



CLIMATE FOCUS

# CP16/CMP 6: The Cancún Agreements Summary and Analysis

The results of CP16/CMP6 in Cancún, Mexico, held from November 29 through December 10, 2010, offer a reason to celebrate even though a post-2012 climate deal was not struck and thorny issues will remain unresolved until next year at CP17/CMP7 in Durban, South Africa. Both the UNFCCC as well as the Kyoto Protocol governing bodies adopted comprehensive, new and substantive decisions in Cancún. These make further steps toward a new legally-binding climate agreement, legitimize emission targets in the Copenhagen Accord and, most importantly, restore the diplomatic trust needed to reach consensus on a climate deal in 2011. This final achievement, perhaps more than anything else, revived the often contentious UNFCCC negotiating process among more than 190 countries.

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Highlights from Cancún:

**Global greenhouse gas targets:** Affirmation of the IPCC recommended global target to limit global warming to 2 °C above pre-industrial levels and agreement to consider a more ambitious 1.5 °C limit.

**Mitigation commitments:** Agreement that scaled-up mitigation efforts are needed and to work towards a global goal in 2011 to substantially reduce global emissions by 2050.

**Adaptation:** An Adaptation Committee to promote the implementation of enhanced action on adaptation was established and developing countries will receive scaled-up and predictable finance, technology, and capacity-building.

**Financing and Markets:** Pledges under the Copenhagen Accord totalling USD30 billion for fast-start and USD100 billion/yr for long-term finance were confirmed. A significant share of new multilateral funding for adaptation is destined to flow through the newly established Green Climate Fund. New market instruments may be defined under the UNFCCC and the existing mechanisms under the Kyoto Protocol will be continued, expanded and streamlined.

**Measurement, Reporting and Verification (MRV):** Developed countries accepted enhanced reporting and review of mitigation actions and climate financing with international assessment and review. Developing countries agreed to submit biennial updates.

**Technology transfer:** The CP established a Technology Mechanism to facilitate enhanced action on technology development consisting of a Technology Executive Committee and a Climate Technology Centre and Network.

**REDD+:** A mechanism to create incentives to reduce deforestation was adopted using a phased approach including subnational activities. A comprehensive set of safeguards was defined but questions on financing REDD+ were left for 2011.



## Introduction

### *Background to Cancún: The two-track approach*

At the 13<sup>th</sup> session of the United Nations Climate Change Convention (UNFCCC) in Bali in December 2007, developed and developing country governments from around the world adopted the “Bali Road Map” consisting of several forward-looking decisions that reflected various tracks essential to reaching a secure climate future. The UNFCCC negotiation process was assigned to a new subsidiary body – the AWG-LCA – which focused on five building blocks: the “shared vision”, adaptation, mitigation, technology transfer and financing. Reducing emissions from deforestation and forest degradation (REDD) was also added to the negotiation agenda. A similar subsidiary body had been established in 2005 upon the Kyoto Protocol’s entry into force – the AWG-KP – to negotiate binding post-2012 emissions targets and the means to achieve these targets (market mechanisms, national policies, accounting issues, role of land use, land-use change and forestry (LULUCF), etc). This resulted in international action being addressed by a “two-track” approach: the UNFCCC or LCA track and the Kyoto Protocol or KP track. Although the working groups for both tracks were supposed to conclude at the session of the Parties Copenhagen in 2009, negotiators left Denmark empty-handed. As a result, mandates of both working groups were extended to the 2010 negotiations in Cancún.

