



Theoretical approaches to the effectiveness of international climate agreements

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Theoretical approaches to the effectiveness of International Climate Agreements

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ABSTRACT

Despite the fact that several treaties were adopted in order to protect the Earth's climate, there have been lots of critiques on the effectiveness of these instruments. The key point in that is the determination of effectiveness. The effectiveness of climate agreement is understood as getting some social outcomes, and it is to be assessed through the analysis of the results achieved after the adoption, especially it concerns the main objective of the act. However, using solely this approach the existing international treaties regulating the climate change issues can hardly be considered as effective.

Meanwhile, this approach may not be the adequate way to address a problem as complex as global warming. The multifaceted nature of the problem of climate change seems to require a reassessment of the notion of effectiveness (Schiele,2014; 11). In this regard, several criteria need to be taken into account. Firstly, it is a broad participation (especially, of the world's biggest GHG emitters) achieved by different means from the form of agreement to flexibility mechanisms. Secondly, to make a real difference for curbing climate change the agreement must reflect high ambitions and commitment to deep emissions reductions (Bang;2016, 210). Thirdly, the agreement must contain well-developed financing and capacity-building clauses. Finally, the agreement must achieve high compliance rates. Moreover, all of these requirements (not just one or two) are to be fulfilled to ensure effectiveness.

Keywords: climate change, climate agreements, effectiveness, UNFCCC, Kyoto protocol, Paris agreement



1. INTRODUCTION

Currently the climate change is one of the most debated questions. And taking into account the experts' forecast on the impact of climate change worldwide, it is crucial to deal with this problem by effective international law and global cooperation.

Despite the fact that several treaties were adopted in order to protect the Earth's climate such as the United Nation Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol and the Paris agreement, there have been lots of critiques on the effectiveness of these instruments. It must be also noted that many studies have been done in this field trying to identify what is effective international law, as well as particularly investigating the effectiveness of international environmental law. However, today we will be focusing specifically on the international multilateral climate agreements.

So, the answer to the question whether the climate treaty is effective or not depends on what we understand by that term. Although effectiveness is widely used as a term, there is no universal definition or study which would give a full and clear definition of the effectiveness of international law.

There are variety of understandings of the concept and approaches in this regard. Firstly, some studies put compliance as a main criterion of the effectiveness of the law. Another approach defines the effectiveness through the social outcomes or in simple words this approach defines how successful the law is in solving problems it was designed to address (Zaelke,2005, 22). Finally, other studies look at effectiveness through the lens of implementation and «change of the behavior» (Victor;1998, 4).

Meanwhile, the paper suggests effectiveness of international climate agreements to be assessed through additional indicators. For example, the presence of the transparency and monitoring system, participation, adaptability of the treaty, adequate financing system, etc.

2. RESULTS

From the traditional approach evaluating the effectiveness of the international climate agreements poses two questions: “Are states complying with their commitments?” and “Are the goals of the agreements being achieved?”. In this respect, the paper identified certain limitations in this approach. Firstly, non-compliance with the treaty provisions not



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always evidences that these climate agreements lack influence and vice versa, full compliance may not mean that states have done an effort to abide with the norms of the agreement. Secondly, this approach does not consider the compliance of non-parties of the treaties, including private actors, although they may be influenced by the agreements. Thirdly, very long time will be needed to identify whether the goal of the agreement has been achieved or the problem of climate change has been solved.

On the other hand, some studies have taken another approach to the effectiveness with a crucial question regarding the extent to which climate agreements are responsible for the policies, behaviors, and environmental quality (after an agreement is signed). In other words, the approach is exploring the behavioral change of the actors, for example, based the implementation or treaty's performance data. Meanwhile, even if the change in behavior has been observed, it is difficult to determine the cause and establish whether this change was linked to the agreement and it would not have occurred anyway due to a variety of domestic economic and political reasons.

Due to the fact that each of the methods considered has its limitations, the possibility of using additional components of effectiveness has been indicated in the paper. Thereby, such elements as a degree of participation; financing, technology transfer, capacity-building clauses; monitoring and transparency mechanisms as well as the robustness of the agreement, which is the capability of the agreement to evolve in accordance with changing world demands and realities, should be taken into account.

3. DISCUSSION

1. TRADITIONAL APPROACHES TO THE EFFECTIVENESS OF INTERNATIONAL CLIMATE AGREEMENTS

The traditional approach to the effectiveness of the international agreements puts the compliance as a main indicator. In other words, if treaty, for instance, the United Nation Framework Convention on climate change sets the obligation of conduct to submit greenhouse gas inventories (in accordance with articles 4 and 12 of the UNFCCC), then it is legally effective to the degree that states act consistently with its requirements.

Obviously, this approach has certain advantages in terms of 1) more or less high objectivity of the method and 2) easiness to evaluate the effectiveness of the agreement



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by using the states' reports on implementation which they are bound to submit in accordance with art. 7 (2) of the UNFCCC and art. 7 of the Kyoto Protocol.

