



Bridges Copenhagen Update

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HALF-TIME AT COP 15

Tens of thousands of activists marched through the streets of Copenhagen, Denmark, this past Friday, calling on the countries of the world to take bold united action to address climate change. The mounting public pressure on the international climate conference in Copenhagen has energised governments and activists alike. The boost is welcome; heading into Copenhagen, morale was depressingly low following a series of high-level affairs, including the G8 and G20 meetings, the widely publicised bilateral meetings between the US and China, and the APEC Summit that failed to show decisive political intention for a new—more inclusive and responsive—global climate deal.

The confirmation of over a hundred and twenty heads of state to attend the high-level segment of the conference has helped to lift spirits. However, one week into the largest climate-change conference of all time, the distance between party positions on the key issues of mitigation commitments for developed countries and financial support for developing countries, as well as an array of finer details, remains far apart.

Persisting divisions on Kyoto

Tension continues around the question of whether the Kyoto Protocol will advance into a second commitment period, as per its original mandate. Although negotiations have been underway for nearly three years on the details of a second phase beginning in 2013, after the first period ends, and despite the fervent insistence by developing countries to strengthen the Protocol, developed countries are digging their heels in on the question of their next set of cuts, arguing that this should all be part of the new deal decision.

However, without a clear end date for that ‘new deal’, developing countries have refused to let go of what they admit is an insufficient tool for addressing climate change. For the time being, they see the new agreement as a complement to Kyoto. Thus, many developing countries insist that if there are no advances on Kyoto, the developed world should not expect much from the new deal. Nevertheless, the political visibility of the heads of state and government will mean some kind of deal is an absolute certainty, although its makeup and effectiveness is yet to be revealed.

Of leaks and leakage

The past week was further complicated by a proliferation of draft texts as a basis for a final agreement. The first is the draft text that parties have been building and working on over the past two years, which at one point reached 200 pages of options and proposals. On the fourth day of the meetings, the chairs of the two negotiation tracks presented two texts on their own initiative, which were met with mixed reviews. On the same day, the Africa group and the Alliance of Small Island States (AOSIS) presented their textual proposals for the ‘new agreement’. In addition, there was general knowledge of limited consultation around two additional texts, one prepared by the Danish Government and another prepared by the BASIC group of large developing economies, that include Brazil, South Africa, India and China.

Among the flurry of draft texts that circulated in the corridors of the Bella Center, a few have proven particularly controversial. Tempers flared on the second day of the conference when a draft document, dubbed the ‘Danish text’, was leaked to the public (and seen by some developing country delegations for the first time). The text, drafted by Denmark in consultation with other developed countries, was widely criticised for, among other things, contemplating binding emission cuts on developing countries. Apparently, the Danes were expecting to table this text mid-week into the final week of negotiations, yet broad dissatisfaction with the lack of ambition it contained has pretty much relegated it to the bin. Reportedly, the only country happy with the text as it stood was the United States.

In addition to the long-standing North-South divide, rumours spread of fissures forming within the historically unified G77 plus China (a group of 132 developing countries who join their position to create a strong negotiating block). A number of powerful developing countries, including China, India and Saudi Arabia, disagreed with a proposal from the Polynesian microstate Tuvalu, which was widely supported by AOSIS. This led many observers to sense the unity of the G77 was deteriorating; however, the group quickly organised a number of press briefings to underline points of consensus and solidarity, clearly eager to show a solid front line.

Some rays of possibility broke through the clouds when the Chairs of the two negotiating tracks—the Kyoto

Protocol and the group on Long-term Cooperative Action (LCA)—presented leaner versions of the current texts for the parties to consider as a basis for final decisions. The presentation came on Friday, a day before ministers were to arrive in Copenhagen. A number of parties were disgruntled at the Chairs for presenting text without request. Yet, the proliferation of texts is becoming unmanageable, increasing the likelihood that the Chairs' text may take the lead. While the Alliance of Small Island States (AOSIS) and the Africa Group also presented draft texts the same day, and it is yet to be seen how these will be considered or, possibly, incorporated.

Trade issues prove contentious

In a number of respects, the climate-change negotiations impact on trade and development, and these have emerged as central points of contention in the negotiations. These include:

Financing: According to the World Bank, between US\$140 billion and US\$175 billion a year will be needed to help developing countries curb emissions to a level that will prevent the world from warming more than 2°C. Large sums are also necessary to meet the cost of adapting to climate change: between US\$30 to \$100 billion, depending on the source. The financing commitments made so far in the negotiations have not reached these levels. On Friday, the EU pledged some US\$10 billion over the next three years towards a 'fast-track' fund. This is more than was originally expected to flow from the EU, although it remains far below the levels requested by developing countries. The pledges of other developed countries, as well longer-term financing commitments, remain in doubt. The US, for instance, is reluctant to commit to high levels of long-term financing, fearing it will not get Congressional approval.