### *Adoption of the Cancún Agreements: “consensus does not require unanimity”*

The 16<sup>th</sup> session of the Conference of the Parties (CP16) to the UNFCCC and the 6<sup>th</sup> session of the Conference of the Parties serving as the meeting of the Parties (CMP6) to the Kyoto Protocol was held in Cancún, Mexico, from 29 November to 10 December, 2010. Both the AWG-LCA and the AWG-KP convened at this occasion to continue the work left over from Copenhagen in 2009. In addition, the two permanent subsidiary bodies of the UNFCCC held their 33rd sessions.<sup>1</sup>

The outcomes of the two negotiating tracks under the UNFCCC and Kyoto Protocol working groups, along with other CP and CMP decisions, were adopted by the CP and the CMP, respectively. When preparing the decisions for adoption, the Mexican Presidency had combined all

decisions into a package (named the “Cancún Agreements”), thus bringing – at least nominally- the main outcomes of the two negotiation tracks under one umbrella.

The decisions were adopted against the clear, stated and noted, objection of the government of Bolivia. Parties of both the UNFCCC and Kyoto Protocol supported the Mexican Presidency in its interpretation of the UNFCCC rules, namely that “consensus does not require unanimity” and that the UNFCCC would not grant a veto right to a single nation. The adoption of the Cancún Agreements was accompanied by repeated standing ovations by the vast majority of UNFCCC Parties satisfied with the outcome of CP16/CMP6. The Mexican government has received deserved praise for leading the negotiations in a transparent, inclusive and constructive manner.

### Legal Status of the Cancún Agreements

The CP and CMP are empowered to adopt decisions concerning a range of matters provided for in the UNFCCC and Kyoto Protocol. The extent of the power depends on the wording of its parent provision, and can range from the adoption of operating procedures (such as the modalities for emissions trading) to establishing new mechanisms and facilitating information exchange. While Cancún Agreements may not be legally binding, the represent CP/CMP decisions that, where validly adopted, create legal structures and rules which Parties operating within the UNFCCC process have agreed to abide by.

Whether the Cancún Agreements were in fact validly adopted is, however, the subject of some controversy. The UNFCCC provides for the CP to adopt its own voting rules. However, no agreement has ever been reached on this, leaving consensus decision-making as the default procedure. Though consensus has never been formally defined within the UNFCCC process, it has commonly been understood both inside and outside the UNFCCC as the absence of formal objection. Thus, while not all Parties must necessarily express their support for a decision (as is the case with unanimity), none must actively object.

*Given the wide support, any doubts over legal status will likely be inconsequential.*

The Cancún Agreements were adopted despite the repeated and persistent objections of Bolivia. While there was broad support among Parties for the Mexican Presidency’s interpretation that the consensus rule does

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<sup>1</sup> The Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI).



not require unanimity, no real arguments were presented to counter the established view that consensus requires the absence of formal objection. It is thus debatable whether the decisions were in fact validly adopted. However, in the absence of a formal definition of consensus within the UNFCCC, it may be that we have witnessed the beginning of an evolving definition of this rule, a development that could have major consequences for future decision-making in the climate regime.

Ultimately, it is likely that the overwhelming support for the Cancún Agreements will mean that any doubts as to their legal status will be of little consequence. It is accepted wisdom that “as long as they are not [widely] disputed, even illegal decisions are as effective as any other”<sup>2</sup>. While the UNFCCC does not offer recourse against an adopted CP or CMP decision, Bolivia has threatened to bring a case challenging the decisions before the International Court of Justice.

## UNFCCC Decisions

Under its new chair the AWG-LCA departed from its Copenhagen deadlock and managed to establish common ground on a number of previously contentious issues.

### Peak of global emissions and low-carbon development

Parties affirmed the IPCC recommended global target to limit global warming to 2°C above pre-industrial levels and agreed to consider a more ambitious 1.5°C limit “on the basis of the best available scientific knowledge.” The global peak for emissions is to be set in next year’s climate conference in Durban which includes a global goal to substantially reduce global emissions by 2050.

### *Global emissions peak to be set in 2011, with a goal to substantially reduce emissions by 2050.*

The Parties recognize that developing countries have a longer period to peak in emissions than developed countries “bearing in mind that social and economic development and poverty eradication are the first and overriding priorities of developing countries and that a low-carbon development strategy is indispensable to sustainable development”.

