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TAKING STOCK OF DURBAN:

Review of Key Outcomes and the Road Ahead



UNDP ENVIRONMENT & ENERGY GROUP

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CHAD CARPENTER

TABLE OF CONTENTS

1. Executive Summary	1
2. Brief History of the United Nations Climate Change Process Leading to Durban	4
3. The Durban Conference: A Brief Analysis	8
4. Examining the Mandate of the Durban Platform	11
5. The Kyoto Protocol and the Second Commitment period	15
6. Progress in Durban: Key Issues from the Copenhagen and Cancun Conferences move ahead	17
a. Shared Vision	17
b. Enhanced Action on Mitigation	18
c. Adaptation	22
d. Finance	25
e. Technology	26
f. REDD+ and Forests	27
g. Capacity Building	28
h. Periodic Review	29
7. Expanding the Climate Finance Landscape: The Significance of the Green Climate Fund	30
8. Moving forward: New opportunities vs. remaining uncertainties	31

List of Acronyms

AAUs	Assigned Amount Units	REDD-plus	Reduced Emissions from Deforestation and Forest Degradation plus Conservation
AFB	Adaptation Fund Board	SBI	Subsidiary Body for Implementation
AOSIS	Alliance of Small Island States	SBSTA	Subsidiary Body for Scientific and Technological Advice
AWG-KP	Ad-Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol	SIDS	Small Island Developing States
AWG-LCA	Ad-Hoc Working Group on Long-term Cooperative Action under the Convention	TEC	Technology Executive Committee
BAP	Bali Action Plan	UNDP	United Nations Development Programme
CA	Copenhagen Accord	UNFCCC	United Nations Framework Convention on Climate Change
CERs	Certified Emission Reductions		
CCS	Carbon Capture and Storage/Sequestration		
CDM	Clean Development Mechanism		
CMP	Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol		
COP	Conference of the Parties		
CTC	Climate Technology Center		
CTCN	Climate Technology Center and Network		
EGTT	Expert Group on Technology Transfer		
EITs	Economies in Transition		
ERUs	Emission Reduction Units		
EU	European Union		
G-20	Group of Twenty		
G-8	Group of Eight		
GCF	Green Climate Fund		
GEF	Global Environment Facility		
GHG	Greenhouse Gas		
IAR	International Assessment and Review		
ICA	International Consultation and Analysis		
IPCC	Intergovernmental Panel on Climate Change		
IPCC AR4	IPCC Fourth Assessment Report		
IPRs	Intellectual Property Rights		
JI	Joint Implementation		
JISC	Joint Implementation Supervisory Committee		
LDCs	Least Developed Countries		
LULUCF	Land Use, Land-Use Change and Forestry		
MRV	Measurement, Reporting and Verification		
NAMAs	Nationally Appropriate Mitigation Actions		
NAPs	National Adaptation Plans		
NAPAs	National Adaptation Programmes of Action		
NWP	Nairobi Work Programme		
QELROs	Quantified Emission Limitation and Reduction Objectives		

1. EXECUTIVE SUMMARY

The Durban Climate Conference in December 2011 represented a significant step forward for the United Nations climate change process. Although its outcomes continue to be debated, the Durban Conference could prove to be a game-changing conference for the climate negotiations.

Governments adopted a comprehensive package of decisions—including an agreement to initiate a second commitment period for the Kyoto Protocol and the “Durban Platform” to negotiate a long-term, all inclusive future mitigation regime that includes a process to address the “ambition gap” for stabilizing average global temperature increases at 2 degrees Celsius over pre-industrial levels. They also adopted a range of decisions designed to implement the 2010 Cancun Agreements, including launching a new Green Climate Fund and developing stronger requirements for the reporting and review of countries’ mitigation efforts. After several days behind closed doors and over 30 hours past their closing deadline, delegates agreed to:

- **Launch the Durban Platform on Enhanced Action**, a new negotiating process to develop a “protocol, another legal instrument, or agreed outcome with legal force”. The new agreement is scheduled to be adopted in 2015 and to take effect by 2020. Although many commentators have interpreted this decision to mean that all “major emitters”, developed and developing alike, will be legally bound to cut greenhouse gas emissions cuts from 2020, others, have argued that the language is broad enough to permit other scenarios. Still, agreement to go beyond voluntary action and embark on a future legal framework to cover all countries is a significant departure from the status quo within the UN climate process. Universal participation in legally grounded mitigation targets could prove to make Durban a landmark conference.
- **Begin a second commitment period under the Kyoto Protocol in 2013**. Although the emissions targets for Kyoto’s second commitment period still need to be agreed, and the formal amendment containing these will not be adopted until 2012, the

fundamental political decision to extend the Protocol was made in Durban. With a second commitment period to begin from 2013 and conclude in either 2017 or 2020, all of the Protocol’s rules and mechanisms are now expected to remain in force, which may provide business with the confidence that market-based mechanisms such as the Clean Development Mechanism (CDM) and Joint Implementation (JI) will continue.

- **Further elaborate the recent Copenhagen and Cancun outcomes**. Governments agreed to advance previous decisions and further strengthen the implementation architecture that supports developing countries. Governments made progress on the operational details of the Green Climate Fund, which will help developing countries to transition to low emission and climate resilient development trajectories, and successfully launched the Adaptation Committee and the Technology Mechanism. In addition, delegates reached agreement on rules for activities to reduce emissions from deforestation and degradation (REDD), as well as standards for verifying national performance in mitigating emissions; the rules for “carbon capture & storage” projects under the CDM; a process to further consider the loss and damage faced by the most vulnerable countries; and a work programme on unintended consequences of climate change policies.

In addition—and perhaps most critically—in Durban, there was a firm acknowledgement that the current level of mitigation ambition needs to be raised. Current emission reduction pledges account for only 60% of what is needed to stabilize temperature rise to below 2C¹, let alone the 1.5C goal advocated by, among others, the small islands developing states (SIDS) and the least developed countries (LDCs). In this context, countries agreed in the decision on the Durban Platform to start the work “as a matter of urgency in the first half of 2012”. The work will focus not only on mitigation but also on adaptation, finance, technology development and transfer, transparency of action and support and capacity building.

¹ United Nations Environment Programme (UNEP), The Emissions Gap Report, see: http://www.unep.org/pdf/UNEP_bridging_gap.pdf.

Without doubt, the Durban COP made some progress on many potentially significant issues, yet there is a major gap between what nations have agreed to do in Durban and what science is saying is necessary to prevent dangerous anthropocentric interference with the climate system. Many commentators have rightly noted that these outputs, taken together, are insufficient in ambition to tackle the far-reaching threat of climate change. Indeed, as delegates were meeting, the Global Carbon Project (GCP), an international collaboration of scientists, reported that emissions from carbon dioxide from fossil fuels, the main greenhouse gas, had jumped 5.9 percent in 2010, the sharpest one-year rise on record². The GCP also reported that carbon emissions cumulatively had risen by 49 percent since 1990, higher than any previous estimate. The increase represents the largest absolute annual increase ever recorded, and the highest annual rate of increase since 2003.

Timing also remains a major problem. Delay in action will lead to much greater costs to address climate change and will exacerbate the negative impacts of climate change, particularly on the lives of the poor and vulnerable. According to most scenarios, global emissions need to peak by 2015 in order to have a reasonable chance of achieving the goal of keeping average global temperatures from rising 2 degrees Celsius above preindustrial levels³ — the threshold for serious climate destabilization. But efforts in Durban were not able to include language about when global emissions need to peak or about a long-range global emissions reduction goal (such as a 50% reduction by 2050). This could suggest that even if the Durban outcomes lead to the adoption of a new legal agreement, it may well not be sufficient. Indeed, given the scope of action required by science, it seems unlikely that any single top-down intergovernmental process could deliver an agreement with sufficient reduction commitments.

All this makes it difficult to view Durban as a clear success. But in light of the potential impacts of climate change of the poorest communities—limited access to

stable food supplies, clean water, reliable and safe energy—the Durban outcomes, whatever their shortcomings, are a significant step forward. Climate change has the potential to undo many of the development gains made in recent decades, including in the context of the Millennium Development Goals. Tackling climate change will therefore be a multi-generational effort requiring sustained political engagement and a complete transition to a low-carbon economy. Now, a new international agreement for global action is within reach.

The Durban Platform signifies an important milestone in the climate change negotiations and reflects the attitude towards the new climate regime. It reinforces some key building blocks for a sustained and comprehensive attempt to tackle the climate crisis. Meanwhile, the Kyoto Protocol will continue into a second commitment period and thus retains the important political value of rules-based emissions reductions from a group of industrialized countries, while preserving important mechanisms such as emissions trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI).

This paper will evaluate the substantive results of the Durban conference, draw implications for developing countries and consider the next steps as a new phase of intergovernmental climate negotiations gets underway.

It should be noted that the United Nations climate change negotiating process is highly complex and often difficult to comprehend, with multiple negotiating bodies discussing different aspects of key issues simultaneously—all while seeking to move forward under separate negotiating “tracks”. This document therefore seeks to present the “big picture” of the current state of play and focus on key negotiating issues and outcomes as simply as possible.

Chapter 2 provides a brief history of the UNFCCC process from the Earth Summit in 1992 to the Cancun Conference in December 2010. It also attempts to explain the “two track” negotiating process currently underway within the intergovernmental process.

² See the Global Carbon Project at <http://www.globalcarbonproject.org/carbonbudget/index.htm>.

³ See IPCC at http://www.ipcc.ch/publications_and_data/ar4/syr/en/mains5-4.html.

Chapter 3 provides a brief analysis the Durban Conference, including the negotiating scenario, the key outcomes and the significance of Durban within the overall negotiating process.

Chapters 4, 5, 6 and 7 provide a more in-depth look at the key outcomes of Durban:

- *Chapter 4* analyses the Durban Platform and its mandate
- *Chapter 5* reviews the decision on a second commitment period under the Kyoto Protocol
- *Chapter 6* reviews the decisions taken in Durban that will advance previous decisions from Copenhagen and Cancun and further strengthen implementation. This section reviews these actions by theme (mitigation, adaptation, etc.), using the Durban decision produced by the AWG-LCA as a framework, since it is by far the broadest (55 pages in total). Under each theme, the paper also reviews related actions taken under other bodies, such as the subsidiary bodies, and attempts to highlight the crosscutting issues.
- *Chapter 7* discusses the significance of the Green Climate Fund (GCF). While the GCF is one of the decisions with origins in previous conferences (as highlighted in Chapter 6), it is highlighted separately here, given its importance for developing countries.

Chapter 8 concludes with an overview of new opportunities and remaining uncertainties as the intergovernmental process moves ahead.

2. BRIEF HISTORY OF THE UNITED NATIONS CLIMATE CHANGE PROCESS LEADING TO DURBAN

The Framework Convention (1992)

The formal international political response to the threat of global climate change began in 1992 with the adoption of the United Nations Framework Convention on Climate Change (UNFCCC), which sets out a framework for action aimed at stabilizing atmospheric concentrations of greenhouse gases to avoid “dangerous anthropogenic interference” with the climate system. The UNFCCC, also referred to as the Convention, has been ratified by 195 Parties and entered into force in 1994. Since then, seventeen meetings of the Conference of the Parties (COP) have taken place, as well as numerous meetings of the two subsidiary bodies—the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA).

At the first meeting of signatories to the treaty, known as the first Conference of the Parties (COP 1) in Berlin in 1995, Parties sought to strengthen the Convention and, after seemingly endless hours of negotiations between delegates with vastly different priorities, reached agreement on the central issue before COP 1—adequacy of commitments. Parties adopted the “Berlin Mandate”, which establish an ad hoc negotiating group to begin a process toward appropriate action for the period beyond 2000, including the strengthening of the commitments of industrialized countries through “the adoption of a protocol or another legal instrument”.

The Berlin Mandate also specifically interpreted a principle—common but differentiated responsibilities—as launching a process to commit the Annex I countries (industrialized countries) to quantified greenhouse gas emissions reductions within specified time periods (targets and timetables) and stating clearly that the process should “not introduce any new commitments for Parties not included in Annex I.” This agreement has had profound consequences for the UNFCCC process ever since, with governments increasingly at odds on maintaining this distinction as they try to strengthen the commitments in the Convention in the future.

The Kyoto Protocol (1997)

After two years of intense negotiations, the Berlin Mandate process produced the Kyoto Protocol. In December 1997, delegates to the third session of the COP (COP 3) in Kyoto, Japan, agreed to a protocol to the Convention

that committed industrialized countries to achieve emission reduction targets. These countries, known as Annex I Parties under the UNFCCC, agreed to reduce their overall emissions of greenhouse gases by an average of 5.2% below 1990 levels between 2008-2012 (the first commitment period), with specific targets varying from country to country.

At COP 6 Part I, which was held in The Hague, the Netherlands in November 2000, negotiators could not achieve an agreement on decisions intended to elaborate the provisions of the Kyoto Protocol and create a “rulebook”. Financial issues, the sustainable development mechanisms, compliance and forests proved to be particular sticking points. Delegates agreed to suspend COP-6, and expressed a willingness to resume their work in 2001. However, in March 2001, the US declared its opposition to the Protocol, stating that it was “fatally flawed,” as it would damage the US economy and exempted developing countries from fully participating.

