

# WHAT ROUGH BEAST? COPENHAGEN AND CREATING A SUCCESSOR AGREEMENT TO THE KYOTO PROTOCOL

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*'Grant me chastity and continence, but not yet.'*  
*St Augustine, Confessions, Book VIII, Chapter VII*

## I INTRODUCTION

The United Nations Climate Change Meeting that took place at Bella Centre, Copenhagen from 7 December 2009 – 19 December 2009 was both the fifteenth Conference of the Parties ('COP 15') to the *United Nations Framework Convention on Climate Change* ('UNFCCC')<sup>1</sup> and the fifth Conference of the Parties serving as the Meeting of the Parties to the *Kyoto Protocol to the United Nations Framework Convention on Climate Change* ('*Kyoto Protocol*')<sup>2</sup> ('COP/MOP 5').<sup>3</sup> It was the most complex international negotiation ever undertaken with 192 negotiating states and approximately 34 000 participants.<sup>4</sup> In the end, 115

- 1 *United Nations Framework Convention on Climate Change*, opened for signature 4 June 1992, 1771 UNTS 107 (entered into force 21 March 1994). ('UNFCCC'). The global community first attempted to stabilise greenhouse gas ('GHG') emissions when it created the UNFCCC: Kevin A Baumert, 'Participation of Developing Countries in the International Climate Change Regime: Lessons for the Future' (2006) 38 *George Washington International Law Review* 365, 370. It laid out several commitments for Annex I (industrialised states and economies in transition), however the actual ways in which states would reduce or limit six types of emissions and by what percentage was left to subsequent negotiations: see Steven Freeland, 'The Kyoto Protocol: An Agreement Without a Future?' (2001) 24 *University of New South Wales Law Journal* 532. The key aim is for the parties to achieve, as per art 2, 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'.
- 2 *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, opened for signature 16 March 1998, 2303 UNTS 148 (entered into force 16 February 2005) ('*Kyoto Protocol*'). The *Kyoto Protocol's* purpose was to meet the goals set out in the UNFCCC by assigning state rights to greenhouse gas emissions: Scott Barrett, 'Climate Treaties and the Imperative of Enforcement' (2008) 24 *Oxford Review of Economic Policy* 239, 242. The protocol's main focus is on greenhouse gas emission reduction, but it was again left to individual states to decide how they will meet their individual targets: John Whalley and Sean Walsh, 'Bringing the Copenhagen Global Climate Change Negotiations to Conclusion' (2009) 55 *CESifo Economic Studies* 255, 259. It put in place (art 3) emissions commitments for the 38 industrialised (Annex B) states for the first commitment period of 2008–2012 according to their particular circumstances: Robyn Eckersley, 'Soft Law, Hard Politics and the Climate Change Treaty' in Christian Reus-Smith (ed), *The Politics of International Law* (2004) 80, 84. Lesser Developed Countries were not required by Kyoto to comply with any binding targets but they had the option of setting national voluntary targets: Rosemary Lyster and Adrian Bradbrook, *Energy Law and the Environment* (2006) 54.
- 3 Tomilola Akanle et al, 'Copenhagen Climate Change Conference: 7–18 December 2009' (2009) 12(448) *Earth Negotiations Bulletin* 1.
- 4 Tomilola Akanle et al, 'Copenhagen Highlights: Monday 7 December 2009' (2009) 12(449) *Earth Negotiations Bulletin* 1, 4. See Tony Brenton, 'Behind the Scenes at the Biggest Deal on Earth', *The Times* (London), 27 November 2009, E44; International Centre for Trade and Sustainable Development, 'Copenhagen Curtain Raiser: The Perfect Storm', *Bridges Copenhagen Update* (Geneva), 7 December 2009, 1.

state leaders were reported as attending the high level decision-making segment at the conclusion of the Conference.<sup>5</sup> The negotiations were followed through websites, blogs, and conventional media by a large proportion of the global community.<sup>6</sup> Initially following the ‘Bali Road Map’,<sup>7</sup> negotiators hoped for a legally binding document, or failing that, a political agreement on critical issues followed by a legally binding agreement in 2010 to replace the *Kyoto Protocol* that expires in 2012.<sup>8</sup>

But even before the start of the Conference, state representatives were looking to downplay the negotiations, fearful that not much would be accomplished. The UN Secretary-General Ban Ki-moon admitted in November that an agreement would not be achieved and the best that could be hoped for would be voluntary reduction targets.<sup>9</sup> World leaders concurred on 15 November 2009 that a legally binding global climate treaty was ‘off the table’ at this stage, to be replaced with a ‘politically binding’ agreement.<sup>10</sup> The Danish Prime Minister, Anders Rasmussen, host of the Copenhagen summit, held out hope that such a political document could provide a basis for ‘immediate action’ but it needed to include ‘precise language’ whereby developed states agree to ‘reductions of emissions and pledges of immediate financing for early action’.<sup>11</sup>

However, no state leader wanted to be blamed for the failure of the negotiations.<sup>12</sup> Given the global attention the pressure was on to create something meaningful.

- 5 Tomilola Akanle et al, ‘Summary of the Copenhagen Climate Change Conference: 7–19 December 2009’ (2009) 12(459) *Earth Negotiations Bulletin* 1.
- 6 The term ‘Copenhagen’ was the most searched for term on Google in the first few days of the Conference of the Parties (COP 15/MOP 5): Morten Andersen, ‘Copenhagen Summit Tops Google’, *Wall Street Journal Europe* (Maastricht, NL), 10 December 2009.
- 7 In 2006 at the Nairobi COP, negotiators started work on a successor agreement to Kyoto. At the Bali Meeting in December 2007, member-states formally adopted the Bali Action Plan or ‘Road Map’, with the aim of reaching an ‘agreed outcome’ on long term, post-2012 cooperative action on climate change at the Copenhagen Meeting: Raymond Cléménçon, ‘The Bali Road Map: A First Step on the Difficult Journey to a Post-Kyoto Agreement’, (2008) 17 *Journal of Environment and Development* 70, 72. See Lavanya Rajamani, ‘Addressing the “Post Kyoto” Stress Disorder: Reflections on the Emerging Legal Architecture of the Climate Regime’ (2009) 58 *International and Comparative Law Quarterly* 803, 804; Friedrich Soltau, *Fairness in International Climate Change Law and Policy* (2009) 115.
- 8 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 27. At the Montreal conference in 2005 the parties to the Convention had put in place two parallel ‘tracks’. The first Ad Hoc Working Group was created under art 3.9 of the Kyoto Protocol with the aim of elaborating for Annex I countries only, the restrictions for the second post-2012 commitment period (‘AWG-KP’). At the Bali Conference, the Ad Hoc Working Group on Long-Term Cooperative Action (‘AWG-LCA’) was created which would proceed in parallel with the Kyoto negotiations. The expectation was that the two tracks would converge, resulting in a comprehensive post-2012 agreement in 2009 at Copenhagen: Cléménçon, above n 7, 72. At the Poznan Climate Conference in December 2008, the Parties authorised the Chair of the AWG-LCA to prepare a draft negotiating text by June 2009. However, they were clear that this text had to be drafted in language ‘that does not prejudice the form of the agreed outcome’: UNFCCC, AWGLCA, *Work Programme For 2009: Draft Conclusions Proposed by the Chair*, 2, UN Doc FCCC/AWGLCA/2008/L.10 (2008).
- 9 Ben Webster, ‘Don’t Expect Climate Treaty at Summit, Warns UN Chief Ban Ki-moon’, *The Australian* (Sydney), 5 November 2009, 10.
- 10 Brenton, above n 4, 44; Helene Cooper, ‘Leaders Will Delay Agreement on Climate’, *The New York Times* (New York), 15 November 2009, 6.
- 11 Matthew Franklin, ‘Bid to Rescue Climate Talks’, *The Australian* (Sydney), 16 November 2009, 1.
- 12 Tim Wilson, ‘Pass the Climate Parcel’, *The Australian* (Sydney), 24 September 2009, F12.

The two largest emitters, China and the US, agreed on 18 November 2009 that they were committed to a successful outcome in Copenhagen to achieve ‘not a partial accord or a political declaration, but rather an accord that covers all the issues in the negotiations and one that has immediate operational effect’.<sup>13</sup> That confidence was matched by the United Nations which declared in a press release given to the media prior the Copenhagen negotiations (but dated 7 December 2008) that there is ‘a strong sense of confidence that countries can seal a comprehensive, ambitious and effective international climate change deal in Demark [sic]’.<sup>14</sup> The UNFCCC Executive Secretary Yvo de Boer believed there was ‘unprecedented political momentum for a deal’.<sup>15</sup>

In Lavanya Rajamani’s article ‘Addressing the “Post Kyoto” Stress Disorder: Reflections on the Emerging Legal Architecture of the Climate Regime’, written anticipating the Copenhagen Meeting, the author outlines what should be considered the key outcomes for a successful meeting:

- A legally binding agreement that potentially binds the states (or key elements are made binding);
- The agreement includes all developed countries and at least most Lesser Developed Countries (‘LDCs’)<sup>16</sup> (particularly the large emitting states of China and India);
- It includes an objective of stabilisation of greenhouse gas (‘GHG’) emissions at safe levels according to the Intergovernmental Panel of Climate Change (‘IPCC’)<sup>17</sup> guidelines;
- Financial and other resources provided for climate mitigation and adaptation are sufficient;
- Measurement, reporting, verification, and compliance mechanisms are built into the agreement; and

13 Michael Sainsbury, ‘Yes We Can: Climate Hopes Revived’, *The Australian* (Sydney), 18 November 2009, 1.

14 UNFCCC Secretariat, ‘Historic United Nations Climate Change Conference Kicks Off in Copenhagen with Strong Commitment to Clinch Ambitious Climate Change Deal and Unprecedented Sense of Urgency to Act’ (Press Release, 7 December 2009), 1.

