

The aftermath of Copenhagen: will accord lead to agreement? The prospects for 2010

On the morning of 19th December, after negotiations that went through the night, the UN Climate Change Conference in Copenhagen 'noted' (neither accepting nor rejecting) a new [Copenhagen Accord](#). This had been drafted the previous day, on the sidelines of the negotiations, by China, the US, India, Brazil and South Africa, and was supported by the EU.

The status of the Accord as a non legally-binding agreement means that negotiations are set to continue for some time yet to reach a deal.

The CBI is disappointed with the Accord, and believes progress must be made towards a more substantive deal in 2010, so that we can get on track to reduce greenhouse gas emissions globally. The Accord fails to provide business with clear direction on key issues, including the level of emissions cuts, the development of carbon markets and support for the development and deployment of new technologies. Progress must be made on these points quickly in 2010. If not, we risk further undermining businesses' confidence in the long-term value of investment in low-carbon technologies. It is telling that following the conference, the price of carbon allowances in the EU Emissions Trading Scheme fell by about 10%.

The challenge going forwards is to use the Accord as a platform to ensure a more robust, legally-binding agreement is reached as soon as possible. This brief provides a CBI analysis of the Copenhagen Accord and its implication, setting out that:

- **The Accord is disappointing with limited provisions and scant detail**
- **Competitiveness concerns remain as the debate over increasing the EU target continues**
- **Serious obstacles to a legally-binding treaty remain – particularly (the lack of) US legislation**
- **The validity of the UN process is in question**
- **China emerged as a leading power, while the EU's position was weakened**
- **We must not lose momentum in the UK to maximise low-carbon business opportunities**

The Accord is disappointing with limited provisions and scant detail

Ahead of the Copenhagen conference, CBI set out business requirements for a successful deal – in a [Copenhagen Scorecard](#) produced with Business Europe, and in an [article](#) in The Times by Richard Lambert in November. Our essential criteria for a deal were (and continue to be):

- Clear, transparent emissions reductions from major economies – to justify raising the EU target
- Robust signals on the future development of carbon markets
- An outline agreement on finance
- A framework for a cross-border regime for aviation and shipping
- Protection for businesses' incentives to innovate – through existing intellectual property (IP) rights

The Accord failed to deliver significant progress on the majority of these points.

It does not include reference to levels of **emissions reductions**. It simply 'recognises' the need to keep temperature rises to no more than 2°C and sets a deadline of 31 January for developed countries to submit emissions targets up to 2020, and for developing countries to submit plans for 'nationally appropriate mitigation action'.

On **transparency**, an issue of heated debate, the Accord mandates developing countries to use their own monitoring and verification mechanisms to track their emissions. It then states that the results will be subject to review when they are submitted to the UN (through national communications every two years), 'under clearly defined guidelines that will ensure that national sovereignty is respected'. This 'pledge and review' architecture represents a new, less strict model of compliance than that imposed on developed country signatories of the Kyoto Protocol.

The Accord gives an oblique and qualified signal on **carbon markets**, committing signatories to 'pursue various [mitigation] approaches, including opportunities to use markets'. This is far from the clear signal on markets that we were hoping for – and is a setback for any move towards an international carbon market along the model of the EU emissions trading scheme.

There was real progress on **finance**, with the Accord committing developed countries to provide \$30bn to support developing countries to tackle climate change in the three years up to 2012 (so called fast-start finance), and sets out a commitment to deliver \$100bn each year by 2020. The UK has committed to providing \$2.6 billion towards the fast-track finance – as part of an EU contribution of \$10.6bn, matching \$11bn from Japan and compared to \$3.6bn from the US.

Aviation and shipping are not mentioned in the accord.

The Accord does not directly mention any changes to **IP rights**, but the fact there will be need to be more negotiations in 2010 means these are not yet off the agenda. On the issue of transferring technologies to the developing world (which had been used as the argument for changes to IP by some countries), there is a reference to a new **Technology Mechanism**, to support the deployment of technologies on a country-by-country basis.

Competitiveness concerns remain as the debate over increasing the EU target continues

As countries/regions append their individual (2020) emissions commitments to the Copenhagen accord by 31st January, the EU will be discussing (again) whether to increase its emissions reduction target (from 20% to 30%). The CBI believes any decision must be based on a transparent impact assessment, including a consideration of efforts by other major economies, to address real concerns about industrial competitiveness and potential carbon leakage (the flight of industry to regions/countries with less stringent environmental regulations).