Despite this refusal by the US, eight years later, the Kyoto Protocol entered into force on 16 February 2005 and has now been ratified by 193 Parties. In December 2005 in Montreal, Canada, the first session of the Parties to the Kyoto Protocol, known as the “CMP”, decided to establish a negotiating group on the basis of Protocol Article 3.9, which mandates consideration of Annex I Parties’ further commitments at least seven years before the end of the first commitment period. At the same time, Parties again launched action to strengthen commitments under the Convention and agreed to discuss “long-term cooperation under the Convention” through a series of four workshops known as “the Convention Dialogue,” which continued until COP 13.

The Bali Roadmap (2007)

At COP 13 and CMP 3, which took place in December 2007 in Bali, Indonesia, governments adopted the “Bali Road Map”, which sought to move negotiations forward along the two negotiating tracks.

Under the Convention, the Bali Road Map includes the Bali Action Plan, which charts the course for a new negotiating process. The Bali Action Plan is centred on four main building blocks—mitigation, adaptation, technology and financing. Parties also agreed that the negotiations on a

long-term agreement should address a shared vision for long-term cooperative action, including a long-term global goal for emission reductions. Other subjects for the future discussion include the use of sectoral approaches; approaches to enhance the cost-effectiveness of mitigation actions, including market mechanisms; and the issue of reducing emission from deforestation and forest degradation in developing countries (REDD). The Bali Action Plan mandate also maintains the “firewall” between developed and developing countries with regard to mitigation. It contained a “linking clause” that had made mitigation by developing countries contingent on the level of technological and financial support that they received from developed countries.

The Roadmap also included the ongoing negotiations under the Kyoto Protocol, the negotiations on the existing work under the Convention pertaining to key issues including technology, adaptation, and reducing emissions from deforestation. Based on two negotiating tracks, the Bali Roadmap set a deadline for concluding the negotiations in Copenhagen in December 2009.

The Copenhagen Conference: COP 15 and CMP 5 (2009)

For the next two years, the international negotiations focused on negotiating a comprehensive framework for enhanced action and progressed along the two tracks—one under the Kyoto Protocol and another under the Convention. Both were expected to deliver an agreed outcome outlining the main elements of the future framework at the Conference in Copenhagen in December 2009. However, the conference was marred by disputes over transparency and process. During the high-level segment, exceptionally attended by 130 heads of states informal negotiations took place in a smaller group consisting of major economies and representatives of regional and other negotiating groups. Late in the evening of 18 December, these talks resulted in a political agreement: the “Copenhagen Accord,” which was then presented to the COP plenary for adoption.

Over the next 13 hours, delegates debated the Accord, with many supporting it as a step forward. However, some developing countries strongly opposed the Accord, stating that the negotiating process had been neither fair nor transparent. The COP could only agree to “take note” of the Accord. It also established a process for Parties to indicate their support for the Accord and over 140 coun-

tries ultimately did so. More than 80 countries also provided information on their national emission reduction targets and other mitigation actions. On the last day of the Copenhagen Climate Change Conference, Parties also agreed to extend the mandates of the negotiating groups under the Convention and the Protocol, requesting them to present their respective outcomes to COP 16 and CMP 6.

The Copenhagen conference fell far short of the high expectations to deliver a global agreement but the results should not be underestimated. Even though all Parties did not formally adopt the Copenhagen Accord, it reflects a political consensus on the main elements of the future framework among the major emitters and representatives of the main negotiating groups reached at the level of Heads of State – an unprecedented development in international climate change processes to date. Moreover, important progress was also made on several issues in the formal technical negotiations under the Convention, which were formalised the following year in Cancun, Mexico.

The Cancun Conference: COP 16 and CMP 6 (2010)

In Cancun, Parties finalized the Cancun Agreements, which include decisions under both negotiating tracks. Under the Convention track, they recognized the need for deep cuts in global emissions in order to limit global average temperature rise to 2°C and agreed to consider strengthening the global long-term goal during a review by 2015, including in relation to a proposed 1.5°C target. They took note of emission reduction targets and nationally appropriate mitigation actions (NAMAs) communicated by developed and developing countries, and addressed other aspects of mitigation, such as measuring, reporting and verification (MRV).

Also under the Convention track, governments decided to periodically assess their overall progress toward achieving the goal of limiting the global temperature increase to 2°C (known as the “Periodic Review”). Based this review, they would consider strengthening the goal based on the best available scientific knowledge.

Notably, Parties also agreed to establish several new institutions and processes, such as the Cancun Adaptation Framework and the Adaptation Committee, as well as the Technology Mechanism, which includes the Technology Executive Committee (TEC) and the Climate Technology Centre and Network (CTCN). On finance, Parties created

the Green Climate Fund (GCF) to be governed by a board of 24 members and which was designated as a new operating entity of the Convention's financial mechanism alongside the Global Environment Facility (GEF). Parties agreed to set up a Transitional Committee tasked with the Fund's detailed design, and established a Standing Committee to assist the COP with respect to the overall financial mechanism. They also recognized the commitment by developed countries to provide US\$30 billion of fast-start finance in 2010-2012, and to jointly mobilize US\$100 billion per year by 2020.

Under the Protocol track, Parties agreed to complete

negotiations on a second commitment period and adopt the results as soon as possible, in time to avoid a gap between the first and second commitment periods. This vague compromise on the future of the Kyoto Protocol was needed to prevent the immediate collapse of the negotiations. The CMP urged Parties to raise the level of ambition of their emission reduction targets, with a view to achieving aggregate emission reductions consistent with the range identified in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC AR4).

The mandates of the two AWGs under both tracks were extended to the UN Conference in Durban.

Table 1. UNFCCC Timeline 1992-2007: Key highlights

1992	UNFCCC	UNCED adopts the United Nations Framework Convention on Climate Change (UNFCCC) is agreed. It enters into force in 1994. 195 Parties have ratified the UNFCCC as the basis for a response to global climate change.
1995	Berlin Mandate	COP 1 launched a process to decide on stronger commitments for Annex I Parties.
1997	Kyoto Protocol	COP 3 adopts the Kyoto Protocol, which sets legally binding targets and timetables for cutting the greenhouse-gas emissions of Annex I Parties. <ul style="list-style-type: none"> • Defines a target for GHG emission reductions for the period between 2008 and 2012 of 5.2% compared to 1990 levels • Established international market-based mechanisms to meet the targets • 184 signatory states • The first commitment period under the Protocol starts in 2008 and ends in 2012.
2000-01	Bonn Agreement	COP 6 Part I, held in the Hague, could not reach agreement, so the COP resumed in Bonn. Part II reached the Bonn Agreement (political package). Between Part I & II, the US announced it would not ratify the Kyoto Protocol.
2001	Marrakesh Accords	Translated Bonn Agreement into decisions setting out detailed rules for the implementation of the Protocol and paved the way for the Protocol's entry into force. The Accords set up new funding and planning instruments for adaptation, and established a technology transfer framework.
2005	The AWG-KP and the "Dialogue"	COP 11: Under the Convention, a dialogue on long-term global cooperative action to address climate change was also launched. CMP 1: Under the Protocol, a new working group was established to discuss future commitments for developed countries for the period after 2012. Parties to the Kyoto Protocol also formally adopted the "rulebook" of the 1997 Kyoto Protocol, the 'Marrakesh Accords'.
2007	Bali Road Map	COP 13/CMP 3: Adopted the Bali Road Map (and Bali Action Plan) – includes a number of forward-looking decisions to negotiate a post-2012 global regime. The package includes the Bali Action Plan, which charts the course for a new negotiating process under the Convention to be completed this by 2009. The Bali Road Map: <ul style="list-style-type: none"> • Shared understanding for the necessity of common efforts, both by developed and developing countries • Climate change is linked to economic growth and sustainable development goals and needs • Actions fall across a variety of economic sectors • Deadline for negotiations by 2009: to ensure entry into force of future regime by 2012 <p>This result meant that two negotiating tracks were underway: one under the Convention and one under the Kyoto Protocol (see Box 1).</p>

Box 1: What is the two-track approach?

For years, the negotiations have proceeded largely within two tracks:

- **The Convention:** The Ad Hoc Working Group on Long-Term Cooperative Action (AWG-LCA), which was launched in 2007 with the aim of a broader “agreed outcome” also encompassing the US, which is not a Kyoto party, and developing countries.
- **The Kyoto Protocol:** The Ad Hoc Working Group on the Kyoto Protocol (AWG-KP), which was launched in 2005 to negotiate a second round of Kyoto emission targets for developed countries.

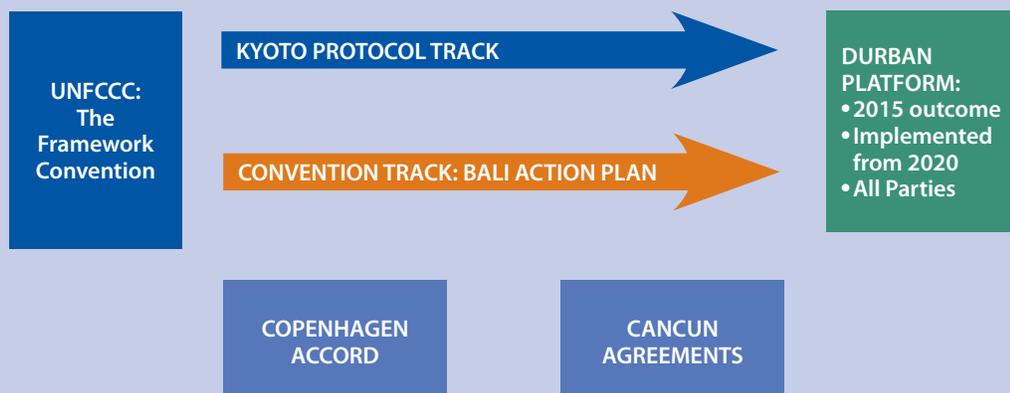
The repudiation of the Kyoto Protocol by the US in 2001 led to a dual track negotiation. The AWG-LCA was launched in Bali with participation of the US and a vision to develop a new legal instrument that would include the US and other major emitters in some form of binding agreement. However, it was understood that this agreement would not be positioned to enter into force for at least several years, thus leaving a gap in which there would be no legally binding obligations on any developed country if there was no second commitment period under the Kyoto Protocol; hence, the drive to also continue pushing forward with negotiations on this track.

Copenhagen and Cancun: Intermediate success but no new single regime

Many hoped the two tracks would culminate in a binding agreement at the 2009 Copenhagen Conference. The result instead was the Copenhagen Accord, a political agreement not formally adopted by the COP. The Accord set a goal of limiting global warming to 2 degrees Celsius; set finance goals of \$30 billion in 2010-2012 and \$100 billion a year by 2020; called for new or stronger mechanisms to address finance, transparency, adaptation, technology and forestry; and invited parties to put forward mitigation pledges. More than 80 countries, including all the major economies, offered quantified pledges to be fulfilled by 2020.

The following year, the Cancun Agreements formally incorporated the essential elements of the Copenhagen Accord, including countries’ mitigation pledges, into the UNFCCC process, and took some initial steps to implement them. Cancun, however, skirted broader legal issues, including the fate of Kyoto, and both the AWG-KP and the AWG-LCA were charged with continuing their work through Durban.

Copenhagen and Cancun did not result in the much-hoped-for new legal regime. However, they produced a number of significant decisions that added to the body of current agreements, while keeping the negotiating process moving toward a new universal regime, which many hope will result from the Durban Platform.



3. THE DURBAN CONFERENCE: A BRIEF ANALYSIS

The success of the Durban Conference hinged on resolution of three mutually dependent issues: agreement on the continuation of the Kyoto Protocol; agreement on a long-term cooperative plan and shared vision to address climate change; and, agreement on finance—both through the provision of long-term finance to address climate change and through the establishment of the “Green Climate Fund”, a fund intended to become “the main global fund for climate change finance”. The Durban Platform in particular had seemed unlikely, since China and India had refused to negotiate a new agreement to limit their emissions. Without this, the US would not agree to a new round of negotiations. Without all of these, the EU would not agree to a second commitment period under the Kyoto Protocol. What facilitated the Durban outcome was a compromise that gave some countries a 2020 start date for the new agreement and some flexibility on its legal character, and gave others an early start and end dates for the negotiations and language that the outcome of the new negotiations will have “legal force.”

One may ask why a new negotiating process warrants such attention. The Bali Action Plan, which launched a process to reach an “agreed outcome” on long-term cooperative action on climate change, could have offered the basis for a new climate regime. The Bali Action Plan, however, is interpreted by developing countries as creating a “firewall” between developed country commitments and developing country actions. In a bid to move away from the Bali firewall, the US, among others, insisted on a new process, and on terminating the Bali process in 2012. Durban delivered the new negotiating process and with it, a new discussion on differentiation of responsibilities and commitments between developed and developing countries.

