Pace Environmental Law Review

Volume 27
Issue 2 *Spring 2010*
International Climate Change Mitigation and Adaptation Post-Copenhagen

Article 8

April 2010

Copenhagen (COP-15) Roundtable

Nicholas A. Robinson
Pace University School of Law, nrobinson@law.pace.edu

James M. Van Nostrand
Pace University School of Law, jvannostrand@law.pace.edu

Richard L. Ottinger
Pace University School of Law, rottinger@law.pace.edu

Andrew C. Revkin
Pace University Academy for Applied Environmental Studies

Caleb Christopher
U.N. Mission of the Republic of the Marshall Islands

See next page for additional authors

Follow this and additional works at: http://digitalcommons.pace.edu/pelr

Recommended Citation
Nicholas A. Robinson, James M. Van Nostrand, Richard L. Ottinger, Andrew C. Revkin, Caleb Christopher, Joanne Kalas, Shakeel Kazmi, and Saleem Ali, *Copenhagen (COP-15) Roundtable*, 27 Pace Envtl. L. Rev. 623 (2010)
Available at: http://digitalcommons.pace.edu/pelr/vol27/iss2/8

This Conference Proceeding is brought to you for free and open access by the School of Law at DigitalCommons@Pace. It has been accepted for inclusion in Pace Environmental Law Review by an authorized administrator of DigitalCommons@Pace. For more information, please contact cpittson@law.pace.edu.

Copenhagen (COP-15) Roundtable

Authors
Nicholas A. Robinson, James M. Van Nostrand, Richard L. Ottinger, Andrew C. Revkin, Caleb Christopher, Joanne Kalas, Shakeel Kazmi, and Saleem Ali

This conference proceeding is available in Pace Environmental Law Review: http://digitalcommons.pace.edu/pelr/vol27/iss2/8

PANEL DISCUSSION

Copenhagen (COP-15) Roundtable*

NICHOLAS A. ROBINSON, JAMES VAN NOSTRAND,
RICHARD L. OTTINGER, ANDREW C. REVKIN,
CALEB CHRISTOPHER, JOANNE KALAS, SHAKEEL KAZMI
& SALEEM ALI**

Megan Marshall: Hello everyone. Thank you for coming. My name is Megan Marshall and I am the Colloquium Editor for Pace Environmental Law Review and we are very excited about this event. I would like to introduce Professor Nicholas Robinson who is going to introduce our panel and give some opening remarks about his new climate change book. Thank you, Professor Robinson.

---

* On January 26, 2010, Pace Environmental Law Review, in conjunction with the Pace Academy for Applied Environmental Studies, the Center for Environmental Legal Studies, and the Pace Energy and Climate Center held a roundtable discussion regarding the aftermath of the COP-15 Climate Conference. At this event, Nicholas A. Robinson provided the opening remarks and James Van Nostrand was the roundtable moderator. This transcript has been edited for clarity and grammar.

** Nicholas A. Robinson is the Pace University Professor on the Environment and the Gilbert and Sarah Kerlin Distinguished Professor of Environmental Law. James Van Nostrand is the Executive Director of the Pace Energy and Climate Center and an Adjunct Professor of Law at Pace. Richard L. Ottinger, former U.S. Congressman, is Dean Emeritus of Pace Law School and was a COP15 delegate for the International Union for the Conservation of Nature (IUCN). Andrew C. Revkin, Dot Earth Blogger for the New York Times is also the Senior Fellow for Environmental Understanding at Pace University's Academy for Applied Environmental Studies. Caleb Christopher is the Legal Advisor to the U.N. Mission of the Republic of the Marshall Islands. Joanne Kalas is a Pace Law School 2010 J.D. candidate who was a member of the Marshall Island COP-15 delegation. Shakeel Kazmi, esq., Pace Law School S.J.D. candidate and Adjunct Professor for the Polytechnic Institute of New York University was a delegate to COP15 on behalf of Pakistan. Saleem Ali is an Associate Professor of Environmental Studies at the University of Vermont and attended COP-15 as a delegate for the Party Center for the Study of the Longer Range Future.

Prof. Nicholas Robinson: Thank you very much and welcome to you all. I would like to invite our panel to come up because I am really going to be the hors d'oeuvres before the main course; and being a lawyer as well as an academic, I know that I am not going to have enough time to say anything. So, I have written out some remarks in a short essay and am incorporating them by reference, so you will not have to hear me deliver those remarks. I am pleased to say that the Pace Environmental Law Review is going to publish the proceedings of this event, and you can read the extended version of those remarks in due course. But this round table, which I will ask Jamie Van Nostrand to moderate and introduce, is one of the most important we have had here at the Law School because the stakes for climate change are extraordinary.

A good lawyer knows not to stand between you and the stories that are going to be told of Copenhagen and what happened there. But, I want to give you a little background, a little perspective on this moment, which seems so crucial to us and perhaps disappointing to some, but it is part of a long march, a march that has been going on a long time. Copenhagen was the most contentious and I think the most difficult multilateral environmental negotiation I have ever seen in the forty some-odd years we have been having these negotiations. That, however, does not mean we are in trouble; it means we are going to have to work harder—but we knew we were going to have work harder—and I want to give you some perspective on why this is so.

First, as you will here, there are different perspectives about what happened, and each of you has your own perspective, and each of these perspectives is probably somewhat correct because we do not agree on what to do about climate change, nor do the nations of the world agree on what to do about climate change. In 1992 at the United Nations Conference on the Human Environment, the Earth Summit at Rio, we had a global consensus on what to do about many environmental problems including climate change. That global consensus has eroded with respect to the climate. In 1992 at Rio, we were able to achieve a U.N. Framework Convention on Climate Change through two very vigorous years of tough negotiations. We were also able to agree upon and sign a convention on biological diversity to cope

with the fact that we are in the middle of the great era of human-induced extinction of other species.

