After Kyoto: Building an Effective Global Regime to Address Climate Change

by Andrew Holland

The Kyoto Protocol has failed. Originally agreed in 1997, it went into force in 2005 after Russia acceded to it.[1] The United States signed, but never ratified, the treaty, and pulled out in 2001. Canada signed, ratified, and then pulled out of the treaty in 2012 when it became clear that it would not meet its agreed emissions targets. Australia only joined in 2007, and has not met its agreed targets. However, we should not focus on the diplomatic machinations of who was in or who was out—the ultimate judgment of the protocol must come based on how successful the Kyoto Protocol has been in meeting its goals.

The goals of the Kyoto Protocol were to begin to reduce the growth of global greenhouse gas emissions, and ultimately to lead to a system that would reduce total emissions to the point where the concentration of greenhouse gases in the atmosphere does not lead to dangerous climate change. Under those criteria, then, the Kyoto Protocol can only be judged as a terrible failure—so much so as to question the very assumptions on which the Protocol was built.

Since it was agreed in 1997, atmospheric concentration of CO2 has risen from 364 parts per million (ppm) to 396 ppm in 2013.[2] Over that time, total annual carbon emissions have risen from 6643 million tons of carbon (Mtc) to 9861 Mtc, an increase of an astounding 48 percent.[3]

This is a worrying rise, and not just because it shows flawed diplomacy. It means that emissions are on track to meet or exceed the Intergovernmental Panel for Climate Change's (IPCC) worst-case scenario.[4] It means that the world could be heading for dangerous, unprecedented, and irreversible change in global climate.

The Roots of Kyoto's Failure: A Global Divide

Ironically, the demonstrated failure of Kyoto is not due to a failure of the Protocol itself: of the countries that acceded to the Protocol, agreed to emissions reductions, and remained parties throughout its implementation period, their emissions collectively decreased by 4.2 percent from 1990 until 2012, exceeding the agreed upon targets.[5]

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The reason that the Kyoto Protocol failed was due to a flaw in the design: it was created for a world that was already changing when it was ratified, and has now changed completely. The Protocol divided the world into developed and developing countries: under the UN's Framework Convention on Climate Change (UNFCCC), the world is divided between Annex 1 (developed) and Non-Annex 1 (developing) countries.

This split was decided in 1995 at a historic meeting in Berlin, the first Conference of the Parties (COP) to the UNFCCC, two years before Kyoto. There, the principle of *common but differentiated responsibilities* was agreed upon. The idea was that because developed countries were principally responsible for the emissions already in the atmosphere, they should be principally responsible for making the necessary reductions in their emissions. For the principles of global equity, this separation has some logic: those responsible for the problem should be the ones to solve it.

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In practice, though, the principle of common but differentiated responsibilities has meant that developed country signatories are asked to bear the entire burden for reductions, while developing countries face no such constraints. The divide between developed and developing countries was the stated reason that the United States Senate voted unanimously in 1997 under the Byrd-Hagel Resolution to not ratify the Kyoto Protocol.[6]

The separation of the world into developing and developed was a divide borne of a different age, prior to the boom of globalization. In 1994, the year before the principle of common but differentiated responsibilities was put into place, Non-Annex 1 countries accounted for 39 percent of the world's greenhouse gas emissions, and developed countries accounted for 58 percent.[7] Since then, the developing world, and Asia in particular, has gone through a growth spurt, partially driven by increased fossil fuel use. On the other hand, emissions for Annex 1 countries have stayed virtually flat, decreasing by 1.4 percent. The result is that today, the ratio has flipped, with Non-Annex 1 countries accounting for 58 percent of emissions.

The Kyoto Protocol was designed to restrict the growth in emissions in the developed world, which has largely happened, but it was never designed for a world in which economic growth, and the corresponding growth in emissions, is driven by the developing world.

How to Deal with the Problem

The challenge is that after twenty years of climate summitry, as demonstrated,

the world has seen nothing in the way of actual reductions in global carbon emissions. There have been great diplomatic agreements—and, yes, some failures along the way.

