

**Some Key Issues for the Post-Bali
Climate Process**

MARTIN KHOR

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TWN
Third World Network

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1

Background

THE Bali meeting of the United Nations Framework Convention on Climate Change (Conference of the Parties) and Kyoto Protocol (Meeting of the Parties) in December 2007 was an important event. It involved complex and sometimes contentious and controversial issues and events.

Perhaps the most important decision at Bali was the establishment of a new ad hoc working group (AWG) on long-term cooperative action (LCA) under the UNFCCC to undertake a “comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at [the] fifteenth session [of the Conference of the Parties]” (i.e., in 2009).

Climate change is a very serious problem, at the level of crisis, and there has, through the Intergovernmental Panel on Climate Change (IPCC), emerged a scientific consensus on its seriousness. While the developed countries are mainly responsible, especially historically, the developing countries will be most severely affected. There is a tremendous need to curb and reduce emissions of heat-trapping greenhouse gases, including carbon dioxide, as soon as possible. The key issue is “burden-sharing”, i.e., which country should undertake what future emission path. It is also imperative that adaptation measures be undertaken to prevent adverse effects.

The current international climate regime comprises the UNFCCC and Kyoto Protocol. The developed countries have two types of commitments:

(1) to assist developing countries on finance and technology transfer; and (2) to reduce their emissions. Under Kyoto, developed countries (which are known as Annex I countries under the Convention and listed in Annex B in the Protocol) have to cut their emissions overall to 5.2% below 1990 levels in the Protocol's first commitment period of 2008 to 2012.

Developed countries have not made enough progress in meeting their reduction targets. The UNFCCC's "Greenhouse Gas Data 2006" report reported a "worrying" upward trend in the 2000-2004 period. Although overall emissions by developed-country parties dropped 3.3% in 1990-2004, this was mostly due to a 36.8% decrease by economies in transition (EITs, i.e., Eastern and Central Europe). Most worrying was that other industrialized countries registered an 11% increase. The worrying fact is that the EITs are now increasing their emissions (up 4% in 2000-2004). According to the UN Environment Programme (UNEP)'s Geodata, carbon dioxide (CO₂) emissions rose from 1990 to 2003 in Western Europe from 3.5 to 3.6 billion metric tons and in North America from 5.5 to 6.4 billion metric tons. Meeting the first-commitment-period targets should thus be a top priority of the next few years (to 2012).

Developed countries are also obliged to provide financial resources and technology transfer to developing countries. Article 11 of Kyoto says developed countries shall provide new and additional financial resources to meet the agreed full costs of developing countries in implementing commitments (for data) and provide financial resources (including technology transfer) to meet the agreed full incremental costs needed by developing countries to implement their commitments (which include formulating and implementing national/regional programmes for mitigation and adaptation). These commitments of developed countries have yet to be implemented in any significant manner. Indeed, there is a large "development deficit" in terms of unfulfilled finance and technology obligations.

The developing countries do not have to undertake emission reduction commitments under Kyoto. All UNFCCC parties have to undertake

commitments under Article 4(1) of the UNFCCC to collect and submit data; and to formulate and implement mitigation and adaptation measures, plus other measures. Article 4(7) of the UNFCCC says that the extent to which developing countries implement their commitments under the Convention will depend on the effective implementation by developed countries of their commitments related to financial resources and technology transfer, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing countries.

The provisions mentioned above (Article 4(7) of the Convention and Article 11 of Kyoto) may be considered among the several development principles or development provisions in the UNFCCC and Kyoto.

The Kyoto Protocol mandates a first commitment period (of 2008-2012) for emission reduction for Annex I countries in Article 3(7); and says commitments for subsequent periods for Annex I parties shall be established by amending Annex B of the Protocol (which contains specific reduction commitments of each developed-country party) (Article 3(9)). Thus the first commitment period will end in 2012 and a second commitment period should start in 2013. Kyoto mandates further commitment periods after that. Therefore there is an in-built mechanism in the Protocol for the continuation of commitments of Annex I countries beyond 2012 and which does not end, unless it is explicitly ended. Thus it is an error to say that the Kyoto Protocol expires in 2012.

From the above brief account, it is clear that the UNFCCC and the Kyoto Protocol recognize the responsibility of developed countries for causing the climate change crisis and their higher capacity to resolve the crisis, and thus they have accepted the two main commitments of binding emission reduction targets and of assisting the developing countries with finance and technology. The developing countries are also obliged to collect data and undertake mitigation and adaptation measures. However, it was agreed they are not to undertake binding reduction commitments, and the extent

to which they undertake these measures depends on the extent to which developed countries keep their finance and technology commitments.

It is important to recognize that developed and developing countries are treated differently in the UNFCCC and in the Kyoto Protocol in terms of levels of responsibility, with developed countries having binding commitments while developing countries have non-binding responsibilities which are also conditional on their obtaining adequate assistance.

This differentiation of roles is a most fundamental feature of the UNFCCC and the Protocol, and it is crucial to remember this during the post-Bali discussions.

2

The Future of the Convention and Kyoto Protocol

THE future framework of the UNFCCC and Kyoto Protocol is likely to feature prominently in discussions in the new AWG. Some countries seem to have the intention of closing the Kyoto Protocol and creating a new protocol, or else changing it fundamentally. There is already a lot of misleading talk about “the post-Kyoto protocol”, a “new 2012 agreement”, etc. Well-established newspapers and news agencies talk of “when the Kyoto Protocol expires in 2012”. Even the UN media service misleadingly mentions the expiry of the Kyoto Protocol in 2012. In reality, it is only the first commitment period of Annex I countries which ends in 2012, and the Protocol has an in-built mandate for subsequent commitment periods. When the Protocol was established, it was not intended to last only a few years. The intention was and is for it to continue for the long term.

At Bali, many in the media were wrongly projecting that a new post-2012 agreement needs to be launched to replace the Kyoto Protocol. Several developing countries were concerned about this and they requested the Secretariat to put the picture right. However, this wrong portrayal continued to the end and even beyond Bali.

International action on climate change presently and in the future should continue to be within the UN framework, and within the UNFCCC and the Kyoto Protocol. There should not be an attempt to create a “new agreement” other than the UNFCCC or to fundamentally alter the nature of the UNFCCC or the Kyoto Protocol. In particular, the built-in development safeguards and provisions in the UNFCCC and Kyoto should be considered fundamental to the integrity of the framework and should not be altered.

The misleading talk about a “post-Kyoto” regime should be corrected, especially by the Secretariat. The talk of “post-Kyoto” gives the wrong impression that there is an in-built mechanism for the expiry of the Protocol, or that there has been a new agreement to close it after 2012 and to create a new protocol. Besides the substantive reasons why the Protocol should continue, there is also simply no time to invent another protocol in such a short period (less than two years).

Thus it is advisable to reject notions of a new convention or a new protocol, and instead accept the built-in agenda of negotiating a second commitment period of the Kyoto Protocol. Such a negotiating process is already under way in the ad hoc working group on the further commitments of Annex I countries.

Moreover, all of the issues that are presently of concern (mitigation, adaptation, finance and technology) are being dealt with in various bodies of the Convention or Protocol. If the objective is to improve the results in these areas, then the work of these existing bodies should be intensified and more seriousness should be attached to them, instead of having their stature or activities undermined (by talk of creating a new agreement or protocol).

As the developing-country Group of 77 (G77) and China strongly pointed out in Bali, the weakness in the Convention and Protocol is the lack of implementation of the existing commitments under both. The focus should be to ensure the implementation of commitments of developed countries (Phase 1 reductions and commitments on finance and technology), and to build the capacity of developing countries to better deal with mitigation and adaptation, while retaining their development objectives.

3

The Post-Bali Process: Negotiation or Dialogue?

ONE of the main issues discussed at Bali was whether to continue with the dialogue on long-term cooperation (which had been launched a couple of years earlier at Montreal with the condition that it would not lead to negotiations) or whether to upgrade it to a “negotiation”. Some countries wanted the upgrading to a comprehensive negotiation or even to attain a comprehensive agreement.

One underlying aspect of this discussion was the meaning of the terms. “Dialogue” is widely taken to mean discussion of an issue without any prejudice or undertaking that there would be an outcome especially in terms of obligations or rule-making (creating or changing of rules and commitments). “Negotiation” tends to imply an understanding that the process would lead to a substantive outcome (including possibly rule-making and new commitments, which could also be binding).

Although previous drafts of the decision on long-term cooperative action gave options on (1) continuing the dialogue or (2) undertaking a negotiation, in the end the decision did not use either term but used the term “comprehensive process”. The neutral term “process” leaves open the question of whether the discussion will be a dialogue or a negotiation.

In fact, it can be a mixture of the two. This was already envisaged by the co-chairs of the contact group in its first meeting, when they showed a chart in which there was to be a dialogue on some issues and a negotiation on other issues.

In this categorization, it is important to recognize that there are some issues or aspects in which there is either (1) an ongoing negotiation or (2) a commitment already made. In such cases, the process in these areas should be taken as a negotiation leading to concrete outcomes, including, in some cases, binding obligations. For example, under mitigation, the further emission reduction commitments of developed countries are to be negotiated under the Kyoto Protocol (Article 3(9)) and there is an ad hoc working group (AWG) to negotiate this issue. The AWG is already progressing with its work and has a time-table of future work. Priority should be placed on this AWG to complete its work by 2009 so as to allow a smooth transition by the Annex I parties to the second commitment period. This is the only legally-linked reason to have a 2009 deadline.

Also, the developed countries have made a commitment on finance and technology; Article 11 of Kyoto states that developed countries shall provide new and additional financial resources to meet the agreed full costs of developing countries in implementing commitments (for data) and provide financial resources (including technology transfer) to meet the agreed full incremental costs needed by developing countries for their mitigation and adaptation programmes.

