Abstract

In Durban, the 17th Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) established a roadmap for global climate policy. The difficult compromise agreed upon provides for the establishment of a binding legal instrument by the year 2015, which will become effective in 2020, aimed at keeping average global warming to no more than 2 °C and renewing the Kyoto Protocol for a second commitment period from 2013 to 2017 (possibly continuing until 2020).

The results, however, have been largely unsatisfactory. Urgently needed actions have been postponed resulting in greater risks of environmental damage and the deterioration of living conditions in many areas of the planet.

In view of the United Nations Conference Rio +20 in June 2012 broader and more appropriate reforms are needed to address climate change, which is at the same time a political, economic, cultural and moral challenge.

A global climate government would require the creation of environmental institutions endowed with supranational powers and resources of their own. It would be essential to develop a non-violent approach to managing conflicts and building shared solutions by integrating democratic decision-making procedures and eliminating the right of veto in negotiations. Other essential elements are the establishment of a global environment plan and joint initiatives for a political, economic, energy, and social transformation to protect global public goods, combining eco-sustainability, justice and respect for human rights in addition to achieving the Millennium Goals. Moreover, the role of global civil society must be strengthened and the European Union should take strong action to achieve its energy and climate goals, establish a European carbon tax and a global environment community along with the countries that are prepared to transition to a low carbon economy as well as promote multi-level environmental regionalism throughout the world.
The last Conference of the Parties (COP or CP) to the United Nations Framework Convention on Climate Change (UNFCCC), the 17th since 1995, held in Durban (South Africa) from November 28th to December 9th, 2011, ended at dawn on December 11th.

Two main actions resulted from this marathon:
1. The Durban Platform for Enhanced Action (DPEA), signed by all 194 countries participating in the UNFCCC, initiating a process to develop a protocol or other legal instrument or legally binding commitment by 2015 and which can enter into force by 2020.
2. The second commitment period of the Kyoto Protocol from 2013 to 2017, possibly continuing until 2020, preserving the only existing (albeit weakly) binding instrument designed to reduce greenhouse gas (GHG) emissions.

The world community must now create a roadmap as well as a new scenario. Negotiations were saved and the final agreement was announced as a historic one.

However, the urgent and necessary reforms and actions that were anticipated were all postponed.

The Durban Package, the second commitment period of the Kyoto Protocol and other results

Long-term cooperative action provided for the Durban Platform

The agreement established at the COP 17 on the need to draft a legal document on global climate by 2015 received universal consensus. A new subsidiary body created within the UNFCCC, the Ad Hoc Working Group on the Durban Platform for Enhanced Action (AWG-DPEA), will become operational by the first half of 2012 with the task of defining its form and content. The AWG-DPEA in particular will deal with mitigation, adaptation,
financing, technological development and transfer, transparency of action, support and capacity-building, drawing on the knowledge and information of the Parties and the scientific world.

To set the reduction targets, the final agreement must mainly take into account the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), the results of the revisions of 2013 and 2015 and the work of the UNFCCC subsidiary bodies.

The European Union (EU), along with the Alliance of Small Island States (AOSIS) and the group of Least Developed Countries (LDCs) has gradually managed to convince all the other actors to undertake this commitment.

The compromise reached reaffirms their willingness to limit average climate change to 2 °C, if possible keeping it under 1.5 °C, but allows them to continue randomly until 2020. Only after that date will the new binding covenant, agreement or treaty become effective.

The second commitment period of the Kyoto Protocol

At the Conference of the Parties acting as the Meeting of the Parties to the Kyoto Protocol - CMP7-, held alongside the COP17, the EU managed to obtain a second commitment period of the Kyoto Protocol (KP2c) from January 1st, 2013 to January 31st, 2017, with the possibility of extending this period to the end of 2020. There will only be 35 participating States compared to the 42 that participated in the previous period which lasts until the end of 2012. Canada has announced its withdrawal from the Protocol, while Russia and Japan have decided not to take on any binding commitments to emissions reduction for the second period. In fact, the Kyoto Protocol will cover just over one third of the total emissions of the Annex I countries of the UNFCCC (the industrialised countries that are expected to cut emissions) and about 15% of global emissions. It will, therefore, become an international binding agreement only for the EU and other developed countries. The Quantified Emissions Limitation and Reduction Objective (QELRO) under the KP2c must be established by May 2012 including “an agreed outcome with legal force”. The same long-term objectives will be agreed upon at the COP18 to be held in Doha (Qatar) from November 26th to December 7th, 2012.