15 Ibid.

16 Problematically, the UNFCCC never defines what a developed or a developing state actually is for the purposes of the treaty, leading to potential category error: Will Gerber, ‘Defining “Developing Country” In the Second Commitment Period of the Kyoto Protocol’ (2008) 31 *Boston College International and Comparative Law Review* 327, 333. The developed states conception of this issue revolves around the sharing of the mitigation costs. To them there is an accumulation of global GHGs that need to be cut: Marco Grasso, ‘A Normative Ethical Framework in Climate Change’ (2007) 81 *Climatic Change* 223, 227. From the LDCs perspective, the developed states (primarily from the north) have benefited from using the atmosphere as a carbon sink, and therefore bear both a moral and historical responsibility to ameliorate the problem. Thus to date, they have not wished to be held accountable to any binding commitments that would interfere with their own economic development: Paul Harris, ‘Common but Differentiated Responsibility: The Kyoto Protocol and United States Policy’ (1999) 7 *New York University Environmental Law Journal* 27, 31.

17 The Intergovernmental Panel on Climate Change is the key global scientific body on climate change and its potential environmental and socio-economic impacts: IPCC — Intergovernmental Panel on Climate Change, *Organization*, (2009) <<http://www.ipcc.ch/organization/organization.htm>> at 15 December 2009.

- It simplifies the current legal climate regime.<sup>18</sup>

This paper will use these criteria as a template to determine how successful the Copenhagen Meeting was in achieving its stated goals. Thus, this article will critically analyse the negotiations in detail, as well as the role played by key states, state coalitions and civil society actors. In particular, it will focus on whether any leaders emerged, as well as if a spoiling role was played by obstructionist actors and laggards in blocking a strong environmental agreement. It will examine a fault line that has existed within climate change negotiations since their inception, the rift between developed states and LDCs seeking to gauge their impact on the Copenhagen negotiations. Lastly, it will critically dissect any agreements that were decided, based on the above criteria, for their legal robustness, strength, and durability.

## II COPENHAGEN CONFERENCE WEEK ONE

One of the major problems for delegates with limited time to grapple with the complex issues to be negotiated was the plethora of competing texts vying for attention. At the COP/MOP Plenary on Thursday 10 December 2009, proposals regarding Protocol amendments were received from Australia, Belarus, Bolivia, Columbia, Japan, the European Union ('EU'),<sup>19</sup> New Zealand, Papua New Guinea, the Philippines, China and two from Tuvalu.<sup>20</sup> The one that garnered the most attention was the one from Tuvalu which, its delegate argued, would complement but not replace the *Kyoto Protocol* by creating a contact group to bring about a protocol amendment and a new 'Copenhagen Protocol' requiring binding emissions targets from both wealthy and developing nations. The draft set the goals of limiting temperature increase to below 1.5°C and stabilising GHG concentrations at 350 parts per million (ppm).<sup>21</sup>

For the Climate Action Network ('CAN')<sup>22</sup> and some of the poorer LDCs and island nations, the main concern at this point was that developed states' proposals could undermine the *Kyoto Protocol* and the work done to date.<sup>23</sup> States from

18 Rajamani, above n 7, 808.

19 The EU is the most integrated negotiating coalition in the regime and has sought to be an 'environmental leader' since the creation of the climate regime, notably in light of the US refusal to sign the *Kyoto Protocol*: Farhana Yamin and Joanna Depledge, *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures* (2004) 42.

20 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 12.

21 Tomilola Akanle et al, 'Copenhagen Highlights: Wednesday 9 December 2009' (2009) 12(451) *Earth Negotiations Bulletin* 1.

22 The NGOs active within the climate regime (almost 340 from 80 states) are almost all under the umbrella group of the Climate Action Network ('CAN'), created in 1989 and officially recognised by the Secretariat as the ENGO constituency coordinator. Its aim is 'to promote government and individual action to limit human-induced climate change to ecologically sustainable levels': Elisabeth Corell and Michele M Betsill, 'A Comparative Look at NGO Influence in International Environmental Negotiations: Desertification and Climate Change' (2001) 1(4) *Global Environmental Politics* 86, 93; Yamin and Depledge, above n 19, 50.

23 Climate Action Network, 'AI Loopholes' (2009) 122(4) *ECO* 1.

the Alliance of Small Island States ('AOSIS'),<sup>24</sup> Latin America, Africa and Non-Government Organisations ('NGOs') supported Tuvalu's approach. However, India and China opposed the idea arguing it would undermine negotiations on a second commitment period for Annex I Parties under the *Kyoto Protocol* and it was better to focus on the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention ('AWG-LCA') draft to come.<sup>25</sup> Even at this early stage of the conference a crack could be observed in the G-77/China coalition, between wealthier LDCs on one side and a grouping of poorer LDCs and island nations.<sup>26</sup>

Tuvalu's and other state proposals led to the suspension on Wednesday of both the COP and COP/MOP, pending talks on whether to create contact groups to consider proposed new protocols and proposed amendments to the *Kyoto Protocol*. Tuvalu led a group of African, Latin American and AOSIS states in wanting a formal contact group to consider the proposals. These states resisted attempts to move the procedural question to an informal setting with a review of progress in plenary on Saturday. Some saw the suspension as good strategy, but to other delegates it threatened delay on other key issues. However, as one NGO delegate pointed out, '[i]t hasn't slowed the informals under the AWG-LCA'.<sup>27</sup>

The AWG-KP text in the first week, when first presented, was a sea of brackets (language considered problematic by negotiators). The AWG-KP members could not decide what the overall range of reductions of emissions should be (30 to 45 per cent below 1990 levels); nor could it determine the commitment period (2013–18 or 2013–20).<sup>28</sup> The draft document from the AWG-LCA was also a work in progress that included dozens of bracketed sections but it had been pared down to seven pages, from 246 pages and thousands of brackets six months ago. The draft set a limit of between 1.5°C and 2°C compared to pre-industrial levels and asked states to cut global GHG emissions by either 50, 85, or 95 per cent (still to be determined) from 1990 levels by 2050. To reach that target, developed states would cut their emissions by anywhere from 75 to more than 95 per cent by 2050 and be legally bound to do so from 25 to 45 per cent from 1990 levels by 2020.<sup>29</sup> For the first time, wealthier developing states such as China, India, Indonesia, and Brazil would be subject to emissions cuts in the range of 15 to 30 per cent

24 The Alliance of Small Island States ('AOSIS') is a group of small-island and/or low-lying coastal states that are considered at high risk to climate change: Yamin and Depledge, above n 19, 37.

25 Akanle et al, 'Copenhagen Highlights: Wednesday 9 December 2009', above n 21, 4.

26 The G-77 is the largest coalition within the UN system. It was created in 1964 and has a permanent secretariat and institutional structure in New York. It currently has 132 members and is the main advocate for LDCs. China is an associate rather than a full member of the body and does not speak for the group (Sudan is the current leader). Currently, there are 132 members plus China and overlaps somewhat with the African group: Yamin and Depledge, above n 19, 34–6.

27 Tomilola Akanle et al, 'Copenhagen Highlights: Thursday 10 December 2009' (2009) 12(452) *Earth Negotiations Bulletin* 1, 4.

28 Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP), 'Draft Decision CMP.5: Amendments to the Kyoto Protocol pursuant to its Article 3, Paragraph 9 — Version 11 December 2009, 09:30am' <[http://unfccc.int/files/kyoto\\_protocol/application/pdf/awgkpchairstext111209.pdf](http://unfccc.int/files/kyoto_protocol/application/pdf/awgkpchairstext111209.pdf)> at 14 December 2009.