The decision to establish the Durban Platform marks the beginning of an important new chapter of Parties’ collective effort to strengthen the multilateral, rules-based regime under the Convention. From 2012, Parties will embark upon the development of a new protocol, another legal instrument or an agreed outcome with legal force under the Convention that will be applicable to all Parties. The new agreement is to be ready by 2015, and will come

into effect from 2020. It is expected to raise the level of ambition, and will be informed by the latest science and the outcomes of a 2013–2015 Review, which was agreed in Cancun at COP 16. A new subsidiary body, known as the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), will undertake the work. It was also agreed as part of the Durban Platform decision that the AWG-LCA will conclude its work at the end of 2012.

The COP also launched a work plan on enhancing mitigation ambition that will explore options to close the mitigation gap between now and 2020 and ensure the highest possible mitigation efforts by all Parties. According to UNEP’s Emissions Gap Report, an additional 6 GtCO₂e of global emission reduction effort is required by 2020 to maintain a reasonable chance to meet the global goal of staying below 2 degrees Celsius in average global temperature rise, or of meeting a possible 1.5 degree Celsius goal in the future⁴.

Governments have struggled since the Bali conference to address the question of how mitigation actions should be shared among countries, with developing countries strongly resisting legal obligations. Through a combination of the second commitment period of the Kyoto Protocol and the Durban Platform, a large part of this question may have been resolved. From 2013, the Kyoto Protocol, for those that undertake obligations within it, will provide new emissions targets; alongside this is the “pledge and review” process launched for all countries in Cancun in 2010 that will give transparency on all national actions. Many observers hope that, from 2020 onward, a new, single legal instrument covering mitigation—in one form or another—in all countries will come into force. This represents a significant shift in position since Copenhagen.

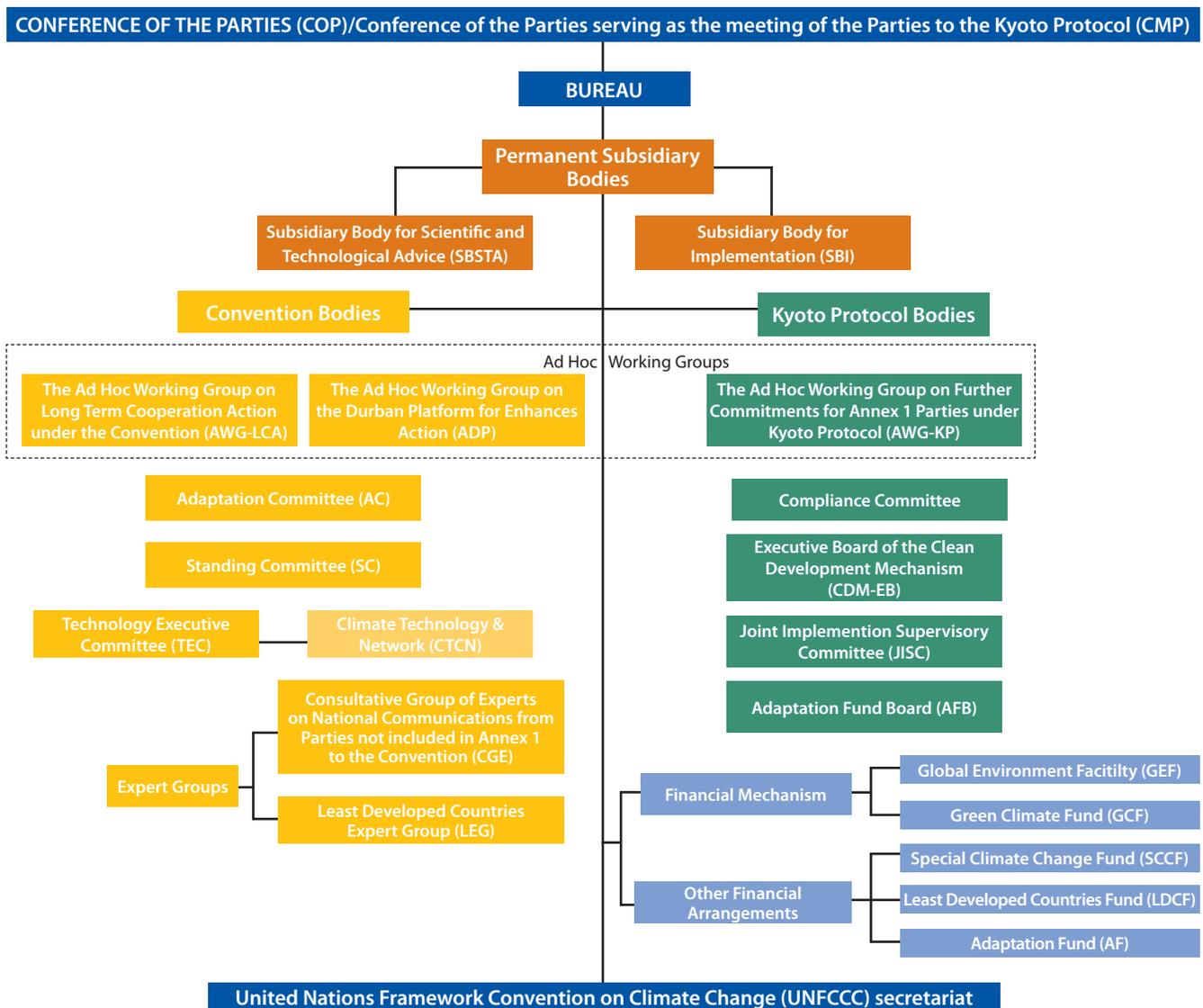
The Durban conference also produced many technical decisions that make the Cancun Agreements possible to implement, including the operationalisation of the Green Climate Fund, the establishment of the Adaptation Committee, and the selection process for Climate Technology Centre and the Network (*see Figure 1 for an overview of Convention bodies post-Durban*).

⁴ UNEP Emissions Gap Report, see: http://www.unep.org/pdf/UNEP_bridging_gap.pdf.

In 2012, governments will launch negotiations under the new subsidiary body—the ADP—as well as a number of technical details on the Durban package including the length of the Kyoto Protocol second commitment period, within the context of the new road toward a post-2020

package. While the Durban outcomes are complex and technical, two things stand out: the universal political will to act on climate change is tangible and increasingly ambitious; and Durban has sent a political signal to the world that the future is low-carbon.

Figure 1: Convention Bodies of the UNFCCC process following the Durban Conference



Source: UNFCCC Secretariat website at <http://unfccc.int/bodies/items/6241.php>. The web site also includes brief descriptions of the role of most bodies.

Table 2. The Copenhagen, Cancun and Durban Outcomes: A Closer Look

COP 15 (2009) The Copenhagen Accord
<p>COP 15 did not result in the comprehensive UN agreement on the future framework that many had sought. Instead, it produced the Copenhagen Accord, a political declaration with no formal legal standing that was “noted” by Parties to the UNFCCC process in Decision 2/CP.15. The Accord recognized “the scientific view that the increase in global temperature should be below 2 degrees Celsius”, in a context of sustainable development, to combat climate change. Countries invited to communicate their support, as well as targets and mitigation actions. To date, 140 countries representing over 80% of global emissions have engaged with the Copenhagen Accord. More than 80 countries subsequently provided information on their national emission reduction targets and other mitigation actions. The Accord also committed developed countries to \$30 billion fast-start financing (in 2010-2012) for adaptation and mitigation in developing countries and addressed the issues of deforestation and technology development. The actions contained in the Copenhagen Accord were significant and substantial, but they were not formally adopted and not legally binding. A central focus of Cancun and Durban was how to reach a consensus that could lead to the codification of the goals of the Accord and take the actions a step closer to implementation.</p> <ul style="list-style-type: none"> • The status of the Copenhagen Accord had been unclear because Parties were only able to “take note of” it. The Cancun Agreements were formally adopted, meaning that countries collectively agreed to implement them and could now turn them into procedures, rules, and institutions. • The Copenhagen Accord contained important political decisions, but did not provide the necessary details for implementation. The Cancun Agreements provide much more detail and clearer guidance on implementation (32 pages in total). Countries could now both begin to implement their actions according to these agreements and advance the Cancun agreements in Durban. • The Copenhagen Accord committed countries accounting for over 80% of global emissions to implement specific steps to reduce their emissions. During 2010, many countries submitted their plans reducing emissions (FCCC/SB/2011/INF.1/Rev.1). These commitments were more formally recognized in the Cancun Agreements, thereby deepening the commitment to meet these pledges.
COP 16 (2010) The Cancun Agreements
<p>The Cancun Agreements represent a significant step forward—both in solidifying Copenhagen and in furthering implementation. Notable elements for developing countries included: agreement to mobilize scaled-up funds in the short and long term to enable greater action; setting up the Green Climate Fund (GCF); and agreeing upon an Adaptation Committee to oversee all UNFCCC adaptation activities.</p> <p><i>Signs of progress</i></p> <ul style="list-style-type: none"> • The status of the Copenhagen Accord had been unclear because Parties were only able to “take note of” it. The Cancun Agreements were formally adopted, meaning that countries collectively agreed to implement them and could now turn them into procedures, rules, and institutions. • The Copenhagen Accord contained important political decisions, but did not provide the necessary details for implementation. The Cancun Agreements provide much more detail and clearer guidance on implementation (32 pages in total). Countries could now both begin to implement their actions according to these agreements and advance the Cancun agreements in Durban. • The Copenhagen Accord committed countries accounting for over 80% of global emissions to implement specific steps to reduce their emissions. During 2010, many countries submitted their plans reducing emissions (FCCC/SB/2011/INF.1/Rev.1). These commitments were more formally recognized in the Cancun Agreements, thereby deepening the commitment to meet these pledges.
COP 17 (2011) The Durban package
<ul style="list-style-type: none"> • With an eye to the future, the Durban Platform launched “a process to develop protocol, another legal instrument, or agreed outcome with legal force” and create a legal framework that holds signers responsible for their actions. Negotiations are to conclude in 2015, coming to effect in 2020. The new agreement will be applicable to all parties, but the content of the agreement is not yet prescribed. • Parties to the Kyoto Protocol also reached agreement to begin a second commitment period. • Durban made important progress on implementing the agreements reached in Cancun. The agreements in Durban establish the operational guidelines and institutions to ensure that the key elements agreed in Cancun begin working “on the ground”. This means the new Adaptation Committee, the GCF and the Technology Mechanism and Network are now moving ahead. • In terms of mitigation, Copenhagen, Cancun and Durban together mean that all industrialized countries plus 49 developing countries have made pledges covering the time period from now until 2020. These pledges cover 80% of global emissions. While they are not legally binding targets, Parties affirmed them in Durban. Additionally, agreement was reached on how and by when both developed and developing countries will report on these mitigation efforts, as well as on the details of verifying these efforts. This, combined with the mitigation targets to be finalized under the Kyoto Protocol’s second commitment period, represent the sum of global mitigation commitments (legally binding or otherwise) while the new negotiating process, the DPA, seeks to develop a new agreement that will cover the post-2020 period.

4. ANALYSING THE MANDATE OF THE DURBAN PLATFORM

While discussions in Durban focused considerable time on the implementation of existing agreements, it was the debate on the future of the intergovernmental process that took the entire conference to the brink of collapse. The resulting agreement—the Durban Platform (Decision 1/CP.17) to initiate “a process to develop a protocol, another legal instrument or an outcome with legal force under the Convention applicable to all Parties”—hinged on the same two fundamental issues that have shaped the climate negotiations from the outset: how to balance responsibilities across developed and developing countries and how to define the legal nature of those commitments.

What the Durban compromise says about the legally binding nature or the symmetry of a future agreement is not exactly clear. It does not, however, include a reference to the Convention principle of “common but differentiated responsibilities,” which developing countries have traditionally used to defend against stronger mitigation commitments. The phrasing avoids the asymmetry between developed and developing countries reflected in Kyoto but the text leaves open the possibility of differentiation in the form, the content, and even the legal nature of developed and developing country commitments. The newly formed Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) will conduct the talks with a deadline of 2015.

Analyzing the Mandate: The Great Leap Forward?

For some, the negotiating mandate contained in the Durban Platform seems even weaker than the 1990 UN General Assembly resolution that launched the UN climate change negotiations,⁵ which called for the negotiation of a “framework convention . . . containing appropriate commitments.” In contrast, the Durban conference could not agree on a clear mandate to negotiate a legal agreement and contains no language about commitments. Still, contrasting it with the 1995 “Berlin Mandate” that guided the design of the Kyoto Protocol reveals the importance of the Durban Platform. The Berlin Mandate:

- Limited the potential legal form of the outcome to either a protocol or another legal instrument;

- Limited the content of the outcome to the strengthening of developed country emission reduction commitments; and,
- Expressly excluded the introduction of any new commitments for developing countries.

For the 2007 Bali Roadmap, the most recent attempt at negotiating a future regime, Parties were only able to call for an “agreed outcome.” Durban thus represents a major turning point, in that it opens the door for (while not guaranteeing) a binding legally agreement that is applicable to all Parties.