Parties also agreed on the need for a paradigm shift toward low-carbon societies offering continued high-growth and sustainable development in production, consumption and lifestyles patterns, along with a just

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<sup>2</sup> Henry G. Schermers & Niels M. Blokker, *International Institutional Law* (Third Ed.), p.741.

transition of the workforce that creates decent work and quality jobs.

### Mitigation by developed countries

Parties repeated their recognition that “the largest share of historical global emissions of greenhouse gases (GHG) originated in developed countries and that, owing to this historical responsibility, developed country Parties must take the lead in combating climate change and the adverse effects.” Importantly, both the CP and the CMP “[took] note” of the economy-wide emission reduction targets “to be implemented by” developed country Parties, referring to those submitted by them pursuant to the Copenhagen Accord. This formalizes the financial aspects of the Accord, which had merely been “noted” at the conclusion of CP15, an outcome of little legal standing. While incorporation of the targets into the Cancún Agreements falls short of making the targets legally-binding, it does formalize them within the UNFCCC system, and the words “to be implemented” have a notably mandatory tinge.

### *Copenhagen Accord targets “to be implemented”, but these targets falls short*

However these targets are still far short of IPCC recommendations for emission levels likely to keep warming below 2°C. For example, where the IPCC recommendations indicate that developed countries collectively must reduce emissions by 25-40% below 1990 levels by 2020 to ensure a reasonable chance of meeting this goal, only the EU, Switzerland, Japan, and Norway have targets within this range. The US’s target amounts to a mere 3% reduction on 1990 levels, and Canada’s represents a significant increase from the base year. A UNEP report released before Cancún showed that even if the upper end of these pledges (many pledges contain a range, the upper end of which is conditional upon an inclusive international agreement) were strictly implemented, this would only go 60% of the way to achieving a high likelihood of keeping within the 2°C goal.<sup>3</sup> Implicitly recognizing the insufficiency of current pledges, the CP and the CMP “urge[d]” developed country Parties to increase their ambition with a view to bringing their economy-wide targets in line with the IPCC recommendations. While falling short of requiring Parties to do so, this represents an important recognition that

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<sup>3</sup> UNEP, “The Emissions Gap Report: Are the Copenhagen Accord Pledges Sufficient to Limit Global Warming to 2° C or 1.5° C? - A Preliminary Assessment”, November 2010.



the IPCC recommendations still constitute the collective goal that developed countries are expected to satisfy.

#### *Mitigation by developing countries*

Developing country Parties agreed to take nationally appropriate mitigation actions (NAMAs) to reduce business-as-usual emissions by 2020. As with developed countries' emission reduction pledges, the COP "[took] note" of all NAMAs "to be implemented" by developing country Parties, as submitted pursuant to the Copenhagen Accord. This is important, as these include NAMAs submitted by all major developing country emitters who, together with developed countries, represent 80% of global emissions.

#### *NAMAs are recognized and a NAMA registry is to be established.*

Both these and any further NAMAs which developing countries wish to *voluntarily* undertake are to be recorded in a registry. This registry will record the transfer of funds and resources to carry out these actions, as well as match available funding with countries wishing to implement actions. These provisions may prove crucial to achieving further elaboration on NAMAs, a goal further supported by the CP's "request" to the UNFCCC Secretariat to organize workshops seeking to understand the various complexities NAMAs will inevitably entail. In one of the more mandatorily-framed provisions, the CP also "decides" that developed country Parties "shall" provide enhanced support for the preparation and implementation of NAMAs, though this is "in accordance with" the existing obligation to do so under the UNFCCC.

#### *Measurement, reporting and verification*

Developed countries agreed to enhanced MRV of mitigation actions and climate financing, including improved and up-scaled reporting on the provision of financial, technology and capacity-building support to developing country Parties and on progress in achieving emission reductions. They agreed to begin a review of the guidelines for reporting and review of national communications, beginning in early 2011. It was further decided that developed countries "should" develop "low-carbon development strategies or plans."

