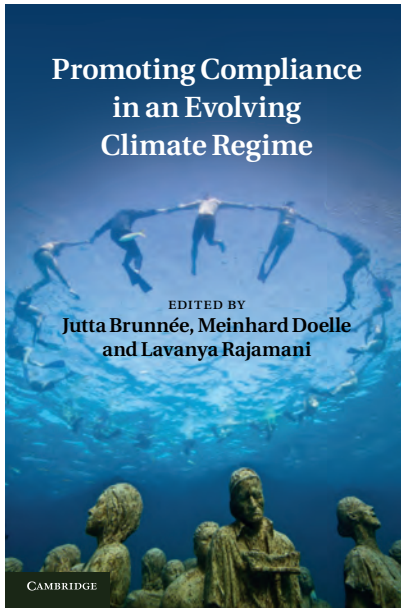
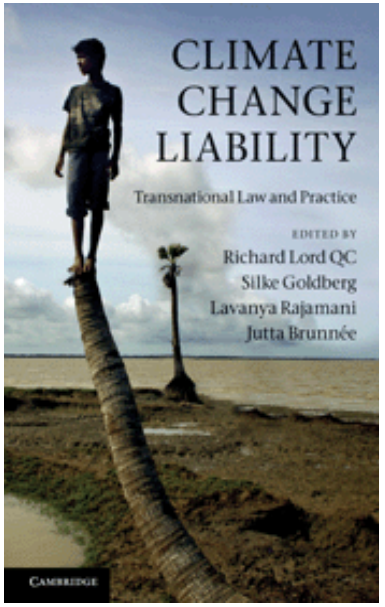
Negotiating The Post 2012 Regime: What to Expect from Durban

Meinhard Doelle
MELAW Institute
Schulich School of Law
Dalhousie University
Halifax, Canada
Mdoelle@dal.ca





Overview

- The Current Regime
  - Kyoto Basics
- Principles Influencing the Negotiations
  - Capacity, Potential, Responsibility
  - Adequacy & Equity
- The Slowly Emerging New Regime
  - The Bali Roadmap
  - Copenhagen & Cancun
  - What to expect from Durban

