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Newsletter

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Copenhagen: Recipe for Kyoto II?

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The 30th meetings of the subsidiary bodies to the United Nations Framework Convention on Climate Change (FCCC) met in Bonn, Germany, from June 1 to 12, 2009. These meetings included sessions of two Ad Hoc Working Groups, one on the Kyoto Protocol (AWG-KP), the other on Long-Term Cooperative Actions (AWG-LCA) under the Convention. The AWG-LCA meetings focused on draft negotiating text intended to provide the basis for a new global agreement on climate change in Copenhagen in December.

U.S. labor representatives attending the meetings included the AFL-CIO and the UMWA. We were joined by labor interests from Europe, Japan, Latin America, the International Trade Union Confederation (ITUC) and the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM).

Bonn Background

In December 2007, the Bali Action Plan approved at the 13th Conference of the Parties to the UN FCCC (COP-13) called for industrial nations to commit to “measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives.” Developing nations agreed to “nationally appropriate mitigation actions ... in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner.”

These differences in language boil down to a stark differentiation of the commitments that might result from a new Copenhagen agreement. The phrase “quantified emission reduction limitation and reduction objectives” means that industrial nations are expected to reduce emissions through mechanisms such as a cap-and-trade program. The European Union has implemented a cap-and-trade program for major industrial sources to meet its commitments under the Kyoto Protocol. The U.S. rejected the Kyoto Protocol due to its prospective adverse economic impacts, and lack of meaningful commitments by major developing nations like China, India, Brazil, and Mexico. A major U.S. cap-and-trade proposal, H.R 2454 (Waxman-Markey), has been approved by the House Energy & Commerce Committee and is nearing a vote on the House floor.

The language in the Bali Action Plan governing commitments by developing nations does not call for “quantified emission reduction limitation and reduction objectives.” Instead, it speaks about “nationally appropriate mitigation actions” (“NAMAs”) that are supported by technology transfer and financial resources from industrial nations, in a “measurable, reportable and verifiable manner.”

Developing Nations Take a Hard Line

The prospects for a real agreement in Copenhagen are inextricably tied to the willingness of major developing nations to agree to emission reduction commitments – a willingness that was not evident in Bonn.

Prior to the Bonn meetings, the Chairman of the AWG-LCA circulated a draft text of potential commitments covering industrial and developing nations. The draft text for developing nations included alternative approaches for emission reductions, for example:

“74. The NAMAs by developing country Parties -

Option 1

{shall}{should} be distinct from the commitments of developed country Parties and should not constitute binding obligations or targets for developing country Parties, or be used as a basis for differentiating among them. ...

[Option 3

... shall be elaborated in the context of national low-emission development strategies to be developed by all developing country Parties consistent with their capacities and in the context of their broader sustainable development strategies. These low-emission development strategies -]

[Option 3.1

shall include an emission pathway (emission projection planned to be achieved with the implementation of the strategy). The strategies should be put in place no later than 2012 and cover all key emitting sectors.]

[Option 3.2

for developing country Parties whose national circumstances reflect greater responsibility or capabilities shall be formulated and submitted as low-emission strategies for long-term net emission reductions by 2050, consistent with the levels of ambition needed to contribute to meeting the ultimate objective of the Convention. In this context, these countries shall implement NAMAs in the 2020/(.) time frame that are quantified (e.g. reduction from business-as-usual). These countries shall indicate dates by when they

will commit to the types of action undertaken by developed country Parties.]

[Option 4

shall be in the form of sectoral and economy-wide GHG emission intensity targets, with a view to substantially limiting the growth of GHG emissions in those developing countries that contribute substantially to global emissions of GHGs. In addition, each developing country Party {should}{shall} develop a voluntary national action plan, including policies and measures for mitigation, which {should} include quantified elements to the extent possible.]

[Option 5

{shall}{should} be incorporated in national schedules. Each {developing country} Party {shall}{should} establish, regularly update and implement the contents of national schedules, which {shall} include long-term national GHG limitation or reduction pathways, quantified emission limitation and reduction commitments for 2020, and the measurable, reportable and verifiable

mitigation policies and measures designed to meet those commitments, subject to regular review by the COP. {Schedules should identify where specific mitigation actions were made possible through previously agreed international support} ...”¹

On June 8th, developing countries took the floor to offer a series of “marks” or challenges to the Chairman’s draft text. One nation after another “marked” as objectionable major portions of the entire draft text on developing country commitments, as reflected in the bracketed text above. Speaking for the Group of 77 & China – the major bloc of developing nations – Philippines made clear that “NAMAs are only those actions that are made possible by technology transfer and financial resources” from industrial countries. This narrow construction of the Bali Action Plan basically implies that developing nations will only do what industrial nations pay them to do.

This theme was advanced in subsequent discussions about proposals to create emissions inventories – or baselines – for developing nations. The U.S. and other industrial nations are developing robust systems for measuring, estimating, and reporting greenhouse gas emissions, an essential tool for determining progress toward any quantified commitments. One developing country questioned the need for emissions inventories for developing countries, noting that it would take 15 years to develop a monitoring and reporting network - to be financed by developed nations. Instead, the delegate suggested a simplified ledger for accounting for developing country actions: a list of the technologies and financial resources received by each developing country, and a corresponding list of the actions taken in response to these transfers.

Developed Country Targets Diverge

The prospects for agreement on a unified set of emission reduction targets for developed nations dimmed as the Bonn meetings progressed.

