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## **TWO ROADS TO BALI, ONE WAY TO SUCCESS**

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The challenge of designing the next chapter in the climate regime has elicited a plethora of proposals on its possible architecture and content. However, it is important to remember that in Bali, Parties will not decide on the design of the post 2012 regime, but rather in the best of cases only agree to begin the process of designing that future chapter.

The Thirteenth Conference of the Parties to the UN Convention on Climate Change (UNFCCC) and the Third Meeting of the Parties to the Kyoto Protocol (COP13/MOP 3) to be held in Bali, Indonesia, in December of this year, is a fundamental milestone on the critical path of the regime. The Kyoto Protocol expires on December 31, 2012. In order to avert a dangerous gap in the international regulations it will be necessary to reach a continuation agreement which can garner the sufficient ratifications for it to enter into force on January 1, 2013. Assuming that the country level ratifications may take three years, the agreement must be reached by 2009, for which the government of Denmark has already confirmed that it will host COP 15/MOP 5. It is not unreasonable to expect that the process of negotiating the agreement could take two years. Hence an uninterrupted UNFCCC regime requires that in Bali the Parties decide to begin negotiations on an agreement for the next chapter of the regime, and to do so within a specified timeframe.

### **Two Roads**

In preparation for COP13/MOP 3, the Secretary General of the United Nations has called for a meeting of Heads of State in New York City on the 24<sup>th</sup> of September, 2007, with the purpose of highlighting the importance of developing and committing to a shared vision in Bali. In so doing, the Secretary General is mobilizing support for launching a UNFCCC-lead process to negotiate a comprehensive agreement for the next stage of the climate regime with the (albeit differentiated) participation of all countries.

In contrast to the above approach, the government of the United States is convening another meeting in Washington DC only three days after the NYC meeting. This second meeting arises out of a conviction that the community of nations cannot, and need not, achieve further agreements on a global level. The proposed alternative, typified by the Asia-Pacific Partnership on Clean Development and Climate (AP6), is to encourage the major economies to focus on "nationally-defined mid-term goals and strategies and sector-based approaches", voluntarily adopting climate friendly policies and investing in clean technologies. The intent is for the major economies among themselves to agree upon a post-2012 framework, and for this to be of a voluntary nature. While the approach would seek to harmonize emissions accounting, it has no compliance mechanism, no explicit environmental goal or target against which to monitor progress of the participating countries. The recent APEC Sydney Declaration on Climate Change calls for a non-binding aspirational goal of reducing energy intensity by 25% by 2030, a goal which many argue is no different than business as usual.

The purpose of the two meetings could be seen to be at loggerheads with each other. The Secretary General would have all countries subscribe to a negotiating process that would over the next two years give rise to a global agreement on how and when to limit emissions. All Parties would contribute, admittedly in a differentiated manner and perhaps even in sequential

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timing, but based on a common metric against which progress could be measured. The US prefers a voluntary agreement of best efforts among the major economies. The main card that is at play is the waning legitimacy of the current US administration. The position and intent of the Bush administration has been progressively weakened on the one hand by much more progressive actions on the part of states, cities, and corporations in the US, and on the other, by the President's rapidly dwindling leadership. Although it is impossible to know exactly what the position of the new US administration will be in 2009, it is clear that it will be more environmentally responsible than the current position.

However, from the UNFCCC perspective, the launching of the global negotiating process cannot wait for a change in the US government. The decision to start the negotiation must be taken in Bali. Thus the challenge for the UNFCCC is to alchemize a decision that is flexible enough to include the US now, while directive enough to maximize a more constructive US engagement in the future. Meeting this challenge is critical not only for the participation of the US itself, but also for the participation of the major developing countries, which will resist any further engagement if the major emitter is not at the table. Thus success in Bali hinges on the ability to combine interests and approaches such that all Parties can support the decision to move forward.

### **The Berlin Mandate**

The decision that must emerge from Bali is somewhat analogous to the Berlin Mandate achieved in 1995, which gave rise to the 1997 Kyoto Protocol. It may be useful to analyze the Berlin Mandate within the context of its time, with the purpose of identifying possible elements of a new negotiation process, within a changed geo-political context.

A review of the Berlin Mandate reveals that it is built on a surprisingly simple yet effective structure:

