

THE KYOTO PROTOCOL

June 2011

The Kyoto Protocol does not expire in 2012 or ever. Its terms clearly require further commitments for developed countries' emission cuts. But these countries are now imposing "conditionalities" on agreeing to a second commitment period or, worse, they are proposing to replace it altogether with another weaker agreement. They are risking climate anarchy by dismantling the climate architecture, with nothing better in sight.

The Kyoto Protocol continues beyond 2012

- It is merely the emission reduction targets for the first commitment period (2008-2012) and not the Kyoto Protocol itself that ends in 2012.
- The Protocol, as an international treaty, has no expiry date and subsequent emission reduction commitments are to be negotiated and agreed.
- Because of this, negotiations were launched in 2005 under Article 3.9 of the Protocol, which reads: "commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol".
- Durban (December 2011) is the last chance to avoid a lapse in legally binding international commitments for emission cuts, and even so, countries will only have a year to ensure that the commitments enter into force.

Conditionalities instead of continuing?

- Some Kyoto Parties (Canada, Russia and Japan) are refusing outright to undertake a second commitment period. This is a breach of their international obligations and dishonours their commitment to the international community.
- Other countries (Australia, New Zealand, European Union, Switzerland, Norway) are imposing conditionalities that will ultimately compel the same result to end the Kyoto Protocol.
- Developed countries are requiring a "global agreement" for developed and developing countries' emission reductions, which threatens to undermine the principle of common but differentiated responsibilities and ignores the drastically different circumstances of countries.

Reneging on the Bali Roadmap

- This approach violates the agreement in Bali in 2007, where countries agreed to address 100% of global emissions through a three-pronged approach – Kyoto Parties under the Protocol, the United States making comparable efforts under the Convention, and developing countries taking actions under the Convention.
- With such a new agreement, countries in the Protocol will have a new "ship" to jump to, creating the single treaty with its much weaker system that they prefer to replace the Protocol. Under the "pledge and review" system we are currently headed for a possible 5 degree Celsius temperature rise.
- At the same time, developed countries are insisting that the Protocol's market mechanisms should continue and expand even in the absence of the second commitment period, rewarding them with benefits without corresponding commitments.
- The Protocol is the only legally binding system in place as a 'new treaty' is nowhere near being ready. The Protocol's rules took many years to negotiate. In Durban, when it comes to binding targets, Kyoto is the only game in town.

Developed countries are dishonoring the terms of the Kyoto Protocol, the 2005 agreement to undertake negotiations for further commitments and the understanding reflected under the 2007 Bali Roadmap to require all countries to undertake emission reduction in a differentiated manner. They are not negotiating in good faith and are dangerously risking the Durban outcomes, and the future of the planet.

The binding rules-based system...

The Kyoto Protocol and the negotiations for a second commitment period include elements required in any effective climate regime. These include:

- Negotiating commitments in line with what science requires and that reflect developed countries' historical responsibility for climate change and greater capability to act.
- A collective target agreed through a principled approach.
- Individual targets that are comparable between developed countries.
- Commitments that are binding in international not merely domestic law.
- Robust rules for accounting, reporting and review of efforts to fulfill commitments.
- A compliance mechanism for holding Parties to account.

...versus a new weaker system

Led by the United States, some developed countries are pushing a "pledge and review" system that merely collects domestic pledges for emission cuts based on what each country decides politically and then communicates to others.

This approach:

- Fails to ensure developed countries' contributions set in light of what science and equity require.
- Fails to ensure a principle-based aggregate target for the developed countries.
- Fails to ensure fair distribution of effort between developed countries.
- Fails to ensure stringent rules for accounting, reporting and review.
- Fails to ensure reductions are subject to international compliance.