

## **The Copenhagen Climate Change Conference: A Post-Mortem**

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Since the Kyoto Protocol's entry into force in 2005, attention has focused on the question of what to do after 2012, when the Kyoto Protocol's first commitment period ends. Should the Kyoto Protocol be extended through the adoption of a second commitment period, with a new round of emission reduction targets for developed country parties? And, if so, should a new agreement be adopted under the UN Framework Convention on Climate Change, which addresses the emissions of countries that either are not parties to Kyoto (the United States) or do not have Kyoto emissions targets (developing countries)? Or should a single new agreement be adopted that replaces the Kyoto Protocol and is more comprehensive in coverage, addressing both developed and developing country emissions?

The Copenhagen Conference, which met from December 7-19, 2009, had been intended as the deadline to resolve these questions about the post-2012 climate regime – a view reflected in the unofficial slogan for the conference, “seal the deal.” The decision by more than 100 heads of state or government to attend “Hopenhagen” (as the Danes called it) heightened expectations that the conference would result in a major breakthrough, and more than 40,000 people registered, making it one of the largest environmental meetings in history (and producing massive logistical problems as a byproduct). But given the lack of progress in the negotiations in the months leading up to Copenhagen, hopes for a full-fledged legal agreement proved unrealistic. Instead, the Copenhagen conference resulted only in a political agreement, the Copenhagen Accord, which was negotiated by a group of roughly 25 countries, including all of the world's major economies.

Key elements of the Copenhagen Accord include: a long-term goal of limiting climate change to no more than 2° C; systems of “pledge and review” for both developed and developing country mitigation commitments or actions; and significant new financial resources. Due to objections by a small group of countries (led by Sudan, Venezuela and Bolivia), the Copenhagen Conference was unable to “adopt” the Accord. Instead, the conference took “note of” the Copenhagen Accord, leaving its future status uncertain. As of February 10, 2010, the UNFCCC Secretariat had received submissions of national pledges to limit greenhouse gas emissions from 67 countries, representing more than 80% of global greenhouse gas emissions, including the United States, the EU member states, Japan, China, India, Brazil, South Africa and Indonesia.

### ***The Evolution of the International Climate Change Regime***

Since the international climate change negotiations began in 1991, the climate change regime has developed in three phases. The first phase involved the establishment of the basic framework of

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governance, set forth in the UN Framework Convention on Climate Change (UNFCCC), which was adopted in 1992 and entered into force two years later. The second phase, running from 1995 to 2001, involved the negotiation and elaboration of the Kyoto Protocol, which sets forth quantitative emission reduction targets for developed (Annex I) countries through 2012, and establishes market-based mechanisms (including emissions trading) for achieving those targets. The current phase – which the Copenhagen Conference had been intended to conclude – addresses the post-2012 period, after the Kyoto Protocol's first commitment period ends.

In many respects, the climate change issue has come a long way since it first emerged in the mid-1980s. Climate change science has become much more robust, the recent "Climate-gate" kerfuffles notwithstanding. The business community has become more positively engaged and a significant carbon market has emerged. Above all, most of the world's major economies have either adopted, or are seriously considering, significant domestic policies to reduce their greenhouse (GHG) emissions. The European Union has already established an emissions trading system, and has pledged to reduce its emissions by 20% from 1990 levels by 2020 (and by 30% as part of a global and comprehensive agreement for the post-2012 period in which other developed countries undertake comparable efforts). The US House of Representatives has passed a domestic climate bill that would reduce US emissions by roughly 17% below 2005 levels by 2020 (although the prospects for the Senate following suit are uncertain at best). And China and India have both adopted carbon intensity targets – in the case of China, to reduce its emissions per unit GDP by 40-45% from 2005 levels by 2020, and in the case of India, by 20-25%.

Given these domestic developments, the prospects for Copenhagen might have seemed good. But capturing these national policies in an international agreement has proven extremely difficult. One obstacle to progress has been the continuing uncertainty about whether the United States will undertake serious action to curb its emissions. Another is the fact that the Copenhagen negotiations have, for the first time, given serious attention to developing country emissions, which already represent more than half of global GHG emissions and will account for most of the emissions increases between now and 2050.