29 UNFCCC, 'Chair's Proposed Draft Text on the Outcome of the Work of the Ad Hoc Working Group on Long Term Cooperative Action under the Convention — Version 11 December 2009, 08:30am' <[http://unfccc.int/files/kyoto\\_protocol/application/pdf/draftcoretext.pdf](http://unfccc.int/files/kyoto_protocol/application/pdf/draftcoretext.pdf)> at 14 December 2009.

by 2020. Crucially however, they would not be held to an established baseline, a condition previously demanded by developed states, but rather a ‘business-as-usual scenario’. The draft also sought to create a new compliance period that would run from 2013 to the end of 2020.<sup>30</sup> Michael Zammit Cutajar, chair of the AWG-LCA commented without irony, ‘[t]here is still work to be done’.<sup>31</sup>

Many developed states argued the draft was ‘seriously problematic’, with some concerned how it could bring about their goal of a unified protocol covering both developed and developing states. LDCs were generally happy since it presaged an amended *Kyoto Protocol* that was one of their key objectives.<sup>32</sup> The US, one of the key states at the meeting, rejected the AWG-LCA draft as a starting point for negotiations due to the lack of binding commitments on LDCs, in particular China and India. Their Chief Negotiator, Todd Stern, argued that the AWG-LCA draft was flawed in that it ‘does not in any sense call upon major developing countries to step forward with their own actions or stand behind them’.<sup>33</sup>

### III THE DANISH AGREEMENT

The biggest controversy of the first week was the public leaking by the UK’s *Guardian* newspaper of the text for a political ‘Copenhagen Agreement under the UNFCCC’ (referred to as the ‘Danish Agreement’). It was created under the auspices of the Danish government, host of the conference, and unnamed developed states. The document argued that the process it was undertaking was pursuant to the Bali Road Map and was building on the two Ad Hoc Working Groups currently operating (art 2).<sup>34</sup>

Article 3 gave weight to ‘the scientific view that the increase in global average temperature above pre-industrial levels ought not to exceed 2°C’.<sup>35</sup> To this end the Parties agree to work towards the goal of a peak of global emissions as soon as feasible but no later than potentially 2020 (in brackets in text). Further, art 2 required support for ‘the goal of a reduction of global annual emissions in 2050 by at least 50 per cent versus 1990 annual emissions, equivalent to at least 58

30 Ibid.

31 Eric J Lyman, *UN Working Group on Cooperative Action Unveils Draft Text Outlining Emissions Cuts* (11 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128788&hhterm=dW52ZWlscyBkcmFmdCB0ZXh0&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128788&hhterm=dW52ZWlscyBkcmFmdCB0ZXh0&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

32 Tomilola Akanle et al, ‘Copenhagen Highlights: Friday 11 December 2009’ (2009) 12(453) *Earth Negotiations Bulletin* 1.

33 Dean Scott, *US Negotiator Takes Hard Line on China, Rejects Draft Text Outlining Emissions Cuts*, (11 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128789&hhterm=aGFyZCBsaW51IG9uLENoaW5h&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128789&hhterm=aGFyZCBsaW51IG9uLENoaW5h&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

34 UNFCCC, *Decision 1 CP-15 — Adoption of the Copenhagen Agreement Under the United Nations Framework Convention on Climate Change: Draft 271109* (2009) *The Guardian* <<http://www.guardian.co.uk/environment/2009/dec/08/copenhagen-climate-change>> at 27 June 2010.

35 Ibid art 3.

per cent versus 2005 annual emissions'.<sup>36</sup> 'The Parties' contributions towards the goal should take into account common but different responsibility and respective capabilities and a long term convergence of per capita emissions'.<sup>37</sup> Under art 7, developed states were expected to commit to individual economy wide targets in the year 2020. The developed states would be required to 'reduce their emissions of greenhouse gases in aggregate by 80 [per cent] or more by 2050 versus 1990',<sup>38</sup> or a percentage versus 2005 (as yet undetermined). Pursuant to art 9, for the first time wealthier LDCs would be required to commit to 'nationally appropriate mitigation actions'<sup>39</sup> (poorer LDCs could elect to do so). According to art 31, the Parties would commit to the Copenhagen Process with a view to completion at an undefined COP.<sup>40</sup>

### A Reaction to Danish Text

UN climate chief Yvo de Boer and Denmark insisted the draft was an out of date, informal text and was merely a mechanism to garner opinions among states. However, many LDCs saw it as a realisation of their fears that they would not be included in critical decisions at the Conference and felt that the text lacked substance and legal form. The text is a 'serious violation that threatens the success of the Copenhagen negotiating process', declared G-77 leader, Sudan's Lumumba Stanislas Dia Ping.<sup>41</sup> Individual environmental non-government organisations ('ENGOS'), including Friends of the Earth and the Third World Network, also reacted negatively to the Danish draft accusing Danish leaders of 'undemocratic practices' and of 'convening small and exclusive groups of countries before the Copenhagen meeting'.<sup>42</sup> The Danes thought they were to table their draft accord in the second week, but given the wide unhappiness amongst LDCs toward the text (only the US liked it) the accord was, for all intents and purposes, defunct.<sup>43</sup>

More importantly, but receiving nowhere near as much publicity, was another leak to a newspaper. *Le Monde* obtained a copy of a proposed outcome document — the 'Copenhagen Accord' supposedly developed by China, India, Brazil, and

36 Ibid art 2.

37 Ibid art 3.

38 Ibid art 7.

39 Ibid art 9.

40 Ibid art 31.

41 Richard Ingham, 'Climate Talks Seek Calm After Storm at Draft Text', *The Age* (Melbourne), 10 December 2009.

42 Tom Zeller Jr, *Climate Talks Open With Calls for Urgent Action* (2009) The New York Times Online <<http://www.nytimes.com/2009/12/08/science/earth/08climate.html>> at 27 June 2010.

43 International Centre for Trade and Sustainable Development, 'Half-time at COP 15', *Bridges Copenhagen Update* (Geneva), 14 December 2009, 1. On 18 December the protocol drafts proposed by both Denmark and Tuvalu were removed from consideration, although the Tuvalu text was briefly revived during the all-night plenary session as a possible opponent to the Copenhagen Accord before being discarded: Eric J Lyman, *All Night Session 'Notes' Copenhagen Accord, Leaves Most Work on Climate Deal for 2010* (19 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128898&hhterm=bmlnaHQgc2Vzc2lvbiBub3Rlcw%3d%3d&hstype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128898&hhterm=bmlnaHQgc2Vzc2lvbiBub3Rlcw%3d%3d&hstype=QWxsV29yZHM%3d)> at 27 June 2010.

South Africa (the 'BASICS'). However those states argued that the draft document had 'limited status' and was just a 'working draft'.<sup>44</sup>

Effectively as at many such conferences, the first week saw little movement on vital issues.<sup>45</sup> The President of the UN climate conference, Connie Hedegaard, on Saturday argued that midway through the meeting 'we have made considerable progress over the course of the first week' in areas such as how to supply new green technologies to LDCs and in promoting use of forests to soak up carbon dioxide emissions.<sup>46</sup>

There were some positives to be observed. States like China, India, Brazil, and Indonesia were actively involved in climate negotiations for the first time. Indeed, China, the hosts Denmark and the small island state of Tuvalu were all strong advocates for their respective positions. In the first week, under heavy US pressure, China indicated they might be willing to allow externally financed national mitigation actions to be subject to measurement and verification.<sup>47</sup> However, when it came to the issue of overall emissions levels China was not so accommodating, with its negotiators refusing international monitoring of internally funded domestic mitigation programs.<sup>48</sup>

The US was also not prepared at this stage to compromise over the push for reparations by some LDCs for past actions, nor were they willing to allow the LDCs not to be bound to cut emissions.<sup>49</sup> Stern also argued that the US would not agree to a new treaty unless the LDCs, in particular China, would 'take real action'.<sup>50</sup> On 11 December, he continued to press China to accept binding commitments, saying a new global climate agreement hinges on whether it and other rapidly developing nations join richer, developed nations in committing to binding actions. 'The United States is not going to do a deal without the major developing countries stepping up to take real action', stated Stern.<sup>51</sup> Meanwhile

44 Akanle et al, 'Copenhagen Highlights: Thursday 10 December 2009', above n 27, 4.

45 Tomilola Akanle et al, 'Copenhagen Highlights: Saturday 12 December 2009' (2009) 12(454) *Earth Negotiations Bulletin* 1.

46 Marianne Bom, 'COP President: Progress Has Been Made', *Associated Press* (New York), 12 December 2009.

47 Vice Foreign Minister He Yafei stated on Friday that China's internal processes would be sufficient and that China is 'also willing to increase transparency by publicly announcing the results of our actions coming out of China. We'll certainly do it ...' The problem was that they were not willing to accept the more enforcement-oriented process that the *Kyoto Protocol* stipulated for developed states: Frederick R Anderson, *Anderson's Notebook: Optimistic as Second Week of Climate Talks Begin* (14 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128902&hhterm=ZHHJhZnQgdGV4dA%3d%3d&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128902&hhterm=ZHHJhZnQgdGV4dA%3d%3d&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

48 This was an issue that China and the US had been debating for over a year prior to Copenhagen without success. The issue proved extremely fractious with both negotiators for the United States and China publicly trading barbs and making little progress in negotiations on issue of treaty compliance. He Yafei, the Chinese Vice Foreign Minister, stated China's domestic laws would ensure compliance. He argued in an interview with *The Financial Times* for China it is 'a matter of principle', even if it threatens overall negotiations: John M Broder and James Kanter, 'China and US Hit Strident Impasse at Climate Talks', *The New York Times* (New York), 15 December 2009, 1.

