

BACKGROUND

While evaluating Durban outcomes, it is less likely to come to a consensus based positive statement as well as equally difficult to define the outcomes as a *Big Zero*. Despite debate on the outcomes from different perspectives, the Durban outcomes should be credited for reviving the hope for a new emission binding protocol which once seemed far-reaching after Copenhagen conference. This paper is the first issue of 'Durban to Doha' climate negotiation policy brief series which has been designed to analyse various outcomes of the Durban conference from the viewpoint of LDCs and provides strategic direction for the preparation of Doha conference. The current issue mainly focused on Kyoto Protocol decisions taken at Durban and its probable consequences to the global climate as a whole and LDCs in particular.

Least Developed Countries (LDCs) are arguing that the Durban conference has brought nothing except some hopes whose implementation probability is also uncertain in the upcoming meetings. In a nutshell, the COP¹ 17 can be regarded as 'Great Power Game'² where the LDCs and vulnerable nations like Bangladesh had hardly got the scope to establish their demands except giving formal speech. During the Durban negotiation rounds, the developed countries were pushing for launch a lot of new process to develop a legally binding instrument aimed at mitigation efforts by all parties. However, the question comes time to time and again whether the future agreement will be legally binding and strong enough to be strictly followed by all countries that would result in targeted emission reduction within specified time.

EVOLUTION OF DURBAN ISSUES

At Durban the issues of negotiation did not appear all on a sudden. The Durban negotiation tracks are the continuation of the commitments, which were taken from time to time through several COP meetings under the UNFCCC³ banner.

Rio Earth Summit: In 1992 the Rio Earth Summit was convened, where the climate convention was adopted with the aim of a sustainable world.

Kyoto Protocol of 1997: After the Rio Earth Summit, the Kyoto Protocol of 1997 appeared to be a blueprint for a more comprehensive global climate treaty and caused heavy involvement of NGOs community in the UNFCCC negotiation process.

Bali Climate Conference (COP 13): During that time, the parties adopted the Bali Road Map, which could be regarded as the most comprehensive directive for global climate management as of today. The Bali Road map created the path for negotiation leading up to the *Copenhagen summit in 2009*. That path includes KP2 under the UNFCCC as well as on a range of issues-including

¹ COP- Conference of the Parties

² Great Power Game- National interest based rivalry among powers

³ UNFCCC-United Nations Framework Convention on Climate Change

adaptation to climate change, emission reduction in developing countries, climate finance and technology transfer.

Poznan Climate Conference of The Parties (COP 14): The Poznan climate conference of the parties (COP 14) was sequentially held on 2008, where the previous COP's left off had been discussed for a post-Kyoto international agreement on climate change that would come into effect in 2013. This conference was followed up by the so called Copenhagen conference in 2009 to finalise the agreement for 2013. But the expectations of the 1992 to 1997, proved to be too unrealistic, particularly after the Copenhagen conference, and failed to deliver a breakthrough.

COP 16 at Cancun: COP 16 at Cancun found its track with resuming discussion on Post Kyoto regime that even continued to COP 17 at Durban.

PRE- DURBAN EXPECTATIONS

While reckoning earlier conferences, it seems that after Bali, the climate talk was somehow deadlocked with the self-interest maximizing by the positioning of some mighty countries and emerging economies group like BRIC⁴ or BASIC⁵. Taken into account, all the opportunities that Cancun agreement created in advancing global cooperation under the mandate of the convention was expected like that-

- COP 17 could produce much expected extension of Kyoto Protocol for 2012 onwards.
- Not only the scientists or climate activists but also many head of states stressed on the necessity of KP extension and urged Annex 1 parties³ to ensure emission reduction on a consensus basis through their supports for the implementation of the convention.
- Expectation was also raised around the operation of long waited Green Climate Fund (GCF) and Adaptation Committee.

Considering current emission scenario and future impacts, it was also opined that failure of Durban could lead to a regime where the world may experience temperature rise of 4 degree Celsius by the end of the current century or before. It was also argued that within the existing structure, global temperature rise should keep below to 1.5 degree Celsius for a habitable planet.

