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Policy Brief

The Gap between Commitments and Implementation: Assessing the Compliance by Annex I Parties with their Commitments under the UNFCCC and its Kyoto Protocol

Executive Summary

The UNFCCC is a finely balanced policy regime that incorporates a set of obligations and commitments taking into account the common but differentiated responsibilities and respective capabilities of developed and developing countries in relation to climate change. However, developed countries have, by and large, failed to effectively and fully implement their specific commitments under the UNFCCC to take the lead in mitigation and to provide financing and technology to developing countries.

Annex I Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have the following key obligations:

- to mitigate their GHG emissions in accordance with UNFCCC Art. 4.2(a) and (b) and Art. 3 of the Kyoto Protocol;
- to provide UNFCCC implementation-related financing to developing countries pursuant to UNFCCC Art. 4.3, and to assist in meeting developing countries' costs of adaptation pursuant to UNFCCC Art. 4.4;
- to transfer technology and technology know-how on environmentally sound technologies to developing countries pursuant to UNFCCC Art. 4.5;
- to take full account of actions relating to finance and technology, among others, that are needed to meet the specific concerns of developing countries in relation to adaptation and the implementation of response measure pursuant to UNFCCC Arts. 4.8 and 4.9, and
- to report on their compliance with their UNFCCC obligations pursuant to UNFCCC Art. 12.

Mitigation

Annex I Parties have specific quantified mitigation commitments under Art. 4.2(a) and (b) of the UNFCCC to reduce, individually or jointly, their greenhouse gas emissions to their 1990 levels and, under Art. 3 of the Kyoto Protocol, to go below such 1990 levels by an aggregate average of 5.2 percent.

On mitigation, as of 2006, most developed countries listed in Annex I of the UNFCCC that are not economies in transition (EITs) have not, by and large, complied with their commitment under the UNFCCC to return "individually or jointly to their

Table of Contents:

Key Findings

- As of the middle of the decade 2000-2010, nineteen (19) of the forty (40) Annex I Parties to the UNFCCC have GHG emission levels above their 1990 baseline emissions, and twenty-one (21) of the thirty-nine (39) Annex I Parties that are Parties to the Kyoto Protocol have not yet met their mitigation targets.
- From 1990 to 2006, total GHG emissions from developed countries listed in Annex I of the UNFCCC declined by 4.7 per cent. This decrease, however, is largely due to the collapse of many industrial activities in Annex I Parties that are economies in transition (EIT).
- Excluding the decrease in Annex I EIT Parties' emissions, the emissions from developed countries - i.e. Annex I non-EIT Parties - actually rose by 9.9 per cent compared to 1990 levels between 1990 and 2006

1990 levels" their anthropogenic greenhouse gas emissions. Neither have most Annex I Parties that are Parties to the Kyoto Protocol met, as of 2006, their Kyoto Protocol Annex B targets.

As of the middle of the decade 2000-2010, nineteen (19) of the forty (40) Annex I Parties to the UNFCCC have greenhouse gas (GHG) emission levels that are still above their 1990 baseline emissions, while twenty-one (21) of the Annex I Parties that are Parties to the Kyoto Protocol (KP) have not yet met their KP mitigation targets. It is, in fact, largely the Annex I EIT Parties that were able to do so mainly because of the economic difficulties that they faced in the 1990s that resulted in the collapse of many industrial activities. From 1990 to 2006, total greenhouse gas emissions from Annex I Parties declined by 4.7 per cent, from 18.9 GTCO2eq to 18.02 GTCO2eq. However, between 2000 and 2006, total emissions of Annex I Parties "increased by 2.3 per cent (excluding Land Use, Land Use Change and Forestry or LULUCF) and by 1.0 per cent (including LULUCF)."

It must be noted, however, that if the decrease in emissions experienced by Annex I EIT Parties between 1990 and 2000 is not taken into account, the emissions from Annex I non-EIT developed country Parties actually rose by 9.9 per cent compared to 1990 levels between 1990 and 2006.

It may thus be said that Annex I non-EIT Parties by and large, except for a few, have not managed to return to their 1990 levels.