We were able to bring about these great events because we had built a foundation with Agenda 21, an 800-page blueprint for how the world should cooperate together to solve environmental problems. It did not take two years alone to negotiate Agenda 21 or the other two treaties. For the four years prior to Rio, there had been a series of international meetings to try and reach a consensus about these steps. Those meetings were based on a three year process which James McNeil, a great Canadian who we honored here a couple of years ago, had put together for Mme. Grohar Brundtlandt, then prime minister of Norway and Chair of the World Commission on Environment and Development. This produced a book in 1987 entitled *Our Common Future*.

Our Common Future is still in print by Oxford University Press and you should buy it if you have the chance. It is the blueprint for all of the multilateral diplomacy that has come since, and it has all of two paragraphs on climate change in which it states, rather starkly, that this is a big problem, and we have to solve it. The rest of the book talks about all of the other problems that are, in many ways just as bad as climate change. What that book did for the foreign ministries of the world was to get them all reading from the same page. They began to work together. The book made the case for why the scientific community had to do a better job marshalling the evidence about climate change as a very complex problem.

We did not have much knowledge about our climate until we had satellites to study the climate; until we had a system of supercomputers that could model different variations as to what was happening to the climate; until our marine scientists could tell us how the climate was really part of the oceans and the oceans part of the climate. In fact, we are all part of the hydrologic cycle if you look at the fact that most of you and me is water. We have a very new understanding about the climate. It was not a historical understanding; we had to build it. So, in 1988, as a result of *Our Common Future*, the U.N. Environment Programme and the World Meteorological Organization created and convened the Intergovernmental Panel on Climate Change (IPPC). One year after *Our Common Future* was published, the

IPCC began its assessment reports. It has done four of them so far and is now into plans for the fifth.

These assessment reports were hugely successful in gathering a consensus for the climate change framework. But they also created the seeds of their own problems by making us afraid and, for the first time, showing the nations of the world a mirror in which they could see their future and the trends that their future portended. It was not a happy picture. Small island states, for whom our law school has been much devoted over the last several years through our Environmental Diplomacy course, face the existential crisis of losing much of their territory, much of their culture, much of their tradition, and much of their people. The deltas of Bangladesh and New Orleans and the other great Mississippi delta communities are threatened by climate change with sea level rise. The glaciers and the ecology of the alpine environment are at risk of changing. All of this has frightened nations but has done one thing more than that: it has caused almost a knee jerk reaction of "I'm alright, we haven't *really* got this problem, so let's think about it a little more before we act."

The developing countries, including China and India, have a huge population growth that wants to live like you and me. They want social economic development and I think the best analogy I can give you is to go back to James Fenimore Cooper. How many of you have read *The Prairie*? You probably had to read it in high school. I recommend you go back and re-read it. James Fenimore Cooper lived right here in Westchester—in Rye, and was one of our great New York authors. In *The Prairie*, his protagonist, Natty Bumppo, laments that all these people, these immigrants are coming from the East coast and moving into the high-grass prairie and, boy, are they mucking it up, ruining the ecology of the prairie. They are destroying the range of the species and portending what we did to the buffalo in exterminating most of them and, of course, the genocide we committed against the indigenous people on this continent as we all moved west from the east. That was manifest destiny, and you can read all about manifest destiny as a political movement in North America. And it is the manifest destiny of India and China and many other parts of the world to be like you and me in the United States of America. And it is not going to stop.

Some time ago, in my preparation of this book, which I am pleased to say the climate change course in this school and others around the United States are now using, I came to the conclusion that we had passed the tipping point on climate change. We are in a new world, friends. It is not the world we all were born into, although it was happening at that time, too. We are over the tipping point. We are in a period in which we must make sense of how to adapt to a climate-changed world in which nothing we grew up with is going to be the same. The sooner we wrap our minds around the changes we must make to cope with this new system, the sooner we will cope with it. And cope with it we can; and cope with it we must.

Climate change does not mean the end of life on earth but the dire prescriptions that some would put forward I think have to be taken soberly. I am most distressed that my great grandchildren, and perhaps my grandchildren, will probably never see the glaciers of Glacier National Park, although I am going to get them there as fast as I can. They are almost gone, and are moving fast. There will be places where we must proactively develop entire new disciplines like coastal morphology to reshape our coastlines, to plan new harbors, to move infrastructure inland, to build new wetlands and mangroves in ways that can sustain our biological systems, and to help rather more static things like coral to continue their evolutionary path.

We, in universities, are going to have to take up the leadership in thinking this all through. There are three phases, if we look at the negotiations, that have to happen in the post-Copenhagen world that I think we have to confront, and I have laid them all out in essay. The first is, in the next three to seven years nothing much is going to happen out of the U.N. Framework on Climate Change. The G-77 would not even let the legal working group meet during a two week period. There is no consensus on how to proceed. So, in the next three to seven years we need to do as much as we can with every decision our society must make to adapt to climate change and to work on the mitigation of greenhouse gas emissions. This is why we developed a Masters of Climate Change Law here at the law school, to tool up to do those things. Ultimately, this will create a track of successful ventures to basically make the new systems we need in order to cope with a new climate affected world.

Taking these steps to adapt to climate change will also allow us to rebuild confidence. You cannot have international negotiations without competence amongst the players. During that time we are going to have to work with the International Renewable Energy Agency to create the first distributed energy systems in the developing world to bring rural electrification to most of Africa and many other parts of the world. If we do that, we will show that we are investing in the lives and careers of millions of people just as a former president of this country, Lyndon Baines Johnson did when he brought rural electrification to Texas and the south and basically created a political movement with consensus that carried him all the way to the White House. We need to work with those who need rural electrification and distributed energy; and not on the basis of a fossil fuel system. That can happen as we move into the second phase.