During the negotiation round and before that, the delegates from developing countries were demanding for a new commitment period of KP with strong emission reduction target, whose first commitment period will be expired at the end of 2012.

SCENARIO OF EXPECTATION & OUTCOMES

The Durban conference covered a wide range of negotiation tracks such as the agreements on the Kyoto Protocol, in particular the Second commitment period; a future roadmap; technology transfer arrangements; and arrangements on the 'Green Climate Fund'.

⁴ BRIC- Brazil, Russia, India and China ally at UNFCCC COP

⁵ BASIC- Brazil, South Africa, India and China ally at UNFCCC COP

³ Annex 1 parties- USA, UK, Ukraine, Turkey, Switzerland, Spain, Russian Federation, Romania, EU, France, Australia, etc.

Table 1: The scenario of expectation & outcomes

Pre-Durban Expectation	Durban Outcomes	Future work programme
Extension of Kyoto Protocol	Parties decided to extend the Kp-CP2	Extension of the KP-CP2 talks will resume at 2013 in Doha.
Create a legally binding agreement	Parties agreed to create a legally binding agreement	Discussion on the structure of agreement will start in COP 18
Establishment of the Green Climate Fund	Parties reached to a consensus decision for the establishment of the Green Climate Fund	The way to raise the Green Climate Fund will be decided in the next COP 18's meeting
Reduction of temperature at 1.5 degree Celsius	Parties decided to reduce the world temperature to 2.5 degree Celsius but there exist contradictory opinion among the parties	Final decision to reduce the world temperature will be taken in the COP 18 at Qatar
Creating a new regime to tackle the threat of Climate Change	Decision to established a Durban Platform for enhanced action	It will be implemented in the next meeting at Doha
A decision on long term co-operation	It is decided at Durban	It will be implemented in the COP 18

Source: United Nation Framework Convention on Climate Change, 2012

KYOTO PROTOCOL AND FUTURE EMISSION REGIME

The Durban climate negotiation ultimately resulted in an agreement which may establish a new emission reduction commitment period for the KP. However, LDCs are skeptic about the outcomes, as the negotiation on the implementation process is still uncertain which is supposed to start at next COP in Doha.

The negotiators reached to a consensus on the further extension of the second commitment period of the Kyoto Protocol within 2020 under the proposed Durban platform through creating a framework on legally binding agreement. However, LDCs concern mainly pertained to the timing, where they argued that the gap between the decision and implementation period may further push them into grave vulnerability. Despite Kyoto Protocol in action, the developed nations have fairly failed to reduce targeted emission, which was set as 5.2 percent reduction by the year 2012 compared to base year 1990.

Before, during and after the Durban climate negotiation, some negotiators from developed nations have shown their reservation in spending more time for any uncertain threat. Moreover, oftentimes, their enthusiasms are also strained when they see that their peers are doing nothing for the global climate rather positioned with narrow self-interest. Another discouraging factor comes from recent carbon emission data (Table 2) that shows that China already exceeds USA and India will soon take second position after China in global emission market, even though these two countries were not covered under Kyoto protocol's first commitment period.

Table 2: Global carbon emission scenario

Country	2008 Total, Mil tones	2009 Total, Mil tones	2009, Per capita, tones	Percent change, 2008 to 2009
China	6803.92	7710.50	5.83	13.3
USA	5833.13	5424.53	17.67	-7
India	1473.73	1602.12	1.38	8.7
Russia	1698.38	1572.07	11.23	-7.2
Bangladesh	50.39	55.13	0.36	9.4
Japan	1215.48	1097.96	8.64	-9.7
Canada	598.48	540.97	16.15	-9.6

Source: International Energy Statistics, 2012

Whatever the achievement under KP CP1 is, the discussion at Durban mostly revolved round KP's second commitment period. In addition to that, many developed countries like Russia, Canada, USA and Japan showed their disagreement to the proposal of Kyoto Protocol extension, out of which USA did not comply with Kyoto Protocol's first commitment period either. After observing such reluctant positions of some developed countries, developing countries, particularly LDCs become frustrated regarding the outcome of the Durban conference.