For some, the most important aspect of the Durban Platform was to terminate the current negotiating process (the AWG-LCA), which had been launched under the Bali Action Plan, by the end of 2012. The Bali Action Plan mandate had notably maintained the “firewall” between developed and developing countries with regard to mitigation. It also contained a “linking clause” that had made mitigation by developing countries contingent on the level of technological and financial support that they received from developed countries. The 2009 Copenhagen Accord and the 2010 Cancun Agreements were both negotiated under this mandate. Even though they diluted the Bali “firewall”, they nevertheless reaffirmed the core UNFCCC provisions that nations would need to combat climate change on the basis of “equity” and in accordance with the principle of “common but differentiated responsibilities”, respecting the various provisions of the Convention. The Durban Platform instead calls for the “widest possible cooperation by all countries.”

Common but Differentiated Responsibilities, Article 4.7 of the Convention:

“The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing country Parties.”

⁵ <http://www.un.org/documents/ga/res/45/a45r212.htm>.

A Future Agreement: The Legal Character

The legal character of any new agreement emerging from the Durban Platform will have four dimensions:

- The legal form of the agreement;
- The legal form of commitments within that agreement;
- The prescriptive nature and content of the commitments; and,
- The procedures and institutions set up to hold its parties accountable for complying with their commitments.

Legal form

A legally binding agreement is the highest form of expression for political will that the international community can bestow. Under international law, a binding agreement or commitment represents a country's or countries' express consent to be bound, and its willingness to be held accountable by other parties for its compliance with its obligations. Most often through the additional step of "ratification" these agreements become binding under the domestic law of each country as well. The UNFCCC and the Kyoto Protocol are both legally binding agreements.

In addition to a possible protocol or another legal instrument, the Durban Platform also allows for an "outcome with legal force", a new option that uses language not contained in the Convention. While some will say the intent of the Durban Platform is to usher in a legally binding treaty with emissions cuts for all, others may insist that it could be satisfied by a set of formal decisions, like the Cancun Agreements. Indeed, the "outcome with legal force" option seems to allow room for the negotiations to produce an outcome other than the legal instruments expressly contemplated in the Convention (a protocol, an amendment and or an annex⁶), and yet is still "under the Convention".

Furthermore, some commentators have argued that the third option in the Durban decision ("outcome with legal force") effectively means the same thing as "legally-binding," but the inability to reach agreement on "legally-binding"

ing" suggests that at least some Parties thought "legal force" might mean something less. The fact that the text even contains a third option with different wording seems to signal something different, and softer, than a legal instrument requiring ratification. However, from the context of the Durban negotiations, most Parties will be want this next round of negotiations lead to new, legally binding commitments to reduce emissions, even if a powerful minority of Parties continues to resist.

Legal form of commitments: Bound to do what?

The Durban Platform mandate does not refer to the legal character of any the commitments it will ultimately contain. If the ultimate outcome itself is not legally binding, then any commitments within it will not be legally binding. It is also possible to have a legally binding agreement with legally binding commitments, but ones that are so vague and unspecific that they do not provide certainty or enforceability.

The Durban Platform does not specify the content of the new agreement. It could contain emissions limitation commitments, but the decision does not say so explicitly. The mandate does not mention commitments, but rather:

- Launches a workplan on "enhancing mitigation ambition" and calls for exploring options for a "range of actions" to ensure the highest possible mitigation "efforts" by all Parties.
- Requests Parties to submit their views on "options and ways" that the negotiations will consider when addressing a list of climate-related challenges, including mitigation, adaptation, finance, technology development and transfer, transparency of action and capacity building.

The text could, for example, be read to require that only the transparency provisions have legal force, not the emissions targets. While the mandate does not reflect an explicit agreement that "actions" set out in the agreement will be legally binding, it recognizes "that fulfilling the ultimate objective of the Convention will require strengthening the multilateral, rules-based regime under the Convention." This could signal that Parties intend to fully transition away from the unilateral "pledge and review" approach of the Cancun Agreements.

⁶ See Convention articles 15, 16 and 17.

Who would be bound? What about equity?

Importantly, a legally binding agreement may—or may not—contain legally binding commitments for some or all of its parties. The Kyoto Protocol, for example, contains legally binding targets and timetables for emissions reductions by all industrialized countries that ratified it (i.e., all industrialized countries except the United States), but contains no such commitments for developing countries, including the emerging economies (e.g., China, India, Brazil, and South Africa). The differences in commitments between developed and developing countries in the 1997 Kyoto Protocol reflect the principle of common but differentiated responsibilities and respective capabilities, acknowledging the historical responsibility and greater financial and technological capacities of countries that industrialized during the last century.

The Durban mandate states that the new agreement must apply “to all Parties” and does not make a distinction between developed and developing countries, perhaps the biggest shift from the decisions taken in Bali in 2007 and in Rio in 1992. But this does not necessarily mean that it applies symmetrically to all parties. The Kyoto Protocol applied to all parties, but in very different ways. However, the political context for the term “applicable to all”, in particular in the absence of the usual markers for differentiation — equity and common but differentiated responsibilities — makes it clear that Parties are heading into a new era. Arguing for differentiation remains an option, and some developing countries most certainly will.

The mandate calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, that the outcome of the negotiations will be applicable to all Parties, with “a view to ensuring the highest possible mitigation efforts by all Parties.” For issues of equity, it will be up to governments to determine how differentiation will be captured, if at all. Indeed, any new climate change agreement will need—if it is to have any chance of entry into force—to address the principle of common but differentiated responsibility and respective capabilities.

Procedures and institutions for compliance and enforcement?

The mandate says little about the institutions and procedures that will hold the Parties accountable for implementing their commitments. The text refers to the

workplan including “transparency of action” but much more will be needed to ensure that the new regime benefits from the lessons learned about the importance of compliance procedures for multilateral, rule-based agreements.

Will it be strong enough?

While the mandate provides some direction on the legal form of the agreement to be adopted in 2015—and to a lesser extent the legal form of the action or commitments within it—the content of the agreement remains unknown. Even if it applies to all countries, the most important aspects will be the stringency of each specific commitment. The Durban Platform contains language expressing “grave concern” about “the significant gap between the aggregate effect of Parties’ mitigation pledges ... and aggregate emissions pathways consistent with having a likely chance of holding the increase in global average temperature below 2° C or 1.5° C above pre-industrial levels.” It calls on the new negotiating group to “raise the level of ambition” and launches a work plan to enhance mitigation ambition and to “close the ambition gap.” But it does not include language about a global emissions peak or setting a long-range global emissions reduction goal (such as a 50% reduction by 2050). This suggests that even if the negotiations lead to a new legal agreement, it could still fall short of what is needed to meet already agreed objectives.

Implications

Opinion remains divided on the Durban Platform. Whether the outcome is legally binding or symmetrical will be intensely negotiated in the coming years. Most countries recognize that, in principle, climate change merits a legally binding response. But they have yet to agree on which countries should be bound by what specific commitments, and by when. The Durban Platform did not supplant the Convention, so the principles of “equity” and “common but differentiated responsibilities” will remain strong factors in the discussion. Nonetheless, by agreeing that a binding outcome is now a possibility, Parties have made a declaration of intent. This is significant because the outcomes from Copenhagen and Cancun were based on voluntary domestically driven pledges, which offered little assurance to countries most affected by and least responsible for climate change. In simplest terms, Durban renews faith in the role of the multilateral system in addressing global problems.

In the coming years, the discussion will intensify as Parties debate the differences between a protocol, a legal instrument or an “outcome with legal force”. Some will insist that a formal protocol with legally binding emission reduction commitments is essential for underpinning progress. Others will argue that the high level of consensus required for a formal treaty would only produce a “lowest common denominator agreement” with little impact. Some may even argue that a combination of soft international law (law that is not formally binding but may nonetheless exercise significant influence on behavior), and accountability (i.e. public pressure and national climate change targets) would result in a quicker agreement and more ambition. For example, the Copenhagen Accord was at best soft law but is now part of the UNFCCC process and civil society and businesses have been using the Accord to hold governments to account.

5. THE KYOTO PROTOCOL AND A SECOND COMMITMENT PERIOD: KEY ISSUES TO BE RESOLVED

Heading into Durban, prospects for the Kyoto Protocol were rather bleak. Nonetheless, the foundations for a second commitment period were laid down decisively in Durban. Agreement on the Durban Platform in turn facilitated the extension of the Kyoto Protocol, thereby providing a transition period for the EU and other countries to maintain a common legal framework as all Parties work toward a new future agreement. With this decision (Decision 1/CMP.7), the EU achieved its diplomatic goals for Durban and the developing countries ensured that the instruments and rules-based principles of the Kyoto Protocol survived in the near future.

Decision 1/CMP.7: The Kyoto Protocol Lives

- Secures the continuation of the Kyoto Protocol
- Confirms the ongoing leadership of developed countries to reduce the emissions of greenhouse gases
- Keeps the international response to climate change within the remit of the current international legal system
- Ensures a smooth transition between the first to the second commitment period with no regulatory gap
- Sustainable development mechanisms continue to function

The outcome in Durban was effectively a political commitment by the EU and a handful of other developed countries (together accounting for about 15 percent of global emissions) to a second commitment period of the Kyoto Protocol from January 1, Parties also adopted a series of decisions settling technical issues and aiming to convert the pledges the EU and others made under the Copenhagen and Cancun agreements into binding emission targets. The decisions:

- Declare the “intention” of those Parties to convert their pledges into quantified emission limitation and reduction objectives (QELROs) in an amendment to the Protocol to be adopted at CMP 8;
- Revise rules for the accounting of emissions and removals related to land-use, land-use change and forestry (LULUCF);
- Authorize the continued use of emissions trading and project-based mechanisms (the CDM and Joint Implementation) in the second commitment period; and,
- Add nitrogen trifluoride (NF₃), a gas used in the production of silicon wafers and other products, to the basket of gases covered by the Protocol.

The additional year will allow parties taking targets to analyze the implications of the revised rules and make political judgments about the stringency of their targets. While the adoption of an amendment in 2012 is not expressly conditional on progress outside Kyoto, the decision notes the importance of “ensuring coherence with the implementation of” the Durban Platform.

The “Numbers”

In Durban, governments also made progress on the “numbers” — the targets for emission reductions in the second commitment period. Decision 1/CMP.7 invited Annex I Parties to submit, by 1 May 2012, their QELROs, which are the targets for industrialized countries to reduce or limit their emissions. They enable the measurement, on a common scale, of countries’ efforts to contain human impact on the global climate system. Obligations to fulfil QELROs are a fundamental part of the Kyoto Protocol regime. After Annex I Parties submit their QELROs for the second commitment period, they will be negotiated with the aim of adopting the QELROs formally as part of the amendments to Annex B to the Kyoto Protocol at CMP 8 in Qatar.

While the Durban outcome notes the goal for reducing emissions in developed countries by 25-40% below 1990 levels by 2020, Parties’ current emissions reduction commitments fall far short of this range. There is a gap of 6-11 GtCO₂e between current commitments and emissions trajectories consistent with a 2°C warming limit. Thus, they are not within the range that can limit warming by 2°C. In addition, Parties have agreed to neither a peak year nor a long-term global mitigation goal. This raises the critical question of how much more Parties must reduce emissions in the short term (pre-2020) and the long term (by 2050) both collectively and individually.

A second commitment period will run from 2013, for either five or eight years, with the final duration to be decided in 2012. One key factor that will influence the duration of the second commitment may be the third phase of the EU Emissions Trading Scheme, which runs from 2013 to 2020. Annex I to the decision lists the targets for the second commitment period. The only significant reduction targets (compared to 1990 levels and to be achieved by 2020) are: the EU: 20-30%; Norway: 30-40%; Switzerland: 20-30%; Ukraine: 20%.

Unfortunately, the only unambiguous statements in the notes to the decision refer to the Parties that are not signing up to the second commitment period. Canada indicated that it does not intend to participate in a second commitment period of the Kyoto Protocol and, shortly after COP 17, submitted its instrument of withdrawal from the Kyoto Protocol. Japan indicated that it does not have any intention to be under obligation of the second commitment period of the Kyoto Protocol after 2012. The Russian Federation has also indicated that it does not intend to assume a quantitative emission limitation or reduction commitment for the second commitment period.

The issue of carry-over of emissions credits from the first commitment period is also unresolved. The CMP therefore asks negotiators to “assess the implications of the carry-over of assigned amount units to the second commitment period” and recommend actions to address the implications on the aggregate emissions reductions from the developed countries. New market and non-market mechanisms were agreed in principle but the decision on rules and modalities was delayed until next year. This includes crediting for nationally appropriate mitigation actions (NAMAs) and sectoral approaches for agriculture, and international aviation and shipping. The countries also agreed on the carbon markets and climate finance as possible funding sources for activities to reduce emissions from deforestation and forest degradation (REDD+) activities.

Carbon Capture and Storage (CCS) projects will become eligible for CDM funding. Because of the uncertainties surrounding this type of project, developers will have to put five percent of the credits earned in reserve so that they will be awarded only after 20 years, provided that no carbon dioxide has leaked from the underground store. While this outcome is a positive development for CCS, the technology remains in its infancy and it will need extra funding on top of any carbon credits before it becomes economically viable. Notably, a major review the CDM mechanism is due in 2012. In addition, some of the operational conditions for the joint implementation (JI) mechanism are less clear and a decision on proposed new JI rules was postponed until 2012.