However, certain limitation has also been identified, as sometimes if some states do not comply with the provisions of the treaty it is not necessarily mean the lack of influence. Moreover, full compliance may not mean that states have done an effort to abide with the norms of the agreement. One of the brightest examples is the case of the Kyoto Protocol and Russia, where the Russian government agreed to a 5 percent reduction in its GHG emissions by the end of 2015, however, the state's high compliance rates are mostly explained because of the decline in industrial output due to the economic reasons, not by any changes in behaviour of the state or policy strategy concerning the climate change issue.

Another approach - the result-based effectiveness - examines the degree to which a treaty achieves its objectives or, more generally, solves the environmental problem it addresses (Young;1999, 4). Referring, for example, to the Framework Convention, the ultimate objective of which is "*stabilization of GHG concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*" (6; art. 2), but this aim has not been achieved in global level and GHG emissions and their concentrations in the atmosphere continue to increase at alarming rates (Brooks;2002, 360). Thus, using solely problem-solving/result-based approach to the existing international treaties regulating the climate change issues they can hardly be considered as effective. Moreover, climate is not the issue which can be solved in short-term, so very long time will be needed to identify whether the goal of the agreement has been achieved or the problem of climate change has been solved.

On the other hand, the studies based on the international relations have taken broader approach to the effectiveness, which explores the behavioral change (Raustiala,2000) (Mitchell,2007) of the actors. The advantage of this approach is that it examines the behavior of not only the states which have signed and ratified the convention but also other actors, including firms, individuals, agencies, and organizations of regional integration. Accordingly, for example, if the parties to the Paris Agreement change their behavior after its entry into force in order to "*hold the increase in the global average*



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temperature to well below 2°C above pre-industrial levels” (Paris Agreement,2017; art. 2), then it will be effective even if the above objective of the Paris Agreement will not be achieved.

Meanwhile, even if the change in behavior has been observed, it is difficult to determine the cause and establish whether this change was linked to the agreement. In other words, it is crucial to prove that the behavior of actors has changed precisely because of the agreement’s influence, and not for any other reasons.

2. ADDITIONAL CRITERIA OF THE EFFECTIVENESS OF INTERNATIONAL CLIMATE AGREEMENTS

The multifaceted nature of the problem of climate change and the difficult global political circumstances accompanying it require a reassessment of the notion of effectiveness. Due to the fact that each of the methods considered earlier has its limitations, it is suggested to use additional components for assessing the effectiveness. The first of them is the participation (Barrett,2003). According to the Framework Convention being a party to the agreement means depositing to the Depository “any of instrument of ratification, acceptance, approval or accession” (United Nation Framework Convention on Climate Change, 20 January 1994, A/RES/48/189.; art. 22). Currently, the UNFCCC has 197 parties (URL: http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (accessed 07/10/2017)).

According to the UNFCCC being a party to the agreement means depositing to the Depository “any of instrument of ratification, acceptance, approval or accession” (6; art. 22). Currently, the UNFCCC has 197 parties and 166 signatories (URL: http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (accessed 07/10/2017)). For the Kyoto Protocol stating stricter rules and obligations of the states the number of parties is 192(URL: http://unfccc.int/kyoto_protocol/status_of_ratification/items/2613.php (accessed 07/10/2017).), and number of signatories is even less (83 states). Finally, according to the UNFCCC web-site the Paris Agreements was signed by 195 states (including the organizations of regional integration), and ratified (accepted/approved/accessed) by 147(URL: http://unfccc.int/paris_agreement/items/9444.php (accessed 07/10/2017).) - this allowed the agreement to enter into force on 4



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November 2016. Hence, it is possible to trace the relationship between the existence of specific obligations in the agreement and the number of parties to it. For instance, lots of states readily became members of the UNFCCC, since it is a framework convention and does not establish explicit obligations of the parties or liability for non-compliance.

Indeed, on the one hand, the broad participation of states and regional economic integration organizations only contributes to the success of the agreement, since this means that the world community has expressed its readiness to implement the provisions in practice. However, the problem is that sometimes the number of participants does not play a major role. For example, one of the world's largest CO₂ emitters (URL: <http://www.carbonmap.org> (accessed 07/10/2017)) - the United States of America - is not a party to the Kyoto Protocol, and some other states, including Russia and Japan, have abandoned the second commitment period. Thus, for climate agreement to be effective not only the breadth of participation, but also the participation of states, which accounts for the majority of GHG emissions, is important.

The next indicator serving the effectiveness of the treaty is the existence of the clauses on capacity-building, financial assistance or technology transfer. Indeed, these clauses facilitate the effective participation of countries in the activities both on adaptation and mitigation of climate change. They maximize the opportunities offered by the agreements. The Framework Convention has provisions indicating the need for cooperation and *inter alia* technology transfer and financial support (United Nation Framework Convention on Climate Change, 20 January 1994, A/RES/48/189.; art. 11). The same can be found in the Kyoto Protocol (Kyoto Protocol; art. 10 (1), 11) and the Paris Agreement (Paris Agreement, 2017; art. 6 (8), 9, 10 (2)).

