

Understanding Climate Negotiations

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February 12, 2012

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Introduction

I'm going to give you some background on the climate negotiations from the perspective of a political scientist who has studied climate governance. I'm not a regular attendee of these gatherings, more of an external consumer. But the process is a little confusing and reading some of the news accounts about the various processes like "will there be a second commitment period of the Kyoto Protocol" might be bewildering if you are jumping in the middle and don't have a sense of the history of what went before.

As you will have noted from the piece I wrote for the Council on Foreign Relations in 2010, I've been pretty skeptical of the process of international climate negotiations in being able to generate significant progress, that for too long environmental activists invested too much hope in outcomes that could be achieved in an international meeting when the real action and challenge was what was happening at the domestic level among the major emitters.

Since 2009, there has been some interesting progress to refocus international policy around a new approach that may be more politically viable, but that process has been messy.

What I thought I'd try to do is give you some context for the international negotiations and walk us forward to the present.

When people reference international climate negotiations, they undoubtedly are referencing the United Nations process. This is a relatively new issue that only burst on the international scene in the late 1980s which might sound like a long time ago to all of you since

it precedes when you are born, but in terms of international relations, it's a pretty new problem.

UN RULES

So, what's so special about the United Nations process?

Universal, unanimity rules (though can push aside the opinions of diplomatically isolated countries like Venezuela and Bolivia), and superficially participatory, lots of NGOs in attendance.

United Nations process. 190 countries. Delegates, plus thousands of NGO observers, depending on how salient, how easy to get to, and possibly desirable location. 19,000 attended the Doha conference last year

Background on UNFCCC, COPs, MOPs

Annual conference of parties for the United Nations Framework Convention (UNFCCC) which was negotiated in 1992, came into force in 1994. There have been 18 of these meetings since 1995 when the first one was held in Berlin. Last year was in Doha.

Previous year in Durban, South Africa. Before that Cancun. Prior to that Copenhagen in 2009. They usually are two weeks at the tale end of November/beginning of December.

These gatherings are also the so-called Meeting of the Parties for the Kyoto Protocol, which was negotiated in 1997. Came into force in 2005. Was set to expire in 2012. Agreement was negotiated last year to extend until 2020. There have been 8 meetings of the parties (MOP) dating back to 2005.

The UNFCCC (UN F triple C) was a legal convention but contained no binding targets or timetables for country action. It was modeled on the earlier agreement on ozone depletion which also had a framework convention and then was later accompanied by a series of additional agreement that specified the legally binding targets and timetables for phasing out chemicals that were eating a whole in

the ozone layer and projected to cause a large increase in skin cancers.

Kyoto Protocol

The Kyoto Protocol was intended to be the first of these legal agreements with targets and timetables for individual countries. That agreement enshrined the concept of “common but differentiated commitments” which meant that so-called Annex 1 countries, which mostly corresponded to advanced industrialized countries had legal commitments while so called Annex B countries (developing countries like China and India) did not. Moreover, there was no proper graduation procedure specified in the Kyoto Protocol so if your economic growth or emissions increased dramatically, there was no way without renegotiating or amending the treaty to have a country move from one list without commitments to another list with legally binding obligations.

Annex 1 countries collectively agreed to reduce their emissions by 6% below a 1990 baseline by the period 2008-2012. Countries did not all have the same targets. In some cases, some countries with legal obligations were entitled to increase their emissions by a certain amount. For example, the U.S. target was 7% below 1990 levels. While 15 members of the EU collectively agreed to reduce their emissions 8% below 1990, Greece was allowed to increase its emissions by 25%.

To enter into force, that is to be legally operational, different treaties include different rules about how many and which countries need to ratify the treaty. In the case of the Kyoto Protocol, you had a rule that 55 countries had to ratify and that those countries had to be responsible for 55% of Annex 1 CO₂ emissions in 1990.

Treaty Ratification

Ratification in this case means a country has taken the treaty home for domestic approval. In many countries, ratification is a foregone conclusion because all you need is a majority in the country's parliament to say yes. If you have a parliamentary democracy and the government has a majority of seats in the parliament and strong party control, the Prime Minister can direct his party to vote yes on ratification.

In countries like the United States, it's a different story. What is the approval process for ratification in the United States. Advice and consent of 2/3 of United States senators. Especially high bar. The U.S. is often described as exemptionalist or exceptional when it comes to multilateral treaties related to the environment and human rights. Take the Law of the Sea Treaty, a relatively innocuous treaty that has been endorsed by environmentalists, the U.S. military, and the business community. The United States has not ratified it, dating back to the Reagan administration in the 1980s before you all were born.