Implications for developing countries

The agreement to extend the Kyoto Protocol ensures the continuation of international carbon markets because its accounting rules, mechanisms and markets will in turn continue as models to inform future agreements. The second commitment period extends the lives of the CDM and joint implementation by a few years, but a potentially significant development is the decision under the AWG-LCA to develop a new market-based mechanism to assist developed countries in meeting part of their targets or commitments under the Convention. At the same time, the UNFCCC will also undertake a review of the existing market-based mechanisms, looking at what has worked in current carbon markets and what can be improved.

Outstanding Kyoto Protocol issues to be resolved in 2012

- *The length of the second commitment period.* The start date will be 1 January 2013, but Parties did not agree on whether it should be five years, as per the first commitment period of the Kyoto Protocol, or eight years, to cover the period to the end of 2020. The agreed length of the commitment period will become part of the textual amendments to some Articles of the Kyoto Protocol that have been revised but not yet finalized in Durban.
- *The remaining issues relating to methodological and accounting rules for land use, land-use change and forestry,* which have been mostly passed on to the SBSTA and the SBI to be worked on this year.
- *The carry-over of assigned amount units (AAUs) from the first to the second commitment period.* Parties will need to assess the implications of the carry-over on the scale of emission reductions to be achieved by Annex I Parties in aggregate in the second commitment period, and to recommend appropriate actions.

6. PROGRESS IN DURBAN: KEY ISSUES FROM THE COPENHAGEN AND CANCUN CONFERENCES MOVE AHEAD

In Durban, governments agreed to advance previous decisions and further strengthen the implementation architecture that supports developing countries. This chapter reviews the decisions taken in Durban by theme (mitigation, adaptation, etc.), using the Durban decision produced by the AWG-LCA as a framework, since it is by far the broadest (55 pages in total). Under each theme, the paper also reviews related actions taken under other bodies, such as the subsidiary bodies, and attempts to highlight the crosscutting issues. In light of its importance to developing countries, the Green Climate Fund is highlighted separately in Chapter 7.

The AWG-LCA decision

The Durban decision taken by the COP on the outcome of the AWG-LCA—known as decision 2/CP.17 and containing eight major sections with eight annexes—addresses many areas of implementation, including mitigation and adaptation action, and support for developing countries. It brings to fruition much of the progress made in 2011 on both the key pillars of the Bali Action Plan and the Cancun Agreements:

- Progress on measurement, reporting and verification (MRV) of mitigation action and support, including on the reporting guidelines, the assessment and review and the consultation and analysis to be conducted in the future by the SBI, and on the registry for nationally appropriate mitigation actions (NAMAs) by developing countries.
- Taking forward the Adaptation Committee and of the Standing Committee on finance;
- Full operationalization of the Technology Mechanism, in particular deciding on the terms of reference of the Climate Technology Centre and the selection process for its host;
- Launch of the Durban Forum on capacity building;
- Agreement on most of the modalities for the periodic review of the long term global temperature goal, to be conducted at least every seven years by the COP.

a. Shared Vision

The Bali Action Plan calls for a “shared vision” for long-term cooperative action to achieve the ultimate

objective of the Convention. This would include a long-term global goal for emission reductions, the key guiding principles and the objectives. The negotiations by the AWG-LCA on shared vision have centered on the scope of a shared vision, the basis for and the level of the long-term goal, including issues such as a temperature increase limit; a global emission reduction goal, specific emission reduction goals for developed countries and a total GHG concentration limit in the atmosphere. Discussions have also focused on whether to set a peak year for global emissions and possible provision for assessing the effectiveness of global action.

In Durban (*Decision 2/CP.17, section I*), Parties did not set a global goal for substantially reducing emissions by 2050 or a date by which global emissions must peak. The Cancun Agreements defined a long-term goal of keeping global average temperature from rising more than 2°C above pre-industrial levels. Still, the ambition of current pledges appears to be less than called for by the UNEP Emissions Gap Report, an assessment which estimates that the emissions trajectory “likely” to limit warming to 2°C must peak before 2020, and emissions in 2050 must be 46% lower than 1990 values (53% lower than 2005 levels)⁷. Other trajectories, for example, if global emissions do not peak until after 2020, have more significant negative implications. Given that the negotiations have yet to result in common accounting rules for industrialized country Parties, it is unlikely that the higher range of ambition, which depends upon “strict accounting rules,” is even still achievable.

On a more positive note, the decision launches a work plan to identify and explore options to close the ambition gap, including a workshop and submissions from Parties and observers, an important next step toward identifying options to increase mitigation effort. The text further urges developed country Parties to increase ambition in the short-term. It also encourages those developing country Parties who have yet to submit NAMAs to do so, and notes that developing countries “could enhance their mitigation actions” depending on the provision of support from developed countries. The Registry, whose operating

⁷ http://www.unep.org/pdf/UNEP_bridging_gap.pdf.

procedures were further elaborated in Durban, will provide a platform to facilitate the matching of actions with support.

b. Enhanced Action on Mitigation

Mitigation measures utilize human interventions to reduce emissions and enhance greenhouse gas removal through the use of carbon sinks, such as forests, vegetation, and soils. Mitigation measures encompass a number of agenda items under the Convention. This section of the report covers issues relating to developing and developed country mitigation efforts as discussed under the AWG-LCA. Mitigation discussions under the Kyoto Protocol, as well as efforts to reduce emissions through the use of carbon sinks can be found in section 6(f) below.

In recent years, different aspects of mitigation, which encompasses the reduction of greenhouse gas emissions and enhancement of sinks, have been discussed intensely in both the AWG-KP and AWG-LCA. Enhanced action on mitigation of climate change, under the Bali Action Plan, has been considered along themes such as commitments or actions by all developed country Parties; nationally appropriate mitigation actions (NAMAs) by developing country Parties; reducing emissions from deforestation and forest degradation and cooperative sectoral approaches and sector-specific actions. What is common for both developed and developing countries is that they take “measurable, reportable and verifiable” mitigation action. The negotiations under the Kyoto Protocol have only concerned commitments by developed country Parties.

In Cancun, the parameters of the system for measuring, reporting, and verifying (MRV) countries’ targets and actions were set but important details were still not agreed. Therefore, the Durban conference had been expected to deliver more detailed rules. The COP ultimately adopted procedures for implementing three elements of the Cancun Agreements aimed at strengthening MRV of countries’ actions: new biennial reports from countries on their climate efforts; and International Assessment and Review (IAR) and International Consultations and Analysis (ICA), two parallel processes reviewing the efforts of individual developed and developing countries, respectively. Biennial reports from both developed and developing countries will include: a summary of a party’s

greenhouse gas emissions inventory; a description of its mitigation policies; and information on support provided or received. Developed country reports will also include a detailed description of a party’s emissions target and accounting, including base year, gases covered, treatment of land use, and use of market mechanisms.

Mitigation: Highlights from the Outcome of the AWG-LCA (Decision 2/CP.17, section II)

Critical decisions were reached in Durban to further strengthen the measurement, reporting and verification (MRV) framework for Annex I Parties, and the reporting and verification structure for non Annex I Parties. These actions help creating certainty that all countries are approaching their commitments under the Convention with a sense of responsibility and accountability.

Developed Country Parties: MRV Framework (Section II. A)

- Adoption of the UNFCCC biennial reporting (BR) guidelines
- Adoption of the modalities and procedures for international assessment and review (IAR).
- The process and timeline for revisions of these guidelines
- Guidelines for reporting and for review of national communications were set in place.
- SBSTA will further develop a critical element of the MRV framework for Annex I Parties—the common reporting formats for biennial reports and the revision of the review guidelines for biennial reports and the national communications.

Developing Country Parties (Section II.B)*Biennial update reports (BURs)*

- Adoption of the guidelines for preparation of BURs from non Annex I Parties,
- Clarification of the timeframe for submission of first and subsequent BURs, their content and how the BURs link to the national communications (First BURs are due by December 2014).
- Recognition that non-Annex I Parties would require support for preparation of BURs
- Request made to the GEF to make this support available as early as possible to non-Annex I Parties preparing their first BURs in 2012 on the basis of agreed full cost funding.

International consultations and analysis (ICA)

- Adoption of the modalities and guidelines for international consultation and analysis (ICA)
- Agreement that the first rounds of ICA will be conducted for developing country Parties, starting within six months of the submission of the first round of biennial update reports.
- Agreement to now address a key element of the ICA process: the composition, modalities and procedures of the team of technical experts for the ICA. This issue will be addressed at SBI 36, with a view to recommending a draft decision for COP 18.

Nationally Appropriate Mitigation Actions (NAMAs) and the NAMA Registry

Parties agreed to continue, in 2012, with the workshop process that was launched in Cancun at COP 16 to further the understanding of the diversity of NAMAs. Another significant decision was to operationalize the registry to record NAMAs seeking international support, to facilitate the matching of financial, technological and capacity-building support for NAMAs, and to provide recognition of NAMAs.

REDD+plus (Section II.C)

Under the AWG-LCA, the decision focuses on financing for results-based full implementation of REDD plus activities. (Another decision on REDD+ was under SBSTA).

Cooperative sectoral approaches (Section II.D)

Under the AWG-LCA item on sectors (cooperative sectoral approaches and sector specific actions in order to enhance article 4, paragraph 1(c), of the Convention), Parties agreed to launch work on matters related to agriculture at SBSTA 36, with the aim of adopting a relevant decision by COP 18. Parties also agreed to continue their discussions on the other two major issues: a general framework for cooperative sectoral approaches and sector specific actions, and emissions from international aviation and maritime transport.

i) Developed Country Mitigation

In Durban, the key issues on mitigation were the level of ambition, accounting and clarification of pledges. Parties also debated biennial reports, and an international assessment and review (IAR). On ambition and clarification, negotiators focused on how to gain greater clarity on the emissions reduction pledges, including underlying methodologies and assumptions. Despite recent workshops on clarification of pledges, there is a pressing need for more detail and clarity, as both are critical for tracking progress toward domestic goals and the long-term global goal of limiting warming to less than 2°C above pre-industrial levels.

Ambition and clarification

The Durban decision requires Annex I Parties to submit information in a common template and is detailed in its specificity of categories of information that require clarification. The COP decided to continue in 2012 the process of clarifying developed country parties' quantified economy-wide emission reduction targets, with the objective of understanding assumptions and conditions related to individual targets, in particular in relation to the base year, global warming potential values, coverage of gases, coverage of sectors, expected emission reductions, the role of LULUCF and forestry and carbon credits from market-based mechanisms, and associated assumptions and conditions related to the ambition of the pledges. The COP also decided to convene an in-session workshop to explore the assumptions and conditions related to targets, and requested a technical paper exploring the commonalities and differences of approaches.

Accounting

The Durban negotiations focused on whether a common accounting system for emissions reductions and enhanced removals would be adopted, and for which Parties such rules would apply. Discussions centered on how to maintain environmental integrity while preserving flexibility for Parties. The resulting text simply acknowledges the value of ex ante information and the need to elaborate approaches to track progress toward targets. However, negotiators neither agreed to common accounting rules nor set up a process to develop such rules. This does not ensure comparability, the ability to aggregate emissions reductions globally for input into the 2013-2015 Review and quality in the carbon market.

Reporting and review

A significantly advanced framework for the reporting of emission reductions was agreed. Developed countries must prepare biennial reports on their emissions and on their projects to reduce emissions, in accordance with their national circumstances, with the first reports due at the start of 2014. In Durban, guidelines were adopted that will now be used by countries to develop their first biennial reports and biennial update reports in the next three years. The COP also decided that Annex I parties shall submit a full national communication every four years, noting that the next due date after adoption of this decision is 1 January 2014.

The modalities to review these reports, through international assessment and review (IAR) and international consultations and analysis (ICA), were also set in Durban. The IAR process will be conducted through a technical review of information and a multilateral assessment of the implementation of emission reduction targets and adopted the modalities and procedures for IAR as contained in Annex II. The COP also established a work programme to conclude the revision of the guidelines for the review of biennial report, and national communications, including national inventory review to be concluded no later than COP 19.

Some commentators have noted the final text lacked several important elements. For example, neither the expert review teams nor the SBI have the authority to make recommendations to the Party under review. The fact that the first reports of developing countries are not due until December 2014 is also a concern, as this will likely be too late to feed into the periodic review due to take place between 2013 and 2015. Additionally, the information requested of countries in their biennial reports may be insufficient to enable a comprehensive assessment of global mitigation efforts.

Implications

Developed country mitigation must be the driving force behind a global climate regime, creating a market for carbon credits and promoting development of low-carbon technologies. The current level of ambition of reduction pledges does not guarantee the 2°C target. While Parties did indeed make the MRV system operational in Durban, the outcome fell short on several important aspects need

to ensure environmental integrity. Parties indeed demonstrated their commitment to developing a common system and vowed to continue their efforts in the coming year.

