Tripping points: barriers and bargaining chips on the road to Copenhagen

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Abstract
This letter aims to help scholars and practitioners alike prepare for the 15th Conference of the Parties to the UNFCCC (COP15) in Copenhagen in December 2009, by providing a bird’s eye view of the increasingly complex terrain of the global climate negotiations. It identifies and explains the most important and contentious ‘tripping points’ for reaching any agreement on a post-2012 framework, by explaining the primary barriers among countries to reaching consensus and the bargaining chips that countries may draw upon to get there. Namely, the letter details the contours of the ongoing debates on: developed and developing country mitigation; reducing emissions from deforestation and forest degradation (REDD); technology transfer; adaptation; and finance.

Keywords: UNFCCC, climate change, REDD, mitigation, adaptation, greenhouse gas emissions, global climate negotiations

1. Introduction
This letter aims to help scholars and practitioners alike prepare for the 15th Conference of the Parties to the UNFCCC (COP15) in Copenhagen in December 2009, by providing a bird’s eye view of the increasingly complex terrain of the global climate negotiations. We draw from our cumulative experience attending UNFCCC meetings over the past five years to identify and explain the most important and contentious ‘tripping points’ to reaching agreement on enhancing international climate change cooperation.

A tripping point is a constellation of political barriers and bargaining chips that must eventually fit together in order for countries to reach consensus on how to address global climate change. In short, countries have different sine qua non conditions for agreement (barriers)—crucial points for them, without which they will not offer concessions (bargaining chips) on other issues. We illustrate this dynamic by starting with the assertion made by many developed countries that agreement on the details of future mitigation commitments and actions is the central barrier to reaching consensus. We then explain how discussions surrounding reducing emissions from deforestation and forest degradation (REDD), adaptation, technology, and finance may serve as bargaining chips to help parties overcome this barrier.

While we recognize that this framing represents what is often criticized as a developed country perspective, we hope that the symmetry of our analysis allows the reader to easily shift between perspectives in order to understand how...
developing countries may reciprocally view the contours of the climate discussions. To this end, we have done our best to give due weight to all sides of issues discussed.

2. Barriers to agreement on mitigation

While all elements of the Bali action plan (BAP)\(^7\) are critically important, mitigation is bound to remain at the heart of any agreement reached in Copenhagen. Even if the science concerning mitigation may be increasingly clear (IPCC\(^2007a\)), the political and ethical complexities remain as contested as ever. Complicating matters is the tension between historic responsibility for climate change and measures necessary to solve the problem. Specifically, while developed country emissions since the 18th century are largely responsible for the problem, dangerous climate change cannot be avoided without curtailing the growth of developing country emissions. However, poverty eradication and development are the ‘first and overriding’ priorities for developing countries (UNFCCC\(^2002\)), limiting their ability to funnel scarce resources into mitigation efforts without significant financial and technical support from developed countries. Simultaneously, emissions from developed countries have not declined with reference to the 1990 baseline year (UNFCCC\(^2008\)), as anticipated by the UNFCCC and Kyoto Protocol—highlighting the need for political will and enhanced mitigation efforts, financing and technological development. Central to the mitigation debate is the BAP’s requirement to not only negotiate mitigation commitments or actions for developed countries, but also ‘nationally appropriate mitigation actions’ (NAMAs) for developing countries. This debate has been complicated by calls for rebalancing and redistribution of mitigation responsibilities given changes in levels of development since responsibilities were originally differentiated in 1992 under the UNFCCC. The complex terrain of these debates has made mitigation a central barrier to agreement; we analyze the various tripping points within these debates below.

2.1. Mitigation commitments by developed countries

A central topic of discussion on the road to Copenhagen is how to implement the BAP’s requirement to allocate mitigation responsibilities among ‘developed country parties’ in the post-2012 period. The key tripping point in these discussions is how to accomplish this while ensuring equitable burden sharing thorough the ‘comparability of efforts’ among these countries.

Use of the term ‘developed country parties’, rather than ‘Annex I’ or ‘Annex B’\(^8\) parties is notable because it both includes the US (a non-Protocol party) in mitigation discussions, and may imply inclusion of several newly industrialized countries that were not included in Annex I in 1992\(^9\). However, it has also led to institutional complexity. Specifically, two negotiating tracks have emerged with discussions about: future mitigation commitments for developed countries that are Protocol parties taking place in the ad hoc Working Group on Further Commitments by Annex I Parties under the Kyoto Protocol (AWG-KP) (where the US cannot participate); and mitigation actions by all UNFCCC parties, including those without Protocol commitments, taking place in the AWG on Long-term Cooperative Action under the UNFCCC (AWG-LCA). The two subsidiary bodies are legally separate but politically intertwined, with some parties in each waiting for developments in the other before moving forward.

