

Post-Durban Reflections:

The Day After Tomorrow: COP 17 Outcomes and Implications
Report following the Stakeholder Workshop

24 February 2012



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Executive Summary

On 24 February 2012, the Institute for Global Dialogue (IGD) hosted a workshop with the purpose of giving due consideration to the outcomes and implications of COP 17. This post-COP reflection, which forms part of a dialogue series on the international politics of climate change, was held at the Burgers Park Hotel, Pretoria. The workshop comprised key contributions from government, business and civil society, with perspectives drawn together in a discussion following the session.

In opening the discussion, Xolisa Ngwadla highlighted the historic context of these complex negotiations, from the 1972 Stockholm Conference through to the challenges faced by COP 15 in Copenhagen. It was noted that the Durban talks inherited unresolved problems, carried over from previous COP negotiations. In addition, these talks took place against the backdrop of an international recession and sovereign debt crisis, a number of key elections, technology challenges and increasing natural disasters. Nevertheless, it was also indicated that the Durban negotiations saw some progress in the development of a future climate change regime. This included an agreement on the second commitment period of the Kyoto Protocol and the Durban Platform for Enhanced Action. Ngwadla noted that these gains have particular relevance for Africa in preserving the multilateral rules system, bringing coherence to the adaptation agenda and approval for the Green Climate Fund (GCF). However, he also cautioned that a number of challenges remain to the fragile gains made in Durban.

In setting out a perspective from the private sector on the outcomes of COP 17, Neil Morris noted business' key interest in climate change, particularly its impact on regulatory frameworks. With competing country positions, expectations of a significant move forward in the negotiations have been low. These were exceeded by COP 17, which signalled a continuing focus on a low-carbon future. Prior to and during the negotiations, business continued to engage with government and built on the awareness of the role of the private sector in mitigation activities, such as the Carbon Disclosure Project (CDP) and the Nationally Appropriate Mitigation Action (NAMA). Yet the challenge for the private sector is that national responses remain fragmented with a 'patchwork' array of legislation.

In her analysis, Michelle Pressend highlighted the complex and divergent role of civil society in the climate change negotiations. The importance of climate justice in underpinning a number of positions was addressed, with particular emphasis on the continuation of the Kyoto Protocol and finance that is additional, accessible, significantly increased and predictable. In addition, the importance of a 'just transition' in meeting socio-economic needs was further discussed. These positions

are linked to the World People's Conference on Climate Change and the Rights of Mother Earth. In terms of the outcomes of the negotiations, a number of civil society organisations (CSOs) have indicated that the talks have not gone far enough. Challenges included the resort to 'indabas' or small group discussions, continued questions around the financing for the GCF and the 'privatisation' of resources such as land and forests, as well as the outcomes that have diminished the historical responsibility for those primarily responsible.

Policy Considerations

In moving forward from COP 17, the following policy considerations are drawn from the discussions:

- The international climate change negotiations are particularly complex, as they bring together competing positions and interests at both an international and domestic level. As the COP 18 negotiations approach, it is important that momentum be maintained in seeking an internationally acceptable agreement.
- The progress that has been made at Durban needs the continued support of the parties, particularly in building on the outcomes.
- Stakeholders, such as the private sector, need to remain flexible in their approach. Pre-emptive action can serve to empower businesses as they grasp opportunities in supporting a low-carbon future.
- Continued engagement between civil society, the private sector and government is necessary in maintaining pressure on countries to achieve an agreement on the future of the climate change regime.

■ Contributors

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Mr Neil Morris is the Director of Climate Change and Sustainability at KPMG South Africa. With over 12 years' experience with KPMG (in both South Africa and the United Kingdom), he has been involved in audits, DPP and climate change and sustainability, with a focus on mining and financial service sectors. In his current position, his focus is on sustainability assurance, climate change advisory solutions and integrated reporting. Neil is a member of the South African Integrated Reporting Committee Working Group (IRCWG), responsible for drafting the discussion paper *Framework for Integrated Reporting and the Integrated Report*. As a partner in DPP, he was responsible for implementing the firm's audit methodology and technology throughout Africa.

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PRESSEND, Michelle

Michelle is an independent writer and policy analyst on international environment, climate and trade issues and its impact on socio-economic justice. She also works with the Economic Justice Network and Labour Research Service in Cape Town, where she coordinates Global Network Africa, a network of labour research institutions focusing on trade, social protection and migration. In 2009, she managed the research, policy and advocacy programme for Biowatch. Michelle is also a columnist for the South African Civil Society Information Service (SACISIS).

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■ Acronyms and Abbreviations

ADP	Ad Hoc Working Group on the Durban Platform for Enhanced Action
AWG-LCA	Ad Hoc Working Group on Long-term Co-operative Action under the Convention
AWG-KP	Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol
BASIC	Brazil, South Africa, India and China
BRICS	Brazil, Russia, India, China and South Africa
CAN	Climate Action Network
CBO	community-based organisation
CDM	Clean Development Mechanism
CDP	Carbon Disclosure Project
COP	Conference of the Parties
CSO	civil society organisations
FAO	Food and Agriculture Organization (UN)
FBO	faith-based organisation
GCF	Green Climate Fund
GHG	greenhouse gas
ICC	Institute for Corporate Citizenship
IGD	Institute for Global Dialogue
IPR	Intellectual Property Rights
IRCWG	Integrated Reporting Committee Working Group
NAMA	Nationally Appropriate Mitigation Action
NBI	National Business Initiative
NGO	non-governmental organisation
REDD	Reducing Emissions from Deforestation and Forest Degradation
SACSI	Southern African Civil Society Information Service
SADC	South African Development Community
TRIPs	Trade-related aspects of intellectual property rights
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UNISA	University of South Africa
WTO	World Trade Organization

■ Introduction

From 28 November to 10 December, 2011, South Africa hosted the United Nations Framework Convention on Climate Change's (UNFCCC's) 17th Conference of the Parties (COP 17). With Pretoria leading 194 member states in discussions concerning the second commitment period of the Kyoto Protocol (legally binding emission reduction targets and other important issues that would mould the future climate regime), the world looked keenly towards South Africa to facilitate positive outcomes for the climate agenda.

