The annual meetings of the Parties to the 1992 United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol are notorious for not finishing on time. The climate conference in Durban, South Africa, November–December 2011, set a new record and ended after a marathon non-stop 72-hour session that saw the adoption of a surprising number of decisions elaborating the UNFCCC and the Kyoto Protocol, including the establishment of a raft of new institutions with potentially far-reaching consequences for both climate change and for global social and economic development. As they left the 17th annual Conference of the Parties (COP-17) on Sunday, 11 December 2011 at 6.30 am, the biggest anxiety for most of the 15,000 or so happy but tired delegates was simply how to rebook missed flights and catch up on sleep.

Some time later, and with the benefit of reflection, deeper anxieties have begun to emerge about whether the package of Durban decisions will slow the irreversible damage to fragile ecosystems and vulnerable countries and communities resulting from a rapidly changing climate system. Doubts also remain about whether the new institutions operationalised at Durban will provide timely finances to help developing countries adapt to devastating impacts that have already been set in motion by the largest carbon emitters. Much will depend on the actions of the ‘Durban Alliance’ – the loose coalition of many Commonwealth members from small islands, least developed countries (LDCs), the European Union and parts of Latin America – who worked together strategically behind the scenes to deliver the gains in Durban and who will need to drive the agenda forward in the coming years.

Challenges for Durban

COP-17 faced profound choices about future climate policy that had been left unresolved by previous conferences in Copenhagen in 2009 and Cancun in 2010. Put simply, the 194 Parties to the Convention faced a crossroads. They needed to choose between a vision of international climate policy that was driven by what science tells us must be done to keep within safer climatic globally agreed goals of 2 degrees Celsius (or 1.5 demanded by over 100 vulnerable countries), or whether it should be based, instead, on a system of ‘pledge and review’ of climate goals deemed politically acceptable to each country. Also at stake was whether global policy should be based on multilaterally agreed rules grounded in an international legally binding agreement or just be a set of politically inspirational goals. International legally binding agreements provide the highest levels of global policy coherence and legal certainty not just to governments but, importantly, to the private sector.

These choices – between science vs. domestic politics as the driver of global climate policy, and between multilaterally agreed transparent and common accounting rules that provide the backing of environmentally sound carbon markets vs. fragmented, unaccountable and environmentally weaker ones – were central to the biggest and most controversial issue facing Durban. This issue was whether to extend mitigation commitments, market mechanisms and common accounting rules under the Kyoto Protocol beyond its first commitment period of 2008–2012.

The positions countries took were nuanced and did not neatly fit the North-South lens typically applied by many commentators writing about climate change. True, developing countries, in particular the South African presidency, were united on one issue: they did not want Durban to be remembered as Kyoto’s ‘deathbed’. Accordingly, their main priority was extending Kyoto for a second commitment period from 2012 for five or eight years. Many of the larger developing countries – especially India, China and most Organization of the Petroleum Exporting Countries (OPEC) − favoured extending Kyoto for developed countries but opposed binding commitments for themselves on account of their relative smaller share of historic emissions. However, this position was not shared by 43 vulnerable small island developing countries who negotiate collectively as the Alliance of Small Island States (AOSIS) and the 53 LDCs. AOSIS and the LDCs wanted a binding legal framework incentivising more mitigation action by all countries as soon as possible – including rigorous measurement, reporting and verification (MRV) of all commitments to ensure nobody cheats the atmosphere.
Developed countries, on the other hand, were united by their opposition to a simple extension of Kyoto that applied binding mitigation commitments only to developed countries, and sought instead to ensure that major developing countries would also commit to legally equivalent commitments. The USA had always favoured a new treaty that is not based, as Kyoto is, on what they see as a flawed ‘firewall’ separating the legally binding, economy-wide mitigation commitments of developed countries from the non-legally binding ‘actions’ of developing countries. In Durban, the USA was backed by most of the Umbrella Group (essentially all of the Organisation for Economic Co-operation and Development (OECD) countries minus the EU) and especially by Australia and New Zealand. These two countries are Parties to Kyoto but were adamant in their intent to avoid an extension of Kyoto, in large part because key counterparts such as Canada, Japan and Russia had already announced they would not join a second commitment period (Canada formally announced its intention to withdraw from assessment of compliance with even the first phase of Kyoto). The 27 countries of the EU occupied a middle-ground option: a second commitment period under Kyoto but only with assurances of a new legally binding agreement for all major countries and the application of the principle of ‘common but differentiated responsibilities and respective capabilities’.

While mitigation-related issues dominated ministerial discussions at Durban and were the heart of the political bargain struck at Durban, issues relating to the provision of finance, technology and prioritisation of adaptation also required major new institutions:

- **The Green Climate Fund (GCF)**, which is to be a conduit for the Copenhagen pledge by developed countries to mobilise US$100 billion per annum by 2020, appointed a new Standing Committee to look at sources of long-term finance to capitalise the Fund and avoid it being an empty shell.

- **The Adaptation Committee**, which will try to provide policy coherence within and outside the UNFCCC and support countries to adapt to increased impacts in the most effective way possible.

- **The Technology Executive Committee and Climate Technology Centre and Network**, which will catalyse innovation, development, diffusion and transfer of mitigation and adaptation technologies in-country, regionally and globally.

As if this package wasn’t big enough, a range of additional highly contentious issues such as intellectual property rights, trade measures and equity issues was put forward by India and supported/backed by the other BASIC countries (Brazil, South Africa and China) on the grounds they had not been adequately dealt with in Cancun. Finally, Durban had to grapple with this very comprehensive, complex and politically charged agenda against the backdrop of financial instability in Europe, ongoing recession in most OECD countries, and the prospect of global trade wars triggered by enactment of disputed unilateral action by the EU in amending its domestic legislation to cover global aviation emissions. Little wonder, then, that expectations for Durban were low.

