At the 17th Conference of the Parties of the UNFCCC and the 8th Meeting of the Parties of the Kyoto Protocol, which took place in Durban South Africa in November/December 2011, some parties to the Kyoto Protocol (such as the EU member states and Australia) agreed to a second commitment period during which developed countries would accept targets to reduce their greenhouse gas emissions.

Several major developed countries such as the USA, Canada and Japan did not sign up to the second commitment period.

On the basis that the second commitment period alone will not be sufficient to achieve the necessary reduction in greenhouse gases, the parties to the UNFCCC agreed to commence negotiations on the so-called Durban Platform for Enhanced Action (ADP).

**OBJECTIVES OF THE ADP**

The ADP was established in Durban with two central objectives.

The ADP’s first objective is to develop "a protocol, another legal instrument or an agreed outcome with legal force under the UNFCCC applicable to all parties".

The second objective is to enhance ambition through identifying and exploring options for a range of actions that can close the current ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties.

**TIMING**

The ADP is to complete its work as early as possible but no later than 2015 in order to adopt this protocol, legal instrument or agreed outcome with legal force at COP25 (in 2019) and for it to come into effect and be implemented from 2020.

**TWO WORKSTREAMS**

In the course of the year, parties agreed that the work on the ADP should be undertaken in two separate Workstreams:

- Workstream 1 addresses visions and aspirations for the ADP (corresponding to paragraphs 2-6 of decision 1/CP.17). This Workstream aims to develop key characteristics and features of the new agreement (i.e., the protocol, other legal instrument or agreed outcome with legal force applicable to all Parties).

- Workstream 2 addresses enhanced mitigation ambition (corresponding to paragraphs 7-8 of decision 1/CP.17). This Workstream aims to progress concrete options in order to close the emissions gap to keep the increase in global average temperature below 2°C or 1.5°C. The underlying idea is to find ways to achieve enhanced mitigation pending the entry into force of the new agreement under Workstream 1.
BANGKOK MEETING IN OCTOBER 2012
During a negotiation session in Bangkok in October 2012 parties exchanged views on what countries envisaged for a post-2020 regime. The Co-Chairs of the ADP have drafted summary notes on the roundtables for both workstreams, providing an indication of where views between the countries differed (the summaries of the Co-Chairs of each workstream can be found at: [http://unfccc.int/meetings/doha_nov_2012/session/7055.php](http://unfccc.int/meetings/doha_nov_2012/session/7055.php))

ADP AND LCA
Progress under the ADP largely hinges upon developments in a separate negotiation stream: the Ad Hoc Working Group on Long Term Cooperative Actions (AWG-LCA). The AWG-LCA is set to expire at the end of this year, even though certain agenda items have not been resolved. These items include many priority issues for developing countries, including on equity and technology development and transfer regarding intellectual property rights (IPRs). Many developed countries, including most prominently the USA, have no interest in seeing further negotiations on these agenda items. There is widespread speculation that limited progress will be seen in ADP until Parties reach resolution on whether these agenda items are moved under ADP, continue under LCA, or expire with the termination of LCA.

WORKSTREAM 1: DIVERGING VIEWS
The main point of contention was whether historical responsibility should be a key determinant of future commitments. Developed countries emphasised that the principles should be applied in a contemporary context and that, while these principles were enduring, they were also dynamic, i.e. it is simplistic to categorise countries as “developed” or “developing”. There was a general recognition that universal application of the future outcome should not mean uniformity of application, and that differing national circumstances would need to be accommodated. Not surprisingly, there was disagreement on how such an accommodation could be achieved.

Additionally, diverging views were expressed as to what extent the ADP would need to take up negotiations on all pillars of the Bali Action Plan. Some developing countries indicated that the elements currently under consideration at the AWG-LCA negotiations should be taken up under the ADP once the AWG-LCA finishes its work. Some developed countries opposed this and indicated that mitigation should be at the centre of the ADP agreed outcome.

WORKSTREAM 2: INITIAL STEPS
In addition to the elements already highlighted, discussions under Workstream 2 centred on developing new quantitative emission limitation and reduction obligations (QELROs). For developing countries, the discussion addressed, among others, nationally appropriate mitigation actions (NAMAs) and the generation of the means allowing for their implementation.

Specific ideas have been floated, e.g. reduction of GHG in international transport, reduction of production and use of HFCs, reduced use of fossil fuels, enhancing energy efficiency, promoting renewable energy and encouraging further work on international sustainability standards and ecolabelling.

ELEMENTS ON THE TABLE IN DOHA
Additional key questions for the workstreams were highlighted by the Co-Chairs in a recent reflection note:

- **Workstream 1:**
  - How the principles of the UNFCCC will be applied in the new agreement.
  - How national circumstances and changes therein should be taken into account.
  - How the new agreement will be “applicable to all” in practice, including approaches to defining differentiated commitments.
  - Ways to incentivise full and ambitious participation and ensure effective implementation and compliance arrangements.

- **Workstream 2:**
  - How to increase the ambition of existing pledges from Parties and encourage those who have not yet submitted their pledges to do so.
  - How international and national actions that are additional and are therefore supplementary to the pledges that Parties have made can be strengthened, encouraged, and supported by the Convention.
  - Ways to undertake more in-depth work, including technical and quantitative analysis of options to increase ambition.
  - Ways to incentivise mitigation actions and ensure effective implementation.
EXPECTATIONS: HOW MUCH PROGRESS IS REALISTIC

■ Given the early stage of the ADP negotiations and the uncertainty around what legal form ADP’s post-2020 framework should take, we may not see significant progress this COP. Eg, the Co-Chairs propose to continue negotiations through roundtable discussions and informal consultations. The aim of the Co-Chairs is to have a draft text ready summarising the informal consultation by the end of the week.

■ As highlighted above, further progress in ADP depends on the closure of the AWG-LCA and AWG-KP. Developments in these working groups will provide clarity on how the ADP should proceed in and beyond 2013.

■ Some Parties question whether Doha needs a negotiated outcome on post-2020 action in order to be a success. The Umbrella group (including US, Russia, Japan) states that a negotiated outcome is not necessary to achieve the same result, and could distract serious time and attention from more important substantive discussions on the future agreement and mitigation ambition in Doha.

■ One proposal to watch is a suggestion from the EU that Parties should prioritise the design of a spectrum of commitments, such that all Parties can take on binding, fair and ambitious obligations in accordance with their responsibilities and capabilities. This is the example of a result that, while not a negotiated outcome, could still be extremely helpful in providing a concrete foundation for more detailed negotiations in the future.

DLA Piper will continuously monitor the developments in this area. If you have any questions related to this or other issues addressed at the Climate Change Conferences please check our website or contact us directly.

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