49 Andrew C Revkin and Tom Zeller Jr, 'US Negotiator Dismisses Reparations for Climate', *The New York Times* (New York), 10 December 2009, 12.

50 Scott, above n 33.

51 *Ibid.*



the African Group<sup>52</sup> proposed that developed states give five per cent of their Gross Domestic Product ('GDP') to LDCs for climate mitigation and adaptation programs — an idea that did not impress developed states.<sup>53</sup>

Problematically in the first week, the Danish COP Chair chose to diverge from the troubled AWG approach, and instead rely on 'friends of the Chair' groups to facilitate debate. To many LDCs such an approach was an abuse of process that threatened the UN two-track system in place since the Bali Conference and they argued that only AWG texts should be used.<sup>54</sup> However, the Chair continued with such groups in the hope of galvanising the delegates to produce a binding text.

## IV WEEK TWO COPENHAGEN

### A Monday 14 December

UN Secretary-General, Ban Ki-Moon, proved prescient when he warned on Monday that leaving all major decisions to heads of state risked 'having a weak deal or no deal at all, and this will be a failure of potentially catastrophic consequences'.<sup>55</sup> However, initially the week started well with the US announcing that developed states would spend US\$350 million over five years with US\$85 million of that coming from the United States to promote global energy efficiency.<sup>56</sup> In a further good sign, China conceded to a US point that it would not seek monies from developed states under any new agreement (a demand it had insisted on previously at other meetings and in the first week).<sup>57</sup>

However, negotiations collapsed when the African Group and Lesser Developed Countries, comprising 46 states, supported by the G-77/China, requested suspending all negotiations under the AWG-LCA and AWG-KP (except for talks on Annex I Parties' further emissions reductions). The action was precipitated by LDCs, unhappy that only AWG-LCA outcomes were to be discussed at the Ministerial level and not the AWG-KP. The issue was resolved five hours later when it was agreed to hold informal consultations on 'crunch issues' under the auspices of both tracks and guided by a Minister from both a developed and less developed state.<sup>58</sup> The boycott pushed back a number of key meetings such as the

52 The African Group has 53 member-states and pursues African-centric interests, particularly if it differs from the wider G-77 of which there is significant overlap: Yamin and Depledge, above n 19, 39.

53 Marianne Bom, 'Africa Considering Tough Demands', *Associated Press* (New York), 12 December 2009.

54 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 1.

55 Broder and Kanter, above n 48.

56 Matthew L Wald, 'US Offers \$85 Million to Promote Efficiency', *The New York Times* (New York), 14 December 2009, 12.

57 Adam Morton, 'Walkout: Climate Deal on the Brink', *The Age* (Melbourne) 15 December 2009, 1.

58 Tomilola Akanle et al, 'Copenhagen Highlights: Monday 14 December 2009' (2009) 12(455) *Earth Negotiations Bulletin* 2; Jerome Cartillier, 'African Frustration Erupts at UN Climate Talks', *The Age* (Melbourne), 14 December 2009; Eric J Lyman, *African Group Protest Temporarily Halts UN Climate Talks, Meeting Leaders Hail Progress* (14 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128805&hhterm=YWZyaWNhbiBwcm90ZXN0IGdyb3Vw&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128805&hhterm=YWZyaWNhbiBwcm90ZXN0IGdyb3Vw&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

AWG-KP, which was meant to report by 15 December to the plenary, meaning delegates would have less time to consider that report and the proposal put forth by Tuvalu in the first week.<sup>59</sup>

## B Tuesday 15 December

By Tuesday 15 December India was pointing out that the AWG-KP was well behind where it should be, with much of the text ‘bracketed’.<sup>60</sup> The draft AWG-KP, version dated 15 December, 17.30 pm, indicated that many key issues were as yet unresolved relating to emissions cuts and the compliance years.<sup>61</sup> Given the many meetings occurring, many delegates were complaining that it was difficult to keep track of proceedings. Others were upset about a perceived lack of transparency and the slowness of proceedings that threatened to derail the *Kyoto Protocol* process. Members could not even decide on whether to limit global temperature increases to 1.5°C or 2°C.<sup>62</sup>

US Secretary of State Hillary Clinton acknowledged that the world expected the West to take the lead but argued that developing states had to play their part. The problem was that behind closed doors, negotiations between the Americans and Chinese were increasingly acrimonious, with China accusing the US of ‘playing tricks’ and the US upset at perceived Chinese intransigence.<sup>63</sup> By Tuesday night, Ban Ki-moon, realising that the Conference was in trouble and in danger of producing no significant achievement, exhorted delegates that ‘[w]e do not have another year to deliberate’, he said. ‘Nature does not negotiate’.<sup>64</sup> At the welcoming ceremony of the high level segment Prime Minister Rasmussen of Denmark stated that ‘the world is holding its breath’, while Yvo de Boer argued ‘now it is time to deliver’.<sup>65</sup>

59 Lyman, above n 58.

60 Tomilola Akanle et al, ‘Copenhagen Highlights: Tuesday 15 December 2009’ (2009) 12(456) *Earth Negotiations Bulletin* 1, 2.

61 For example art 3 para 1, gives various options for Annex I states to reduce their domestic emissions by between 15, 45 or X per cent below 1990 levels from 2013 to 2017 or 2020 (option 1.1). Or states can reduce emissions by 33 per cent below 1990 levels from 2013–17 with a goal of 45 per cent from 1990 levels by 2020 (option 1.2). Under option 1.3, states would reduce emissions by 95 per cent below 1990 levels by 2050. Option 1.4 gives ranges for reductions ranging from 30 to 45 (or X) per cent below 1990 levels by 2020; 80 to 95 per cent below 1990 levels by 2050; and 80 per cent or more by 2050 compared to 1990 or another base year: UNFCCC, ‘Chair’s Proposed Draft Text, AWG-KP — Version 14 December 2009, 17:30 pm’ <[http://unfccc.int/documentation/documents/advanced\\_search/items/3594.php?such=j&meeting=%22%28AWG-KP%29,+tenth+session%22&sorted=agenda#beg](http://unfccc.int/documentation/documents/advanced_search/items/3594.php?such=j&meeting=%22%28AWG-KP%29,+tenth+session%22&sorted=agenda#beg)> at 20 December 2009.

62 Akanle et al, ‘Copenhagen Highlights: Tuesday 15 December’, above n 60, 2; Cartillier, above n 58.

63 Adam Morton, ‘Uneasy Truce Between Wealthy and Poor Nations’, *The Age* (Melbourne), 16 December 2009, 9.

64 Elisabeth Rosenthal, ‘Deal Seen Near for Payments to Save Forests’, *The New York Times* (New York), 16 December 2009, A1.

65 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 25–6.

### C Wednesday 16 December

The final AWG-KP text (42 pages) was presented to President Connie Hedegaard for review at 17:30 pm local time on 15 December and given to delegates in the morning of 16 December, five days later than planned. The draft still had numerous bracketed options, including the level of GHG emissions reductions to be required of industrialised countries after 2012.<sup>66</sup> Not surprisingly, the draft had the support of most of the G-77 but was vehemently opposed by the developed states rendering it essentially moribund as a text to be built on.<sup>67</sup>

The AWG-LCA text, while released on 11 December, had already been updated twice in five days. To add to the confusion, Denmark stated it would also be releasing another draft Protocol on 17 December.<sup>68</sup> Brazil queried COP President Rasmussen on a point of order as to why the COP Plenary had not met to consider the AWG-LCA report. Without irony, given the creation of the later Copenhagen Accord, Brazil and China then argued that creating and debating new texts gave the impression that any text put forth by members would not become the basis for further discussions. China argued the issue was ‘one of trust between the host country and parties’ and that legitimacy could only be conferred by an outcome from the AWG process, not ‘put forward text from the sky’.<sup>69</sup> Tuvalu, opposed by the Indian delegation, noted its ‘extreme disappointment’ with the progress made at the AWG-KP negotiations and asked delegates to examine proposals for protocol amendments and to treat them as ‘a lifeboat for a sinking process’.<sup>70</sup>

The Report of the AWG-LCA was meant to be given to the COP Plenary on Wednesday 16 December. But given that many states had not seen the draft, they objected and the COP Plenary did not convene until the late evening while attempts to resolve objections were undertaken.<sup>71</sup> Problematically, the Conference Chair, Denmark’s former climate minister, Connie Hedegaard, was trying to push proceedings along before consensus had formed as to the way forward.<sup>72</sup> This

66 The document gave ranges from 15 to 33 per cent reductions from 1990 levels by 2017 or alternatively 2020, to reductions of up to 95 per cent from 1990 levels by 2050 or 80 per cent compared to any year after 1990 by 2050. There were also two possibilities regarding the next commitment period with the options being either 2013–17 or 2013–20. The draft tried to expand the number of states bound to emissions targets by combining the 38 Annex I-A states with three Annex I-B countries with the possibility of expanding the list further at a later date. The text did not include any binding obligations for non-Annex I countries: Eric J Lyman, *Post-2012 Kyoto Draft Released to Delegates, But Much Contentious Language Remains* (16 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128844&hhterm=Y29udGVudGlvdXMgbGFuZ3VhZ2UgcmlvYUwlcw%3d%3d&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128844&hhterm=Y29udGVudGlvdXMgbGFuZ3VhZ2UgcmlvYUwlcw%3d%3d&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

67 Ibid.

68 Dean Scott and Eric J Lyman, *Next 24 Hours of Climate Talks ‘Critical’, Need to Be Used ‘Productively’ De Boer Says* (16 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128842&hhterm=MjQgaG91cnMgY3JpdGljYWwgcHJvZHVjdGl2ZWx5&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128842&hhterm=MjQgaG91cnMgY3JpdGljYWwgcHJvZHVjdGl2ZWx5&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

69 Tomilola Akanle et al, ‘Copenhagen Highlights: Wednesday 16 December 2009’ (2009) 12(457) *Earth Negotiations Bulletin* 1.