Implementation of the measures set forth in the previous Cancun COP16 in 2010

Other important decisions taken by the COP17 confirm and implement some choices that have already been agreed upon under the Cancun Agreements.

- Green Climate Fund and Climate Finance

A Green Climate Fund (GCF) was made operational in order to help developing countries support actions against global warming (100 billion dollars per year starting from 2020). The GCF possesses legal personality and an interim secretariat at the UNFCCC Secretariat and will receive public and private donations. In 2012, the GCF will set up a Board with equal representation granted to developed and developing countries (12 members each and as many substitutes) and distributed among the latter according to specific criteria (3 for Asia Pacific, 3 for Africa, 3 for Latin America and the Caribbean, 1 for the Small Island Developing States (SIDS), 1 for the LDCs, 1 for developing countries not included in regional groups already represented). By March 31st, 2012 Board members must be nominated and convened no later than April 30th, while April 15th is the application deadline for hosting the GCF seat.

- Climate Finance

Broad commitments have been made to long-term financing through a work programme that should identify new taxes and both public and private natural resources. A Standing Committee (20 members, half representing developed countries and half developing countries) will assess the state of climate finance within the UNFCCC by providing recommendations and advice to the COP. Various guidelines have been set out on the transparency of information and biennial reporting related to climate finance, which shall be revised and improved by the Subsidiary Body for Scientific and Technical Advice (SBSTA).

- Measurable, Reportable and Verifiable Mechanism (MRV Mechanism) of GHG mitigation actions and commitments

Regulations have become effective regarding how States must report, communicate and verify GHG emissions, actions and finances aimed at mitigating climate change. Moreover, a registry for voluntary compliance with a web-based platform has been established, assembling all national mitigation actions in search of international financial and technological support. One of its special sections will be dedicated to actions promoted by developing countries.

- Periodic Review

To assess the progress made in keeping global average temperature within 2 °C (and in the long term within 1.5 °C) a Periodic Review will
redefine actions and objectives based on the best scientific knowledge available. It will start in 2013 and end in 2015, thus providing useful elements for the DPEA and the IPCC Fifth Assessment Report.

- Adaptation Committee
  Established by the Cancun Agreements and the renewed Nairobi Work Programme on impacts, vulnerability and adaptation to climate change, it comprises 16 members (2 members from each of the five United Nations regional groups, 1 from the SIDS, 1 from the LDCs, 2 from Parties included in the UNFCCC Annex I, 2 from Parties not included in the same Annex). It monitors the development of national actions on the global adaptation to climate change. A specific financing mechanism will help support the LDCs in the preparation of national adaptation plans and the exchange of information and expertise in various fields.

- New Work Programmes
  1. The Work Programme on loss and damage, established on a proposal from the Subsidiary Body for Implementation (SBI) and focused on the study of the consequences of climate change and the identification of approaches and strategies to limit or avoid them.
  2. The Work Programme on the impact of the implementation of corrective measures adopted on the basis of the work of the SBSTA and the SBI.
  3. A Forum and Work Programme on unintended consequences of climate change actions and policies.

- Technology Mechanism
  The structure of this instrument has been defined and includes the following two bodies.
  1. The Technology Executive Committee (TEC), active since 2011, consists of a group of experts called to make proposals, indicate priorities and coordinate joint efforts based on the methods and procedures established by the COP17. It is open to contributions from various international, regional, national and infra-national stakeholders (public institutions, economic organisations, universities and non-governmental organisations).
  2. The Climate Technology Centre and Network (CTCN), established to facilitate technology cooperation in the field will be fully operational in 2012, followed by the location of its head offices and long-term financing (in the short term, the World Bank/Global Environmental Facility -GEF- is now being involved) and the creation of its Advisory Board.