At Bali, the G77 and China correctly argued that the top priority in the next phase is to ensure the full implementation of the developed countries' commitments. This should be the basis of the prioritization and sequencing of the post-Bali process. This is especially because the implementation of the finance and technology commitments is needed as a basis and condition for the developing countries to undertake their own programmes (under Article 4(7) of the UNFCCC, the extent to which developing countries implement their commitments under the Convention will depend on the effective implementation by developed countries of their commitments related to financial resources and technology transfer).

The “negotiating” agenda of the AWG-LCA should thus be the implementation of the commitments by developed countries: (1) the implementation of

emission reduction in the first commitment period ending in 2012; (2) the provision of finance to developing countries; (3) the transfer of technology to developing countries; (4) the conclusion of negotiations on the emission reduction targets in the second commitment period.

At Bali, because of their disappointment with the lack of progress in implementation, the G77 and China requested that the technology issue be also included in the agenda of the Subsidiary Body for Implementation (SBI) and not be confined to the Subsidiary Body for Scientific and Technological Advice (SBSTA). This was one of the significant decisions in Bali, as it laid the ground for a review of implementation and for an implementation programme. There was, however, strong resistance from many developed countries to this.

It would thus be useful to categorize the issues that are for negotiation and those for dialogue at the AWG-LCA. While the commitments of developed countries are clearly subjects for negotiations, the programmes and capacity-building activities of developing countries are subjects for dialogue, as they are not binding commitments under the Convention or Protocol. Also, as can be seen in the different language used in the mitigation section of the Bali decision on the Bali Action Plan (*see Annex 1*), the developed countries are to undertake “commitments or actions” while developing countries are to undertake “actions”. The actions to be undertaken by developed countries are already part of commitments previously made. On the other hand, the developing countries are having a new undertaking on actions, which are not in the nature of binding commitments, and in this new territory there is a need for dialogue or discussion and not “negotiation”.

In particular, there should not be attempts to lead the developing countries into binding commitments or even non-binding commitments which they are unable to undertake unless several conditions are in place.

The developed countries may want to establish linkage between their commitments and the actions of developing countries. The fulfilment of

their commitments should not be linked to an attempt to get developing countries to make new commitments.

4

Commitments of Developed Countries

THE commitments of developed countries (or Annex I countries) are at the centre of the Convention and the Protocol. The following are their current commitments:

(a) Implementation of emission targets for first commitment period (2008-2012). The picture is disappointing overall, and some countries are very far off course (see details in Chapter 1). In the next two years there should be intense monitoring and action to ensure the implementation is on track.

(b) Implementation on finance and technology. An assessment should be made of the extent of progress. Developing countries at Bali expressed great disappointment at the failure of implementation on both finance and technology (see, for example, the Africa Group statement). A detailed strategy, objectives, plan of action, and implementation mechanism should be set up. Reference should be made to the relevant provisions in the UNFCCC (e.g., Articles 4(3), 4(4), 4(5), 4(6), 4(7)) and the Kyoto Protocol (e.g., Article 11).

Also, the Bali Action Plan decision (paragraph 1b(ii)) calls for mitigation actions by developing countries “supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner”. A monitoring system should be established for regular assessments of the support provided by developed countries on technology and finance.

(c) The negotiations on the further emission reduction commitments of Annex I countries. This is taking place under the AWG of the Kyoto Protocol on this issue. It is in the developing countries' interests that the commitments be as deep as necessary so that developing countries will not be so badly hurt by climate change, and that they have more policy space in relation to their own emission programme.

(d) The Bali Action Plan (paragraph 1b(i)) mandates that under the AWG-LCA of the Convention, the Annex I countries will undertake enhanced mitigation action, including consideration of "measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances". This paragraph is especially aimed at involving the United States in a Convention process for mitigation commitments, since the US is not a member of the Kyoto Protocol under which the AWG negotiations for a second commitment period are taking place. The AWG-LCA negotiation on this issue will be vital, especially in 2008, which could be a "holding year" until the new US administration that will take office in 2009 could possibly rejoin the Kyoto Protocol. During the "holding year", it is vital to engage the US, and this should be another high priority in the process.

5

The Role of Developing Countries

WHILE developed countries are mandated to have further Kyoto commitments on mitigation beyond 2012, and these are expected to be binding, developing countries are not required by the existing rules of Kyoto to have binding emission reduction commitments before or after 2012.

Under UNFCCC Article 4(1), UNFCCC parties, including developing countries, undertake to collect and submit data on emissions, and to formulate and implement mitigation and adaptation measures, plus other measures. Article 4(7) of the UNFCCC says that the extent to which developing countries implement their commitments under the Convention will depend on the effective implementation by developed countries of their commitments related to financial resources and technology transfer, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing countries.

The non-binding nature of developing countries' obligations and the acknowledgment of their finance and technology needs are in recognition of their negligible historical role in the buildup of greenhouse gases in the atmosphere, their low development levels and their need for development.

However, there are now strong pressures by developed countries to have the developing countries increase the level and scope of their obligations. For example, the US has explained that a major reason for its non-membership of the Kyoto Protocol is that major developing countries do not have to undertake binding commitments. The US tried in Bali to remove the

categorization of developed and developing countries in the approach to mitigation actions (proposing instead other criteria), but did not succeed.

At Bali, developed countries in general tried several channels and fora to increase the developing countries' levels of obligations (or to redefine their roles). Among these were:

- The contact group on long-term cooperative action, which led to the Bali Action Plan decision and the establishment of the AWG-LCA.
- The review of the Kyoto Protocol, under Article 9 of the Protocol. The second review begins in 2008. At the Bali discussion to prepare for it, developed countries wanted the review's scope to include increasing the obligations of developing countries.
- The Russian proposal (aimed at increasing developing countries' obligations).
- Review of national communications.

The most important development was the decision on the Bali Action Plan and the inclusion in the AWG-LCA's terms of reference of the following (paragraph 1b(ii)):

(b) Enhanced national/international action on mitigation of climate change, including, inter alia, consideration of:...

(ii) Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner.

The manner in which this paragraph was negotiated and finally adopted became the subject of great controversy on the last night and day of the Bali meeting. The G77 and China had expected this wording to be brought to the final plenary, following an agreement at the contact group late on the last night. However, at the closing plenary the words "in a measurable, reportable and verifiable manner" were placed in the first part of the paragraph rather

than at the end, and there were no brackets in the paragraph to denote lack of consensus. The G77 and China wanted an amendment to place the words at the end of the paragraph, and some of their ministers and officials were involved in urgent negotiations for this purpose. The conference chair tried twice to gavel the original decision, even when high-level negotiations involving ministers were going on, causing a protest from G77 members and a request for apology or clarification from the Secretariat. After several dramatic developments, the text as above was adopted. (*See Annex 2 for a report on the Bali conference and its last day.*)

The purpose of the G77/China amendment was to explicitly link the provision by developed countries of support and enabling measures and resources for finance, technology and capacity-building to the undertaking by developing countries of mitigation actions – with both the actions of developing and developed countries together being in a “measurable, reportable and verifiable manner”.

If the relevant words had been placed in the front portion, it may be taken to mean that only the developing countries’ actions are to be measurable, reportable and verifiable. With this eventual placement, the support for finance, technology and capacity-building is also to be measurable, reportable and verifiable, and the AWG can consider monitoring mechanisms.

The wording of this paragraph and its linkage of developing countries’ actions to the provision of technology, finance and capacity-building also places the paragraph side by side with Article 4(7) of the UNFCCC, that the extent to which developing countries implement their commitments under the Convention will depend on the effective implementation by developed countries of their commitments related to financial resources and technology transfer, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing countries.

The phrase “nationally appropriate” (mitigation actions) gives some flexibility for countries to set their actions within the context of national conditions and needs. It also takes account of the diversity of developing countries, so that the poorest and most vulnerable countries can make a case that their actions are guided or constrained by their national conditions. The reference to “sustainable development” also enables the developing countries to set their actions within the context and objectives of sustainable development, which includes not only environmental but also the country’s economic and social development requirements, which, as UNFCCC Article 4(7) recognizes, are first and overriding priorities.

Finally, the reference to the need for finance, technology and capacity-building makes clear that these are prerequisites to *enable* the actions. It is in line with the UNFCCC principle that the extent of developing countries’ ability to fulfil their roles depends on the extent to which developed countries fulfil their finance and technology commitments.

At the AWG and at other fora (e.g., review of the Kyoto Protocol), the developing countries should fully make use of the carefully negotiated wording of this paragraph in order to make known the nature, context and conditions of their undertaking.

Given all this, developing countries can also be positive in a balanced way and seek ways in which they can take mitigation actions in the various sectors and fields. Some countries are already setting up high-level national councils to deal with climate change and formulating national action plans.

It would be useful and timely for developing countries to formulate and implement national climate action plans. These can include actions for better data collection, improving scientific assessments and analysis, mitigation and adaptation measures in various sectors, preparedness for climate events and disasters including early warning systems and management of crises, reconstruction, technology needs and financing requirements.

In formulating the measures and policies, the national needs in terms of capacity-building, finance and technology will become evident in concrete and quantifiable ways. This can be the basis for demands for external support.

Another proposal is that the developing countries, in the negotiations, have an overview of the role or contribution of developing countries, and then have a coordinated position in the various fora in which this issue is discussed, i.e., the AWG-LCA, the Kyoto review, the Russian proposal and national communications.

6

Prioritization and Sequencing: Importance of Implementation of Existing Commitments

BEFORE 2013, when a new commitment period for Annex I countries starts, there are five years (2008-2012). The AWG-LCA can discuss phasing in the commitments of developed countries (in terms of their domestic actions and their obligation to assist developing countries). Confidence-building measures can be implemented in this five-year period, such as starting technology cooperation and financing as well as improving the international environment for development.

