

FIELD Workshop - Media Report

April 2010

Background:

There are currently more than five hundred multilateral environmental agreements in place to deal with problems requiring specialist knowledge and international cooperation. They range from the Law of the Sea to the Cartagena Protocol on Biosafety, from issues as disparate as shrimp farming and intellectual property rights to biodiversity, deep oceans and tropical forests.

Since the confusion of the 2009 climate talks in Copenhagen – and even before that – there has been talk of whether creating a *World Environment Organisation* could help rationalise the system.

Last month FIELD – the Foundation for International Environmental Law and Development¹ invited government negotiators, research institutes, NGOs and lawyers to London to examine the status of the UN negotiating process, particularly with regard to the UN climate change treaty, to ask how international negotiations can be made to work better, and what might be put in place of current approaches.

Although conducted under the Chatham House Rule² and focusing on the preparations for the next Conference of the Parties (COP 16) approaches to other UN treaties were considered, as well as a brief look at how the Nuclear Proliferation Treaty has dealt with some of the same problems.

It was felt that the outcome of the two day workshop might prove a useful background document for media specialists who follow the UNFCCC climate change process as well as other international treaties.

The document below summarises the key conclusions from the meeting with a brief extrapolation as to how these were reached.

Key conclusions:

Breakdown of Trust: Probably the overarching problem emerging from the Copenhagen meeting, together with the Bangkok and Barcelona meetings before it, is one of lack of trust between developing countries (particularly the least developed countries and small island states), towards the developed countries. The gap has widened considerably since Copenhagen and centres on the issues of the ‘twin tracks’ approach to the Kyoto Protocol, lack of funding and feelings that there has been a lack of consultation or sharing of draft texts.

Political Groupings There are problems in that although some of these grouping are numerically strong, they are based primarily on geography and have different political dimensions. In some cases the knowledge base is lacking. Sometimes it is seen as enough to attend the negotiations but not engage with them. The emissions of a hundred or so of these countries are less than 5 per cent of the whole and there is a feeling that they are suffering the impacts of dangerous climate change caused by the rich countries.

High Expectations The presence of Heads of States and political leaders considerably alter the dynamics of the negotiations: expectations become higher. This is contributed to a by a major press presence. Any failures appear to be

catastrophic. By having national leaders present there is no room for fall back. And the media can overtake the process.

The UNFCCC Process A major question is whether it is the UN process that fails or is it a 'systems' failure? Could the process be managed better? Has there been a failure to abide by the (rules of) the process? By its very size and complexity, the UNFCCC is the worst of all UN processes whereas the Cartagena Protocol on Biosafety (part of the Convention of Biodiversity) was felt to work adequately. There is an overload of issues that have mushroomed around climate change, such as land tenure and human rights issues. This proliferation has diffused the treaty. Could some of these be reduced – or even eliminated? Or directed to other fora?

Would it be more efficient – and effective – to have more informal consultations ahead of the process rather than negotiations?

Many countries – the Africa Group for example, have put a lot of faith and trust within the UN system. This where they can feel they can speak freely – so if you were to remove multilateral agreements from the UN process where would you put them and which bodies would engender the same trust?

Consensus Politics The issue of consensus is always a problem. Even the best process cannot overcome differences in political positions. Difficult issues include MRV (*'Measurable, Reportable and Verifiable'*) and mitigation commitments for the second commitment period.

Voluntary pledges without MRV make it difficult to build an emissions market and calls for more frequent reporting by developing countries should perhaps be matched by strengthened financial support by donor countries and monitoring of financial contributions.

The Role of the EU There is perhaps greater potential for the EU to be a leader in the process, particularly assisting some of the regional blocs. The EU has always used its relationship with the US as a basis for its role within the climate change negotiating process but perhaps it is time to move away from that and use its diplomatic capabilities and experience to become a 'bridge builder' among other groupings – with China for example. This has been the experience within the Non-Proliferation Treaty where the large number of parties created a logistical strain. Bigger did not always prove better and 'bridge building' countries, that have the trust of other groups of countries, can pull others along with them. This has proved viable in NPT negotiations in the past.

It is now a different political landscape from the original UNFCCC Framework Treaty and Kyoto Protocol, when the EU was able to take a leadership role. But in it resides experience and knowledge and a proven model for diplomacy and negotiating.

Science or Business as Driver? Perhaps science will no longer drive the process or persuade governments to take difficult decisions. Now is the time to stress prosperity, security and equity. Look at the role of business perhaps. Business abhors uncertainty – and positive intervention and pressure could enhance the viability for more ambitious targets particularly when the technology advances.

Questions still unanswered:

The legal status of the Copenhagen Accord – which parts of it will get support for implementation?

Are the policies ahead of the technology? There are many technical issues within the climate change process that are being grouped within political decisions.

The roles of America and China: Is there a 'myth of the monolith'? The US approach has always been a problem, yet realistically the US will not join the Kyoto Protocol. It will create domestic actions in parallel that obviate the need for ratification. And there is a long history of the US remaining outside treaties.

Should you set a target for a treaty if you cannot achieve it? Without the US on board, what are the chances of avoiding dangerous climate change? The US Administration, although more benign than the previous one, is still in roughly the same negotiating position that it was under President Bush.

Yet there are other treaties – Human Rights and Nuclear Proliferation for example, that make the world a better place, even when countries do not abide fully by them.

There are too the issues of Chinese sovereignty and the changing dynamics of a different political landscape since negotiations first began, the roles of India, China, Brazil, Mexico for example.

Who is going to persuade individual countries to give up their bargaining chips?

The climate change negotiators are facing a difficult year, particularly with the departure of Executive Secretary, Yvo de Boer, and much hangs on his successor, together with the role of the Secretariat. But without greater political will and more funding from the richer countries nothing will change and to initiate major institutional change could simply become a costly and time consuming diversion.

NOTES:

1 FIELD, the Foundation for International Environmental Law and Development is a group of public international lawyers committed to helping vulnerable countries, communities and campaigners negotiate for fairer international environmental laws.

2: The Chatham House Rule originated at the Royal Institute of International Affairs. Participants are free to use the information but neither the identity nor the affiliations of the speakers may be revealed. It is often used in international meetings

Contact:

Joy Hyvarinen
Director
FIELD
3 Endsleigh Street
London WC1H 0DD
T: +44 (0)20 7872 7313 (Direct)
T: +44 (0)20 7872 7200 (Switchboard)
F: +44 (0)20 7388 2826
E: joy.hyvarinen@field.org.uk
Web: www.field.org.uk

Registered Charity No 802934. Company Limited by Guarantee and Incorporated in England and Wales Reg. No 2463462.