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**India's Climate Change Strategy  
after Durban**

**Shyam Saran**



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## **Backdrop to Durban Conference:**

1. It is important to keep in mind the broader international political and economic environment within which the multilateral climate negotiations have been taking place. These negotiations are enmeshed in and are complicated by (i) the rapidly changing international landscape and changing relations among major powers, in particular the rising profile of emerging powers; (ii) the global financial and economic crisis of 2008 and its continuing impact on economies around the world, but in particular, the North. These factors have transformed negotiations on climate change into a full-fledged economic negotiations that focus on trade and investment related issues, competitiveness, intellectual property and, important energy access. For the North, there is a pervasive fear of losing economic ascendancy and affluent life styles. For the emerging countries, it is fear of having their development prospects capped and retarded; caught in between are a large number of other developing countries, who rightly believe their survival is being endangered. What was seen in 1992, at the time of the Rio Convention, as the launch of global and collaborative effort to deal with a cross-cutting challenge, on the basis of well-recognized principle of equity and equitable burden-sharing, is now a competitive process, a negotiating dynamic that is destined to yield the least common denominator result.
  
2. It is against this overall backdrop that one should assess the results of the recently concluded COP-17 at Durban. What has been described as the Durban Package, consists of the following:
  - (i) The Durban Platform for Enhanced Action;
  - (ii) The decision on a second commitment period for the Kyoto Protocol to commence from 2013, with the Parties' quantified targets for reducing emissions, to be decided by the end of 2015.



- (iii) Operationalising the Green Climate Fund by finalizing its design and governance arrangements. [Germany: Euro 40m and Denmark Euro 15m].
  - (iv) Operationalising the Technology Mechanism; and
  - (v) Operationalising the Adaptation Committee.
3. The key document is the Durban Platform whose negotiating mandate is for a new outcome, which would have some legal form, but would be applicable to all parties, raising the level of ambition for reducing (GHG) emissions. The mere applicability to all parties does not necessarily imply that each will take on mitigation obligations. After all, not all parties to the current Kyoto Protocol are required to take on quantitative emission reduction obligations. However, since the Durban Platform makes no reference to "common but differentiated responsibilities and respective capabilities" or the CBDR principle, which provides the basis for differentiated obligations, the Annex I developed countries are interpreting the Platform as having finally demolished the firewall between the developed and developing countries. If that is not our interpretation, then it is necessary to make that clear, sooner rather later.
4. It may also be noted that enhanced ambition is mentioned only with respect to mitigation, ignoring adaptation, finance and technology. It will be recalled that the Bali Action Plan, adopted by consensus, had mandated an outcome which would reflect enhanced and inter-linked action on the so-called 4 pillars. The now unifocal emphasis on mitigation carries the risk that the 3 other equally critical components of the Bali Action Plan would be abandoned, to the detriment of developing countries.
5. It may be argued that the other 3 components have already been satisfactorily addressed (i) The Green Climate Fund has been operationalized, though it is not clear what funds will actually be made available to the Fund. Germany has pledged (Euro 40 million and Denmark Euro 15 million so far (ii) the Adaptation Committee has also been operationalized but its link to the existing Adaptation Fund is not clear. The relationship between

the Committee and the UNFCCC itself is also a matter of controversy (iii) The Technology Centre and Network have been established but details on funding and management still remain to be worked out. However, as it would be clear, the progress achieved in these areas is modest and the inter-linkage among them has been largely lost.

6. It is being suggested that in return for progress in these areas, the developed countries, parties to the Kyoto Protocol (KP), have compromised on their stand by agreeing to a second commitment period under the Protocol. But this was already a legal obligation. Was there any need to trade a legal obligation for significant concessions on the part of India and other developing countries? Was it also necessary to acquiesce in a new instrument that will presumably replace the KP in 2020? And which may not have the same strict compliance procedure as is currently included in KP?
7. India appears to have held out against a legally binding outcome from the current negotiating process. But the legal form of the outcome has very little to do with the substantive contents of the instrument itself. Therefore, it may have been better for India to keep the argument focused on the contents, rather than the legal form of the instrument. The focus ought to have been on (i) a reaffirmation of the UNFCCC and its principles and provisions, (ii) the overriding importance of the equity principle as reflected in CBDR and (iii) ensuring that legal commitments on mitigation are accompanied by symmetrical commitments on adaptation, finance and technology. A focus on adaptation as a challenge of equal if not greater concern to all categories of developing countries, would have helped India to mobilize support from Africa, LDCs and AOSIS.

As it is, the likely default outcome of the current negotiating process is the U.S. proposal i.e. a legally binding instrument with very weak legal commitments: (i) an obligation to come up with domestically generated (and not multilaterally negotiated) emission reduction or mitigation targets (ii) an obligation to

subject the achievement of these targets to "international review and verification", but without an international compliance procedure.

8. It is in India's interest to put its weight behind a strong and robust global climate change regime, with a compliance procedure which is at least as strict as that in the KP. This is because India is likely to be one of the most adversely affected by climate change and these effects may even wipe out whatever developmental gains we may be trying to safeguard by trying to keep our own mitigation obligations weak. This perception of India's stand has also eroded our credibility among most developing countries as also the European Union.
9. What should India's negotiating strategy be for the next phase of negotiations?
  - India should move to put its interpretation of the Durban documents in a formal submission to the UNFCCC. This includes our interpretation that these negotiations will continue to take place under the principles and provisions of the UN, in particular, the CBDR principle. We should also insist that the Durban Platform will not only focus on "enhanced ambition" on mitigation, but also on the other pillars of the Bali Action Plan, i.e. adaptation, finance and technology. This may also require a categorical assertion that the Durban Platform does not supersede or replace the Bali Action Plan and its consensus mandate.
  - India should drop its opposition to a "legally binding" outcome, but focus attention on strong and credible commitments within the instrument, (thereby drawing a clear distinction between the legal nature of the document and the legal obligations of parties to that instrument). Among these credible commitments must be an international compliance procedure not less strict than currently under the KP.
  - There should be an internal review of what would suit India best - a strong and robust climate change regime with an

effective and strict compliance procedure, or a weak regime of the kind that the U.S. is aiming for. There are pros and cons but on balance, my view is that the former is in India's interest.

- Our effort should be to avoid, as long as possible, any emission reduction obligations. But the way to achieve this may not be through a weak regime. We need to think about what criteria should be promoted as a means of keeping our obligations to the minimum i.e. on the basis of our total contribution to global emissions, the small historical carbon space occupied by India, the low per capita emissions, low per capita income, to name a few criteria. No peaking year should be accepted without reference to the differentiation principle; in any event, ours should be much later than China's.
- We should keep attention focused on climate related trade protectionism and intellectual property issues.

Since the initial submissions on the Durban documents must be submitted before the end of February 2012, a carefully considered statement of India's interpretation of the outcome and our views on subsequent negotiations should be prepared at an early date. Furthermore, since the Ad Hoc Working Group on LCA will continue to work for another year, that forum should be used to the maximum extent, to bring the negotiations back on track, from our perspective.

Lastly, we will need to work with the BASIC Countries as well as with the different G-77+1 countries to mobilize support for our positions. This will require an early diplomatic effort at the bilateral and regional forum level. If we do adjust our stand as recommended, there may be opportunities to work together with the EU on some issues, such as on a strong legal instrument and the need for a strict compliance procedure.

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