The focus on developing country emissions in the Copenhagen process represents a major reorientation of the climate change negotiations. During the first decade of the climate change regime, from the initiation of negotiations in 1991 through the adoption of the Marrakesh Accords in 2001, the negotiating process focused almost exclusively on emissions reductions by developed countries. Although the US fitfully pushed to address the question of "developing country participation," the 1995 Berlin Mandate, which launched the Kyoto Protocol negotiations, effectively took this issue off the table by specifically excluding any new commitments for non-Annex I countries. Even after the Kyoto Protocol was adopted in 1997, the same pattern continued for an additional four years, through 2001, when the Marrakesh conference adopted the detailed rulebook for implementing Kyoto. Although developing countries participated actively, the primary axis of the negotiations was the split among developed countries between the European Union and the United States – the EU pushing for strong emission reduction targets, implemented primarily through domestic measures, and the US (together with its "Umbrella Group" allies such as Australia and Japan) pushing for the unrestricted use of market-based mechanisms, including emissions trading.

The more recent phase in the climate negotiations, which began after Marrakesh, has shifted the primary axis in the negotiations from EU-US to developed-developing. The new negotiating dynamic was initially

obscured by the Bush Administration's rejection of the Kyoto Protocol, and its unwillingness to discuss any alternative architecture, which put the negotiations in a holding pattern for a number of years. But when the negotiating process began to emerge from its deep freeze, the shift in the negotiating dynamic became apparent, and the developed-developing country divide moved to center stage at the Bali conference in 2007.

Although the US-EU negotiations were always difficult – even during the Clinton Administration when one might have thought that the policy differences would be less significant – the split between the US and EU pales in comparison to the gulf between developed and developing countries. On one side, developed countries insist that the post-2012 regime address the emissions of all of the major economies, developing as well as developed. On the other side, developing countries continue to argue, as they have done since the negotiations first began back in 1991, that they are not historically responsible for the climate change problem, have less capacity to respond, and hence should not be expected to undertake specific international emissions reduction commitments.

### ***The Copenhagen Process and the Question of Legal Form***

The negotiations on a post-2012 climate regime have proceeded over the past several years in two tracks, one to negotiate amendments to the Kyoto Protocol, including a second round of emission targets for developed country parties; the other to develop an “agreed outcome” under the UNFCCC. The Kyoto track, conducted in the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP), was initiated in 2005, and does not include the United States. The Convention track was launched two years later by the Bali Action Plan, which established the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention (AWG-LCA), with the mandate to develop a comprehensive outcome, including a shared long-term vision, mitigation commitments or actions by developed countries, nationally appropriate mitigation actions (NAMAs) by developing countries, financial arrangements, measures to address adaptation and technology transfer, and a system for measurement, reporting and verification (MRV).

The two-track structure of the negotiating process has raised two related questions. First, should the negotiations result in two outcomes, one under the Kyoto Protocol and the other under the UNFCCC, or a single outcome that brings together the two tracks? Second, should the outcome or outcomes be legal in nature? The countries with Kyoto emission targets (including the EU member states, Japan, Canada, and Australia) are generally unwilling to accept a new round of emission targets under Kyoto for the post-2012 period unless the other major emitters (including the United States and China) accept legal commitments as well, and their expressed preference is for a single new comprehensive legal agreement that would replace Kyoto. The US has a similar position: it has proposed the negotiation of a single binding agreement that would address both developed and developing country emissions, although it has specifically said that such an agreement could live alongside a post-2012 Kyoto agreement. On the other side, developing countries are united in opposing a one track approach, and repeatedly insisted at the Copenhagen Conference that the Kyoto track receive equal attention – and make equal progress – as the Convention

track. Having succeeded during the Kyoto process in establishing what amounts to a firewall between Annex I and non-Annex I parties, they are unwilling to give that up now, by replacing Kyoto with a new legal instrument. But developing countries differ in their views about the outcome of the Convention track. India and China have insisted that developed country parties agree to a second commitment period under Kyoto, but have opposed the adoption of a new legal agreement addressing their own emissions. In contrast, other developing countries (including the small island states) support, as a complement to Kyoto, the negotiation of a new legal agreement that would be more comprehensive in coverage, including the United States and major developing countries such as China, India, and Brazil.

### ***The Copenhagen Conference***

Under the terms of the Bali Action Plan, the negotiation by the AWG-LCA of a post-2012 climate change regime was supposed to conclude in 2009 at the Copenhagen Conference of the Parties (COP).<sup>1</sup> This deadline created enormously high expectations for Copenhagen – much higher than for any previous COP except perhaps Kyoto. Reflecting its anticipated importance, the meeting was held at a much higher level than usual. Typically, the ministerial segment of a COP comprises only the last day or two of the meeting, but in Copenhagen, the ministerial segment occupied the entire second week and the last two days of the conference were held at the head of state/government level.