In the AWG-KP, alongside the overall range of mid-term emission reductions by developed countries, the method for determining post-2012 targets has been the main tripping point. At COP14 in 2008 developing countries advocated for an aggregate emission reduction range for Annex B parties prior to beginning discussions on how to ‘slice up the pie’. Others, notably Russia, rejected this approach in favor of one wherein countries pledge individual targets. At the March–April, and June 2009 negotiations in Bonn parties began both summing individual pledges to see what the aggregate target would look like if defined from the bottom up, and considering several proposals made by developing countries to determine the range from the top down. Parties remain at loggerheads however, with some developed countries less inclined to show their hands before parallel issues in the AWG-LCA are resolved, and concerned about committing to targets before the rules (e.g. LULUCF accounting and the flexibility mechanisms) for a second commitment period are defined. Developing countries, on the other hand, have insisted that the focus be on targets, not rules, and have expressed continued concern over the ambitiousness of developed countries’ proposed mid-term targets.

In the AWG-LCA there are at least two important tripping points posing barriers to consensus, namely the nature of commitments and the timeframe of efforts. Regarding the nature of commitments under the Convention, many developing countries stress that ‘comparable’ developed country efforts means legally-binding, economy-wide, absolute emission reduction targets. While the EU and some other developed countries share this view, it is possible that others, including the US, Russia, and Japan prefer softer approaches to mitigation—or would like to assess this in light of developing country mitigation. On the timeframe of efforts, positions diverge with respect to the appropriate base year (e.g. 2005 or Kyoto’s 1990), and whether comparability should refer to long-term targets, as preferred by the US, or short- to mid-term targets.

Many developed countries are calling for drawing together the AWG-KP and AWG-LCA discussions, with hopes of creating a legal framework under which UNFCCC parties who are not parties to the Protocol (e.g. the US) can make binding commitments. Indeed, Japan and Russia emphasized at the March–April talks in Bonn that they were not willing to negotiate numbers under the AWG-KP without prior knowledge of commitments by the US and advanced developing countries (ISID\(^2009\)). Nonetheless, attempts to draw together the negotiating tracks have thus far been rejected by most developing countries, who continue to stress that

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\(^7\) The BAP, which outlines the course for climate negotiations until COP15, was agreed under the auspices of the UNFCCC at COP13 in Bali 2007 (UNFCCC\(^2007\)).

\(^8\) Annex I is a list of industrialized countries under the UNFCCC. Annex B is a list of countries with commitments under the Kyoto Protocol, while ‘developed country parties’ is legally agnostic.

\(^9\) Notably OECD members Korea, Mexico, and Turkey.
leadership must be shown by developed countries before they are willing to discuss mitigation action. The waiting game thus continues, and may not be resolved until the wee hours of the last day in Copenhagen when all the bargaining chips will be on the table and parties cannot wait any longer to see who will show their hand first.

2.2. Mitigation actions by developing countries

Complementing the text on mitigation by developed countries in the BAP, governments also agreed that developing countries should consider NAMAs. Such actions must be measurable, reportable and verifiable (MRV), and they must also be backed by MRV financial, technological and capacity-building support from developed countries. This delicate balance between national actions and international support reflects the idea that developing countries should now participate in mitigation efforts, however due to their differentiated responsibility, these mitigation actions should depend on support from developed countries. Translating this principled agreement into something more concrete is likely to become one of the most important tripping points in the Copenhagen negotiations.

One of the possible sticking points is the legal nature of developing country mitigation actions, as referred to in the BAP. The question arises whether NAMAs will be voluntary, as most developing countries would prefer, or whether there will be an obligation to implement them and, if so, on what scale. In the negotiations, some common ground seems to be forming around the idea of a NAMA registry, which would collect information on implemented and proposed NAMAs, as well as on associated support from developed countries. Views on the details, however, remain divergent, including on whether registering and undertaking NAMAs would be compulsory or voluntary for both implementers and funders.