Interpretations of South Africa's performance in COP 17 are, to a large extent, subject to the perception held by observers and stakeholders of the negotiations. It is for this reason that the Institute for Global Dialogue (IGD) hosted a post-Durban workshop to reflect on the outcomes and implications of COP 17 from different stakeholder positions. The seminar convened a panel constituting representatives from government, business and civil society on Friday, 24 February, 2012. This included Mr Xoliswa Ngwadla from the Department of Environmental Affairs, Mr Neil Morris from KPMG, Ms Michelle Pressend from the Economic Justice Network, Dr Lesley Masters from the IGD as discussant and Prof Godwell Nhamo from the University of South Africa (UNISA) as Chair. The workshop, which was held at the Burgers Park Hotel in Pretoria, brought together members of the diplomatic corps, government, media, academia and various elements of civil society.



Prof Godwell Nhamo (UNISA), Mr Xoliswa Ngwadla (DEA)

■ A Perspective from Government: Discussion Summary

□ Xolisa Ngwadla

The South African government played the dual role of president and negotiating party for COP 17 of the UNFCCC. It had to successfully combine these two roles while addressing a myriad of issues, which mainly originated from past COPs. This discussion provides a perspective from government on the COP 17 outcome, including the context of the negotiations, the period leading up to COP 17, key issues facing the Durban negotiations, the outcome of COP 17 and implications for future negotiations. It concludes that while progress was made in Durban, the outcomes, while still fragile, should be purposefully utilised for addressing the global climate challenge.

The Durban negotiations have their origins in the 1972 Stockholm Conference, the Brundtland Commission and the 1992 Rio Earth Summit (towards a global understanding of development and natural resources). In terms of the climate change negotiations, questions of 'fairness' remain unresolved, with contention arising between parties to the Kyoto Protocol, non-parties and the major developing economies, particularly in the context of its effectiveness and fairness. Developed states, in particular, pointed to the omission of emerging states with high emissions, such as China, which were not incorporated in the list of Annex 1 countries.

A partial solution to the difficulties was derived in Bali in 2007 with the launch of the Ad Hoc Working Group on Long-term Co-operative Action under the Convention (AWG-LCA) and the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP). These were aimed at addressing comparability among developed countries, transparency in developing country action, and the second commitment period of the Kyoto Protocol. The two ad hoc working groups (AWGs) were tasked with arriving at agreeable outcomes by 2009. However, in spite of these efforts, the Bali Mandate remained unresolved by COP 15 in 2009. The Copenhagen Accord was 'noted', with a political signal on comparability and differentiation, as well as institutional mechanisms on technology, adaptation and finance. Following Copenhagen, Cancún (2010) saw a decision on a global goal of 2 °C, a review of mitigation targets, an Adaptation Committee and Framework, Technology and Finance (\$30 billion fast-start finance and \$100 billion, as well as the Green Climate Fund (GCF)).

The period beyond 2007 also saw an emergence of two competing paradigms. This included the top-down Kyoto approach and the bottom-up pledge-and-

review approaches to a global climate change regime, which differed on coverage, rules and legal character. While there is agreement on certain issues on the climate agenda, the implementation of these issues has been problematic. Durban inherited unresolved issues from Bali, increasing the stakes for the 2011 negotiations. These included equity, comparability and the relationship with other multilateral bodies on issues such as intellectual property rights (IPR), transport and agriculture. There was, moreover, the possibility of a future climate system devoid of a second commitment period for the Protocol due to divergences in country positions. The issues on the agenda were to be dealt with amid problems such as recession and sovereign debt crisis, major economies going into elections, technology challenges and an escalation in natural disasters. The Durban outcome would thus not be an easy task, as it increased the number of competing challenges that the parties were facing and lowered the prioritisation of the climate agenda. Nevertheless, some progress was made in setting the paradigm for the future climate regime. This was achieved by reaching an agreement on the second commitment period of the Kyoto Protocol and on whether or not to make use of the legal backing of the Convention.

Various aspects were contained within the Durban agenda, including the issue of low ambition. Pledges from Copenhagen needed revision due to the fact that they were a far cry from what science prescribes for curbing the climate challenge. Ambition was also lacking in relation to the impact of response measures on developing countries. Another aspect on Durban's agenda was the operationalisation of institutions from Cancún. This was considered a particularly important achievement because it saw agreement on many fundamental aspects within the future climate regime.

The Durban outcome addressed both the present and the future. To ensure concrete action towards addressing the climate challenge in the near future, the second commitment period of the Kyoto Protocol was agreed to. Cancún institutions were operationalised, including the GCF. Durban also launched a process to increase ambition for emission reductions. Under the AWG on the Durban Platform for Enhanced Action, COP 17 agreed that by 2015, negotiations for a future climate agreement applicable to all parties would be concluded, and that by 2020 this agreement would be instituted and be applicable to all parties —



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a significant step in the negotiation process. The fact that the agreement is to be negotiated under the UNFCCC, means that all parties to the Convention are subject to their individual obligations towards ensuring an efficient response to climate change. All rules of the Convention, such as those concerning emission reductions, reporting and more, apply to the parties as they negotiate.

