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# Harvard Project on Climate Agreements

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## CLIMATE NEGOTIATIONS OPEN A WINDOW:

Key Implications of the Durban Platform for Enhanced Action

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# THE HARVARD PROJECT ON CLIMATE AGREEMENTS

The goal of the Harvard Project on Climate Agreements is to help identify and advance scientifically sound, economically rational, and politically pragmatic public policy options for addressing global climate change. Drawing upon leading thinkers in Australia, China, Europe, India, Japan, and the United States, the Project conducts research on policy architecture, key design elements, and institutional dimensions of domestic climate policy and a post-2012 international climate policy regime. The Project is directed by Robert N. Stavins, Albert Pratt Professor of Business and Government, Harvard Kennedy School. For more information, see the Project's website: <http://belfercenter.ksg.harvard.edu/climate>

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## ABSTRACT

A key outcome of the Seventeenth Conference of the Parties (COP-17) of the United Nations Framework Convention on Climate Change (UNFCCC), held in Durban, South Africa, late in 2011 — the Durban Platform for Enhanced Action — represents an important milestone in the history of climate negotiations. This is because it departs from the long-standing and problematic dichotomous division of the world’s countries into those with serious emissions-reduction responsibilities and the others — with no such responsibilities whatsoever. That distinction, now apparently abandoned, has prevented meaningful progress for decades. The Durban Platform — by replacing the Berlin Mandate’s (1995) division of the world into a set of countries with ambitious responsibilities and another set of countries with no responsibilities — has opened an important window. National delegations from around the world now have a challenging task before them: to identify a new international climate policy architecture that is consistent with the process, pathway, and principles laid out in the Durban Platform, while still being consistent with the UNFCCC. The challenge is to find a way to include all key countries in a structure that brings about meaningful emission reduction on an appropriate timetable at acceptable cost, while recognizing the different circumstances of countries in a way that is more subtle, more sophisticated, and — most important — more effective than the dichotomous distinction of years past.

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# CLIMATE NEGOTIATIONS OPEN A WINDOW:

## KEY IMPLICATIONS OF THE DURBAN PLATFORM FOR ENHANCED ACTION

Joseph E. Aldy and Robert N. Stavins<sup>1</sup>

Twenty years ago, with the signing of the United Nations Framework Convention on Climate Change (UNFCCC) at the 1992 UN Conference on Environment and Development (the first “Earth Summit”) in Rio de Janeiro, Brazil, the countries of the world agreed to launch a process aimed at taking actions to confront the risks posed by the threat of global climate change. Since that time, international climate-policy efforts under the auspices of the UNFCCC have been marked by a series of ups and downs. The most recent UN-sponsored climate talks in Durban, South Africa (the Seventeenth Conference of the Parties of the UNFCCC — COP-17), at the end of 2011, provide a new opportunity for framing a sensible and meaningful long-term, global approach to this ultimate global commons problem.

As we argue in this essay, a key outcome of the Durban talks — the Durban Platform for Enhanced Action — represents an important milestone in the history of climate negotiations. This is because it departs from the long-standing and problematic dichotomous division of the world’s countries into those with serious emissions-reduction responsibilities and the others — with no such responsibilities whatsoever. That distinction, now apparently abandoned, has prevented meaningful progress for decades. To explain the full significance of these developments, it is necessary to begin by reviewing some key points from the history of international climate negotiations.

### THE HISTORY OF “COMMON BUT DIFFERENTIATED RESPONSIBILITIES AND RESPECTIVE CAPABILITIES”

Article 3 of the 1992 UNFCCC established a key principle for guiding the allocation of effort to combat climate change:

“The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their *common but differentiated responsibilities and respective capabilities*. Accordingly, the *developed country Parties should take the lead* in combating climate change and the adverse effects thereof.” (United Nations 1992, Article 3, paragraph 1; emphasis added).

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The countries considered to be “developed country Parties” were listed in an appendix to the 1992 Convention — Annex I — and included those countries which were members at the time of the Organization of Economic Cooperation and Development (OECD) plus most of the then-emerging market economies of Eastern Europe and the former Soviet Union.

The phrase — common but differentiated responsibilities and respective capabilities — has been repeated countless times since 1992 to refer to an *equitable* approach to climate policy. Some countries and stakeholders emphasize “differentiated responsibilities,” some emphasize “common,” and some emphasize “respective capabilities,” but what does it really mean in practice?

In the very first decision of the first Conference of the Parties (COP-1) of the Framework Convention, in Berlin, Germany, three years after the Earth Summit, the global community agreed to the Berlin Mandate (United Nations 1995). This agreement on a negotiating mandate referenced the above-quoted excerpt from Article 3 of the UNFCCC and interpreted the principle of “common but differentiated responsibilities and respective capabilities” as: launching a process to commit (by 1997) the Annex I countries to quantified greenhouse-gas emissions reductions within specified time periods (targets and timetables); and, stating unambiguously that the process should “not introduce any new commitments for Parties not included in Annex I.”

