

To: Peter Wittoeck, Head of Belgian delegation to UNFCCC
Anna Lindstedt, Swedish Ambassador for Climate Change

From: Michael Zammit Cutajar 15 November 2012

Subject: **Brussels Equity Workshop, 6-7 November 2012**
Personal reflections

Dear Anna, Dear Peter,

Thank you again for the opportunity to make a brief excursion from “planet retirement” to the political debate on climate change. The participation and the content of the workshop that you convened offered me a good mix of the familiar and the unfamiliar, a sense of how the debate has been evolving and what new notes are resonating.

I brought into the workshop a very simple understanding of equity as “fairness”. We all learn what is fair and not fair at a very young age: at home, in the classroom and above all in the playground. If the game is not fair – if the rules are not respected, if there is cheating or bullying – we do not accept the result. At a more sophisticated level, this concept of fairness applies to intergovernmental negotiations.

In this perspective, I write today to share some reflections on points that I took away from the workshop that could contribute to further consideration of equity in the UNFCCC.

This is not an attempt at a comprehensive summary of the workshop. It is a somewhat arbitrary distillation of ideas that caught my attention or stirred my imagination and are still bobbing around a week later. And it respects “Chatham House Rules”.

You organized the workshop in two parts: Day 1 to receive and discuss expert inputs and Day 2 to encourage interactions among negotiators, with a view to building political understanding. Although my assignment was to moderate Day 2, I observed that much of the political discussion started to emerge during Day 1 - a day that was finely orchestrated by Jean-Pascal van Ypersele and Johan Kuylenstierna. Consequently, with apologies to them, I have covered both parts of the workshop in my reflections, that should be read as a package.

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The offerings from experts were rich in philosophical reflection, economic analysis and political advocacy. From what I was able to grasp, I feel that the following points deserve further substantive exploration in pursuit of fair outcomes of the intergovernmental negotiations under the UNFCCC.

Philosophy: the appeal of distributive justice?

The assertion by one expert that *distributive* justice is likely to attract stronger political support than *corrective* justice struck me as being counter-intuitive. We are all taught – and often learn – to clean up the mess we make and to fix or pay for what we have broken. So to be told that people resist taking responsibility for damage caused by their forebears made me stop and think.

This is not an absolutely convincing argument at first sight: the same people may not resist inheriting desirable assets. But it is worth examining further if it suggests that the allocation of historical responsibility – which, at worst, can lead to a “blame game” - is a less effective driver of political action than the recognition and pursuit by the strong and the rich of present distributive justice – however optimistic the hypothesis of such solidarity may appear.

There must be ample evidence from domains other than climate change to inform that examination and guide it to a policy-oriented conclusion.

NB. Responsibility v capability: equivalent results?

This general philosophical question may be considered in conjunction with the suggestion by another expert that assigning mitigation ambition on the basis of *capability* would lead to results similar to those that would ensue if it were assigned on the basis of *responsibility*. This suggestion merits substantiation since, if proven, it would offer fertile ground for seeds of political convergence on what is a fair approach to sharing the challenges and opportunities of mitigation.

Politics: Ladders to mitigation ambition

The political advocacy conveyed in some expert inputs converged on a vision of the structure of mitigation commitments that looks beyond the present binary differentiation under the UNFCCC – Annex I / non-Annex I – to a concept of different action tracks in which the Parties to the UNFCCC would take their places.

“Corridors” and “tunnels” were labels attached to this concept; I was most attracted to “ladders”, which suggests movement upwards towards increased ambition.

Such an approach would allow individual Parties to judge the fairness of their level of commitment, as they were able to do in respect of the Convention’s annexes and Annex B to the Kyoto Protocol. But it would also offer an opportunity for reciprocal negotiations in which Parties would encourage each other to be more ambitious, as happened when the Annex B targets were finalized in Kyoto. The approach could thus marry equity and ambition.

Economics: how much has economic weight shifted since 1992?

Data presented showed the impressive increase in the economic presence of large “emerging economies”. Yet these remain in the middle-income bracket at best – and even then contain substantial numbers of poor and marginalized people, in addition to visible strata of wealth.

The same data indicated that if the GHG emissions of “emerging economies” peaked in the period 2015-2025, this would happen at substantially lower levels of income per head than those enjoyed by developed OECD countries peaking at 2010 levels.

So our world is indeed changing, but perhaps not as much or as fast as some of us think. The driving question on equity at present is: Has the distribution of global economic power been so fundamentally transformed since 1992 as to invalidate the developed/developing distinction enshrined in the UNFCCC and justify a *continuum* of differentiation across all Parties? Or is the immediate issue one of further differentiation *within* the developed/developing categories?

NB. Irritating anomalies

Discussion of shifting economic weight inevitably brings up the difficulty of justifying the present binary differentiation on grounds of fairness when Parties that are not in Annex I include some rich small States, mostly exporters of oil or gas.

These anomalies are evidently irritating and risk clouding the political discussion on differentiation. But they are not the fundamental issue. If the rich small States accede to Annex II or take on comparable new financial commitments, that source of irritation will be removed. Attention could then focus on the real fundamentals of “emergence” in the global economy and the unfolding geo-political setting in which this is taking place.

Political Economics: Country indicators

While there seemed to be general agreement that equity in the implementation of the UNFCCC cannot be resolved by a formula, the discussion in the workshop often turned to the need for quantifiable indicators beyond those already available for population, income and GHG emissions: indicators of responsibility and of capability, indicators of poverty and vulnerability, and so on. Arguments for or against a new architecture of differentiation need to be based on verifiable data, as would the accommodation of Parties in different action tracks.

