



# Bridges Copenhagen Update

Issue 3

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## High-level Politics Meets Low Ambition: Taking Stock of COP 15

*As exhausted and crestfallen delegates return to their capitals, Bridges offers a stocktaking of the UNFCCC climate change negotiations, with a particular focus on issues intersecting with trade and sustainable development. This is the final of a three-part series of ICTSD updates on COP 15. Copenhagen Updates are available in several languages at <http://ictsd.org/climate-change/copenhagen-updates/>.*

The United Nations climate change conference narrowly avoided a complete catastrophe after two weeks of acrimonious negotiations, when a select handful of leaders formed a political agreement behind closed doors on Friday night, while around a hundred of their counterparts sat in another room. Despite achieving agreement among the major economies – also known as the “major emitters” – whose buy-in holds the key to addressing climate change, the agreement reached in Copenhagen is insufficient to resolve the most critical elements that will stabilize the atmosphere, protect vulnerable communities from harm, and ensure the continued sustainable development of developing countries.

The three-page “[Copenhagen Accord](#)”, spearheaded by the United States, China, India, Brazil and South Africa, is not a politically binding agreement, as Parties originally intended when they set out together on the Road to Copenhagen two years ago at COP 13. The negotiations in Copenhagen, which came to a close on Saturday, were fraught with mistrust of the process chaired by Lars Lokke Rasmussen, the Danish Prime Minister who presided over the conference. In the last days, when over 100 Heads of State arrived in Denmark, an agreement was far from ready. Unwilling to go home empty handed, the small group of political leaders took pen to paper and hammered out an agreement, as the majority of leaders and their ministers sat in the plenary hall waiting. When the Accord emerged late in the evening, many leaders had not been effectively consulted and tempers flared. A number of countries ended up rejecting the Accord, and it was eventually relegated to an attachment that the final decisions of the COP “noted” in their conclusions.

In effect, the Accord is a political statement of a few, supported by some, and not accepted by others. It is unclear what will happen to the agreement and what its formal status will be leading up to the next COP. The inclusive processes of the United Nations were sidelined in the interest of achieving a decision, under the noses of the General Secretary, and with the facilitation of the Secretariat of the Convention itself. The impact of COP 15 on the future of multilateral climate change decision

making is yet to be determined; however, the damage to the trust of many countries in the system is undeniable.

### Anatomy of the Accord

The Accord concedes that the world needs to curb global warming from rising above 2 degree Celsius from pre-industrial times, although it does not specify deeper emissions cuts for developed countries – a key factor for avoiding the 2 degree limit. Notably, a majority of the 193 signatories to the UN climate convention – those represented in the Alliance of Small Island States (AOSIS), the Least Developed Countries (LDCs) and the Africa Group – have all warned that 1.5 degrees is the absolute limit and that 2 degrees will mean hardship, mass migrations, and even death for many of their citizens. In addition to lack of specificity on developed country mitigation, the Accord lays out a very general intention for developing countries to voluntarily curb their carbon intensity.

The Accord affirms a commitment of US\$30 billion in funding over the next three years to assist developing countries with their mitigation and adaptation, and sets a goal of US\$100 billion in annual funding by 2020. However, the level of funding aspired to falls far short of the sums calculated by entities such as the World Bank, McKinsey, and the United Nations Development Program, among others, to address adaptation and mitigation.<sup>1</sup> In addition, the fund will include an undetermined share of both public and private financing, with no certainty of reaching the level and, perhaps more importantly, does not guarantee the much needed sustainable financing or the ease of access that developing countries require.

A final element of the Copenhagen Accord that presented the most difficulty is the issue of reporting and transparency of emissions reductions. This issue was of key importance to the United States, but also the most contentious for the Chinese, who considered it an infringement on national sovereignty and a way for developed countries to monitor competitiveness. The final result was that mitigation actions taken independent

<sup>1</sup> “BRIDGING CLIMATE CHANGE FINANCING AND TRADE-RELATED ASSISTANCE: RELEVANT ISSUES FOR VULNERABLE DEVELOPING COUNTRIES”, BIORES REVIEW, DECEMBER 2009, [HTTP://ICTSD.ORG/L/NEWS/BIORESREVIEW/64075/](http://ictsd.org/l/news/bioresreview/64075/)

of international support would be reported only through National Communications – a standard reporting tool under the UNFCCC for developing countries – every two years. Mitigation actions carried out with international support will be entered in a registry and are subject to international measurement, reporting and verification. Notably, securing these transparency tools cost the US the reference to the “50% global cut by 2050” that was initially in the agreement. The implications of these requirements will surely come to light as the LCA process advances and the political guidance from the Accord begins to weigh in on definition of the LCA text.