As priority, the programme for the next two years (2008-2009) should focus on: (1) concluding negotiations on the emission reduction commitments of developed countries for the second commitment period; (2) an enhanced and accelerated programme on finance and technology transfer; and (3) capacity-building in developing countries, which will formulate national mitigation and adaptation measures in the context of sustainable development.

The next two years should be the necessary phase of confidence-building in which developed countries improve their poor performance in the implementation of: (a) their reduction commitments and (b) their finance and technology obligations to developing countries. The developing countries can improve their national actions through better plans, institution-building and taking measures to deal with climate change on an urgent basis.

7

Attempts at Linkage Between Climate and Other Issues

THERE is a danger of attempts to link the climate change issue with other issues, especially trade and trade measures. One reason for any such attempts is that it is difficult to get developing countries to conform to disciplines (desired by some countries) within the UNFCCC and Kyoto Protocol. Trade measures may then be considered as a way to enforce climate-related disciplines on developing countries, including through unilateral actions.

For example, there were reports that the present French President and the EC were considering placing additional import duties on products from countries that do not fulfil obligations under the UNFCCC, or on products on the basis of their carbon or carbon-dioxide content. A variant of this is for taxes or penalties to be placed on domestically based companies for the carbon content of the products they import; this will prompt the companies to purchase from sources with lower carbon content in their products.

Such schemes are biased against developing countries because they do not have the same access to more environmentally sound technology that developed-country firms have, and thus the developing countries' products are likely to be adversely affected. Such schemes do not respect the equity principle.

World Trade Organization (WTO) rules do not allow differentiating the import duty in accordance with processes and production methods (PPMs). An attempt to negotiate changes to the rules to allow this in the mid-1990s was opposed by developing countries in the WTO.

A new attempt may be made within the climate regime to prepare the ground for such trade-related measures to be allowed, and this may be done in the context of “long-term cooperative action” (i.e., within the AWG-LCA).

Discussions may also take place originally outside the WTO, with subsequent attempts made to introduce the subject inside the WTO for a change in the rules to allow trade measures.

Attempts may also be made to link developing countries’ actions on climate change to other processes, such as bilateral aid, multilateral aid, or bilateral and regional trade arrangements.

(The next chapter will also discuss this issue.)

8

The Scope of the AWG's Work and Process

THE themes which have traditionally been discussed at the UNFCCC and Kyoto Protocol are mitigation, adaptation, finance and technology. Besides these four issues, “capacity-building” is also often discussed.

The four issues were known as the “building blocks” during the dialogue process, presumably to build confidence or to build towards long-term cooperative action.

It is expected that these four issues will be the focus of the new AWG. However, the scope of the work of the AWG has not been finalized yet. One major reason for this is that there could not be agreement in Bali on what the scope is.

At Bali, many developed countries attempted to introduce “new issues” onto the “negotiating agenda” of the UNFCCC and Kyoto Protocol. Most of these issues are not in the mandate of the Convention or the Protocol. If they are allowed to enter the discussions formally, especially through the AWG-LCA, then there is a danger that the nature and integrity of the Convention and the Protocol will be compromised. Moreover, the injection of such new issues will complicate the agenda by broadening the scope and by introducing new concepts and issues which will be controversial and which would be difficult to integrate into the existing framework.

Among the “new issues” brought up were:

- further commitments by developing countries
- a level playing field for international competitiveness
- energy security
- strengthening relations between the UNFCCC and other international organizations.

Several of these topics had been looked at with suspicion or opposed by many developing countries as being not in the mandate of the UNFCCC or not “mature” enough for negotiations. “A level playing field for competitiveness” (suggested by Japan) was seen as an attempt to introduce a link between climate and trade measures (i.e., through the argument that countries that are more energy-efficient or that have lower carbon intensity in production can slap a tariff on products from countries with inferior efficiency).

The “level playing field for competitiveness” argument is that eco-efficient countries have had to incur costs to upgrade their technology to be energy-efficient and this affects their “competitiveness” if other countries do not also incur similar costs. Thus the less efficient countries are said to be subsidizing or “dumping” eco-unfriendly products, and the eco-efficient countries should be allowed to place higher duties (like countervailing duties) on these products. This argument and the suggested measure penalizes poorer countries that do not have the funds or technology to become more eco-efficient, and if their products are blocked, then the victims of climate change will also be victims of unfair trade measures.

The issue of “energy security” was opposed on the ground that such a highly charged issue could be interpreted in different ways and, in any case, it is not in the UNFCCC mandate to become a forum for security issues. The introduction of such a major, politically charged issue in the AWG will derail the climate talks.

“Strengthening relations with other organizations” can be interpreted as a code for linking the UNFCCC to the WTO and the latter’s enforcement mechanism (dispute settlement system).

The issue of “further commitments by developing countries” is of course a most controversial topic. The proponents presumably want this issue explicitly on the agenda so that they can make the upgrading of developing countries’ role (possibly into binding or semi-binding commitments) a priority, and this could provide a handle for an attempt to change the rules of the UNFCCC and Kyoto Protocol. The related issues brought up through the Kyoto Protocol review, the Russian proposal, national communications, etc. could, together with other aspects, be brought under the heading “further commitments by developing countries”.

An annex in an initial draft of the decision on long-term cooperation had contained sub-headings with the four traditional issues (mitigation, adaptation, finance, technology) as well as a fifth heading “Other issues”, all to be filled in at Bali. The four traditional issues had many sub-issues placed under their headings. The heading “Other issues” had simply three dots placed under it, indicating that the scope of the AWG process would contain these “new issues”. (*See Annex 3 for the co-facilitators’ annex to the draft decision containing the listing of issues.*)

Because of the lack of agreement, in the end the annex was dropped altogether. Perhaps there was too little time and too much controversy on what to add or leave out in such a list that would determine the agenda of the crucial next few years. At the AWG’s first meeting, which will establish its work programme, these issues will be discussed, and the proponents of the “other issues” (actually “new issues”) are bound to once again put their proposals on the table.

This issue of scope will be one of the most important of the issues to be discussed at the first meeting of the AWG. Inclusion of these “new issues” into the AWG scope and agenda can open the road to attempts to fundamentally

alter the Convention and Protocol. Moreover, the injection of new issues would drastically dilute (and distract from) the focused attention that should be paid to the four traditional issues and to the implementation of the developed countries' commitments. On the negotiating agenda at present are the commitments of developed countries (as discussed in Chapters 3 and 4). If new issues are to enter the agenda, this would dilute the discussion on developed countries' commitments, and even dilute the commitments themselves. The other issues would give the developed countries the leverage to dilute their commitments, unless others are prepared to give them what they demand. Also, these new issues would surely complicate the negotiations and make it impossible for the process to conclude by 2009.

Lessons in this regard can be learnt from the experience of trade negotiations in the General Agreement on Tariffs and Trade (GATT) and the WTO. The nature of GATT was drastically changed with the introduction of new issues (services and intellectual property rights) in the Uruguay Round of negotiations, whose focus was to have been the reintroduction of agriculture. After the WTO was formed, its in-built negotiating agenda was another round of agriculture liberalization and further services talks. But the subsequent injection of so many more areas (investment, competition, procurement, trade facilitation, industrial tariffs) diverted attention away from agriculture and allowed the dilution of the commitments that developed countries are to make because they are able to "trade off" against their market-access demands on developing countries. The scope now is so broad and includes so many new issues that the deadline for concluding the ongoing Doha Round of negotiations has been missed repeatedly, and may be missed altogether.

9

The Link Between Global Goals and Emission Reductions of Developed and Developing Countries

THE establishment of a “long-term global goal” was a key part of the Bali meeting and will now become a major component of the AWG. Paragraph 1(a) of the decision on the Bali Action Plan states that the AWG process will address:

A shared vision for long-term cooperative action, including a long-term global goal for emission reductions, to achieve the ultimate objective of the Convention, in accordance with the provisions and principles of the Convention, in particular the principle of common but differentiated responsibilities and respective capabilities, and taking into account social and economic conditions and other relevant factors.

Long-term goals or “global targets” are phrases used by some developed countries (especially the European Union) and the UNFCCC Secretariat to mean that a consensus be formed on three global goals or targets:

- (1) temperature increase: to limit global temperature increase (e.g., to 2 degrees Celsius or less over pre-industrial levels);
- (2) greenhouse gas concentration: to limit the rise in the concentration of greenhouse gases in the atmosphere to a certain level (e.g., 450 parts per million CO₂ equivalent or less) which is associated with the target for temperature increase; and

(3) emission targets: to reduce global greenhouse gas emissions by a certain specified extent (e.g., 50% or more below 1990 levels by 2050). This is accompanied by a proposal (e.g., from the EU) for emission reduction by developed countries of 30% by 2020 and 60-80% by 2050 (below 1990 levels).

These figures are informed by the findings of the IPCC's fourth assessment report. The IPCC provides scientific estimates and ranges of figures (with degrees of probability) but does not, however, make a decision or proposal on what targets or goals should be adopted. It is for the UNFCCC to decide whether to adopt global goals and, if so, what these should be.

At Bali there was no agreement on whether to mention any global targets or goals. This was one of the contentious issues that lasted to the end. The Bali Action Plan does not explicitly mention the global numbers. However, footnote 1 linked to the fourth paragraph of the chapeau (which recognizes that deep cuts in global emissions will be required and emphasizes the urgency to address climate change) refers to certain figures in the IPCC's fourth assessment report (Working Group III).

Long-term goals will be one of the most important and controversial issues in the AWG. The subject is also fraught with major development and equity implications.

One concern on process is that the "long-term goals" above may be negotiated in one forum (the AWG-LCA under the Convention) whereas the reduction commitments of Annex I parties are negotiated in another forum (the AWG on further commitments of Annex I parties under the Kyoto Protocol).