Regular and detailed reporting and review of countries' commitments and actions could help build confidence and motivate countries to meet their existing commitments and potentially increase their ambition. The process of conducting MRV can help highlight what has worked and what has not, which can help improve the choice and implementation of various policies and actions. The Durban decisions, while they could have gone farther, advanced the clarification of countries' pledges somewhat. But without further detail on the assumptions underlying Parties' targets and actions, it is difficult to fully evaluate current levels of commitments.

In addition, the strength of accounting rules also has implications for the level of ambition. As the recent UNEP Bridging the Gap Report noted, accounting rules are a key determinant of the size of the emissions gap in 2020. The lack of common accounting guidance in the Durban outcome therefore opens the door to lenient accounting and double counting, meaning that additional measures will have to be undertaken accordingly to reach the desired level of emissions reductions. While a second commitment period preserves the Kyoto Protocol's accounting guidance for future use, its application is limited since the same provisions were not made under the Convention's negotiating track, which applies to many more Parties.

ii) Mitigation Actions by developing countries

During informal consultations on developing country mitigation, the main issues discussed were: the level of ambition and clarification; biennial update reports; international consultation and analysis (ICA); and the Registry.

Ambition and clarification

The text does not require Parties to report in a template similar to that of Annex I Parties and simply "invites" non-Annex I Parties to submit further information on their actions. Furthermore, there is a lack of specificity

regarding the information that Parties are invited to provide. The text refers to "underlying assumptions and methodologies" but the additional detail necessary for enhancing understanding of the emissions reductions associated with the actions is lacking.

Reporting

Developing countries will go through a similar process as developed countries, with their first biennial update report submitted by December 2014; by 5 March next year they must also submit information about their nationally appropriate mitigation actions and low-emission development strategies, in order to obtain financial and technical support by developed countries.

Registry and nationally appropriate mitigation actions (NAMAs)

Durban saw a commitment to have a registry of NAMAs up and running within a year. The registry will match proposals for projects in developing countries with support offered by developed nations. Over 40 developing nations have already presented proposals to the UNFCCC to limit their carbon emissions.⁸ Others are still formulating goals for submission. These proposals could help these countries leapfrog the high-carbon history of developed nations and instead pursue low-carbon, sustainable growth.

It remains unclear exactly what type of actions will be eligible, but NAMAs will be the recipients of a significant proportion of funding from the GCF. They will need significant input from the private sector and it is crucial that the NAMAs have the ability to scale up their ambitions. Public-private partnerships provide a good way to remove barriers to private sector investment. They provide a significant opportunity for investors and businesses to drive sustainability across many different markets and in many different sectors of the economy.

Implications for developing countries

A country-driven and transparent process for NAMAs, the registry, and ICA is critical to avoiding dangerous climate change. All three elements offer an opportunity for developing countries to access finance and build support

⁸ FCCC/AWGLCA/2011/INF.1) at: <http://unfccc.int/resource/docs/2011/awglca14/eng/inf01.pdf>

for their development priorities, and will contribute to the global shift toward low-emission and climate-resilient development.

Activities funded by the GCF “will be regularly monitored for impact, efficiency and effectiveness” and “a results measurement framework with guidelines and appropriate performance indicators will be approved by the Board”. This suggests that a robust MRV system could be developed. This has been a long-held ambition of donor countries and investors but has been strongly resisted by developing countries that have seen it as a breach of their sovereignty. If the private sector is to invest at scale it will look for robust frameworks to assess the performance of the projects they invest in, especially since some GCF funding may be results-based. A consensus on MRV could therefore help to increase the flow of private sector capital.

Issues to be addressed the AWG-LCA in 2012

The AWG-LCA is expected to conclude its work in 2012. Parties decided to continue the process of clarifying the mitigation targets pledged by developed country Parties and assumptions related to the ambition of the pledges, and of further understanding the diversity of NAMAs by developing country Parties. The COP also asked the AWG-LCA to elaborate a framework for various approaches to promote mitigation action and modalities of a new market mechanism. In year ahead, the AWG-LCA will need to finalize work on the outstanding questions regarding the first review of the long-term goal, which is to take place from 2013 to 2015. Parties will also consider equitable access to sustainable development through a workshop at the next session.

c. Adaptation

Adaptation to climate change presents a number of formidable challenges, particularly for the developing world. Climate change impacts have already begun to affect developing countries, particularly the poor and most vulnerable, which have fewer social, technological, and financial resources for adaptation. Millions of people, particularly in developing countries, face shortages of water and food and greater risks to health. Adaptation measures that reduce vulnerability to climate change are essential for reducing the current impacts, especially in

countries where the risks are “here and now”, and to increase resilience to future impacts. Adaptation to climate change must therefore be an integral component of a future climate change regime.

The Bali Action Plan in 2007 identified enhanced action on adaptation as one of its four main building blocks required for a strengthened future response to climate change. This includes measures to reduce the vulnerability of human and natural systems against climate change effects. After three years of negotiation, the Bali process led to the adoption of the Cancun Adaptation Framework, where Parties affirmed that adaptation must be addressed with the same level of priority as mitigation. The objective of the Cancun Adaptation Framework is to enhance action on adaptation, including through international cooperation and coherent consideration of matters relating to adaptation under the Convention. Ultimately enhanced action on adaptation seeks to reduce vulnerability and build resilience in developing country Parties, taking into account the urgent and immediate needs of those developing countries that are particularly vulnerable.

In Durban, Parties demonstrated a renewed momentum on the issue and discussed several issues relating to adaptation, particularly the new institutions and mechanisms created in Cancun that could have a major impact on adaptation activities and strategies. Parties operationalized the Cancun Adaptation Framework by establishing the Adaptation Committee. In addition, they focused on issues of importance for implementing adaptation, including the Nairobi work programme on impacts, vulnerability and adaptation to climate (NWP), national adaptation plans (NAPs), furthering the implementation of the work programme on loss and damage, and support for adaptation through finance, technology and capacity building.

The Cancun Adaptation Framework holds the objective of enhancing action on adaptation, including through international cooperation, as well as consideration of matters under the Convention relating to adaptation. The Adaptation Committee was established as part of the Cancun Adaptation Framework to promote the implementation of enhanced action on adaptation. In Durban, Parties advanced the implementation of the Framework by focusing on: the modalities and procedures of the Adapta-

tion Committee, activities to be undertaken under the work programme on loss and damage, and modalities and guidelines for national adaptation plans.

The Adaptation Committee (Decision 2/CP.17, Section III)

Agreement was reached on membership, authorities, and modes of work. The Committee will report to the COP on its efforts to improve the coordination of adaptation actions at a global scale. It will promote the implementation of enhanced action on adaptation “in a coherent manner” under the Convention by:

- Providing technical support and guidance to the Parties
- Sharing of relevant information, knowledge, experience and good practices
- Promoting synergy and strengthening engagement with national, regional and international organizations, centres and networks
- Providing information and recommendations, drawing on adaptation good practices, for consideration by the COP when providing guidance on means to incentivize the implementation of adaptation actions, including finance, technology and capacity-building
- Considering information communicated by Parties on their monitoring and review of adaptation actions, support provided and received.

The composition of the Committee will total 16 members consisting of two members from each of the five UN regional groups, one member from an LDC, one from a small island developing state, two Annex I Party members, as well as two non-Annex I Party members. The Adaptation Committee shall operate under the authority of, and be accountable to, the COP. Parties further defined linkages with other institutions and agreed on a list of Committee activities for consideration when developing its work plan.

National Adaptation Plans (Decision 5/CP.17)

National Adaptation Plans (NAPs) will strengthen the adaptive capacities of developing countries, particularly the poorest and most vulnerable countries, by allowing them to assess and reduce their vulnerability to climate change. In Durban, Parties discussed the operationalization of adaptation in developing countries and least developed countries (LDCs) in SBI meetings. In the resulting COP decision, Parties agreed that the national adaptation plan

process should facilitate country-owned, country-driven action. Several activities were mandated to lay the groundwork for the design and implementation of NAPs. The COP adopted initial guidelines for the formulation of NAPs by LDCs, and requested the LDC Expert Group (LEG) to develop technical guidelines. The COP also requested the LEG to identify support needs for the process of formulation and implementation of NAPs, and to prioritize support for NAPs in its work. Parties also agreed to establish a global support programme for the NAP process that would facilitate the provision of financial and technical support to LDCs through the LDCF.

The NAP process is voluntary, as is provision of funding to support NAPs development. However, it seems likely that the UNFCCC Secretariat and the LDC Experts Group will conduct workshops and other activities to provide technical support for the NAPs, and the decision calls for tracking of whether and how developed countries provide financial support. The SBI will consider guidance on policies to enable support for the NAP process for LDCs at its next session.

Work Programme on Loss and Damage (Decision 7/CP.17)

Parties also decided to begin a new Work Program on Loss and Damage. Through this programme, the most vulnerable are to receive better protection against loss and damage caused by extreme weather events related to climate change. Parties agreed on activities to be undertaken by the work programme on loss and damage leading up to COP 18.

This means two series of adaptation workshops and technical reports for the coming year: assessing the risk of loss and damage associated with the adverse effects of climate change, and options to address this risk. The first expert meeting will focus on assessing the risk of loss and damage associated with the adverse effects of climate change. Further regional expert meetings will take place for Africa, Asia, Latin America and Small Island Developing States later in 2012, to address issues related to different approaches to address loss and damage. A technical paper and a literature review in accordance with the mandate will inform these meetings. The outcomes of these activities are expected to generate an adequate knowledge base to inform the COP in making a decision on loss and damage at COP 18.

Nairobi Work Programme (Decision 6/CP.17)

Under the Nairobi work programme (NWP), Parties discussed vulnerable stakeholder groups, taking advantage of the knowledge and expertise of partners, coherence of action on adaptation under the Convention, and linkages between the NWP and the Adaptation Committee. The COP ultimately requested SBSTA 38 to reconsider the NWP work areas, with a view to making recommendations to COP 19 on how objectives of the NWP should be best supported, and to consider at SBSTA 39 relevant information and advice on the scientific, technical and socio-economic aspects of impacts, vulnerability and adaptation to climate change arising from NWP implementation. The COP requested the secretariat to organize two technical workshops: the first on water, climate change impacts and adaptation strategies, and the second on ecosystem based approaches to adaptation.

New activities on freshwater and ecosystem-based adaptation were agreed under the Nairobi work programme on impacts, vulnerability and adaptation, and the NWP Private Sector Initiative adaptation database was launched. The COP also requested the development of a compilation of case studies on national adaptation planning processes, and the continuation of the development of knowledge products and stakeholder engagement. SBSTA 38 will further consider how the NWP can support scientific and technical work under the Cancun Adaptation Framework. During the Durban conference, the UNFCCC secretariat also launched a database featuring profitable climate change adaptation activities pioneered by private companies, as part of its efforts to put the benefits and business sense of adaptation firmly on the agenda of the private sector.

LDC Work Programme and NAPAs (Decision 9/CP.17)

Next steps were agreed on in Durban for the least developed countries work programme and further implementation of national adaptation programmes of action. The COP requested the LEG to provide further specification on each of the elements of the LDC work programme to inform negotiations on the LDC Fund (LDCF) at SBI 36. In addition, the SBI provided further guidance to the LDC Expert Group (LEG) on training workshops on National Adaptation Programmes of Action (NAPA) implementation. The LEG will continue its work based on its work programme for 2011-2012 and the new

mandates received in Durban. As of 17 January 2012, a total of 47 NAPAs had been submitted to the secretariat. As of December 2011, the LDCF supports 52 projects and programmes in 42 LDCs, and 33 LDCF NAPA projects have begun implementation.

Adaptation Fund (Decisions 6/CMP.7 and 7/CMP.7)

The Adaptation Fund, established under the Kyoto Protocol, provides funding for adaptation projects and programs in developing countries. Taken up within the CMP, Parties discussed a report from the Adaptation Fund Board (AFB) and the low price of Certified Emission Reductions (CERs), from which a levy is applied to generate resources for the Adaptation Fund. On the report, Parties noted progress in the operationalization of the Adaptation Fund. The CMP adopted a decision that requests the AFB to submit to the Secretariat its views on the Review of the Interim Arrangements of the Adaptation Fund, requests SBI 36 to consider the initial review, and decides to complete the initial review of the Adaptation Fund at CMP 8.

Implications for developing countries

Without effective adaptation, climate change threatens to undo decades of development. It is therefore critical to pursue climate-resilient development assistance and strengthen the capacity of national institutions to incorporate adaptive capacity and building resilience into development and budget planning in an iterative manner. With smart planning, adaptation now offers an opportunity to improve climate resilience through MDG achievement and poverty reduction.

The Adaptation Committee will now address the many UNFCCC adaptation work streams. It will coordinate a range of review and synthesis processes, provide advice to various UNFCCC bodies, and coordinate information sharing both within and outside of the UNFCCC process. Developing countries will have a majority of seats on the committee, which will report to the COP through its subsidiary bodies, making it somewhat less authoritative than if it reported directly to the COP.