Thus, the Berlin Mandate established the dichotomous distinction whereby the Annex I countries are to take on emission-reduction responsibilities, and the Non-Annex I countries are to have no such responsibilities whatsoever. This reflected, in practice, a greater emphasis on *differentiated responsibilities* than on *common responsibilities*, and little consideration of *respective capabilities*.

As the climate negotiators began crafting a protocol to the Framework Convention (to be concluded in Kyoto, Japan), the U.S. Senate responded to the Berlin Mandate by passing unanimously (95-0) the Byrd-Hagel Resolution in August of 1997, which stated:

“It is the sense of the Senate that the United States *should not be a signatory to any protocol* to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would mandate new *commitments to limit or reduce greenhouse gas emissions for the Annex I Parties*, unless the protocol or other agreement *also mandates* new specific scheduled commitments to limit or reduce greenhouse gas emissions *for Developing Country Parties* within the same compliance period” (U.S. Senate 1997).

The Berlin Mandate effectively elicited sustained bipartisan opposition in the United States to the international climate regime as it was evolving under the UNFCCC and — in particular — the Kyoto Protocol. This sealed the Protocol’s fate in terms of ever being ratified by the U.S. Senate. President Bill Clinton did not submit the Protocol to the Senate for ratification, and Vice President Al Gore would not



have done so had he been elected to succeed Clinton. Likewise, Senator John Kerry was explicit about his opposition to Kyoto when he ran for President against President George W. Bush, and President Bush was subsequently fully explicit about his lack of support for the Protocol, and for that matter, the UNFCCC process. When then-Senator Barack Obama ran against Senator John McCain for President in 2008, one thing on which they agreed was their opposition to the Kyoto Protocol.

## ***The Implications of the Berlin Mandate's Realization in the Kyoto Protocol***

Beyond those decisive impacts on U.S. climate politics, the Berlin Mandate had wide-ranging and worldwide *normative* consequences because it became the anchor that prevented and has — until very recently — continued to prevent real progress in international climate negotiations. In part, this reflects the dramatic gap between rhetoric over responsibilities and real evidence of contribution and capacity to take action.

At the time of the climate-change negotiations culminating in the Framework Convention on Climate Change, more than fifty countries were classified as “developing” (Non–Annex I) with higher per capita incomes on a purchasing power parity basis than the lowest income “developed” (Annex I) country (Heston et al. 2006). By the time of the Berlin Mandate, Non–Annex I countries were emitting more greenhouse gases into the atmosphere annually than Annex I countries (World Resources Institute 2012). And by the time the Kyoto Protocol entered into force in 2005, there were nearly fifty Non–Annex I countries with per capita fossil-fuel carbon-dioxide emissions exceeding the Annex I country with the lowest per capita measure (U.S. Energy Information Administration 2012). In the first decade of the present century, China emitted more carbon dioxide from fossil-fuel combustion than any developed country had emitted over the course of the twentieth century — with the exception of the United States and Germany (calculated by the authors based on data from Boden and Blasing 2012 and Boden *et al.* 2011).

The dichotomous Annex I/Non–Annex I distinction has had significant effects on environmental performance as well on economic and institutional implications of the Framework Convention and the Kyoto Protocol. Global fossil-fuel carbon-dioxide emissions grew at a rate of 2.8 percent annually in the ten years after the Kyoto Conference, dramatically higher than the 1.2 percent annual growth in the decade leading up to these talks (calculated by authors based on data from U.S. Energy Information Administration 2012).

This is largely due to the exclusion of Non–Annex I countries and the general pace of economic growth worldwide.<sup>2</sup> In particular, the world’s six largest emitters of greenhouse gases — China, United States, Indonesia, Brazil, India, and Russia — are not constrained by the Kyoto Protocol because of the absence of commitments (for “developing countries”), the non-binding nature of its emission commitment (Russia), and the failure to ratify the agreement (the United States).

In addition, the dichotomous structure has driven up aggregate compliance costs to be four times their cost-effective level because many opportunities for low-cost emissions abatement in emerging economies were taken off the table (Nordhaus 2008). Most problematic of all, an institutional structure is thereby perpetuated that makes change and progress virtually impossible.

### ***Blurring the Annex I/Non–Annex I Distinction***

The Annex I/Non–Annex I distinction remained a central — indeed, *the* central — feature of international climate negotiations ever since COP-1 in Berlin in 1995. But in 2009, prospects for change began to emerge. In July 2009, leaders of the seventeen developed and developing countries participating in the Major Economies Forum — a venue for discussion of international climate-change policy outside of the UN structure — agreed that “peaking of global and national emissions should take place as soon as possible” (Major Economies Forum on Energy and Climate 2009). While this agreement stipulated that developing countries’ emissions may peak over a longer time frame, it represented the first time that large, developing countries recognized and agreed that they would need to reduce their greenhouse-gas emissions.