Financing

Under Art. 4.3 of the UNFCCC, Annex II Parties are specifically committed to provide new and additional financial resources to developing countries to cover: (a) the "agreed full costs" for the preparation by developing countries of their national communications under Art. 12.1; and (b) the "agreed full incremental costs" for the implementation of the UNFCCC by developing countries. Additionally, under Art. 4.4, Annex II Parties are specifically committed to assist developing countries in meeting the costs of adaptation to the adverse effects of climate change. Finally, under Art. 4.5, Annex II Parties are specifically committed to provide the financing needed to undertake the transfer of relevant environmentally-sound technologies and to assist developing countries develop their own technologies.

With respect to the obligation to meet the agreed full costs for developing countries' national communications under Art. 4.3, developed countries have generally taken the approach of providing funding to the Global Environment Facilitation (GEF), which the GEF then provides to developing countries in order to support the preparation of their national communications. However, compliance with the financing obligation for "agreed full costs" for the preparation of developing country national communications is lacking since the GEF imposes a maximum limit of US$420,000 to be provided to each developing country, without reference as to whether such maximum amount meets the full cost of preparing national communications.

With respect to the obligation to provide "new and additional" financial resources to cover the "agreed full incremental costs" for the implementation by developing countries of the UNFCCC, it is difficult to ascertain with exactitude on the basis of the developed Parties' na-

Key Findings

- It is difficult to ascertain with exactitude on the basis of the developed parties' national communications whether such parties had fully complied with the obligation to provide "new and additional" financial resources to cover the "agreed full incremental costs" for the implementation by developing countries of the UNFCCC, primarily due to the difficulty in obtaining comparable data from the parties concerned. The amounts pledged or to be committed from Annex II Parties for climate financing remain far too low to meet the scale of the financing needs of developing countries in relation to climate adaptation and mitigation.

- It is important to note that virtually all of the financing that Annex II Parties reported in their fourth national communications (save for Italy for some of its financing) as compliance with their UNFCCC Art. 4.3, 4.4 and 4.5 financing obligations form part of these Parties' overall official development assistance (ODA) programmes rather than being "new and additional." In essence, developed countries' financial flows that go towards meeting their internationally agreed goal of providing at least 0.7% of their annual Gross National Income (GNI) as ODA are double-counted as also going towards meeting their treaty obligations under UNFCCC Art. 4.3, 4.4 and 4.5.

- Based on the fourth national communications from Annex II Parties, the yearly contribution to climate change adaptation funding fluctuates year on year and has not seen a yearly increase in most countries.

- Developed countries show a great reluctance in channeling climate financing sourced from their governmental funds through the UNFCCC, preferring to use either their own bilateral channels or other multilateral channels such as the World Bank as their vehicles for public sector climate financing flows.

- Counting the low-end estimate of US$10.03 billion channeled or made available through the GEF as an operating entity of the UNFCCC's Art. 11 financial mechanism, as well as those through bilateral and other non-UNFCCC multilateral mechanisms (US$18.95 billion), the current total available or pledged public financing for climate change-related actions from Annex I Parties comes up to US$28.98 billion. Of this total amount, 34.61% is through the UNFCCC (via the GEF as an operating entity) and 65.39% is through non-UNFCCC channels. This is inconsistent with the provisions of the UNFCCC, which envisions that climate change-related financing should primarily flow through the financial mechanism established in Art. 11.

tional communications whether such obligation has been fully complied with. This is primarily because of the difficulty in obtaining comparable data from the Parties concerned. For example, while the Compilation and Synthesis of the Fourth National Communications of Annex I Parties presents the Parties' various contributions in a single currency, such presentation necessitated the conversion into United States dollars of the range of currencies used by the parties. No uniform currency was used by the parties in their reports, some even utilizing two or three currencies within a single communication. There was also no uniform period of time within which the developed country parties indicated their contributions. Most Parties listed in UNFCCC Annex II reported on their contributions to multilateral institutions and programmes, as well as bilateral and regional financial contributions. However, while most of those who did so named the various recipients of their contributions, they had failed to signify which portions of such funding were directly related to climate change and which were not.