The second phase is where we will have rebuilt confidence in international cooperation. We have that confidence in the Vienna Convention for the Protection of Stratospheric Ozone and the Montreal Protocol. You will not find the Copenhagen stories you are about to hear told today in the Montreal Protocol system because we cooperated there. In Montreal we did a great job, as we have done more to mitigate greenhouse gas emissions under the Montreal Protocol than under any other measure. It has eliminated chlorofluorocarbons that are 20,000 times, each CFC, more potent as a greenhouse gas than one CO_2 molecule.

So, we can build confidence off of these other systems and finally off of what René Dubos told all of us who went to the Stockholm Conference on the Human Environment back in 1972: "think globally, act locally." All of our measures locally must accumulate toward adaptation and mitigation. If we do that, we will go into the third phase, which is the phase of climate change management and stewardship. And with those thoughts, I am going to pass the baton over to Jamie Van Nostrand to give you a sense of what happened in Copenhagen, and discuss why the confidence we needed to move ahead eroded so starkly and so dramatically. Jamie is the director of our Center for Climate and Energy Law and we are very pleased to have him here at Pace in that capacity.

Prof. Jamie Van Nostrand: Thank you Professor Robinson. I want to reserve as much time as we can for questions so what I

thought we would do to kick this off is to just have each of our panelist introduce themselves, a little bit of background, how they happened to be there [at the COP], and sort of handle that pretty quickly so that we can reserve as much time as we can for questions.

So just starting down the panel here with Mr. Revkin.

Mr. Andrew Revkin: Well, I was there and I have been writing about climate since before there was an IPCC and Kyoto Convention, since the mid-1980s, and for me this was just the latest ride on the great carousel of climate diplomacy. I was there from the very beginning to the very end—two full weeks—trying to make sense of this for the New York Times, for my blog, and for the printed page. It was exhausting and puzzling and discouraging and fascinating, and I'll leave it at that. That gives you a sense of why I was there.

Mr. Saleem Ali: I am Saleem Ali, and I am a professor at the University of Vermont, I was there as a delegate for the Party Center for the Study of the Longer Range Future, which is a think-tank based at Boston University and I plan to be doing some writing on conflicts over climate change. So my goal was not just to go to the Bella Center, which was the place where the main United Nations meetings were being held, but also to go to the various other forums around Copenhagen, which were taking place at the time. Most notably the Shadow Forum, which was being organized by activists, which was also a very vital and chaotic place. There was also an industry forum going on called Bright Green, and that was a fascinating showcase of technology and so my goal was to try to really understand the landscape of conflict, the epistemic conflict over climate change as they were being articulated. I was also there to observe the side events within the Bella Center as they pertain to environmental education. What was really impressive to me this time, having been to several of the conventions of the parties and other areas for biodiversity, was the number of students participating. Because we are in a center of higher learning here, there were unprecedented numbers of students from higher education institutions there and that was very refreshing—informed students, not just the ones who tie themselves to doors, but the ones who are really interested in collective learning.

Van Nostrand: Dean Ottinger

Dean Emeritus Richard Ottinger: I am Dick Ottinger and I am Dean Emeritus at the Law School, I was a former dean here. I went to Copenhagen representing Pace. I head the energy and climate group of the International Union for the Conservation of Nature (IUCN) and I represented them. Their prime focus is on forest preservation, REDD, and what they called environmentally based adaptation. And I was there also as a part of the Environmental Grant Makers' Association delegation, a group of U.S. foundations that spend a great deal of money to try to make things happen in the climate area.

I attended all the plenary sessions during the first week until NGO access was limited by the Convention and after that I was at Environmental Grant Makers' briefings with many of the key negotiators. I also went to many side events. It was incredible; there were a thousand NGOs there and almost all of them gave high-level presentations. And there was just a huge amount of knowledge presented; you could take a complete course in climate change from what went on there.

I do not agree with Nick, that there was not a consensus about what we need to do about climate change. I sat through the plenary sessions and heard speaker after speaker insist that we had to reduce our emissions of greenhouse gases and that we have to at least hold down temperature increases to 2%—450ppm. They were not in agreement on who ought to do what and how much each country ought to contribute, but I felt that they laid the foundation for being able to go forward, and I think Nick's optimism that this can be done, is true.

We did a lot of work with AOSIS small island states and the most vulnerable Least Developed Countries in preparing for the conference. In past conferences they have gone hat in hand to U.N. conferences and said, "Please help us." This time they flexed their muscles. They actually represent a majority of the votes—if you had a vote at the conference—and they actually shut the conference down for an entire week, insisting that their needs be attended to. They were also successful in getting commitments for short-term adaptation assistance of $30 billion through 2012 and $100 billion a year starting in 2020, though the donors to this fund were not specified. For the first time these most vulnerable parties are to be taken into account.

The other remarkable accomplishment, from my standpoint, and I have been to many of these U.N. conferences, is that in the past, certain emerging nations declined to participate in the Kyoto Protocol because they said that the developed countries were responsible for the build up of greenhouse gasses in their industrialization; they got rich using fossil fuels, they ought to be the ones to at least lead the way in resolving the problems. At this conference, they fully participated and although China and the United States had a good many conflicts along the way, they ended up as the leaders in negotiating the Copenhagen Accord. The emerging countries also all made emission reduction commitments, including Brazil, South Africa, India and China, who formed a new BASIC organization, and Mexico that agreed to host the next COP-16 conference. These are the countries that are expected to account for the greatest increase in emissions over the next decade.