Yet the two aspects have important links. In particular, developing countries could be indirectly committing themselves to a cut of a certain percentage in their emissions without directly being aware of this. For instance, if a global goal of 50% emission cut by 2050 is agreed to, and the AWG agrees

on a reduction by Annex I countries of 70% (mid-point of 60-80%), the implication is that developing countries have to undertake the residual emission cut.

The table in Annex 4 shows the implications for developing countries of three scenarios involving a 50% cut in global emissions by 2050 as compared to the 1990 level.

The starting point is 1990, in which total world greenhouse gas emissions were 38.6 billion tonnes, with industrial countries' emissions at 18.2 bil tonnes and developing countries' emissions at 20.4 bil tonnes. The developing countries' population was 4.1 bil people, so their average emission per capita was 5 tonnes.

In Scenario A, there is a global cut of 50% in emissions, from 38.6 to 19.3 bil tonnes, in 2050 compared to 1990. Industrial countries cut by 70% from 18.2 to 5.5 bil tonnes. The implication is that the developing countries also have to cut, in this case from 20.4 to 13.8 bil tonnes, or a 32% reduction. However, by 2050 the developing countries' population is projected (by the UN) to double to 8 bil people (from 4.1 bil in 1990). Thus their average emission per capita drops from 5 to 1.7 tonnes, or by 65%.

On the other hand, the developed countries' population is projected to be stable in the period 1990 to 2050, so their decline in per capita emission will be at the same rate as their decline in total emissions, which is 70% in this scenario. In other words, in this scenario, the developed countries' per capita emission would fall by 70% while that of developing countries would fall by 65%. The developing countries in effect would take on almost the same emission reduction burden (in per capita terms) as developed countries.

This is the scenario that is actually facing developing countries, should the 50% global cut and the 70% Annex-I-country cut be realized. A commitment to undertake emission cuts in absolute terms is in contrast to past and present

positions, that developing countries need the “environmental space” to enable them to grow, so they would need more time for emission growth, or they may aspire to reduce the growth of emissions.

Should the Annex I countries agree to an 80% cut, and bring their emissions down to 3.6 bil tonnes in 2050, the developing countries would have to cut their emissions to 15.7 bil tonnes (to make the global total of 19.3 bil tonnes). This would be a 23% cut by developing countries; their per capita emissions would be 2 tonnes (down from 5 tonnes in 1990), which would be a per capita cut of 60%. In other words, even if the Annex I countries cut their emissions by 80%, developing countries would still have to face a 60% per capita emission cut. There would not be a significant difference with Scenario A in terms of burden and burden-sharing. Should a global target be set above 50% (e.g., 60, 70 or 80%), then the developing countries would be required to undertake even sharper rates of emission cuts.

In this scenario, the developing countries face a daunting prospect. They aspire to development, which is usually accompanied by economic growth. An economic growth rate of 6-7% is a usual aspiration. It is true that a significant portion of present growth is inefficient, environmentally unsound or socially inequitable, and thus there is recognition that there has to be a shift from orthodox development to “sustainable development”. However, even sustainable development (where production and consumption patterns are altered to be environmentally friendly, and where social equity is more emphasized) requires moderately high growth rates for developing countries, especially the poorer among them.

In the past and present pattern of development, emissions are correlated with production, and thus should this pattern continue, a significant fall in emissions is associated with a corresponding fall in output. For a “decoupling” to take place, emissions would have to go down while economic growth proceeds at a similar rate. Since we are facing large numbers of change in emission, the challenge is enormous. The challenge is whether GNP growth can continue at 6-7% a year while emissions fall by 32% by 2050 or by 65%

per capita by 2050. To bridge the gap between the simultaneous continuing rise in GNP and the progressive fall in emissions is a major challenge. The gap can be narrowed only if there is sufficient finance and technology to enable the massive changes that are required in terms of energy efficiency, technological changes, the nature and use of material inputs, etc.

While the IPCC's fourth assessment report makes the science clear on the seriousness of climate change trends, why emission reductions are required and by what ranges of percentage, what is still not clear is the economic and social aspects required to translate the implications of the climate science into development policy. And what is still to be worked out is the degree and nature of international cooperation required to enable the developing countries to make their great transformation. Without assurance and confidence that the corresponding assistance from developed countries is forthcoming, it would be difficult for developing countries to make binding or semi-binding commitments to cut their emissions.

Scenario B shows the implications if developed countries were to cut their overall emissions to zero by 2050. Even in this case, the developing countries would still have to cut their total emissions by 5%, and their per capita emissions by 52%.

Scenario C asks the question: what if the target is to have the per capita emission of developing countries remain the same between 1990 and 2050? Even this would be a great challenge for developing countries, to have GNP growth of 6% (or per capita GNP growth of 4%) while keeping per capita emission at zero growth.

In this Scenario C, the developing countries' per capita emission remains at 5 tonnes. Their total emissions would almost double (grow at 95%) from 20 to some 40 bil tonnes in 2050. But the global target is a 50% cut to only 19.3 bil tonnes in 2050. For this global target to be met, the developed countries would need to have *negative emission* of 20.5 bil tonnes, i.e., to go from 18.2 bil tonnes in 1990 to minus 20.5 bil tonnes in 2050. The implications

of this need to be explored, with regard to whether a great increase in sinks is possible in both developed and developing countries, and whether developed countries can transfer resources to developing countries to carry out some of the “negative emission” activities. In Scenario C, the figures are possible targets of commitments. As in the present system under the Kyoto Protocol, as a possible option, developed countries could meet part of their target by a transfer of funds or resources to developing countries to undertake emission reduction activities.

On the other hand, the developing countries will require tremendous capacity-building, including in conceptualizing the problem in the negotiations; integrating climate issues into development planning, including the financing of public and private investments, etc.; drawing up both climate action plans and new types of development and economic plans; and implementing the plans involving various sectors.

The issue of global targets is thus linked with the following: (1) the emission reduction commitments of Annex I countries, and the setting of their targets; (2) the role or contribution of developing countries regarding emissions; (3) the demands of developing countries on finance and technology, and on capacity-building; and (4) the supply of finance and technology by developed countries.

Therefore consideration of the important paragraph 1(a) of the Bali Action Plan – to attain a shared vision of action, including a long-term global goal for emission reductions – should be done in tandem and with cross-reference to the several other related issues. The choice of figure for the “goal” should be made as part of a package in relation to the undertaking by developed countries on emission reduction, the expected role of developing countries in relation to emissions, and the provision of technology, finance and capacity-building. The goal should not be agreed to upfront without reference to these and other issues.

10

Finance

THIS is a crucial component of present and future discussions and decisions. To date the developing countries have been disappointed by the low quantum of financial resources and also by the institutional aspects. The provision of finance is not a donation but an obligation of developed countries. UNFCCC Article 4(3) states that developed countries (1) shall provide “new and additional” financial resources to meet the full cost of developing countries in complying with their obligations on national communication, and (2) shall also provide financial resources (including for technology transfer) for developing countries to meet the “agreed full incremental costs” of implementing mitigation and adaptation activities as well as management of sinks, integrating climate change into economic policies and actions, climate research, education and training, etc.

The mechanisms for implementing this, and the amounts generated, have been disappointing. There should be an assessment of these. Many developing countries have been disappointed with the Global Environment Facility (GEF), including the fact that much of its resources went to mitigation, thus neglecting adaptation. A special climate change fund and a fund for least developed countries have been established, partly in response to this criticism. Establishing other financial mechanisms is also possible, in line with Article 11(1) and Article 11(5) of the UNFCCC.

At Bali, the adaptation fund was put on its feet, with a board made up of members and agency representatives, and thus to a significant extent independent from the GEF which is to administer it. It should be noted

that the adaptation fund is financed through a 2% diversion of the proceeds going to developing countries' institutions receiving funds from the Clean Development Mechanism (CDM). Thus the funds are contributed by developing countries to other developing countries. Moreover, the funds paid for in the CDM are not financial contributions made to developing countries, but are alternative means for Annex I countries to meet their emission reduction targets.

The Bali Action Plan in paragraph 1(e) deals with enhanced action on "financial resources and investment" in consideration of six items: (1) improved access to financial resources and provision of new and additional resources; (2) positive incentives for developing countries for mitigation and adaptation action; (3) innovative funding to vulnerable countries for adaptation; (4) incentivize adaptation actions through sustainable development policies; (5) mobilizing public and private sector funding and investment towards carbon-friendly investment choices; and (6) support to capacity-building to assess adaptation costs and financial needs.

Developing countries should take the opportunity afforded by the post-Bali process to put forward an overall concept of financial needs and financial resources and institutional issues. The current over-emphasis on the CDM and carbon trading as the main "financing mechanisms" has serious drawbacks. The public sector's financial requirements (in terms of its own investment, consumption and policy work, as well as in giving directions to the private sector and the public) have been under-appreciated; needs assessment should be carried out and the appropriate financial mechanisms (including existing ones but also with the option of additional ones), with the required flows, should be discussed as a major component of the AWG's work programme.

Methods other than cap-and-trade (such as taxes towards a fund which can be used to finance investments for new climate-friendly development in developing countries) should be seriously explored.

11

Technology

DEVELOPING countries have been strongly critical of the lack of technology transfer under the UNFCCC. An expert group on technology under the SBSTA has produced reports. However, there have not been technology flows on concessional grounds arranged under the UNFCCC. At Bali, the discussions on technology in various fora (SBI, SBSTA) were heated. Decisions on technology were finally obtained in these two bodies, after the talks had initially broken down. The Bali Action Plan links the mitigation actions of developing countries to technology provision and finance, all of these items in a “measurable, reportable and verifiable” manner. Thus a monitoring mechanism to regularly assess the implementation of the developed countries’ obligations on technology transfer can be set up.