The loss and damage debate has often controversial within the UNFCCC because developed countries prefer to avoid discussions that may link to questions of liability, so a work program represents a step in a constructive new

direction. The decision also resolved a contentious matter by creating a process for exploring how non-LDCs can also be supported to develop NAPs.

d. Finance

Financial support and investment to address climate change is a crosscutting issue relevant to mitigation, adaptation, technology, and capacity building. Therefore negotiations on finance have long been among the most difficult in the intergovernmental process. The Convention and the Kyoto Protocol foresee financial assistance from developed to developing country Parties through the financial mechanism of the Convention, as well as through bilateral, multilateral or regional channels. While the negotiation of mitigation targets will set a regulatory framework, finance is also one of the key issues in the negotiations on enhanced future action on climate change.

Developing countries will need considerable financial assistance to ensure effective responses to climate change, with the amount of investment and financial flows needed is estimated to be in the order of tens to hundreds of billions of dollars per year. Without financial support for adaptation projects, developing countries cannot achieve their Millennium Development Goals. Developed countries are committed to providing \$30 billion (USD) of fast-start finance for the years 2010-2012, and further committed to jointly mobilize \$100 billion per year by 2020.

The Durban Conference grappled with a number of important issues related to mobilization and management of financial resources, the most important being the Green Climate Fund (GCF). Parties in Durban spent considerable time discussing the operationalisation of the GCF and produced one of the conferences most significant outcomes (addressed in section 7 of this document.) In Durban, additional financial issues, including the Standing Committee of the financial mechanism and on fast-start and long-term finance, were considered under the AWG-LCA and adopted in Decision 2/CP.17, Section IV.

Standing Committee

In Durban, Parties also reached agreement on the

Standing Committee, to assess climate finance flows, and to advise the COP on its guidance to and coordination among the various UNFCCC funds. The Committee will keep an overview of climate finance in the context of the UNFCCC and provide advice and recommendations to the COP on the functioning of the Convention's financial mechanism. Parties identified specific activities with respect to improving coherence and coordination in climate change financing; rationalization; mobilization of financial resources; and MRV of support provided to developing countries. The Standing Committee will have 20 members, represented equally between the developed and developing world. While still evolving, its oversight role in ensuring coherence and effectiveness in financing could be quite significant.

Fast-start finance and long-term finance

Since 1992, developed countries have repeatedly pledged to help developing countries. In Copenhagen, developed countries agreed to provide resources to developing countries approaching \$30 billion in "fast-start" funds for the years 2010-2012. In Durban, developing countries called for greater transparency on reporting of developed countries' commitment to fast-start funding and pushed for a decision to include information on additionality and predictability of these funds. However, the decision simply notes and welcomes fast-start finance provided for the period 2010-2012, and urges developed countries to continue to enhance transparency around fulfilment of their commitments. On the sidelines of the negotiations, developed countries continued to come forward with new commitments for fast-start finance.

In addition, governments agreed to a work programme on long-term finance that will contribute to the scaling up of climate change finance and will analyze options for the mobilization of resources from a variety of sources. The work program will analyze potential sources of long-term finance. The analysis will draw upon relevant reports including that of the High-level Advisory Group on Climate Financing (AGF)⁹ and the report on mobilizing climate finance for the G20¹⁰ and the assessment criteria in the reports, and will also take into account lessons

⁹ Report of the Secretary-General's High-level Advisory Group on Climate Change Financing: http://www.un.org/wcm/webdav/site/climatechange/shared/Documents/AGF_reports/AGF_Final_Report.pdf

¹⁰ Mobilizing Climate Finance: A Paper prepared at the request of G20 Finance Ministers, October 6, 2011: http://www.g20-g8.com/g8-g20/root/bank_objects/G20_Climate_Finance_report.pdf

learned from fast-start finance.

Some observers have noted that the agreed decision failed to provide clear signals on how long-term finance to support developing countries will be raised and mobilized. The Africa group worked hard to get financing based on an assessment of developing country needs. Unfortunately, developed countries were only willing to affirm the importance of continuing support after 2012. In the absence of a comprehensive pathway, countries agreed on a work program to contribute to efforts toward scaling up mobilization of climate finance.

Transparency of finance

For transparency of finance, the Durban outcome provided more detail on what information developed countries should include in their biennial reports on provision of climate finance – information that will subsequently be subject to a process of international assessment and review (IAR). However, Parties did not yet adopt a common reporting format for finance, meaning that information provided under these reporting guidelines will likely be limited in comparability, transparency, and accuracy. Parties will have the opportunity to improve on these guidelines in the future through the work of the SBSTA. In addition to these formal MRV provisions on finance, more specificity was provided around the information developed countries should submit for inclusion in the registry on support available for developing country NAMAs.

e. Technology

As it largely determines the level of emissions, technology is both the primary source of the climate change problem and the key to the solution. While there is no established definition of technology and technology transfer in the Convention, previous discussions have not only covered equipment, but also relevant flows of hardware, software, information, training and knowledge needed to ensure research and development, deployment and transfer of technology to developing countries. Despite the recognition of the central role of technology, there has been little transfer of climate-friendly technology as a result of the UNFCCC. However, the Cancun Conference saw a breakthrough on this key issue, with the establishment of a Technology Mechanism, which is expected to facilitate the implementation of enhanced action on technology development and transfer to support

action on mitigation and adaptation to climate change.

In Durban, Parties elaborated the details of the new Technology Mechanism, which includes a Technology Executive Committee (TEC), a group of international experts that will identify technology needs and priorities, coordinate international efforts, and make recommendations to increase effectiveness. Parties also adopted the modalities and rules of procedure of the TEC. The modalities, elaborated by the TEC, include the following key elements: analysis and synthesis; policy recommendations; facilitation and catalysing; linkage with other institutional arrangements; engagement of stakeholders; and information and knowledge sharing.

Making the Technology Mechanism fully operational in 2012 (Decision 2/CP.17, Section V)

- The Climate Technology Center and Network—the implementing arm of the new Technology Mechanism—was launched in Durban through the adoption of its terms of reference.
- In 2012, the immediate priority lies in identifying a host for the Climate Technology Center and Network (CTCN). The UNFCCC secretariat has already received letters of interest for hosting the CTCN.

The CTC, along with its Network, is the implementing arm of the Technology Mechanism established at COP16 in Cancun. The CTC will provide practical support, responding to requests received from developing countries regarding mitigation and adaptation technologies. It will prepare project proposals for the deployment, utilization and financing of existing technologies for mitigation and adaptation and R&D of new climate-friendly technologies for sustainable development. In Durban, Parties focused on the CTC and agreed on terms of reference, governance arrangements and reporting lines, as well as a process to select a host organization for the centre. Parties also created a new advisory board that will help govern the CTC by endorsing the work program and the appointment of the Director. Notably, the TEC will not manage the CTC, but will instead provide strategic recommendations. In the coming year, Parties focus on implementation and support of the technology mechanism.

Since Durban, the second meeting of the TEC took place in Bonn, Germany, from 15 to 17 February 2012. It achieved its four main objectives and delivered its planned activities. These included agreement on: the rolling work

plan of the TEC for 2012-2013; modalities on linkages with other institutional arrangements under and outside the Convention; and on its six nominated members (three each from non Annex I and Annex I countries) to participate in the evaluation panel for the selection of the host of the CTC. The TEC also initiated the process to actively engage relevant stakeholders in its work.

f. REDD+

The land use sector, including forestry and agriculture, is an important source of anthropogenic greenhouse emissions. Deforestation and forest degradation, through agricultural expansion, conversion to pastureland, infrastructure development and destructive logging, account for nearly 20% of global GHG emissions—second only to the energy sector. Parties have been considering approaches and incentives on issues relating to reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries. These negotiations are usually referred to as “reducing emissions from deforestation and forest degradation, conservation, sustainable forest management, and forest carbon stock enhancement” or (REDD-plus).

REDD+ was first introduced into the agenda of the COP in 2005. There was increased interest in this as an area for mitigation actions when the IPCC alerted the world in 2007 to the emissions from deforestation. REDD-plus activities relate to mitigation actions by developing countries in a specific sector and are recognized as a priority for a future framework on climate change. The issue is currently being discussed by the AWG-LCA with regard to national appropriate mitigation action (NAMA). Negotiations thus far have focused on the technicalities associated with measurement, reporting, and verification (MRV) and the livelihoods of forest communities when monitoring REDD+ emissions and protecting forests. Finance discussions have also been ongoing, where there has been disagreement on the use of market-based mechanisms. In addition, REDD+ has also developed as a separate mitigation action outside of the AWG-LCA.

In Durban, the COP adopted two decisions on REDD-plus:

- Under the AWG-LCA, Parties discussed financing of

results-based REDD+ actions, a key policy issue left out of the Cancun Agreements. In the run-up to Durban the key points debated were: (1) diversity of sources for REDD-plus finance, (2) the definition and scope of results based activities and actions, and (3) the linkage with the Green Climate Fund. The decision adopted as part of the AWGLCA outcome (Decision 2/CP.17 Part II.C) focuses on financing for results-based full implementation of REDD plus activities. Parties were invited to submit their views on modalities and procedures for financing results-based actions for consideration by the AWG-LCA at its next session.

- The other decision, developed under SBSTA (Decision 12/CP.17), focuses on guidance on systems for providing information on how safeguards are addressed and respected and modalities relating to forest reference emission levels and forest reference levels.

REDD+ finance

Negotiators discussed sources of financing for REDD+, the role of market and non-market based approaches, and the potential for using offsets. On sources of REDD+ financing, Parties emphasized a need for flexibility in financial sources, with the sources at the discretion of each Party. The final decision compromises on the issue of market versus non-market based approaches, recognizing that both may be appropriate depending on national circumstances. There still remains much outstanding on REDD+ for further consideration. This includes several options on REDD+ financing, different approaches to the use of market and non-market based approaches, as well as the possibility of considering offsetting within REDD+ activities.

Safeguards and reference levels

The term “safeguards” refers to actions that ensure environmental and social integrity during the course of a REDD+ project. Discussions in Durban focused on how the information on safeguards provided by countries would be used and whether to specify the type of information to be provided. The final decision stipulates that forest countries will need to report on how they are implementing the safeguards. However, there is no requirement for the reporting on the success of the implementation or penalties if safeguards are violated. The discussions also focused on reference levels used to

calculate baselines and emissions paths, known as Reference Emission Levels (RELS) or Reference Levels (RLs). Discussions in the context of reference levels focused on consideration of historical deforestation, projections, and national circumstances. Durban added little to this discussion, other than to say that countries could still choose either approach.

Forests under the Kyoto Protocol

Forest management becomes a mandatory activity for the second commitment period of the Kyoto Protocol, under a decision on the definitions, modalities, rules and guidelines relating to the treatment of land use, land-use change and forestry (LULUCF) activities for this next period. This decision (2/CMP.7) provides guidance for the reporting and accounting of LULUCF activities under the Kyoto Protocol, especially in the areas of forest management, wetland drainage and rewetting, natural disturbances, and harvested wood products.

Implications for developing countries

Financing for REDD+ offers an opportunity for those who depend on forests to build more sustainable livelihoods. For forested developing countries, REDD+ offers the primary opportunity to benefit from climate mitigation financing and catalyze the transformation toward low-emission, climate-resilient development.

Some were disappointed with the REDD+ decisions in Durban, as the COP did not provide significant clarity or positive incentives on REDD+ policy approaches. The negotiations did not yield robust guidance or modalities on the safeguards or on reference levels and reference emission levels. The final text provides no clear accountability mechanisms to ensure the social and environmental integrity, beyond promoting transparency. While SBSTA has a mandate for further discussions on these issues, more work will be required to resolve them.

Discussions on REDD+ have been ongoing for five years, but few are satisfied with the rate of progress, particularly on the policies and positive incentives for REDD+. Still, the decision seems to indicate a willingness to consider various approaches for delivering incentives to achieve REDD+. While this openness may present some challenges in the short term, it may also allow for a more sustainable vision for achieving REDD+ financing in the

medium and long term.

g. Capacity Building

Capacity building encompasses the development of a country's human, organizational, institutional, scientific, technological and the resource capabilities. According to the United Nations Conference on Environment and Development, the goal of capacity building is the enhancement of a nation's ability to "evaluate and address the crucial questions related to policy choices and modes of implementation among development options, based on an understanding of environmental potentials and limits and of needs as perceived by the people of the country concerned". After years of long discussions on the topic of capacity building, Parties in Durban established the Durban Forum on capacity building, an institutional arrangement for capacity building where Parties will have in-depth discussions on their experiences and lessons learned and agreed on ways to enhance its monitoring and review. Durban also resulted in notable progress on capacity building, with the completion of the second comprehensive review of the implementation of the framework for capacity building in developing countries under the SBI.

Durban Forum on Capacity-building

The Durban Forum on Capacity-building (*Decision 2/CP.17, Section VI*), one of the major outcomes of COP 17, is the first institutional arrangement in the history of the Convention that allows for the direct interaction of all actors engaged in the delivery of capacity building for mitigation and adaptation actions in developing countries, including experts and practitioners from UN organizations, NGOs, research and academia.