I know that some of our European colleagues, who have been leaders in this field, felt that the Copenhagen conference was a great failure. It was a failure only in that no binding agreement was reached. And the specific commitment for emission reductions was no where near what the IPCC said was necessary to avoid catastrophe; but such a final agreement was not expected in the middle of the worst recession that world has seen. It was known well in advance of the conference that a final agreement with commitments was not going to be feasible at this conference. A lot of really important agreements happened in Copenhagen; a lot of really important progress was made that laid the groundwork for reaching an agreement in due course.

Van Nostrand: Caleb, you want to introduce yourself and why you were there?

Mr. Caleb Christopher: Sure, I am Caleb Christopher. I am a 2007 graduate of Pace Law School, and since that time and, in fact, during part of my third year of law school, I served as a legal advisor to the U.N. Mission of the Republic of the Marshall Islands down in New York. I worked on a broad range of issues but worked most closely with issues related to sustainable development, fisheries, and climate change. And I have been part of the Marshall Islands UNFCCC negotiating team for the past year and a half or so. So, I was not only at Copenhagen in that capacity but, at a full series of grueling meetings leading up to it

over the past year or so. And I thought that, or imagined that, after Copenhagen I would at least have a little bit of a breather or rest, and to some extent that was true, although many if the issues have sort of followed me back here and are still very much active.

The Republic of the Marshall Islands is a low-lying small island developing state, an atoll nation of 1,000 small islands within 29 coral atolls, spread out over a little more than half a million square kilometers of sea and an even larger exclusive economic zone. So it is, for being a small nation, also a large ocean nation, if you wanted to think about it not just as a very scarce amount of land, but a large amount of ocean. But the very scarce amount of land is important to the Marshalls. I should probably preface, as similar to most of those that are appearing before the law school, I am appearing in a personal capacity, and my personal opinion may or may not reflect those of the client that I work for. But certainly, to go back to some public statements that some of the political missions made at the meeting and during the closing hours . . . it is the countries which may have the most to lose in this process; that is, not only the long-term development, but their short-term security and statehood is at stake. So it is a little bit of a double-edged sword in not benefiting from a lack of an agreement, but also not benefiting from an inadequate agreement—and that makes decision making very complex.

For being a small, and to some extent geographically remote nation, the Marshall Islands has often found itself in the middle of world affairs in its history as a U.N. trust territory and as an independent nation which holds a political compact with the US. Most people have heard of the term bikini as swimwear, but [the term] actually refers to the Bikini Atoll which is one of the places where an extensive amount of nuclear weapons testing took place shortly after World War II. That was an event which has sort of gone through the decades and generations as one that signs as a moving target, and really kind of put the nation into an inter-play of international agreements, which may be well intentioned, but in some sense lacked throughout the years. There is also the notion that some impacts and some losses could be compensated.

I often refer back to my first year of law school, and I think of these issues—the way many cultures or countries think about

land is one that is an interchangeable resource, something that can be bought and sold. But in the Marshall Islands, land is still held through customary land tenures. It is still held through [someone] that we understand as a chief or a leader, who in some sense is responsible for a larger community of people. So, the climate change process has really been interesting and at times, a very difficult interplay of different interpretations and notions of what defines a country, what defines a state, and what one's relation to the land is. So, it also defines the nation again as it was during World War II and during the nuclear testing, as being very much at the center of a larger global discussion. And it is a developing nation, so it has very complex economic and social development issues and it also shares many issues with other small island states. As Dean Ottinger mentioned, AOSIS (the Alliance of Small Island States—a group of forty-three members of thirty-six U.N. member states—traditionally works together as a negotiation block within the United Nations. This is the group that I work with on legal issues in particular. And so my lens or perspective during the Copenhagen meeting was very much through them.

Jamie Van Nostrand: Shakeel.

Mr. Shakeel Kazmi: Hi, I am Shakeel Kazmi as most of you know I am an S.J.D. candidate at Pace and at the same time I am teaching a global marketing course. I also practice in New York. I attended Copenhagen as a delegate member of Pakistan's government and fortunately or unfortunately, I was the only one with a legal background. So, I really had a good time there, although it was very hectic but very educational also. I had the opportunity to advise Pakistan's Environmental Minister and I helped the Foreign Minister to prepare his speech. At the same time, I had the opportunity to meet with the Minister of Pakistan and other developing countries. I also had the opportunity to speak to the President for ten minutes, a very eclectic person. He gave me five minutes, but in five minutes we exchanged only two or three words because of translation problems.

Overall, it was a fruitful experience because I learned the meaning of "national interest." Everybody was talking about their national interest, and I had the opportunity to ask quite a few of the delegates privately what exactly that means, for their nations' interest. Because on the one hand they claim that their

nation in the future will not exist and on the other hand they are so concerned about their future interests, this nation that may not exist in the future. Anyhow, because it was a good experience, I recommend all of you if you do get an opportunity you should attend a meeting like this. My opinion is that it is at least two semesters of education.

Jamie Van Nostrand: Joanne, if you could identify yourself and tell us why you were there.

Ms. Joanne Kalas: I am Joanne Kalas and I am a third year student here at Pace. My involvement in COP-15 was that I took the U.N. diplomacy course here at Pace, starting in the spring of 2009. So I first worked with AELCO and then over the summer I worked on some climate change issues with IUCN working with Dean Ottinger and also Professor Van Nostrand and Professor Robinson. And then this past fall, I was able to have the great opportunity to work with Caleb Christopher in helping them prepare for COP-15. So I had the interest, and sort of just expressed my interest to go, and there was an opportunity for me to attend the conference and due to the small size of the staff Caleb was very excited for me to be able to help in any way I could. So it just seemed that all the stars aligned, my finals just seemed to fall into place that I could attend the second week of the conference. So I was there for the whole second week and my perspective, my goal, was really to help Caleb and to attend different sessions because he obviously could not be everywhere at once. There were a lot of different negotiating sessions going on at the same time. Some of them were simultaneous to different plenary sessions that were going on so I went to different sessions, I took notes, I met with different delegations and spoke with them, I also helped Caleb arrange for some high level meetings with the Head of State of the Marshall Islands, with various individuals that were there, including Senators, Congressmen, with Secretary Clinton and the Department of Commerce. So my perspective was really assisting him, but also as a student who just felt very fortunate to be able to take in the experience and to build on everything from Professor Robinson's U.N. Diplomacy course that I had learned and just to take in as much as I could and to speak to people in Copenhagen and speak to the other delegates to try and get a first hand perspective of their positions at the conference.