- 1- Recognition of non adequacy.** The Berlin Mandate starts with the recognition that prior actions (at that time voluntary on the part of all countries) were inadequate and insufficient to face the challenge of a changing climate, based on the analysis provided by the 1995 Second Assessment Report of the IPCC. In 2007 the evidence of the inadequacy of current actions (including Kyoto compliance actions) has dramatically increased with the publication of the Fourth Assessment Report of the IPCC. There seems to be little resistance to grounding a new negotiating process in the admission of insufficient action, particularly if the insufficiency of action is not ascribed to any particular set of countries.
- 2- Guiding principles.** The Berlin Mandate enumerates a series of principles to guide the intended agreement. Many of those principles are still valid: the need to protect the climate, the development needs of developing countries, the historic responsibility of industrialized countries, the necessary cooperation of all countries, and the need to include all greenhouse gases, emissions by sources and removals by sinks. These can be fairly easily included in the required decision. Other principles may need to be added or re-interpreted in the 2007 context, and these are discussed below.
- 3- The purpose of the agreement.** The Berlin Mandate clearly states that the aim of the intended agreement is for Annex I Parties to set quantified emission limitation and reduction objectives within a relatively short time-frame. This aim constitutes the heart of the Kyoto Protocol which sets one kind of target, and this only for industrialized countries in the time period 2008-2012. It is highly unlikely that this type of goal will be repeated in the Bali decision. The move from one type of targets to a possible basket of participation options, and from a short time period to a long term goal is one of the most difficult challenges for Bali participants, and is also discussed below.

- 4- **Urgency.** The Berlin Mandate ends with a call for the negotiation process to be conducted as a matter of urgency, with a progress report to be delivered at the subsequent COP, and with a view toward adopting the agreement in two years. The urgency of moving forward is all the more compelling in 2007, particularly in light of the Stern Report, which highlights the exponential cost of delays. Limiting the negotiating time to a two year period is admittedly daunting, and yet, it is probably necessary to follow the above chronology in order to ensure a seamless dovetailing from one legal instrument to the next.

### **The Bali Decision**

Assuming that the structure of the potential Bali decision can be kept as simple as that of the Berlin Mandate, it is evident that the Bali decision will have to embrace a level of additional substantive complexity which was absent in Berlin. The elements of additional complexity merit particular attention as they pave the way to success in Bali, by creating a process broad enough for all countries' current interests/positions to be represented. The next two years will be invested in tapering the elements and interweaving them until an overall package of agreements is reached. In Bali, the panoply of options needs to be ample. Some of the key elements that provide essential latitude to the decision are:

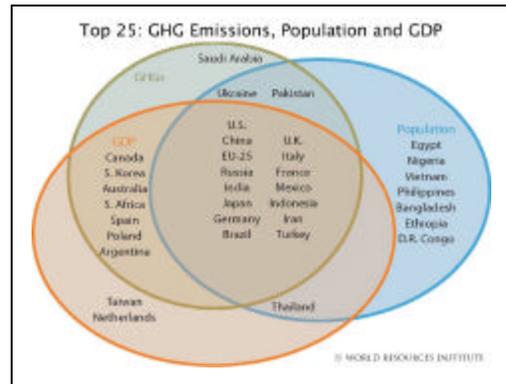
- 1- **Adaptation.** First and foremost is the need to enhance developing countries' capacity to adapt to climate change. The already observed effects of climate change on developing countries in particular has made it painfully obvious that adaptation can no longer play a Cinderella role in the regime, but must rather become one of its main pillars. While making this principle operational will be a key challenge for the future agreement, its inclusion in the decision is not expected to be much disputed.
- 2- **Long term global reduction goal.** The Berlin Mandate called for short term emission reduction targets. Given the novelty of legally binding reduction commitments in 1997, this approach to emission limitation was the most reasonable strategy at the time. However, ten years of experience with emission reductions, combined with the overwhelming scientific evidence of a changing climate, has dramatically changed the context of negotiations. Short-term incremental reduction goals are no longer environmentally acceptable (IPCC 2007) nor economically recommendable (Stern 2006). The Bali decision should call for a global agreement on a long term reduction goal within a framework that ensures "comparability, accountability, political legitimacy, fairness and adequacy" (Zammit Cutajar 2007). Resistance to this goal can be expected from the US and major developing countries.
- 3- **Common but differentiated responsibilities.** One of the key principles of the Convention and any of its subsequent instruments is the recognition of "common but differentiated responsibilities and respective capabilities". The Berlin Mandate called upon this principle in order to obligate industrialized countries to strengthen their commitments in the regime, while defining that no new commitments would be introduced for non annex I Parties. The principle of common but differentiated responsibilities will undoubtedly remain as one of the main bulwarks of the Bali mandate. However, the 2007 geo-political context dictates a re-interpretation of the principle, a task which is likely to be one of the most challenging of the Bali session.

**A- Differentiation among Annex I Parties.** As in the Kyoto Protocol, in the Bali decision Annex I countries are undoubtedly expected to continue leading the way. However, Bali participants cannot ignore the fact that two Annex I countries (US and Australia) have not embarked on legally binding emission reductions, nor do they currently have any intention of doing so in the post

2012 period. Russia is effectively not in the Protocol either and is unlikely to sign up to a constraining target. The Bali decision will have to allow for a differentiation among Annex I countries