A number of the Durban gains had specific relevance to Africa. Going into the COP, it was important for Africa to preserve the multilateral rules system that provides the forum in which to address the climate challenges Africa faces. The Durban Platform enables this. Another African gain from the Durban Conference is one that concerns the adaptation agenda. As African states lack the capability to address the impacts of climate change, and will therefore be worst affected by it, adaptation is of particular importance to the continent. Durban benefitted the African Agenda by bringing some coherence to the adaptation agenda with normative guidance for adaptation provided during the conference. Additionally, Durban saw approval for a GCF design instrument, and it was decided that elements relating to the GCF and to adaptation should be achieved in 2012. Lastly, the Durban Conference agreed to address the adverse impacts of climate change.

While these gains indicated that some strides have been made towards advancing issues on the climate agenda, the Durban outcome has some important implications for South Africa and the rest of the global community. Firstly, the gains from Durban are at risk, due to the delicate balance held by outcomes such as the second commitment period of the Protocol, the GCF, the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), and the transparency of the process and the pledges made. If any one of these elements fall behind, the risk is that the entire gains could unravel. This would undermine the outcomes from Durban. Another immediate challenge from Durban is shaping the ADP to enable it to build on previous agreements such as issues of equity, comparability of efforts, ambition, differentiation

and compliance. Other challenges arising from Durban relate to the technical aspects of the agreements. Noteworthy within this aspect is implementing the technical work necessary for the final amendment of Annex B, giving effect to operational institutions, scoping of the ADP, raising the level of ambition, maintaining a balance between the bottom-up and top-



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down approaches, and the global responsibility of countries.

In conclusion, South Africa successfully combined its roles as COP president and negotiating party of the COP 17 negotiations. Although Durban brought significant gains for South Africa, Africa and the rest of the world, these gains were reached amid competing global constraints and priorities. The gains to the multilateral rules-based system were also noteworthy, in that the negotiation process was maintained. Therefore, despite the fact that certain issues on the agenda were not finalised in Durban, maintaining the negotiation process meant these aspects could be negotiated on in the future. A more general but immediate implication of the Durban COP is that the outcomes are fragile and could be easily lost. In order to maximise the gains, concerted efforts are required to channel them for use in addressing the climate challenge. This will help maintain the momentum for future negotiations.

■ A Perspective from Business: Discussion Summary

□ Neil Morris

Business' interests in the COP 17 negotiations stem from the impacts that decisions made at these negotiations will have on profits and the ultimate survival of corporations. The private sector, for instance, is required to abide by all laws and agreements that relate to climate change. These include energy efficiency requirements and standards, carbon taxes, emissions cap and trade systems and fuel tariffs.¹ Adopting innovative strategies for the transition to sustainable growth is a major priority, enabling business to maintain profit while adhering to the demands of the climate change regime. As a result, the private sector is one of the key stakeholders in the climate change negotiations. The aim of this discussion is to shed light on the role of business, reflecting on the perceived outcomes of COP 17 by the private sector.

In the period leading to COP 17, business, along with other stakeholders, held low expectations for an agreement that would see a second commitment period for the Kyoto Protocol or for there to be a joint implementation of carbon markets. These concerns were perpetuated by the fact that key players had seemingly irreconcilable differences. For instance, China and the United States — the two largest greenhouse gas (GHG) emitters — disagreed on their respective obligations to the climate regime. At the same time, the key proponent of the process, the European Union (EU), appeared too engulfed in its internal financial woes to effectively contribute towards addressing these challenges.

For business, climate change forms part of an interconnected set of megafactors in the world that interact and give rise to an unpredictable global system. These competing dynamics influenced business' approach and contributed to an atmosphere of uncertainty in the run-up to COP 17. They include climate change, energy and fuel, material and resource scarcity, water scarcity, population growth, urbanisation, wealth, food security, ecosystem decline and deforestation. Each has important implications for business and must therefore be understood, assessed and built into long-term strategic planning.²

In the second week of the negotiations, there was a rumour that a deal was likely to be reached and, 36 hours after the pre-scheduled end of COP 17, the Durban Platform for Enhanced Action was produced. To the surprise of many, the Kyoto Protocol survived.³ Nevertheless, business sees this outcome as far from perfect, as it fails to put the world on the path to reducing global temperatures by 2 °C, with key details on the Durban Platform yet to be fleshed out. The outcome,

however, exceeded their nominal expectations for COP 17 and signalled that the world is headed more firmly down the low-carbon path than it was before the Conference. The challenge is that business continues to navigate through fragmented national responses and an unpredictable array of patchwork legislation that will be derived from these responses. During the 2012 Budget Speech, Finance Minister Pravin Gordhan announced a proposed carbon tax of R120 a ton of carbon dioxide equivalent on carbon above the 60% tax-free threshold. The tax allows maximum offset percentages of 5 – 10% until 2019 – 2020, but includes concessions in certain sectors. This tax is an example of the legislation derived from Durban. Taxes such as these present South African businesses with fundamental, profit-related challenges in striking a fine balance between sufficiently incorporating the taxes into their production costs and remaining globally competitive. The fact that South Africa must engage competitively with other markets, such as the EU, Australia, South Korea and China, and contend with a host of regional economic schemes from California to Rio de Janeiro, illustrates this challenge.

