International Climate Change Law

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Widespread impacts attributed to climate change based on the available scientific literature since the AR4

**Confidence in attribution to climate change**
- Low
- Medium
- High
- Very high

**Observed impacts attributed to climate change for**

**Physical systems**
- Glaciers, snow, ice, and/or permafrost
- Rivers, lakes, floods, and/or drought
- Coastal erosion and/or sea level effects

**Biological systems**
- Terrestrial ecosystems
- Wildfire

**Human and managed systems**
- Food production
- Livelihoods, health, and/or economics

*Impacts identified based on availability of studies across a region

Outlined symbols = Minor contribution of climate change
Filled symbols = Major contribution of climate change
Climate Change: Defining Options

- Mitigation
  - Reducing Emissions
  - Expanding and Protecting Forests
  - Life Style Changes

- Adaptation
  - Building Dams
  - Flood Protection
  - Erosion protection
  - Irrigation Systems
Actions
...so far.
Legally binding international climate agreements

- UNFCCC 1992/1994
- Kyoto Protocol 1997/2005
- Amendment to the Kyoto Protocol 2013-2020?
- Paris Agreement 2015/2016
UNFCCC

• Adopted in 1992 in NY
• In force since 21 March 1994
• Almost universal participation:
  – 194 States and the EU
• *Framework* Convention
• Legally binding international agreement
  – Ultimate objective, art. 2
  – Principles. Art. 3
  – Groups of States, art. 4 and Annexes I and II
  – Institutional Framework and Reporting
UNFCCC

• Ultimate Objective, Art. 2:
  "stabilizing of greenhouse gas concentrations at a level that would prevent dangerous anthropogenic interference with the climate system."

• BUT:
  "such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner."
Projected impact of climate change

Global temperature change (relative to pre-industrial)

0°C | 1°C | 2°C | 3°C | 4°C | 5°C | 6°C

Food
- Falling crop yields in many areas, particularly developing regions
- Possible rising yields in some high latitude regions
- Falling yields in many developed regions

Water
- Small mountain glaciers disappear – water supplies threatened in several areas
- Significant decreases in water availability in many areas, including Mediterranean and Southern Africa
- Sea level rise threatens major cities

Ecosystems
- Extensive damage to coral reefs
- Rising number of species face extinction

Extreme weather events
- Rising intensity of storms, forest fires, droughts, flooding and heat waves

Risk of abrupt and major irreversible changes
- Increasing risk of dangerous feedbacks and abrupt, large-scale shifts in the climate system

SOURCE: Stern Review
IAASTD/Katili Berger, UNEP/GRID-Arendal
UNFCCC

Principles:

• Precautionary Principle (3.3.)
• Sustainable Development (3.4.)
• Cost-Effectiveness (3.1 and 3.2)
• Inter-generational Equity (3.1.)
• Common but Different Responsibilities (3.1.)
• …Parties should protect the climate system…on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.

• Accordingly, developed country Parties should take the lead in combating climate change and the adverse effects thereof.
UNFCCC

Differentiated commitments: 4 groups (Art. 4 UNFCCC):

• All Parties
• Annex-I Parties
• Annex-II Parties
• Non-Annex Parties
UNFCCC

Commitments:

- **All parties: Art 4.1.**:
  - National inventories
  - National and regional programmes to mitigate cc
  - Promote Sustainable Development
  - Promote conservation of sinks, adaptation, education etc.
UNFCCC

Commitments:

• **Annex-I Parties**: Art. 4.2.(a)
  • Develop *national policies and measures* on the mitigation of cc

• Taking the lead!

• Reporting requirements (Art. 4.2.(b))
UNFCCC

Annex-II Parties: (OECD countries /30=18% of world population)

• provide financial resources to developing countries (Art.4.3)

• assist developing countries in meeting adaptation costs (Art. 4.4)

• technology transfer (Art. 4.5)

• allow degree of flexibility (Art 4.6)
UNFCCC

Commitments:

• Non-Annex countries (developing countries, Group 77 and China – now 131 countries – 80% of world population and more than 50% of current GHG emissions)
UNFCCC

Art. 4.7: ”The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.”

…. Art. 17: Protocol necessary (more specific obligations)
Kyoto Protocol - CPI


- Sets quantified emissions limitation and reduction obligations (QELRO) for Annex-I Parties (37 States)

- Art. 3.1 KP: overall emissions from Annex I Parties shall be reduced to at least 5% below 1990 levels within 2008-2012 (First Commitment Period)

- Assigned Amounts (Annex B)

- Art. 3.1 KP: Annex I Parties shall not exceed their Assigned Amounts)
Kyoto Protocol CPII

Amendments to the KP in Decision 1/CMP.8:

- Second commitment period (2013-2020) for KP Annex-I countries, minus CA (no member), RUS, NZL, J (no KPII)
- Objective of reducing GHG emissions by at least 18% below 1990 (translation of voluntary pledges into QUELROs – no strengthening of commitments), IPCC suggested: range of 25-40%
  15% of global emissions
- Party may «propose an adjustment to decrease» its QUELRO, review in 2014 – P: link to ADP
- When does it enter into force? (provisional application/ implementation consistent with national legislation or domestic processes)
# Kyoto Protocol

