

Beyond the Accord

Reflections from the Copenhagen Conference

Laura Zizzo

I was there when the international climate negotiations stood still, stalled in procedural debates with no way forward in sight. Exhausted negotiators broke down in frustration and sometimes tears, wondering how the parties would ever come to agreement. I was there consoling Canadian youth leaders suffering from the after effects of the pepper spray used by the Danish police, watching arrests on the live-streaming television screens inside the Bella Centre in Copenhagen. I was there when thousands of civil society members were excluded from the final days of the conference due to security concerns, watching world leaders' speeches and press conferences from off-site holding rooms for delegates.

On Friday, December 18, 2009 we heard the news from President Barack Obama – there was no broad political agreement, but instead, a Copenhagen Accord, crafted by the U.S., China, India, Brazil and South Africa. In the words of President Obama, the Accord “does not bind the United States of America.” Of course, the U.S. President was desperately trying to avoid a repeat of the Kyoto Protocol experience where the U.S. executive signed on to a treaty that the U.S. congress never accepted. To me, it felt like the world was being held hostage to domestic interests in the U.S. and China.

In the December 2009 edition of *Environews*, the OBA Environmental Law Section newsletter, I asked whether a deal would be struck in Copenhagen. A deal was struck; just nothing like the one we hoped for or even expected. The Copenhagen Accord was an agreement forged outside of the negotiation process set up by the United Nations Framework Convention on Climate Change (UNFCCC). The Conference of the Parties (COP) failed to adopt the Copenhagen Accord in the final (extended) hours of the Copenhagen conference, merely agreeing to “take note” of its existence. The two negotiating tracks (i.e., the Kyoto track and the Long Term Cooperative Action track) did not come to any substantive agreement (although they did make progress towards that goal), and simply decided to keep negotiating. They agreed to complete the agreement at the COP meeting to be held in Mexico in December 2010.

It is possible to see the Copenhagen conference as both a failure and a success. It failed to deliver even the “worst case” anticipated scenario (i.e., no political agreement). Nevertheless, it succeeded in drawing world attention to climate change in a sustained and unprecedented way. The conference highlighted those who are taking action, those who are already suffering, and the sub-national actors who are forging ahead despite the failure of the international negotiating process. Additionally, the Copenhagen Accord provided a forum for states to quickly submit mid-term (i.e., 2020) reduction targets to a regime that was globally subscribed to and will keep the momentum alive despite a lack of agreement in Copenhagen. The Accord also serves to fill gaps on specific issues like Monitoring, Reporting and Verification (MRV), fast track funding and pledges for longer term funding.

Political “Letter of Intent”

The Copenhagen Accord can be understood as a political “letter of intent.” It recognizes the need to keep the global increase in temperature below two degrees Celsius and generally uses the language of the UNFCCC and the Kyoto Protocol in its descriptions.

Many nations have announced mid-term reduction pledges. The Copenhagen Accord provides the opportunity to record those pledges as it invites Annex I parties (i.e., the industrialized countries under the UNFCCC) to submit domestically developed commitments. It also integrates developing countries in a new way, inviting them to submit Nationally Appropriate Mitigation Actions (NAMAs) to be added to Appendix II of the Accord. Countries were to associate with the Accord and pledge commitments by January 31, 2010. That deadline passed with less than one-third of the world's countries making submissions. Some countries, namely China and India, did not mention the Copenhagen Accord in their submissions at all. It is expected that more countries will come forward in the coming months with pledges; however, it appears unlikely that the Copenhagen Accord will develop into a comprehensive global agreement.

The terms of the submitted country pledges have been posted on the UNFCCC website. Canada and the U.S. both pledged a 17% reduction from 2005 levels by 2020, dependant on the outcome of domestic legislation in the U.S. Meanwhile, Australia used a 2000 base-year and pledged a range of reduction from five to 25%, depending on global action. Aside from Kazakhstan, which pledged a 15% reduction from a 1992 base-year, all other pledging industrialized countries used a base-year of 1990 and pledged reductions between five and 40% by 2020. This sample shows the divergent results of domestically produced emissions pledges and foreshadows the challenges that will come as we work towards comprehensive global action.

China, like other Non-Annex I countries, emphasized that its pledge was voluntary in nature and should not be considered binding on the nation. It pledged as follows:

China will endeavor to lower its carbon dioxide emissions per unit of GDP by 40-45% by 2020 compared to the 2005 level, increase the share of non-fossil fuels in primary energy consumption to around 15% by 2020 and increase forest coverage by 40 million hectares and forest stock volume by 1.3 billion cubic meters by 2020 from the 2005 levels.