Although not playing a distinct role in the COP 17 negotiations themselves, there were crucial discussions between business and government in the period leading up to the negotiations. The discussions highlighted the specific interests that business would like to see addressed during the negotiations; this was crucial in influencing the agenda of the negotiations. KPMG acted as a mediator, relaying the views of business to government. Many companies also met directly with government to communicate their interests in the negotiations. The National Business Initiative (NBI) and the COP 17 CEO Forum were also instrumental in communicating the interests of business ahead of the climate change negotiations.

The private sector was involved in the negotiations in other ways, including creating awareness of the role played in mitigating GHG emissions. A key example in this regard is the Carbon Disclosure Project's (CDP's) Carbon Chasm document, which is research based on data from the CDP and targets from the JSE 100. The document allowed business to forecast the gap between the country's emissions and the national target of 34% below business as usual by 2020. This was particularly useful in providing information on some of the work that needs to be done for reduced GHG emissions.



**Mr Xolisa Ngwadla (DEA), Mr Neil Morris (KPMG),
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Business also grasped COP 17 as an opportunity to foster partnerships that could support its climate change initiatives, particularly in the Nationally Appropriate Mitigation Actions (NAMAs) agenda. The meeting between negotiators and business representatives was crucial in creating opportunities for NAMAs in the region through mobilising private sector investment and public-private partnerships. It is part of the broader objective of utilising NAMAs to increase investment in green growth. Such initiatives will potentially combine public and private finance and create sustainable development across different sectors.⁴ Forty countries have already presented their NAMA concepts to the UN, and partnerships with business should be explored. With the appropriate partnerships in place, states can identify the most effective investment models that would facilitate their transition to low-carbon economies.⁵ This includes the adoption of the necessary domestic elements in the NAMAs infrastructure. Elements such as appropriate measurement, reporting and verification measures will maintain the integrity of the various NAMA projects and will more likely attract and maintain the funding of NAMA projects.⁶

The outcome of Durban has other important implications for business. The survival of the Kyoto Protocol, for instance, indicates that carbon markets will remain for the foreseeable future. According to UNFCCC Executive Secretary Christiana Figueres, the Protocol's 'accounting rules, mechanisms and markets all remain in action as effective tools to leverage global climate action and as models to inform future agreements'.⁷ This provides some measure of predictability for business.⁸ Another key issue discussed at the negotiations is the GCF. The US\$100 billion-a-year fund is especially important for business, particularly in terms of access in supporting governments as they move towards making the necessary transition to a low-carbon economy. However, the need to source funds for the GCF is also a relevant concern.

Adaptation should be prioritised for Africa, which has six out of the ten



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top countries at risk from climate change. Global agreements need to drive a more robust adaptation agenda.⁹ This will provide a range of opportunities for various sectors to participate in adapting to climate change effects. Adaptation should be tackled across all sectors of the economy, as certain sectors could potentially discover new

opportunities for providing adaptation solutions. There is also a fundamental need for business to adopt adaptation frameworks more formally.

Technology transfer is of high importance to the developing world, supporting companies' transition to low-carbon emission. The automotive industry has been identified as one of the key GHG emitters. The transfer of innovation and new technology to South African and other developing states' industries will augment their efforts towards producing cleaner technology. Capacity-building should similarly be prioritised, as this ensures the capability of states to address the impacts of climate change and make good use of the technology for developing sustainably. Governments should therefore renew their focus on capacity-building in their climate change agendas.

In conclusion, South African business' involvement in climate change operates in the midst of social elements that are unsteady and unpredictable. Regulations, such as those agreed to in the multilateral arena, add to the complexities that business finds itself in. The private sector, therefore, sees the need to have input in decisions made during the negotiations. However, because not all occurrences are foreseeable, business needs to start expecting the unexpected. Businesses would do well to become more flexible and develop the capacity to anticipate and adapt. This will significantly prevent and/or manage new risks. It will also empower business to appropriately explore unanticipated opportunities. Although significant, climate change is only one megaforce in a complex and unpredictable system of forces feeding and amplifying one another.¹⁰ Anticipating various climate change-related effects on business and the world at large will better ensure business' survival in the ever-changing global environment.

■ Reflections on the Role of Civil Society in COP 17: Mixed Reactions and Contradictions

□ Michelle Pressend

To begin with, it is important to understand 'who' civil society is. While civil society entities are non-government or non-business, and broadly made of community-based organisations (CBOs), faith-based organisations (FBOs), trade unions, non-governmental organisations (NGOs) and academics, this is not a homogenous entity. Although civil society organisations (CSOs) chiefly act on behalf of public interest, CSOs often have varied interests, missions and goals, and operate at different levels, playing different roles. Discussing the role of civil society in international negotiations therefore needs a deeper understanding of the complexity, nuances and impacts, or lack thereof.

Though most global socio-economic justice movements, actions and campaigns are against the global neo-liberal orthodoxy promoted by global economic governance institutions, the nature of global social movements is diverse and complex; ideologies and approaches differ in varying degrees. Some are transformists, reformists or 'anti' these institutions. These divisions illustrate the diversity and complexity of the different tactics and strategies of NGOs and social movements, and also reveal the challenge of different groups linking and reinforcing each other's actions.