As reported in the Compilation and Synthesis of Fourth National Communications of Annex I Parties, a majority of the developed country parties have reported an increase in their contributions to multilateral institutions, as well as the GEF, for the period reported in the fourth national communications (generally, 2001-2003, with the exception of some who were able to report on 2004 as well) as compared to contributions reported in the third national communications.

Developed countries' mitigation-related bilateral financing increased from US$13.05 billion during the period 1997-2000 to US$285.04 billion for the period 2001-2004, while their financing for adaptation fell from US$7.01 billion in 1997-2000 to US$362.1 million in 2001-2004. The increase in mitigation-related financing is due in large part to a massive increase in reported bilateral financing for mitigation by the United States from US$2.42 billion for 1997-2000 to US$276.684 billion for 2001-2004. But this reported increase in US bilateral climate-related mitigation financing may be deemed artificial, as it counted as mitigation financing not only direct environment-related financial flows, but also its trade and development-related ODA such as project financing, export credits, risk and loan guarantees, investment insurance and credit enhancements that "facilitate the transfer of climate-friendly technology," as well as some US private sector commercial investments and lending.

It is important to note, however, that virtually all of the financing that Annex II Parties reported in their fourth national communications (save for Italy for some of its financing) as compliance with their UNFCCC Art. 4.3, 4.4 and 4.5 financing obligations form part of these Parties' overall official development assistance (ODA) programmes rather than being "new and additional."

In essence, developed countries' financial flows that go towards meeting their internationally agreed goal of providing at least 0.7% of their annual Gross National Income (GNI) as ODA are double-counted as also going towards meeting their treaty obligations under UNFCCC Art. 4.3, 4.4 and 4.5 to provide climate financing to developing countries. In this context, therefore, such financial flows are neither new, additional, nor, indeed, mandatory in nature.

Furthermore, the amounts pledged or to be committed from Annex II Parties for climate financing remain far too low to meet the scale of the financing needs of developing countries in relation to climate adaptation and mitigation. The UNFCCC estimates that US$262.15 to US$615.65 billion annually by 2030 will be needed, while the G-77 and China in their August 2008 climate finance proposal has suggested that initially (as a minimum) at least US$278.82 billion to US$557.64 billion (based on the 2007 GDP of Annex I Parties) will be necessary. Currently, climate-related funds under the GEF amounts to US$10.03 billion to US$10.25 billion, while US$18.95 billion (including US$6.68 billion in bilateral initiatives and US$12.27 billion through multilateral initiatives) in climate-related financing may be forthcoming from Annex II Parties' individual climate financing initiatives, with approximately US$4.8082 billion annually being made available as a result of these initiatives over varying time periods. That is, climate financing that is available or may be made available by Annex II Parties in the foreseeable future are a little over one-tenth of the minimum estimated requirements for climate financing coming from the UNFCCC or the G77 and China.

Similar to the difficulties in obtaining comparable data in relation to Art. 4.3 compliance, Art. 4.4-related data is difficult to assess in relation to the extent to which Art. 4.4 is being complied with due to the general lack of comparable data from Annex II Parties. On the other hand, based purely on the fourth national communications from Annex II Parties, it may be concluded that the yearly contribution to climate change adaptation funding fluctuates year on year and has not seen a yearly increase in most countries. Adding to that the issue that not every country has provided data for their yearly contributions, the basis for comparison becomes weaker.

Developed countries also show a great reluctance in channeling climate financing sourced from their governmental funds through the UNFCCC, preferring to use either their own bilateral channels or other multilateral channels such as the World Bank as their vehicles for public sector climate financing flows. They also show a preference for relying on unpredictable and market-driven private sector financing. The public financing from developed countries for climate change-related actions that go through non-UNFCCC channels, and such financing that do go through the UNFCCC's financial mechanism (via the Global Environment Facility as an operating entity), reflect and respond to the donors' political and economic priorities and interests rather than to the sustainable development priorities of developing countries.