Another tripping point in these discussions is the scope of MRV in the context of mitigation actions and international verification. Many developed countries, whose information on greenhouse gas (GHG) emissions is subject to regular international verification, see it as a significant problem that information submitted by developing countries is not. These developed countries would therefore prefer to extend monitoring and reporting beyond individual NAMAs to get a comprehensive picture of emission trends in developing countries. In addition, these developed countries would like to introduce international and independent verification, as opposed to allowing developing countries to verify their own emissions data. In contrast, many developing countries insist that MRV should be limited to such NAMAs that have been enabled by developed country support and that verification should be carried out by national entities. These developing countries prefer placing the emphasis of MRV on developed country support, rather than on developing country mitigation actions’ impact on GHG emissions. AWG-LCA Chair Michael Zammit Cutajar has thus indicated that several key questions concerning developing country mitigation remain open for further negotiation, such as the scope and scale of NAMAs, the criteria for their registration and support, and MRV for both NAMAs and enabling support. While it is unclear how these discussions will proceed, it is evident that this will be one of the keys to reaching an agreement in Copenhagen.

Finally, differentiation of developing countries has emerged as a highly contentious tripping point within the AWG-LCA discussions surrounding mitigation. The basis of the debate is the BAP, which, for the first time in the history of the UNFCCC, uses language of ‘developed’ and ‘developing countries’ rather than reflecting the classic distinction between Annex I and non-Annex I countries. The core issue is whether non-Annex I countries should be reclassified so as to redistribute responsibility for mitigation and eligibility for financial and technical support. Proponents of reclassification argue that responsibility for mitigation and eligibility for support should reflect contemporary differences in levels of development among developing countries, rather than those current built into the Convention.

When the UNFCCC was being negotiated in the early 1990s, Annex I countries were somewhat arbitrarily differentiated as those party to the Organization for Economic Cooperation and Development (OECD) in 1992 and those with economies in transition. While this classification method was, arguably, a reasonable way to separate the developed and developing worlds in 1992, some developed countries, such as Japan, Australia and New Zealand, now argue the world has since changed, and a number of developing countries that can now be characterized as ‘emerging’ should ‘graduate’ in terms of their mitigation responsibility. In parallel, some least developed countries (LDCs), such as Bangladesh, argue that large developing countries with large economies should not be ‘equated’ with LDCs for the purposes of mitigation actions.

Proponents of differentiation for developing countries in the post-2012 period have suggested various possible criteria for redistributing responsibility, including: level of economic development; capacity to act; contribution to global GHG emissions per capita; GDP per capita; current OECD membership; and mitigation potential. These proponents have also suggested a variety of forms through which ‘graduated’ parties, ‘major emitters’, or ‘advanced developing countries’ could take commitments, including: national emission caps; intensity targets; energy efficiency commitments; and sectoral intensity targets. Certain developing countries such as India, Saudi Arabia, and China are firmly against reclassification, rejecting the idea of differentiation based on contemporary levels of development, evoking instead differentiation based on historic responsibility.

It is unclear how these discussions will continue to unfold on the road to Copenhagen. Chair Cutajar recently suggested that governments may wish to proceed by considering differentiation of developing countries as something that ‘emanates naturally from the determination by developed and developing countries of what is nationally appropriate … and to encourage—through leadership, cooperation, incentives and negotiation—the highest achievable level of ambition for these actions’ (UNFCCC 2009). At the moment however, many governments are holding their cards on this, and most other mitigation-related issues, quite close to their chest.
3. Bargaining chips

In order to reach agreement in Copenhagen concessions must be made by all governments. In particular, agreement on developing country mitigation will be contingent on how governments use a constellation of other issues as ‘bargaining chips’ to barter for their priorities. Developing countries have repeatedly stressed finance and technology transfer as ‘make or break’ components of the deal. Similarly, adaptation, and how to fund it, is a crucial element for the most vulnerable parties, and REDD is a promising mitigation option for many developing countries with vast forests. While the intertwined and overlapping nature of these issues makes our separation of them somewhat artificial, for the purposes of explaining the complex politics surrounding them, we have divided them into four distinct ‘bargaining chips’ below.

3.1. REDD

Deforestation and decay of biomass accounted for more than 17% of global GHG emissions in 2004, and reducing emissions from deforestation in the tropics represents about 50% of forest-related mitigation potential (IPCC 2007a). It was against this backdrop in Bali in 2007 that governments began considering ways to incorporate REDD into any future climate agreement. Most simply, a REDD mechanism would involve developed countries paying developing countries to reduce deforestation10.