Van Nostrand: Thanks. We heard a little bit from Dean Ottinger about what he saw as some of the accomplishments at Copenhagen. I wonder if we could have each of the panelists address what they view as the most significant accomplishments coming out of Copenhagen and maybe the reverse side of that: what are the most significant failures or disappointments from Copenhagen. We'll start with you Mr. Revkin.

Revkin: For me the biggest accomplishments were the things that were aligned before the meeting even happened, the commitments that were laid down in anticipation of the meeting by the countries that, as you heard earlier, had not previously put anything on paper even in a tentative way, in terms of a departure from a business as usual on emissions. And that is really the end in my sense. As a journalist looking at the outcome and in thinking ahead to Mexico City, I know there will be some kind of agreement coming out in December, but some of the stresses that were on display in Copenhagen my sense is that if I am the atmosphere looking down at all this I am not going to see anything in Mexico come out that would relieve me from the standpoint of the place where all those emissions are accumulating. It is one thing to get an agreement—we need something binding in some way. But it is another to see whether it will have a visible impact on emissions. So many times, you just heard the key word the "national interest," and you heard probably, if you follow this day by day, an urging of the nation's leaders to think globally even though they are elected locally, or essentially beholden to—even if they are not a democracy—as they serve local interests. But how many do that? In a real world where, as you look at what happened among the different interests at Copenhagen, there were many countries that came there with completely different senses of what the climate problem is.

This reminds me of someone I have become friendly with over recent years, Ted Kheel, who tries to break down a negotiation into these sort-of basic components. The problem with this "problem," is that everyone is coming to the table with a different set of goals and from utterly different arenas—for one it is compensation for adaptation costs, for another it is how to get credit for emissions reductions that might happen anyway, basically how to cheat. And so they all come in the room, and

again you will see a series of negotiations this year and something happening in December, but watching from the outside as a journalist, I try really hard to take on the role of the atmosphere—it is become this kind of mental game for me as a way to keep track of what is really meaningful and not meaningful, and by the way the last thing we saw in Copenhagen was as you heard a thousand NGOs were there but some of the key things that were not being discussed were fundamental parts of this problem: innovation. How do you drive the innovation that will be necessary to de-carbonize a growing global energy menu? That was really not part of anyone's activist agenda. There were vegans there, and that's great, you know, if we all ate a vegan diet, the emissions we face would probably be lower. But again you see a world heading toward 9 billion people, more or less, with appetites, and as we get wealthier we have larger appetites. Those issues—how do you provide energy for that growing population—were not really there and that is what bothers me. All those things will probably be there in some capacity in Mexico City—I can't wait. But I will be there with a big giant, skeptical kind of radar on.

Ali: In terms of the accomplishments, I think that the role of the summit was really to have constructive confrontation. From a conflict resolution perspective, I think confrontation can be both positive and negative. If it is negative, it is likely to just lead people back to where they came from, they do not have any crossover of information, and they do not really come out of their entrenched positions. And I do not feel that there was a shift in those entrenched positions from that constructive confrontation. So, for example, I met with people from the World Bank with whom I had worked previously on issues related to the extractive industries, which was one of my main areas of research, who did not believe in climate change at all six, seven years ago; they would laugh at me and ridicule me, and now the World Bank was forcing them to take courses on climate change. There they were attending science events and trying to understand atmospheric chemistry and so on. So I think that was all very positive. There was still a friction of course.

The issue of inequality was center stage. I have a very developmental lens on environmental issues, and I am glad that the developing countries throw tantrums about these issues

because that is the way by which the developed countries are going to try and at least listen to them—perhaps. But the thing which I found problematic, was that there was also a lot of the old colonial narrative being played again. There was obstructionism at the behest of that narrative, also by the developing countries. So I felt that, in many ways, this was a coming of age for the developing world. They were able to assert themselves. But at the same time I felt them being too anchored in the past at times in the kinds of material that was being circulated and so on. And certainly the role of China in that regard was also problematic. And, that this was a real opportunity for China to shine through and say, "We're going to break from the past, we're going to embrace pluralism," in various ways. And, sadly that was a missed opportunity and I will blame the U.S. for that partly, because the U.S. sent wrong signals to China on that. When Secretary of State Clinton went to China earlier last year, she used climate change ironically as an excuse for trumping human rights, which I found was absolutely shocking, you know. And I wrote a little op-ed about it at the time because I was just perplexed that here we are and often, we are linking environmental issues with human rights, and environmental issues were being used to trump human rights. Saying, "well, we have more important things to worry about right now, like climate change." So I think the U.S. has to share the blame for that, kind of missed opportunity as well.

Ottinger: Well, the attempted negotiation of the country ministries during the first half of the conference was singularly unsuccessful. But I think we have an entirely different new world order now in the United Nations system. Usually the United Nations conferences are totally developed in advance. The country representatives usually come there with pre-prepared position papers and they read them. The conference decisions are made by the major countries, in closed sessions, in advance. But uniquely, at this conference, the key decisions were made by the heads of state themselves at the end of the conference.

