The UN Climate Change Regime, and its 2015 Paris Agreement

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Outline

- The UN Climate Change Regime
- The 2015 Paris Agreement
  - Key Pillars
    - Temperature Goal
    - Nationally Determined Contributions
    - Ambition Cycle
    - Compliance
    - Differentiation
  - Assessment & Next Steps

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The UN Climate Change Regime
UN Framework Convention on Climate Change, 1992

- Principles, including common but differentiated responsibilities and respective capabilities

- Annex-based approach to differentiation
  - All Parties – policies, and measures, and reporting
  - Annex I (OECD + EIT) - GHG stabilization goal
  - Annex II (OECD) - support obligations towards non-Annex I (developing countries)

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Kyoto Protocol, 1997

- Annex I - GHG targets set to timetables
  - 5% below 1990 levels in 2008-2012 (+ individual targets in Annex B)
  - 18% below 1990 levels in 2013-2020

- Market mechanisms – flexible, cost-effective approaches to meeting targets

- Compliance committee – facilitative and enforcement branches

- 2nd commitment period, not yet in force

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But....

- GHG mitigation targets
  - inadequate, given the science
  - only covered 18% of global emissions
    - do not extend to developing countries
    - not applicable to US as not a Party

- New four-year negotiating process launched at Durban 2011 to negotiate an agreement ‘applicable to all’ but ‘under the Convention’

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The 2015 Paris Agreement

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Temperature Goal - 1.5°C?
Paris Agreement ‘aims to’:
- Hold the increase in the global average temperature to ‘well below 2°C’ above pre-industrial levels and ‘to pursue efforts to limit the temperature increase to 1.5°C.’ Art 2.1 (a)

Article 2
- reflects the ‘purpose’ of the PA
  - Not just temperature goal, but also adaptation and finance goals (qualitative) Art 2(1) (b) and ©
- contains aspirational language
- lays out a context for implementation

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Context for Implementation

- ‘sustainable development and efforts to eradicate poverty’ Arts 2 (1) and 4(1)

- ‘equity and common but differentiated responsibilities and respective capabilities in the light of different national circumstances’ Art 2(2)
Thus..

- Tonality of provision - harmonious achievement of the temperature goal with these other priorities

- But if sustainable development/poverty eradication conflict with achievement of 1.5°C?
  - Extensive support for energy transition in developing countries?
  - Prescriptive burden sharing arrangement?

- But hybrid architecture of the PA does not lend itself to either:
  - Bottom up - Nationally Determined Contributions
  - Top down - Ambition Cycle

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Nationally Determined Contributions

- Legally binding obligations of conduct in relation to submission of NDCs but content of NDCs (i.e. achievement) not legally binding  
  Art 4.2

- Bottom up may not add up, thus need strong top-down elements → ambition cycle

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Ambition Cycle

- Five yearly NDCs Art 4.9
- Expectation of progression and highest possible ambition Arts 3 and 4.3
  - Unclear how it is be measured and by whom – self-assessment?
- Transparency framework Art 13
  - Track progress towards achievement of NDCs
- Global Stock Take Art 14
  - Informed by transparency framework
  - Comprehensive
  - Takes into account equity and science
  - Outputs to inform NDCs

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Compliance

- Details of the compliance mechanism yet to be negotiated

- Binding obligations of conduct – can be subject to compliance system

- But:
  - 2 -1.5°C collective aspiration goal
  - no individual obligations of result
  - mechanism is facilitative and expert based

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Differentiation

- Common but differentiated responsibilities ‘in light of different national circumstances’
- Tailored to different issue areas
- Mitigation – national determination (self differentiation) + normative expectations
  - Nationally determined
    - Content of NDCs
  - Normative expectations/ recommendations
    - Progression + highest possible ambition Art 4.3
    - Leadership from developed countries Art 4.4
Assessment

- PA more ambitious than expected
- PA more differentiated than expected
- But step change from the FCCC and Kyoto Protocol
  - non-prescriptive architecture
  - no Annex-based differentiation
  - no legally binding obligations of result

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Next Steps

- Entry into Force
  - Signature by a record breaking 175 states on 22 April 2016
  - 60 countries including US, China and Brazil have ratified (47% of emissions); India and EU early October

- But..
  - Trumped?
  - Implications of Brexit
  - Rejection by some (Philippines?)

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Post-Paris negotiations
- Fleshing out ambition cycle critical
- Implementing equity & CBDRRC, including in the global stock take

Nationally determined
- Focus on national implementation and capacity building
- Content of NDCs – may be domestically legally binding, so emphasis on national enforcement and courts
Thank you

Further reading:


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