space to the details of these MRV and ICA procedures.

These are all new obligations, and a great deal of time was spent in Cancun by the developed countries (especially the United States) to get the developing countries to agree to the details of MRV and ICA. While international MRV (measuring, reporting and verifying) of international financed mitigation actions of developing countries was agreed to by all in Bali, it was understood that there would not be an international scrutiny of actions that are domestically funded. The Copenhagen Accord changed this understanding, adding on the obligation of ICA (international consultation and analysis) for domestically-financed mitigation actions. Many developing countries still have not associated with the Copenhagen Accord and they thus had not agreed to an ICA system. The Cancun decision however now obliges all developing countries to be part of an ICA regime. Many developing-country officials were increasingly worried in Cancun about how they are going to implement these new obligations, as a lot of people, skills and money will be needed to prepare the reports, while the mitigation actions themselves may involve major changes in their production and economic systems.

In fact, the developing countries made a lot of concessions and sacrifices in Cancun, while the developed countries managed to have their obligations reduced or downgraded.

Cancun may be remembered in future as the place where the UNFCCC's climate regime was changed significantly, with developed countries being treated more and more leniently, reaching a level like that of developing countries, while the developing countries are asked to increase their obligations to be more and more like developed countries. This is reflected in the fact that the Cancun AWG-LCA text contains 20 operational paragraphs on developing countries' mitigation actions (most of them containing new obligations), compared to only 12 paragraphs on mitigation by developed countries. The ground is being prepared for a new system, that would blur the differences that now exist in the mitigation commitments of developed countries versus the mitigation actions of developing countries, which would then replace the Kyoto Protocol and change the meaning of the Convention itself. Cancun will be seen as a milestone in facilitating this regime change.

In the section on "shared vision", the Cancun text rec-



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Members of the G-77 and China during the finance drafting group

ognises the need to limit temperature rise to 2 degrees Celsius and that Parties should take action to meet this goal consistent with science and on the basis of equity. Although the crucial principle of equity is recognised here, the proposal that India and many other countries had made (and that had been placed as an option in earlier drafts) that the goal should be “preceded by a paradigm for equitable access to global atmospheric space” has been eliminated. This precise formulation had opened the door for examining historical and cumulative emissions, the occupation of carbon space, the issue of carbon debt, the method for debt resolution, and the implications for distributing the burden of future global emission cuts.

Also in this section, the Parties agree to achieve the peaking of global and national emissions as soon as possible, with the time-frame to be worked out within a year. Since many developed countries have already reached an emissions peak and are now reducing emissions, what is new is the national peaking by developing countries. The agreement to achieve their national peaking as soon as possible when many of them are still at very low levels of emissions (and of economic levels) raises many questions as to whether and when they can achieve such a target. Many developing countries had rejected the obligation of “national peaking” when this had been placed as options in many previous drafts and their acceptance of the Cancun decision should be recognised as a major concession by them. The implications of this new obligation are not yet clear and will unfold in the near future.

On the demands of developing countries for concrete implementation by developed countries of their commitments to transfer finance and technology, the Cancun decision falls far short of concrete action or even concrete commitments. The measures agreed to are only to establish new institutional arrangements. The actual implementation is not addressed.

The Cancun conference agreed on establishing a new Green Climate Fund to function under the

UNFCCC to finance mitigation and adaptation actions in developing countries. No decision was taken on how much money the fund will get. However, the text repeats the Copenhagen Accord language that the developed countries commit to a goal of mobilising \$100 billion per year by 2020. While developing countries

have insisted that most of the financing should be in the form of grants or payments and not loans, and should be sourced from the public sector rather than from the private sector or markets, the Cancun text only mentions a wide variety of sources of funding, which it listed as “public and private, bilateral and multilateral, including alternative sources.” Moreover the commitment is only to a “goal of mobilising”, and not to actual payment of the funds mentioned, and moreover this weak goal is also conditioned by it being in the “context of meaningful mitigation actions and on transparency.” This implies that the funds will be raised only if developing countries take on “meaningful” actions and implement “transparency” mechanisms (MRV and ICA) to the satisfaction of the developed countries. The \$100 billion amount is far below what many studies (including by UN-DESA and the World Bank) estimate is needed by developing countries for their climate actions, and also far below the G77 and China's proposal that developed countries contribute 1.5% of their GNP (which currently adds up to \$600 billion).