Countries included in Annex B to the Kyoto Protocol and their emissions targets

<table>
<thead>
<tr>
<th>Country</th>
<th>Target (1990-2008/2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU-15, Bulgaria, Czech Republic, Estonia, Latvia, Liechtenstein, Lithuania, Monaco, Romania, Slovakia, Slovenia, Switzerland</td>
<td>-8%</td>
</tr>
<tr>
<td>US</td>
<td>-7%</td>
</tr>
<tr>
<td>Canada, Hungary, Japan, Poland</td>
<td>-6%</td>
</tr>
<tr>
<td>Croatia</td>
<td>-5%</td>
</tr>
<tr>
<td>New Zealand, Russian Federation, Ukraine</td>
<td>0</td>
</tr>
<tr>
<td>Norway</td>
<td>+1%</td>
</tr>
<tr>
<td>Australia</td>
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</tr>
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<td>+10%</td>
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## Kyoto Protocol

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<th>Country</th>
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<th>2013-2020</th>
</tr>
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<tbody>
<tr>
<td>EU-15, Bulgaria, Czech Republic, Estonia, Latvia, Liechtenstein, Lithuania, Monaco, Romania, Slovakia, Slovenia, Switzerland</td>
<td>-8%</td>
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<td>-20%</td>
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<td>New Zealand, Russian Federation, Ukraine</td>
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<td>-24%</td>
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<tr>
<td>Norway</td>
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<td>-16%</td>
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<td>Australia</td>
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<td>-0,5%</td>
</tr>
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The Kyoto Protocol 2008–2012
The Kyoto Protocol 2013–2020
Kyoto Protocol

• Rules focus on:
  • **Commitments**: legally binding individual emissions targets and general commitments
  • **Implementation**: domestic measures and three novel implementing mechanisms (flexibility mechanisms)
  • **Minimizing impacts** on developing countries
  • **Accounting, Reporting and Review**
  • **Compliance**: Compliance Committee to assess and deal with problems of non-compliance
Flexibility Mechanisms

- Geographic location of abatement measures is climatically irrelevant

- Aim: global cost-effectiveness and reduction of compliance costs

- Assigned amounts (AU) can be divided up into *units* (Assigned Amount Units – AAUs) allowing Annex I Parties (37 + EU) to participate in the flexibility mechanisms

- Units create a tradable currency (1 unit = 1 t CO2 eqv.)
Flexibility Mechanisms

4 Types of Mechanisms:

• International Emissions Trading, Art. 17 (allows for trade with AAUs, ERUs, CERs)

• Clean Development Mechanism (CDM) Art. 12
  • Resulting in Certified Emissions Reductions – CERs
  • Non-Annex I/Annex I Projects

• Joint Implementation (Art. 6)
  • Resulting in Emission Reduction Units – ERUs
  • Annex I/Annex I Projects

• Joint Fulfillment of Commitment (Art. 4)
Paris Agreement

1. **Goals:** «well under 2 degrees», 1.5 degrees, «zero net emissions»

2. **NDCs:** Nationally Determined Contributions

3. **Obligations for all** – «diversified differentiation»

4. **Enhanced Transparency Framework**

5. **«Ratcheting up»:** dynamic, iterative processes (5 year cycles, stock-take) and principles (progression and highest possible ambition)
GOALS

• Global temperature goal(s):
  – «...holding the increase in global temperature to well below 2 degrees C ... and to pursue efforts to limit the temperature increase to 1.5 degrees C» (Art. 2)

• Mid and long-term mitigation goals:
  – Global peaking asap (recognizing that this will take longer for developing countries) and rapid reductions thereafter to achieve «a balance between anthropogenic emissions and removals in the second half of this century» (Art. 3, so-called «net zero emission»)

• Adaptation goal
  – «enhancing adaptive capacity, strengthening resilience and reducing vulnerability» (Art. 7)

• Finance goal: collective, quantified goal of developed countries from a floor of USD 100 billion per year (para 54)
OBLIGATIONS FOR ALL

• «Each Party shall prepare, communicate and maintain successive nationally determined contributions» (Art. 4.2)
• «Each Party shall pursue domestic measures, with the aim of achieving the objectives of such contributions.» (Art. 4.2)
• «... all Parties shall provide information necessary for clarity, transparency and understanding...» (Art. 4.8)
• «Each Party shall communicate a NDC every five years...» (Art. 4.9)
• “Each Party’s successive NDC will represent a progression beyond current NDC and reflect its highest possible level of ambition.” (Art.4.3)
• «Parties shall account for their NDCs...In accounting, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency..» (Art. 4.13)
• «Each Party shall regularly provide information on national inventories and information necessary to track progress made in implementing and achieving its NDC..» (Art. 13.7)
• «Each Party shall engage in adaptation planning... (Art. 7.1)
2020
1st NDC

2023
1st stocktake

2025
2nd NDC

2028
2nd stocktake

2030
3rd NDC

Highest possible ambition

5 year-»cycles»

Progression
Developing countries
Developed countries

**HIGHEST POSSIBLE AMBITION** (content)

*How much needs to be done?*

Reflecting Parties':
- Responsibilities
- Capabilities
- Circumstances

**TYPE OF TARGET** (form)

*What needs to be done?*

**Economy-wide absolute reduction targets**

**Economy-wide reduction or limitation targets**

**Enhanced efforts**

**Strategies, plans and actions**

*Figure 2: Differentiation*

Each Party's NDC will reflect its highest possible ambition (y-axis) and correspond to the types of targets set out in articles 4.4 and 4.6 (for LDCs and SIDS) (x-axis). Such parameter-based determination of mitigation efforts leads to more diversified differentiation each time a successive NDC is being communicated.
Is the whole more than the sum of the parts?

1. Bottom-up approach combined with international rules and guidance («international normative pull»)
2. Institutionalized bottom-up approach («international normative capture»)
3. Iterative processes («Channelling sovereignty»)
4. Transparency
5. Role for domestic decision makers (lawmakers and courts)