The Bali Action Plan also has a paragraph 1(d) on enhanced action on technology development and transfer. It has four sub-paragraphs, covering: (1) mechanisms and means to remove obstacles to (and provide incentives for) technology development and transfer; (2) ways to accelerate development, diffusion and transfer of affordable technologies; (3) cooperation on research and development (R&D) of current, new and innovative technology; and (4) technology cooperation in specific sectors.

Developing countries should coordinate and consider proposals and actions on technology, including:

1. Establishing a programme to identify the technologies that are needed, that are available and at what cost to developing countries.

2. Having an agreement on the primacy of the principle that developing countries should have access to climate-friendly technology at affordable prices.
3. Technologies that are in the public domain should be made available to developing countries as quickly and easily as possible.
4. The role that intellectual property rights (IPRs) play in the issue of access to technology at affordable prices should be considered. On technologies that are patented, IPRs should not stand in the way of access to affordable technology for developing countries. Options include the following. For existing technologies that are patented, developed countries should provide incentives to their companies to allow developing countries to have licences to use the technologies at the lowest possible cost (e.g., voluntary licences without royalty or at low royalty). For technologies that are being developed, patents should not be obtained in developing countries. For technologies that are publicly funded, there should also not be patents granted in relation to developing countries. Patents on new technologies may be granted in developed countries, but developing countries should be allowed to exempt them from patenting. Developing countries should be allowed to exercise their rights under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to have compulsory licences in relation to patented climate-friendly technologies, without their being subjected to pressures by the developed countries.
5. Developing countries should be assisted in undertaking R&D and developing their own technologies.
6. Technology assessment is an integral and essential part of technological development in developing countries. Developing countries should be assisted in developing the capacity for assessing technologies with economic, social, safety and environmental criteria.

12

Capacity-Building and Technical Assistance

CAPACITY-BUILDING in developing countries is essential if they are to play their role. The capacities that need to be developed include the following:

- (a) strengthening of capacity for collection of climate data and information at national and local levels;
- (b) building capacity for better interpretation of data;
- (c) adaptation capacity, i.e., national and community capacities to respond to climate events;
- (d) capacity to develop, implement and monitor national climate policy;
- (e) capacity-building of each ministry and department and national coordination;
- (f) building capacity for the development of sectoral (industry, agriculture, services) and thematic (e.g., energy, building, forestry) plans;
- (g) capacity to ensure integration of climate concerns into national development and economic plans;
- (h) capacity to plan and obtain financial and technological resources and to train human resources; and
- (i) improvement of negotiating capacity, perhaps by the creation of permanent climate delegations.

13

A Development Agenda for Climate: Development Coherence and Pathways

TO adapt to climate change concerns is especially challenging for developing countries, as there is a major risk that their development will be compromised or even severely damaged if the global framework of action is not oriented to enabling them to attain development goals while embarking on new climate-friendly pathways.

Thus it is in the interests of developing countries to demand the following:

- (1) Coherence of climate measures with development. In the interpretation of “coherence”, what is important is whether the issues or actions cohere upon the right principle and basis. That central basis should be development and fairness for developing countries.
- (2) Establishment of an international development architecture and environment conducive to developing countries’ attainment of climate and development goals.
- (3) Establishment of national sustainable development pathways that maintain the attainment of development goals while adhering to climate-friendly methods.

The UNFCCC and in particular the post-Bali process should be guided by a general and comprehensive “development dimension”. There should be a Development Agenda in the UNFCCC.

On development coherence, there is a national dimension (that tackling climate change must be consistent with and not at the expense of meeting development goals) and an international-cooperation dimension (that undertaking this difficult national task would be impossible unless there is a reform of the way the international economic system and institutions work).

Developing countries require massive financial flows (this has implications for the aid and finance systems) and massive transfer of technology (which requires a huge technology cooperation programme and changes to the normal workings of the global IPR system).

Moreover, developing countries have to develop national resilience to climate change in order to withstand climate-related events and trends; this implies strong national economies. This in turn requires changes in attitude on the part of developed countries that pressurize developing countries to open their markets to the developed countries' products and speculative financial flows.

Developing countries require a major boost to the international development agenda if they are to successfully cooperate in the international effort to curb climate change.

Regarding new development pathways that are climate-friendly, this is to embark on uncharted territory. Developing countries are asked to switch to:

- (1) new emission pathways which would reduce the business-as-usual emission growth (or even absolute levels of emissions);
- (2) more energy-efficient and climate-friendly energy pathways; and
- (3) economic development pathways which should include: (a) sectoral pathways – agriculture, industry, services; (b) the design and operation of

government budgets and of five-year development plans; (c) external trade and the balance of payments; and (d) changes in the micro-economy, e.g., the adjustments needed by enterprises, farmers, etc.

The challenge is how to reduce the growth of emissions while at the same time maintaining the growth necessary for development. It cannot be assumed that this is an automatic or easy task; on the contrary, it is a most difficult task fraught with dangers. The developing countries have to build their capacity to deal with this challenge.

14

The Process

DEVELOPING countries face many challenges in the post-Bali process, and they are at a disadvantage compared to developed countries. The problems include the following:

- There is a tight and time-pressured time-table, with four meetings of the AWG-LCA in 2008 and the same or even more hectic rate in 2009. The developing countries' capacity in terms of delegates, finance and preparations is too limited to enable adequate participation.
- This is compounded by the fact that there is limited expertise in developing countries on climate issues and on the relation between climate and development.
- The persons who represent developing countries mainly come from their respective capitals. There is no focal place where all the developing countries' negotiators are located, such as Geneva for trade issues, or New York for general political and development issues. It is thus difficult for a coordinated position to be developed among the developing countries.
- The negotiating "format" and process has become less participatory and transparent. In Bali, only selected countries were allowed to enter the room for selected contact groups, especially the group discussing long-term cooperation. This led to unpleasant incidents and scenes of security guards turning away delegates. It is not clear on what basis the countries were chosen, or even which were the selected countries. There was also

a perception among some members of the G77 and China of the lack of neutrality of the Secretariat, as was clear in the plenary of the final day (see Chapter 5).

These weaknesses and obstacles should be dealt with, so that the developing countries can have a fair representation and participation in the process.

Annex 1

Bali Action Plan

Decision 1/CP.13 adopted by the 13th session of the Conference of the Parties to the UNFCCC, held in Bali on 3-15 December 2007

The Conference of the Parties,

Resolving to urgently enhance implementation of the Convention in order to achieve its ultimate objective in full accordance with its principles and commitments,

Reaffirming that economic and social development and poverty eradication are global priorities,

Responding to the findings of the Fourth Assessment Report of the Intergovernmental Panel on Climate Change that warming of the climate system is unequivocal, and that delay in reducing emissions significantly constrains opportunities to achieve lower stabilization levels and increases the risk of more severe climate change impacts,

Recognizing that deep cuts in global emissions will be required to achieve the ultimate objective of the Convention and emphasizing the urgency¹ to address climate change as indicated in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,

1. *Decides* to launch a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at its fifteenth session, by addressing, inter alia:

¹ Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, Technical Summary, pages 39 and 90, and Chapter 13, page 776.

- (a) A shared vision for long-term cooperative action, including a long-term global goal for emission reductions, to achieve the ultimate objective of the Convention, in accordance with the provisions and principles of the Convention, in particular the principle of common but differentiated responsibilities and respective capabilities, and taking into account social and economic conditions and other relevant factors;
- (b) Enhanced national/international action on mitigation of climate change, including, inter alia, consideration of:
- (i) Measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances;
 - (ii) Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner;
 - (iii) Policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries;
 - (iv) Cooperative sectoral approaches and sector-specific actions, in order to enhance implementation of Article 4, paragraph 1(c), of the Convention;
 - (v) Various approaches, including opportunities for using markets, to enhance the cost-effectiveness of, and to promote, mitigation

actions, bearing in mind different circumstances of developed and developing countries;

(vi) Economic and social consequences of response measures;

(vii) Ways to strengthen the catalytic role of the Convention in encouraging multilateral bodies, the public and private sectors and civil society, building on synergies among activities and processes, as a means to support mitigation in a coherent and integrated manner;

(c) Enhanced action on adaptation, including, inter alia, consideration of:

(i) International cooperation to support urgent implementation of adaptation actions, including through vulnerability assessments, prioritization of actions, financial needs assessments, capacity-building and response strategies, integration of adaptation actions into sectoral and national planning, specific projects and programmes, means to incentivize the implementation of adaptation actions, and other ways to enable climate-resilient development and reduce vulnerability of all Parties, taking into account the urgent and immediate needs of developing countries that are particularly vulnerable to the adverse effects of climate change, especially the least developed countries and small island developing States, and further taking into account the needs of countries in Africa affected by drought, desertification and floods;

(ii) Risk management and risk reduction strategies, including risk sharing and transfer mechanisms such as insurance;

(iii) Disaster reduction strategies and means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change;

- (iv) Economic diversification to build resilience;
 - (v) Ways to strengthen the catalytic role of the Convention in encouraging multilateral bodies, the public and private sectors and civil society, building on synergies among activities and processes, as a means to support adaptation in a coherent and integrated manner;
- (d) Enhanced action on technology development and transfer to support action on mitigation and adaptation, including, inter alia, consideration of:
- (i) Effective mechanisms and enhanced means for the removal of obstacles to, and provision of financial and other incentives for, scaling up of the development and transfer of technology to developing country Parties in order to promote access to affordable environmentally sound technologies;
 - (ii) Ways to accelerate deployment, diffusion and transfer of affordable environmentally sound technologies;
 - (iii) Cooperation on research and development of current, new and innovative technology, including win-win solutions;
 - (iv) The effectiveness of mechanisms and tools for technology cooperation in specific sectors;
- (e) Enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation, including, inter alia, consideration of:
- (i) Improved access to adequate, predictable and sustainable financial resources and financial and technical support, and the provision of new and additional resources, including official and concessional funding for developing country Parties;