The pros: commitments, hopes and new opportunities

The new path identified under the Durban Platform for the first time assembles the various groups of actors in the joint development of a global climate agreement. Despite their disagreement on various issues, the roadmap aims to ease disagreements by creating a base of understanding between the North and South as well as between developed countries and developing and emerging countries (one key group being the BASIC group - Brazil, South Africa, India and China). Developing countries, which so far have been exempted from emission cuts, will also make their contribution. By 2020, in fact, the protocol or legal agreement should introduce obligations and responsibilities for all countries that are differentiated according to their capabilities. Exemptions and unilateral voluntary commitments should be eliminated. It will be possible to overcome old divisions and re-shape global alliances and strategies in order to find the balance between environmental protection and justice.

The EU, marginalised during the COP 15 negotiations in Copenhagen, in Durban was able to come forward as a civilian actor and leader in climate negotiations, acting as the spokesperson for a common global project that aims to establish significant reductions in climate-altering emissions.

The Kyoto Protocol, the only existing climate agreement, has been renewed for a second and final period, an act of predominantly symbolic value in order to create a bridge and follow up on the preparations for and the start of the first universal climate agreement. The EU’s commitment to pursuing ever more ambitious reduction targets under the Kyoto Protocol, especially appreciated by developing countries and those most vulnerable to and damaged by the climate impact, is an impetus to continue the struggle to achieve more incisive commitments and actions.

For the first time there is convergence between the EU and China, which is reviewing its international environmental policy and has decided to participate in a global commitment that was postponed “with legal force” so that it would have time to prepare itself for the green economy. By trying to implement a voluntary reduction in emissions, which have increased to such an extent that it has become one of the most polluting countries in the world, and by investing in renewable energy, China has begun to adopt an international approach aimed at reducing total emissions rather than the emission intensity per country.
The cons: delays, uncertainties and postponements

The global climate situation is deteriorating markedly: in 2010, global CO₂ emissions started to increase again after a decline in 2008-2009 following the global economic crisis.

The COP17 and the CMP7 did not take on any new binding commitments to achieving real future emission reductions. The content of the future global agreement must still be defined. In particular, global emissions cuts will be set out by the end of 2015 to be achieved by 2050. However, neither a specific date by which the highest level of global emissions is to be achieved, nor a target of reducing global GHG emissions by 2050 have been set. According to the IPCC analyses time must not be wasted and action needs to be taken immediately with no delays to try and limit the Earth’s average temperature to 2 °C above the pre-industrial levels. Otherwise, an average increase of 3-4 °C will be unavoidable and there will be serious repercussions, including the impossibility of limiting global warming. However, while confirming their willingness to set a future global goal, as established under the Bali Action Plan at the COP 13, the decision has again been postponed.

The announcement of a rather vague and overdue global climate agreement that must be built gradually, has encountered the strong scepticism of civil society organisations, which have criticised industrialised countries for their lack of interest and political will to address this issue due to their overriding divergent national economic and strategic interests as well as their tendency to give priority to the economic and financial crisis.

There are deadlocks and further delays in the almost fifty actions and specific mechanisms put forward by the COPs held in Bali, Copenhagen and Cancun. Many important aspects of the issues on the Durban agenda have been postponed and have yet to be clarified.

The GCF has been called an “empty shell” since no decision was taken on the sources of funding that will feed it. The EUR 100 billion per year starting in 2020 pledged by industrialised countries are considered totally insufficient to provide the necessary support to developing countries. The latter, however, are opposed to the involvement of the Global Environmental Fund (GEF), connected to the World Bank, in the GCF.

The proposals put forward by international NGOs and the states regarding forms of taxation that could provide resources for climate finance (taxing speculative financial transactions as well as air and maritime trans-
Package. Representatives of some countries also declared that they had only partially verified the points of the final agreement, ready to relinquish their commitments. Stronger divisions and conflicts are likely to re-emerge and there is still a great risk of watered down compromise solutions that are overdue and insufficient.

A work programme to identify joint efforts and proposals for mitigation actions has also been provided for. However, the actual disbursement of funds from developed countries, except for voluntary individual contributions, is still just a general pledge and commitment is guaranteed only starting from 2020.