India pledged to “endeavour to reduce the emissions intensity of its GDP by 20-25% by 2020 in comparison to the 2005 level” and also emphasized the voluntary nature of its statement.

Similar statements were made by other countries, although some of the least developed countries, such as Botswana, took a more descriptive approach to the NAMA pledge. The Maldives pledged carbon neutrality by 2020. There was a wide range of

actions and reduction levels pledged showing the diversity of approaches globally.

The Accord recognizes that funding from the developed world is necessary to aid adaptation and mitigation in developing countries, and sets up a mechanism to provide short and long term finance for use in developing nations. Developed countries have committed to new and additional resources approaching 30 billion USD over 2010-2012 and to jointly mobilize 100 billion USD a year by 2020 to assist developing countries.

Parties to the Accord decided to establish the Copenhagen Green Climate Fund as the operating entity of the financial mechanism of the Convention to support mitigation activities in developing countries. These activities include REDD-plus, adaptation, capacity-building, technology development and technology transfer. The parties also decided to establish a Technology Mechanism to aid in quick transfer of technology, but this will be "guided by a country-driven approach and based on national circumstances and priorities," meaning that there will be no over-arching global demands placed on countries with respect to technology transfer. It is unclear at this point how the Copenhagen Green Climate Fund and Technology Mechanism will operate.

The Accord will be reviewed in 2015 when parties will consider strengthening the long-term goal referencing various matters presented by the science, including in relation to temperature rises of 1.5 degrees Celsius.

Promised Quick Start Funding

The Copenhagen Accord was not a decision of the COP, but it sets up a new administrative structure for funding and setting targets that utilizes UNFCCC Secretariat resources. As a result, there are unresolved legal questions related to the ability of the COP Secretariat to act on the demands of the Accord.

The Copenhagen Accord specifies that it is operational immediately and does not require ratification to have effect. Since the Accord does not require domestic ratification by the parties, the promised quick-start funding from developed countries can begin to flow immediately. The assumption, of course, is that countries will follow through on their promises.

Reflections from Yvo de Boer and Moving Forward

In a press briefing, then UNFCCC Executive Secretary Yvo de Boer stated that, although Copenhagen did not produce an agreement that the world expected, it accomplished three important outcomes:

1. It raised climate change issues to the highest level of government attention (he suggests this is the only level where it can truly be resolved);
2. The Copenhagen Accord showed that there is long term commitment to a global response; and
3. Substantive negotiations (away from the cameras) brought an almost full set of decisions "near" to completion.

Mr. de Boer suggested that governments need time to digest what has happened and are in a cooling off period. He is confident there may be a way forward to grasp a bigger goal and ended the press conference by saying, "If countries follow Copenhagen's outcomes calmly, with their eyes firmly fixed on the advantage of collective action, they have every chance of completing the job."

The job of coming to a fair, ambitious and binding agreement appears to be a herculean task. A recent report produced by Climate Interactive projects that if current Copenhagen proposals were fully implemented, the average global temperature would increase by approximately 3.9 degrees Celsius by 2100, which is well above the 2 degree maximum stated in the Accord. More work and more ambition are required, quickly.

The advertisement for Brent Leasing features a blue background with a close-up of a car's headlight and grille on the left. At the top center is the Brent Leasing logo, which includes the tagline "Leasing with Integrity" above the word "brent" in a large, white, lowercase font, with "LEASING" in a smaller font below it. The logo is set against a dark oval. Surrounding the logo are faint, semi-transparent car brand names: AUDI, ACURA, NISSAN, and BMW. Below the logo, the text "OUR SERVICES INCLUDE:" is written in white. Underneath this, a list of services is provided in white bullet points. At the bottom right, the text "CONTACT US TODAY" is written in white, followed by contact information for Toronto, Markham, a toll-free number, and an email address. Faint car brand names like VOLVO and HONDA are visible in the background at the bottom.

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Millions of Protestors

The Copenhagen conference clearly illustrated that climate change is at the forefront of global consciousness. Thousands of side events and demonstrations in Copenhagen during the conference showed active engagement from a wide range of actors – academics, industry, youth, and local governments, just to name a few. The millions of protestors rallying around the Copenhagen conference across the globe showed a united and growing movement. The time has come for all actors, individuals, organizations and levels of governments to examine their role in the response to global climate change. The UN undoubtedly cannot address the challenge alone. Its process is one part of the global solution, but as Copenhagen showed, we cannot and must not put all our eggs in its slow-moving basket. An adequate response will require creative and courageous action across the spectrum. It is my hope that the procedural frustrations felt in Copenhagen will be overshadowed by the global mandate to proactively work towards solutions at all levels.

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