#### *Improved MRV of developed country mitigation, finance, technology transfer and capacity building.*

The MRV of emission reductions in developing countries was one of the most contentious issues throughout negotiations, particularly with respect to US concerns

about verification of developing country (Chinese) actions. The agreement provides for international MRV of internationally-supported mitigation actions by developing countries. Mitigation actions supported domestically are subject to domestic MRV under general guidelines developed under the Convention.

#### *MRV of mitigation by developing countries agreed.*

National communications including updates of national GHG inventories and information on mitigation actions, needs and support received are to be submitted every 4 years, with biennial update reports. The latter are to be subject to a process of international consultations and analysis in the Subsidiary Body on Implementation, in a manner that is "non-intrusive, non-punitive and respectful of national sovereignty."

#### *Adaptation*

The Cancun Adaptation Framework was adopted, which includes agreements on: (i) conducting impact, vulnerability and adaptation assessments, (ii) a process to enable least developed country Parties to formulate and implement national adaptation plans, (iii) the establishment of an Adaptation Committee to promote the implementation of enhanced action on adaptation in a coherent manner under the Convention, and (iv) a request to support developing country activities with long-term, scaled-up, predictable, new and additional finance, technology, and capacity-building.

#### *Finance*

The UNFCCC decision incorporates the finance goals set out in the Copenhagen Accord. The goals include a collective commitment by developed countries to provide USD30 billion in fast-start finance for developing countries between 2010-2012 and mobilize USD100 billion a year in public and private finance by 2020 to address the mitigation and adaptation needs of developing countries.

#### *Establishment of a Green Climate Fund*

Parties agreed to establish a Green Climate Fund that is accountable to and operates under the "guidance" (rather than the direct "authority") of the Conference of the Parties. The trustee will be accountable to the 24-member Green Climate Fund Board, with equal representation from developed and developing countries, and supported by an independent secretariat. The World Bank serves as its interim trustee, subject to a review three years after the fund begins operations.



The design of the fund was delegated to a 40-member Transitional Committee (15 members from developed countries, 25 from developing), which will be convened initially by the UNFCCC secretariat and is to submit its recommendations to CP17 in December 2011. The decision also establishes a new Standing Committee to assist the CP in areas such as “improving coherence and coordination” among different finance channels and the MRV of finance. Its specific roles and functions are to be further defined.

#### **Reducing Emissions from Deforestation**

The COP adopted with only slight modifications the decision negotiated (but not adopted) at CP15 in Copenhagen on incentives for reduced emissions from deforestation and forest degradation (REDD+). With the adoption of the decision, Parties established a mechanism that encourages developing countries to contribute to mitigation actions in the forest sector by the full scope of REDD+ activities (reducing emissions from deforestation; reducing emissions from forest degradation; conservation of forest carbon stocks; sustainable management of forest; and enhancement of forest carbon stocks). These reductions are contingent on developed countries providing adequate and predictable support, including financial resources and technical and technological support to developing countries.

#### ***An incentive mechanism for REDD+ was established.***

In line with the ongoing REDD+ readiness activities, countries are encouraged to develop (i) a national REDD+ strategy, (ii) national and, if appropriate subnational, reference (emission) levels, (iii) a MRV system that is national and if appropriate subnational, and (iv) a system for providing information on how the safeguards referred to are being addressed and respected throughout the implementation of REDD+ activities. The subnational elements are intended to be an interim measure and safeguards are formulated in an annex to the CP decision and include a comprehensive set of social, environmental and legal safeguards.

