

All Hands on Deck! Mobilizing Climate Change Action beyond the UNFCCC

Key Findings

- As negotiators work to deliver on the Durban Platform on Enhanced Action, the United Nations Framework Convention on Climate Change (UNFCCC) is clearly the primary forum for international cooperation on climate, but countries are increasingly addressing climate issues in other venues as well, including other multilateral environmental institutions, international trade talks, and small groupings of like-minded countries.
- The mitigation results of these institutions to date have been modest but could be substantial, especially if they can create incentives for more rapid and ambitious action.
- Important concerns remain, however, about the legitimacy and accountability of non-UNFCCC action, risks of marginalization of the UNFCCC, and strategic behaviour by powerful states to avoid more stringent emission reduction obligations. Ensuring that other institutions respect the UNFCCC's core principles and establishing clear relationships with the UNFCCC could go some way toward addressing these concerns.
- The UNFCCC should continue to play a central role because it enjoys a high level of inclusiveness and legitimacy and has unparalleled institutional capacity. As Parties build on the Durban Platform to secure country commitments in line with climate science, they should take steps to position the UNFCCC as a catalyst and coordinator for climate action on multiple fronts.

Introduction

Since the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, the international climate negotiations have achieved notable advances. They have played a crucial role by catalyzing climate action at various levels of governance, building an institutional infrastructure, facilitating learning and enhancing trust among parties, and generally keeping climate change on the international policy agenda.

Furthermore, with the creation of the Durban Platform for Enhanced Action in 2011, the prospects for heightened cooperation seem somewhat brighter. The Platform laid the foundation for a new binding agreement under the UNFCCC, and if successfully implemented, it could bolster the Parties' ambition and lead to the drastic cuts in greenhouse gas emissions that are urgently needed to avoid dangerous climate impacts.

The Durban Platform instructs parties to explore a range of options for closing the mitigation ambition gap. This policy brief draws on a series of expert analyses prepared for a special issue of the *Review of European Community and International Environmental Law* that highlight options for mobilizing climate action beyond the UNFCCC. Over the years, a wide variety of institutions have started – with varying levels of success – to tackle certain aspects of the climate problem outside of the UNFCCC. Our focus on these institutions does not mean that climate negotiations have failed or should be forsaken. Rather, this brief highlights that there is no single solution in the international response



Protesters at COP17 in Durban demand ambitious and decisive action, especially on behalf of vulnerable small islands and African nations.

to climate change, and that an “all hands on deck” approach is likely to be necessary.

The case for climate action beyond the UNFCCC

International institutions outside of the UNFCCC include other multilateral institutions, such as the regimes established by several multilateral environmental agreements (e.g., the Convention on Biological Diversity and the Montreal Protocol), human rights instruments and mechanisms, the world trading

Box 1: Multilateral and unilateral action on short-lived climate forcers

It is increasingly clear that near-term mitigation action on short-lived climate forcers, such as black carbon (soot), tropospheric ozone, methane and HFCs is of key importance to achieve long-term climate goals. With the exception of methane, these pollutants are not covered by the Kyoto Protocol, directing attention to other multilateral and unilateral initiatives.

In the multilateral context, the Montreal Protocol on ozone depletion has made significant contributions to climate protection by phasing out ozone-depleting substances that are also greenhouse gases. Currently, parties under the Montreal Protocol are discussing proposals to amend the treaty to phase down HFCs, which could result in additional mitigation benefits.

Other international instruments include the Convention on Long-Range



U.S. Secretary of State Hillary Clinton describes the goals of the Climate and Clean Air Coalition.

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Transboundary Air Pollution. In May 2012, parties to the Gothenburg Protocol to the Convention agreed on a set of amendments, one of which now includes black carbon within the remit of the protocol. Another

venue where short-lived climate forcers are discussed is the International Maritime Organization, which is currently considering how to address black carbon emissions from shipping that have an impact on warming in the Arctic region.

In addition to these traditional inter-governmental approaches, six countries launched a new public-private partnership in 2012 with a view to reducing short-lived climate forcers: the Climate and Clean Air Coalition to Reduce Short-Lived Climate Pollutants. Because it is unclear to what extent the initiative will be adequately funded and implemented, it is still too early to tell whether it will have a significant impact on climate change mitigation. However, its targeted approach could result in significant international and regional climate and development benefits.

system, as well as “unilateral” institutions – initiatives by small groups of countries to tackle specific aspects of climate change (e.g., the Major Economies Forum, the Climate and Clean Air Coalition, and the REDD+ Partnership).