The extent to which governments will be willing to incorporate a REDD mechanism into any future climate agreement will be a function of how its design features ensure environmental integrity and shape the distribution of costs and benefits. As such, these design features will be key bargaining chips on the road to Copenhagen, as they will not only dictate the extent to which REDD contributes to mitigation, but also have the potential to distribute benefits in a way that buys concessions in other intractable negotiating areas.

Design features that ensure environmental integrity, such as avoiding leakage and non-permanence, must be addressed to achieve buy-in from many parties. Leakage occurs when deforestation activities shift from protected to less-protected areas11. The problem of non-permanence must be addressed to ensure that protected carbon sinks are not deforested after funds are issued for their protection.

Key issues that will affect the distribution of costs and benefits (and will also affect environmental integrity) include: eligible activities (e.g. conservation, sustainable forest management, and enhancement of carbon stocks), reference levels12, indigenous peoples’ rights, and, critically, the means for funding activities. Central to the funding question has been the ‘market or fund’ (or both) discussion. Under a market approach, REDD activities would generate salable credits, allowing developed countries to purchase them as offsets (much like the present CDM). A fund approach would channel finance to REDD activities without offsetting. While proponents of a market approach point to its ability to mobilize large amounts of finance, some parties, notably Brazil and Tuvalu, raise concerns about flooding the carbon market with cheap credits, thereby reducing incentives for emission reductions in other sectors and regions.

If governments manage to agree on the details, a REDD mechanism could be an important mitigation tool for developing countries with vast forests. However, parties remain divided on how to address these tripping points, with the ‘main outstanding issue’, as noted by Chair Cutajar, being the delivery of financial support (UNFCCC 2009).

3.2. Technology transfer

Notwithstanding other options such as lifestyle changes, technology is considered by most to be at the heart of a long-term solution to climate change. The IPCC notes that without substantial investment flows on low-emission technologies and effective technology transfer it may be difficult to achieve emission reduction ‘at a significant scale’ (IPCC 2007b). The main issues on the table are technology financing, what kind of non-finance instruments can be used to promote technology transfer, including intellectual property rights (IPRs), and institutional arrangements.

How to translate technology transfer commitments into something other than financial support is a significant tripping point, and last minute surprises are possible in Copenhagen (as the CDM was in Kyoto). However, thus far, discussions center mostly on whether and how to modify the IPR regime to optimize development and transfer of climate technologies. Proposals, mainly from developing countries, include relaxation of IPRs, compulsory licensing, patent pooling, exemptions, and incentives for patent holders to transfer patents to developing countries. Developed countries generally support maintaining the current IPR regime.

Institutional arrangements for technology transfer also promise to be a central area of debate on the road to Copenhagen. The main tripping points here will likely be the rank and mandate of the technology ‘body’, with proposals ranging from a new UNFCCC subsidiary body on technology, as proposed by developing countries, to maintaining the current Expert Group on Technology Transfer (EGTT) as an advisory body to the Subsidiary Body for Scientific and Technological Advice (SBSTA). Of particular contention is whether the technology body oversees the technology fund (if one is agreed upon), regulates technology credit markets (if a market approach is agreed), and/or assesses the MRV technology commitments by developed countries. At present, all options remain on the table.

3.3. Adaptation

The need for adaptation is undisputed (IPCC 2007c), and activities to adapt to the impacts of climate change are
already ongoing in most countries—developed and developing. Accordingly, many UNFCCC parties would like to see agreement on a comprehensive framework for action on adaptation, which covers financial, technological and other support.

The main issues under negotiation regarding adaptation include: finance, the preparation and implementation of national adaptation plans; tools for risk reduction and sharing (including insurance instruments); the need for enhanced institutional arrangements under the UNFCCC; and how to account for ongoing adaptation activities in developing countries. An underlying tripping point in these negotiations is the lack of mutual understanding or indicators on how to differentiate adaptation actions in response to climate change from development activities. Other potential tripping points include the consideration of adaptation to response measures, as defended by OPEC countries, or the potentially explosive issue of climate change refugees, as has been noted by Chair Cutajar.

Parties generally agree that adaptation is not just finance, thus an adaptation framework should also cover other aspects. Nonetheless, at the moment, adaptation negotiations focus mainly on finance issues, including legally-binding and compliance provisions, and a possible adaptation fund under the Convention to complement the Adaptation Fund under the Protocol. A tripping point could be the definition of what constitutes adaptation action and which activities are eligible for financing, though agreement on this could be postponed through existing proposals for a three-year ‘pilot phase’ and a ‘short-term work program’ up to 2012 (UNFCCC 2009).

