Taking the High Road to a Mandate

ECO has long insisted it is necessary to agree a second commitment period of the Kyoto Protocol. All developed countries under the KP should ratify their new 5-year QEROS (quantified emission reduction obligations), base year 1990, having a level of ambition consistent with a fair share towards their agreed 2º C goal. Yet it is clear that the multilateral system will need to evolve through time toward becoming a truly adequate, fair, legally binding global agreement.

The essential complement in Durban will be extension and clarification of the mandate of the AWG-LCA for a comprehensive legally binding agreement as the agreed outcome. This mandate must enhance implementation of the Convention, not overhaul it, building explicitly on and fully respecting its principles so that Parties do indeed, in a fair framework, fulfill the promise of the ultimate objective of the Convention: “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”.

This mandate at a minimum must include:

1. **The result** of the negotiations, specifying that Parties are building on and moving beyond the Bali Action Plan’s “agreed outcome”, showing that the world is prepared to affirm and act on the ultimate objective of the Convention: “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”.

2. **Reaffirmation and full respect of the principles** of the Convention to guide the negotiations, which must include equity and common but differentiated responsibilities and respective capabilities, as well as environmental integrity and adequacy

3. **End date.** ECO repudiates the calls from some Parties that negotiations should begin in 2015. Much needs to be done to develop essential elements of finance, adaptation, technology and of course mitigation going forward towards the legal agreement. Negotiations are not yet guided by a timeline or clear agreed goal. Agreement reached in 2015 would allow time not only to build a framework analogous to the Kyoto Protocol, but that span of time would allow more effective development of content closer to that achieved over the four years of negotiations between the adoption of the Kyoto Protocol and the Marrakesh Accords. And entry into force in 2018 would allow a more rapid response to new science.


5. **The process** to fulfill the mandate. ECO expects the Chair to address these principles in the draft legal decision text to come out of Friday’s ‘informal informal’ under the ‘principles’ bullet.

**Ambition can and must be ratcheted up massively, in particular by developed countries, to jointly achieve real emissions reductions of at least 40% by 2020. A legally binding instrument under the AWG-LCA is needed to secure full participation by the US, which has repudiated the KP, the only existing international legally binding instrument to reduce emissions and ensure that responsibilities for technology and financing support for developing countries are made legally binding.**

The mandate will also show that all Parties are taking action under common rules and guidelines that can showcase successes. The world must respond in a clear and unambiguous way to the urgency from the IPCC Fifth Assessment Report (AR5). A mandate is needed here in Durban to provide a common framework for these principles and dramatically scaled up response to our climate crisis.

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**Who’s Afraid of Provisional Application?**

If only we could apply climate change provisionally!

For the last couple of days, we have heard a number of developed countries make allusions to constitutional concerns about provisional application of the amendment for a second commitment period under the Kyoto Protocol.

While condemning these parties for continued support of a multilateral, legally binding, rules-based regime, we are nonetheless confused.

ECO keeps a copy of the Vienna Convention on the Law of Treaties by its bedside (for those restless nights after the informals) and has the impression that provisional application is a widely used tool of international law.

A quick Google search confirmed this and there are a slew of examples in which provisional application has been used, such as:

* The 1994 United Nations International Tropical Timber Agreement, which was provisionally applied by a number of countries including Belgium, EU, Finland, France, Germany, Japan, Luxembourg, Netherlands, Spain and the UK.
* 1994 Energy Charter Treaty, which Australia, Iceland and Norway are currently applying provisionally. (Of course, Russia was applying it provisionally until 2009 – which just serves to reinforce the point that provisional application is needed as a mechanism to avoid a gap but ratification is ultimately needed).

* The International Coffee Agreement (particularly important for those late night ses-
The A-Z of MRV

Robust measurement, reporting and verification (MRV) is a critical part of the Durban outcome. But 24 hours before the new text is out, with Parties hard at work, ECO is concerned that key MRV elements are at risk of falling off the table.

First, let’s review the fundamentals: The reason we’re all learning the MRV alphabet soup is to support the implementation of commitments and actions, build confidence and ensure the environmental integrity of the regime. Seems obvious, right? Yet some of the proposals on the table would seriously undermine these objectives.