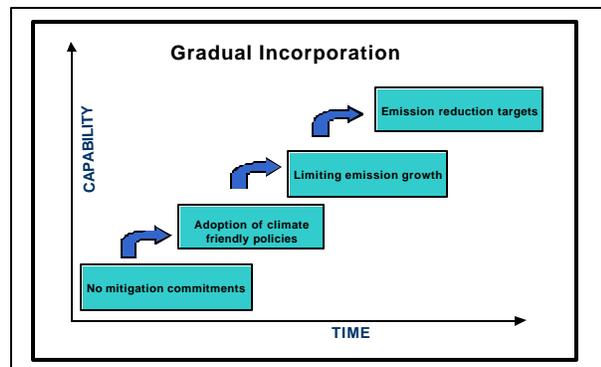
**B- Differentiation in the G77.** Much more contentious but just as obvious is the difference among G77 countries. There is a deep rooted tradition of unity in the G77 and China group in the context of UN proceedings. However, the time may have come for the larger

developing nations to assume more responsibility than the small and less developed countries. This differentiation is currently politically unacceptable to the G77 and China group, but it is probably one of the major linchpins in a post 2012 agreement. The "Plus Five" countries (China, India, Brazil, Mexico and South Africa), as a group already emit 25% of the world's GHG emissions. Over the past twelve months much of the



attention of the G8 Group and of the Gleneagles process has focused on this group of countries, and they will play a critical role in Bali. However, there is a substantial overlap among a larger group of countries with the highest GHG emissions (responsibility), population, and GDP (capacity to act). Twenty-five countries account for 83% of GHG emissions, 71% of the global population and 86% of the global income. It only stands to reason that most of these countries, if not all, need to be engaged in the global effort to curb emissions at some point in time and in some form. The Bali mandate will have to allow/encourage a differentiation of the G77 countries over the long run, admittedly a most difficult political task.

**4- Gradual and linked incorporation.** One way to ease the pain of differentiation among G77 countries is to recognize that nations need to evolve into responsibilities at different paces. The mandate could allow for gradual incorporation, whereby some developing countries would sequentially move from no mitigation commitments, to the adoption of climate friendly policies, to limiting emission growth, and finally to absolute emission reduction targets. In order to be fair, the threshold could be formed by a combination of responsibility, capability, potential to mitigate, and population. In addition, the trigger for moving to the next level could be linked to the reduction achievements of industrialized countries. Developing countries would assume increasing obligations only if, and at a pace with, the increasing depth of emission reductions attained by industrialized countries.



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**5- Diversity of targets.** The Berlin Mandate dictated legally binding absolute reduction targets for industrialized countries. This mandate is unacceptable in the 2007 context. While the EU has announced its willingness to assume a unilateral 20% reduction in

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emissions by 2020, and a 30% reduction if joined by others, Japan is considering only an intensity target, and the US and the major developing countries have vowed not to take on any legally binding reduction targets. The September 9, 2007, APEC Summit in Sydney has once again announced the intention of those nations to subscribe only to a non-binding aspirational goal of reducing energy intensity by at least 25% by 2030. In order to move forward, the Bali mandate must allow a basket of commitment types, where each country could assume the type and level most appropriate to its circumstances, provided the framework provides a means of assessing "fairness" of differentiated contributions.

- 6- **Stronger market mechanisms.** The CDM has been clearly successful in putting emission reductions on the market. The CDM has registered over 700 projects that have a potential of delivering 1 billion tons of CO<sub>2</sub> by the end of 2012. There are at least another 900 projects in the CDM pipeline (projects in preparation but not yet registered by the Executive Board of the CDM), with a potential delivery of an additional billion tons of CO<sub>2</sub> by 2012. However, the CDM has not significantly altered the energy pathways of developing country economies. In the Bali decision, Parties may wish to include stronger market mechanisms that could enable the transformation of what will otherwise be carbon-intensive growth in the South, while at the same time resulting in substantially increased supply of emission reductions that will allow industrialized countries to take deeper reduction commitments in the future, as their demand for international reductions could be met at predictable prices. This is another key aspect of the Bali decision which will not be met with enthusiasm on the part of the present US administration. The language calling for stronger mechanisms will have to be tempered by current political circumstances.
- 7- **Avoided deforestation.** There is no doubt that avoided deforestation must be included in the Bali decision as an important mitigation activity. Much progress has been made on this topic over the past two years. Although questions around appropriate funding and baselines still remain, these need not be resolved this year in order to include the activity in the Bali decision.

As in Berlin in 1995, the 195 countries that have ratified the UN Climate Change Convention will come together in Bali at the end of 2007 with the main purpose of agreeing on a process for the negotiation of the next stage of the climate regime. However, understanding of the implications of the changing climate has grown since 1995 and the geo-politics of 2007 is more complex than that of 1995. The two seemingly contradicting roads that have been laid out en route to Bali need not exclude each other. The way to success in Bali is to search for the shared elements, and within those to start with the minimum common denominator, a strategy frequently pursued in contentious negotiations.

In contrast to the simplicity of the elements included in the Berlin Mandate, the Bali decision will have to lay the groundwork for an agreement that is more open, more flexible and more diverse. The challenge lays in the fact that this increased complexity of form must eventually result in substantially increased substantive impact on emission trends for both industrialized and developing countries. The Bali challenge is intimidating, but it is not one that we can afford to elude.