

# E3G Briefing - The Durban Package



E3G

## Strategic Context

After the disappointment of Copenhagen, Cancun secured a lifeline outcome for the negotiations and reaffirmed the UNFCCC as the primary venue for managing climate risk. Durban must build on the trust and momentum from Cancun to set out a pathway to secure a global deal. The world is not yet ready to conclude all aspects of the negotiation this year. However, the stakes at Durban remain high. The current political cycles and the next IPCC scientific review provide an opportunity to set up the battlefield now for the next ‘political moment’ in 2015.

We do not have time to throw away the existing architecture and start again from scratch. The International Energy Agency (IEA) has warned that the world only has a five years to create a system to put us on a below 2°C trajectory. There is no magical institutional architecture waiting to be discovered that isn’t already compatible with a reformed version of the Kyoto Protocol. The architecture is working, but the politics are not. Durban is not about lowering ambition, but shifting it to when we can win. Durban is the moment when the world should set out the pathway and agree the terms of the debate to deliver a below 2°C future.

Success at Durban will rest on three main pillars:

- A **second commitment period of the Kyoto Protocol** for as many parties as possible;
- A **mandate to conclude negotiations** on a protocol or other legally binding instrument under the long-term cooperative action track **by 2015 linked to robust terms of reference to the review of adequacy**; and
- A decision (or set of decisions) **operationalising the Cancun agreements**. The main elements of which will be the Green Climate Fund, the system of Measurement Reporting and Verification (MRV) of mitigation and finance, the Technology Mechanism and the Adaptation Committee

## The Pillars

**The second commitment period of the Kyoto Protocol** - The first commitment period of the Kyoto Protocol (KP) expires at the end of 2012. Abandoning Kyoto would remove legally binding options from the table, and lock-in a non-binding pledge and review process. The future of Kyoto matters because it provides a benchmark for trust, transparency and accountability to balance any future outcome to cover all major emitters. A second commitment period is necessary to provide credibility for continued investment from the private sector. European leadership will be critical in Kyoto continuing. In addition, Kyoto embodies an emotional legacy within the climate negotiations, and is a core priority for developing countries. This means that Europe is in a stronger position than it perceives itself and can play a central role in brokering the final outcome. Beyond Europe other current Annex I countries such as Australia, Norway, Switzerland, New Zealand, Japan and Canada should also be pressured to join a second commitment period. Given the tight timescales it is likely that any new commitment period would have to begin under a provisional application. However, it is essential that this becomes more than just a “political commitment” similar to the Copenhagen Accord, and formal ratification should follow no later than 2015.

**The Mandate** – The mandate must provide a clear timeline and commitment to deliver a protocol or other legally binding instrument which covers all UNFCCC Parties. This will set the agenda and rhythm for future negotiations which should begin immediately in 2012 and conclude no later than 2015. Beyond the timeline and legal nature of the instrument there remain significant differences in countries positions on the level and symmetry of commitments, equity and entry into force. Success in Durban depends on not trying to pre-negotiate all aspects of the final deal. Instead these issues should form the basis of the negotiations that must happen over the next 2-3 years. However, the mandate must also be careful not to lock-in failure and preclude revisiting ambition. Since current targets are not sufficient to put us on a below 2°C pathway a process to raise ambition in 2015 and drive increased action before 2020 is vital. **The Review of Adequacy will be central in achieving this.** Cancun opened up a pathway to ambition in securing agreement on a review of adequacy of countries commitments. In Durban, agreement on the terms of reference for the review will need to be secured. Ensuring the review has a balance between a workable mandate as well as an ambitious one is vital.