Leaders of the major economies and many more countries congregated in Copenhagen in late 2009 at COP-15 and negotiated the Copenhagen Accord (United Nations 2009). In 2010, the Cancun Agreements (United Nations 2010) elaborated many of the implementation details of the leaders’ vision laid out in the Copenhagen Accord. Importantly, these two deals blurred the Annex I/Non–Annex I distinction. Developed and developing countries put forward emission targets, policies, and actions under the Accord and the Agreements, in total including about eighty countries representing more than 80 percent of global emissions. Some distinction remained, since Annex I countries pledged economy-wide

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2 It is true that the United States did not ratify the Kyoto Protocol, but during the ten years after the Kyoto conference, U.S. greenhouse-gas (GHG) emissions grew only 0.2 percent per year, and Annex I emissions as a whole grew only 0.4 percent per year. So, the worldwide emissions growth following Kyoto is largely a function of developing country emissions growth, not the fact that the United States did not ratify the agreement. In reality, U.S. CO<sub>2</sub> emissions from fossil-fuel combustion in 2010 were about 11 percent lower than was forecast for 2010 at the time of the Kyoto negotiations (U.S. Energy Information Agency 1997), despite the fact that U.S. GDP by 2010 was higher than what was assumed in that same forecast undertaken in 1997. This was mainly due to the increasing energy efficiency of U.S. economic output — partly a function of real improvement in efficiency and partly a function of changing composition of economic activity toward less energy-intensive activities.

emission targets and Non–Annex I countries had the discretion to decide which policies and actions to pledge, although several, such as China, India, Indonesia, and South Korea, advanced actions that would involve reducing emission intensity or emissions from business-as-usual baselines.

## A NEW PRINCIPLE EMERGES REQUIRING THE PARTICIPATION OF ALL PARTIES

At COP-17, the international community reached an agreement that would continue the vision of Berlin, at least on paper, for the time being; an agreement to further implement the leaders’ vision from Copenhagen, and an agreement for a negotiating process focused on the long-term participation of all parties in the effort to mitigate greenhouse-gas emissions and combat climate change (United Nations 2011).

### *A Second Commitment Period for the Kyoto Protocol*

COP-17 agreed to a second five-year commitment period for the Kyoto Protocol. Without this element, the talks would have collapsed because the key emerging economies of China, India, Brazil, South Africa, Korea, and Mexico (not to mention the much larger number of truly poor, developing countries) would have walked out.

Some have asked whether this would have been so bad. Given the adverse implications of structuring relatively ambitious targets for a small set of industrialized countries (the Annex I countries) and no targets whatsoever for the much larger set of other countries in the world (the non–Annex I countries) and the dramatic growth in global greenhouse-gas emissions under the Kyoto Protocol, failing to extend the Kyoto Protocol for another commitment period would not likely have had a material impact on the global climate. In the past, some observers have gone so far as to argue that a collapse of the talks would be necessary to free the world to consider alternative and ultimately more productive routes going forward. Eventually, that may turn out to be true, but extending the Kyoto Protocol at this time for another period did little mischief, partly because the extension did not include the challenging negotiating task of identifying emission targets for Annex I countries.

The major effect — in addition to keeping the emerging economies (and developing countries) from walking out of the room — was to place the European Union in a position of accepting a target (for a second five-year period) that is no more stringent than what it has already committed to do under the European Union Emission Trading Scheme (EU ETS) and related emission-reduction policies. The United States is not a party to the Kyoto Protocol, and soon after the Durban Conference, Canada formally submitted its notification to the United Nations that it would withdraw from the Protocol (apparently to

avoid paying stiff penalties for its non-compliance). Japan and Russia have indicated that they will not take up targets in a second commitment period. Europe (and New Zealand, and possibly Australia) will be doing what they would have done anyway. In exchange for this, the major emerging economies agreed to progress on the other two key elements of the Durban talks.

### ***Further Elaboration of the Cancun Agreements***

Second, the Conference of the Parties agreed to a set of potentially important details on various components of the Cancun Agreements. This progress may turn out to be important, as it helps advance — at least for the interim — a workable bottom-up, pledge-and-review approach to international climate cooperation. The progress on this front includes work done on the Green Climate Fund to help mobilize public and private funding of climate-change mitigation and adaptation in developing countries; more specifics on technology transfer mechanisms; mechanisms to enhance the transparency of national commitments under the Cancun Agreements; and an international scheme to reduce deforestation, which — importantly — includes market mechanisms.