Table 3: Update on countries commitments regarding the second commitment period of the Kyoto Protocol (KP-CP2)

Countries that announced their willingness to take part in KP-CP2	Countries not having taken position yet	Countries that have announced not to participate in the KP-CP2)
<ol style="list-style-type: none"> 1. Belarus (recently added to the annex B) 2. Croatia 3. EU27 4. Iceland 5. Ukraine 6. Switzerland 7. Norway 8. Monaco 9. G-77 and China 10. LDCs 	<ol style="list-style-type: none"> 1. Australia 2. New Zealand 	<ol style="list-style-type: none"> 1. Canada (complete withdrawal from the protocol announced on 12/12/2011 and left effective for the KP-CP1) 2. Japan 3. USA (never ratified KP) 4. Russia

Source: United Nation Framework Convention on Climate Change, 2012

Although at Durban, the negotiators were agreed to pave the way of regime change but eight years time gap may incur huge cost which may results opposite outcomes as well than it is anticipated considering the dynamism of international politics and global economic situation.

POWER DYNAMICS: COMPROMISE OR MAXIMIZATION OF SELF INTEREST

Durban replayed another display of “might is right”, where developing countries’ concerns were not heard with much attention rather in the name of equity, USA and their ally has been favouring to impose ‘Common for All’ instead of ‘Common But Differentiated Responsibilities’. Emerging power like India and China were also using their new redefined economic strength to influence negotiation. They were against ‘Common for All’ emission reduction target by arguing that USA and other industrialized countries should take the major responsibility for historical emission. Despite such self-interest based positioning, Durban conference should be credited for advancing talk on Kyoto Protocol extension, once which was seemed drowning.

The world has been experiencing new polarization in climate talks since Copenhagen when Brazil, Russia, China and India formed an interest group as named after BRIC and started opposing USA’s proposal on “mitigation elements common to all parties”. Another shift was observed in Cancun when BASIC was formed with Brazil, South Africa, India and China. It seems counties with emerging economics are playing a crucial role in negotiation and influencing outcome to a great extent. It is difficult to conclude, but from their stance it is naive to say that most often their position reflects self-interest rather than common welfare. Likewise, at Durban, Indian built a coalition with AOSIS⁶ and LDC⁷s for need-based financial and technological assistance in climate change adaptation, other than negotiating stance under BASIC group.

⁶ AOSIS- Association of Small Island States

⁷ LDCs- Least Developed Countries

“Hollow” is the term described by the civil observer society to refer the Durban agreement considering its effectiveness in the global climate protection. However, it is still better to have a guided direction to resume climate talk in Doha rather than having many unresolved issues. The parties to the conference including the least developed countries agreed to adopt a universal legal agreement on climate change as soon as possible and no later than 2015. Perhaps one of the significant landmark of the Durban climate negotiation was that during the negotiation rounds, the state parties agreed to signed a deal that commits all the world’s emitters- including China and India to begin negotiations next year that could culminate in a legally binding treaty requiring all major emitters to trim their emissions, beginning sometimes after 2020.

The frustration of LDCs is heaping to see developed countries’ stance in the negotiation where their commitment towards a strong emission reduction treaty is questionable. Despite having difference in interest, the US teamed with China, India, and other major developing countries emitters to block efforts by the European Union and LDCs to craft a stronger agreement that would force more rapid emission reductions and development of financial and technological assistance to help poorer nations in adopting to climate change impacts.

