

The Doha deadlock: intellectual property and climate change

December 11, 2012 2.43pm AEDT



Author

[Matthew Rimmer](#)

ARC Future Fellow and Associate Professor in Intellectual Property, Australian National University

Disclosure statement

Dr Matthew Rimmer is an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change. He is an associate professor at the ANU College of Law, an associate director of the Australian Centre for Intellectual Property in Agriculture (ACIPA), and a member of the ANU Climate Change Institute. Dr Matthew Rimmer receives funding as an Australian Research Council Future Fellow working on "Intellectual Property and Climate Change: Inventing Clean Technologies" and a chief investigator in an Australian Research Council Discovery Project, "Promoting Plant Innovation in Australia".



As the Indian delegate said, 'if we don't get cheap technology we will never be able to adapt to climate change'. But Doha was reluctant to discuss the matter. Danish Wind Industry Association.

In November 2001, Doha hosted trade talks over intellectual property and public health. The discussions resulted in the landmark [Doha Declaration on the TRIPS Agreement and Public Health](#). The Doha Declaration recognised "that the TRIPS Agreement does not and should not prevent members from taking measures to

protect public health” - particularly in relation to HIV/AIDS, tuberculosis, malaria and other epidemics.

More than a decade on, in December 2012, Doha hosted the international climate talks for parties to the [United Nations Framework Convention on Climate Change 1992](#) and the [Kyoto Protocol 1997](#). There was, once again, a contentious debate over intellectual property - this time in relation to clean technologies. The [Climate Action Network](#) argued that there should be a Declaration on Intellectual Property and Climate Change to facilitate the “rapid and efficient uptake of technologies to address mitigation and adaptation”.

[Will Doha deliver?](#) (Watch video)

Disappointingly, the 2012 Doha Climate talks resulted in no declaration or agreement on intellectual property and clean technologies. Indeed, the discussions on intellectual property were deadlocked. There was instead a cluster of decisions known as the [Doha Climate Gateway](#).

While such decisions did not address intellectual property or open innovation, the Doha Climate Gateway selected the United Nations Environment Programme to host the UNFCCC Climate Technology Centre.

Intellectual property and clean technologies

In the debate over the Doha climate talks, there was division over whether there should be text in respect of intellectual property and clean technologies.

[China](#) said, “We’re not going to request technology transfer free of charge. We certainly respect intellectual property rights.”

[South Africa](#) argued the talks should address “questions of equitable access to sustainable development, intellectual property rights and unilateral trade measures.”

The [Philippines requested](#) that the Technology Executive Committee consider issues “related to intellectual property rights as they arise in the development and transfer of technologies.” The country was particularly concerned about the need to address climate emergencies.

[The Philippines delegate, Naderev Saño, made an emotional plea to the Doha climate conference for there to be no further delays in taking international action on climate change.](#) (Watch video)

The Progressive Latin Americans - such as [Venezuela](#) - mooted text on a wide range of co-operative measures on intellectual property and climate change.

A green intellectual property exchange?

There was also significant discussion of co-operative models for facilitating open access to clean technologies.

In their book [MacroWikinomics](#), Don Tapscott and Anthony Williams have called for the establishment of a green technology commons, sharing humanity's knowledge of sustainable technologies.

The [Creative Commons](#) - [celebrating its 10th birthday](#) - has established the [GreenXChange](#).

[The GreenXchange has been promoted as a model for intellectual property exchange.](#) (Watch video)

The Climate Action Network has proposed building on such a model, and establishing an intellectual property exchange to “enable secure, efficient and transparent arms-length transactions for intellectual property licensing”.

India put forward compromise text on intellectual property and climate change. India's lead negotiator, Mira Mehrishi, called for [a fund](#) to enable access to clean technologies with intellectual property rights. Mehrishi commented: “If we don't get cheap technology we will never be able to adapt to climate change.”

However, [developed countries rebuffed such compromises](#).

Intellectual property, piracy and climate change

As noted by attendee [Michael Mazengarb](#), developed countries said there should be strong enforcement of intellectual property to encourage investment in clean technologies.

The United States and the European Union insisted that the Doha Climate Gateway should be silent on intellectual property. Other developed countries argued that other forums - such as the [World Trade Organization](#) and the [World Intellectual Property Organization](#) - would be better placed to address intellectual property and climate change.

It is striking that, while intellectual property was a taboo subject in the Doha climate talks, the United States simultaneously pressed for an expansionist chapter on intellectual property in the Auckland talks on the [Trans-Pacific Partnership](#).

Indeed, the [Edison Electric Institute](#) - which represented United States energy companies in climate discussions - promoted the controversial [Trans-Pacific Partnership](#) as a preferable model where “global innovation is maximized” and “intellectual property rights are adequately protected”.

The Climate Technology Centre

The [Copenhagen Accord 2009](#), the [Cancun Decisions 2010](#), and the [Durban Platform 2011](#) established the foundations of a technology mechanism - a [UNFCCC Climate Technology Centre and Network](#).

In the lead up to the Doha negotiations, the Technology Executive Committee asked for greater clarity about the Climate Technology Centre's role in matters of [intellectual property](#).

[Christiana Figueres closing briefing at Doha](#). (Watch video)

The topic was discussed during the climate talks in Durban. Draft text on December 7, 2012 alluded to intellectual property, suggesting the Technology Executive Committee should be “examining effective mechanisms that promote access to affordable environmentally sound technologies, reward innovators and increase the dynamic of global innovation”. However, even such euphemistic language was erased in the end.

One of the key positive decisions of the Doha climate talks was the selection of the United Nations Environment Programme (UNEP) to host the [UNFCCC Climate Technology Centre](#) for an initial term of five years.

UNEP had put together a [collaborative bid](#). The United Nations Industrial Development Organization (UNIDO) will be a co-manager. The partners of the consortium included research and scientific organisations in Thailand, India, Argentina, Costa Rica, Kenya, Germany, the Netherlands, Denmark, and the United States.

India will play a [key role](#). The United States partner is the [National Renewable Energy Laboratory](#) - an innovator on a wide range of clean technologies.

The UNEP emphasized in its bid: “We will be driven by country needs, recognizing as well that weak institutions are often a barrier to the transfer of technologies and that developing the capabilities of developing countries is critical.”

The Executive Secretary of the UN Framework Convention on Climate Change, Christiana Figueres, was [optimistic](#):

The world has the money and technology to stay below two degrees. After Doha, it is a matter of scale, speed, determination and sticking to the timetable.

Partners



[Australian National University](#) provides funding as a member of The Conversation AU.



Republish our articles for free, online or in print, under Creative Commons licence.

This article originally published on [The Conversation](#). Read the [original article](#).