The Durban Platform Negotiations: Work Stream One

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Goal of climate effectiveness

• Climate effectiveness =
  • Emission reductions sufficient to prevent dangerous climate change (no more than 2° C)

• Climate effectiveness a function of three factors:
  • Ambition
  • Participation
  • Compliance

EE: f(A,P,C)

• Factors interdependent:
  • Strengthening ambition doesn’t help if leads to less participation and/or compliance
  • The goal is to maximize the combined outcome of all three variables.
What is the role of international law?

Contractual model:

- Agreement based on reciprocity: states accept commitments in exchange for commitments by others.
- Each state has an interest in agreeing because the benefit it receives from commitments by others outweighs the cost of its own commitments > agreement leaves it better off.
- For negotiations to succeed, there must be a contract zone, i.e., a set of agreements that leave all participants better off and are acceptable domestically.

Kyoto Protocol
What is the role of international law?

Facilitative Model:

- States are willing to take action on their own.
- What states are willing to do is less dependent on what other states do.
- International law catalyzes, encourages, and reinforces national action.

Cancun Agreements
Durban Platform

- Protocol, another legal instrument, agreed outcome with legal force
- Applicable to all
- Under the Convention
- To be completed by 2015
- Applies from 2020

UNFCCC

- Art. 2 objective
- Art. 3 principles
- CBDRRC
- Precaution
- Cost-effectiveness

Parameters for DP negotiations

International Law
Durban Platform instrument: Key variables

• **Form**
  - Legal agreement > binding under international law

• **Structure**
  - COP decisions > in general, not legally-binding?
  - Political agreement

• **Content**

• **Process**

Durban Platform: “protocol, another legal instrument, or agreed outcome with legal force”
Variables

• Form

• Structure

• Content

• Process

• Single package vs. à la carte
  • Single package – all or nothing
  • À la carte – states can pick and choose
Variables

• Form
• Structure
• Content
• Process

- Commitments
  - Type
    - Obligations of result – e.g., targets, finance
    - Obligations of conduct – e.g., PAMs
  - Ambition
  - Differentiation
  - Markets

**Durban Platform:**
- Outcome “applicable to all”
- Outcome “under the Convention” > UNFCCC articles 2 and 3 apply
Principle of common but differentiated responsibilities and respective capabilities

- Can be reflected in many ways

- Who is differentiated?
  - Categories of countries defined through either:
    - Lists (Annex I and II)
    - Objective criteria (Montreal Protocol: per capita consumption of ozone-depleting substances)
  - Individualized commitments/actions (Cancun INF documents)

- What is differentiated?
  - Types of obligations (UNFCCC art. 4)
  - Timing of obligations (Montreal Protocol: 10 year grace period)
  - Stringency/ambition of obligations (KP Annex B)
Variables

• Form
• Structure
• Content
• Process

- Top-down: internationally-defined commitments
- Bottom-up: nationally-defined commitments
Example of top-down vs. bottom-up

**Bottom-up**
- Comparison to pathways likely to achieve 2°
- Estimates of resulting emissions reductions
- National pledges

**Top-down**
- Temperature goal (2°, 1.5°)
- GHG concentrations / total emissions budget
- Emissions pathway
- Global emission budget
- Individual country targets
Durban Platform Options

• Expanded Kyoto

• Legalization of Cancún architecture

• Multi-track
Expanded Kyoto

• Retain basic architecture of Kyoto Protocol
  • Legally-binding emission targets specified through international negotiations
  • Market mechanisms
  • International accounting and expert review
  • International compliance system

• Issues
  • Which countries would need to take targets?
  • How much flexibility in choice of target types, coverage and gases?
  • How would targets be differentiated?
Legalization of Cancún architecture

• Legally-binding agreement with annex/schedule listing national commitments and pledges

• Legally-binding elements might include:
  • Commitment by states to inscribe something on schedule (e.g., domestically-binding national legislation/regulation)
  • Reporting and review requirements
  • Institutional arrangements

• Content of annex/schedule determined through bottom-up process of national decision-making

• To promote flexibility, states could be allowed to change their schedule if changes estimated to achieve comparable emission reductions

• Issues
  • Legal status of schedule: legally-binding? political commitments?
  • Timing of inscription on schedule: before or after conclusion of agreement?
Integrated multi-track

• Core agreement with different tracks
  • Core agreement would provide elements of integration: institutions, transparency, market mechanisms
  • Annexes would define different tracks: (e.g., Kyoto track, domestically-binding track, bottom-up track)

• Issue
  • Would agreement prescribe which states fit within which track?
  • Or would states have flexibility to choose among tracks (and possibly also to switch tracks)?
  • How would trading be allowed within and across tracks?
## Summary of Options

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<thead>
<tr>
<th></th>
<th>Form</th>
<th>Structure</th>
<th>Substance</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Expanded Kyoto</strong></td>
<td>Legally-binding agreement</td>
<td>Unitary</td>
<td>National emissions targets</td>
<td>Moderately top-down: Negotiated target or target formula</td>
</tr>
<tr>
<td><strong>Legalization of Cancún Architecture</strong></td>
<td>COP decision or legal agreement that is partly or fully binding</td>
<td>Unitary or variegated</td>
<td>National targets and actions / National legislation</td>
<td>Bottom-up</td>
</tr>
<tr>
<td><strong>Integrated Multi-track</strong></td>
<td>Legal agreement: some parts binding, others not</td>
<td>Variegated</td>
<td>Multiple types of commitments</td>
<td>Some tracks top-down, others bottom-up</td>
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</tbody>
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