

# Copenhagen needs a strong lead negotiator

Reaching an international climate agreement requires someone with exceptional skill, knowledge and diplomacy, says Kyoto chair **Raúl Estrada-Oyuela**.

**A**s the professional diplomat who presided over the Kyoto Protocol negotiations, it is clear to me how vital it is to have a good leader to steer negotiations at the Copenhagen conference on climate this December. Time is short, and matters are very complex. Although it may prove impossible to agree on quantified commitments at the meeting itself, a strong effort should be made for a deal that at least settles the main political objectives, with the aim of finalizing the agreements at subsidiary meetings in June 2010.

The United Nations Framework Convention on Climate Change (UNFCCC) currently involves 192 governments, making negotiation a major exercise in diplomacy. To come to an agreement, the process needs a well established leader who is fair, forceful, committed and well informed on the subject under debate and on the aspirations and bottom lines of all parties.

Often, the host country can take on this role. But Denmark, the host of December's 15th Conference of the Parties to the UNFCCC, has pushed the objectives of the European Union so aggressively that a leadership role from that country is likely to generate a negative reaction from some parties, such as India. The difficulty of Denmark's position in leading the talks was emphasized on 12 October when the country's chief climate negotiator Thomas Becker left his post in the wake of an expenses scandal. Plus, the nation's intended leader of the conference — Anders Fogh Rasmussen — resigned as prime minister earlier this year to become NATO's secretary-general. The current Danish minister of energy and climate — Connie Hedegaard — will therefore officially preside over the talks, but it is not clear to me that she has the necessary experience to truly lead the negotiations.

## A whole solution

The best option, I think, would be to create a Committee of the Whole that would combine negotiations from the UNFCCC and the Kyoto Protocol, which are currently run by separate committees with separate chairs. It is still possible to do this, and it will remain possible until the conference starts. The last preparatory meeting, in Barcelona on 2–6 November, will be an opportunity to consider this point. If such a committee is formed, its elected chair would naturally lead the negotiations at the Copenhagen summit. If this doesn't happen,



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Diplomats must wrangle negotiations deep into the night, as Raúl Estrada-Oyuela (right) does here during the Kyoto Protocol discussions in 1997, with Michael Zammit Cutajar (middle) and Richard Kinley (left).

the chance of making a good deal will be lessened.

My own role in climate negotiations began with the Second World Climate Conference, held in Geneva in 1990, where I was Argentina's representative and the de facto speaker for the Group of Latin America and Caribbean countries. A graduate in law, I had joined the foreign service in 1966 and participated in a number of multilateral negotiations, including on environmental issues. Diplomats at the 1990 conference were, surprisingly, not allowed to attend the science segment devoted to the first assessment report of the Intergovernmental Panel on Climate Change (IPCC). Before the conference, from my desk in Buenos Aires I had to send junior colleagues to attend meetings they barely understood in Geneva to get a handle on the IPCC's activities. Eventually I was lucky enough to recruit a good scientific team, led by Osvaldo Canziani, to educate myself and my colleagues.

I learnt many good lessons from other diplomats about the skills required to negotiate a good agreement. Jean-Maurice Ripert, for example, was a distinguished French economist

who was ambassador to the UN and chaired the Intergovernmental Negotiating Committee in 1991. This was the body tasked with creating a legal multilateral instrument on climate change (what came to be called the UNFCCC). I was vice-chairman of that committee at the time, and witnessed Ripert's skill first-hand. He was an optimist in the most adverse of circumstances. He was well aware of the need to have the United States and Japan on board, yet also had authority among developing countries, because he was in charge of promoting their participation on the IPCC. He consulted privately with most delegations on every issue to understand their thinking.

Also a master of this trade is ambassador Tommy Koh — former dean of the Faculty of Law at the National University of Singapore, a UN representative and eventual chair of the preparatory committee for the Earth Summit in Rio de Janeiro in 1992 (and chair of the Committee of the Whole in that conference). During the Earth Summit negotiations, he commanded daily results from the leaders of sub-groups he had created. When he felt that

an area was failing to progress, he took the matter on himself, making emotional appeals in the plenary if necessary and even jokingly comparing his appearance to Mickey Mouse to soften the debate. The Rio Declaration on Environment and Development is, in large part, a product of his personal drafting.