This analysis looks at the historical role of CSOs that have followed the various COP meetings since the inception of the UNFCCC, mainly operating at the international level. It discusses the role that CSOs play in these negotiations, particularly from a climate justice perspective. Finally, the analysis reflects on how the COP 17 outcomes are being perceived by civil society.

Since the establishment of the UNFCCC and the inception of the Kyoto Protocol, CSOs from the Environmental NGOs have been following these negotiations and lobbying governments. Their main interest is in getting governments to commit to GHG emission reduction. These organisations include large environmental groups such as the World Wide Fund for Nature (WWF), Conservation International, Greenpeace and mostly UN-accredited NGOs from the north, amongst others.

During COP 13 in Bali (2007), the climate justice movement emerged, mostly from the global South and progressive organisations from the North. Climate justice is based on the understanding that, while climate change requires global action, the historical responsibility for the vast majority of GHG emissions over the past 250

years lies with the industrialised countries of the North. Cheap energy (in the form of oil, coal and gas) has been the engine of their rapid industrialisation and economic growth.¹¹ Their view is that climate change is a systemic consequence of economic policy based on neo-liberalism. The foundation of the climate justice movements is: 'system change, not climate change'.

CSOs' positions on climate change fall broadly into three categories:

- those that want to save the Kyoto Protocol;
- those that want to save the Kyoto Protocol, but are opposed to the market mechanisms;
- those that reject the Kyoto Protocol and are calling for total transformation of current production and consumption patterns.

Those groups that support a second term of the Kyoto Protocol also favour the proposed market mechanisms as a basis for financing adaptation and mitigation. As previously mentioned, these groups include the large environmental groups and work under the umbrella of the Climate Action Network (CAN). They also support the view that emerging economies need to adopt legally binding commitments to reduce their emissions. These organisations see their role as a bridge between communities and government and the private sector, to facilitate the implementation of market-based mechanisms like the Clean Development Mechanism (CDM) and Reducing Emissions from Deforestation and Forest Degradation (REDD) on the basis of 'sustainable development'.

Those groups that want to save the Kyoto Protocol, but are opposed to market mechanisms, are mainly from the global South. They support the Protocol from the perspective that it provides a legally binding mechanism for developed countries to reduce their emissions and commit them to fund adaptation and mitigation. Furthermore, the civil society climate justice groups strongly express that the provision of climate finance should be seen as part of reparations for the climate debt that the North owes the South. These CSOs support sovereign rights and self-determination of the people of the south, implying that climate funds should not be dispersed with conditions, and opposing the role of the World Bank in climate financing.¹² They further stress the importance of



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the role of states, which have an obligation to meet climate change challenges and support the public nature financing of climate programmes.

Then there are groups that reject the Kyoto Protocol on the basis that the solutions posed do not challenge the systemic and structural basis of the climate crisis, and perpetuate the capitalist system that lies at the root of the crisis. They feel that the UNFCCC and Kyoto Protocol are compromised frameworks. These groups are calling for transformation of the current paradigm. They are mostly anti-capitalist groups that made their presence felt in Copenhagen.

Civil society groups that support climate justice developed a number of common positions, including support for a second period of commitment under the Kyoto Protocol from 2013 – 2017, and a 50% reduction in GHG emissions by developed countries by 2050. This group also looks to all governments to commit to limiting the rise in temperature to 1.5 °C of carbon dioxide in the atmosphere by 2050. An African civil society statement expressed that:

The system of binding emission reductions for developed countries must be continued and extended. The United States and other wealthy countries must not be allowed to replace the agreed science-, equity- and rules-based system being negotiated under the Kyoto Protocol with a weak system of domestic pledges that are not negotiated, not binding in international law and not subject to robust oversight and compliance.¹³

Secondly, civil society groups that support climate justice call for funding over and beyond official development assistance (ODA). Financial resources should not provide a means by which developed countries shift the burden of mitigation to developing countries, thereby appropriating an even greater share of the Earth's limited remaining atmospheric space. Developed countries should provide financial resources to address their climate debts and implement their commitments under the Convention. Developed countries should allocate 6% of their national gross product to actions related to climate change. Furthermore, funding for climate



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change to support adaptation and mitigation should be governed under the UNFCCC, as opposed to the World Bank.

Climate justice groups strongly reject private market mechanisms for climate finance, such as carbon trading, CDM, REDD and the soil carbon market. They are considered a dangerous distraction from demands

for the new, significant and predictable funding needed for adaptation initiatives. Therefore, existing carbon market mechanisms in the Kyoto Protocol and proposals to create new carbon market mechanisms under the Convention, both generally and in relation to forest management (REDD), must be discontinued and the use of market mechanisms ultimately eliminated.

Support for stronger links between climate change and agriculture is needed, as climate change presents a fundamental threat to agriculture in Africa. Efforts to connect soil carbon to carbon markets must not be allowed, as they threaten to transfer rights over the soil of the poorest farmers in developing countries to the richest financial institutions and most polluting corporations in developed countries; this will enable those countries to continue emitting the climate pollution that threatens food security in Africa.

Adaptation is a central priority for Africa and for all developing countries. The people of the region — including workers, farmers, women, indigenous peoples and other affected groups — must be fully compensated for the adverse impacts of climate change, for the costs of avoiding impacts wherever possible, and for lost opportunities for development. Adaptation must ensure social justice and restore environmental integrity, as a piecemeal approach to adaption is likely to lead to 'maladaptation'.

