

From Kyoto to Paris: Which stop mattered?

Stephen Howes

Development Policy Centre

The geography of international climate change negotiations: a moving feast



Robert Stavins says Durban was the stop that mattered *en route* to Paris

- “In the climate arena, the big break came in Durban, South Africa, in 2011, when countries agreed to achieve an outcome that was applicable to all parties.”
 - Robert Stavins <http://www.robertstavinsblog.org/>, January 31 2016, also December 12, 2015 and November 17, 2015

But Dan Bodansky says it was Copenhagen

- “...[I]n many ways, Paris merely formalizes and extends the bottom-up paradigm to which the 2009 Copenhagen Conference gave birth. Indeed, most of the key elements of the Paris Agreement can be found in the Copenhagen Accord:...
- In essence, what the Paris Agreement does is tie a treaty ribbon around these key elements of the Copenhagen Accord.”
- “Copenparis”
 - Daniel Bodansky, <http://opiniojuris.org/2015/12/15/reflections-on-the-paris-conference/>

So who's right?

- Bodanksy is right that “most of the key elements of the Paris Agreement can be found in the Copenhagen Accord”:
 - “The goal of holding global warming below 2° C.
 - The system of national pledges to reduce emissions (referred to in the Paris Agreement as “nationally determined contributions”).
 - The non-binding character of these contributions, and the reliance on transparency rather than legal enforcement to promote accountability and effectiveness.
 - **The shift away from the binary approach to differentiation that was at the heart of the Kyoto Protocol, towards a more flexible approach that encompasses all countries.**
 - The pledge to mobilize climate finance from public and private sources (with a target figure of \$100 billion specified in the Paris decision text but not the agreement itself).
 - And, perhaps most importantly, the extension of the regime to address the vast majority of global emissions, rather than focusing only on the emissions of “developed” countries.”

Copenhagen/Bodansky

- Indeed, the idea to shift to something “applicable to all parties” goes back even beyond Copenhagen to Bali (2007) and even earlier.
- That applicable-to-all *thing* was that all parties should make a commitment *of some kind*.
- Copenhagen deserves the breakthrough moniker because national pledges in the run up and at Copenhagen covered 80% of global emissions, up from Kyoto (never more than 50% and had fallen to less than 20%), and not far below Paris (96%.)

The question then becomes: How much did Paris differ from (advance upon) Copenhagen?

- Bodansky gives three substantive advances:
 - **Less differentiation**
 - **More durability**
 - **More rules**
- One might add a fourth, **more aspiration**
- The end of differentiation is also Stavins' point
 - “throughout the [Paris] Agreement, it is abundantly clear that the firewall ... has finally been breached.”
- So, even if Stavins is wrong to ignore Copenhagen, were Durban and Copenhagen both important in shaping in Paris?
- More specifically: How different are Paris and Copenhagen with respect to differentiation?

What are the arguments that Paris ditches differentiation?

Bodansky puts forward two:

- *Universality Argument.* Most of the commitments in the Paris Agreement apply to all parties, including
 - Submitting and accounting against pledges
 - A common system of reporting and review
- *Annex I Abandonment Argument.* Paris unlike Copenhagen “completely abandons the Annex I/non-Annex I bifurcation.”
 - In UNFCCC, you are in Annex I if you were an OECD member in 1992 (or a member of the FSU).
 - Only Annex I countries had commitments under Kyoto.

Note the difference between these two arguments. The first is that the Paris Agreement is universal rather than differentiated. The second is that it is not differentiated in a fixed-in-time/out-of-date way.

In fact, there is plenty of non-universality in Paris

- Paris makes ZERO references to Annex I/non-Annex I, but does make 15 references to developed country/countries, and 56 to developing country/countries (up from 39 developing country(ies)/non-Annex I in Copenhagen)

The example of reporting and verification

- Article 4 on submitting and reporting against pledges seems to allow no differentiation.
 - Article 4.13: “Parties shall account for their nationally determined contributions.”
 - But the reporting system not to be compulsory to 2025 or 2030 (Paris Decision Article 32)
- But Article 13 on verification/transparency does:
 - It provides “flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities.” (13.1)
 - And it gives “flexibility” to “Developing countries ...in the scope, frequency and level of detail of reporting, and in the scope of review, and that the scope of review could provide for in-country reviews to be optional.” (Paris Decision Article. 90).
- Is this different from Copenhagen, which applied one set of reporting/verification rules to developed countries, and another to developing countries?
- In fact, “modalities, procedures, and guidelines” for reporting/verification are still to be negotiated, “building on experience” (13.13)

What about the Annex I Abandonment Argument?

- Might argue that universality not important or indeed desirable. Of course, rich countries should do more to reduce emissions and of course provide finance.
- Might argue not against categories per se, but against out-of-date categories, like Annex I and non-Annex-I.
- So who are the developed and developing countries of the Paris Agreement?
- There is no definition or list, but we can apply a test.

The Article 4.4 test

- Article 4.4: “Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.”
- Therefore, if you didn’t put forward an “economy-wide absolute emission reduction target” you are not a developed country party.
- We are interested in countries that are developed (OECD members) today but not in 1992.
- No non-Annex I post-1992 OECD joiners (Korea, Mexico, Chile) put forward such a target.
- Under the Article 4.4 test, outside of Europe, developed and Annex I countries are the same.

Conclusion on differentiation.

- Paris is a little more universal than Copenhagen, but it still matters a lot whether you are a developed or developing country, including in ways that shouldn't matter.
 - National capacity is relevant for self-reporting but not for international scrutiny.
- Paris continues to rely on outdated definitions. It allows countries that are now clearly developed to go on defining themselves as developing.
- Copenhagen blasted away much but not all of the firewall. Paris tries to chip at what remains.

What about the politics?

- If Paris is so similar to Copenhagen, why is it so popular (landmark, turning point, flame of hope, game changer, triumph) when Copenhagen was reviled (fiasco, failure, disaster)?
 - ([K. Rudd](#): “We all failed at Copenhagen”)
- Paris and Copenhagen are similar in substance, but different in form.
- At Copenhagen, countries couldn’t agree how to agree. In Paris, they finally agreed to express the agreement as a treaty.
 - Improvements in substance relative to Copenhagen helped.
 - So did the passage of time.
- Paris is Copenhagen legitimized.
- This is the contribution of Durban.
- Whereas Copenhagen delivered “negative reverberation” Paris delivers “positive reverberation” (Putnam)

Will the good times last?

- There is plenty for the parties to dispute in the next few annual conferences.
 - See: reporting and transparency
- Countries may hold off ratification until the rules are in place, to retain their bargaining power.
- Even if ratification comes sooner (the Obama effect), we could be in for years of disagreements and negative reporting from the next few COPs.

Conclusion

Not a full assessment of the Paris Accord, but three concluding thoughts.

1. When it comes to the issue of differentiation, Paris and Copenhagen are pretty similar.
2. The “treaty ribbon” that Paris ties around Copenhagen is worth a lot, and this is a real contribution that can be traced to Durban.
3. There is a risk that the rules of the game will remain the central focus for the next few years. Sooner rather than later, the focus should shift to what countries are actually doing.
 - Pledge and review relies on peer group pressure. Cf. this frank [admission](#) from the Singapore Ambassador on Climate Change: “Parties have largely refrained from passing judgment on each other’s pledges.”

Thank you