(ii) Positive incentives for developing country Parties for the enhanced implementation of national mitigation strategies and adaptation action;

(iii) Innovative means of funding to assist developing country Parties that are particularly vulnerable to the adverse impacts of climate change in meeting the cost of adaptation;

(iv) Means to incentivize the implementation of adaptation actions on the basis of sustainable development policies;

(v) Mobilization of public- and private-sector funding and investment, including facilitation of carbon-friendly investment choices;

(vi) Financial and technical support for capacity-building in the assessment of the costs of adaptation in developing countries, in particular the most vulnerable ones, to aid in determining their financial needs;

2. *Decides* that the process shall be conducted under a subsidiary body under the Convention, hereby established and known as the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, that shall complete its work in 2009 and present the outcome of its work to the Conference of the Parties for adoption at its fifteenth session;

3. *Agrees* that the process shall begin without delay, that the sessions of the group will be scheduled as often as is feasible and necessary to complete the work of the group, where possible in conjunction with sessions of other bodies established under the Convention, and that its sessions may be complemented by workshops and other activities, as required;

4. *Decides* that the first session of the group shall be held as soon as is feasible and not later than April 2008;

5. *Decides* that the Chair and Vice-Chair of the group, with one being from a Party included in Annex I to the Convention (Annex I Party) and the other being from a Party not included in Annex I to the Convention (non-Annex I Party), shall alternate annually between an Annex I Party and a non-Annex I Party;
6. *Takes note* of the proposed schedule of meetings contained in the annex;
7. *Instructs* the group to develop its work programme at its first session in a coherent and integrated manner;
8. *Invites* Parties to submit to the secretariat, by 22 February 2008, their views regarding the work programme, taking into account the elements referred to in paragraph 1 above, to be compiled by the secretariat for consideration by the group at its first meeting;
9. *Requests* the group to report to the Conference of the Parties at its fourteenth session on progress made;
10. *Agrees* to take stock of the progress made, at its fourteenth session, on the basis of the report by the group;
11. *Agrees* that the process shall be informed by, inter alia, the best available scientific information, experience in implementation of the Convention and its Kyoto Protocol, and processes thereunder, outputs from other relevant intergovernmental processes and insights from the business and research communities and civil society;
12. *Notes* that the organization of work of the group will require a significant amount of additional resources to provide for the participation of delegates from Parties eligible to be funded and to provide conference services and substantive support;

13. *Strongly urges* Parties in a position to do so, in order to facilitate the work of the group, to provide contributions to the Trust Fund for Participation in the UNFCCC Process and the Trust Fund for Supplementary Activities for the purposes referred to in paragraph 12 above and to provide other forms of in kind support such as hosting a session of the group.

ANNEX

Indicative timetable for meetings of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention in 2008

Session	Dates
Session 1	March/April 2008
Session 2	June 2008, in conjunction with the twenty-eighth sessions of the subsidiary bodies
Session 3	August/September 2008
Session 4	December 2008, in conjunction with the fourteenth session of the Conference of the Parties

Annex 2

Report on the Bali Climate Conference

Bali conference ends, new group to take up unresolved issues

Published in South-North Development Monitor, 17 December 2007

By Martin Khor in Nusa Dua, Bali, 16 December 2007

The Bali Climate Change Conference concluded dramatically one day late on Saturday (15 December) afternoon after a dramatic day of events. The day (as the night before) was filled with the tension of deal making and deal breaking.

It saw tempers rising to boiling point, an accusation of mismanagement by the Secretariat that led to its top official taking leave temporarily in tears, a direct intervention by the UN Secretary-General and the Indonesian President to appeal to the countries to make a final deal, and a seemingly recalcitrant United States holding the entire meeting to ransom, before several dramatic and angry appeals led finally to its announcement that it would “join the consensus”.

In the end, the conference agreed to launch a “comprehensive process” to tackle a long list of issues, including how to mitigate and adapt to climate change, as well as provide the financial resources and technology to developing countries to do so.

The Bali conference marked the fact that all the governments present accepted the scientific findings that global warming is “unequivocal” and that delay in reducing emissions increases the risk of more severe climate change impacts. At previous meetings of the UN Framework Convention on

Climate Change (UNFCCC), it was still being debated by a few governments whether climate change is really occurring or how serious it is.

The most significant result at Bali was the creation of an ad hoc working group on long-term cooperative action to discuss a wide range of issues under the four “building blocks” of mitigation, adaptation, finance and investment, and technology transfer.

Despite its low-key name, the group will carry much of the power of the UNFCCC in the next two years, and the talks it will hold (whether they take the form of formal negotiations or informal dialogues or probably a combination of the two) may well shape the structures and content of climate politics and also have ramifications for global economic and development issues, besides a range of environmental issues.

What was left out in the final document was as important as what managed to get in, after the many hours of wrangling. At least three controversial issues have been set aside for the time being, because there was no consensus, but are bound to reappear when the group convenes its first meeting in March or April.

The first is whether issues other than the four building blocks will be included in the agenda of the group. Many developed countries had proposed topics such as the further commitments or contributions of developing countries, a level playing field for economic competitiveness, energy security and stronger cooperation with other international organizations (which some saw as meaning the WTO, among others).

Several of these topics had been looked at with suspicion or opposed by many developing countries as not being in the mandate of the UNFCCC or not “mature” enough for negotiations. An annex in an initial draft had contained sub-headings with the four traditional issues (mitigation, adaptation, finance, technology) as well as a fifth heading “Other issues”, all to be filled in at Bali.

But in the end, the annex was dropped altogether. Perhaps there was too little time and too much controversy on what to add or leave out in such a list that would determine the agenda of the crucial next years. At the group's first meeting, which will establish its work programme, these issues will be discussed, and the proponents of the "other issues" (actually "new issues") are bound to put their proposals again on the table.

The second is whether the new process will lead to a new "comprehensive" agreement (which is what many developed countries said they wanted), or whether the existing treaties governing climate change – the UNFCCC and its Kyoto Protocol – will be retained largely unscathed and the focus will be on strengthening the implementation of decisions already adopted but not implemented (this is favoured by the G77 and China).

The developed countries made it clear that they want to radically change or replace the Kyoto Protocol and even parts of the Convention. The developing countries are deeply suspicious of this intention, as the two treaties are relatively friendly to their interests.

Under these present treaties, the developing countries do commit to take measures to fight climate change but they are not obliged to undertake legally binding emission reduction targets, and their efforts are conditioned by the extent to which the developed countries provide finance and technology.

Throughout the two weeks' talks in Bali, the United States, Japan, Canada, the European Union and Russia continually pressed the developing countries to take on more obligations. Some called for binding reduction commitments.

In the final outcome, there was no mention that the working group would come up with a new "agreement", but the pressures to alter some of the basic tenets of the existing treaties will resume at the group.

Many of the developing countries, in contrast, are adamant that the existing commitments of developed countries to their own emission reduction, and to providing finance and technology, be implemented, hence the emphasis placed by the G77 and China on a work programme on technology inside the Subsidiary Body for Implementation, and on the monitoring of the finance and technology obligations through “measurable, reportable and verifiable” means.

Thirdly, the Bali document does not set a global target of reduction of greenhouse gases, nor a target for developed countries.

Originally, a 50% global cut by 2050 was proposed, and later the phrase “well below half” was used. The Europeans and non-governmental organizations (NGOs) were also pushing strongly for mentioning an “indicative range” of 25-40% emission cuts by 2020 (from 1990 levels) for developed countries.

But strong objections from the United States led to the removal of any figures. The battle between the US on one side and the Europeans (supported by the G77 and China) on the other side became the most politically charged exercise in the Bali conference’s last two nights and days. In the end, a footnote referring to the related data and targets from the Intergovernmental Panel on Climate Change was placed in the text as a compromise.

The main criticism against the US in Bali was the watering down of the text relating to the scientific facts. Another prominent criticism was over its unreasonable demands on the developing countries, an attitude that led to the final dramatic exchanges on the plenary floor.

In the last two days in particular, the US became everyone’s (including former Vice President Al Gore’s) favourite target. On 13 December night, on the very eve of the scheduled conference closure, when things were supposed to be tidied up, the US threw in a bombshell of a proposal to amend the paragraphs on mitigation.

It wanted to do away with the present distinction between developed and developing countries, which is a fundamental tenet in the UNFCCC, and it suggested new ways of categorizing countries (for the all-important purpose of allocating mitigation responsibilities) according to emissions, energy use and levels of development. The US also advocated non-binding action, which would overthrow the principle and practice of binding emission reductions of developed countries.

The American proposal was rejected by the Europeans and the developing countries. It also caused intense outrage among the NGOs, which saw it as a ploy to wreck the Bali meeting and move in the US' own rival non-binding approach through continued meetings of its "Major Economies" initiative.

This threat was eventually deflected. Perhaps the biggest achievement of Bali was the ability of the rest of the world to contain the US, get it to withdraw its proposal and, on the final day, pull it into accepting a consensus. The last was done by the other governments, supported from the floor by applause and boos from the NGOs.

In the end, the US agreed to take (or at least discuss) its own emission reduction commitment under the UNFCCC umbrella, although it had pulled out of the Kyoto Protocol (which is where the legally binding targets for emission reduction by developed countries are set).

How to engage with the US, in process and substantially, will be a major challenge in the working group. Most delegates (governments and NGOs) openly hope that the next US administration will act differently than the present one, and a kind of one-year "holding position" in which to continue engagement with the US until change happens will be one of the delicate acts of the new working group.

The Bali outcome launches a comprehensive process to enable the full implementation of the Convention through long-term cooperative action

up to and beyond 2012 in order to reach an agreed outcome. It addresses several issues that are then described.