The Current (Kyoto) Regime

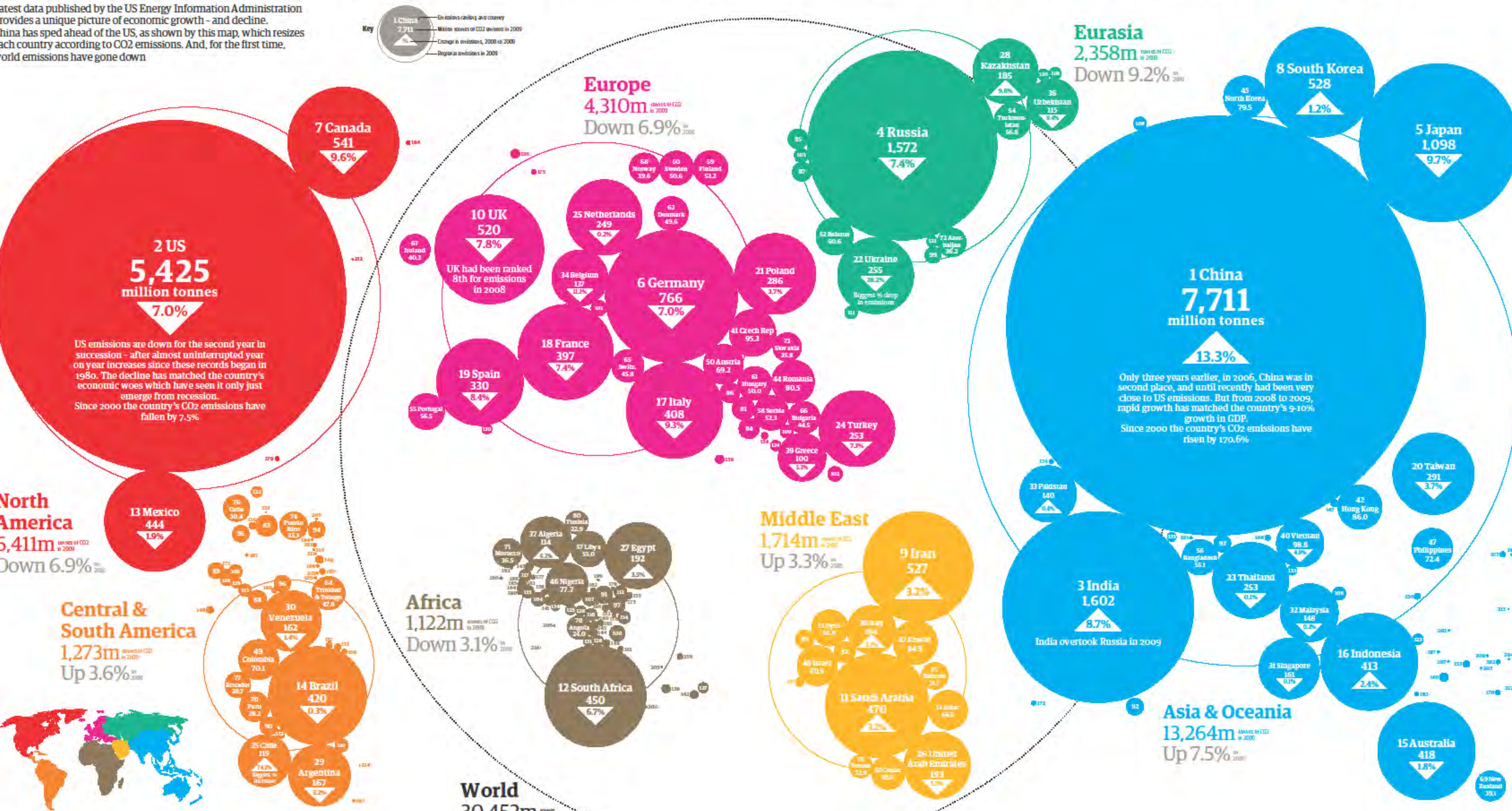
- **Under the Umbrella of the UNFCCC**
- **34 Developed Countries have ER Targets (2008-12)**
  - EU, US, CAN, JP, AUS, NZ, RUS, …
- **Kyoto Flexibility Mechanisms**
  - ET, JI, CDM
- **Sinks (forests, grasslands, soils)**
- **Tracking & Reporting Emissions & Credits**
- **Verification & Compliance**

The Current (Kyoto) Regime

- **Kyoto in force since 2005**;
  - 1st CP runs out at end of 2012
- **Almost Universal Adoption**
  - In Developed & Developing World (Except: US, ~ Can)
- **Mainly about Mitigation** (& some adaptation)
- **Negotiations on post 2012 underway since 2005**:
  - Montreal, Bali, Copenhagen, Cancun, Durban, …
- **Ever Shifting "Coalition" of the Unwilling**
  - US, Can, NZ, JP, Russia, OPEC, ... ?

An atlas of pollution: the world in carbon dioxide emissions

atest data published by the US Energy Information Administration rovides a unique picture of economic growth - and decline. hina has sped ahead of the US, as shown by this map, which resizes ach country according to CO2 emissions. And, for the first time, orld emissions have gone down



