COMPLIANCE FOR GLOBAL CLIMATE REGIMES: KYOTO AND POST-KYOTO

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Kyoto Compliance Mechanism
Kyoto Compliance Cases to Date
Issues with the Kyoto Compliance Mechanism
Other Forms of Compliance Mechanisms
- Escrow Account Compliance
- National Enforcement
- International Rating Agencies
- Trade Related Enforcement
Bangkok and Durban Developments
Concluding Remarks
Kyoto Compliance Mechanism

- 2 branches – Enforcement and Facilitative
- Process to handle complaints takes 35 weeks (16 minimum if expedited)
- Penalties include:
  - Shortfall + 30% carried forward to next regime
  - Lockout on participation in global carbon trading markets
  - Infringing party must prepare a report detailing what went wrong and how it will be fixed
Compliance Cases to Date

- 7 major cases
  - Canada
  - Croatia
  - Greece
  - Bulgaria
  - Lithuania
  - Romania (ongoing)
  - Ukraine (ongoing)
Issues with the Kyoto Compliance Mechanism

- Dispute / complaint handling process functional with no major issues to date
- Non-compliance penalties weak
  - Large element of self-enforcement
    - No back-up if self enforcement fails
  - Relevance issue for existing penalties
  - Heavy reliance on carbon credits to achieve goals
    - Not currently an issue, but it will be
Countries deposit significant funds into an international escrow account.

If countries fall out of compliance, funds are distributed to other countries in compliance:
- Evenly or unevenly

Implementation difficult due to global conditions post-financial crisis.

If deposits are unable to be made, technological state secrets or similar vehicles could serve as a substitute.
Ratify internationally agreed targets into national law

National court systems would serve to enforce the agreement

Would be as many accepted interpretations of an international climate change agreement as there are National court systems

- Punishments for non-compliance would vary widely
Alternate Compliance Mechanisms Rating Agencies

- More passive enforcement type
- Agency set up to monitor and report the performance of all nations on adaptation and mitigation activities
- Could also be used as a tool to help in the distribution of international climate change funds
Alternate Compliance Mechanisms Trade Related Penalties

- WTO style dispute resolution
- Expand the text of WTO article XX
- Could involve trade sanctions as penalties

- Infeasible at present time
  - Requires much more exact measurement of emissions for any conclusions to be reached
- International push for improved measurement systems for emissions needed
Bangkok and Durban Developments

- US made reference to enshrining unilateral commitments into domestic law in Bangkok.
- Bangkok and Durban saw agreement that targets and enforcement shouldn’t be negotiated separately.
- Both meetings made clear that resolution of Kyoto shortfalls before moving to the next regime is required.
- Little on explicitly on enforcement in Durban save that targets and enforcement must be interlinked and country targets must be more individualized.
- A Technology Network that challenges the status quo for international architecture.
Concluding Remarks

- Only a limited period where Kyoto level of enforcement will work
  - Much stronger enforcement will be required in the future
- Current discussions entering a new paradigm
  - Targets and enforcement negotiated as a package
  - Decisions that challenge the international status quo (New Technology Network vs current IP Rights)
- Opens the field and allows alternate enforcement regimes to be considered
Thank You

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