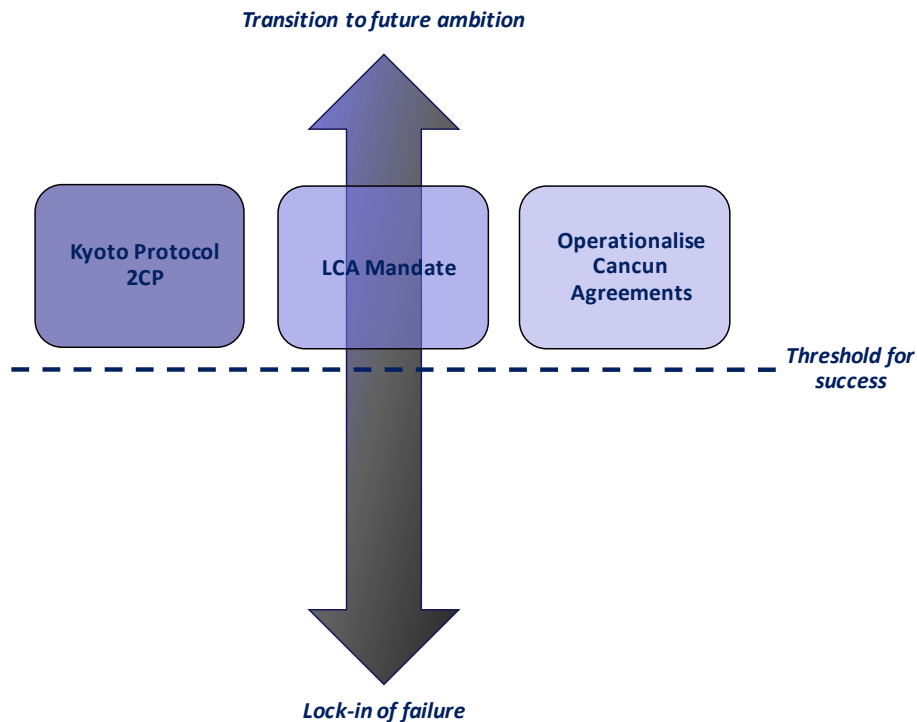
**Operationalising the Cancun Agreements** – Durban must build on the momentum of Cancun to make the mechanisms under the Cancun Agreements operational. These mechanisms will help form the foundation of any future regime. Copenhagen struggled with the complexity of trying to forge all aspects of a deal in one go. By putting in place the building blocks covering the Green Climate Fund (GCF), the technology mechanism, Adaptation Committee and measurement reporting and verification (MRV) we will increase the chances of success in 2015. Although all aspects of the Cancun Agreement are important the most contentious issues at Durban are likely to be the GCF and MRV:

- **The Green Climate Fund (GCF)** – the operationalization of the GCF will be a decisive factor in determining the success or failure of Durban, in particular for many developing countries. However, the Transitional Committee (TC) recommendations require further attention as its final, and tense, meeting failed to provide a definitive resolution. Many progressive countries fear that some countries wish to use this as an opportunity to re-open the entire TC negotiations and hold the wider process hostage to their demands.
- **Measurement, Reporting and Verifying (MRV)** – alongside the legal form of the outcome, MRV of developing countries mitigation actions has been one of the most contentious issues in the negotiations prior to and at Copenhagen. Cancun successfully delivered progress on this, due to skilful diplomacy and brokering by both the Mexicans and the then Indian Environment Minister Jairam Ramesh. However, sensitivities remain over the frequency of reporting and verification and how this is differentiated between developed and developing countries. These issue strike at the core of the legal nature of emissions reductions, and are therefore closely linked to discussions around the legal form of the final agreement.

## **Establishing the Threshold for Success**

Success in Durban should be measured on whether or not the full package of measures sets up 2015 as the next political moment to secure a below 2°C global deal. This will require looking across all aspects of the final deal and the potential interlinkages between the different areas. Crossing the threshold depends on building momentum for the future to secure a transition to ambition, while avoiding locking-in failure.

Figure 1.



The threshold for securing a credible outcome under a transitional to ambition scenario would include the following elements:

- The EU supporting a second commitment period through provisional application with an intention to ratify. While more countries supporting a second commitment period would strengthen the deal, Europe remains the critical player in crossing the threshold for success. There has been much debate on the length of any second commitment period. Although a shorter 5 year period would be preferable to 8 years, the critical factor is that the review of adequacy enables an increase in ambition to drive action in the pre-2020 period. Thus these factors need to be looked at together in assessing success or failure.
- The mandate must set up a meaningful moment in 2015, linking to the IPCC Fifth Assessment Report and a robust review on adequacy. This must provide a meaningful link to revisit ambition and drive action in the pre-2020 period.
- Secure a legally binding instrument(s) on the LCA track. Whilst this doesn't preclude more specific language on the symmetry of commitments or equity, the limited political space in Durban means parties should not attempt to pre-negotiate all elements of the final deal. Establishing the legally-binding nature of the agreement is a critical difference between this outcome and the 2007 Bali Roadmap.
- A COP decision(s) operationalising the Cancun Agreements including at least the Green Climate Fund and progress on measurement, reporting and verification

If the combination of these factors does not cross the threshold for success, it may be possible to try and delay a final decision by holding a COP 17bis at the Rio+20 summit in mid 2012. This would be a similar response to the failure to reach a final agreement in The Hague at COP 6 in 2000. However, delaying an agreement in no way guarantees success, and could significantly weaken momentum.

COP17 presents a significant opportunity to achieve a pathway to a comprehensive and ambitious deal, primarily due to its host as South Africa. Africa's vulnerability to the impacts of climate change presents a compelling motivation for countries to agree a process to secure climate security in Durban. In addition, South Africa's lead role in the G77 and as a key member of BASIC and African grouping provides a rare opportunity for the Presidency to work extensively with their allies and create the brinkmanship likely to be required for a successful deal.