Most existing international institutions outside the UNFCCC have contributed only modestly to climate goals to date. However, it may be possible to enhance their contribution in several respects. First, the nature of some of these institutions – smaller groupings of like-minded, “climate-friendly” countries – could allow for faster agreement and/or more ambitious action. Although most of the existing “clubs” have so far failed to make a dent in participating countries’ emissions, they could be made transformational by providing economic or trade incentives for group members in exchange for increased mitigation action.



Rio de Janeiro Mayor Eduardo Paes, right, introduces New York Mayor Michael Bloomberg at a Rio+20 event for C40, a network of ‘megacity’ mayors fighting climate change.

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Second, some of the other international institutions have a useful track record of reaching consensus among large numbers of countries. For example, drawing on its significant experience with phasing out several ozone-depleting substances, the Montreal Protocol can play an important role in phasing down hydrofluorocarbons (HFCs), which are potent short-lived climate forcers (see Box 1). This disaggregated approach to greenhouse gases could potentially be replicated in other institutions. In this way, small pieces of the climate puzzle could be addressed, although prompt action on the most important pollutant – carbon dioxide – would still be necessary.

Third, other institutions may be better able to mobilize national governments and constituencies that have remained silent or resistant by reframing climate impacts and policies, perhaps in terms of human rights, national security, or international trade. For instance, employing mechanisms of the UN Human Rights Council, such as Special Procedures and the Universal Periodic Review, could apply greater pressure on the world’s major greenhouse gas emitters. Similarly, by raising climate change in the UN Security Council, the Small Island Developing States have sought to draw attention to their plight in a potentially powerful venue. The international trade regime could also provide an important contribution, most notably through the reduction of fossil fuel subsidies or by liberalizing trade in climate-friendly goods and services.

Ultimately, the ability of these institutions to make a difference in the collective fight against climate change depends on whether they are able to help overcome the barriers that have weakened international cooperation within the UNFCCC itself, including a lack of political will.



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EU Climate Commissioner Connie Hedegaard speaks about 'The New Reality of Climate Change' at the World Economic Forum in Davos in January 2011, as UNFCCC Secretary Christiana Figueres looks on.

Addressing concerns about 'outsourcing' climate action

Although new country coalitions are pursuing options outside the UNFCCC, some are still reluctant to cede authority on climate-related issues to other institutions. This reluctance may stem from legitimate concerns and fears about lack of respect for the UNFCCC's core principles. Even if some other institutions have developed their own ways of ensuring procedural and substantive equity, these norms are different from those of the UNFCCC.

For example, the multilateral action by the EU to include emissions from international aviation in its Emissions Trading Scheme has been criticized by some developing countries for not respecting the UNFCCC's principle of "common but differentiated responsibilities and respective capabilities", among other reasons. In other cases, countries may fear a marginalization or erosion of the role of the UNFCCC vis-à-vis other institutions. In particular, the discussions in the Security Council have led to heated debates on the appropriate venue for developing international climate policy.

Moreover, multilateral institutions inherently involve only a few countries making decisions about issues that affect other countries as well. This means those other – often less powerful, developing – countries' interests may be ignored. Countries might also engage in "forum-shopping" to find the most favourable power dynamic or most sympathetic negotiating partners, or simply use participation in a variety of initiatives to mask insufficient action at the domestic level. Most important, there is a risk that outside activities could sap energy from the UNFCCC, and distract the Parties from what should be the urgent task of implementing the Durban Platform and reaching a new climate deal by 2015.

These valid concerns can be addressed by ensuring the UNFCCC remains at the centre of climate action, and explicitly linking the other institutions' work to the UNFCCC's. A key first step is to fully recognize, document and discuss those non-UNFCCC climate activities. For instance, standardized procedures for tracking and quantifying the estimated mitigation benefits of initiatives outside the UNFCCC could lead to a greater degree of confidence that these ancillary efforts are truly supplemental to existing action under the UNFCCC,

rather than a mere duplicative distraction. In this way, other institutions may be able to bring mitigation ambition back in to the UNFCCC.

A continued central role for the UNFCCC

Whatever other entities can contribute, the UNFCCC should continue to play a central role. The UNFCCC has unparalleled legal authority and a broad mandate to develop and oversee legally binding national climate actions. The UNFCCC also enjoys a high level of legitimacy, and it is particularly valued by smaller and poorer countries. The consensus requirement ensures that all have a voice in the process, and UNFCCC principles (most notably, "common but differentiated responsibilities") reflect a commitment to equity.