Though mitigation is critical for developed countries to reduce their emissions, it is also vital for developing countries to implement mitigation strategies. Africa needs to develop and has not significantly contributed to emissions. The continent needs its fair share of carbon space, meaning that the current patterns of development of the north and the elite in the south will have to be drastically reduced. The climate crisis provides underdeveloped countries with the opportunity to put in place a wide range of development priorities to meet people's needs and limit its impact on the environment. This will require tremendous financial support, capacity and appropriate policies to develop approaches towards a low-carbon society. Mitigation in the industrial and transport sectors creates the opportunity for significant job creation. This will require government regulations and massive government investment. It also means investment in renewable energy, renovating and retrofitting existing buildings, and improving public transport, among others.¹⁴ Climate change issues, therefore, need to be integral to industrial development.

Technology transfer is critical for adaptation and mitigation. Patents and other IPRs that inhibit the transfer of accessible, affordable, sound and adaptable technologies to developing countries must be removed, and domestic capacities and technologies in developing countries enhanced. Trade-related aspects of intellectual property rights (TRIPs) rules under the World Trade Organization (WTO) remain

a threat to new forms of co-operation. The UNFCCC should therefore facilitate technology transfer through the appropriate mechanism.

Attention also needs to be focused on a fair transition to a less energy-intensive economy through renewable energy, ecologically-friendly buildings, improving public transport, integrated urban and rural planning and sustainable infrastructure development to meet people's socio-economic needs. In this way people's access to and ownership of productive resources and social needs are fulfilled. That sustainable jobs are created, is vital in addressing climate change.

These positions largely emanate from the World People's Conference on Climate Change and the Rights of Mother Earth, which took place in Cochabamba, Bolivia, from 19 – 22 April 2010, and provided the platform to set clear demands for climate justice. The objectives of the Bolivian climate change conference were to:

- analyse the structural and systemic causes and propose measures to facilitate the well-being of all mankind in harmony with nature;
- discuss and agree on a draft Universal Declaration of the Rights of Mother Earth;
- develop new proposals for the Kyoto Protocol;
- establish a people's referendum on climate change;
- establish a climate justice tribunal;
- define strategies for action and mobilisation against climate change and for Mother Earth's rights.

About 30 000 participants from all over the world took part in this event. The event raised consciousness of the intrinsic value of the Earth and promoted the 'well-being' of human beings living in harmony with nature. It provided a set of values and principles countering the dominant market forces in order to address climate change.

This conference also made strong demands for developed countries to assume their historical responsibility for causing climate change. It called for the amendment

to the Kyoto Protocol for the second commitment period from 2013 to 2017 under which developed countries must agree to significant domestic emissions reductions of at least 50% based on 1990 levels, excluding carbon markets or other offset mechanisms that mask the failure of actual reductions in greenhouse gas emissions.¹⁵

■ What did CSOs think of the COP outcomes?

The role of CSOs in these climate change negotiations is broadly to:

- analyse, alert and mobilise the public about the implications of climate change;

- put pressure on governments for a fair outcome that will lead to genuine reductions of emissions and changes in production and consumption systems;
- globally express and share the regional and continental impact on every aspect of people's lives and present collective solutions;
- alert and resist further compromises in these negotiations;
- ensure the demands made by the people are accepted in these negotiations, particularly the Cochabamba People's Agreement on climate change.

Efforts were, however, unsuccessful and the catchphrases at the end of COP 17 were: 'Durban Disaster', 'Greedy Corporate Fund', 'The Greatest Land Grab of all Time', 'Kyoto Protocol Rest in Peace', and 'The Great Escape III'.

■ COP 17 nicknamed the 'Durban Disaster'

Most CSOs had serious concerns around the processes of negotiations and the content of the final outcome, which was reached on the last two days of the extended Conference. Petermann and Langelle point out that at one stage it appeared the talks might actually collapse, 'but a small cabal of 20 – 30 countries held exclusive closed-door [sessions] over the final days to create the Durban Platform...'.¹⁶ They further stress that the details of the platform will not be completed until 2015 and will not be implemented until 2020.

The South African presidency-initiated 'indabas' were certainly a contentious issue. The mechanisms of the GCF were discussed in small rooms rather than in plenary sessions where all 193 members would participate. Pablo Solón, the former Ambassador to the UN for the Plurinational State of Bolivia, revealed that the package of decisions was released by the South African presidency with the ultimatum, 'take it, or leave it'.

So while the UN Secretariat of the UNFCCC and the South African presidency hailed the Durban Platform as a success, civil society groups, particularly from the climate justice movement, see the COP 17 outcome as a disaster. Not only have high emitting countries pulled out of the Kyoto Protocol, but their legal obligation to reduce their emissions has also diminished.



Workshop participants

■ The Green Climate Fund (GCF) nicknamed the 'Greedy Corporate Fund'

The acceptance of the mechanism to operationalise the GCF was seen as a major outcome for COP 17. But there were many loopholes that needed to be debated and resolved. The first problem with the fund is that there are no genuine commitments of actual money. Developed countries are committed to mobilise US\$100 million by 2020 through various means, which include carbon trading (of which the real benefits to the environment are unproven), private equities, and investments in CDMs. The second concern is that the fund makes provision for the private sector to access funds directly. So, for example, if corporations want to access the fund for controversial REDD projects, they will be able to do so. Thirdly, the World Bank is likely to govern this fund, and if this is the case, then these loans are likely to come with often unreasonable conditions for developing countries.

■ 'The Greatest Land Grab of all Time'

A success for some governments, and many corporations, is the extension of the market mechanisms to address climate change. A new scheme developed by the World Bank, called 'climate-smart agriculture', is designed to introduce soils and agriculture into the carbon market as part of the REDD+ package.