Counting the low-end estimate of US$10.03 billion channeled or made available through the GEF as an operating entity of the UNFCCC's Art. 11 financial mechanism, as well as those through bilateral and other non-UNFCCC multilateral mechanisms (US$18.95 billion), the current total available or pledged public financing for climate change-related actions from Annex I Parties comes up to US$28.98 billion. Of this total amount, 34.61% is through the UNFCCC (via the GEF as an operating entity) and 65.39% is through non-UNFCCC channels. This is inconsistent with the provisions of UNFCCC Art. 11, which envisions that climate change-related financing should primarily flow through the financial mechanism established in Art. 11. This preference to channel public-sector financing for climate-change-related actions through non-UNFCCC channels by Annex II Parties, however, may institutionally weaken the UNFCCC, as well as its financial mechanism. Developed countries would not be able to be held accountable to the UNFCCC Conference of the Parties (COP) for the fulfillment of their financing commitments under the UNFCCC, and the climate financing priorities of developing countries will not be met.

Technology Transfer

Key Findings

- The EGTT, in its 2007 report, implied that to date, the UNFCCC's technology transfer-related provisions have not yet been implemented by developed country parties.
- Assessing the extent of developed countries' compliance with obligations relating to technology transfer under the UNFCCC can be quite difficult to measure due to (a) the difficulty in having comparable data sets, (b) the ambiguity that often results, particularly in the transfer of soft technology, (c) the fact that contributions for capacity-building are also counted among bilateral or multilateral contributions, (d) it is difficult to place monetary value on soft technology transfers, and (e) the original promises made by developed countries are extremely vague.
- Majority of technology transfer occurs in the energy sector, particularly in energy efficiency and the utilization of renewable energy sources.
- Most developed countries place a much higher emphasis on the transfer of soft technology and capacity building in the programmes they establish.
- The majority of technology transfer occurs through bilateral partnerships with countries.

Under Art. 4.5 of the UNFCCC, Annex II Parties are specifically committed to promote, facilitate and finance the transfer of, or access to, environmentally-sound technologies and know-how to developing countries to enable them to implement the UNFCCC. This commitment includes supporting the development and enhancement of endogenous capacities and technologies of developing countries.

The extent of compliance by developed countries with this treaty commitment has also been a subject of much discussion among the Parties. In its 2007 report, the UNFCCC Expert Group on Technology Transfer (EGTT) concluded that discussions relating to technology transfer in the UNFCCC "should evolve to a more practical, results-oriented level by promoting actions in specific sectors and regions". The EGTT in effect implied that to date, the UNFCCC's technology transfer-related provisions really have not yet been implemented by developed country Parties.

In surveying the extent to which developed countries subject to the obligation to transfer technology under Art. 4.5, assessing the extent of compliance with obligations relating to technology transfer under the UNFCCC can be quite difficult to measure due to the difficulty in having comparable data sets and the ambiguity that often results, specifically from the transfer of soft technologies. Contributions related to capacity building are also often counted among financial contributions either bilaterally or multilaterally, and so it is quite possible for those funds to be double-counted. It is also made more complicated by the fact that it is hard to place monetary value on soft technology transfers, such as information sharing or technical demonstrations. Original promises by developed countries are also extremely vague, simply noting that developed countries should help developing countries with climate change adaptation, making it much more difficult to gauge whether or not Annex I countries have lived up to their pledges.

There are several noticeable trends concerning technology transfer that can be discerned from the national communications of developed countries. The majority of technology transfer occurs in the energy sector, mainly in energy efficiency and the utilization of renewable energy sources. Most developed countries also place a much higher emphasis on the transfer of soft technology and capacity building in the programmes that they establish rather than on the transfer of hard technologies such as wind technologies, etc. The majority of technology transfer occurs through bilateral partnerships with countries, and often includes both soft and hard technology transfer as well as financial and technical support for initiatives that have been launched in developing countries.

Adaptation and Impacts of Response Measures

Key Findings

- Implementation gaps for Art. 4.8 and 4.9 continue to exist, especially in terms of financing flows from developed to developing countries.
- Annex II Parties' submission of information with respect to their implementation of Art. 4.8 is inadequate.