The first two items, covered in paragraph 1b(i) and paragraph 1b(ii), drew much of the energy and attention of the delegations in the final two days, right up to the end.

Paragraph 1b(i) deals with the mitigation actions of developed countries. The final text is as follows: “Measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances.”

This is weaker than the previous text which in straightforward fashion asked for “Quantified national emission limitation and reduction commitments... by all developed country Parties...” The US had objected to this language and to the reference to the efforts by parties to the Kyoto Protocol in the previous text.

The final compromise was accepted by all as a means to get the US on board. The US had to abandon its proposal for a non-binding multilateral system that did not specifically categorize countries as developed or developing.

Paragraph 1b(ii) deals with the mitigation actions of developing countries. The final text reads: “Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner.”

A large part of the drama of the final day was led by the G77 and China in their striving to get this language. According to G77 sources, this paragraph had been agreed to in long talks of the previous night in a small contact group of ministers and officials. At the least it had been understood that the

G77 would be given the opportunity to put in an amendment to a previous text which would be bracketed to denote that there was no consensus and therefore that delegates could propose amendments.

But on Saturday morning, to the shock of the members of the G77 and China, an un-bracketed text appeared which had the words “measurable, reportable and verifiable” up front, and which thus implied that only the mitigation actions by developing countries were referred to in this way. The G77 and China wanted both these and the actions by developed countries to provide technology and finance to be “measurable, reportable and verifiable”.

When behind-the-scenes consultations between ministers and officials from China, India and Pakistan with the Indonesian Foreign Minister were taking place, the President of the Conference of the Parties, the Indonesian Environment Minister, opened the plenary and placed this most sensitive document for adoption.

This was objected to on procedural grounds by the G77 and China members. After suspension of the plenary, it was reconvened with the aim of adopting the draft decision, at which point China angrily asked why this was happening a second time when high-level consultations were still going on, and demanded an apology from the Secretariat.

The UN Secretary-General and the Indonesian President made a dramatic entry and pleaded for flexibility and decisive action. When the plenary finally convened, the G77 and China asked for their amendment to be adopted, i.e., that the words “measurable, reportable and verifiable” be placed at the end and not at the start of the sentence.

The EU said that it could accept the change. But the US said that it could not and wanted further consultations to be held. The hall gave out a loud boo, which is quite unprecedented in a diplomatic setting. Many developing countries spoke out, including South Africa’s Environment Minister who gave an eloquent response.

Some developing countries reminded the hall that the paragraph marked an important step forward for developing countries to undertake new mitigation responsibilities. Most effective of all was the plea from the heart by Papua New Guinea, which told the US delegation that everyone was looking to it for leadership and that it should now “either take the lead or get out of the way!”

In the end, swamped by criticisms and appeals from all sides, in the glare of the world media, the US gave in, and the Bali conference could then proceed to its end.

No country got from Bali what it really wanted, and no one was forced to take on something it found unacceptable. But many of the battles that were fought here were not settled and the ball is now at the feet of the new working group. It will meet in March/April 2008 and three other times next year. The work programme can be expected to be even more intense in 2009, when it is mandated to reach a decision.

Annex 3

Indicative non-exhaustive list of issues raised that may be relevant to the work programme

[NOTE: This document was an annex to a draft of a decision prepared by the co-facilitators of the contact group on long-term cooperative action. The four issues here of mitigation, adaptation, finance and technology are the usual issues or “building blocks” discussed at the UNFCCC. “Other issues” refer to proposals by some delegations to include new issues other than the traditional four. This annex was eventually removed from the final decision adopted at Bali.]

SHARED VISION

- operationalization of ultimate objective
- success criteria for adaptation

MITIGATION

- relevance of national circumstances, relevance of national capabilities
- explore new types of contributions by developing countries
- possible use of SD PAMs
- possible use of no-lose targets/commitments
- possible new commitments reflecting Convention principles/national contributions/type and ambition levels
- role and structure of positive incentives for action by developing countries
- enhancing/strengthening implementation of existing commitments under Article 4.1
- regional and national renewable energy targets
- aviation and maritime transportation/other sectors
- realizing the full potential of land use, land use change and forestry

- realizing the full potential of market-based approaches/strengthening and extension of the global carbon market
- diversity of approaches/bottom-up approach
- public-private partnerships
- means to support national actions/capacity building

ADAPTATION

- means to address needs of vulnerable countries
- means to enhance adaptive capabilities of developing countries/capacity building/knowledge/vulnerability studies
- predictable and adequate funding/new commitments on funding and timetables
- quantification of financial needs
- approaches to climate resilient development/building into national development planning
- technology/TT
- risk management instruments/insurance
- linkages between mitigation and adaptation
- enhance international cooperation/role of international organizations
- expansion of market-based approaches/economic instruments
- economic diversification
- fast-tracking adaptation funding
- international mechanism to link emissions to adaptation funding
- rapid response measures for disaster relief

FINANCE AND INVESTMENT

- implementation of existing commitments
- scaling up of financial flows/new innovative sources of finance/levy on carbon market transactions
- improve access to finance and streamline disbursement arrangements
- continuation and expansion of the market based mechanisms
- private and public investment
- optimization/complementarity of sources of funding
- role of venture capital

- enabling frameworks/market signals
- attention to adaptation/adaptation needs
- availability of external expertise/input from business

TECHNOLOGY

- implementation of existing commitments on transfer of technology/
scale-up from TNAs to programmes of implementation
- incentives for TT/adequate financial resources for TT/mechanism for
review of TT
- effective use of existing technology
- scaling-up of R&D, deployment, diffusion
- technology cooperation and transfer mechanisms
- role of governments in funding and regulation
- role of private sector/reducing barriers to the transfer/deployment of
low-emission technologies
- impact of DPRs
- creative approaches
- accelerating commercialization
- win-win technologies that reduce impact of response measures
(CCS)
- enabling environment/market signals