In short, while adaptation is seen as crucial, the major tripping points that could block an agreement in Copenhagen are financing and institutional arrangements. Other adaptation-related issues, such as the definitions of adaptation action and eligible activities, risk reduction and sharing, monitoring, and capacity building, while important, can probably be postponed for negotiation at a later point.

3.4. Finance

Last but obviously not least, financing is arguably the main bargaining chip, underlying the discussions of all other issues mentioned above. One of the fundamental questions regarding finance is where it will come from: direct contributions from developed country governments, as preferred by developing countries; or market mechanisms, as preferred by developed countries. This question is not only about how to raise the money, but also about how finance is channeled and governed. Public financing is generally channeled through large centralized funds while market-based financing is typically delivered through myriad individually developed projects. Large funds have issues with governance, conditionality, efficiency, and direct access, while market mechanisms have issues of distribution, sustainability, effectiveness, and unintended consequences. Indeed, the fund/public versus market discussion underlies virtually all issues considered in this letter.

There are several proposals on the table to provide the necessary financing, which developing countries claim will be on the order of hundreds of billions of USD per year. Mexico has proposed a Green Fund, to be financed though assessed contributions by developed countries. Such a proposal would require negotiating which factors will be used to assess individual contributions, with likely candidates including GDP, emissions, population, historic emissions, and combinations thereof. Various other countries have made financing proposals, including: to auction emission allowances as a way to raise revenue (Norway); creating a global carbon tax of around USD$2/tonne (Switzerland); and issuing carbon credits based on NAMAs as a way to raise revenue for developing country mitigation (Korea). Many governments have expressed interest in the Mexican and Norwegian proposals; in the end combining elements from multiple proposals is likely.

Finally, a series of tripping points that cut across all areas of the climate change negotiations are particularly relevant to discussions of finance. The first is what delegates refer to as the ‘chicken and egg’ problem—that is whether actions are contingent on financing, or financing on actions. At a fundamental level this is an issue of trust. However, since the confidence-building stages of the negotiations are behind us (Kulovesi et al 2007), governments will need to reach a workable balance between the two positions. The second relates to how the principle of common but differentiated responsibilities and respective capabilities will be interpreted. Developing countries argue that mechanisms that place the financing burden partially on their backs contravene the Convention; this could be a significant tripping point for market mechanisms and sectoral approaches. Third, claims by developing countries that climate financing should be different from ODA reflect two underlying tripping points: (1) that financing be additional to other forms of assistance; and (2) the differentiation between adaptation and development, noted above. Finally, the question of the Convention’s role in any eventual agreement remains contentious. Many developing countries would like the financing mechanisms to be directly governed by the Convention, where they hold de facto veto power. In contrast, many developed countries prefer the Convention play a ‘catalytic role’, whereby its involvement would be limited to agreeing on and providing a general framework for the financing mechanisms, leaving governance, and thus distribution and disbursement of funds, to some other external entity or entities.

In short, the tripping points on financing that need resolution in Copenhagen are: how much money will there be on the table; who is going to put it there; where will it be kept; and who will hold the purse strings? The range of options for answering all of these questions will likely be used as bargaining chips to resolve some of the underlying mitigation issues discussed above.

4. Conclusions

In conclusion, we would like to underscore two things. First, reaching an agreement in Copenhagen is not guaranteed. While discussions about global climate change politics often take on the discourse of inevitable agreement, it is possible that
governments will be unable to negotiate past their differences to overcome some of the tripping points described above. It is equally possible that elements or the essence of an agreement could be reached elsewhere, such as a major emitters meeting or the G20, and subsequently brought to UNFCCC for its blessing. Second, what some countries see as barriers to agreement others see as bargaining chips for getting there. For example, securing firm commitments on finance for adaptation is a key barrier for some developing countries; these countries may see mitigation actions on their part as potential bargaining chips to secure concessions from developed countries on this key issue. Other developing countries might argue that a quid pro quo framing of the negotiations is inappropriate in the context of historic responsibility for climate change. Regardless, however, of the perspective from which one frames the discussions, success in Copenhagen and beyond will depend on parties’ ability to negotiate past the tripping points described above, by finding ways to match barriers with bargaining chips in envisioning how the details of any future agreement can be hammered out in the months and years to come.

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