The UNFCCC also carries out important functions in terms of creating a shared vision, tracking progress through measuring, reporting and verification, and sharing knowledge and experiences. Furthermore, over the last two decades the UN climate regime has painstakingly built significant financial and technical capacity and developed detailed rules and procedures with respect to various aspects of climate policy that would be difficult to replicate in a timely manner.

Most of all, the UNFCCC's legal authority and broad mandate to develop and oversee legally binding national climate actions are unparalleled. No other institution could replicate them in the time-frame needed to avoid dangerous climate change. Humankind's best chance of keeping global warming below 2°C is to deliver on the Durban Platform by reaching a new agreement under the UNFCCC by 2015, with ambitious, equitable, binding mitigation commitments.

Navigating institutional complexity through enhanced coordination

Still, there is a growing consensus that climate action outside the UNFCCC need not undermine the climate negotiations, but rather, can complement them. The key is to ensure that all relevant institutions work together in a mutually supportive manner. The UNFCCC should play a central role on two levels: as the forum for negotiating a global agreement and pushing Parties to increase their ambition, and as a coordinator and catalyst for external actors. Putting the UNFCCC at the centre of this broad constellation of climate-related ini-



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COP17 President Maite Nkoana-Mashabane, the South African Minister of International Relations and Cooperation, huddles with negotiators.

tiatives will help ensure that all are working in tandem, not at cross-purposes or in a duplicative manner.

Coordination between the UNFCCC and other international institutions could improve the efficiency of the respective institutions and reduce unnecessary overlap; ensure that the institutions perform those functions they are best placed to carry out given their expertise and capacity; ensure that the institutions act within their jurisdictions in complementary ways; and enhance the legitimacy of the various institutions by building support for decision-making beyond a single institution.

The UNFCCC and counterpart institutions could adopt several practical means for intensifying coordination beyond existing partnerships. Options range from mutual and active observership and information exchange to more formalized approaches, such as memoranda of understanding.

Achieving greater coordination is not without challenges. A key question that is likely to emerge is where the authority lies to allocate responsibility for action to one institution over another. Moreover, in some cases coordination would be challenging because parties may have *intentionally* sought to take climate-related issues outside the UNFCCC. Lastly, institutions with similar, partially overlapping mandates may sometimes be more inclined to compete for authority, recognition and financial resources than to delegate power in the broader pursuit of overarching goals.

Although widespread coordination may thus face obstacles and take time, one can begin with the “low-hanging fruit”, such as active observership and regular information exchange, and gradually aspire to build a more elaborate and comprehensive network.

Policy recommendations

- In exploring and identifying options to address the mitigation ambition gap under the Durban Platform for Enhanced Action, climate negotiators should acknowledge and pay further attention to the potential of other institutions to scale up ambition. This not only includes quantifying the mitigation potential of institutions outside the UNFCCC, but also exploring their potential to provide incentives to increase global ambition.
- When working on climate issues outside the UNFCCC, coalitions of countries and non-state actors should seek to take into account the key principles of the UNFCCC – especially the highly valued “common but differentiated responsibilities and respective capabilities” – in their policies. They should also reassert their commitment to an ambitious and equitable new agreement under the UNFCCC.
- It is of key importance to establish clear relationships with other international institutions involved with climate issues, if they do not already exist. In this way, the mitigation contributions of other institutions could more readily be tracked and quantified. Moreover, increased coordination between the UNFCCC and newly created minilateral institutions can build the necessary confidence that these institutions are meant to complement, and not undermine, the UNFCCC. Clear relationships with other multilateral institutions can be established by more regular information exchange and reporting among institutions, but for some institutions, more formalized cooperation can be explored.

This policy brief was written by Harro van Asselt (SEI) and Remi Moncel (University of California–Berkeley Law School and World Resources Institute). It is based on the authors’ introduction to a special issue of the *Review of European Community and International Environmental Law* (21:3), released in November 2012, and draws on the following articles from that issue: Moncel, R., and van Asselt, H., ‘All Hands on Deck! Mobilizing Climate Change Ac-

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Climate Change in World Politics: How Close Have We Come and Would Full Securitization Enhance the Efficacy of Global Climate Change Policy?’; Zaelke, D., Andersen, S.O., and Borgford-Parnell, N., ‘Strengthening Ambition for Climate Mitigation: The Role of the Montreal Protocol in Reducing Short-lived Climate Pollutants’. The journal is available online at [http://onlinelibrary.wiley.com/journal/10.1111/\(ISSN\)1467-9388](http://onlinelibrary.wiley.com/journal/10.1111/(ISSN)1467-9388).

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