The basic concept of REDD/REDD+, introduced in 2007, is that 'governments, companies or forest owners in the south should be rewarded for keeping their forests instead of cutting them down'. Yet many indigenous peoples are starting to call REDD/REDD+ the 'CO₂lonialism of forests' or 'capitalism of the trees and air'.¹⁷ Essentially, industrialised countries and large corporations can 'purchase' pockets

of forest, receive carbon credits in return and the funds received by the southern government will be used to 'conserve' the forest. Concerns raised include local community access to forest resources and the potential negative implications of 'private ownership' of communal forest that are meant to be under the custodianship of the state.



Prof Godwell Nhamo (UNISA), Mr Xolisa Ngwadla (DEA), Mr Neil Morris (KPMG), Ms Michelle Pressend (EJN), Dr Lesley Masters (IGD)

The extension of market mechanisms took place in COP 17 through attempts to establish soil carbon credits. To address both the need for more finance for agriculture and the climate crisis, the World Bank and the Food and Agriculture Organization (FAO), among others, are promoting the selling of carbon offset credits based on the carbon that can be stored in soil. The idea is that farmers would utilise agricultural practices, such as incorporating compost and manures in their fields, to maximise the carbon stored ('sequestered') in soil. The logic is that if the stored soil carbon can be measured and valued, it can then be sold and traded on the market for companies or individuals to offset and buy credits of their own.

■ 'Kyoto Protocol Rest in Peace'

The Third World Network concluded that the Durban Platform 'provides for the "great escape" from the Kyoto Protocol'. Not only have major polluting countries reneged on their legally binding commitments to reduce emissions, but emerging economies also have to make binding commitments. The principle of 'common but differentiated responsibility' has been totally sidelined.

The Philippines-based Peoples' Movement on Climate Change echoed this sentiment:

Kyoto is essentially a corpse surviving on life support. With Japan, Russia and Canada joining the US [in rejecting] the Kyoto Protocol, Kyoto's second round will cover just ... 15% of global emissions.¹⁸

■ 'The Great Escape III'

Pablo Solón wrote:

After nine days of negotiations there is no doubt that we saw this movie before. It is the third remake of Copenhagen and Cancún. Same actors. Same script. The documents are produced outside the formal negotiating scenario. In private meetings, dinners which the 193 member states do not attend.¹⁹

He stressed the Durban outcome is to

do virtually nothing during this decade in terms of reducing emissions, and get a mandate to negotiate an agreement that will be even weaker than the Kyoto Protocol and that will replace it in 2020. "The Great Escape III" is the name of this movie, and it tells the story of how the governments of rich countries, along with transnational corporations, are looking to escape their responsibility to reduce greenhouse gas emissions.

■ Conclusion

In summary, the outcomes have diminished the historical responsibility for those primarily responsible for causing the climate change, legally binding commitments have dissipated, and there are no new committed finances for a climate fair transition addressing the vulnerability of those most affected and the expanded market-based solutions. While CSOs have made their demands, it seems these demands are falling on deaf ears. It is widely accepted that developed countries historically contributed to climate change and are responsible for paying for the ecological debt they incurred. However, even if the North pays the debt to the South, solutions require a transformation in the world order by both developed countries and the elites in developing countries. Therefore, adaptation linked to mitigation must shift the boundaries to make broader systemic changes that address the well-being of all and aim for a socially- and ecologically-fair society. The change requires the will of all sectors of society, but the onus is particularly on the government to instigate shifts towards socially- and ecologically-sound policies.

Although it seems like a losing battle, civil society groups continue to play a critical role in putting pressure on our governments for social and ecologically fair solutions to climate change. Furthermore, the UN processes need to be closely monitored to ensure open and transparent negotiations. African governments have largely bought into market-based solutions to climate change, and lack the political will to develop transformative solutions to address underdevelopment in a manner that is sustainable and equitable. Therefore, a holistic approach is needed to change unsustainable production and consumption patterns and work towards the vision put forward in the *Universal Declaration of the World People's Conference on Climate Change and the Rights of Mother Earth*.

■ Points of Discussion

The discussion session noted that in looking strictly at the diplomatic performance during COP 17, South Africa may be considered, by all standards, to have succeeded as host of COP 17. However, concern was raised that South Africa fell short of ensuring a legally binding framework, reliable emission reduction targets, or establishing adaptation and technology transfer mechanisms. When the focus is shifted from Pretoria's diplomatic performance to the actual content of the negotiations, the positive outcomes of COP 17 appear less conspicuous. The decision to place 2015 as the deadline for the establishment of the second commitment period of the Protocol, and 2020 as the due date for its commencement, adds to this concern. Yet it is crucial to assess COP

17 and the Durban Platform against the background of the importance of upholding a multilateral, rules-based system that provides smaller countries with the platform for their issues to be heard and addressed. Durban was pivotal in maintaining this system. Concerning the Kyoto Protocol, the fact that Durban reached an agreement to have a second commitment period is, in itself, a remarkable achievement.