From a legal perspective, the Directives covering the EU 2020 target mandate the EU (subject to an impact assessment by the Commission and approval of new legislation by the European Council and Parliament) to move to a 30% target once a treaty to succeed the Kyoto Protocol has been signed and in the event that such a treaty commits all developed countries to comparable emissions reductions by 2020.

The CBI believes the Accord is not enough to trigger this process, given the non-binding nature of the emissions targets it contains (in the annex to be completed by 31 January). But there is still room for political manoeuvre – the Council of Ministers could simply instruct the Commission to start the process to assess the move to the higher target. This would be a contentious move from a business perspective in the absence of comparable moves from other major economies.

The UK government position has not yet established a clear position. However, it has argued that the marginal costs for the UK of increasing from a 20% to a 30% target would not be too onerous, since the

most cost-heavy measures are 'front-loaded' into reaching 20% (including, for example, the obligation to source an increasing proportion of energy from renewable sources).

Elsewhere in Europe, we understand that member states are divided on the issue – with some governments looking to stick at the current target of 20%, and others keen to move to a more ambitious figure.

The CBI believes that at this stage, before we know the level of ambition that other countries are prepared to show, it would be premature for the EU to move to a more ambitious target. The US, in particular, has only offered a 17% reduction on 2005 levels by 2020, which is significantly less than that put forward by the EU (representing only 3-4% reduction on 1990 levels, compared to 20/30%). Once other countries have submitted their targets, we need a full analysis of the comparability of effort involved before changes to the current EU target should be considered.

Serious obstacles to a legally-binding treaty remain– particularly (the lack of) US legislation

Under the current administration, the US has become much more engaged with international negotiations on climate change – and the talks at Copenhagen were marked by extremely positive levels of engagement by US officials on all aspects of the discussions. That said, the challenges posed by continuing uncertainty over US domestic policy is a key stumbling block to further progress towards a global deal.

President Obama pledged, ahead of the negotiations to reduce US emissions by 17% by 2020 (against a 2005 baseline). This is the level of reductions set in the Bill that passed the House of Representatives in 2009 and would be subject to this legislation (or something similar) passing the Senate. This prospect, however, seems increasingly unlikely. With the healthcare bill still to be finalised, there are still a number of pieces of legislation (including healthcare, banking reform, a new stimulus bill and immigration) stacked up ahead of any climate bill in the Senate. With the prospect of mid-term elections dominating the agenda from the summer onwards (making many vulnerable Midwest Democrats, in particular, reticent about supporting any kind of a cap and trade bill) there is a limited timeframe within which any bill could pass.

This legislation – or lack of it – continues to be the most significant element of the diplomatic debate. If Obama could build on the non-legally binding accord to deliver domestic legislation, which would 'un-gum' the negotiating process by providing a clear position from which the US could negotiate (and on the basis of which questions of comparability could be properly assessed), then a deal – of some kind – to replace Kyoto would become a tangible possibility. In this light, the Accord would be seen as a useful stepping stone to an agreement.

However, given the pressures of the legislative and political timetable, another option is available. Obama has publicly stated his willingness to regulate, if Congress won't legislate, mandating the Environmental Protection Agency to regulate carbon emissions under the sanctioning powers granted it through the Clean Air Act. This route would likely mean no federal cap and trade scheme – but rather a mix of regulation and fiscal penalties driving emissions reductions. While this could provide a 'second-best' mechanism to achieve emissions reductions in the US, it would undermine European business ambitions of creating an international emissions trading market.

The validity of the UN process is in question

Alongside developments in the US, the focus in the first half of 2010 is also on the mechanisms by which a new international deal should be realised. The process under the formal negotiating structure of the UN Framework Convention on Climate Change (UNFCCC), under which the detailed text of a new agreement has to be debated and unanimously agreed by plenary sessions of 192 countries, proved unwieldy and unproductive at Copenhagen.

Despite two years of negotiations, no significant progress was made until senior ministers and heads of government, with the political authority to make substantive decisions, began negotiating in small groups at the end of the second week. Prior to that, the plenary sessions had – on most issues – proceeded at

frustratingly slow pace, with little tangible results despite protracted hours (and days and weeks) of negotiation.