In preparation for Copenhagen, the two AWGs met five times in 2009, three times in Bonn and once each in Bangkok and Barcelona. But despite the call by the COP at its 2008 meeting in Poznan for the AWGs to shift into “full negotiating mode,” states instead simply restated their positions at meeting after meeting. As a result, states made little progress in narrowing their differences and the 150+ page texts going into Copenhagen were heavily bracketed, making agreement in Copenhagen almost impossible. At the final preparatory meeting in November, both the UNFCCC Executive Secretary and the chair of the AWG-LCA acknowledged what many had been saying throughout the year, namely, that Copenhagen would be able to produce, at best, a political agreement, rather than a full-fledged legal instrument.

During the first week and a half of the Copenhagen conference, negotiations continued in the two AWGs, making little progress. Attempts by the Danish president of the conference to organize a smaller group to address the core issues were strongly resisted by developing countries, who claimed that meetings of a smaller group would be undemocratic and illegitimate. Instead, they insisted that negotiations continue on the basis of the heavily bracketed texts that had emerged in the AWGs over the past two years, in “contact groups” open to all parties.

As a result of these procedural roadblocks, serious negotiations did not begin until nearly the last day of the meeting, when heads of state arrived and began negotiating in a much smaller group. Reportedly, 29 parties were involved, including the United States, the European Union (represented by Sweden as President and the European Commission), China, India, Brazil, South Africa, the UK, France, Germany, Denmark, Australia,

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<sup>1</sup> Although the AWG-KP does not have a specific deadline, Copenhagen served as an informal deadline for its work as well.

Canada, Japan, Russia, Grenada (on behalf of AOSIS), Ethiopia (on behalf of the African Union), Lesotho (for the least developed countries), Papua Guinea (for the Coalition of Rainforest Countries), Saudi Arabia (for OPEC countries), Sudan (for the G-77), Algeria, Bangladesh, Colombia, Gabon, Indonesia, the Maldives, Saudi Arabia, the Republic of Korea, and Mexico. The breakthrough finally came on Friday afternoon in an even smaller meeting between President Obama, Chinese Premier Wen Jiabao, Indian Prime Minister Singh, Brazilian President Lula, and South African President Zuma, and President Obama publicly announced the broad outlines of the Copenhagen Accord at a press conference before departing on Friday evening.

### ***The Copenhagen Accord***

The Copenhagen Accord is a political rather than a legal document, negotiated by a group of about 25 heads of state, heads of government, ministers, and other heads of delegations. It is very brief – only about two and a half pages long – and leaves many details to be filled in later.

Key elements of the Accord include the following:

*Shared vision* – The UNFCCC defines the climate regime’s objective as the prevention of “dangerous anthropogenic interference with the climate system,”<sup>2</sup> but does not further define what level of emissions or concentrations this entails. So a major element of the Bali Action Plan was to establish “a shared vision for long-term cooperative action, including a long-term global goal for emission reductions.”<sup>3</sup> Proposals for a long-term objective include:

- An upper bound on global temperature increase of 1.5 or 2° Celsius.
- An upper bound on atmospheric concentrations of greenhouse gases of 350 or 450 parts per million (ppm). (By way of comparison, the current concentration of CO<sub>2</sub> is about 390 ppm.)
- A long-term goal to reduce global emissions by 50% by 2050 (the so-called “50 by 50” target, which the G-8 has endorsed).
- A target date for the peaking of global emissions (and possibly also dates for the peaking of developed and developing country emissions).

In Copenhagen, developing countries strongly objected to setting a date for the peaking of their emissions, and also resisted adopting a global emissions goal or a greenhouse gas concentration target because of the implications these would have for their own emissions. (Although developed countries have pledged to reduce their emissions by 80% by 2050, the 50 by 50 goal would still require developing country emissions to peak and begin to decline prior to 2050.) In the end, states could agree only that “deep cuts” in emissions are necessary, with a view to limiting the increase in global temperature to no more than 2° C (para. 2). In

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<sup>2</sup> UNFCCC art. 2.

<sup>3</sup> Bali Action Plan, para. 1(a).

deference to the Maldives and other small island states, which had pushed for a 1.5° limit on global temperature change, the Copenhagen Accord provides for consideration of a stronger long-term goal as part of the assessment of the Accord's implementation that will be completed by 2015 (para. 12).