OTHER ISSUES

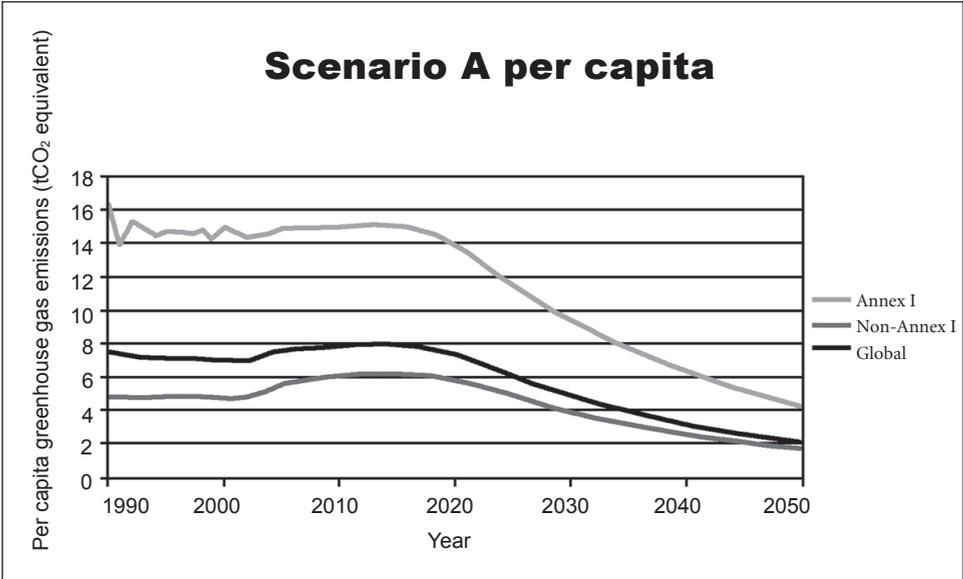
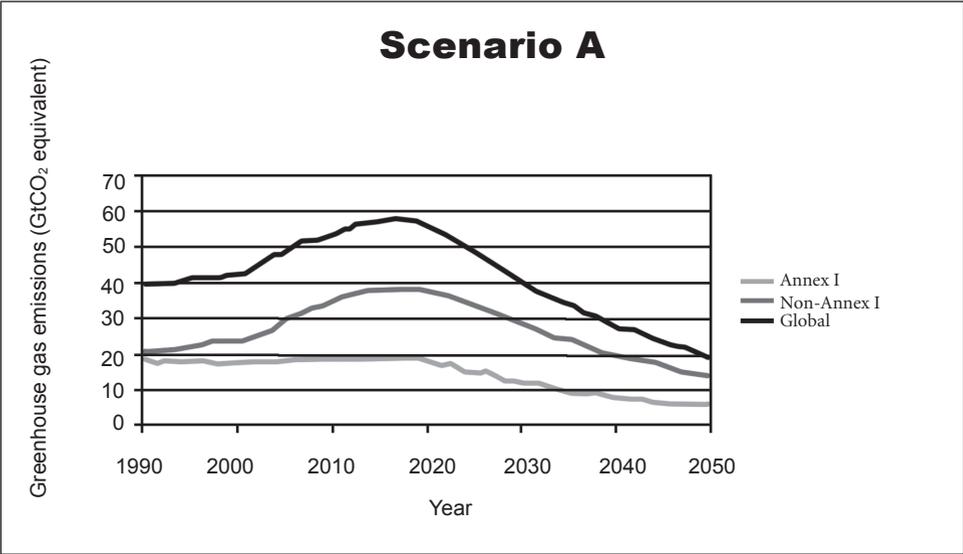
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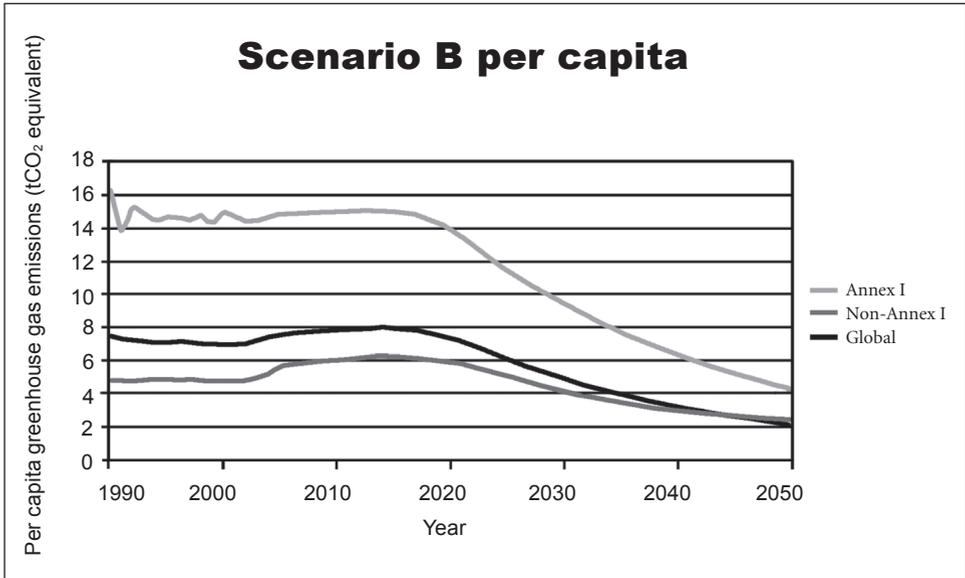
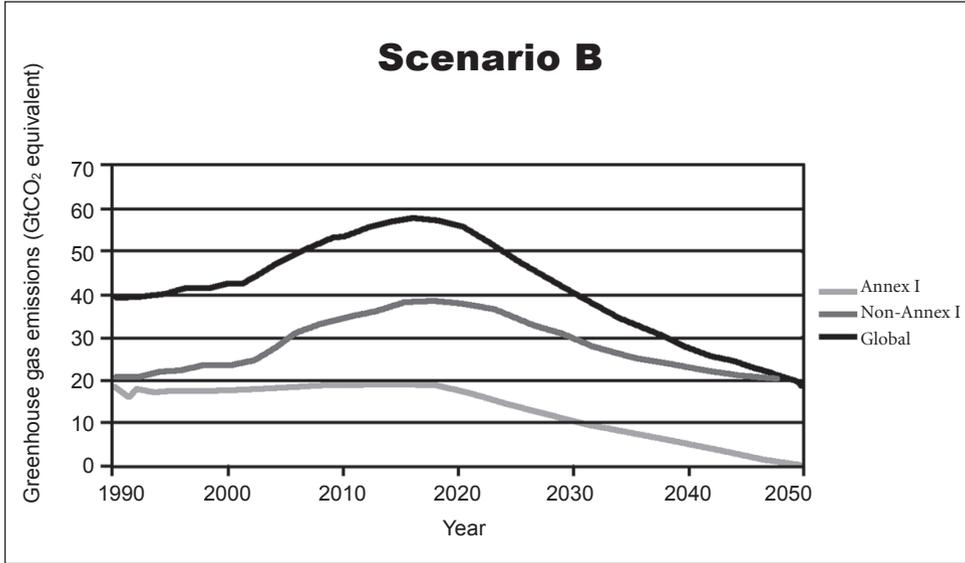
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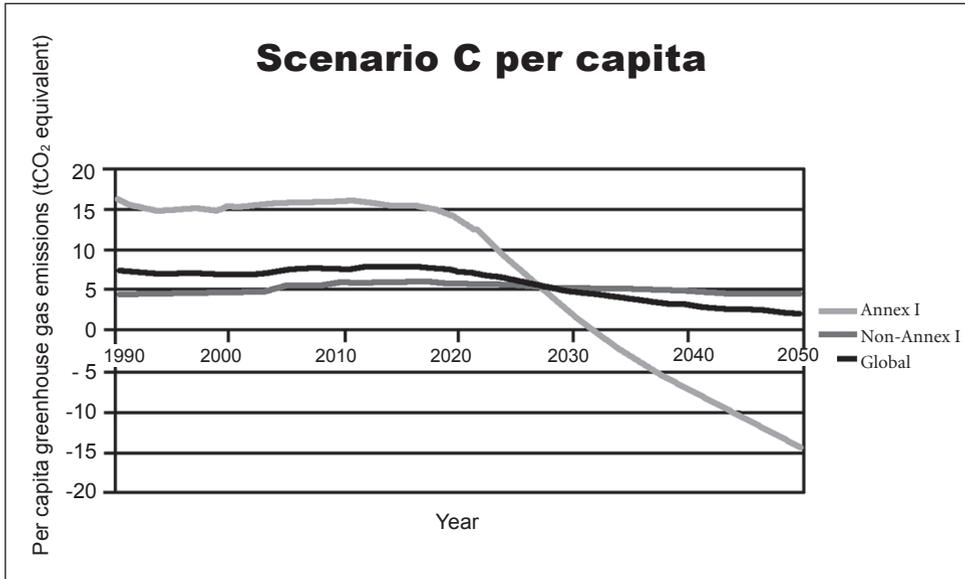
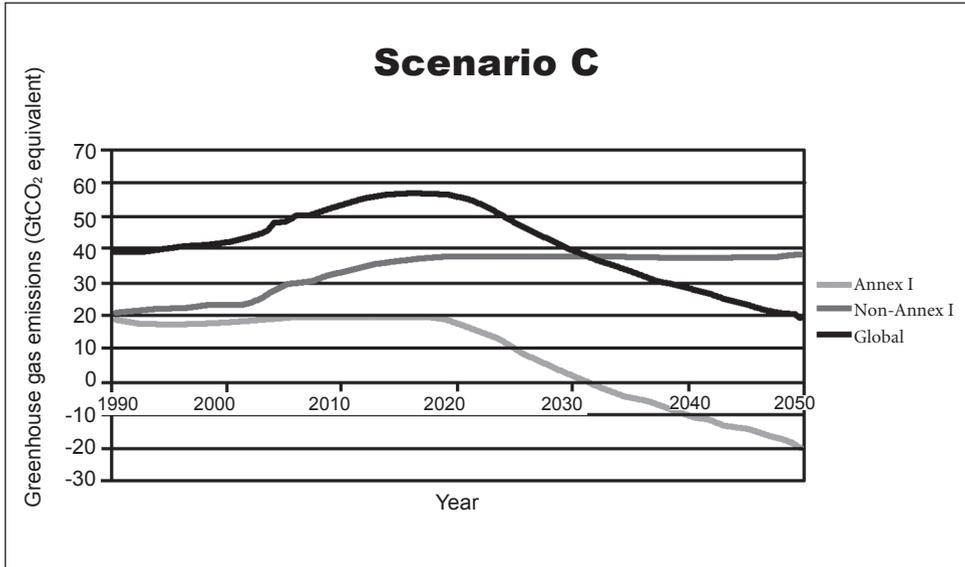
Scenarios if developing countries are to have more “environmental space” for development

Scenario	Year	Total greenhouse gas emissions (billion tonnes)	Industrial countries' emissions (billion tonnes)	Developing countries' emissions (billion tonnes)	Population of developing countries (billion)	Developing countries' emissions per capita (tonnes)
A: Current proposal	1990	38.6	18.2	20.4	4.1	5.0
	2050	19.3	5.5	13.8	8.0	1.7
	Percent below 1990 in 2050	50%	70%	32%	Doubles	65%
B: 100% cut by industrial countries	1990	38.6	18.2	20.4	4.1	5.0
	2050	19.3	0.0	19.3	8.0	2.4
	Percent below 1990 in 2050	50%	100%	5%	Doubles	52%
C: No per capita cut for developing countries	1990	38.6	18.2	20.4	4.1	5.0
	2050	19.3	-20.5	39.8	8.0	5.0
	Percent below 1990 in 2050	50%	-113%	(95%)	Doubles	0%
			Negative emission of 20.5b tonnes required, i.e., 100% cut + 113% offset of greenhouse gases	Effective doubling of absolute emissions to enable same per capita emission		

ACKNOWLEDGEMENT: The emissions figures in the third to fifth columns of the table above were obtained with the assistance of Paul Baer, Research Director, EcoEquity, who also prepared the following graphs, which are derived from the data in the table.







SOME KEY ISSUES FOR THE POST-BALI CLIMATE PROCESS

MEETING in Bali, Indonesia in December 2007, government delegates from over 180 countries agreed on the broad outlines of a work programme to deal with the climate change crisis under the United Nations Framework Convention on Climate Change. This paper addresses the issues that are set to figure prominently in the discussions mandated by the Bali Action Plan: measures to mitigate and adapt to climate change, and the provision of finance and technology to support these measures.

Written shortly after the Bali meeting, this paper stresses that the post-Bali discussions should focus in particular on the implementation by developed countries of their existing commitments under the UN climate change regime to:

- cut emissions of the greenhouse gases responsible for global warming, and
- support developing countries' mitigation and adaptation actions with the adequate financial and technological resources.

The post-Bali talks should also aim at assisting developing countries to advance towards the goal of economic and social development along new, climate-friendly pathways. A fair and sustainable relation between developing and developed countries must be the bedrock of a successful set of decisions.

MARTIN KHOR is the Director of the Third World Network. An economist trained in Cambridge University, he is the author of several books and articles on trade, development and environment issues.

TWN CLIMATE CHANGE SERIES

is a series of papers published by Third World Network on the climate change crisis which, if not dealt with rapidly and adequately, will overwhelm the world's environment and economy. At the same time, the solutions and actions have to be based on equity, so that those responsible for emissions and those that are able to contribute most will take their rightful share of the burden of adjustment, while all countries move to the path of sustainable development. The series aims at contributing to highlighting the issues and the solutions.

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