Finally, the robustness of the treaty was proposed as an indicator of the effectiveness. The study of Chambers defines robustness of the environmental agreement as its ability to evolve with social norms and values, adapt to modern realities, better reflect domestic norms. These may include such mechanisms as “framework convention and protocol approaches, education clauses aiming to increase the learning abilities, and technology mechanisms that review progress in knowledge and advancement on the issue area”. Using this approach to climate agreements, in particular, to the UNFCCC, it should



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be noted that the adoption of this convention was necessitated by the need to respond somehow to the increasing anthropogenic impact on the climate, which became so obvious by the end of the 20th century. Thus, the UNFCCC reflected a social necessity. Additionally, the Convention, being a framework in nature, assumes adoption of protocols specifying its provisions depending on changes in climatic conditions, scientific data, and social demand. Thus, the Kyoto Protocol and the Paris Agreement were adopted. All the above serve as an evidence of the robustness of the UNFCCC.

As for the Kyoto Protocol, it also includes explicit provisions which enable its further development. For instance, article 9 states that parties shall “periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts, as well as relevant technical, social and economic information” (Kyoto Protocol; 9 (1)). Moreover, article 3 served as the basis for commencing negotiations on a second commitment period (Kyoto Protocol; 3 (9)), providing parties with the opportunity to account for the latest scientific findings.

The Paris Agreements introduced a new system for establishing obligation of parties, which is based on the nationally determined contributions (Paris Agreement; 2017, 3). It means that every party defines its own way to contribute to the global response to the climate change. There will also be a global stock take every 5 years to assess the collective progress towards achieving the purpose of the Agreement and to inform further individual actions by the parties. This approach provides parties with certain flexibility, which in certain sense leads to the robustness.

Thus, the international climate regime, through its agreements, has established a system for evolution and development in accordance with changing world demands. Therefore, assessing their effectiveness through the lens of robustness, it can be concluded that they are quite effective.

4. CONCLUSION

This paper has considered different approaches to the concept of effectiveness of the climate agreements in order to determine how the effectiveness of the international agreements combating climate change can be assessed.



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Consequently, assessing the effectiveness of the climate agreements different angles should be considered. While the legal and result-based effectiveness can give some more objective answer to the question whether the agreement is effective, these approaches are narrow in their scope. On the other hand, the broad approach based on the behavioral change may lead to the wrong conclusions due to the causal link issue.

Moreover, the role of supporting provisions should not be underestimated as they contribute a lot to the effectiveness, although these provisions of the treaties are generally accepted as a less important. However, despite the fact that they are often non-binding by their nature they play a significant role in achieving the objectives of the treaty. All the additional indicators from participation to robustness should be taken into consideration along with the basic models. Hopefully, this will provide treaty-makers further insights into how to strengthen the existing climate agreements and draft better treaties.

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6. REFERENCES

- Bang G., Hov J., Skodvin T. (2016), The Paris Agreement: Short-Term and Long-Term Effectiveness, *Politics and Governance*, Vol. 4, Issue 3.
- Barrett S., *Environment and statecraft* (Oxford: Oxford University Press, 2003).
- Brooks R.O., Jones R., and Virginia R.A., *Law and Ecology: The rise of the ecosystem regime* (Ashgate, Aldershot, 2002).
- Kyoto Protocol, United Nations, Treaty Series, vol. 2303, No. 30822.
- Mitchell R.B. 'Compliance Theory: Compliance, Effectiveness, and Behavior Change in International Environmental Law' In Jutta Brunee, Daniel Bodansky, and Ellen Hey (eds.) *Oxford Handbook of International Environmental Law* (Oxford University Press, 2007).
- Paris Agreement, 12 December 2015. URL: http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf (accessed 07/10/2017).



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Raustiala K., 'Compliance and effectiveness in international regulatory cooperation' (2000) 32, *Case Western Reserve Journal of International Law*, 387–440.

Schiele, S. (2014) Effectiveness of international environmental regimes and “creative legal engineering”, in *Evolution of International Environmental Regimes: The Case of Climate Change*. Cambridge: Cambridge University Press.

United Nation Framework Convention on Climate Change, 20 January 1994, A/RES/48/189.

URL:

http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (accessed 07/10/2017).

URL:

http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (accessed 07/10/2017).

URL: http://unfccc.int/kyoto_protocol/status_of_ratification/items/2613.php (accessed 07/10/2017).

URL: http://unfccc.int/paris_agreement/items/9444.php (accessed 07/10/2017).

URL: <http://www.carbonmap.org> (accessed 07/10/2017).

Victor D., Raustiala K. and Skolnikoff E.B., Introduction and overview in Victor D., Raustiala K. and Skolnikoff E.B. (eds.) *The implementation and Effectiveness of international environmental commitments: theory and practice* (Cambridge, MA: The MIT Press, 1998) (hereinafter *The implementation and effectiveness*).

Young O. R. and Levy M. A., 'The effectiveness of international environmental regimes', in O. R. Young (ed.), *The effectiveness of international environmental regimes: causal connections and behavioral mechanisms* (Cambridge, MA: MIT Press, 1999).

Zaelke D, Kaniaru D, and Kružíková E (eds), *Making Law Work - Environmental Compliance & Sustainable Development* (Cameron May Ltd International Law Publishers, London, 2005).