70 Ibid.

71 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 4.

72 Morton, above n 57.

led to the establishment of ‘friends of the Chair’ consultations on issues being discussed by the AWG-LCA, undermining the entire UN process.<sup>73</sup> Some states saw this as a way to facilitate debate while others, primarily developing states, felt excluded and argued the process was not transparent.<sup>74</sup>

Rumours that the Danish Chair was going to table two texts led to many LDCs expressing ‘outrage’ at what was perceived as an attempt to marginalise the AWG process.<sup>75</sup> This led to some states and coalitions, in anticipation of the COP Presidency’s provision of a ‘Copenhagen Agreement’, to put forward their own texts. Informal consultations thus devoured much of the negotiating time on Wednesday 16 December, a ‘critical point’ in the Conference. Further, the texts provided by the AWGs were too obtuse and filled with undetermined issues to provide a text to move forth with. Further, there was intransigent behaviour by a number of key states and groups during this key period. China was accused of using technical objections all week to stall negotiations. That night the African group again boycotted proceedings that were meant to create a definitive document by Thursday.<sup>76</sup> The US representative Todd Stern argued publicly that he was unsure that agreement could be reached.<sup>77</sup>

At the closing plenary for the AWG-LCA the Parties agreed to adopt the entire package as ‘unfinished business’ since, given the lack of agreement on the text, the group felt it could proceed no further.<sup>78</sup> Similarly, the AWG-KP closing plenary finished up just after midnight on 16 December with the delegates recommending that it was up to the COP/MOP to decide how to proceed and the issues raised were best resolved at the higher, political level.<sup>79</sup>

## D Thursday 17 December

An overnight closed session descended into farce as a proposed text, designed to be the basis for final negotiations, was diluted by delegates and Brazil, China, India and the G-77 bloc objected to the draft arguing that the work of the negotiators was being overridden by politicians. A possible solution proposed was another ‘two-track process’<sup>80</sup> that would have resulted in an extension of the *Kyoto Protocol* and an agreement to work on a second, linked treaty covering all states, but several LDCs opposed this approach.<sup>81</sup> Yvo de Boer had not given up hope

73 During the high-level segment, informal negotiations between major economies (US and the BASICs) took place as ‘friends of the Chair’ that resulted in the Copenhagen Accord: Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 1.

74 Ibid 28.

75 Akanle et al, ‘Copenhagen Highlights: Wednesday 16 December 2009’, above n 69, 3.

76 John Broder, ‘Poor and Emerging States Stall Climate Negotiations’, *The New York Times* (New York), 17 December 2009, F16.

77 Scott, above n 33.

78 Akanle et al., above n 5, 18–9.

79 Ibid 21–2.

80 Adam Morton, ‘China, US in Bid to Rescue Talks’, *The Age* (Melbourne), 17 December 2009.

81 Ibid.

stating ‘I still believe it’s possible to reach a real success ... the next 24 hours are absolutely crucial and need to be used productively’.<sup>82</sup> When Secretary Clinton arrived, her first order of business was to meet with the Chinese delegation. However, the US and China remained locked in a dispute over reporting and verification of domestic emissions reductions. Other states knew where any potential solution lay. “The key is China and the United States”, which together emit half the world’s greenhouse gases, said Indonesian delegate Emil Salim.<sup>83</sup>

However, the US was upset at what it believed were unfair practices by certain states. The US Secretary of State, Hillary Clinton, alluded to the breaking of pledges by LDCs about transparency on carbon emission and declared that not getting clear acceptance would lead to the US walking away. China and India said they were

willing to take voluntary measures to slow their surges in heat-trapping greenhouse-gas emissions. But they are reluctant to accept tough international inspection and insist rich nations shoulder the main burden by accepting huge reduction targets.<sup>84</sup>

By Thursday evening, leaders were concerned about the possibility of the Conference producing nothing of substance. The French President Nicolas Sarkozy warned that ‘There is less than 24 hours. If we carry on like this, it will be a failure’.<sup>85</sup>

## **E Friday 18 December**

When the heads of state arrived in Copenhagen, ostensibly to sign an agreement, no such instrument had been concluded. Rather than concede defeat the US and the BASICs took it upon themselves, under the umbrella of ‘friends of the Chair’, to create the ‘Copenhagen Accord’.<sup>86</sup> The Accord appeared as delegates realised that Russia had already left the meeting and that the Japanese and Chinese leaders were about to do the same, intensifying the need to produce a deal.<sup>87</sup> This however led to the unedifying sight of the majority of leaders being forced to wait in the plenary hall. When the document was eventually handed out, many leaders were

82 Associated Press, *Climate Talks Look to US for Fresh Ideas* (16 December 2009) msnbc.com <[http://www.msnbc.msn.com/id/34442959/ns/us\\_news-environment/](http://www.msnbc.msn.com/id/34442959/ns/us_news-environment/)> at 27 June 2010.

83 Arthur Max, *UN Climate Negotiators Look to US for Fresh Ideas* (2009) The Age Online <<http://news.theage.com.au/breaking-news-technology/un-climate-negotiators-look-to-us-for-fresh-ideas-20091217-kygf.html>> at 17 December 2009.

84 Chris Otten, *Climate Summit Failure Looms, Leaders Warn* (2009) The Age Online <<http://news.theage.com.au/breaking-news-world/climate-summit-failure-looms-leaders-warn-20091217-105r.html>> at 17 December 2009.

85 Ibid.

86 International Centre for Trade and Sustainable Development, ‘High Level Politics Meets Low Ambition, Taking Stock of COP 15’ (2009) 3 *Bridges Copenhagen Update* 1.

87 Eric J Lyman, *Draft of Political Text Promises Legal Deal on Climate to Be Finalized within 11 Months* (18 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128895&hhterm=ZHHJhZnQgdGV4dCBsZWdhbCBkZWVf&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128895&hhterm=ZHHJhZnQgdGV4dCBsZWdhbCBkZWVf&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

upset at both the perceived lack of respect and the failure to be consulted.<sup>88</sup> Many delegates, to their consternation, only learnt of the existence of the document from the Internet or the media. Some states were critical, arguing that announcing a deal by a small group was neither democratic nor diplomatic and left too much work to be done at a later date. Others took a more *realpolitik* approach arguing that getting the big emitters to agree was the only way to resolve the impasse.<sup>89</sup>

Interestingly, China's attitude toward the US on the final Friday of the meeting was almost contemptuous and gives a sense of the growing political authority China was wielding at the meeting. President Obama, rather than meeting with Premier Wen Jiabao as promised, was twice sent a lower level functionary to talk with in meetings designed to create the Accord. This left the US President upset and demanding to talk to Premier Wen. On Friday evening the President was startled to learn that a meeting he was meant to be having with Premier Wen was already occurring with the Chinese Premier meeting with the heads of South Africa, Brazil and India. The President was reduced to rushing to the meeting and asking from the doorway 'Mr Premier, are you ready to see me?'<sup>90</sup>

## V THE COPENHAGEN ACCORD

The document itself is merely two and a half pages plus two tables for members who join. The Accord's Preamble refers to the need to realise the ultimate aim of art 2 of the UNFCCC of stabilising GHG emissions to prevent dangerous human interference with the global climate system. In art 1 the parties further recognise 'the scientific view that the increase in global temperature should be below 2 degree Celsius'.<sup>91</sup> However, it makes no mention of stabilising GHG emissions at 350ppm, the preferred position of many scientists and LDCs.

In art 2, the Parties recognise that 'deep' cuts are required to keep global temperature rises below 2° C and cooperation is necessary. However, any strategy must accept that 'social and economic development and poverty eradication are the first and overriding priorities of developing countries', a point LDCs were not willing to give up despite the efforts of developed states.<sup>92</sup> Article 3 stipulates that signatory parties agree that urgent cooperation is needed to put in place programmes that reduce vulnerability and build resilience amongst the developing states, but 'especially least developed countries, small island developing States and Africa'.<sup>93</sup> To that end, the signatories agree to 'provide adequate, predictable

88 International Centre for Trade and Sustainable Development, 'High Level Politics', above n 86, 1.

89 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 28.