Whatever policy makers’ difference in views for an emission reduction agreement is, the science warns that the gap between aggregate level of emission reduction and tipping point to avert dangerous climate change is widening. In Durban, therefore, using scientific information as basis, negotiators were agreed to launch a work plan to identify options for closing the gap. A critical look on emission reduction scenarios reveals that emission commitment under Kyoto Protocol covered 42 percent, whereas Cancun agreement planned to cover 80 percent and Durban further increased target of reducing 100 percent emission compared to 1990 level by 2020. However, debate started streaming on two issues; firstly, the gap between expiration of Kyoto Protocol’s first commitment period and starting of second commitment period, which is eight years; secondly, to achieve 100 percent emission reduction target both developed and developing countries have to reduce emission to a significant level, where in Kyoto Protocol’s first commitment period obligation was only confined to developed countries.

Table 4: Emission target under different regime

Feature	Kyoto Protocol	Cancun Agreement	Durban Platform
Adoption	1997	2010	2011; to be completed by 2015 with a goal to enter into force in 2020
Implementation period	2008-2012	2020	2020 onwards
Emission coverage	42 percent in 1990; 27 percent in 2008; expected 15 percent in 2011	80percent with submission by developed and developing countries	100 with reduction by both developed and developing countries
Targets	Binding only for developed countries, 5.2 percent below 1990 emission levels to 2012	No binding but aim to keep world on 2 degree Celsius stabilization pathway	Share of developed and developing countries yet to be decided
Tools	Clean Development Mechanisms	Green Climate Fund(launching in 2012); clean technology centre, and verification features	Green Climate Fund, Emission tax, REDD and other existing tools
Mode of implementation	Emission trading, Joint Implementation		

Source: United Nation Framework Convention on Climate Change, Third World Network, International and International Centre for Sustainable Development, 2012



Table 5: CO2 concentration in the atmosphere

Gas (ppm)	Level in January 2012	Level in 2008	Level in 2005	Level in 199+8	Level in 1990	Increase since 1750 (comparing with 2005)
CO2 – (Carbon dioxide)	393.03	385.44	379	365	353.79	100

Source: United Nation Framework Convention on Climate Change and Earth System research Laboratory, 2012

Apparently, Kyoto Protocol has failed to stabilize Carbon-di-oxide concentration in the atmosphere, where reaching targeted emission reduction is a far-off issue. Statistics shows that, current Carbon-di-oxide concentration is 393.03 ppm (Table 5.), as of January 2012, even though Kyoto Protocol has targeted to reduce emission and keep Carbon-di-oxide below or equal to 1990 Level. Considering the emission increase record, it therefore, obvious to think that within this 8 years gap, without any binding, the Carbon-di-oxide concentration to the atmosphere may reach to a stage from where a return would be impossible even with 100 percent emission reduction (second commitment period will start at 2020).

Despite having some success in negotiation, civil society identified Durban as a failed conference in terms of equity and time management. India and China, the two largest emitters, are against ‘Common for All’ principle rather they are stick to the ‘Common but Differentiated Responsibilities’ as quoted in original convention. USA and their ally arguing that China already has appeared as the largest emitter and India will become second largest emitter by 2018, even if they are out of any legal emission reduction target under KP; this is because in time of KP formulation India and China were developing country and listed as non-annex country. They further argued that the world has changed much and without a common emission reduction target for all, it is impossible to keep global temperature under admissible limit.

LDCS’ INTEREST TO KYOTO EXTENSION

LDCs are in a dwindling position with the outcomes of Durban. Most vulnerable countries (MVCs)⁸ including Bangladesh showed reservation regarding Durban platform to see it ennuï outcome, but India (i.e. the core power of South Asia) announced it as a success in the history of climate diplomacy, a victory for climate equity (on which India was stressed earlier), and a triumph of developing country. At the conference, developing countries further split, with the alliance of small island states (AOSIS) and the least developed countries (LDCs) made alliance with the European Union. In this case, it is now a matter of concern how the European Union best protect the rights of the least developed countries through climate diplomacy. These types of alignment may be seen due to Durban’s failure of imposing the much-needed 40-45 percent early emission cuts on the north by 2020.

To analyse the impact of Durban climate negotiation on LDCs and more particularly on Bangladesh, the term “*Climate Apartheid*” is being used by civil societies. The reason behind it is that, where the developing countries are struggling with the climate change impacts, the richest countries are

⁸MVC-However the debate over vulnerability as "like a third rail" among developing nations, the 2009 Copenhagen Accord specifically cited least developed countries, small island developing states and Africa as "particularly vulnerable."

