WORKSHOP ON SCOPE, STRUCTURE AND DESIGN OF THE 2015 AGREEMENT
Monday, 29 April 2013, 3–6 p.m.

Questions to Presenters

During the workshop, participants posed several questions to the presenters, which could not be addressed in the workshop due to time limitations. The answers to these questions have been provided by the presenters in written form below.

Part 1 – Design aspects for an ambitious, durable and effective 2015 agreement that mobilizes national action

Question by Singapore: What is the role of the means of implementation, in terms of incentivizing action at the national level, and what do you think needs to be done, in terms of a design point of view, to incentivize action through greater access to means of implementation, for example.

Response from Professor Ross Garnaut (University of Melbourne): A number of panelists and national delegates made statements related to the advantages of each country defining its own mitigation contribution, while having mechanisms for guiding ambition and for peer review of ambition. I agree with those statements. There is considerable evidence that ambition will be greater if it is defined by the country itself and if there are no punitive sanctions. The progress so far suggests that domestic commitments ("bottom up") are also more likely to be implemented.

As emphasised by Tom Athanasiou, Climate Action Network International, national targets need to be guided by an expert group with international status coming up with indicative allocations of mitigation responsibility taking into account accepted principles of equity. The expert group's suggestions would be advisory, but, if done well, would be influential. I like very much the suggestion that, after the non-binding expert review and the definition by each country of its domestic target, there should be a period of review and an opportunity for each country to revise its targets. Additional reviews from time to time could take account of developments in the global mitigation effort.

The domestic control over mitigation targets would encourage participation and, perhaps surprisingly, ambition. Participation could be encouraged for developing countries by giving them opportunities to trade "surplus" abatement if there domestic targets have the ambition suggested by the expert panel and they succeed in reducing emissions below their targets.

For other Annex I, high-income and high-emitting countries, the principle incentive to participation has to be recognition of shared participation in the benefits of a successful mitigation effort, in which other countries are contributing something like their fair shares.

Part 2 – Applying the principles of the Convention in the 2015 agreement

Question by Norway: How static should we interpret differentiation? And how static is it in other agreements?

Response from Professor Lavanya Rajamani (Center for Policy Research, New Delhi): The Framework Convention on Climate Change, 1992, and the differentiation it contains, is not, in theory, static. The Convention provides for amendments including to its Annexes (Articles 15 and 16), and for voluntary movement into Annex I (Article 4(2) (g)). The Convention also envisaged a review of its Annexes (Article 4(2)(f)), which did not come to pass. In practice, apart from a few instances, the Annexes, and the differentiation they reflect, have proven static. This can be sourced to a lack of the requisite political will rather than to the static nature of the legal instrument.

Nevertheless, the procedures for amendment, in particular movement into and out of the Annexes, could be simplified. Instruments that have experimented with fast track amendment procedures include the *Chemical Weapons Convention, 1992* (Article 15(4) and (5)), and the *Comprehensive Nuclear Test Ban Treaty, 1996* (Article 7 (7) and (8)). Fast track procedures are, however, better suited to changes of a technical or administrative nature, and the movement between Annexes in the Convention is anything but.

The practice under the Montreal Protocol, 1987, presents an interesting case study. Parties to the Montreal Protocol are frequently declassified or reclassified as 'developing countries.' This dynamism can be traced to the fact that the categorization of developing countries is based on an objective criterion – an annual per capita consumption of ozone depleting substances less than 0.3 kilograms (Article 5(1)) - which in turn is assessed in part on the basis of data provided by the party requesting reclassification. The process, thus having been defanged, is a relatively smooth one. It is also helpful that the list of developing countries is contained in a COP decision, not in an Annex to the treaty, and hence the declassification or reclassification is done through a simple COP decision rather than through time consuming and cumbersome amendment procedures.