90 Andrew Revkin and John M Broder, *A Grudging Accord in Climate Talks* (2009) The New York Times Online <<http://www.nytimes.com/2009/12/20/science/earth/20accord.html>> at 19 December 2009.

91 UNFCCC, *Draft Decision -/CP.15 — Proposal by the President: Copenhagen Accord*, art 1, UN Doc FCCC/CP/2009/L.7 (2009).

92 *Ibid* art 2.

93 *Ibid* art 3.

and sustainable financial resources, technology and capacity-building to support the implementation of adaptation action in developing countries'.<sup>94</sup>

In the medium term, art 4 requires the Annex I states which become signatories to 'commit to implement individually or jointly the quantified economy-wide emissions targets for 2020' by 31 January 2010. Developed States agreed to be 'measured, reported and verified' to ensure that 'accounting of such targets... is rigorous, robust and transparent' which continues their requirements under the *Kyoto Protocol*. Under art 5, non-Annex I states will implement mitigation actions (with no concrete targets) to be given to the Secretariat by 31 January 2010. However, such actions are subservient to the needs of LDCs' sustainable development, even for comparatively wealthy large emitters like China and India. The Least Developed States and Small Island States could voluntarily choose to mitigate but with the support by the global community.<sup>95</sup> LDCs need only to 'communicate information on the implementation of their actions through National Communications, with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected'.<sup>96</sup> Thus, the independent verification which the US wanted but China and other LDCs resisted is not included. However, as per the *status quo*, if Non-Annex I states seek global support for mitigation programmes, they will be subject to 'measurement, reporting and verification'.<sup>97</sup>

Developed states under art 8 also agree to provide monies *approaching* US\$30 billion between 2010–12 via international institutions for mitigation and adaptation with the most vulnerable developing states to be prioritised. They also committed to a goal of providing US\$100 billion by 2020. However, these figures are, by the estimates of the World Bank and the UN Development Program, too small to make a significant difference. The Accord creates the Copenhagen Green Climate Fund (art 10) to support mitigation programmes in developing states and sets up a Technology Mechanism (art 11) to increase 'technology development and transfer'.<sup>98</sup> Again however, there is no mention of how these entities will work in practice.

The final article, art 12, merely asks for an assessment of the Accord to be undertaken by 2015 (no mention of what this would involve) guided by the UNFCCC's 'ultimate objective', which to date has proved elusive to pin down. Lastly it 'include[s] consideration of strengthening the long-term goal'<sup>99</sup> to limit the increase in global average temperature to 1.5° C [2.7° F]. However, no timetable is included as for when this goal will be adopted or how it will be achieved.

At a news conference before flying out of Copenhagen, the US President stated that agreeing states to the Accord would outline concrete commitment into an

94 Ibid.

95 Ibid art 5.

96 Ibid.

97 Ibid.

98 International Centre for Trade and Sustainable Development, 'High Level Politics', above n 86, 1.

99 UNFCCC, *Draft Decision -/CP.15*, above n 91, art 12.

attached appendix which would be subject to international consultation and analysis, similar to the arrangement for the World Trade Organization. However, he admitted that the Accord was not meant to be legally binding but rather ‘allow for each country to show to the world what they’re doing, and there will be a sense on the part of each country that we’re in this together, and we’ll know who is meeting and who’s not meeting the mutual obligations that have been set forth’.<sup>100</sup>

## VI EARLIER DRAFTS OF THE ACCORD

From analysing earlier drafts it appears many opportunities were missed to build a robust agreement. It appears that earlier drafts of the text proposed a tax on air and sea transport fuels as well as a tax on financial transfers to fund climate mitigation programs.<sup>101</sup> It also promised that decisions within the Accord would be put in place ‘as soon as possible and no later than COP-16’ (Mexico, 2010) but this date did not make it into the final text. The earlier text leaves to be resolved questions of aggregate greenhouse gas emissions reduction target for industrialised countries. It gave both a 1990 baseline (Kyoto base year) and a 2005 baseline, preferred by the US, to measure reduction levels by 2020. The final text was watered down, changing language from a previous draft which argued that global temperature rise ‘ought not exceed 2 degrees’ Celsius in favour of a weaker version ‘recognizing the scientific view that the increase in global temperature should [remain] below 2 degrees ... [Parties shall] enhance ... long-term cooperative action to combat climate change’.<sup>102</sup>

To get China’s support for the transparency and reporting sections in the Accord cost the US its preferred statement to a ‘50% global cut by 2050 that was initially in the agreement’.<sup>103</sup> An earlier draft Paragraph 4 had attempted to cut GHG emissions in the medium term:

They also commit to implement individually or jointly the quantified economy-wide emissions targets for 2020 as listed in appendix one, yielding in aggregate reductions of greenhouse gas emissions of X per cent in 2020 compared to 1990 and Y per cent in 2020 compared to 2005.

The final Accord was improved in one significant way. The initial draft gave only US\$10 billion to help LDCs cope with climate change (expanded to US\$30 billion).<sup>104</sup>

100 Office of the Press Secretary, ‘Remarks by the President during Press Availability in Copenhagen’ (Press Release, 18 December 2009).

101 AFP, *Climate Draft Accord Agreed* (2009) The Sydney Morning Herald Online <<http://www.smh.com.au/environment/climate-change/climate-draft-accord-agreed-20091218-11jo.html>> at 18 December 2009.

102 UNFCCC, *Draft Decision -/CP.15*, above n 91, art 1.

103 International Centre for Trade and Sustainable Development, ‘High Level Politics’, above n 86, 2.

104 UNFCCC, *Draft Decision -/CP.15*, above n 91.



## VII GAINING ACCEPTANCE

The closing plenary discussing the acceptance of the Copenhagen Accord ended at 3am on Saturday 19 December, having lasted almost 13 hours and was characterised by participants as ‘acrimonious’.<sup>105</sup> Once the Accord was put forth by then COP President Rasmussen (he took over from the previous Chair on 16 December), states had only an hour to consult before being asked to render a decision on whether they accepted the proposal, over the objections of many states like Tuvalu and Venezuela seeing it as an attack on state sovereignty. States quickly divided up into those for the accord and those vehemently opposed. The Maldives, the EU, Delegate Lesotho for the LDC, UK, Russia, the Philippines, Singapore, Ethiopia and Algeria for the African Union, Japan and many other developed and developing states all supported the Accord. However, some states like Venezuela and Bolivia opposed the text while Sudan condemned the document as an ‘incineration pact’ likening it to the Holocaust.<sup>106</sup>

Most states supported the Accord seeing it as a key step towards a ‘better’ future agreement.<sup>107</sup> UN consensus decision-making rules would not allow the document to be adopted since, as the US delegate noted, ‘five or six parties’ opposed the Accord, no consensus was reached.<sup>108</sup> Six states — Sudan, Venezuela, Bolivia, Nicaragua, Cuba and Tuvalu — refused to accept the document.<sup>109</sup>

UN Secretary-General Ban Ki-Moon facilitated discussion through the night eventually brokering an agreement to ‘take note’ of the Accord, which was attached to the decision as an unofficial document. As Alden Meyer from the Union of Concerned Scientists argued, ‘[m]y understanding is that it gives (the accord [sic]) enough legal status to become operational but without needing the parties’ approval’.<sup>110</sup> One delegate remarked, ‘[i]f adopted, the Accord would have been an important step forward towards a better and legally-binding outcome’.<sup>111</sup> But given that it was merely noted it is currently in legal limbo with no signatories and no authority. States also agreed to create a procedure where states could accede to the Protocol.<sup>112</sup> It was agreed by the Parties to continue the work of both the AWG-LCA and AWG-KP. However, given their ineffectiveness, it is hard to see their work producing much in the way of results.<sup>113</sup> No decision was taken on when both groups would next meet.<sup>114</sup>

105 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 1, 7.

106 Ibid 7–8.

107 Ibid 1.

108 Ibid 9.

109 Adam Morton, *Copenhagen Chaos as Talks Fail* (2009) The Age Online <<http://www.theage.com.au/environment/copenhagen-chaos-as-talks-fail-20091219-16r5.html>> at 20 December 2009.

110 AFP, *Climate Accord Clears Hurdle in Copenhagen* (19 December 2009) The Age Online <<http://news.theage.com.au/breaking-news-world/climate-accord-clears-hurdle-in-copenhagen-20091219-16sr.html>> at 28 June 2010.

111 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 29.