Last December, the European Union reached agreement on a reduction target of 20% below 1990 emission levels by 2020, pledging to increase the target to 30% if the U.S. joined the agreement. Meanwhile, President Obama proposed a 14% reduction below 2005 emissions in his budget submission to Congress. The reduction proposed by the Waxman-Markey bill in the House is 17% below 2005 levels. The difference between the EU and U.S. proposals, translated to a common 1990 baseline, are on the order of 30%.

The Copenhagen draft negotiating text proposes a wide range of potential reductions for industrial nations, including 25% to 40% reductions below 1990 emissions as identified by the Intergovernmental Panel on Climate Change (IPCC). The 2007 IPCC report offered three alternative emission reduction scenarios for consideration by developed countries. The most stringent path is a 25% to 40% reduction below 1990 emissions by 2020, with emissions turning down by 2015 at the latest. The middle pathway is a reduction of 10% to 30% below 1990 by 2020, and the least stringent is a reduction of 0% to 25% with emissions turning down by 2030. No position as to which path policymakers should follow is taken by the IPCC in its report.²

As the Bonn discussions proceeded, Japan announced its own target of 15% below 2005 emission levels by 2020. This translates to a 2 percentage point reduction below its Kyoto target of a 6% reduction from 1990 levels. Japan explained that it reached a decision on its proposed target after

¹ FCCC/AWGLCA 2009/2008, 19 May 2009 (as bracketed/marked by G-77 & China, June 8, 2009).

² IPCC Report, Working Group III, p. 776 (2007).

extensive analysis of its ability to reduce emissions, in light of the substantial investments in energy efficiency and conservation it has made over the past few decades.

These developments suggest that the Copenhagen agreement may incorporate differentiated targets for industrial countries, similar to those embodied in the Kyoto Protocol. Australia, for example, was allowed under Kyoto to increase its emissions by 8% above 1990 levels, while other nations accepted reductions generally in the 4% to 6% range.

The Copenhagen debate over industrial country reduction levels will be joined by China and other rapidly growing economies. Developing countries insist that industrial nations make deeper emission reduction commitments to provide additional “room” for their economic growth.

Further complicating the outlook for agreement on developed country targets is a list of alternative methodologies proposed by the Chairman’s draft negotiating text. These factors may be considered in assigning reduction commitments. The factors include a per capita approach (generally favored by the most populous nations) and an “historical contribution” methodology initially proposed by Brazil. The Brazilian concept assigns reduction obligations considering past and future contributions to increased atmospheric concentrations of greenhouse gases. Nations leading the Industrial Revolutions would reduce the most, since they have emitted at high rates for centuries, while developing nations would reduce the least.

Forestry Initiatives Take Root

Further progress was achieved in Bonn on proposals to provide economic benefits to Brazil, Indonesia and other nations with huge forest resources in exchange for plans to reduce the rate of global deforestation and degradation. Deforestation accounts for about 20% of current global greenhouse gas emissions. Industrial nations view forest conservation as a major potential source of low-cost carbon “offsets” that can reduce their costs of emission cuts. The Waxman-Markey bill, for example, provides for a total of 2.0 billion tons of annual CO₂ offsets from domestic and international sources, including up to 1.5 billion tons from international sources if the domestic supply is inadequate.

Despite general support for forestry initiatives, developing nations in Bonn expressed divergent views on whether projects to reduce deforestation should generate offsets that could be used by industrial nations to reduce compliance costs. This is a critical difference of opinion, as it affects not only the prospective supply of low-cost offsets to the U.S. and other nations (a central compliance alternative in the Waxman-Markey bill), but also the prospective flow of financial resources to developing nations to help support mitigation and adaptation measures. U.S. and EU negotiators in Copenhagen will need to fashion a “win-win” solution to the forestry offsets issue, ensuring an ample flow of financial resources to developing nations and an adequate supply of international offsets for developed nations.

Looking Ahead

The path to a new global climate agreement remains complicated by legal uncertainties. Negotiators are unsure whether such an agreement should be structured as an amendment to the Kyoto Protocol, as a new, free-standing protocol, or as a form of amendment to the UN FCCC. Another option is a form of “executive agreement” that would not require Senate ratification.

Amending the Kyoto Protocol could prove difficult because it recites the pledge of the 1995 Berlin Mandate exempting developing nations from any new commitments. Amending the FCCC is generally regarded as impractical. A free-standing replacement to Kyoto seems the more likely path, provided that industrial and developing nations can reach agreement on their respective commitments.

As the Bonn meetings ended, the consensus view held that a final agreement in Copenhagen may not be feasible given the complexity of issues to be resolved. Additional meetings of the UN negotiating groups are scheduled in Bonn next August. Progress at those meetings likely will determine whether a final agreement can be reached in Copenhagen in December. Some observers see an agreement more likely in the March-June 2010 timeframe. There is no set deadline governing the conclusion of the Copenhagen process.

The larger danger implicit in the current negotiations is that any agreement ultimately emerging from Copenhagen will be similar to the Kyoto Protocol: strong on industrial nation commitments, and weak on developing country obligations. The G-77 and China emphasized early in the Bonn talks that any commitments they may accept are “different in legal nature” than those accepted by industrial nations. If major developing nations refuse to accept meaningful obligations that will reduce future emissions, progress toward achieving any science-based greenhouse gas concentration target will be frustrated. The environmental benefits of unilateral reductions by developed nations are negligible absent a global framework for collective action. The agreement at Copenhagen needs to chart the course for such collective action, with all parties agreeing not merely to talk the talk, but to walk the walk.

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