⁹A social policy or racial segregation involving political and economic and legal discrimination against people who are not Whites; the former official policy in South Africa



increasing their contribution to GHGs emission. Regrettably, 1 percent richest countries' mishaps will ruin the future of 99 percent developing countries.

Delaying real action until 2020 is a 'crime' of global proportions as described by Ninimmo Bassey¹⁰ of the Earth International. LDCs' concern is that Durban platform will allow increasing global temperature to 4 degree Celsius or more that will put the poor and vulnerable countries of the world in a severe position, just like death penalty. Developing countries' viewed the Durban platform best depicts through Pablo Solon's comment, former negotiator for the Bolivia, "It is false to say that a second commitment period of the Kyoto Protocol has been adopted in Durban. Rather, the actual decision has merely been postponed to the next COP, with no commitments for emission reductions from rich countries. This means that the Kyoto Protocol will be on life support until it is replaced by a new agreement that will be ever weaker".

POLICY RECOMMENDATIONS: PRESENT IN BLEAK, FUTURE IS UNKNOWN

Since 2005, the Ad Hoc Working Group on further commitment for Annex 1 nations under the KP (AWGKP) has been working to develop guideline for the period beyond -2012 in accordance with Article 3, paragraph 9, of the protocol. However, at Durban, there was no consensus in the AWGKP on the draft decision on the second commitment period prepared by the AWGKP chair, Adrian Macey of New Zealand. In this sense, the second commitment period of the KP remains an uncertain issue to be settled. While parties of developing countries are expressing their disappointment and frustration after a heated debate at the closing plenary session of the AWGKP on 10 December, Macey decided to transmit the approval by the conference of the parties to the UNFCCC serving as the CMP7.

On the other hand, the developing countries also raised strong voice over lack of balance in the report of the outcomes of the AD Hoc Working Group on long term co-existence action. When the AWGLCA met its final plenary session on 10 December 2011, several developing countries raised concern over the lack of balance in the text, especially, in relations to mitigate action between developed and developing countries. Moreover, many countries were unhappy as no statement was there about the level of mitigating ambition needed by Annex 1 parties as well as there was no provision for the comparability of efforts between the KP and non-KP parties.

During Durban the climate conference, the state parties wanted the AWGLCA document to be worked on further to restore the balance. Again, they also proposed that this is to be done in the next year. Thus, the life of the AWGLCA was extended for another year through a decision by parties in the Durban platform. Japan and Canada have already withdrawn their support from any further commitment under the KP. Even though EU favours extension of KP but US demands of 'symmetrical share' which creates some tension for the future of KP-CP2.

Through analysing the whole rounds of negotiations process on the second commitment period of KP, Unnayan Onneshan tried to recommend this part of negotiation under three aspects of outcomes-

¹⁰Nnimmo Bassey's work as Executive Director of Environmental Rights Action in Nigeria and Chair of Friends of the Earth International.

No Agreement on a Second Commitment Period of KP

Unnayan Onneshan noticed that, the future of KP is now in a deadlock condition unless the Annex 1 parties including the emerging economics like- India, China, particularly, back out of their current positions. The parties at Durban did not reached an agreed decision on the second commitment period of KP by the end of 2012, when KP's first commitment period will be expired. This will cause an uncertain duration during which the UNFCCC will face great difficulty in imposing any legally binding quantities limits on GHG emission of states. In that case, the only limits would be the political commitment to limit the emission of GHG emission by major industrialized states or the Annex 1 parties. The prime reason behind this is that, in principle even those Kyoto parties are willing to establish a second commitment period of KP but reluctant at the same time to do so on their own.

Although the expiration of the first commitment of the Kyoto Protocol does not mean the expiration of the protocol rather only the expiration of emission targets but this will affect several provision of the protocol negatively. This is because, without emission targets there would be no assigned unit of Carbon emission by the states. As for example, the system of national registries to track each state's assigned amount or the rules for crediting of land use changing and forestry activities.