The AOSIS organization of small island states and Least Developed Countries (LDCs) made a significant impact on the conference. They maintained that they need stronger action on emission reductions than proposed by the IPCC and they demanded stronger action by the U.S. to give them hope that they

would be able to survive the catastrophic effects of climate change predicted by the IPCC. The fact that they made themselves felt from a moral standpoint, that the world had an obligation to see that they weren't wiped out, I thought was very encouraging, and the fact that they walked out at one point to emphasize the importance of addressing their needs was important. At past conferences we had the G-77, an organization of developing countries in which AOSIS and the LDCs are members, but also the OPED countries, expressing often very negative views about reaching international environmental agreements. Here, the AOSIS and LDC countries by-passed the G-77 and played a key role in reaching the agreement. They succeeded in getting a commitment that developed countries would contribute $30 billion short term funding 2010-2012 and $100 billion annually by 2020 to meet their needs, and that's very important.

Then there was an organization formed called BASIC which is the emerging countries of Brazil, South Africa, India and China (also undermining the G-77) that came together and played a key role in the negotiations and for the first time made commitments towards emission reduction. So these developing countries influenced the outcome in a very meaningful way. You no longer had Europe, the United States and other large developed countries sitting in the back room and making the conference decisions. While many developing countries objected to the closed process by which the final Accord was drafted by just the BASIC countries and the U.S. and then approved by twenty-eight country heads of state, the process was much broader than ever before.

You cannot expect the countries without resources, dealing with the extinction of their entire populations, and anticipating mass global migration, to have the same perspectives as the European Union, the United States, or even as China, Brazil, South Africa and India. There is going to have to be an accommodation between the developed and emerging countries and the vulnerable developing countries and the negotiations for the Copenhagen Accord achieved that result.

The most disappointing part of this was the failure to reach an agreement among the participants about an allocation of emission reduction and financing obligations. The Accord did recognize the IPCC goal of emission reductions to limit increases

to 450ppm and a temperature increase of 2° C. The developing countries did succeed in getting an obligation to consider a more stringent reduction to 350 ppm and 1.5° C in the 2015 first review period—the reductions the IPCC scientists now feel necessary with the acceleration of global warming.

I saw a coming together of a common objective in knowing that we have to reduce emissions in order to be able to avoid catastrophic consequences and the general agreement that climate change is the most serious problem the world has ever faced and we're going to have to address it by figuring out the allocation of responsibility. Making that happen is going to be very difficult; we are talking about a lot of money to be raised in a time of unprecedented global recession.

Sir Nicholas Stern reminds us that the costs of not acting are far greater than the costs of acting. As we see droughts in Africa, as we see flooding, as we see more severe storms, as we see water shortages, as we see food shortages, it becomes clear that climate change consequences are not something that is far away. This is something that's going to affect everybody on earth. As those consequences become more apparent, I think that the world is going to come together and the framework of the Copenhagen Accord lays the foundation for doing that.

The failure to reach a binding agreement on the Accord at the COP rather than its just "noting" the Accord is largely the responsibility of the weak leadership of the Danish Prime Minister who took the Chair of the COP in mid-stream. He said, "I don't know what consensus means" and he finally decided that consensus meant unanimity. Of the 193 countries represented only five objected to adopting the Accord. He could have interpreted this as consensus and obtained agreement on its adoption.

There has been much debate on the legal status of noting the Accord, some experts believing that it has the standing of soft law. But at any rate, the formality of having a "binding" agreement is over-rated. Many formal agreements are not observed by countries who feel that it is not in their interest to do so and agreements that do not have treaty status are observed by countries that do support them. In this case, provision was made for countries to adopt the Accord and make commitments after

the Conference and some ninety-seven countries have done so to date including all the major emitting countries.

Christopher: Very briefly, if I were to reflect on sort of the more positive outcomes, I think that the amount of attention, the personal engagement of politicians and many heads of state was quite important. The point of view was that this was a failure were some aspects of it failed but it certainly wasn't for neglect and I think that that will do well to keep climate change not only within the international agenda but also in a way that it is interconnected. You really see the importance of at least a partial breakthrough in what the times felt almost the cold war divide between developed and developing countries and while those distinctions are still evident and still preserved you also saw states carved out in a way that reflects some very specific action which could be taken by all or at least a broader number of countries and I think that also led to some new groupings emerging—things that are overlapping with the multiple groupings and all that little chaotic and confusing—I think that that kind of more complex involvement really helps to facilitate reaching across the table going forward, so it wasn't just the G-77 but that breaks down into some groups that have been latent but now a little are more specific: the voice of vulnerable countries, voice of large developing countries.

If I were to think about some of the minuses or the negative aspects I would see that in part the needs of facilitation or organization, the technical negotiations, the ad hoc working groups, in many times weren't really negotiations at all but simply a cyclical or almost endless process of negotiators stating and repeating very specific, and those being captured in a series of cherished documents that would grow or shrink in size and you never really saw people trying to really internalize what was being said at the other side of the table. We really do not have a clear direction as to the ultimate legal form the next steps and that causes a lot of uncertainty.

I think what we're left with is a process that is very constructive the legacy of the mechanisms of the Kyoto protocol is really not well known but we're also seeing something that if this is not just an interim agreement but in some sense a form of what we're left with for at least the immediate future it is a progressive kind of international law or agreement something that is based

on norms and principles and not commitments and for very vulnerable countries that doesn't really provide a lot of assurance. There are huge risks going forward and very little time, in which to address those, it is not a lot to hang your hat on, but it is oriented to protect and all the words on paper are not really as important as actually seeing the implementation and the actions which help to affect the fundamental global shift in energy markets are ultimately going to be more important than formal agreements.

Van Nostrand: Do you have any thoughts on major accomplishments?

Kazmi: Yes, I think the result from Copenhagen was expected especially after our President Obama's speech; but there are good things that came out. For example, the comments from the G-77 in the first meeting, countries that were literally they fighting with each other but at the end they were sitting at the same table.