**Considerations and proposals to address climate and the environment through institutions, policies and appropriate resources**

Three basic considerations should be clarified in the attempt to identify reform proposals that could improve this unsatisfactory situation.

- Climate change, caused mainly by human activities, is not a problem in and of itself, but is closely linked to the current global economic and financial crisis. Like the latter, it can be considered the effect of an unregulated economic system based on unlimited private profit that is unfair and a predator of natural resources. Changing this system is a fundamental political and moral challenge for humanity that must be addressed in its entirety and complexity by planning and building a global society with an eco-sustainable culture, institutions and economy.

- The “pledge-and-review” system now in force, adopted by the states undertaking non-binding voluntary commitments at the international level (not only in the environmental field) which are often ineffective and without controls, is inappropriate and harmful. The decision to achieve or abandon these objectives is made at the governments’ discretion and there are no democratic procedures to penalise them. In international environmental politics there are no enforceable obligations nor are there any international or supranational institutions that can enforce them, except in very special cases. Climate negotiations take place internationally among sovereign states and produce results only through the unanimity of the parties; therefore, the right of veto can paralyse the outco-

me. All of this results in irresponsible actions which affect future generations.

- The growth of the “green economy” and the new path towards a low carbon society must necessarily be linked to a clear vision of ecological justice. Without equity and collective sharing, investment and technological development can easily be just a huge source of profit, which perpetuates the existing situation. Actually, the economic sectors and developed or emerging countries would reap the benefits, to the detriment of less developed and declining countries as well as the areas of the world that are more vulnerable to climate change and environmental degradation, thus increasing poverty, hunger, wars and environmental displacement.

In the light of this, some reforms are fundamental in order to develop an effective global climate policy which combines environmental protection, justice, respect for human rights, eco-sustainable development and the pursuit of the Millennium Goals.

1. The strengthening of the negotiation framework within the UNFCCC through greater participation and official roles for organised global civil society as well as provisions for funding and support to ecologically verifiable and certifiable projects.

2. Developing and adopting the “indaba” working method, non-violent discussion to seek harmony and the common good. Indaba derives from ubuntu and the culture of dialogue between opposing parties established in South African society and could help foster mutual respect and understanding as well as manage conflicts among the parties in a non-violent and constructive way by helping them integrate and transcend different points of view. In addition, democratic voting procedures and representation should be introduced to circumvent the states’ veto right (e.g. super-qualified majority voting or the possibility of enhanced cooperation).

3. The United Nations Conference of Rio de Janeiro scheduled for June 2012 (Rio +20) will focus on two key issues:

   - the green economy in the context of sustainable development and the eradication of poverty;
   - the necessary institutional reforms for global environmental governance.

Regarding the latter, although the projects to be discussed are important, the States must go beyond them (increasing competences
for the United Nations Economic and Social Council – ECOSOC – and the United Nations Commission on Sustainable Development – CSD – as well as the reform of the United Nations Environment Programme – UNEP –, increasing its functions and powers and possibly transforming it into a specialised agency of the United Nations or a global multilateral environmental organisation under a legally binding treaty. A World Environment Organisation (WEO), which was envisioned a long time ago, should be established as a replacement for the UNEP, and would be endowed with adequate supranational powers and resources from eco-taxes and a tax on financial transactions as well as with a High Authority responsible for developing and implementing a global environment plan. A sound WEO would facilitate the path towards a global climate agreement foreseen by the Durban Platform and would probably make it more effective.

4. An International Court for the Environment (ICE), to be discussed again at the Rio+20 Conference, based on the model of the International Criminal Court (ICC), would be an independent tribunal, within the United Nations and linked to the WEO, that would be able to enforce international environmental law, protect the human right to an undegraded environment and punish those responsible for environmental degradation and climate pollution.

5. In preparing the second period of the Kyoto Protocol, the EU should maintain a high level of commitment as well as high targets in line with its Energy Roadmap for 2050 (an 80-95% reduction in emissions over the next 40 years), and should also review the mechanisms and tools that are still rather incomplete and even have a weak as well as negative impact (in particular the CO2 emissions trading and the Clean Development Mechanism – CDM).