Under Art. 4.8, developed country Parties are obligated to give "full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology" to meet the specific concerns of developing countries with respect to adaptation and to the impact of the implementation of response measures. Art. 4.9 obligates developed country Parties to take "full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology."

To date, implementation gaps by developed countries continue to exist with respect to their implementation of their commitments under Art. 4.8 and 4.9. For example, the LDC Fund remains severely underfunded, with only US$172 million as of mid-2008. Total adaptation financing made available through bilateral and multilateral channels such as the GEF falls far short of the estimated adaptation financing requirement. Compared with what is required in the order of upwards from US$500 billion per year in developing countries for adaptation costs, the current total amounts available in multilateral and bilateral channels for adaptation-related financing (including double-counted ODA) that are in the order of approximately US$400 million as of 2008 is grossly inadequate.

Information from Annex II Parties on the implementation of activities under Decision 5/CP.7, and on addressing the impact of response measures, have both been also inadequate. Clear information that would enable a clear judgment on progress made has not been provided.

The assessment of the SBI at its June 2009 session with respect to the implementation of Art. 4.8 in relation to the implementation of decisions 5/CP.7 and 1/CP.10 clearly indicates that further work needs to be done with respect to such implementation, clearly implying that implementation gaps continue to exist with respect to the implementation of Art. 4.8 (as well as Art. 4.9).

Reporting

Key Findings

- The information to be incorporated in the national communications should cover national circumstances, greenhouse gas inventory information, policies and measures, projections and the total effect of policies and measures, vulnerability assessment, climate change impacts, adaptation measures, financial resources, transfer of technology, research and systematic observation, education, training and public awareness.
- Virtually all Annex I Parties submitted all four national communications that they have been required to submit to date.

Under Art. 12.1, 12.2 and 12.3 of the UNFCCC, Annex I Parties are obliged to report the details of their compliance with their specific obligations under the UNFCCC (including on mitigation, financing and technology transfer) to the UNFCCC Conference of the Parties.

Annex I Parties are required under Art. 12 of the UNFCCC to submit regular and detailed national reports to the Conference of Parties (COP). The timing, guidelines, and format of these submissions are determined by relevant decisions of the COP. The information to be incorporated in the national communications should cover national circumstances, greenhouse gas inventory information, policies and measures, projections and the total effect of policies and measures, vulnerability assessment, climate change impacts, adaptation measures, financial resources, transfer of technology, research and systematic observation, education, training and public awareness.

In this context, to date virtually all Annex I Parties submitted all four national communications that they have been required to submit to date. The due date for the submission of the next (5th) national communication from Annex I Parties is 1 January 2010, covering the report period 2005 to 2007.

Conclusion

The UNFCCC is a finely balanced policy regime that incorporates a set of obligations and commitments taking into account the common but differentiated responsibilities and respective capabilities of developed and developing countries in relation to climate change. However, developed countries have, by and large, failed to effectively and fully implement their specific commitments under the UNFCCC to take the lead in mitigation and to provide financing and technology to developing countries.

Contact us in the web:
http://www.southcentre.org

Chemin du Champ d'Anier 17
PO Box 228, 1211 Geneva 19
Switzerland

Telephone: (4122) 791 8050
Fax: (4122) 798 8531
E-mail: south@southcentre.org

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Other Publications on Climate Change Issue

- 01 / 2009 Developed Country Climate Financing Initiatives Weaken the UNFCCC
- 08 / 2008 The Role of Decentralized Renewable Energy Technologies in Adaptation to Climate Change in Developing Countries
- 08 / 2008 The Administrative Costs of Climate Change Adaptation Financing: The Global Environment Facility as an Operating Entity of the UNFCCC Financial Mechanism
- 06 / 2008 Financing the Global Climate Change Response: Suggestions for a Climate Change Fund (CCF)
- 05 / 2008 Measurable, Reportable, and Verifiable: Using the UNFCCC's Existing MRV Mechanisms in the Context of the Ad Hoc Working Group on Long Term Cooperative Action under the Convention
- 02 / 2008 Promoting the Development of the South in the Trade and Climate Regimes
- 11 / 2007 Integrating Development in Climate Change