**What Durban achieved and how**

The single most important decision agreed in Durban is Decision 1/CP.17, which sets up a new Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP for short) that will work on a legally binding global agreement applicable to all UNFCCC Parties. This agreement will be negotiated by 2015 with commitments starting in 2020. Because this is much later than AOSIS and the LDCs would have liked, and because pledges had been falling short by some 6–11 gigatonnes of carbon dioxide equivalent (GtCO₂e), the ADP’s work was set to focus on a process to ramp up ambition in the 2012–2020 period to address the ‘gigatonne gap’ formally recognised by all Parties as a serious problem. The establishment of the ADP is a historic achievement and hopes are that it will finally provide a universal framework by enabling mitigation commitments to be agreed both by the USA, which has stayed out of Kyoto, and by developing countries, whose mitigation actions were only indirectly covered by Kyoto. The current body, AWG-LCA, based on the Bali Action Plan, was due to shut down at the end of 2012.

A second major achievement in Durban was securing the continuity of the Kyoto Protocol for a second commitment period. Expectations have been that the Conference of the Parties (COP-18) in Qatar (November–December 2012) would adopt amendments to operationalise the second commitment period. The importance of Kyoto is not just symbolic: multilaterally agreed rules based on science and evidence and common accounting are more legitimate, more environmentally efficient and more economically effective. A second commitment period, even with fewer countries, will serve as a benchmark and model for the ADP’s work and keep its market mechanisms that have taken a decade to build in play, even if the current lack of ambitious pledges means that Kyoto markets will not play a central part in driving innovation and investments in green technology. While the suite of rules and procedures agreed at Durban broke new ground, it fell short of the more robust accounting now applicable under Kyoto. The continuity of Kyoto will guide the evolution of robust MRV frameworks under the Convention in an upward fashion. In other respects, Durban went further than Kyoto. For example, the ADP is examining how to operationalise measurement, reporting and verification of the provision of financial support by developed countries, to ensure developing countries are receiving the support that developed countries claim credit for under fast-start finance and the US$100 billion pledge.
A third major achievement for Durban was the relatively smooth, but immensely taxing and resource-intensive, launch of the new finance, adaptation and technology institutions and more technical mechanisms such as the Registry. The latter will record nationally appropriate mitigation actions by developing countries and available financing. A forum to discuss ‘response measures’ has also been established to examine issues of concern to fossil fuel-intensive producer countries. More work remains to be done on an international mechanism on loss and damage for vulnerable countries, which must be agreed by 2012, but at least there is greater acceptance that risk resilience and adaptation are critical aspects of global climate policy that has hitherto overly focused on mitigation. And the critical issue going forward is finding ways to capitalise the GCF so it can actually start catalysing and delivering finance on the ground.

Durban managed to forge agreements in these key areas through a mix of techniques. First, the South African presidency instigated a combination of open-ended and smaller but representative ministerial meetings called ‘indabas’. The indabas encouraged dialogue and a sense of collective and creative problem-solving formed on mutual respect of constraints and interest and based on ubuntu – an African proverb encouraging participants to always remember: ‘I am because you are’. Some delegations struggled with having to think in politically empathetic terms in the small hours of the morning and longed for more proactive distillation of options by the presidency. But in the end, the spirit of ubuntu and the setting of indabas resulted in a more transparent and robust set of outcomes that all delegations could work with.

Behind the scenes, a number of alliances were forged in Durban, principally among the EU, AOSIS, the LDCs and progressive Latin American countries such as Colombia, Chile, Peru, Panama and Costa Rica, to name a few. Most of these countries have legally binding legislation or are engaged in undertaking a range of national mitigation actions domestically. They no longer subscribe to a rather antiquated North-South narrative that advocates inaction on the part of developing countries in the interest of rectifying historic injustices. This cross-cutting North-South nature of the Durban alliance helped to shift the position of larger countries, including India and China who had gone to Durban with a red line position to prevent the negotiation of a legally binding agreement beyond 2015, as well as to prevent discussion of upgrading their national pledges before 2020 – a position shared by the USA, which wanted to avoid discussion of its national pledge in a presidential election year and if possible for beyond a second term. The final agreement is finely balanced to accommodate these positions.

At the time of going to press, the next set of climate meetings will soon take place in Doha (November–December 2012). Cutting so many Gordian
knots in Durban has created an unprecedented level of new work and procedural complexity on which issues will be dealt when, and by which negotiating track or new or existing body. Cancun and Durban have confirmed that multilateralism works but perversely this may generate expectations that are so high they cannot be achieved in Qatar alone. A universal legally binding deal, backed by finances and with effective national and international governance structures that can actually put the world back on track to 2 degrees Celsius, will take several more years of hard work domestically and at the international level.

Countries that are part of the Durban Alliance will need to push their own domestic processes towards more ambitious and rapid implementation as well as making the case for others to follow their lead. Smart new coalitions must be built that encompass countries, as well as green finance and businesses, and that mobilise civil society to shape a new vision of social, economic and environmental well-being. One key lesson from the last decade of negotiations is that championing the benefits of moving towards a climate-resilient, low-carbon vision of development must be anchored in the UNFCCC to achieve universal coverage and to have legitimacy. But the UNFCCC alone cannot tackle all aspects of climate change. Other fora such as the G20, international financial institutions and various UN agencies and bodies must focus on their share of the problem and also take responsibility for generating their share of the solutions.

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