There appears to be wide interest in developing such indicators to inform the application of the equity principle to action under the Convention. Some presenters gave examples of work under way.

The political question arising is whether useful indicators can and should be developed and applied through negotiation within the UNFCCC process. Or should they be developed externally by specialized institutions and made available as inputs to political judgment by Parties? This question elicited opposing responses.

NB. Comparisons across countries

Issues of equity and distributive justice within countries are not normally on the agenda of intergovernmental negotiation. Thus, one presenter of a theory of equity in the collective response to climate change made it clear that, while his theory was founded on relations among individuals, its intended application was to relations among sovereign States.

Yet, in the debate about equity, questions do arise that compare the situation of social groups within different countries. Typical examples:

- Why should a poor or unemployed person in developed country A bear a charge that is not borne by a rich person in developing country B?
- Why should energy access for poor villagers in developing country B be constrained by wasteful energy consumption in developed country A?

These are politically valid questions. They express widespread political “gut feelings” that need to be addressed openly and rationally. While this should not open the door to a discussion in UNFCCC of national policies to address inequality, it does imply some qualification of the use of national averages as economic indicators.

In this regard, some ideas were provided by experts about integrating poverty intensity, development thresholds or factors for basic energy needs within national indicators.

NB. A proposal to raise funds for adaptation from a levy on air travel – low on economy class, high on business and first classes – provided an example of how a climate charge could be applied to people of comparable economic circumstances in both developed and developing countries.

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The interaction among negotiators kicked off with an exercise in demonstrating understanding of the other’s point of view – something that does not always come to the surface in the formal negotiations. A participant from a developing country was asked to present the typical position of developed countries and a participant from a developed country to do the reverse.

They performed convincingly. The first stressed the need for all to contribute to the fight against climate change and advanced concerns about competitiveness, job loss to carbon leakage and the need for a level playing field. The second emphasized the priority of development and poverty reduction, the incremental cost of access to low-carbon technologies and the need for support for the adaptation of vulnerable countries and people. This evidence of the capacity to listen and understand was reassuring. Chatham House Rules prevent me from thanking the two protagonists by name.

The differentiation debate - continued

Not surprisingly, the discussion that followed continued to focus on mitigation and the issue of differentiation of responsibility and capability, which had already come to the fore on the first day. Much of the discussion conveyed well-established negotiating positions. Nevertheless, to an ear that has not been directly exposed to this debate for some time, it sounds as if there is now a wider readiness by negotiators from developing countries to consider new approaches to the architecture of mitigation commitments, informed by objective indicators of responsibility or capability or both.

At the same time, the reassurance provided by the binary architecture of the Convention remains important to some of these, despite the diminishing impact of the mitigation commitments assigned to developed country Parties by Article 4.2. Experiences from some non-Annex I countries in the upper middle-income bracket testify to the resistance of national economic interests to the prospect of graduation to Annex I.

Among the straws in the wind of this exchange, there was a discernible lack of appetite to address the issue of competitiveness (carbon leakage, level playing field) through sectoral accords. On the other hand, the possibility of modelling and evaluating different options of engagement in mitigation seems to be open for discussion. The importance of transparency in any process to rewrite the rules of differentiation was also asserted.

In an attempt to wrap up this discussion - having in mind Aristotle's injunction to "treat like cases as like" - I offered the following sketch of what could be "like" and "unlike" - that is, common and differentiated - in an approach to the mitigation commitments that will be negotiated in the process based on the Durban Platform:

Like (Common)

Commitment to low-carbon development

Legal obligations and consequences

Accounting rules

Unlike (Differentiated on basis of indicators)

Content and pathways of mitigation effort

Scope and review of information

There was little time to discuss this sketch, which lacks the dimension of financial and technological support for means of implementation. One reaction to it took exception to the idea of common legal obligations.

Reverting to specific questions arising from consideration of the first day's inputs - addressed in the notes above - I wonder:

- Could a new architecture of mitigation commitments be built in stages, with the first stage - negotiated by 2015 and effective from 2020 - consisting of further differentiation within the existing structure of the Convention?
- With a view to setting the new architecture on sound foundations, could Parties first agree - through a technical discussion - what type of indicators would be useful to inform their consideration of differentiation and only thereafter consider how these indicators might best be developed - through negotiation or externally - and applied - as norms or as inputs to political judgement?

Adaptation and ambition

The discussion of equity in adaptation covered familiar ground, notably confirming that adaptation is an issue for all countries and particularly for their poor inhabitants.

One idea that emerged was that the investment of countries in their own adaptation should be counted as part of their contribution to the global effort to combat climate change. The accounting method to give effect to this would have to be worked out.

The bottom line, though, remains that the most inequitable aspect of adaptation is the inadequacy of ambition to mitigate. This is another manifestation of the dictum that environmental problems can usually be traced to the rich dumping on the poor and the present generation dumping on the future.

Equity in adaptation demands effectiveness in mitigation - now.

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I hope that these rambling reflections generated by the workshop may help carry forward your work on equity issues. I leave you with some closing personal thoughts.

- The discussion of fairness in mitigation needs to integrate the collateral benefits of a low-carbon economy, notably for public health.
- Trust is the other side of the coin of fairness. Trust can be built on sound accountability.
- While the strategy to combat climate change must contribute to global sustainable development and poverty reduction, it cannot resolve all the social and political issues on the development agenda.
- An ambitious cooperative approach to the common goal of averting climatic danger depends on positive movement in the geo-political relations that are shaping the 21st century. While the climate change negotiations can contribute to this movement, it is essentially beyond their scope.

I wish you well.

Michael