The issue of equity and the related concepts of fairness and responsibility were raised during questions and answers, especially in light of the Brazil, South Africa, India and China (BASIC) Ministerial on 13 and 14 February, 2012, which emphasised the centrality of equity in the climate change agenda. It was noted that efforts to address equity must contain a historical responsibility dimension, and have current and future aspects to it. Historical dynamics alone are unsustainable due to the fact that emission dynamics are currently changing. Singapore, for instance, is a small country. How can its emissions be calculated fairly amid other countries' emissions? There is a need to realise that there is no formula for prescribing how to arrive at an approach. Maintaining a level playing field is the aim of developing states. Developing states aim to address the plight of the poor, whose challenges are most evident in such states. The poorest people are the least able to adapt to the impacts of climate change. As such, addressing food security in developing states is vital. While there is an ecological debt, there is also a resource debt that needs to be addressed. Developed states attained their wealth from the South, and so there must be a kind of wealth redistribution. This can take place in several ways. Developing states need carbon space. Therefore, the redistribution may take place in the form of providing carbon space for developing states to develop. Developing states also need to have their industrial and transport needs met. These examples reflect that there are enough ideas to allow developing states to advance sustainably, but they need to be assisted. There are shifts and changes that need to be made.

Questions were asked on the issue of BASIC and their specific relation to equity, it was said that the loose coalition is a complex one. This saw a high level of visibility in Copenhagen drop to a lower one just before Cancún. The BASIC group, it was noted, have divisions in country positions. The states, for instance, have different stances on the issue of a legally binding agreement. Broad positions, which the group reiterates, are what holds the group together. BASIC thus has a loose political association, similar to Brazil, Russia, India, China and South Africa



Workshop participants

(BRICS). BASIC has the potential to become a platform for South-South co-operation, but it has not been used effectively. During COP 17, the Chinese Prime Minister gave a speech on behalf of BASIC, and while this was an important show of solidarity, it was also a reiteration of the same broad positions.

Alternative sources of finance were raised as an area that requires attention, as the world awaits 2015 for decisions on the second commitment period of the Protocol to be finalised and 2020 for the decisions to be implemented. Doubt was expressed pertaining to the feasibility of such a hiatus in addressing the climate challenge. Alternative means of attaining funds are vital for the world to meet science's demands for addressing the climate challenge. The possibility of financing from local sources, such as multinational corporations, was proposed. The possibility of business playing a more active financial role was also brought to the fore, with discussions on how business can get involved beside the normal taxation. The fact that some businesses have more funds than state GDPs, illustrates that business may play a more pivotal role. However, the motivation for profit means that business' involvement is more likely to be guaranteed with the prospect of returns.

It was further posited that there may be some misplaced anxiety from observers that not enough is taking place. This is because operationalising Cancún institutions under the Durban Platform would allow for some action. Biennial reports of mitigation would review the progress of states and advance the climate agenda. Additionally, the presence of processes to further discuss sources of funding, means that as the negotiations proceed in the year 2012, there is likely to be capitalisation of the GCF.

In light of South Africa's developing world status, the country's efforts in embarking on carbon efficiency were noted as significant. Nevertheless, South Africa battles with addressing certain aspects of its climate change policies. Although South Africa finalised the Energy Efficiency Accord, it continues to struggle with its implementation. Sourcing alternative funds for energy is thus necessary. The discussion reflected that business has a role to play in finding alternative sources of energy. This will maximise the efforts to provide energy efficiency and reduce the burden on government to play the role of sole provider. It will, furthermore, enhance long-term, sustainable growth. This will require substantial research to produce innovative technology for sustainable growth and development.

■ Conclusion

In conclusion, it was pointed out that climate negotiations have witnessed a changing terrain, from the environmental to the international. Issues that were considered environmental now occupy the international realm, due to the global nature of climate challenge.

In spite of differences in perception on the outcome of the Conference, the various stakeholders should collectively take note of certain key points in paving the way forward, following COP 17. Firstly, equity should not be neglected in any future negotiations. It is vital that negotiators do not have a memory lapse or forget the past. The past is a necessary tool for addressing current challenges.

Secondly, Africa should make use of what it has to get ahead. Africa is increasingly being considered as the new growth frontier, due to a large number of opportunities on the continent. Africa also has ample natural resources and these should be purposefully used to create sustainable growth. However, Africa has to simultaneously address its own challenges, such as governance and other issues, as these serve as impediments to proper long-term sustainable growth.

Finally, the year 2012 will be a particularly crucial one, considering the fact that decisions from COP 17 will have to be taken forward. The negotiations must, however, continue with increasing focus on taking up the task of implementing the decisions made. Government, business and civil society should consistently work together to take the COP 17 decisions forward and prevent them from remaining mere discussions. The ability to take these decisions forward will largely determine the ultimate outcome of COP 17.

■ Endnotes

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Annex



Programme

Post-Durban Reflections – The Day After Tomorrow: COP 17

Outcomes and Implications

Burgers Park Hotel

24 February 2012

09:45 - 10:00	Tea/ Coffee/ Registration
10:00 – 10:10	Welcome Chair: Prof Godwell Nhamo, University of South Africa
10:10 - 10:30	A Perspective from Government Mr Xolisa Ngwadla: Department of Environmental Affairs
10:30- 10:50	A Perspective from Business Mr Neil Morris, Director: Climate Change and Sustainability, KPMG
10:50 - 11:10	Reflections on the Role of Civil Society in COP 17: Mixed Reactions and Contradictions Ms Michelle Pressend, Co-ordinator: Economic Justice Network
11:10 - 11:20	Discussant Dr Lesley Masters, Senior Researcher: Institute for Global Dialogue
11:20 - 12:00	Discussion
12:00	Lunch

This workshop was generously supported by the Government of Norway.

□ Participants

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Kussumua	Benilde	Embassy of Angola
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