So, even though the Kyoto Protocol entered into force, there were a couple of problems. First, as I just suggested, some prominent countries did not ratify the treaty like the United States, until recently the world's largest emitter. What this has meant is that even countries that ratified Kyoto like Canada and Japan have felt less pressure to keep their commitments.

Second, there were no commitments for countries like China and India, now the 1st and 4th largest emitters respectively which means that global emissions could continue to rise even if Kyoto signatories met their commitments.

The Road to Copenhagen: the Bali Plan of Action

With the U.S. outside the Kyoto Protocol and unlikely to ever ratify it and with there being no obligations for China and India, a new

approach was tried at Copenhagen, what we can call “pledge and review.” The old approach of the Kyoto Protocol was based on “targets and timetables” where countries agreed to legally binding targets and timetables for emissions reductions.

Pledge and review is a political agreement where countries pledge to reduce their emissions by a certain amount and then agree to review how they have done each year in meeting those commitments. Environmentalists tend not to like pledge and review because they think that legally binding treaties are more stringent tests of seriousness and that without there being a legally binding commitment, countries will make pledges that they then break. The problem with this line of argument is if you have a country like the United States that has an insanely onerous treaty ratification process, you might spend a decade or more getting nothing. Which is what I submit happened with respect to the Kyoto Protocol.

With the Kyoto Protocol set to expire in 2012, there were already movements afoot to think about the future. In 2007, at the Bali conference of parties, delegates endorsed the Bali Plan of Action which tried to set the stage for a new legally binding treaty to be negotiated by the time of the 2009 Copenhagen COP. It also recognized the reality that the problem couldn't be dealt with unless fast-growing emerging emitters like China and India somehow took on some sort of commitments though the language that was agreed on the non-binding plan of action was a bit ambiguous. These twin realizations were made concrete in two so-called ad hoc working groups, two parallel processes, one group working on a second commitment period to the Kyoto Protocol once it expired at the end of 2012 and another working on an agreement on Long-term Cooperative Action (or LCA) that would somehow incorporate big emerging emitters like India and China.

Copenhagen

Going into Copenhagen, it became clear that there simply wasn't enough time to negotiate a legally binding treaty at Copenhagen. By 2009, the world's willingness to do something serious on climate change was shaken in the wake of the financial crisis. Moreover, even the Europeans who were among the most ardent supporters of a new treaty, conceded negotiating a new treaty at Copenhagen was unlikely. The Obama administration had just come into power and did not really have enough time to get staffed up, and any new treaty would need the U.S. to be a part of it given the size of its emissions.

Many countries wanted to give the new Obama administration a chance to prove their bonafides on climate change. Unlike the previous Bush administration, which had repudiated Clinton's signature of the Kyoto Protocol, the Obama administration was seen as more favorable to action on climate change but constrained from supporting a treaty because of domestic politics.

The BASIC Countries and Pledge and Review

So, going in to Copenhagen, negotiators from a number of countries were willing to give other approaches to climate diplomacy a chance. At Copenhagen, you had the unusual spectacle of heads of state negotiating on the fly. President Obama along with the leaders of Brazil, India, China, and South Africa signed off on a new approach, the one of pledge and review that I described earlier, with individual countries pledging to reduce their countries' emissions by a certain amount or at least restrain the rate of growth of their emissions. China for example pledged to reduce its emissions intensity by 40 to 45% by 2020 below 2005 levels (which means that overall emissions might rise with economic growth, but the amount of carbon dioxide per unit of GDP would decline by 40 to 45% by 2020).

In the case of the United States, the Obama administration pledged to reduce the country's emissions by 17% below 2005 levels by

2020. I should note for a second that even in the absence of legislative activity by Congress that we're perhaps halfway there already because of slower economic activity, the turn away from coal to gas with the rise of fracking, some mild winters over the last couple of years, and increased efficiency and renewables use.

The Copenhagen Agreement was accompanied by some other things that were essential for pledge and review to work, initial conversations on so-called MRV (monitoring, reporting, and verification).