#### ***The mechanism includes subnational elements and implementation through a phased approach.***

The REDD+ decision recognizes implementation through a phased approach beginning with (i) the development of national strategies or action plans, policies and measures, and capacity-building, followed by (ii) the implementation of national policies and measures and national strategies

or action plans that could involve further capacity-building, technology development and transfer and results-based demonstration activities, and evolving into (iii) results-based actions that should be fully measured, reported and verified. The choice of the starting phase of each country depends on national circumstances and available support.

The major gap in the decision is funding; there is no reference to sources of support (either government or market-based). There is a mandate for the AWG-LCA to explore financing options for the full implementation of results-based actions (phase III implementation of REDD+) and a separate decision on market based mechanisms to be finalized in Durban in 2011.

#### **Technology Mechanism**

The Cancún Agreements established a Technology Mechanism to accelerate technology development and transfer under the UNFCCC. It is comprised of a Technology Executive Committee (TEC) and a Climate Technology Center and Network (CTCN) under the guidance of and accountable to the COP. The TEC will consist of 20 experts – 11 from developing and 9 from developed countries. Its mandate is broad, and includes not only facilitating the effective implementation of the Technology Mechanism and the further implementation of the technology transfer framework, but also evaluating needs, providing recommendations, facilitating collaboration on technology development and transfer, and catalyzing the achievement of international plans and roadmaps. The CTCN is slated to facilitate an international network of national, regional, sectoral and international networks to provide advice and support upon the request of developing countries, as well as to stimulate development and facilitate and encourage cooperation.

#### ***A Technology Mechanism and its governance structure are established.***

Crucially, technology needs are to be nationally determined and based on national priorities, a core point for developing countries. The decision also identifies several possible priority areas for technology, and explicitly encourages both bilateral and multilateral cooperation. Parties adopted a work program to further define roles and functions with a view to a decision at CP17 and making the Technology Mechanism fully operational in 2012. The mandate of the Expert Group on Technology Transfer is terminated.



### Agriculture

The Cancun Agreements do not include any dedicated reference or decision on agriculture. The section on “cooperative sectoral approaches and sector-specific actions” which included agriculture was deleted from the last and final version of the Cancún Agreements. The last text that included agriculture combined agriculture and bunker fuels under one heading without any differentiation. The entire section was cut due to disagreement on bunker fuels as well as prolonged discussions on trade-related language regarding sectoral approaches and sector-specific actions for agriculture. The contentious agriculture text was that measures should not constitute “arbitrary or unjustifiable discrimination of a disguised restriction on international trade”.<sup>4</sup> The elimination of this chapter means that SBSTA lacks a mandate to establish a work programme on agriculture.

### *Agriculture cut from the final agreement.*

Agriculture will nevertheless be considered Agriculture will nevertheless be considered (i) as nationally appropriate mitigation actions of developing countries; (ii) in the REDD+ work programme on drivers of deforestation; and (iii) in the planning, prioritizing and implementing adaptation actions, including projects and programmes (chapter II (enhanced action on adaptation), para 11 (a)).

### Kyoto Protocol Decisions

The Kyoto Protocol includes emission reduction targets for industrialized countries for a first commitment period ending in 2012. Developing countries, in particular, fought hard for an agreement on a second commitment period. Parties, however, could not reach an agreement on language and provisions to amend the Kyoto Protocol. Provisions contained in the draft text of the AWG-KP produced during the 2010 climate talks were not adopted in Cancún.<sup>5</sup> The draft text included options for a revised Annex B table for the inscription of new individual commitments by Annex I Parties, a new collective emission reduction target by industrialised countries for the second commitment period, new market mechanisms,

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<sup>4</sup> However, this formulation has found its entry into the Cancún Agreements in para. 90 under the heading of “Economic and social consequences of response measures”.

<sup>5</sup> The language around these proposals is now further refined included in a new draft text prepared by the Chair during the Cancún negotiations.

and the application of these amendment provisions on a provisional basis before their entry into force.