112 Ibid 1–2.

113 International Centre for Trade and Sustainable Development, ‘High Level Politics’ above n 86, 2.

114 Akanle et al, ‘Summary of the Copenhagen Climate Change Conference’, above n 5, 29.

## VIII REACTION TO THE COPENHAGEN ACCORD

The reaction to the new Accord was mixed at best. Not surprisingly, most ENGOs were unhappy with the final draft of the Accord regarding it as an abject failure.<sup>115</sup> Many delegates were at first critical of the meeting's outcome arguing that the document was at best 'weak' and had not even been formally adopted so carried little weight.<sup>116</sup> However, some delegates were more hopeful, arguing that it could be the catalyst for future, legally binding agreements but accepted it would not prevent severe climactic change. 'We took what we could get', Sergio Serra, Brazil's ambassador for climate change stated, 'But this leaves a lot of work ahead for us if we still wish to get a legally binding deal in place by the end of next year'.<sup>117</sup>

The US President argued that '[w]e're going to have to build on the momentum that we've established here in Copenhagen to ensure that international action to significantly reduce emissions is sustained and sufficient over time. We've come a long way but we have much further to go'.<sup>118</sup> The head of the Chinese delegation, Xie Zhenhua, was much more upbeat; '[t]he meeting has had a positive result, everyone should be happy. After negotiations both sides have managed to preserve their bottom line. For the Chinese this was our sovereignty and our national interest'.<sup>119</sup>

Those not directly involved in the negotiations were less sanguine about the import of the new Accord. The EU President Jose Manuel Barroso stated bluntly, 'I will not hide my disappointment regarding the non-binding nature of the agreement here. In that respect the document falls far short of our expectations'. John Ashe, the Chair of the *Kyoto Protocol* meeting, described the Copenhagen meeting in stark terms redolent of failure:

Given where we started and the expectations for this conference, anything less than a legally binding and agreed outcome falls far short of the mark. On the other hand ... perhaps the bar was set too high and the fact that there's now a deal ... perhaps gives us something to hang our hat on.<sup>120</sup>

115 Kim Carstensen, head of World Wildlife Fund's Global Climate Initiative, argued: 'The agreement is not very ambitious and not fair, cooked up by a few big countries in a room'. Nnimmo Bassey of FoE International charged that: 'Copenhagen has been an abject failure. Justice has not been done. By delaying action, rich countries have condemned millions of the world's poorest people to hunger, suffering and loss of life as climate change accelerates. The blame for this disastrous outcome is squarely on the developed nations.' John Sauven of Greenpeace UK maintained that: 'The city of Copenhagen is a crime scene tonight... There are no targets for carbon cuts and no agreement on a legally binding treaty.': *Copenhagen deal reaction in quotes* (19 December 2009) BBC News <<http://news.bbc.co.uk/2/hi/science/nature/8421910.stm>> at 24 December 2009.

116 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 29.

117 BBC News, above n 115.

118 Ibid.

119 Ibid.

120 Ibid.

## IX CONCLUSION

The initial aim of the Copenhagen Conference under the Bali Roadmap was to produce a legal accord. By time the negotiators got to the venue the aim had been downgraded to a consensual political commitment/accord that could drive the process onwards before the 2012 deadline. Delegates left Copenhagen with this consensus in tatters and an Accord created by a small number of emitters that was merely 'noted' by the Plenary.

However, there were a number of positives to emerge from proceedings. The issue of climate change had never had such an engaged, global audience.<sup>121</sup> China, Brazil and India, through the BASICs coalition, were for the first time actively involved in climate negotiations and were instrumental in creating the Copenhagen Accord. The US, after years on the sidelines, was once again an active participant in climate negotiations. Money was promised for climate mitigation (US\$30 billion) and adaptation, particularly for poorer developing states although nowhere near enough according to both the UN and the World Bank.

Also, on 18 December the COP adopted the decision for a compensation program called Reducing Emissions from Deforestation and Forest Degradation ('REDD'), to preserve forest and other natural landscapes like peat soils, swamps and fields after major points of disagreement revolving around indigenous peoples' rights and defining 'forests' were resolved.<sup>122</sup> The Copenhagen Accord sets up a mechanism to administer REDD but it remains to be seen how effective the program will be.<sup>123</sup>

Further, for the first time an Accord was struck between the major global GHG per tonnage emitters, both developed and lesser developed, that could potentially lead to a legal agreement.<sup>124</sup> It is important to bear in mind that when a majority of states agreed to the *Kyoto Protocol* in 1997, it was not till the Marrakech meeting in 2001 that details were bedded down.<sup>125</sup> However, given the lukewarm response it seems unlikely to progress unless the big emitters sign up for it in 2010.

Regretfully, there were no clear-cut environmental leaders for most of the Conference. In the first week Tuvalu and poorer states attempted to exhibit leadership by introducing strong protocols and demanding that, rather than use competing texts, the conference needed to stick with the AWGs. However, other delegates mostly ignored their proposals. Further, their tactic of using walkouts

121 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 27.

122 Ibid 7; Rosenthal, above n 64. Problematically though, in its current form it requires no specific level of aid. A previous draft had called for aid in the range of €15 billion to €25 billion funding through to 2020. Dean Scott, *Redd Initiative Aims to Cut Deforestation with Support from Developed Nations* (15 December 2009), World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128828&hhterm=UmVkJZCBkZWZvcmlVzdGF0aW9u&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128828&hhterm=UmVkJZCBkZWZvcmlVzdGF0aW9u&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

123 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 29.

124 International Centre for Trade and Sustainable Development, 'High Level Politics', above n 86, 1.

125 Michael A Levi, 'Copenhagen's Inconvenient Truth: How to Salvage the Climate Change Conference' (2009) 88(5) *Foreign Affairs* 92, 104.

and blocking tactics undercut their own positions leading to the AWGs being unable to perform, which damaged the *Kyoto Protocol* system they were fighting to protect.

The EU appeared isolated and unable to influence events. Instead the world looked to China and the US but there were laggards on many issues. The US did try to strengthen the Accord with long-range targets for 2050 but was unable to get China to agree. However, the US obstructed a number of measures that would have put the burden of emissions reductions solely on developed states, arguing that LDCs had to ‘play their part’ to no avail.

There was the usual tension between developed and developing states, particularly between the US and China.

Both developed states and LDCs used dubious tactics to stall negotiations during the two weeks.<sup>126</sup> The Africa Group was unable to get the developed world to cede five per cent of their GDP for climate mitigation in poorer states. China appears to have been the big winner from the negotiations. It achieved its objectives for the week, preserving its ‘bottom line’ and effectively giving up nothing, not even international verification of its GHG emissions that the US demanded stridently to no avail. This, and the Chinese treatment of a sitting US President, is a sign of the growing confidence of China at global negotiations and will have ramifications for future negotiations.

To the obvious frustration of the developed states, the Copenhagen Accord did not require LDCs to accept binding targets, nor did it require them to accede to monitoring and verification of domestic GHG emissions targets unless accessing international funding. Further, under the Accord LDCs’ (including China and India) ‘social and economic development’ and ‘poverty eradication’ was to be privileged as an ‘overriding priority’ which effectively ensures that a business-as-usual model continues for these states. The Accord does argue under art 2 that ‘a low-emission development strategy is indispensable to sustainable development.’ Given the normative confusion over defining ‘sustainable development’ and the lack of detail of how to move to a low emission economy, this is unlikely to be much help.

As well as the usual tension between developed and developing states, there was clear evidence at Copenhagen of a split within the ranks of the G-77/China coalition. The first signs of a crack in the monolithic G-77 bloc occurred when the wealthier LDCs like China and India vehemently opposed the Tuvalu proposal.<sup>127</sup> Poorer LDCs wished any new deal created to at least complement the current

126 G77 chairman Lumumba Di-Aping, a Sudanese diplomat, argued that even a 40 per cent cut in emissions by wealthy nations by 2020 would not be enough for a deal. China in negotiations demanded developed states cut emissions by 213 per cent below 1990 levels by 2050. Developed states like the US, instead of acting as a leader in the negotiations, held up negotiations for hours by arguing for several changes that substantially weakened a draft UN text. They used tactics like objecting to a clause saying rich states ‘shall’ take on strong emissions targets, wanting it changed to a recommendation — ‘should’: Adam Morton, ‘In the Final Hours, Can “the Titanic” Be Saved?’ *The Age* (Melbourne), 19 December 2009, 1.

127 International Centre for Trade and Sustainable Development, ‘Half-Time at COP 15’, above n 43.

Kyoto infrastructure.<sup>128</sup> A coalition of African and Pacific Island states demanded throughout the Conference that global temperatures needed to be limited to 1.5°C (above pre-industrial temperature levels) by 2050 but China, India and other major polluters kept obstructing that aim.<sup>129</sup>

In the second week the situation was worse. By the end of the conference smaller, poorer states were in open revolt against China for its obstructionist behaviour and refusal to sign a binding treaty, threatening the continuation of the bloc as a negotiating entity. Many Pacific, African and South American nations, which are most threatened by climate change, created a 'breakaway group of countries, including 43 small island states, an African bloc led by Ethiopia and some "moderate Latinos" including Costa Rica.'<sup>130</sup> We may well see at future negotiations less prominence given to the G-77/China coalition, and rather the emphasis will be on BASIC and an organisation preferencing the position of lesser developed states and island nations (or a slimmed down G-77). Given that it created the Copenhagen Accord and contains some of the largest, and potential future, emitters the BASIC coalition is now central to climate proceedings and will no doubt be a force to be reckoned with at future negotiations.