Agreed under the AWG-LCA, the Durban Forum for in-depth discussion on capacity building will seek to facilitate the monitoring and review of the effectiveness of capacity building, and enable Parties to exchange ideas and share experiences, lessons learned and best practices on activities in developing countries. The Forum will be organized by the SBI in the format of an annual, in-session, one-day event open to the participation of Parties, experts and practitioners from UN organizations, NGOs, research and the academia. The outcomes will support the SBI in conducting annual monitoring and periodic comprehensive reviews of the implementation of the framework for capacity building in developing countries. The first meeting of the Durban Forum is scheduled to

take place during SBI 36 (14 to 25 May 2012).

Review of the Framework for Capacity Building

Under the SBI, Parties also addressed the issue of capacity building with a goal of finalizing the review of the framework. The decision adopted by the COP (*Decision 13/CP.17*) invites continued support by UN agencies and intergovernmental organizations for capacity-building activities and invites parties to enhance reporting best practices. The COP further suggests ways to improve implementation of the capacity-building framework in developing countries.

Under the Protocol, the SBI addressed the importance of taking into account gender aspects as well as the role and needs of youth and persons with disabilities in capacity-building activities. The discussions additionally focused on financial and technical resource needs for the support of capacity-building activities for the implementation of the Kyoto Protocol. These issues were acknowledged within the final CMP decision (*Decision 15/CMP.7*).

h. The Periodic Review

At the Cancun Conference in 2010, governments decided to periodically assess their overall progress toward achieving the goal of limiting the global temperature increase to 2°C (*known as the “Periodic Review” and addressed in section V of Decision 1/CP.16*). Based on this review, they would consider strengthening the goal based on the best available scientific knowledge. In Durban, the AWG-LCA was tasked with fleshing out the Periodic Review by further defining its scope, and settling on vital design elements including institutional arrangements, timeline, and inputs. The results were mixed.

The question of scope divided delegations from the outset, with some countries arguing that a narrow scope, limited to the issues agreed in Cancun, was vital to ensuring a manageable, efficient, and consequently meaningful review. Others argued that a broader scope, including assessments of finance, technology, adaptation, and capacity building was vital to understanding what resources are available to help countries progress toward achieving the goal. Parties could not reach agreement and passed the issue of scope on to the next COP. Nonetheless, negotiators did confirm the previously agreed timeline and did not allow the schedule to slip. As a result the first Review should start in 2013 and be concluded by 2015.

While this review could inform a decision to increase ambition, it will more likely to shape the post-2020 commitments.

7. EXPANDING THE CLIMATE FINANCE LANDSCAPE: THE SIGNIFICANCE OF THE GREEN CLIMATE FUND

The launch of the Green Climate Fund (GCF) was one of the major accomplishments of the Durban Conference and milestone in the intergovernmental negotiating process. The GCF is to become the main fund for global climate change finance, in the context of mobilizing 100 billion USD per annum by 2020, promoting a major shift towards low-emission and climate-resilient development pathways through programmatic, country-driven approaches. The GCF is intended to catalyze public and private finance, both at international and national level, and provide a balanced allocation of resources for adaptation and mitigation activities, including REDD plus.

At COP 16 in Cancun, Parties agreed to establish the GCF as a new operating entity of the Convention's financial mechanism (*Decision 1/CP.16, Section IV.A and Annex III*). Parties agreed that the GCF would operate under the "guidance," rather than under the direct authority, of the COP. The governing instrument provides for: a 24-member board with balanced representation from developed and developing countries; a "fully independent" secretariat; "direct access" to resources through national implementing entities rather than through a multilateral body; and a "facility" to finance private sector activities. It also employs results based financing approaches. A 40-member Transitional Committee was tasked with designing the GCF during 2011, and a Standing Committee was established to assist the COP on issues related to the financial mechanism.

Launching the Green Climate Fund (Decision 3/CP.17)

The Green Climate Fund (GCF) was agreed in Durban and in 2012 will be launched as a major new fund under the umbrella of the UNFCCC process. Agreement on the GCF is a significant development for the international climate and development finance architecture. Predicted to provide very large volumes of finance (tens of billions of dollars per year), the GCF would significantly increase the multilateral finance flowing under the UNFCCC umbrella.

Key elements of the GCF include:

- A new, independent, institution and secretariat with its own legal personality established in a host country to be selected by the GCF Board in 2012
- Two initial funding windows—mitigation and adaptation—as well as a private sector facility
- Access through direct access, including provision for enhanced direct access, as well as through multilateral entities, including UN agencies
- A programmatic approach to financing, focussed on sector-level activities rather than project level interventions
- A focus on readiness, including support for the development of climate strategies and national institutional arrangements to manage climate finance

Based on the work of the Transitional Committee, Parties at COP 17 were able to launch the GCF as a new fund under the Convention. Outstanding issues that were settled in Durban included the interim secretariat (to be run jointly by the UNFCCC and the GEF) and the process for designating a permanent host country (to be selected by the board and endorsed by the COP). The governing instrument says the fund "will receive" contributions from developed countries, and "may also receive" them from a "variety of other sources." The US sought to open it more explicitly to developing country contributions, a concern addressed indirectly by language welcoming South Korea's offer of start-up funds. The decision gives no indication when developed countries intend to begin making contributions to the fund. Notably, the decision was adopted with a covering decision that addressed outstanding issues.

The further development of the GCF will take place through several steps. In early 2012 governments will

agree on the members of the Board (12 members for developed countries; 12 members for developing countries). This Board will oversee the start up of the GCF over a two-year period. During this time, the GCF will be supported by an interim secretariat. This was one of the major areas of negotiation in Durban, with significant disagreement between developed and developing countries over the makeup of the Board and which institution should host the interim secretariat for the next two years. The US strongly advocated for a role for the GEF secretariat; the G77 pushed for the UNFCCC Secretariat. The compromise solution is that, while the unit will be set up by the UNFCCC secretariat and GEF secretariat, it will be an autonomous group that will have its own director and will report directly to the GCF Board.

Implications for developing countries

The launch of the GCF, which aims to help developing nations reduce emissions and adapt to the effects of a warming climate, was one of the most important outcomes from Durban, particularly for developing countries. The COP approved the governing instrument, which contains key design elements and provides a structure for funding to become more ambitious, coherent, effective, transparent and accountable. The GCF decision now clarifies the greater role and voice of national designated authorities in approval of funding proposals in order to ensure consistency with national climate strategies and plans.

The GCF decision reflects the growing desire of developing countries to look at new institutional arrangements and mechanisms that, in their view, provide greater legitimacy. The next step will be completing legal, administrative, and institutional arrangements, including developing the relationship between the COP and the Fund, providing guidance to the priorities of the GCF Board, and selecting the permanent secretariat and host country of the Fund. In addition, countries have already pledged to contribute to start-up costs of the fund, meaning it can be made ready in 2012, and can help developing countries get ready to access the fund, boosting their efforts to establish their own clean energy futures and adapt to existing climate change.

The GCF Private Sector Facility is intended to mobilize private capital. This was not confirmed in Cancun and there was a worry that Durban might produce a fund

focused on public finance only. However, Durban saw confirmation that the Fund will have a facility to fund private sector initiatives. It will actively seek to promote business involvement and catalyze further public and private money. This approach could see public-private partnerships in developing nations as vehicles for sustainable growth. Such initiatives could potentially build green industries, create jobs, alleviate poverty and improve infrastructure, as well as tackle climate change. If the private sector is to invest at scale, then there must be a robust framework for evaluating achievement.

In 2012, the Board will focus on making the GCF fully operational. A key concern for developing countries will be ensuring that both development finance and climate change expertise on the Board. This requires involvement of decision makers from the financial community and from the climate change community, from both developed and developing countries.

Provision of scaled-up financing through the financial mechanism is a positive change for developing countries. Moreover, the balanced governance of the GCF alongside its more innovative elements (i.e., enhanced direct access, private sector facility, non-grant instruments) means that a greater range of modalities and tools are available to meet recipient country needs. However, this potential must be translated into country-level change; without further design work, including on rationalization by the Standing Committee, there is a risk that finance remains fragmented at the national level. Finance is a key to unlocking many other areas of the negotiation, therefore positive GCF developments in Durban may help the entire process.

8. MOVING FORWARD: NEW OPPORTUNITIES VS. REMAINING UNCERTAINTIES

The Durban Outcomes: The Tenacity of Hope

The outcomes of the Durban Conference are far from perfect. If the devil is in the details, there are quite a few devils lurking on the road ahead. If one looks at Durban's resolution of the major issues needed to get the world on a path to avoid dangerous climate change, such as whether nations are agreeing to commit to their fair share of safe global emissions or whether the mechanisms for needed adaptation are in place, Durban could be called a failure. But some do not fully appreciate that the Durban Conference could have marked the collapse of international climate change process entirely, with the major emitters walking away and going it alone.

Given the options for Durban—including no agreement to extend the Kyoto Protocol and no new future process under the Convention—the final outcome was the most ambitious option on the table. No agreed second commitment period would have threatened the Kyoto Protocol mechanisms, and the mitigation they help support in developing countries, as well as the elements of the Cancun Agreements that address the gap between current ambition and the emissions reductions needed by 2020 to keep global temperature rise below 2°C. Had Durban gone another way, its possible that none of the agreements or mechanisms created since the UNFCCC was agreed twenty years ago would have been left standing for much longer. This in turn would have ended any hope for a comprehensive international agreement under the United Nations.

Durban is better seen as a cause for cautious optimism, as it provided the elements of a strong foundation for moving toward low-carbon development. A new legal instrument, whatever shape it ultimately takes, will be developed for ratification by 2015 and implementation by 2020, with a “raised level of ambition”. For the first time, all countries have committed to an “outcome with legal force” for lowering emissions—a recognition that the world has changed since the Kyoto Protocol was signed. For the first time, the US, China and India have committed to a (possibly legally-binding) global agreement, albeit not for almost a decade. Durban resulted a clear signal that the international community is committed to taking the climate change agenda forward, that market-based mechanisms will continue and that there will be clear reporting guidelines. Durban also ensured that the

components of the Convention that work, and could help achieve a respectable mitigation path by the end of this decade, will continue moving forward.

The Durban Platform also includes other elements aimed at the ambition gap that critics tend to discount. In the last three paragraphs of the Platform, Parties agreed to a process that “shall raise the level of ambition” of mitigation efforts consistent with the next major report of the IPCC to be released between 2013 and 2015. Before Durban, there no agreement requiring parties to address the ambition gap between what they have unilaterally pledged to do to reduce emissions by 2020 and the reductions needed for a 2°C path. After Durban, there is a work plan addressing this gap.

The Green Climate Fund: Helping Bridge the Gap

For many, the most important outcome from Durban was the Green Climate Fund (GCF). Critics say the GCF is only an empty shell with no agreement on sourcing. While this is true, governments cannot contribute to a fund that does not exist. Before Durban, the new GCF was nothing more than a concept, but now it is a reality. For reducing emissions, the GCF may be an important means for achieving the pledges under the Cancun Agreements and reaching 2020 with 2°C stabilization still a possibility. In addition to the upcoming work of selecting a governing board and a host for the fund, decisions need to be made about sourcing the fund either through the UNFCCC or other forums supported by finance ministries who will have to sign off on any plan for sourcing. Difficult as these decisions will be, and there is no guarantee they will be made correctly, they are still a better outcome than the alternative of no further talks at all.

(Another) Long Road Ahead

COP 18/CMP 8 will be held from 26 November to 7 December 2012 in Qatar. Negotiations will focus on continuing the implementation of the mechanisms from Cancun, but will also now need to resolve remaining details regarding the Kyoto Protocol second commitment period and begin the long road toward agreeing on the new post-2020 legal instrument by a deadline of 2015. By 2015, negotiations will hopefully take place against a different economic backdrop, as well as the backdrop of a new update on the climate science as the IPCC publishes

its next report in 2014. Most likely, the case for urgent action will be made more starkly than ever before.

In the most negative light, the Durban Platform, for example, is merely an agreement to negotiate an agreement for which almost nothing has been settled and will not become effective until 2020. But to say that Durban was a failure is to miss the big picture. In time, Durban may be seen as a much-needed success at a critical time in the intergovernmental process. The Durban outcomes emerged after some incredibly long and difficult negotiations with multiple opportunities for failure. Optimistic observers often say that “failure is not an option”. This is not actually true; failure is always an option. Indeed, as this process has demonstrated time and again, failure is not only an option, it is the often the odds-on favourite. Quitting, however, is not an option.

Given the magnitude of the climate change impacts the world will soon face, in particular the poor and most vulnerable, the climate policy-making process between now and 2015 needs concrete action and a renewed sense of commitment that will move the world closer to the low-carbon revolution it must soon achieve. The Durban Conference has, in many respects, provided a strong signal of new momentum towards that goal. Governments around the world will likely need fresh approaches and new ideas over the next few years if they are to meet the challenge of developing a future international climate regime that can satisfy the call of the Durban Platform while respecting the principles and spirit of the Framework Convention on Climate Change.

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For further information:

Veerle Vandeweerd
Director
UNDP Environment & Energy Group
304 East 45th Street
Room FF-982
New York, NY 10017
Email: veerle.vandeweerd@undp.org
Phone: +1 (212) 906 5020