*Developed country mitigation* – Over the past year, general consensus has emerged that developed countries should undertake economy-wide emissions targets for the post-2012 period, although countries have differed about:

- the stringency of these emissions limitation targets;
- the base-year from which emissions targets should be measured – 1990 as the Kyoto Protocol provides or some other year such as 2005 (as US climate legislation provides) or 2000 (as Australia's emissions target uses);
- whether the targets should be defined using international accounting rules (as in Kyoto) or national legislation (as the US has proposed).

The Copenhagen Accord establishes a bottom-up process that allows each Annex I party to define its own target level, base year and accounting rules, and to submit its target in a defined format, for compilation by the UNFCCC Secretariat. Under the terms of the Accord, Annex I countries "commit to implement" their targets, individually or jointly, subject to international monitoring, reporting and verification (MRV) (para. 4).

*Developing country mitigation* – There has been widespread agreement that developing country NAMAs that receive international support should be subject to some type of international review, and that a "matching mechanism" should be established to link developing country proposals with financing by developed countries. This consensus is reflected in the Copenhagen Accord, which establishes a registry for listing NAMAs for which support is sought, and provides that supported NAMAs "will be subject to international measurement, reporting and verification in accordance with guidelines adopted by the COP" (para. 5).

The principal issues relating to developing country mitigation have related to "autonomous" mitigation actions – that is, emission reduction measures that do not receive any financial support from developed countries. Should these be purely a matter of national discretion, subject only to national reporting and verification? Or should they be internationalized in some fashion – for example, through inclusion in a schedule that is subject to international review? And, more generally, should developing country mitigation actions (both supported and autonomous) be expected to add up to a particular quantitative reduction below business as usual?

In Copenhagen, these issues became the principal bone of contention between the United States and China, with the United States and many other developed countries insisting on measurement, reporting, and some form of international review and China rejecting any international review. The Copenhagen Accord represents a torturous compromise (para. 5):

- As with developed country emissions targets, it establishes a bottom-up process by which developing countries will submit their mitigation actions in a defined format, for

compilation by the UNFCCC secretariat (including both autonomous and supported mitigation actions).

- It provides that Non-Annex I parties "will implement" these actions.<sup>4</sup>
- It provides that developing country mitigation actions will be subject to domestic MRV and that developing countries will report on the results of this domestic MRV in biennial national communications, with provisions for "international consultation and analysis under clearly defined guidelines that will ensure that national sovereignty is respected."

*Financial assistance* – Although states generally agree on the need for substantial new funding to help developing countries mitigate and adapt to climate change, they conceptualize this funding differently. The US and other developed countries see financial assistance, in essence, as part of an implicit *quid pro quo* linked to developing country mitigation commitments. Developing countries, in contrast, see it as payment of the "carbon debt" that they believe that developed countries owe for their historical emissions.

In Copenhagen, the discussions about financial support revolved around the typical issues: how much money, from what sources, and with what governance arrangements? The Copenhagen Accord addresses only the first of these issues, leaving the other two for future resolution. It creates a "collective commitment" for developed countries to provide "new and additional resources ... approaching \$30 billion" in "fast start" money for the 2010-2012 period, balanced between adaptation and mitigation, and sets a longer-term collective "goal" of mobilizing \$100 billion per year by 2020 from all sources (public and private, bilateral and multilateral), but links this money to "meaningful mitigation actions and transparency on implementation" (para. 8). It calls for governance of adaptation funding through equal representation by developing and developed country parties, but does not establish governance arrangement for finance more generally. Finally, it calls for the establishment of a Copenhagen Green Climate Fund (GCF) (para. 10) as an operating entity of the UNFCCC's financial mechanism, as well as a High Level Panel to consider potential sources of revenue to meet the \$100 billion per year goal (para. 9), and provides that a "significant portion" of international funding should flow through the GCF (para. 8).

*Forestry* – In the run-up to Copenhagen, the potential to reduce emissions from deforestation and forest degradation (known as "REDD-plus") received considerable attention. The principal question has been whether to finance REDD-plus from public funds or by providing carbon credits. The Copenhagen Accord calls for the "immediate establishment" of a mechanism to help mobilize resources for REDD-plus from developed countries and acknowledges the "need to provide positive incentives" (para. 6), but does not resolve the issue of public vs. private support.