On the other hand, I saw that there was a big, discussion and many fights over commas, and full stops and brackets. But at least in end most countries would agree on certain commas and brackets and now even countries like Pakistan and India which they, you know, don't talk to each other but on climate change that is very encouraging that Pakistan's environmental minister and India's environmental minister they are meeting and they agree on most of the issues so that the good part I think that in Mexico.

Kalas: My perspective was more in helping the other delegates so as a student and as someone who is interested in the international perspective and international awareness of what was going on, I saw so many individuals who came not as delegates and not as individuals participating in the Bella Center just come to show their support. The first day that I showed up I was standing outside for about four or five hours in the line to get a badge, so in that line I met individuals who had biked their way from London. The oldest person in their group was seventy-two years old and they came to show their support for climate change. I met scientists and a [mayor] from Nigeria who was coming to find out how he could mitigate issues in his particular area.

I just saw an outpouring of public support that I think was a real accomplishment to the Copenhagen campaign; I saw banners

all over Copenhagen, I thought that was very inspirational and also during one of the planning sessions Ban Ki Moon came up and spoke and he said that he was so impressed with the meeting because never in his experience in the U.N. has he seen so many heads of state and high level ministers not only present, but participating in the negotiations and he has never seen that in his entire career at the U.N. and it was on climate change and I think that that was a major accomplishment.

Van Nostrand: Many of us here in the room are taking courses that will be affected by whether or not there is any climate legislation in the United States. We have at Pace Professor Siegel teaching a climate change course and Professor Troy teaching a clean air act course. I want to know if one of the panelists wants to weigh in on what they see the implications coming from Copenhagen on the prospects for climate change legislation in the United States.

Revkin: I do not see any bright lights for climate change legislation happening any time soon. I think the sooner this rule focusing on the energy component of legislation is of getting agreement, then perhaps a sectoral agreement on our generation of the utility sector, we might have some kind of prospect of a cap and trade system; but just in itself, just recently they have deepened the polarization over the climate gate issue and what I just writing about the past few days, the "glacier gate" as some are trying to call it.

There is just enough of those threads out there to give opponents of any action a solid base of about 20% of Americans. Recently, I was in a meeting with one of Senator Lugar's key advisors on the issues and Lugar is very moderate and progressive on many issues of diplomacy but the way he was describing their average Indiana constituent was essentially that these were not just in Indiana—but they represented a significant chunk of Americans who are just totally disengaged on the issue at best and are repelled at worst, so I just don't see the prospects there unless there is a real effort to split off the things where you can get a lot of agreement than where it is not driven as a climate instrument, but is about an energy efficiency, innovation technology, and climate benefits.

Van Nostrand: Anyone else want to address that?

Ali: Yes, again, indirectly I think there will be some prospects, but not directly. In my case, my interest has been on the issue of coal mining, and especially what is called mountain top removal mining, which is caused indirectly and has a major impact on climate change and there is momentum towards legislation on that. And that could be a big deal of course in the United States. I do not think you are going to get rid of all power plants straight away by any means, but if there can be momentum towards some transition to other sources by putting pressure on this kind of mining, then that may be something.

Ottinger: I think that the legislation in this Congress will be very difficult to pass in the U.S. Senate. The one source of hope for getting some kind of climate bill through is the actions being taken by the Environmental Protection Agency to regulate greenhouse gases. Most Members of Congress would far prefer legislation to administrative action. The other factor promoting legislation is the momentous push in the U.S. states towards the development and implementation of renewable energy and the adoption of renewable energy standards. There was a provision included in the Accord for a mechanism for transfer of technology to developing countries. That always has been a very difficult topic in the past because of intellectual property complications. In the United States, you're seeing a tremendous push to change our energy patterns by the federal government and the states and to assist developing countries in adopting clean energy technologies.

Christopher: Conversations about this issue are very much on everybody's mind at the U.N., including U.S. representatives. But while I cannot speak for them, in some sense, we do know that climate change in and of itself may not be a top-ten domestic priority as far as polls to the populace go but you do see the political commitment at the highest levels and I think that should not be disregarded. I do not know that the U.S. President necessarily even anticipated when he was coming over, but there is a certain amount of political, or rather personal investment in that. You may see, in the near term, making a partial package at best in terms of legislation, something that may focus on providing evidence and means to grow the energy sector. I think it is also going to be important to start to shed a little bit more light on something like the neglected story that is capturing the

statements that have been taken through both regions and individual states within the United States. California and New York State are two very important examples of that. Looking at how some states have interpreted or reinterpreted their environmental impact assessment laws. I am going with NEPA, the National Environmental Policy Act—each are all smaller pieces of the puzzle, but it is important to remember that a whole picture is still a puzzle composed of small pieces. So very much like Copenhagen, you may not see one U.S. domestic legislative package that solves everything in one breath, but that does not mean that we should lose sight of the smaller pieces.

Van Nostrand: We heard some mention of China playing a, sort of, singularly unhelpful role in Copenhagen. I am wondering if the panelists have thoughts on what were the other significant impediments to having achieving a binding agreement on greenhouse gases.

Revkin: The U.S. Senate—sixty-seven votes. Find sixty-seven votes to grab for a round of viable instruments and show them to me and I'll buy you a nice dinner.

Ottinger: Well we have been doing a lot of work with China, and China is taking the environment very seriously at this point. It is the leader in solar and thermal applications of the world. It has two million people with solar hot water heaters. China is the leader today in production of wind power machines. It aspires to be the leader in electric vehicles and it has a very aggressive energy efficiency program. So, just as in the United States, you are seeing a lot of actions to reduce pollution and therefore, in the process, reducing the greenhouse gas emissions.

