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Bringing Diplomacy to a Boil: Options for Agreements in Copenhagen

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*Double, double toil and trouble; Fire burn, and caldron bubble.*
–William Shakespeare, ‘Macbeth,’ Act I, scene 1

The heat is on in Copenhagen as time runs out for dealmakers. World leaders are arriving and no delegates want their leaders’ time to be wasted. Another outline for an agreement was released Tuesday, Dec. 15, outlining three options for long-term climate aid from developed to developing countries. However, none of the options included any financial commitments, Bloomberg reported.

“This is eyewash — it’s a paper tiger,” Quamrul Chowdhury, a Bangladeshi envoy who coordinates the group of least developed countries on finance issues, told the news service. “There is nothing in terms of long-term finance.”

As of Tuesday night, United Nations negotiators still disagreed on the financial aid that the U.S., Japan and other developed nations will give to the developing world to cope with climate change, Bloomberg reported, referring to a draft document. Many believe that the conference is seriously deadlocked. Well, maybe so, but alternatives still exist, and they have not, at least according to all reports, been fully considered.

Beyond what I’ve discussed in earlier columns, one of the most significant disputes concerns the format for the treaty upon which the new agreement will be based. Two options are on the table. The first proposal is to extend the Kyoto Protocol, and the second is to create an entirely new agreement based upon an earlier treaty, the U.N. Framework Convention on Climate Change. The rationale underlying the second option is pragmatic; since the United States failed to ratify Kyoto, it’s important that any new deal not be based upon it or include its terms. Most of the original signers of the Kyoto Protocol probably oppose creating an entirely new treaty just to satisfy the United States. As a result, it may even be necessary to create two agreements: one for the U.S. and one for everyone else under Kyoto. Apparently, this fundamental issue is still in play at this late hour.
Many Americans will probably be surprised to learn that, at the time the Senate failed to ratify the Kyoto Protocol, the United States was already a signatory of a major U.N. climate change treaty. The Framework Convention on Climate Change treaty was submitted by President George H.W. Bush and ratified by a two-thirds majority vote of the Senate Oct. 7, 1992. This “framework” forms the basis of the United Nations’ efforts to deal with climate change. The treaty was aimed at reducing emissions of greenhouse gases in order to combat global warming, but it set no mandatory limits on emissions for individual nations and contained no enforcement provisions. As a result, the United States considers the treaty legally non-binding.

Much of the polarization that plagues the current negotiations arises from the Framework Convention. Significantly, the parties to the treaty generally observed “common but differentiated responsibilities” for developing nations and wealthier, industrialized countries. The treaty discusses providing financial and technological support to developing countries and cooperating to assist them in adapting to adverse effects of climate change. As a result, the balkanized categories of “developed” and “developing” nations that are negotiating in Copenhagen can be directly traced to the Framework Convention.

The Framework’s provisions contemplate a number of activities. Within its structure, for example, nations collect and share emissions information and compare their progress in addressing climate change. They also work cooperatively to deal with the special issues affecting developing states, and they meet regularly to update developments and work toward further progress. Generally, the treaty provided for future “protocols” that would set mandatory emission limits. The Kyoto Protocol grew out of the annual conferences held under the Framework Convention.

Although the U.S. did not ratify Kyoto, its ties to the Framework Convention make a new and separate agreement a legitimate option in Copenhagen. Under such an agreement, the U.S. can agree to a “legally binding” set of international obligations without accepting the limits and obligations of Kyoto.

The uproar against creating a new agreement is largely traced to the developing nations, which realized substantial benefits from the Kyoto Protocol, including “legally binding” commitments on a number of issues, such as massive but as yet unspecified amounts of financial and technical assistance. As a result of these concerns, the conference deadlock persisted through the end of the day Dec. 16. Apparently, only significant concessions on substance, rather than structural ties to Kyoto, can infuse the negotiations with new hope.

The next day, however, the United States decided to turn up the heat. In a speech at the conference Secretary of State Hillary Clinton advocated the creation of a major climate change relief fund, totaling $100 billion annually, for developing nations. She pledged that the U.S. would participate in the fund, although she did not specify how much of the money would come from our coffers. Moreover, she suggested that a significant portion of the money would come from private investment as opposed to public contributions.

Not surprisingly, Clinton also conditioned the proposal on plenary agreement of all nations to a “strong accord” by the end of the conference. She also conditioned the proposal on several other contingencies, generally insisting that all major economies concur on “verifiable and transparent” emission reductions: “If there isn’t a commitment for transparency of some sort, that would be a deal breaker.”

With minimal subtlety, Clinton laid the issue right on China’s doorstep.

“It would be hard to imagine, speaking for the United States, that there could be the legal or financial commitment that I’ve just announced in the absence of transparency from the second biggest emitter, and now I guess the first biggest,” she said.

The U.S. proposal seems intended to strengthen the nation’s credibility as a sincere and determined player in the negotiations. Clinton stressed that “there should be no doubt about the commitment of the United States to reaching a successful agreement in Copenhagen.” By being the first nation to place a firm number on the cumulative relief funds, the U.S. set a goal by which the ultimate contribution could be measured. The proposal gave developing nations an enticing preview of what was possible, and it reportedly encouraged some African nations that might qualify to receive assistance. The “enticement,” however substantial, may not be viewed as sufficient. Many believe that it is nowhere close to sufficient and that many multiples of that figure will be required to assist developing nations.
The Chinese reaction was ambiguous. Earlier on Dec. 17, Reuters quoted an unnamed Chinese official as saying the country no longer saw any chance for an agreement at the conference. Instead, the official expected nothing more than a “short political declaration of some sort.”

Later in the day, however, China’s climate change ambassador, Yu Qingtai, dismissed the earlier statement as a “malicious rumor.”

“I do not know where this rumor came from but I can assure you that the Chinese delegation came to Copenhagen with hope and have not given it up,” he told Reuters. “Copenhagen is too important to fail.”

Yu also emphasized that China wanted a broad agreement that incorporated all the progress made during the last two years of U.N. negotiations so that “swift progress” can be made on remaining problems in 2010.

Although these developments were somewhat encouraging, the obstacle of international verification and accountability remains obstructive. Later Dec. 17, however, the Chinese threw a surprising enticement of their own into the brew. In a break from prior intransigence, Vice Foreign Minister He Yafei told the Associated Press that China was ready for “dialogue and cooperation that is not intrusive [and] that does not infringe on China’s sovereignty.” China is, he said, willing to provide details about its efforts to control emissions — a clear concession to the United States’ demand for transparency and verification. This is the second major concession that China has offered at the conference, the first being its willingness to consider forgoing receipt of funds as a “developing nation.”

With these developments, the mood of anticipation in the conference intensified. But as the cauldron of diplomacy continued to boil, the struggle over the controlling text became more divisive and difficult. It was reported that the Danish president tried all afternoon and evening Dec. 16 to reach consensus on a new draft agreement. The president hoped that the new text would assist the many heads of state when they commenced discussions on their arrival in Copenhagen. The effort was abandoned, however, and the parties elected to continue negotiations outside its framework. The decision to do so suggests that the fundamental form and derivation of the proposed agreement remain unresolved, notwithstanding apparent progress on certain issues.

As a result of these developments, some genuine progress has occurred and some constituent agreements appear tantalizingly close, but many other details, as well as the overriding concern regarding the structural framework, remain unresolved. Nevertheless, as the various possibilities are stirred into the bubbling brew, who knows what medicinal potions may emerge? Perhaps we may yet see adversaries dancing around the cauldron, celebrating a palliative remedy. As yet, none can tell, but the witching hour approaches.

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