This raises the question of whether the inclusive, globally consensual process of the UNFCCC is the most practicable forum to deliver significant international action. The Accord, as weak as it might have been, was only achieved through the US negotiating directly with a handful of major emerging economies. 2010 may prove to be the year in which alternative forums – incorporating the developed and major economies which account for the majority of the world's emissions, such as the G20 – take precedence over the UN.

This may change the shape of business involvement with the international negotiating process, with our focus shifting to influencing bilateral (e.g. EU-China) agreements or meetings of the G20 or the Major Economies Forum on Energy and Climate Change (MEF), a grouping of 17 major economies first convened by the US in 2009.

Whatever the process, it will be important to keep senior ministers and heads of government involved. There is a real risk of disengagement following perceived political 'failure' at Copenhagen. But what the talks have shown is that without political intervention at the highest level, it will not be possible to agree a legally-binding text. The negotiators simply do not have the mandate to do anything other than discuss the detail. It will take political leadership again, leading up to and during the next high-level UN climate negotiations, in Mexico City in late 2010, to seal the deal.

China emerged as a leading power, while the EU's position was weakened

If the Copenhagen negotiations were marked on one hand by the failure of the UNFCCC process, on the other hand, they were also characterised by a new, more assertive Chinese climate diplomacy, and the unpreparedness of western negotiators and governments to deal with this. China showed itself willing to act decisively and confidently, with its assertive diplomacy defining the shape of an accord that omitted any reference to the binding numbers that have traditionally made China uneasy.

The upshot in 2010 is the potential for a new dynamic between China and the developed nations, particularly the US, on climate change. The US's stance towards China at Copenhagen proved ineffectual – it was only a changed tack from Obama at the eleventh hour that yielded fruit.

With China emerging as a new climate power and counterweight to the US in these negotiations, its position as head of a G77 plus China grouping has become increasingly fragile. While the grouping may still be used tactically for certain negotiating points, the diversity of interest between China and the smaller, developing countries in the G77 has been starkly exposed, which may create a new dynamic in 2010. That said, China's investment (and therefore influence) in many African nations, for example, may mean this grouping has some life in it yet.

The role of the leading emerging economies at Copenhagen highlights the increasing importance of what has been defined as the BASIC bloc (Brazil, South Africa, India and China). These countries were responsible for negotiating the final accord with the US – and for the first time have accepted a responsibility for them to reduce emissions, which is a step towards breaking down the divide established within the Kyoto Protocol between developed countries (who had to curb emissions) and developing countries (which did not have to).

However, this grouping of major emerging economies should not be considered as a unified bloc. With China standing as a climate superpower in its own right, what we may see more of the other BASIC countries establishing new alliances as counterweights to the US and China.

With the EU's stated willingness to 'do a deal', it had intended to carve out a leadership role at the conference. The reality was more sobering – with Europe being sidelined from the backroom talks that carved out the Accord, with its support for whatever was produced being taken for granted. It is clear that the EU will need to 'box clever' at future negotiations. Otherwise it risks underlining the impression of a

leading Indian observer that ‘the EU... which suffers from an excess of leaders, could not influence the outcome despite the vigour of its advocacy’.

We must not lose momentum in the UK to maximise low-carbon business opportunities

The CBI believes the failure to agree binding global emissions cuts at Copenhagen makes it all the more important that the UK pushes ahead as rapidly as possible with its plan to transition to a low carbon economy, within the legal and policy framework that has already been set by the Climate Change Act. The immediate emphasis should be on actions that don't require global agreement and that bring business benefits and opportunities in their own right.

However, the CBI's latest [Climate Change Tracker](#), which monitors progress towards a low-carbon economy, shows that just four of its 24 indicators are on track. We are particularly concerned about the slow progress being made in improving energy efficiency. With £15m a day being wasted on energy by businesses and households, we need easy-to-access support and incentives to encourage improved insulation in homes and offices, a switch to more fuel-efficient cars, and other energy savings steps.

Over the last six months the CBI's tracker shows that progress has been made in four areas: introducing a new planning system, supporting the development of new nuclear power, moving to the next stage of the EU emissions trading scheme, and steps taken by the aviation and shipping industries to reduce their emissions. But overall, progress continues to lag on the policies needed to meet 2020 emissions targets, such as agreeing a definition for zero-carbon homes and developing a practical delivery plan for smart meters.

The CBI wants Government to step up the pace and publish a delivery plan to help the UK save energy at home and in the workplace. We also want more businesses to measure and monitor their energy use, take steps to reduce energy consumption, and engage employees, customers and their supply chain to promote energy efficiency.