### *The Parties failed to agree on a second commitment period and a number of other issues.*

Despite the lack of consensus on new emission reduction commitments and on a legally-binding outcome, the CMP in Cancún still managed to adopt a relevant set of decisions to assist Parties in progressing towards a second commitment period.

### Outcome of the AWG-KP

Other than the general, if still weak, support for the adoption of post-2012 targets, the AWG-KP decision contains important language that signals a continued commitment by the Parties to resolve pending issues “as early as possible and in time” to avoid a gap between the first and second commitment periods. The decision also requests Parties to move on with negotiations on the basis of a revised and more refined draft text, which further narrows down language options for amendments to the Kyoto Protocol.<sup>6</sup>

### *Emissions trading and LULUCF will continue as offsets*

Furthermore, the CMP decided that emissions trading, project-based mechanisms and measures to reduce emissions and enhance removals from LULUCF activities shall continue to be available for developed country Parties as a means to achieve compliance with their targets.

### *Kyoto Protocol future remains unclear*

The future of the Kyoto Protocol, however, remains unclear. While developing countries have pushed for a second commitment period, developed countries, and in particular Japan and Canada, have clearly expressed their reluctance in agreeing to new commitments without participation from the US. The language used in the AWG-KP decision reflects a careful compromise between these positions, with the result of postponing the issue to the climate talks to 2011 or even 2012. This is reflected by the fact that no specific deadline could be agreed for the conclusion of the work of the AWG-KP.

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<sup>6</sup> See FCCC/KP/AWG/2010/CRP.4/Rev.4.





### Land Use, Land-Use Change and Forestry

The CMP adopted a separate decision confirming LULUCF principles and definitions from the first commitment period. In addition, they created an annex to list reference levels for accounting emissions from forest management by developed country Parties in a possible second commitment period. As a compromise between developing and developed countries, the forest management reference levels do not yet constitute final values and will undergo a review process. The information on the proposed reference levels must be submitted to the UNFCCC Secretariat by the end of February 2011 for review.<sup>7</sup> Submissions and proposed (or updated) reference values will be considered again by Parties at CMP7 in Durban. Agreement could not be reached on accounting rules for *force majeure* events (such as fires and weather events) along with accounting provisions for harvested wood products and for activities other than forest management.

### Clean Development Mechanism

The CMP accepted operational reforms to expand and streamline Clean Development Mechanism (CDM) activities. A loan scheme to invest in CDM activities will be available for countries with fewer than 10 registered projects.<sup>8</sup> In addition, the CMP defined and supported the use of standardized baselines to help reduce transaction costs, enhance transparency and predictability in the CDM.<sup>9</sup> Countries, project participants, as well as international industry organizations or admitted observer organizations can make submissions of standardized baselines through the designated national authority.

### Agreement on CDM loan scheme and standardized baselines

The CMP also required the CDM Executive Board to: (i) permit the date when a request for registration is submitted to a designated operational entity to serve as the registration date; (ii) ensure editorial errors do not result in the rejection of a request for registration or

<sup>7</sup> Guidelines for the forest management information to be submitted and the technical assessment by the review team are set out in annex II to the LULUCF decision.

<sup>8</sup> See annex III to the CDM decision.

<sup>9</sup> A standardized baseline is defined as “a baseline established for a Party or a group of Parties to facilitate the calculation of emission reduction and removals and/or the determination of additionality for clean development mechanism project activities, while providing assistance for assuring environmental integrity”.

issuance due to incomplete validation and verification compliance; and (iii) look into alternative ways of demonstrating additionality of CDM projects. Carbon Dioxide Capture and Storage (CCS) in geological formations has been approved as an eligible project type under the CDM, though additional work is needed to further define the details for recognizing CCS projects under the CDM.

### CDM recognizes carbon capture and storage

The CDM decision reiterated governance and institutional concerns to the Executive Board about transparency and consistency, the lack of explanations for rulings, and the use of retroactive rulings. The CDM decision also requested recommendations from the SBI on procedures, mechanisms and arrangements to appeal Executive Board decisions for possible adoption at CMP7.