Ali: Just to clarify, I also feel that China is doing a lot of positive things, but my bottom line and going back to that point is, until there is still that issue of pluralism and human rights does not address, we cannot decouple the environment. Chinese civil society just does not have a major presence at COP-15 as much as the other countries for a very simple reason. Again, going back to that issue, you cannot keep pressure on the government in terms of introspection and seeing what policies are right and wrong. You will end up with potentially some major planning disasters like the Three Waters Dam which maybe ostensibly could be good for climate change but is otherwise a fiasco which the government is itself realizing now and was

pitching it initially as a solution to climate change. So you need, it is very important to not decouple those issues for that reason and absolutely there are a lot of positive things going on in China, but I think the U.S. would be misguided to take the pressure off human rights on just that part.

Kalas: Regarding impediments that I saw, I felt like there was, in general, a lot of political will from some to actually get to an agreement, but even when individuals were generally willing to come to an agreement, it seemed that in specifics there was a disagreement so you could not actually put a number down on paper. So, for example, one of the sessions that I attended, a negotiation session, was for the shared vision portion of the text and to what Jay Godfrey said earlier, it did kind of deviate from all the other U.N. views on meetings that I attended in the past where everyone comes with their statement that they have prepared and they just read them. Instead the chair really just kind of threw the room on its heads and said "ok, I know you all have come with statements but I really just want to find out where you stand on the 350ppm issue and where you stand on the degree increase. So just give me a number." And he went around the room and you saw individuals would just vary in numbers. So even though people did show a willingness to want to get to some kind of an agreement, the specifics also seemed to be kind of, you know, crashing and hooking people.

But I also wanted to go back to something that Caleb had said regarding domestic legislation here in the United States. I did feel pressure on the U.S. and maybe it's because I'm an American and I was there and I was listening to the comments people were making, but it seems to me that on the international level there is a lot of pressure to make climate change an issue and if you go onto the website for COP-15, I am not sure if they have the video or the paper statements, but a lot of the statements mentioned specifically the United States, saying you cannot hold the world hostage through your domestic legislation. Whether that is going to translate anything to our Congress, whether they care, whether they are paying attention, I am not sure. But certainly as Caleb said, at the highest level, there is pressure that is there and it's a lot of individuals who are waiting for the United States to come up with legislation in order to come up with a legally binding agreement. If we just do not even have

that discussion within our Congress indefinitely, I do feel like people will make us accountable for that on the international level.

Kazmi: I think that with China, we hear as much [evidence] as any other country. What I believe, there are two main reasons that we couldn't reach agreement. The first one, I thought the United States was not ready to sign anything else for domestic reasons. And also I noticed that even the Prime Minister, he also kind of was hesitant to sign an agreement but the big problem in China attending all these meetings is that we did not have the proper leadership in Copenhagen. The way the meetings were handled, I think they were not proper and if we had a better President of COP-15, perhaps we would have had different results. And the secret papers and documents, last minute commenting, and countries were certainly every day surprised. For fifteen days at Copenhagen, we were working on brackets and commas and the question is whether we just wasted time and then, in the end, our leaders did not have enough time to adopt.

Christopher: You know, to some extent, the negotiations have been working on these vast brackets and commas since probably last year and certainly acknowledged that at intercessional meetings beforehand. And we were always told this is just the time to submit views, you know, the actual negotiations aren't really, you know, occurring in the here and now. And, in fact they did not until the very end. And they were not able to occur within the traditional ad hoc working room forum. Now, you know, on one hand, at the U.N., when decisions are made, it is a core group of noisy countries that are in a smaller room and it is not the big, huge hall that most of you see and know. On the other hand, it is actually a fairly representative group of countries that had that discussion. You know, to get back to the question over China and a lot of statements that have come out, they are not necessarily inaccurate, but on the other hand, China clearly wants to play a destructive role in this process. I think they are also seeking to assert themselves politically in ways in which they haven't in the recent past, and I think that's very important and just reflective of some shifting global economics. You know, I wouldn't really say, and at the outset we walked in to this calling for a legally binding agreement, perhaps knowing that it still wouldn't be on

the table by all parties, but wanting to show that it was possible, that it was an issue of political will, and not timing, and we're able to produce a draft agreement, which is still out there as a model, but there may be a lack of appetite by a core group of nations, not just one, for a legally binding agreement at this point in time. And, to some extent, you might see that lowering of floor for everybody, simply to reflect what they would ultimately be cautious of, in terms of how their own emissions or commitments are expressed. You know, we're not taking a top-down approach right now; it is a bottom-up approach. At least it is an approach and you're seeing the bottom occurring, but, you know, in a week or so when you start to add up all those numbers, I can pretty much tell you that it will not come anywhere close to hitting the below two-degrees mark that was agreed upon. So, a lot more work has to be done going forward, but that really is not going to occur until we are able to come to, I think, a better process for the negotiations to occur. So, not just to refer to them collectively but actually finding a way to capture the discussions that were outside within broader formats; we cannot just be repeating each other and talking past each other. And that was not necessarily just for COP-15 presidents, although they had a large role in that, but it's also, to some extent, the institution that I have seen that of this negotiation forum that has been doing this for twenty years; negotiators very close to each other and in some sense, this shook that up a little bit, but more has to be done to shake it up.

Revkin: Just one quick thought . . . forward thinking, I think there is one big difference in watching this process over the last couple of decades. Both domestically and internationally, I think there's a growing recognition that what began being a pollution problem, meaning: put a restriction on it, put a price on it, and it will start to go away, that will solve it. The Clean Air Act is being recognized increasingly as a technology and sufficiency. We do not have the energy sources we need to satisfy the appetite of the growing world. Climate change, and you will see Steve Chu talk about this, is a big forum on energy and you will see much more discussion about energy technology transfer, about his wishful idea of public carbon capture which is utterly wishful, but I do think you will see increasingly this all shift to be more of a technology than just pollution [control].