Climate change is the most difficult collective action problem that the international community faces. No matter how much each country may want to reduce emissions—and we should believe negotiators when they say that their country wants to solve climate change—the incentive is to try to shirk your individual responsibility while pushing others to increase their own. In these collective action problems, there will always be incentives to cheat or to push commitments onto others.

The UN process has demonstrably encouraged these incentives through the principle of common but differentiated responsibilities, asking nothing from the countries where the growth is actually occurring. Developing countries shifted the responsibility to developed (Annex I) countries. Meanwhile, developed countries complain that large emitters like China, India, and others are not required to meet any commitments. Therefore, any emissions reductions will not only harm them, but could actually result in no net reductions in emissions, as firms move production to uncapped countries as part of a phenomenon known as *emissions leakage*. The consequence is that two decades of UN negotiations has failed in almost every respect.

An Unfounded Obsession with "Legally Binding"

Another way that we have failed in these negotiations is through an obsession with negotiating a *legally binding* treaty. The truth is that there is no such thing as legally binding in international relations. Sovereign governments will never cede their right to determine what is best for their country.

In 1928, the Kellogg-Briand Pact was signed and ratified by most countries in the world with the goal of outlawing war. Almost immediately, the treaty was shown to be ineffective and naïve. Environmentalists today are making the same mistake that anti-war activists did at that time. Canada's withdrawal from the Kyoto Protocol in 2011 should serve the same role that the Italian invasion of Abyssinia did in 1935—make us aware that just as no treaty can prevent war, no treaty can prevent a nation from seeking to expand its economy.

A Change in Emphasis Needed

Unfortunately, this is not as simple as simply replacing the UN with some new body to negotiate how to address climate change. No other body has the global legitimacy that the UN does. Instead, climate change should become a priority at every international negotiation.

In order to effectively solve the problem of climate change, we need a paradigm shift in how policymakers discuss the issue. We should stop thinking of climate change as purely an *environmental* problem. That categorization allows national leaders

to place it in a policy ghetto that only environmental campaigners like Greenpeace or the Sierra Club care about. Instead, policymakers have to realize that climate change affects all areas of society—national security, economic growth, energy production, natural disasters, development, and agricultural production to name just a few. It is not an exaggeration to say that, if climate change is not addressed, solving each of these problems could become nearly impossible.

That means that every government ministry in every country has an interest in addressing climate change, not just those on environment. The implications for climate diplomacy are that it is not the environmental ministers that should lead delegations to negotiate climate treaties, but the ministries of foreign affairs. This transition has begun: US Secretary of State Kerry has taken the lead on climate negotiations, and former Secretary of Defense Hagel has called for the Department of Defense to be involved in climate negotiations. Policymakers should mainstream negotiations on climate change, making them relevant to a broader range of society.

New Diplomacy to Meet the Challenges of Today's World

In 2015, world leaders are preparing the way for the twenty-first Conference of the Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC), set to take place in Paris. Billed as "Our last chance for a safe planet," this summit is slated to find a new agreement that will succeed the Kyoto Protocol.[8]

Diplomats have met under the UN's auspices every year since the Rio Earth Summit in 1992, and there has been no success in actually reducing total global emissions or the concentration of greenhouse gasses in the atmosphere. World leaders should learn from the failures of the past two decades and work towards an agreement that provides a realistic and effective way to reduce emissions. The current approach, embodied in the Kyoto Protocol, is clearly ineffective.

The Copenhagen Accord, agreed at the Copenhagen conference in 2009, was a step in the right direction. It asked, for the first time, that all countries submit targets for controlling emissions that would be verifiable by the UN. However, it has never been fully embraced by negotiators: European countries want a strict legally binding treaty, no matter the cost, while major developing countries continue to adhere to the principle of common but differentiated responsibilities.