A transitional committee was also set up to design various aspects of the fund. One important issue is the governance of the Fund. The Cancun decision is that a 24-member Board will govern the Fund, with equal representation between developed and developing countries. This is the proposal of developed countries, whereas the G77 and China had advocated for an “equitable representation”, which would have meant a majority of Board members would be from developing countries. In the Cancun decision, developing countries, with four-fifths of the world's population would only have half the seats on the Board, which is yet another example of developed countries' proposals holding sway.

It was also agreed in Cancun that the initial trustee of the fund will be the World Bank. This has been a key demand of the United States and which many developing countries had been opposing, as they have had negative experiences with the Bank. The developing countries wanted competitive bidding for choosing the trustee, rather than appointing the Bank up-front.

On adaptation, the Conference of Parties decided to establish an Adaptation Committee to promote enhanced adaptation action, with views on its composition, modalities and procedures to be agreed on in the coming year. In relatively weak language, it also "recognises the need" to strengthen cooperation to understand and reduce loss and damage associated with climate change, including extreme weather events. The developing countries were advocating a stronger decision, to establish an international mechanism to deal with loss and damage. The text however mentions a work programme of workshops and meetings to address this issue.

A technology mechanism was also set up under the UNFCCC, comprising a technology executive committee of 20 members, and a technology centre and networks. The executive committee as originally envisaged by developing countries was to have decision-making powers. The functions as elaborated in the Cancun text are more in the nature of "recommending actions" and "recommending guidance." The Cancun text avoided any mention of intellectual property rights (IPRs), although the developing countries have argued that IPRs have an important influence over their access to climate related technologies, and have made it a priority issue in the technology transfer negotiations. Even on the day before the conference closed, a draft text prepared in Ministerial-led consultations had three options in a section on IPRs; one option was to leave out any mention of IPRs whatsoever; the second was to accept the strong position of many developing countries on reviewing the IPR regime and on the use of TRIPS flexibilities; and the third was to continue the dialogue on IPRs in the next year, or to hold workshops to be organised by other international organisations. It was expected that at least the third option would be accepted. However, the extreme US position, of no mention whatsoever, triumphed. The Cancun text gave up any recognition of the developing countries' position on IPRs, without even accepting a very dilute compromise to keep talking about the issue.

On introducing market mechanisms as an issue to be discussed in the AWG-LCA, developing countries have been suspicious that this is a move to enable the

shifting of market mechanisms now being used or discussed in the Kyoto Protocol to the Convention track under the AWG-LCA, so that if the protocol is discontinued, the market elements (such as the use of carbon offsets through the Clean Development Mechanism and other market instruments that are sought to be introduced) can be installed in a new protocol or agreement. They thus want the issue to remain in the Kyoto Protocol group, and not be transferred to the AWG-LCA, or at least to postpone a decision on whether to discuss it in the AWG-LCA until the issue of continuing the Kyoto Protocol is settled. This option was included in earlier drafts. However the option not to have market approaches in the AWG-LCA text has been eliminated in favour of the developed countries' option to launch market based mechanisms, with details given in the text.

The link between climate change and trade measures is another important issue for developing countries. The earlier negotiating texts contained the proposals by a large number of developing countries in strong language forbidding the use of unilateral trade measures such as border tax measures imposed on imports on the grounds of needing to take climate change actions. However the Cancun decision has totally disregarded these proposals and instead chosen text on this issue that merely reiterates language of the existing Article 3.5 of the Convention, that measures to combat climate change should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade. This is seriously inadequate as it does not add anything new to the Convention to fight against climate-linked protectionism.

Conclusions

When the dust settles after the Cancun conference, a careful analysis will find that the adoption of an outcome may have given the multilateral climate system a shot in the arm and positive feelings among most participants because there was something for them to take home, but that it also failed to save the planet from climate change and helped pass the burden of climate mitigation onto developing countries. Instead being strengthened, the international climate regime was weakened by the now serious threat to close the legally binding and top-down Kyoto Protocol system and to replace it with a voluntary pledge system.

Many delegates and observers, however, were looking positively to the future work. From this low base level of ambition in climate terms, there is much work to be done in 2011 to raise the level of ambition in both environmental and development terms, and to re-orient the international system of cooperation to address the climate crisis. The Cancun decisions may have made the climb more difficult.



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