Border measures: Governments also remain at loggerheads over unilateral trade measures, which some claim protect competitiveness, while others argue they help to address climate-change mitigation. Amidst fears in the US that emission cuts will harm American industry—driving it overseas to countries with more lax emission standards—interest groups have pushed for protection through border measures. Asked in Copenhagen whether the United States would consider sanctions as part of its policy response to climate change, US Commerce Secretary Gary Locke said, "it's very important that we have a level playing field for American companies." That message was echoed in Washington last week, where Ohio Democrat Sherrod Brown said a Senate climate change bill would not pass unless it contained a carbon tariff—a sentiment shared by others in the US Senate and Congress.

But carbon tariffs are fiercely opposed by developing economies, who view them as protectionist measures incompatible with multilateral trade rules. The G-77 and

China is trying to include pre-emptive language against the use of unilateral trade measures for climate purposes. The negotiating groups covering the overarching "shared vision" and the "economic and social consequences of response measures" are both discussing the issue.

Economic and Social Consequences of Response Measures

- Discussions focused on two main points: the creation of a subsidiary body to deal with the economic and social consequences of response measures; and whether specific commitments should be established for developed countries.
- Developed countries asserted that the notification mechanisms already existent in the Framework Convention are sufficient, while developing countries said they are in favour of creating a subsidiary body. Developing countries said they are also in favour of commitments from developed countries on issues such as prohibition of unilateral measures and compensation for damage that has already occurred.
- The G77, in particular the African Group, support the establishment of a 'Permanent Forum' for dealing with the creation of an institutional mechanism.
- Developing countries said they are in favour of establishing detailed legally binding commitments for developed countries, a proposal that rich countries are generally against.
- India, in particular, said it supports the idea of creating a mechanism for preventing "arbitrary and unjustified" trade barriers. The Indian delegation was pushing for these barriers to be classified as "fiscal" and "non-fiscal" border measures related to carbon leakage.
- Consensus on trade and climate change remains elusive. The G77 supports the idea the text should make reference to article 3-5 of the Convention that prohibits the adoption of arbitrary or unjustified mitigation measures that could affect international trade.

By Saturday evening, agreement was achieved on an introductory paragraph, but the substance of the issue was yet to be resolved. Major developed countries, notably the US and EU prefer reference to the already existing Article 3.5 of the UNFCCC, which borrows language from GATT Article XX. Article 3.5 states, "Means taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade..."

Technology transfer is proposed as one of the ways to address response measures, an interesting development that adds another layer to discussions on this topic in relation to technology's role to address mitigation and adaptation. One paragraph still under discussion proposes the formation of a "forum to undertake activities including identifying and addressing negative economic and social consequences of response measures, sharing information, promoting and cooperating on issues relating to response strategies and exploring ways to minimise negative consequences, in particular in developing [countries]". This novel proposal

could open the way for constructive collaboration between trade and climate institutions and actors.

Agriculture: Discussions on “cooperative sectoral approaches” in the agriculture sector continue to advance and clearly raise trade concerns for parties. Although the text remains within brackets, language includes restrictions on the creation of international performance standards or “any other measure that may adversely affect sustainable development and result in barriers to, or distortion of, the international trade system of goods and products in the agricultural sector.” Principally, the operative language would promote cooperation on research, development and transfer of technologies for mitigation in the sector, including those that could support adaptation. It also would extend the work of the Subsidiary Body for Scientific and Technological Advice—a body under the UNFCCC—to mitigation in this sector “considering links to adaptation”, and establishing a programme of work under that body. Notably, unlike the version of a month ago, the new text takes into account the relationship between agriculture and food security, as well as the interests of small and marginal farmers and traditional knowledge, which are issues of particular importance to the poorest developing countries.

Bunker fuels: Another trade-related issue is regulations on maritime and aviation transport fuels, known as ‘bunker fuels’. A transport fuel tax would have clear implications for world trade: some 80 percent of products are transported internationally by ship. While the fuels used to power ships, along with airline fuels, are not covered under the Kyoto Protocol, they may form a part of a new climate change agreement. There are multiple proposals on the table in Copenhagen, ranging from a straight tax to a cap and trade system. Australia, Norway, Brazil, and India have endorsed discussion of bunker fuel taxes at the UNFCCC. Others, however, including Mexico, Singapore, Canada, US, Japan, Panama, and China, argue that the International Maritime Organization (IMO) should deal with bunker fuels. An EU proposal entails the UNFCCC setting goals, with the IMO in charge of implementation.

The week ahead

Ministers arrived over the weekend and have been meeting in small groups to address some of the most difficult outstanding issues. The Danes are consulting individually with countries as well as with groups. Although there is no official programme of work for the coming days, it is expected that they will be working in groups, facilitated by ministers invited by Connie Hedegaard, the Danish Minister of Climate and Energy, who is presiding over the COP. It is possible that a select group of heads of state may be required to meet in order to break any remaining impasse while they are here on Wednesday and Thursday.

ICTSD will report on 21 December on the advances on trade issues and final outcome, as well as the perspective on the future, as it is accepted that negotiations on many details will continue past Copenhagen towards the 16th COP, which will be held in Mexico next December.

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