Developments in late 2014 provide an alternative way forward. The United States and China came to an agreement about emissions at the 2014 APEC Summit in Beijing that will commit China to peaking its emissions before 2030. This was the most pronounced example of how China, the world's largest annual emitter of greenhouse gases, has moved away from its previous strict interpretation of the principle of common but differentiated responsibilities. Later in that same week, at the G20 meeting in Brisbane, Australia, the US and other nations came together to pledge over $10 billion to a new Green Climate Fund that will help developing nations adapt to climate change and move to low-carbon, sustainable development. Ongoing bilateral and multilateral negotiations between countries and among informal groups like the Major Economies Forum are doing more to mitigate climate

change; these developments show how addressing climate change has become a part of diplomatic engagement.

The UN Remains Valuable

This is not a call to dismantle the UNFCCC, however. Even though these negotiations occurred outside of the auspices of the UN, leaders should abandon the UN's role on climate change entirely. The UN serves a very important role in international relations as a validator. Only the universal nature of the UN's membership can give the legitimacy to deals, even if they are negotiated outside its auspices.

One of the most important roles that the UNFCCC will be asked to play in the coming years is as the non-partial validator of each country's commitments. Although each country will have to make commitments to reduce emissions, one of the most delicate tasks will be to report, measure, and verify annual emissions. Only the UN has the non-partial reputation among all countries to play this role. They will have to verify that the measured and reported emissions of a country are enough to meet their agreed upon commitments. This role will test the UN, but there is no other body that can provide the needed legitimacy.

Conclusion: Climate Change is Now a Central Part of International Relations

Throughout the mid-2000s, climate change was discussed at almost every major international forum, but mostly in a non-binding, aspirational way. The 2005 G8 meeting in Gleneagles, Scotland prioritized action on global warming, and was the first multilateral statement validating that humans were responsible for warming.

After the 2008 financial crisis, the pressing concerns of debt, currency, and economic problems pushed climate change to a lower level on the international agenda. That is unfortunate, because climate change will impact, and ultimately overwhelm, all of these areas if we do not slow it.

Finally, action on climate change has returned to the international agenda: it is a central part of the program of every major international meeting. One of the measures of a country's soft power is likely to be how it is perceived to be acting on climate change.

While we should not expect that intergovernmental communiqués or non-binding resolutions from meetings will solve the problem of global climate change, high-level attention can act as a motivating force for action at home. International emissions reductions are needed now. We should not let ideology or a misguided commitment to internationalism stop us from seeking out the most effective ways to bring about global emissions reductions.

Notes

[1] "Status of Ratification of the Kyoto Protocol," *United Nations Framework Convention on Climate Change*, unfcc.int/resource/docs/convkp/kpeng.pdf (accessed November 28, 2014).

[2] Mean annual concentrations, measured at Mauna Loa, Hawaii: ftp://aftp.cmdl.noaa.gov/products/trends/co2/co2_annmean_mlo.txt (accessed November 28, 2014).
[3] C. Le Quéré et al., "Global Carbon Budget 2014," *Earth System Science Data Discussions*, doi:10.5194/essdd-7-521-2014 (accessed November 28, 2014).
[4] Intergovernmental Panel on Climate Change, *Climate Change 2013: The Physical Science Basis*, September 2013. Available at: http://www.climatechange2013.org/images/report/WG1AR5_ALL_FINAL.pdf (accessed November 28, 2014).
[5] PBL Netherlands Environmental Assessment Agency, *Trends in global CO2 emissions: 2013 Report*, The Hague (2013) Available at: http://edgar.jrc.ec.europa.eu/news_docs/pbl-2013-trends-in-global-co2-emissions-2013-report-1148.pdf (accessed November 28, 2014).
[6] S Res. 98, 105th Cong., 1st sess. (July 25, 1997). For the full text of the resolution see: http://www.gpo.gov/fdsys/pkg/BILLS-105sres98ats/pdf/BILLS-105sres98ats.pdf.
[7] Theodore Panayotou and Jeffrey Sachs, *Climate Change and Development: Some Preliminary Results from Research-in-Progress* (Harvard Institute for International Development, January 1998).
[8] Jeffrey Sachs, "Our Last Chance for a Safe Planet," *Project Syndicate* (May 28, 2014).