6. The creation of a climate community composed by the EU and the countries willing to speed up the reduction in global emissions and cooperate in the transition to a low carbon economy (Global Community for the Environment) would give decisive impetus to climate governance. Giving a High Authority on the Climate limited but decisive powers to establish common rules and objectives based on the model of the European Coal and Steel Community (ECSC) and introducing a European carbon tax would open up the opportunity to promote European investments and action plans for the development of renewable energy as well as for energy and economic conversion.

7. All initiatives should be encouraged that unite the process towards the Durban Platform with the more ambitious process of building a world climate government, which can be created with the help of the organisations listed above.

8. Civil society organisations, interest groups and local communities must be highly involved in these processes, strengthening dialogue, strategies and alliances on priority objectives. Stronger relationships built upon multi-level cooperation should also be created among common networks and associations as well as among various actors or stakeholders. With the contribution of these actors, climate policy could be monitored, implemented, modified and revised at the local and global level, taking into account the “outer limits” (conserving the environment through ecological balance) and achieving the “inner limits” (of satisfying basic human needs) as already indicated in 1974 in the Cocoyoc Declaration (Mexico) issued at a symposium organised by the UNEP and the United Nations Conference on Trade and Development (UNCTAD).

9. Common goods should be managed at an international level. Therefore, the WEO and the ICE should be responsible for the protection of these goods, which satisfy human beings’ basic needs, and should ensure that:

- the state of the environment is not further compromised;
- the ecological heritage may be restored;
- the looting and exploitation of basic goods (water, soil, landscape, etc.) by profit-seeking private actors who compromise the well-being and quality of life of people and communities is prevented.

10. Along with the desired comprehensive reform of the United Nations, including the establishment of the WEO and the ICE with supranational powers, it is also important to develop multi-level governance based on the strengthening of regional organisations. Multi-level environmental regionalism has been emerging in various forms for several decades in various parts of the world. However, it is still weak, fragmented and often dominated by a logic of state hegemony. The EU, a unique organisation with partly supranational powers and proven, hands-on experience in internal and external actions (with respect to environmental policy, foreign policy, neighbourhood and partnership policy, development cooperation policy etc.) could further encourage a gradual federal process,
especially in the environmental and climate fields. By effectively adapting organisations in order to protect different areas and allow for the participation of indigenous peoples and communities in the protection of the environment, taking into account the distinctive cultural, political, economic and social features of each region, the example of the EU could help develop a global democratic politics in favour of human safety and the preservation of the planet while making the EU itself more democratic as a result.

Ungoverned globalisation or the inability to govern globalisation, stop financial and speculative anarchy as well as prevent resources from constantly being taken away from the community and alleviate the serious problems of humanity indicated in the Millennium Development Goals have extremely high economic and moral costs. And these costs will continue to be much higher than the costs of an integrated global action plan, guaranteed and supported by effective global and multilevel institutions, the aim of which is to contain climate change and make economics, politics and lifestyles more ecological.

We must reverse the increase in the exploitation of natural resources, now greater than their replenishment, which as a result will limit the increase in the Earth’s average temperature. We need to put a stop to greenwashing and “business as usual”, which simply gives the green stamp to businesses for purposes that are ecologically and socially unsustainable.

If we do not give this Green New Deal a strong beginning, we run the risk of entering into a downward spiral that could even compromise our future presence on this planet.

References: websites, documents and studies

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* Protocollo di Kyoto: http://unfccc.int/kyoto_protocol/items/2830.php
* Durban Climate Change Conference http://unfccc.int/meetings/durban_nov_2011/meeting/6245.php
* Glossary of climate change acronyms http://unfccc.int/essential_background/glossary/items/3666.php
The Centre for Studies on Federalism (CSF) was established in November 2000 under the auspices of the Compagnia di San Paolo and the Universities of Turin, Pavia and Milan. The activities of the Centre are focused on interdisciplinary research, documentation and information on internal and supranational federalism, the developments of regional and continental integration (notably, of the European Union), the issues related to the world order and the democratization process of the international system. The CSF cooperates with the university of Turin, Pavia and Milan, Italian and international universities and research centres, and public and private organizations.

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