Climate Finance

You also had a commitment by donor countries to leverage significant resources to support developing countries, both for mitigation (i.e. emissions reductions) and for adaptation (that is preparing for and responding to the effects of climate change). There was the commitment to provide up to \$30 billion over the period 2010-2012 and to mobilize up to \$100 billion in public and private money by 2020. A new green climate fund was agreed to be set up to be the recipient of funds, though governance of that fund and what entity would administer were left for later discussion.

The Europeans were basically excluded from that particular deal. Indeed, a number of developing countries were excluded from that process which kind of left it on shaky ground diplomatically in terms of wider legitimacy. Moreover, it represented a third track other than Kyoto 2nd commitment period and the Long-term cooperative agreement.

After Copenhagen: Cancun, Durban, and the Road to Doha

So, at Cancun the following year, you had another agreement which essentially reiterated the main points of the Copenhagen agreement but now had more buy-in from other countries. With Kyoto set to expire at the end of 2012, there were major concerns about whether

there would be a second commitment period. While Europe wanted one, some Kyoto signatories like Japan and Canada were unwilling to take on new commitments. That particular issue was kicked down the road.

The other issue that was looming was whether there would be a new long-term agreement that would be legally binding. Europe of course wanted such a legally binding agreement, a number of highly vulnerable developing countries like low-lying island nations wanted such an agreement, the United States is a bit ambivalent, the idea being that a legal agreement would be desirable if China and India and other emerging emitters were part of it, but if these countries are highly resistant, then negotiations on a long-term agreement shouldn't

And at Durban, a second commitment for Kyoto was kicked down the road again but the portents of a new long-term agreement started to come together. At Durban, you got the agreement on ““a process to develop a protocol, another legal instrument or an outcome with legal force under the Convention applicable to all Parties” which kind of meant as Michael Levi suggested all things to all different major parties.

In the meantime both at Cancun and Durban, other details of the green climate fund starting coming together. The Fund has its own board. The World Bank is its trustee. Last year, it was announced the South Korea would host the secretariat for the fund.

The 2012 Climate Negotiations in Doha

By the time you get to Doha, there was an urgent need to figure out what was happening with the Kyoto Protocol, whether there would be a new long-term agreement, and how to integrate these diverse threads, including the Copenhagen/Cancun approaches.

In terms of Kyoto, the Europeans were anxious for a second commitment period, in part because their own internal emissions trading system is contingent upon their being value associated with emissions reductions. Their

So, you do get a second commitment period for the Kyoto Protocol. Basically, some 37 countries mostly in Europe, responsible for about 15% of the world's emissions, opted to take on binding emissions reductions. Canada repudiated. Us had stayed outside. Japan and Russia said they would not take on new commitments. This second commitment period reduce emissions by these 37 by 18% below 1990 levels by 2020.

At Doha, you finally get agreement by countries to negotiate a new agreement in 2015 to take effect in 2020.

Other Forums:

Aside from the UN process, there are other forums for action that might be useful complements to the UNFCCC process. While the UNFCCC is unwieldy because it is a universal forum, you do have least developed countries that are most vulnerable to climate change represented which puts pressure on countries like China and India to do more (harder for them to resist when they are getting pressure from other developing countries. Harder for them to maintain solidarity of developing countries to do nothing).

These other forums may be more productive spaces for major emissions reductions because only a handful of countries are really responsible for the bulk of the world's emissions. Getting those countries to agree on specific actions in particular sectors may be easier because smaller groups are more manageable decision-making bodies.

Some forums include:

1) the Major Economies Forum, where 17 major economies, gather yearly to discuss important topics. Created by the Bush administration/reconstituted and renamed by Obama administration. <http://www.majoreconomiesforum.org/>

2) Climate and Clean Air Coalition. Some 26 countries plus European commission. <http://www.unep.org/ccac/>

You also have an effort to address short-lived gases like methane, soot (Black carbon), HFCs (used in refrigeration) that survive less long in the atmosphere than CO₂ but are more potent gases to trap in heat in the atmosphere, where action would could actually do something to mitigate climate change in our lifetime.