## ***“Transition to Ambition”***

### **Core Assumptions:**

- The EU acknowledges the Kyoto Protocol as a valuable instrument to maintaining a top down legally binding instrument, takes on an assertive role articulating a reciprocal proposition enabling a marker for negotiating ambition in the medium term in 2015
- The EU is supported by a critical mass of developed countries providing credible support for a second commitment period
- Constructive diplomacy led jointly by South Africa and Mexico raises expectations for Durban and both move to construct the outlines of the deal. South Africa as part of the BASIC and Africa group has the potential to use its influence to encourage and incentivise others towards a more ambitious outcome
- The EU signals early on its willingness to politically and financially support the Green Climate Fund, thus maintaining and strengthening a core group of countries which can build pressure upon opponents to a legally binding outcome
- The US attempts to disrupt the deal, through holding elements hostage to prevent progress – their motivations are strongly rebuked by the majority of countries, provoking a Bali like moment in the final hours
- Constructive countries use the momentum around legal form and the GCF to unlock progress on a range of foundational elements, to operationalise the Cancun Agreements
- Vulnerable countries and civil society are successful in opening up political space around the review of adequacy through vocal action

## ***“The Punt”***

### **Core Assumptions:**

- Europe mishandles their approach to the KP and fails to provide leadership in Durban
- Moves towards a single track negotiation and increasing leverage of the low ambition partners provokes a strong backlash by AOSIS and the African Group
- South African and Mexican diplomats pull together to rescue a deal in the final hours but with no agreement in sight given lack of movement on the KP, the South Africans push for a deferral
- This could shift a potential deal to s COP 17bis at Rio+20, similar to COP 6bis after the lack of agreement at The Hague in 2000.

## ***“Emotional implosion”***

### **Core Assumptions:**

- Europe takes the KP for granted, and fails to prepare adequate propositions and outreach with relevant parties, resulting in a ‘wait and see’ approach. Failure to provide leadership on the KP is interpreted as a de-facto movement towards a single track negotiation.
- Single track negotiations enhance the leverage of the US and other low ambition coalition partners to hold foundational elements of the deal hostage.
- This sparks an angry and emotional response from developing countries, in particular the most vulnerable countries
- Failure of climate diplomacy – confusion over the roles and responsibilities between South Africa and Mexico empowers blocking countries. This focuses dynamics on lowest common denominator outcomes and limits Parties willingness to compromise.
- US and China revert back to destructive Tianjin dynamics
- Megaphone diplomacy dynamic reduces the ability of the South African Presidency to broker a deal and temper the tensions driving the negotiations towards a lock-in of weak mechanisms under a pledge and review system

## Annex I

### The importance of 2015

The political cycles<sup>1</sup>, IPCC reporting and timeline for the Review of Adequacy mean 2014-15 is the earliest possible opportunity to inject ambition back into the regime, and secure a global rules-based system. By 2015 it is hoped that the worst of the financial crisis will be over. This could allow for more political attention to non-financial issues by decision-makers, the media and the public.

In 2014 the IPCC Fifth Assessment Report (IPCC-FAR) will be published. It is likely demonstrate the improvements in climate science and understanding about the increased rate of climate change and subsequent impacts. The analysis will likely generate alarm from the public and spur political leaders to address climate change in a more serious manner.

The Cancun Agreements secured 2013-2015 as the date in which parties would contemplate a review of adequacy. Whilst the terms of reference for this review are still being negotiated, the review can provide a moment for countries to measure their pledges against a 2 degree trajectory.

The political cycles in a number of countries will result in new leaderships or mandates come 2013-2015. In 2012 alone, the USA, France, Germany, India, Mexico, South Korea and Russia will have domestic elections. In 2013, China's leadership will change. Consequently, the 2013-2015 process synchronises with the preparations for the Chinese 13<sup>th</sup> Five Year Plan.

And finally, in 2015 demonstrating that low carbon development is feasible and learning from that experience will instil confidence in countries to move forward on a more rapid timescale.

### The importance of a legally Binding Agreement

This debate is sometimes presented as "false choice" between top-down and bottom-up action; when in fact we need both. As the level of ambition is increased to deliver a below 2°C pathway, higher degrees of trust and accountability are required. This can only be delivered within a legally binding system under a multilateralism mechanism.

A legally binding agreement incentivises ambition in a number of measures:  
All countries act simultaneously which builds confidence the others will deliver  
Binds countries beyond single administrations instilling confidence in investors and the public  
Agrees the rules and accounting measures which ensure comparability and adherence to the regime

Critically, only a binding regime can convince those whose capital allocation decisions shape the economy that a high carbon business model will expose them to greater risk and hit their returns harder than betting now on low carbon. However, law is merely an output from politics, not an input. To rebuild trust in the multilateral system it is vital that we now make complementary investments to build the bottom-up processes within countries which can support change first in the real economy, and then in countries' perceptions of their national interest in contributing to the global regime. The UNFCCC is crucial in delivering an effective response to climate change, but by itself it can never be sufficient.

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<sup>1</sup> Political elections are expected in India, Russia, Mexico, USA, South Korea, France and Germany during 2012 as well as a change of leadership in China in 2013