



Institute for
European Studies
Vrije Universiteit Brussel

Towards a 2015 Paris Agreement: Obligations of Result, Obligations of Conduct - or Both?

Prof. Dr. Sebastian Oberthür

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Decision 1/CP.17:

“a protocol, another legal instrument or an agreed outcome **with legal force** under the Convention applicable to all Parties”

- **Some kind of international obligation/commitment seems to be implied - what are the options?**

2. Obligation of Result

- Freedom in the choice of the means to achieve the result - flexibility in the implementation
- Certainty of environmental outcome (if complied with)
- Clear benchmark for the compliance assessment (ex post)

2. Obligation of Result (2)

- Prime example: Kyoto Protocol (but also others, e.g. Montreal Protocol or protocols to UNECE LRTAP Convention)
- Difficulty to ensure **actual** and **timely** policy changes (Kyoto: EITs and Canada)

2. Obligation of Conduct

- **International** conduct, e.g. reporting, international review, compliance procedures: reinforcing mitigation commitments and as such important
- **National/domestic** conduct, e.g. implementation of effective measures to limit/reduce emissions: **core of interest here**

2. Obligation of Conduct (2)

- Determination of course of conduct: focus on implementing activities
- Uncertainty of results/effectiveness
- Facilitates early compliance assessment on the way/prior to the materialisation of any result

2. Obligation of Conduct (3)

- Examples:
 - Espoo Convention on Environmental Impacts Assessments
 - Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
 - World Trade Organisation
 - Etc.
- ...**but**: specific **results** have rarely been achieved by means of obligations of conduct **only**.

2. Obligation of Conduct (4)

- Danger of ineffective obligations of conduct aiming at achieving results without connecting to them
- Effectiveness depends on:
 - precision and level of prescriptiveness
 - E.g. requirement to implement binding domestic legislation vs. obligation to ‘take implementing measures’
 - ... and: **link to results!**

3. Towards Paris: Hybrid Solutions?

- Obligations of conduct and result are not mutually exclusive
 - E.g. CITES, UNFCCC - and Kyoto (Art. 2)!
- How both are combined is crucial for effectiveness: inducing policy change (conduct) with a clear direction and benchmark (result)
- The task for Paris: design the link between both in a politically acceptable and effective way.



Thank you for your attention!

Sebastian.Oberthuer@vub.ac.be

1. EU External Climate Policy (2)

| Emission target | Party |
|-----------------|---|
| -8% | <u>EC and 15 Member States</u> + BUL, CZE, EST, LAT, LIE, LTU, MON, ROM, SVK, SLO and SUI |
| -7% | USA |
| -6% | Canada, Hungary, Japan, Poland |
| -5% | Croatia |
| Stabilisation | New Zealand, Russia, Ukraine |
| +1% | Norway |
| +8% | Australia |
| +10% | Iceland |

2. Historical overview of EU Climate Policy

| Member state | Reduction by 2008-2012 | Member state (continued) | Reduction by 2008-2012 |
|--------------|---------------------------|-----------------------------|---------------------------|
| Austria | -13.0% | Italy | -6.5% |
| Belgium | -7.5% | Luxembourg | -28.0% |
| Denmark | -21.0% | Netherlands | -6.0% |
| Finland | 0.0% | Portugal | +27.0% |
| France | 0.0% | Spain | +15.0% |
| Germany | -21.0% | Sweden | +4.0% |
| Greece | +25.0% | UK | -12.5% |
| Ireland | +13.0% | | |
| | | EU-Total | -8.0% |

2. GHG Emissions

