

Wuppertal Institute
for Climate, Environment
and Energy

Who Should Pay for Climate Protection? -Back to Legal Principles-

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Rie Watanabe
Energy, Transport, and Climate
Research Group

Background : Financial contributions

Another side of coin of burden sharing

- The international negotiation has often been explained as a result of conflict and compromise of state actors motivated primarily by self-interest (e.g. March and Olsen 1998). The climate negotiation is not an exception.
- It is necessary to develop some formula for burden sharing based on norms that could be accepted as fair for minimising interest- and bargaining power-driven negotiations.
- **Burden Sharing = Mitigation commitments (mitigation commitments itself and cost sharing for mitigation) + repair of damages (adaptation)**
 - In the KP, only industrialised countries take mitigation commitments. It was taken for granted that each country should pay for achieving mitigation commitments.
 - Mitigation actions of several large emitting developing countries are necessary in order to prevent dangerous climate change.
 - To enhance mitigation activities in developing countries, the necessity has been widely acknowledged to scale up financial support from industrialised countries to developing countries.
 - One of the obstacles that have hampered scaling up financial support: It is unclear who is obliged to pay for climate protection.

Questions

- Do legal principles work as norms to provide a basis for fair decision on cost sharing?
- Do two legal principles, the polluter pays principle (PPP) and the principle of common but differentiated responsibilities (CBDR) provide a basis for discussions concerning who is obliged to pay for climate protection?

PPP = Who is polluter? Who is to pay?

- **Those discharging substances above the threshold are obliged to pay.**
 - Pollution = the kinds of substances which are relevant to the kinds of environmental effects, and the level of such effects. It often includes the condition of certain harmful effects on the environment, and therefore implies a certain threshold.
- **What is the threshold?**
 - The threshold is calculated on a basis of cumulative (historical) emissions (Cumulative GHG emissions/capita (or CO₂/capita)).
 - Global warming results from accumulated GHG emissions.
 - Current generations have benefited from the actions of their ancestors in borrowing from the earth's environmental assimilative capacity. They must logically be held responsible for the consequent liabilities as well (Smith 2000).

PPP= Who is polluter? Three interpretations on threshold

PPP1. **Global threshold**

Global emission limits were yet not settled. The polluters are not determined by the PPP with this definition. It is rather determined by political negotiations or other principles.

PPP2. **Threshold for a group of industrialized countries and of developing countries**

Nobody has denied that the former have benefited disproportionately from the industrialization process that led to the accumulation of GHGs in the atmosphere. Therefore, a group of industrialised countries are categorised into “the polluters.”

PPP3. **Threshold for states**

States that have exceeded their thresholds are categorized into “the polluters.”

CBDR: Two elements

The principle contains two elements.

- ***Common responsibility***
- ***Differentiated responsibilities:*** Two notions (Rajamani 2000)
 - Historical responsibilities (Henry Sue (1999)): The CBDR is based on the PPP but may underline a larger responsibility of industrialized countries than the PPP.
 - Capacity to Pay (in the Tunisia-Libya Case)

CBDR: Two interpretations on Differentiated responsibilities

CBDR1 (Historical Approach): Nations are requested to contribute resources to the global effort to reduce GHGs based on their status as industrialized or developing countries.

- The leadership role of industrialized countries (Principle 7 of the Rio Declaration)

CBDR2 (Modified Approach): Countries are differentiated purely based on historical responsibilities and capacity regardless of whether they belong to industrialized countries or developing countries.

- The current application of CBDR allows developing countries to continue discharging detrimental amounts of GHGs.
- The emissions from developing countries have already surpassed those from industrialized countries in 2005 (IEA 2008), and will account by 2020 for more than 60% of the world GHG emissions in most of scenarios (den Elzen and Höhne 2008). For addressing the climate change issue in time, both industrialized and developing countries must have strict and adequate emission mitigation targets.
- Such targets will encourage the economies of developing countries to grow in a less environmentally burdensome direction, obviating the necessity of re-addressing this problem in the future (Weisslitz 2003).
- Some developing countries have more capacity to bear the cost for mitigation actions than some of industrialized countries.

Who is obliged to pay for climate protection in theory

<The threshold>

PPP 1. Global threshold: Global emission limits were not settled yet. Therefore, this definition does not determine “the polluters” on its own. It is rather determined by political negotiations or other principles, including CBDR.

PPP 2. Thresholds for industrialised countries and developing countries: Based on this definition, industrialised countries with historical responsibilities and capacity to pay are polluters.

PPP 3. Thresholds for states: States that have exceeded their thresholds are categorized into “the polluters.”

<Differentiated responsibilities>

CBDR 1. Historical approach: Only industrialised countries are obliged to take commitments for addressing the climate change issue because they have had economic benefits by discharging disproportionate amount of GHG emissions in the past. Therefore, industrialised countries with historical responsibilities and capacities to pay are obliged to contribute to providing financial resources.

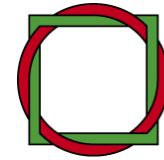
CBDR 2. Modified approach: Regardless of whether belonging to industrialised countries or developing countries, states with historical responsibilities and capacities are obliged to contribute to providing financial resources.

Who should pay for climate protection?

PPP CBDR	1. Global threshold	2. Annex I and Non-Annex I division	3. State by state
The historical definition	Industralised countries that exceed the certain level of GHG emissions per capita and have capacities (=Annex II Parties, Kyoto approach)	Industralised countries that exceed the certain level of GHG emissions per capita and have capacities (=Annex II Parties, Kyoto approach)	Industralised countries that exceed the certain level of GHG emissions per capita and have capacities (=Annex II Parties, Kyoto approach)
The modified definition	States that exceed the certain level of GHG emissions per capita and have capacities (Global approach)	Industralised countries that exceed the certain level of GHG emissions per capita and have capacities (=Annex II Parties, Kyoto approach)	States that exceed the certain level of GHG emissions per capita and have capacities (Global approach)

Conclusions

- Yes, the PPP and the CBDR contribute to restricting the options on “polluters”.
 - Option 1: Annex II parties = contributors (Kyoto Approach)
 - Option 2: States with historical responsibilities and capacities = contributors (Global Approach).
- In order to determine which countries should pay for the climate protection in option 2, however, it is necessary to determine
 - the ratio between historical responsibilities and capacities.
 - the base year for calculating cumulative emissions



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Many thanks for your attention !



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