

# How to Make Bali Climate Talks Productive

## Some Hints from the Montreal Protocol

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### Montreal Protocol Bought Time for Climate Negotiators

Bali 10 December 07: The global ozone treaty, the Montreal Protocol (MP), is now 20-year old with 191 Parties. It has achieved 95% of its objective of phasing out ozone-depleting substances (ODS) and put the ozone layer on the path to recovery. ODS are greenhouse gases (GHG) too, and the MP is mitigating climate emissions by 135 billion tons of CO<sub>2</sub>-equivalent between 1990 and 2010, or 11 billion tons of CO<sub>2</sub>-eq. per year—11 times more than Kyoto's mandated 1 billion tons per year. If we consider the voluntary and national efforts to phase out ODS before the MP and the mandatory efforts under MP, climate change has been delayed by a planet-saving 35-41 years, critical, because the tipping point for abrupt and irreversible climate change may be only 10 years away.

In September, the MP delegates further strengthened the ozone treaty to capture an additional 15 or more billion tons of CO<sub>2</sub>-equivalent—in one week of negotiations.

### Why Haven't Bali Talks Produced Clear Options Yet?

We, and many delegates in Bali, some of whom are in MP too, are amazed that the Bali negotiators, from the same Governments, are so unproductive. The draft decision circulated by the co-facilitators of the negotiations on the future road map reads more like a draft agenda, with many options, than a draft decision, with fewer and more focused options. On the issues for consideration listed in Annex 1—mitigation, adaptation, finance and investment, and technology—have not the Parties said something specific on what they want? If so, why are the different suggestions by Parties not classified and put as options to be considered further? There is a danger that many of these suggestions will be repeated this week, wasting time. The Ministers coming here this week need a good lead with clear options on each of the issues so that they can come to useful conclusions.

We have heard many suggestions on substantive issues from the delegates and from the many excellent side events. Why are these suggestions not reflected in concrete proposals by Parties? Is it because the delegates are strait-jacketed into so many contact groups, some of them discussing only procedural issues?

In the MP, the number of contact groups will be not more than three, enabling small delegations to participate. The contact groups are small with representatives of different views, nominated by co-chairs or selected by Parties holding the views. The small size enables the discussions to be more productive. Their consensus or lack of it is then brought back to the plenary, which, meanwhile goes on to discuss other issues. When the plenary completes its first discussion of all agenda items and either comes to a consensus or appoints a contact group, it is adjourned and meets again only to hear from the contact groups on the progress of their talks.

### SUBSTA Needs To Be Reformed

This brings us to another great lacuna in the climate change institutions. The Subsidiary Body on Scientific, Technical and Technological Advice (SUBSTA) consists of government delegates, not greatly equipped to decide on technical matters without technical advice. The MP has the Technology and Economic Assessment Panel (TEAP) and its seven sector-wise Technical options Committees (TOCs). Every year they assess the feasibility of alternative technologies and also study all technical issues referred to them by the Meeting of Parties (MOP), including the issue of

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replenishment of the financial mechanism of MP, the Multilateral Fund (MLF). They give focused policy-relevant options in their annual reports. The Open-ended Working Group of the Parties (OEWG), which meets once or twice a year, examines these options and prepares draft decisions for the annual MOP.

### **Climate Regime Needs Panel of Technical Experts**

The TEAP, appointed by MOP, consists of co-chairs of the TOCs and a few other experts. (Usually, the TEAP itself suggests candidates in case of retirements and these are accepted.) The co-chairs of TOCs can recruit their own experts, nominated by Parties or on their own. The Parties can nominate experts but the TOC co-chairs accept them only if they do need the expertise nominated. The report of TEAP and TOCs are placed before the OEWG, without editing. Parties can criticize but cannot alter. The climate regime has no similar system. IPCC reports are not designed to serve this function. They come once in six years and do not contain sufficiently specific policy-relevant options.

### **Technology Transfer: the Reality**

Take the debate about technology transfer at the Bali climate meetings. It is surreal and has occurred many times in the past including in MP. There are three categories of technologies—in public domain, or owned by many companies willing to sell them at reasonable conditions, and technologies owned by only a few companies, protected by intellectual property rights (IPR) and with owners who tend to put unreasonable conditions for transfer. The MP experience is that, with few exceptions, all technologies needed to implement MP are in the first two categories. In case of the second category, the MLF met the cost of the technologies needed by developing countries. The third category is the most challenging. Some developing countries demand that the IPR should be waived in such cases. The same demand was made in MP in 1989 but the developed countries refused. Today, many developing countries too own such technologies in many areas and they too insist on IPR for their technologies.

What is the solution? The MLF did not agree to unreasonable conditions for technologies in the third category. But in a few years, more companies developed the same technologies and the prices quickly came down. Also, the developing countries developed such technologies themselves. Regarding sectors relevant to climate change, the delegates do not know the actual situation. The point is that a technical body like TEAP will be able to bring out the facts quickly and the Parties can then discuss real issues, rather than ideological ones.

It is time the climate change Parties to institute their own version of TEAP rather than have SUBSTA. Further reform also could improve the Subsidiary Body on Implementation where all Parties participate. The MP Implementation Committee has ten members, two from each region, and it functions efficiently and effectively. An OEWG can take the place of SUBSTA and a small implementation committee the place of SBI. This will make the future negotiations easier.

### **Promote Urgent Voluntary Action, Too**

One saddening thing we notice is that, in the obsession with procedures and legalities, no attention is being paid to promoting voluntary action to reduce GHGs. In MP, many countries including developing countries, took voluntary steps, beyond their commitments, since their companies wanted to gain competitive advantage with the new technologies. Today, the same countries are taking steps to reduce their fossil fuel consumption through energy efficiency and alternative sources of energy. This benefits their economy as well as the environment. One calculation shows that the developing countries have done more than the Kyoto Protocol through voluntary actions. The UNFCCC can push these early voluntary actions further by encouraging the GEF to prepare and implement ambitious programmes by willing countries on an aggressive schedule.

The MP has more lessons that may be useful for climate negotiations, but they are well known and need not be repeated. They can be adapted if the climate negotiators want to be productive and protect the climate.

### **The World Needs Strong Signal From Bali**

Whatever agreements the Governments reach, it is critical to consider the millions of companies and individuals who will implement the agreements with the aid of national policies and regulations. They are looking for signals from the Bali meeting. They will innovate to give us the new technologies needed and implement the agreements even faster than mandated if the signals are that the Governments are serious about mitigating climate change. If the signals are too weak, they will go back and emit more GHGs. Will the Bali meeting at least prepare the ground for strong positive signals soon?