The goalpost has been pushed back for an international agreement on climate change, although it is not clear how far, since the Accord does not set a deadline for forming an internationally binding treaty. Among the Decisions of the COP, Parties were able to agree to continue the negotiating process of the Ad-hoc Working Groups on Long-term Cooperative Action (LCA) and on the Kyoto Protocol into next year. Notably, a proposal to hold permanent negotiations in Geneva, Switzerland, for the coming year received some support. This format would resemble that of other complex international negotiations, and is favored by many developing countries because it would allow them to access support from their permanent missions in Geneva, where many have standing economic, social and environmental negotiating capacity.

### Trade issues – the state of play

Reaching a global agreement that directly strikes at consumption and production necessarily requires consideration of trade implications. Indeed, the failure of the United States to sign the Kyoto Protocol was directly linked to the concern in its Congress that it gives developing countries unfair trade advantages because they are not held to the same production standards. This time around, labor and industry interest groups in the US are demanding border measures in order to allow passage of national legislation to address emissions and energy. This issue has led commentators to warn that passage of the law may trigger a “green trade war” between countries, requiring WTO dispute settlement and stressing already delicate relations among countries.

On a related issue, the notoriously dirty fuels used in shipping and aviation came under the spotlight in Copenhagen, with a number of countries calling for international levies on bunker fuels. These fuels were not subject to regulations under the Kyoto Protocol. That may change, however, under a new climate change agreement. A number of proposals have been tabled, ranging from a straight tax to a cap and trade system.

Given the sensitivity of the climate change issues that impact on international trade, it is not surprising that these are among the negotiating topics that remain unresolved. What follows is a summary of the outcome of the negotiations in those areas that touch most directly on international trade and development.

### *Border carbon measures*

Whether they are called border carbon adjustments (BCAs), border tax adjustments (BTAs), or border tax measures (BTMs), it boils down to the same thing: unilateral measures that a state imposes when a good is imported from a country that has not ‘comparably offset’ the greenhouse gas associated with a given good’s production. Border carbon measures are highly contentious. On the one hand, interest groups in developed countries fear that domestic regulations on emissions will encourage industries to set up shop in countries that apply lesser standards. This is a concern expressed in Washington, where lawmakers are considering legislation that would implement BCAs as part of a larger package of climate change policies.

Yet many developing countries resist border carbon measures. “We are totally against it — totally against it,” said India’s chief climate change negotiator in Copenhagen, Jairam Ramesh, summing up the view that many developing countries have on BCAs. The specter of BCAs raises at least three concerns: (i) that BCAs may clash with international trade rules, which prescribe equal treatment among equal goods; (ii) that BCAs may be set as a disguised form of protectionism; and, (iii) that the notion of BCAs neglects and undermines the principle of common but differentiated responsibilities among countries at different levels of development.

Border carbon measures are being addressed within the text on the potential economic and social consequences of response measures. Three options have been placed on the table. The first is strong language prohibiting their use. The second option would borrow from the existing Article 3.5 of the UNFCCC, which uses 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...” A third proposal also borrows from Article 3.5, but includes more precise language providing additional comfort for parties and perhaps a middle of the road that all can accept.

In addition to BCAs, many countries in Copenhagen expressed concern over the competitiveness effects of free allowances as an integral tool of cap-and-trade regimes. Arguably, such allowances are tantamount to a subsidy and, as with the case of any differentiated response measures on carbon, it would affect the relative costs of production of internationally tradable goods. No language on BCAs or allowances is included in the Copenhagen Accord.