Likewise, states undertake Clean Development Mechanism (CDM), particularly to generate certified emission reduction Units (CERs). *As a result, if the Annex 1 parties are refused to agree on the second commitment period of the KP or failed to define the target to limit GHG, it will be difficult to define how many CDM projects would be funded.*

An Amendment to Establish a Second Commitment Period

Throughout the negotiations at Durban on the establishment of a second commitment period of Kyoto Protocol, Unnayan Onneshan noticed a scenario of no-agreement. In that scenario, the parties at Durban could agree to an amendment establishing a second commitment period to fill up the gap. The most remarkable point regarding this is that, however, the Kyoto amendment establishing a second commitment period could be adopted without a linked entry into force requirement. A second commitment period amendment almost certainly would not enter in to fore quickly enough to fill up the gap between the first and second commitment period. Point here to be noted that, Kyoto Protocol amendment requires acceptance by the three quarter of the protocol parties and simultaneously, an amendment would need to be accepted by 143 countries by October 3, 2012, which is virtually impossible to enforce.

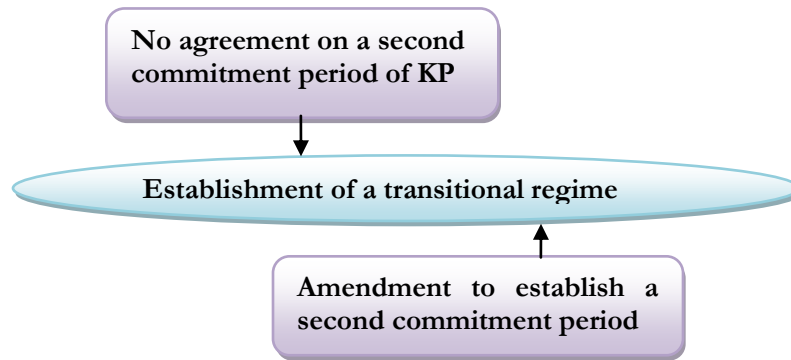
To address this issue, there are three key points which are needed to be settled-

- ❖ ***New Kyoto targets Vs existing Cancun/ Copenhagen framework:*** It is very important, firstly to sort out which countries would agree to a new Kyoto targets and which are intends or would prefer it as best to proceed under the existing Copenhagen/ Cancun framework.
- ❖ ***Identify the linkage (if any) between the Kyoto Protocol & new legal agreement:*** During the next meetings under UNFCCC, which will be held at Bonn (on May 2012) and Bangkok where parties should identify the type of linkage to be developed between the KP and new legal agreement. As for example-
 - ✓ *Could countries with emissions reduction targets trade across the two agreements?*
 - ✓ *Similarly, could countries in the convention track make use of CDM credits?*

3. Modification of Kyoto Rules: *At the same time, the Kyoto parties should also settled what kind of modification is needed (i.e. land-use change & forestry credits, CDM, reporting, review & compliance, accounting)*

Establishment of a Transitional Regime

Unnayan Onneshan noticed a transitional regime in between the no-agreement on a second commitment period of KP and amendment to establish a second commitment period.



In the long run, two types of commitments are noticeable on the Durban negotiation table, namely- *legal and political commitment and in that case, the LDCs put emphasis on a legally binding commitment based on CBDR.*

Unnayan Onneshan as a think-tank assessed that, it would be very fruitful if the Kyoto-Protocol parties alternatively decide to establish a rigorous, less-ambitious and realistic second commitment period by incorporating elements of the Copenhagen/Cancun approach:

- ✓ *A unilateral pledge to define the targets of the second commitment periods.*
- ✓ *Targets could be specified and conditional*
- ✓ *Carbon trading could be done on an ad hoc basis through bilateral agreements*
- ✓ *The rules on accounting, sinks, and MRV could be changed to reflect the political rather than legal character of the regime.*

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