*Adaptation* – The Copenhagen Accord recognizes the "urgent" need for "enhanced action and international cooperation on adaptation," and agrees that "developed countries shall provide adequate, predictable and sustainable financial resources, technology and capacity-building" to help implement developing country adaptation actions.

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<sup>4</sup> In the case of least developed countries and small island developing states (SIDS), actions may be taken "voluntarily and on the basis of support" (para. 5).

*Monitoring, reporting and verification (MRV)* – As with the mitigation issue, the MRV discussions have concerned the level of MRV as well as the parallelism/differentiation between developed and developing country MRV. The Copenhagen Accord calls for "rigorous, robust and transparent" MRV of Annex I emissions reductions and financing, "in accordance with existing and any further guidelines adopted by the COP" (para. 4). As noted above, supported NAMAs by developing countries will be subject to international MRV "in accordance with guidelines adopted by the COP," while autonomous mitigation actions will be verified nationally and reported in national communications every two years, and will be subject to "international consultations and analysis" under international guidelines that ensure that national sovereignty is respected (para. 5).

*Legal form* – The Copenhagen Accord sidesteps the issues about the legal form of the post-2012 climate regime. Although the penultimate draft of the COP decision accompanying the Copenhagen Accord called for the completion of negotiations on a new "legally binding instrument" at next year's conference in Mexico City, this reference was deleted from the final version. As a result, the questions of one vs. two outcomes and legal vs. non-legal form remain unresolved.

### ***The Future of the Copenhagen Accord***

Following agreement on the Copenhagen Accord by heads of state and government, the remaining question the final night was how the Accord would be reflected in the official decisions of the conference. The Danes proposed that the Copenhagen Accord be adopted as a COP decision, which requires consensus (usually defined as the absence of formal objection). But a small group of countries that had played a spoiler role throughout the conference (led by Sudan, Venezuela, and Bolivia) objected, arguing that the negotiation of the Copenhagen Accord represented a "coup d'état" against the United Nations because it bypassed the formal meetings. After an all night session, the impasse was ultimately broken through a decision to "take note of" the Copenhagen Accord, giving it some status in the UNFCCC process but not as much as endorsement by the COP. Those countries that wish to "associate" themselves with the Copenhagen Accord are to notify the UNFCCC Secretariat, for inclusion in the list of countries in the chapeau.

As of February 10, 2010, the UN Secretariat had received submissions from more than 90 countries regarding their plans to reduce their GHG emissions and/or their wish to be associated with the Copenhagen Accord. In many cases, countries providing information on their mitigation actions have explicitly "associated" themselves with the Copenhagen Accord, but a number of countries – most notably China and India – have not done so expressly.<sup>5</sup>

The Copenhagen Accord asserts that it will be "operational immediately," but fully operationalizing its terms will require further acts – for example, the elaboration of the "guidelines" for "international consultations and analysis" of developing country communications, and the establishment of the various bodies envisioned in the Accord (a High Level Panel to study potential sources of revenue, the Copenhagen Green

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<sup>5</sup> For an up-to-date summary of national submissions related to the Copenhagen Accord, see US Climate Action Network, "Who's on Board the Copenhagen Accord," <http://www.usclimatenetwork.org/policy/copenhagen-accord-commitments>.



Climate Fund, and a new Technology Mechanism). The terms of the Accord presume that this work will be carried out by the COP. But given the COP's inability to adopt the Copenhagen Accord, this presumption appears tenuous at best.<sup>6</sup> Thus, the future of the Accord may ultimately depend on the willingness of the "associators" group to elaborate the Copenhagen Accord on their own as an independent agreement.

Meanwhile, the COP decided to extend the mandate of the AWG-LCA, which will continue to meet this year in parallel with the AWG-KP, "with a view to presenting the outcome of its work ... for adoption" at the Mexico City COP in late November-early December. It is hard to see what is likely to change, however, between now and Mexico City that would allow the AWGs to adopt a stronger result than the Copenhagen Conference. The two AWGs' will continue to work on the basis of the heavily bracketed draft decisions that were left unfinished in Copenhagen. And a proposal by the United States and others that the intended outcome should be a legally-binding agreement was opposed by India and Saudi Arabia, among others, and was not included in the COP decision extending the AWG-LCA's mandate, so the legal form of the intended outcome in Mexico City remains open.

