

Volume 4, Journal 3 - September 2009

25 Degrees in Africa - Climate Change

Countdown to Copenhagen

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A clock counting down the seconds to the commencement of the 15th Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC COP15), scheduled for early December 2009, is quietly going about its business on the banner of the UNFCCC website (<http://unfccc.int/2860.php>). The clock is an ominous reminder of the deadline to which the world has committed itself to (at least) agree on framework architecture for the future of the international climate change regime, which is currently delimited by the UNFCCC, the Kyoto Protocol and their related rules.

On the date of writing of this article there remains 88 calendar days to the beginning of COP15, an increasingly few number of hours, minutes and seconds, and only three weeks of formal negotiations before the final stretch to be undertaken in Copenhagen, Denmark. To put these timeframes into perspective: the last round of meetings (informal gatherings which ended in Bonn, Germany, in mid-August) failed to prune into manageable form a draft negotiating text of nearly 200 pages, while the progress of the negotiations during the course of 2009, outlined below, does not inspire confidence in country Parties' ability to reach the necessary consensus.

The first UNFCCC meeting for 2009 was held in Bonn from 29 March to 8 April. This meeting, which sought to continue the limited progress made at COP14 (Poznan, Poland, December 2008), gave itself over to devising a draft text for negotiation in light of the (then) imminent COP15. The draft text, which appeared ahead of June's second round of meetings (also in Bonn), revealed some unsurprising points of disagreement, particularly relating to the required levels of financing for meeting the climate change challenge, and the thorny issue of national commitments to greenhouse gas emissions reductions.

Developing nations require the developed world to commit itself to steep reductions in its greenhouse gas emissions, as advised by the Intergovernmental Panel on Climate Change (IPCC), and to provide significant finance to assist developing nations in their efforts to combat the impacts of climate change on their environments and economies. To get a sense of the scale of this latter issue, it is interesting to note a recent African Union proposal which calls for levels of developed countries' climate change funding to Africa to reach an annual amount of US\$67 to 200-billion (not million), by 2020, over-and-above existing flows of overseas development assistance to the continent.

Developed countries, on the other hand, are hedging making firm commitments with regard to funding, and have provided only tentative indications of their aspirations towards reducing their greenhouse gas emissions. Figures released by the UNFCCC on 11 August 2009 show that the emission reduction pledges tabled by developed countries, as at that date, would result in a 15-21% cut from 1990 levels – short of the 25-40% that the IPCC says is necessary to limit global warming below the scientifically critical 2°C threshold. These statistics exclude the United States, which has not ratified the Kyoto Protocol and still seems unlikely to do so. Kyoto is the international legal instrument in terms of which a number of developed countries have taken on obligations to reduce their greenhouse gas emissions by an average of 5,2% below 1990 levels, in the period between the beginning of 2008 and the end of 2012.

The Obama administration, while leading his country back into the climate change fold after the period of perceived obstructionism under George Bush, has announced a limited pledge to cut the United States' emissions by 17% from 2005 levels, and of a mere return to 1990 levels by 2020. By contrast, the European Union has made a more ambitious offer to increase its current goal of 20% below 1990 levels by 2020, to 30% below in the event that other

developed countries, particularly the United States, take on comparable targets. On 7 September 2009, Japan's Prime Minister-Elect, Yukio Hatoyama, announced his favouring a 25% cut below 1990 levels in Japan's emissions by 2020. Again, this ambition relies on other industrialised nations committing to similarly deep reductions. The scale of divergence in opinions on this issue is revealed when one considers that developing countries have called for the developed countries to commit to at least 40% emissions reductions from 1990 levels, in the mid-term.

By the end of the March meeting (dubbed Bonn II), the draft text had swollen to the abovementioned unwieldy proportions and included a dizzying array of variations on key negotiation themes. While Bonn III (the August round) was intended to cut a swathe through the draft text, it failed to do so. Notwithstanding this track-record, Yvo de Boer, UNFCCC General Secretary, is still quietly optimistic that COP15 will produce the required agreement (<http://www.reuters.com/article/latestCrisis/idUSL8323945>). This optimism will be tested as the world begins to tune-out for the end-of-year holidays, and it is to be hoped that the start of 2010 will reveal a renovated regime that sets the direction for dealing with the phenomenon of climate change into the future.

The schedule of formal UNFCCC meetings for the remainder of 2009 is as follows:

- 21 to 25 September: Climate Summit in New York at the United Nations General Assembly.
- 28 September to 9 October: A further set of UNFCCC negotiations in Bangkok, Thailand.
- 2 to 6 November: A further set of UNFCCC negotiations in Barcelona, Spain.
- 7 to 18 December: United Nations Climate Change Conference in Copenhagen (COP15).

IMBEWU Sustainability Legal Specialists (Pty) Ltd (www.imbewu.co.za) is a specialist sustainability legal consultancy providing professional legal consultancy services in the area of environmental, health & safety and climate change law. IMBEWU runs a Climate Change and CDM Specialist Consultancy Unit with the greatest depth of expertise and experience in the South African carbon market. IMBEWU collaborates with Warburton Attorneys (www.warburtons.co.za) in providing CDM project development and contract advice to clients. This article should not be regarded a comprehensive discussion of the topics addressed, and should not be taken as legal advice or relied upon. Contact: andrew@imbewu.co.za .