### Clever tactics

The Intergovernmental Negotiating Committee met for the first time in February 1991 just outside Washington DC. From the start, as today, the United States and India made progress difficult: at one point, the US representative, Bob Reinstein, refused to participate in a crucial meeting. After insisting in many ways without success, I obtained a suite for an impromptu luncheon and invited all the relevant delegates, including Reinstein. Using a trick learned from Koh, Ripert and Merkel, I used diverse instruments to steer the discussions, always consulting with all sectors. At the request of the United States, we slowed the process until President Bill Clinton was re-elected. To placate the constant claims of the OPEC countries, I asked my Iranian friend Mohammad Reza Salamat, now a programme officer in the UN Secretariat, to find a way to placate the oil producers (which he did by drafting two paragraphs of the protocol). The United States favoured a 'cap and trade' approach from the beginning, allowing the market to drive emissions cuts, whereas the European Union was initially more inclined to adopt 'policies and measures', relying on rules and regulations to reduce emissions. We created an elaborate mix, with 'cap and trade' dominating, to satisfy all.

Final success in drafting the UNFCCC was reached only because Ripert worked full time to host a multitude of consultations during and between the official sessions. Once each paragraph of the convention was completed, we still needed to obtain consensus on the package. In delegates' jargon, 'consensus' means that everybody can live with the text even if not fully satisfied by it; it is reached not by a vote, but by the lead negotiator taking the responsibility to declare that a consensus has been reached. OPEC (Organization of the Petroleum Exporting Countries) members vehemently held back their consent, but Ripert managed to moderate their resistance to a point at which he felt justified in declaring a consensus. That took guts.

The UNFCCC then went to the Rio Earth Summit in 1992, where it was signed into being. Further work was needed to create a set of rules by which it would be enacted. This again required a series of meetings by the Intergovernmental Negotiating Committee, for which I was elected chair.

The main product of the first meeting, held in 1995, was the Berlin Mandate, which established the basis for the negotiation of the Kyoto Protocol.

This complicated document was created under the leadership of ambassador Bo Kjellén and Angela Merkel, then Germany's environment minister. Merkel is a superb politician. Having grown up in eastern Germany, she was versed in the uselessness of inflexibility and devoted to constructive compromise. Merkel worked a whole night as president of the conference,

shuttling from one room to another, to work out the final text at around 6 a.m. of the last day. Like Ripert before her, she had obtained a strong enough position to declare the mandate adopted by consensus despite protest from the OPEC members.

We worked on the text for the protocol from August 1995 until December 1997, with the final stage in Kyoto. Although Japan held the presidency for this conference, it was unable to field a player similar to Merkel because of internal squabbles between the ministries of foreign affairs, international trade and industry, and environment (this continues to be the case in Japan). Instead, I took the lead.

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### No regrets

The political decisions made for the Kyoto Protocol had their shortcomings. We opted to put targets on a range of gases, knowing that we had very different degrees of certainty on the estimation of emissions for each of them.

Selecting 1990 as the base year for emissions comparisons was arbitrary, if politically convenient, as was selecting a 100-year horizon. The target of a 5% emissions reduction was too modest, but it was the only one politically possible. Despite this, the Kyoto Protocol has had an undeniably positive impact in international policy: climate change is now at the centre of the international scene, and I have no regrets about the negotiation.

Some have suggested that large deals always result in unsatisfactory compromise, and that smaller agreements are better alternatives. The administration of former US President George W. Bush, for one, prompted meetings among some 15–20 governments to discuss their

own climate initiatives. These talks continue, but with no results. Differences between large world economies remain the same even in small meetings. Plus, only large meetings can properly capture the needs of the developing world.

Who will be Copenhagen's Merkel or Ripert? I hope this will be established before December.

The main task for Copenhagen is shared by two groups. The working group on long-term cooperative action must propose a "comprehensive process to enable the full, effective and sustained implementation of the Convention", with the intention of including commitments from the United States and the 'mega' developing countries — China, India, Brazil, Mexico and North

Korea — that do not have quantified commitments in the Kyoto Protocol. In addition, the working group on further commitments for 'Annex I' countries under the Kyoto Protocol must propose targets for beyond 2012 for developed nations who had caps for their emissions in the 2008–12 commitment period.

This March, ambassador Michael Zammit Cutajar of Malta, former executive-secretary of the UNFCCC, took the chair of the long-term co-operative action group. Cutajar has the necessary capabilities and the knowledge to lead this group. His nation is a member of the European Union but it is in many aspects a developing country, giving him respect from many quarters. In June, he produced an excellent draft negotiating text of fewer than 60 pages based on proposals submitted by various governments. The document has not met with much success, however: government representatives have added paragraphs that push the text up to 200 pages.

At the same time, ambassador John Ashe, of Antigua and Barbuda, took the chair of the further commitments working group. He, too, has produced a draft negotiation document and has considerable experience as a chairman, but he too has been confronted with a lack of cooperation by the parties.

Hedegaard has a difficult task at Copenhagen. It might be advisable not to end the conference in December at all, but rather, as we did with the 6th conference at The Hague, reconvene it six months later. Such a delay is not the best option, but may be the only way to reach a meaningful agreement. ■

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