### **Concluding Observations**

Although the Copenhagen Accord has been criticized by some as inadequate or worse,<sup>7</sup> it represents a potentially significant breakthrough. True, the emission reduction pledges announced thus far do not put the world on a pathway to limiting climate change to 2° C, the ostensible long-term goal of the Accord.<sup>8</sup> But the participating states did agree to list their national actions internationally and to subject their actions to some form of international scrutiny. Plus, the Accord articulates a quantified long-term goal for the first time (holding global warming below 2° C) and puts significant new funds on the table, both for the short and medium terms.<sup>9</sup>

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<sup>6</sup> Indeed, Cuba has already challenged the authority of the UNFCCC Secretariat to compile submissions under the Copenhagen Accord from states regarding their willingness to associate themselves with the Accord and/or their national mitigation targets or actions.

<sup>7</sup> Lavanya Rajamani, for example, says that the Accord "can plausibly be characterized as 'rotten' not just because it is weak and will not contain climate change in its current form, but also because even in this weak form it faces considerable legal and procedural challenges to its operationalization." Lavanya Rajamani, "Neither Fish Nor Fowl" (Feb. 2010), <http://www.cprindia.org>. Similarly, Navroj Dubash refers to the Accord as a "paper-thing coverup of what was a near complete failure," and suggests that Copenhagen may "represent[] the worst possible outcome – the overlay of a thin veneer of success over what is a deeply flawed outcome, perpetuating a process that is unable to overcome entrenched differences." Navroz K. Dubash, *Copenhagen: Climate of Mistrust*, 44 ECONOMIC & POLITICAL WEEKLY 8, 10 (Dec. 29. 2009).

<sup>8</sup> Kelly Levin and Rob Bradley, "Comparability of Annex I Emission Reduction Pledges," World Resources Institute Working Paper, Feb. 2010; Ecofys, Climate Action Tracker, "Ambition of Only Two Developed Countries Sufficiently Stringent for 2° C" (Feb. 2, 2010), <http://www.climateactiontracker.org>. But according to Andrew Light of the Center for American Progress, the pledges put on the table thus far could achieve as much as two-thirds of the emissions reductions needed to achieve the 2° C target. Andrew Light, "Progress from the Copenhagen Accord" (Center for American Progress, Feb. 9, 2010), [http://www.americanprogress.org/issues/2010/02/copenhagen\\_progress.html](http://www.americanprogress.org/issues/2010/02/copenhagen_progress.html).

<sup>9</sup> For a similar view, see David Doniger, "The Copenhagen Accord: A Big Step Forward" (Dec. 21, 2009), <http://switchboard.nrdc.org>.

As a political necessity, the Copenhagen Accord continues to reflect the principle of common but differentiated responsibilities and respective capabilities, but in a very different manner than in Kyoto. The Copenhagen Accord envisions two appendices, one for developed countries' economy-wide emission "targets," which will be subject to international MRV, the other for developing country "actions," which will be subject to international MRV only if a mitigation action receives international support and to national MRV otherwise. Nevertheless, the Copenhagen Accord reflects an apparent shift by China, India, Brazil and South Africa, which begins to break the so-called "firewall" between developed and developing countries. For the first time, the major developing countries agreed to reflect their national emissions reduction pledges in an international instrument, to report on their GHG inventories and their mitigation actions in biennial national communications, and to subject their actions either to MRV (for internationally supported actions) or "international consultation and analysis under clearly defined guidelines that will ensure that national sovereignty is respected" (for domestically supported actions). This may seem like a rather modest achievement; but it represents the first time that these countries have accepted any type of "internationalization" of their national climate change policies.

The Copenhagen Conference is also notable, from a process standpoint, for several shifts in the negotiating dynamic. China was much more assertive, reflecting its emergence as a global power, at one point thumbing its nose at the United States by sending a mid-level official to negotiate with President Obama; conversely, the EU played a less central role. The fractures within the developing country negotiating bloc (the so-called Group of 77) were more evident than ever; indeed, during the final session, one small island state negotiator publicly blamed the big developing countries for the failure to make more progress. Finally, the willingness and ability of a small group of countries that had previously played little role in the negotiations to block adoption of the Copenhagen Accord showed the absurdity of the consensus decision-making rule.

Although many negotiators left Copenhagen with a sense that the UNFCCC process is broken, there is no viable alternative at the moment, so the AWGs will continue to meet and the negotiations will continue to revolve around the COPs. But if world leaders were unable to make further progress through direct negotiations, under an intense international spotlight, there is little reason to expect mid-level negotiators to be able to achieve a stronger outcome anytime soon. As a result, the Copenhagen Accord may well represent the high-water mark of the climate change regime for some time to come.