A number of important decisions and relevant language on CDM were unfortunately left out. The CDM decision does not contain explicit reference to the continuation of the CDM after 2012. Also, the draft text leading up to Cancún included a number of options to reform the treatment of forestry and agriculture under the CDM which were dropped from the adopted text. This included examining other options than temporary credits to address permanence risk and potentially expanding the CDM beyond afforestation and reforestation activities to consider revegetation, forest management, cropland management, grazing land management, wetland management, soil carbon management in agriculture and other sustainable land management activities.

### Joint Implementation

The Joint Implementation (JI) decision aimed at a consolidation and expansion of the mechanism. Various governance priorities to strengthen the regulatory process were formulated. In addition, Parties wishing to take up a quantified emission reduction commitment but which cannot yet rely on Annex B (ratification) status, have been authorized to initiate JI projects including publication of project documentation on the UNFCCC website and determination by the JI Supervisory Committee (JISC) (JI Track 2) up until, but excluding, the issuance of Emission Reduction Units. This applies to Belarus and, in future, potentially, to Kazakhstan.

### New JI track 1 fees agreed

Furthermore, Parties agreed that the JISC needed better and stable funding and that JI Track 1 may be used as a source of cross-financing given that JI Track 1 benefits hugely from JI Track 2 activities. However, the early



proposal to levy a EUR 30,000 fee on Track 1 determinations was hotly debated with Parties requesting robust financial calculations from the secretariat on real costs and needs. Parties eventually settled with a compromise: up to USD 20,000 for large-scale projects and up to USD 5,000 for small-scale, payable upon publication of project documentation on the UNFCCC website. The institutional arrangement is interesting in this respect: The JISC is to set the exact fee structure and to charge Track 1 projects as of 1 March 2011. This means that the JISC for the first time assumes direct competence on regulating Track 1 matters.

### *Parties could not agree on merging Track 1 and Track 2 or use of JI from 2012 - 2015*

Notably, Parties were unable to agree on two recommendations that had been put forward by the JISC in its annual report, i.e. (i) reform of the two-track structure (by merging both tracks or bringing them in a new functional relationship), and (ii) use of JI activities during the so called true-up period (the period between 2012 and 2015 in which Parties can acquire and transfer Kyoto units to bring them in compliance with their commitment targets). The first issue is fully ignored by the adopted text; the second issue is referred to with the CMP "tak[ing] note" of the view of the JISC on the need for a future operation of joint implementation after 2012. This leaves the matter undecided, which is particularly unfortunate as it makes it likely there will be a regulatory *gap* after the expiration of the first commitment period (31 December 2012). This issue is expected to be raised again during CMP7 in Durban later this year.

### Looking Forward

No one expected Cancún would produce a new treaty under the UNFCCC or a second commitment period for the Kyoto Protocol. This did not make a successful outcome easier to achieve. Trust in the UN process was broken and the limited positive notes coming out of Copenhagen were adrift and at risk. Cancún needed to build trust and deliver a series of decisions to set the stage for Durban. It did just this. The leadership shown by Mexico along with numerous other countries restored respect for multilateralism, though this may be contested by Bolivia. But beyond restoring the trust into the multilateral process, the Cancún Agreements contains an impressive set of substantive decisions and formulates an ambitious negotiation agenda for 2011. Many of the decisions that were left for Durban are highly political and contentious such as deeper and more details around commitments from industrialized countries, and the future of the Kyoto Protocol.

Copenhagen showed what can happen when negotiations are mismanaged. Cancún showed that strong leadership and good management can produce successes. For Durban to be a success it needs more than strong leadership and skilful management by South Africa. All countries need to demonstrate leadership, political will, and the ability to compromise national self interest for the greater good of all countries. Success in Durban will not be easy, but Cancún has set the stage to ensure that it is also not impossible.

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