In addition, MRV must respect the framing principle of ‘common but differentiated responsibilities and respective capabilities’ and reflect differentiation between developed and developing countries while aiming for good reporting from both. ECO worries that some developed countries are trying to erase those lines.

And finally, as critical as MRV is to the Durban outcome, it’s just one piece of the picture whose outlines were drawn by the Bali Action Plan. MRV must always be viewed as part of the bigger picture of increased mitigation, finance, technology transfer and capacity development commitments.

Critical MRV elements that must be in the Durban outcome include:

* Procedural transparency and meaningful stakeholder participation, including the ability to make written submissions to technical analysis experts and the SBI; pose questions in an SBI review session open to Parties and observers, and unrestricted access to all information (inputs and outputs).

* Common accounting rules on emission reductions and enhanced removals for Annex I countries.

* A process to clarify the assumptions underlying the pledges of all countries (e.g. gases, sectors, base years, assumptions on BAU) to be able to accurately assess the gigatonne gap and ensure comparability for Annex I countries. (More coming from ECO on these hot button issues.)

* MRV outputs must be timely and include enough detail to enable a meaningful first periodic review between 2013 and 2015. Biennial reports, biennial update reports, and the first international assessment and review (IAR) and international consultation and analysis (ICA) should be completed as early as possible in 2014.

* Enhanced support for developing countries to produce their biennial update reports and national communications, and to participate in international consultation and analysis (ICA).

* A summary of REDD+ activities, including actions, methodologies, accounting, safeguards and information systems should be included in biennial update reports and national communications.

* Time-specific provisions to revise guidelines for national communications.

* A compliance process for Annex I countries, including consequences for non-compliance such as suspension from the flexible mechanisms.

* Improved MRV of finance through the adoption of a common reporting format in biennial reports and in the future revision to the guidelines for national communications.

* Improved measurement, reporting and verification (MRV) is a critical part of the Durban outcome.

* An intergovernmental inquiry.

* A number of bilateral agreements, such as the 1996 Agreement between the European Community and New Zealand on sanitary measures applicable to trade in live animals and animal products (which was applied provisionally until its entry into force in 2003) and the 2006 Agreement between the European Community and New Zealand on certain aspects of air services.

* And who can forget the mother of all provisional applications – the 1947 General Agreement on Tariffs and Trade (GATT) was applied provisionally through the Protocol of Provisional Application from 1948 until the WTO agreement entered into force in 1995!

* ECO just can’t understand what makes the climate change regime different. Why couldn’t we apply the amendment for the second commitment period provisionally?

* Durban needs to deliver a mandate for a legally binding instrument under the LCA. For a balanced outcome we must pair legal with legal – thus provisional application of a legally binding amendment under the Kyoto Protocol is crucial.

Youth and the Future

Yesterday was Young and Future Generations Day, and among the many events that took place, one message came across loud and clear: The time for political inaction has run out.

Young people have a critical role to play in the negotiations, one that is often underutilized. As the primary stakeholders in the outcomes of this conference, youth have a right to demand more of negotiators, of the targets they are setting, and of the process.

Youth are pushing for policies that not only insist upon necessary emissions reductions, but also confront the roots of inequity that exist in the current systems.

UNFCCC Executive Secretary Christiana Figueres warned youth not to pick up the bad habits of negotiators and stay ambitious in a session titled “An Intergenerational Inquiry”. In response, 16-year-old Mokgadi Seemola silenced the room stating, “Because of some of the wrong decisions some negotiators have made, my dream is shattered.” Drought has devastated her South African community and now she faces the harsh realities of climate change. She had hopes to share the world she grew up in with her children, and that is now impossible.

This and the many other bold statements delivered by youth provided a much-needed bridge between the often impersonal act of developing text and the larger context and human face of global climate change.

The negotiators at this conference have heard the message: There is no more time.

The question that remains is: What action will they take?

Atención!

Estimados Delegados: si están interesados en recibir el ECO EN ESPAÑOL, por favor envíen un email a contactoscanla@gmail.com

NO FOSSILS ON THURSDAY

Everyone was (mostly) nice!