### ***The Durban Platform for Enhanced Action Establishes a New Principle for Global Climate Policy***

Third, and potentially most important, the Conference of the Parties launched a new negotiating process with the goal of reaching agreement by 2015 that will bring all countries under the same legal regime by 2020. The COP-17 decision for “Enhanced Action” completely eliminates the Annex I/Non-Annex I (or industrialized/developing country) distinction. The Durban Platform focuses instead on the (admittedly non-binding) pledge to create a system of greenhouse-gas reductions including *all Parties* by 2015 that will be implemented starting in 2020.

Nowhere in the text of the decision will one find phrases such as “Annex I,” “common but differentiated responsibilities,” “distributional equity,” “historical responsibility,” all of which had long since become code words for emission targets applied exclusively to the richest countries. In contrast, the text establishes a goal of “ensuring the highest possible mitigation efforts by *all parties*” (Decision -/CP.17, paragraph 7; emphasis added).

We should not over-estimate the importance of a non-binding agreement to reach a future agreement, but this is a real departure from the past and marks a significant advance along the treacherous, uphill path of climate negotiations. Thus, in a dramatic departure from some seventeen years of UN-sponsored international negotiations on climate change, COP-17 turned away from the Annex I/Non-Annex I distinc-

tion, which had been the centerpiece of international climate policy and negotiations since its adoption at COP-1 in Berlin in 1995.

A number of international climate-policy scholars have recognized the fundamental change in the guiding principle for the Platform for Enhance Action. The Durban Platform has been characterized as “a complete departure from the Berlin Mandate” (Bodansky 2011); “a new process and with it, a clean slate on differentiation” (Rahamani 2011); and “delicately poised between two eras — the fading age of Kyoto, and a new phase ... with developed and developing countries presumably on a more equal footing” (Diringer 2011).

This is of vast *potential* importance, but — of course — only “potential” importance, because just as it was the Kyoto Protocol’s numerical targets and timetables that fulfilled the Berlin Mandate’s promise, it remains for a future Conferences of the Parties to deliver on the Durban platform with a new post-Kyoto agreement by 2015. Only time will tell whether the Durban Platform delivers on its promise or turns out to be another “Bali Roadmap,” leading nowhere.<sup>3</sup>

## ***The Durban Platform Opens a Window of Opportunity***

The Durban Platform — by replacing the Berlin Mandate — has opened an important window. It is this: The national delegations from around the world now have a challenging task before them: to identify a new international climate-policy architecture that is consistent with the process, pathway, and principles laid out in the Durban Platform while still being consistent with the Framework Convention. In other words, the challenge is to find a way to include all countries (or at least, the twenty largest national and regional economies that together account for upwards of 80 percent of global greenhouse-gas emissions) in a structure that brings about meaningful emission reduction on an appropriate timetable at acceptable cost, while recognizing the different circumstances of countries in a way that is more subtle and sophisticated than the dichotomous distinction of years past.<sup>4</sup> The UNFCCC negotiations under the Durban Platform, in contrast to those under the Berlin Mandate, will occur in a policy space that is now populated by a large number of related plurilateral and multilateral efforts, such as the Major Economies Forum, the Group of Twenty Finance Ministers and Central Bank Governors (G-20), the

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3 The Bali Roadmap was adopted at COP-13 in December 2007 and attempted to build upon “common but differentiated responsibilities.”

4 The agreement in Durban also builds on the foundation of Copenhagen and Cancun by mandating a broad set of policy issues to address, including mitigation, adaptation, finance, technology development and transfer, transparency of action, and support for capacity building. This also represents an important expansion of scope of the UNFCCC beyond the primary (and nearly-exclusive) focus on emissions mitigation in the Berlin Mandate and the Kyoto Protocol.

Montreal Protocol, the Convention on Biological Diversity, and a wide array of bilateral agreements. These other venues can complement the Durban Platform as a testing ground for new ideas and policy experimentation.

### ***The Implications of the Durban Platform***

Durban may not be considered a “success” if this is defined by solving the climate problem, and indeed there would be doubt of success if the standard were putting the world on a *path* to solve the climate problem. Given the exceptionally challenging, long-term problem of global climate change, such definitions of success are fundamentally inappropriate for judging the international negotiations. The key question, at this point, is whether the Durban outcome has put the world on a trajectory whereby it is *more likely* than it was previously to establish a sound foundation for meaningful long-term action. Not only did Durban not undo the progress made in Cancun, it built upon it and moved forward. In the real world of international negotiations on this exceptionally difficult global commons problem, this is what success looks like.

Having broken the old mold, a new one must be formed. A mandate for change exists. Governments around the world now need fresh, outside-of-the-box ideas, and they need those ideas over the next two to three years. This is a time for fundamentally new proposals for future international climate-policy architecture, not for incremental adjustments to the old pathway. We trust that this call will be heard by a diverse set of universities, think tanks, and advocacy and interest groups around the world.



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