3) REDD agenda is another productive area for informal consultation (Reduced Emissions from Deforestation and Degradation). Includes forested countries (who might get paid to not cut their forests down) along with donors and the World Bank. <http://www.forestcarbonpartnership.org/>

WIKIPEDIA

At the [2012 Doha climate change talks](#), Parties to the Kyoto Protocol^[19] agreed to a second commitment period of emissions reductions from 1 January 2013 to 31 December 2020, which takes the form of an amendment to the Protocol.^{[20][21][22]} The 37 countries with binding targets in the second commitment period are [Australia](#), all members of the [European Union](#), [Belarus](#), [Croatia](#), [Iceland](#), [Kazakhstan](#), [Norway](#), [Switzerland](#), and [Ukraine](#).^[19] However, a last minute objection at the conference by [Russia](#), [Ukraine](#), [Belarus](#) and [Kazakhstan](#) indicates that they will likely withdraw from the Protocol or not ratify the Protocol amendment.^[23] Collectively, these countries will reduce their emissions 18% below their 1990 level between 2013-2020.^[19] The targets may be strengthened by 2014.^{[19][24]} The emissions targets specified in second commitment period will apply to about 15% of the world's greenhouse gas emissions.^{[21][25][clarification needed]} Several Annex I Parties who participated in Kyoto's first-round have not taken on new targets in the second commitment period, and are [Japan](#), [New Zealand](#), and [Russia](#). Other Annex I Parties without second-round targets are the [United States](#) (which never became a member to Protocol) and [Canada](#) (which withdrew from the Kyoto Protocol effective 2012).^{[24][26]}

Jake Schmidt, NRDC

http://switchboard.nrdc.org/blogs/jschmidt/waiting_for_it_to_all_come_tog.html

Will countries finalize the second round of the Kyoto Protocol?

Will countries wrap-up the small number of loose ends from previous rounds of

negotiation? In [Cancun](#) and [Durban](#) countries agreed to specific mitigation commitments, a new multilateral financial tool, greater transparency and accountability requirements, tools to help developing countries tap into clean energy technologies, and support to strengthen the resilience of the most vulnerable countries. These are important tools that can now be fully implemented as Doha has already finalized key outstanding issues.

Financing future investments to spur clean energy deployment, deforestation reductions, and adaptation in developing countries? In Copenhagen countries pledged \$30 billion between 2010-2012 (\$10 billion per year). In the face of a

huge economic downturn and budget cuts, [developed countries have met that commitment](#).

Michael Levi, CFR

<http://blogs.cfr.org/levi/2012/11/30/should-you-pay-attention-to-the-un-climate-talks/>

<http://blogs.cfr.org/levi/2011/12/11/a-misplaced-climate-celebration-in-durban/>

“Most of the agreed texts fleshed out matters left unfinished last year in Cancun: rules for a new climate fund, the structure of an international network of technology centers, a scheme for avoiding deforestation, and parameters for a system meant to increase the transparency of countries’ emissions-cutting actions.”

“Instead, it was an agreement to initiate “a process to develop a protocol, another legal instrument or an outcome with legal force under the Convention applicable to all Parties” that has led commentators to conclude that there will be a new treaty that will legally bind all countries to reduce emissions.”

“Similarly, just because the text says that the new agreement must *apply* “to all Parties”, it needn’t have the same effect on all of them.”

Robert Stavins, Harvard

http://www.robertstavinsblog.org/2012/12/21/reflections-from-cambridge-on-the-climate-talks-in-doha-2/#.URG_51rVqm0

STAVINS: First, they successfully brought to a close negotiations on a second commitment of the [Kyoto Protocol](#), that is, extending the protocol beyond its first commitment period, which expires at the end of 2012. The second commitment period is now set. It will run to 2020. Second, they also brought to a successful close

negotiations in what was called the [Long Term Cooperative Action track](#), which included a set of issues that were put on the table at COP-13 in Bali in December 2007. Third, they began to make some progress on the one remaining negotiating track, which is the [Durban Platform for Enhanced Action](#). They initiated discussions about establishing, by 2015, a comprehensive new international agreement, for implementation by 2020, that will [include all key countries](#) in the world, including the major emerging economies of China, India, Brazil, Korea, South Africa, and Mexico. That itself is a departure from the Kyoto Protocol, which is focused exclusively on a subset of countries of what used to be characterized as the industrialized world.

Number two, there's increasing recognition that a [bottom-up international policy architecture](#) is probably the future path forward, not a top-down approach. By top down, I mean a highly centralized approach like the Kyoto Protocol, with targets and timetables, as opposed to a bottom-up, [pledge-and-review approach](#) in which each country essentially says, "Look, this is what I can do," and they put all of those into the hopper.

Remember, 20 countries and regions account for about 90 percent of emissions. So there are [alternative venues](#) where meaningful action can happen without requiring agreement from 195 countries!