### *Agriculture*

The agricultural sector finally received particular

attention in the climate change negotiations in the run up to Copenhagen and at the COP itself for two primary reasons: first, agricultural production is a large contributor of greenhouse gas, responsible for at least 14 percent of global emissions; second, the sector will be highly affected by the increased temperatures, droughts, floods, doubts and unpredictable rainfall associated with global warming. The negotiating group on sectoral approaches has developed a text that focuses solely on the agricultural sector. Going into Copenhagen, this text was heavily bracketed, meaning there was little consensus. It remains so today. However, the text has evolved in the Copenhagen negotiations, and now emphasizes the relationship between climate change and food security. The text also recognizes the importance of traditional knowledge and calls for a special work programme on this issue. Many scientists and experts remain puzzled at the immensely unequal attention that forestry and agriculture have received in the UNFCCC context, dealing both as they do, with similar issues related to land use, carbon sequestration functions and emissions.

#### *Technology and Intellectual Property*

Arguably the biggest hurdle to significantly reducing greenhouse gas emissions is the development of new technologies that will wean the world off fossil-fuel dependency. This challenge is especially acute in the developing world, where the capacity to develop or access such technologies is often lacking. Efforts to make green technologies available, and useable, are being pursued on a number of fronts in the UNFCCC negotiations. Parties are considering an array of mechanisms, funds and plans, some of which mirror initiatives at the WTO. In this regard, it is notable that the Copenhagen Accord calls for the establishment of a "Technology Mechanism", intended to enhance action on technology development and transfer. Such a mechanism will require further elaboration and steps for implementation within the negotiations under the LCA.

#### *Adaptation and financing*

Financing is the big ticket item in the negotiations. Although the estimates vary, there is no disputing the fact that climate change adaptation and mitigation will be costly. Especially for least developed countries (LDCs) and small island developing states (SIDS), predictable long-term sources of financing are essential if they are going to adapt to environmental and economic changes resulting from climate change. The World Bank estimated in 2009 that between US\$140 billion and US\$175 billion will be needed to help developing countries implement the mitigation measures required to keep the world from warming above 2 degrees Celsius. Billions more are needed to help developing countries adjust to the environmental changes wrought by global warming.

The United States, the EU and Japan grabbed headlines with their announcements on financing in Copenhagen. In the case of the EU, some US\$10 billion has been committed over three years towards a 'fast-track' fund, which is more than was originally expected to flow from the EU's coffers. Japan also offered US\$15 billion over three years, bringing governments closer to raising US\$10 billion annually in the next three years; a sum that was committed to in Copenhagen. Meanwhile, the United States voiced its support for a US\$100 billion per year climate change fund by 2020, which would come from a combination of public and private sources. Yet the most important details related to longer-term financing remain missing, including how the annual \$100 billion would be sourced.

#### **Picking up the pieces**

There is no doubt that international governance and the UN decision-making process took a hit in Copenhagen. Parties leave with less confidence and trust in the institutions, as well as in their ability to achieve results. World leaders are unlikely to come together again behind this cause, at least in the short term, considering the clumsiness, and some even claim disrespect, with which they were treated.

As for climate change, the world is no closer to resolving the issue through international political processes than two years ago. In the absence of a treaty, trade issues will begin to encroach even further on the territory of climate policy, particularly with respect to the evolution of BCAs and responses thereto. Meanwhile, in the absence of clear regulatory signals at the international level, the carbon market, with all of its investment and technology potential, is left vulnerable and funds may not flow as abundantly towards R&D for climate change – another glaring omission in the Copenhagen Accord.

With twelve months until next year's COP in Mexico City, the road ahead will not be smooth. Achievements in Copenhagen may be recorded in the realm of dialogue and awareness building. On the former, unprecedented frank exchanges took place between the major emitting economies at the highest political level. Differences were clearly articulated; acrimony cannot any longer be blamed on a presumed incapacity of negotiators to bridge technical differences. A gulf in political will and mandates has been exposed. On the other hand, while scepticism continues to increase among segments of the public, more of the world is aware of climate change, its causes and risks. These are important steps towards advancing into the realm of necessary and effective solutions. From here to Mexico in 2010, the ball is as much in the court of legislators in the US and of constituencies all over, as it is in political leadership.