The issue of verification and compliance was both central and peripheral to proceedings. It was central to the relationship between the US and China, as the US insisted China submit to outside verification of domestic GHG emissions and China resisted successfully arguing such surveillance was a breach of national sovereignty. At the plenary level, the issue of compliance appears to have been sidelined in the haste to agree to the Accord.<sup>131</sup> Further, it is hard to see how the verification system agreed to under the Copenhagen Accord can be assessed without detailed agreements being put in place which are not yet part of any agreement.

While the NGOs had a large presence at the Copenhagen meeting, their impact on proceedings was negligible.<sup>132</sup> They organised colourful protests and provided logistical support and translation for representatives of the LDCs who lacked the resources, but were unable to directly influence delegates.<sup>133</sup> Many NGOs were effectively locked out of the Bella Centre where the Conference was held while some groups were actually banned. By 18 December only 300 were allowed into the building (problems started on 16 December) ostensibly for security reasons.<sup>134</sup>

128 Ibid.

129 Broder, above n 76.

130 Adam Morton, *History Will Judge Us If We Fail, Rudd Says* (2009) The Age Online <<http://www.theage.com.au/world/history-will-judge-us-if-we-fail-rudd-says-20091217-kzku.html>> at 18 December 2009.

131 Akanle et al, 'Summary of the Copenhagen Climate Change Conference' above n 5, 14. On Thursday 10 December the issue of a protocol amendment in respect of compliance was deferred to COP/MOP 6: at 14.

132 The ECO Newsletter, edited by CAN, claimed there were 25 000 civil society representatives at Copenhagen. Climate Action Network, 'Outrage Over Lockout' (2009) CXXII(11) *ECO* 4 (NGO Newsletter). CAN alone brought 3 000 representatives to Copenhagen: Elisabeth Rosenthal, *An Alphabet Soup of Causes and Clauses* (2009) The New York Times Online <[http://www.nytimes.com/2009/12/19/science/earth/19notebook.html?\\_r=1](http://www.nytimes.com/2009/12/19/science/earth/19notebook.html?_r=1)> at 18 December 2009.

133 Ibid.

134 Climate Action Network, above n 132, 4.

On the final Friday only 54 representatives of CAN were allowed inside. Friends of the Earth were initially banned and then only 12 members were allowed to enter the Bella Centre.<sup>135</sup> This frustrated attempts by NGOs to put pressure on delegates at this critical juncture.<sup>136</sup> Given their impotency at Copenhagen, NGOs need to reassess their strategies to influence climate proceedings or they will become irrelevant.

The Copenhagen meeting did not clear up issues relating to stabilising GHG concentrations in the atmosphere. If anything, it made the issue more uncertain. While scientists argue that we need to keep GHG emissions to 350ppm in the atmosphere, both the Danish text and the Copenhagen Accord preferred that the test keep the global increase in temperature below 2°C. However, neither gave a time frame for when the 'two degrees' test should be measured. It would be centuries before it can be scientifically concluded that, due to anthropogenic action, global temperatures have risen 2°C. It is relatively easier and quicker to determine dangerous GHG emissions ppm in the atmosphere but the delegates refused to consider this test. Lastly, the Accord talks of future consideration for the strengthening of the long-term goal, based on scientific projections, of 1.5°C. Does this mean that states will be working towards capping global temperature rise at 1.5°C or 2°C?

The Copenhagen meeting did not simplify the legal regime. Rather it made it more complicated. Firstly, the Copenhagen Accord was merely 'noted' and thus carries no legal authority. States are not bound by its provisions and no state to date, not even the authors of the text, have signed on. Rather, a close reading reveals that it merely pushes any tough decision-making by states further down the road. Secondly, the *Kyoto Protocol* replacement process under the Bali Roadmap is now in limbo. While states agreed to continue the work of the AWGs, no meeting dates were set. Further, should states focus on passing the Copenhagen accord as a *replacement* or recommit to the UN process?

Thirdly, many delegates and observers believe that the UN system may be irretrievably damaged after Copenhagen. The role of the Danish Chair was particularly poor. In the first week the Danish draft leak spoiled much of the momentum. The Chair's encouragement of the 'friends of the Chair' model damaged the consensus model of the conference and imperiled the ongoing UN climate regime.<sup>137</sup> Others commented that there are now too many states involved that are unwilling to budge and thus climate change amelioration is impervious to the large-scale, consensus approach proposed by the UN.

Given the failure of the consensus model some now argue it would be better to allow a smaller group, perhaps the heavy emitters, to solve the problem.<sup>138</sup> As Brazil's delegate to Copenhagen pointed out, '[t]here are 20 countries that produce almost 95 per cent of global greenhouse gas emissions ... these are the

135 Rosenthal, *An Alphabet Soup*, above n 132.

136 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 28.

137 International Centre for Trade and Sustainable Development, 'High Level Politics', above n 86, 1.

138 Revkin and Broder, above n 90.

countries that should be talking about greenhouse gas reductions'.<sup>139</sup> The key may be to create a new body with a small number of vital states to effect cooperation which others can slipstream behind.<sup>140</sup> With the creation of the Copenhagen Accord this may have happened.

However, de Boer in his final briefing defended the process, which ensures that all 193 nations participate, stating that this would leave many disenfranchised, particularly those already being affected by climate change.<sup>141</sup> The UN Secretary General, Ban Ki-Moon, appears to want to keep the issue under the UN aegis, stating he would be appointing a high-level panel to study the connection between development and climate change. He argued that:

As we move forward we will examine the lessons of the Copenhagen conference ... [w]e will consider how to improve the negotiations process [and] [w]e will also look at how to encompass the full context of climate change and development in the negotiations, both substantively and institutionally.<sup>142</sup>

After Copenhagen, the process of replacing the *Kyoto Protocol* by the deadline of 2012 will be incredibly difficult. Like the prayer of St Augustus, many states cry out that they wish to be chaste but at Copenhagen there was little evidence that they are willing to be bound to change their behaviour in the foreseeable future. The Sixteenth Session of the UNFCCC COP is provisionally scheduled for Mexico City 29 November–10 December 2010.<sup>143</sup> This meeting will be even more fraught since the Copenhagen Accord will have to be fleshed out. Further it may represent the last chance for the UN to take control of the process, otherwise the issue will be determined in other fora. Perhaps the final word belongs to the man who put much of this in motion, Yvo de Boer, who stated for the *New Scientist Magazine* at the end of the meeting, '[w]e should have done better'.<sup>144</sup>

139 Eric J Lyman, Dean Scott and Ali Qassim, *In Aftermath of Copenhagen Conference, Delegates Say it is Time to Rethink UN Role* (21 December 2009) <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128900&hhterm=QWZ0ZXJtYXRoIG9mIENvcGVuaGFnZW4gQ29uZmVyZW5jZQ%3d%3d&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128900&hhterm=QWZ0ZXJtYXRoIG9mIENvcGVuaGFnZW4gQ29uZmVyZW5jZQ%3d%3d&hhtype=QWxsV29yZHM%3d)> at 23 December 2009.

140 David G Victor, 'Toward Effective International Cooperation on Climate Change: Numbers, Interests and Institutions' (2006) 6(3) *Global Environmental Politics* 101.

141 Dean Scott, *Copenhagen Deal Leaves Targets, Finance for Future Talks, Raises Questions on UN Role* (19 December 2009) World Climate Change Report <[http://climate.bna.com/climate/document\\_newsarchive.aspx?ID=128899&hhterm=Q29wZW5oYWdlbiBEZWFSIEYXZlcyBUYXJnZXRzLkCBGaW5hbmNlIGZvciBGdXR1cmUgVGFsa3M%3d&hhtype=QWxsV29yZHM%3d](http://climate.bna.com/climate/document_newsarchive.aspx?ID=128899&hhterm=Q29wZW5oYWdlbiBEZWFSIEYXZlcyBUYXJnZXRzLkCBGaW5hbmNlIGZvciBGdXR1cmUgVGFsa3M%3d&hhtype=QWxsV29yZHM%3d)> at 27 June 2010.

142 Lyman, Scott and Qassim, above n 139. A proposal floated at Copenhagen to set up permanent negotiations in Geneva, Switzerland was viewed favorably by many LDCs (who have missions there and so could easily access support) and would be one way the UN could wrest back the process: International Centre for Trade and Sustainable Development, 'High Level Politics', above n 79, 2.

143 Akanle et al, 'Summary of the Copenhagen Climate Change Conference', above n 5, 30.

144 Fred Pearce and Catherine Brahic, *Copenhagen Chaos Sets World on Track for 3.5 Degrees Celsius* (2009) *New Scientist* <<http://www.newscientist.com/article/dn18309-copenhagen-chaos-sets-world-on-track-for-35-c.html?DCMP=OTC-rss&nsref=environment>> at 20 December 2009.

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