etailed data

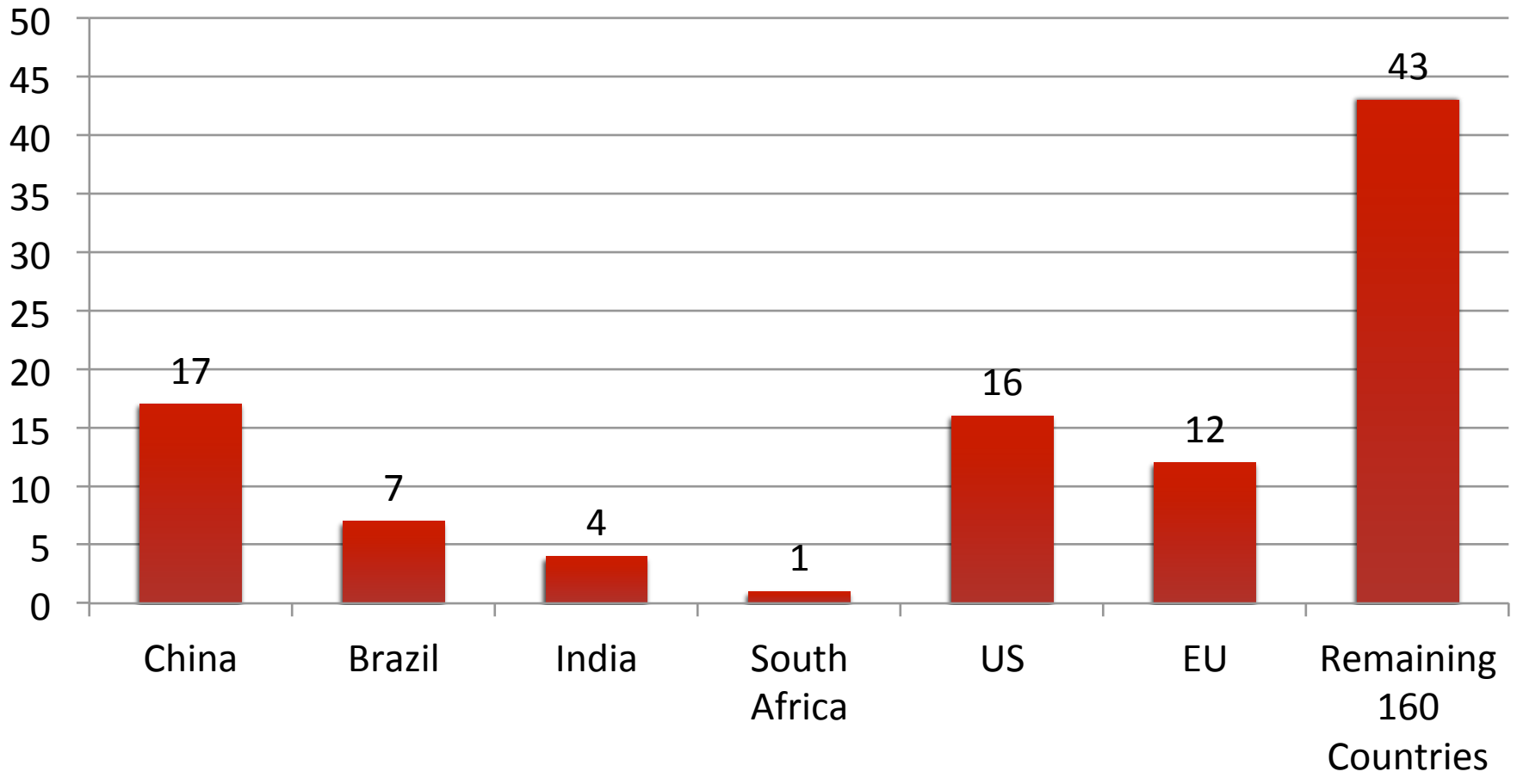
ull list of each country's CO2 emissions and novement in the world emissions league table

Rank/change on 2008	Country	Million tonnes 2009	Percent change 08–09
1	China	7,711	13.3
2	US	5,425	-7.0
3	India	1,602	8.7
4	Russia	1,572	-7.4
5	Japan	1,098	-9.7
6	Germany	766	-7.0
7	Canada	541	-9.6
8	South Korea	528	1.2
9	Iran	527	3.2
10	UK	520	-7.8
11	Saudi Arabia	470	3.2
12	South Africa	450	-6.7
13	Mexico	444	-1.9
14	Brazil	420	-0.3
15	Australia	418	-1.8
16	Indonesia	413	2.4
17	Italy	408	-9.3
18	France	397	-7.4
19	Spain	330	-8.4
20	Taiwan	291	-3.7
21	Poland	286	-3.0
22	Ukraine	255	-28.2
▲ 23	Thailand	253	-0.1
▼ 24	Turkey	253	-7.3
– 25	Netherlands	249	-0.2
– 26	United Arab Emirates	193	-1.2
– 27	Egypt	192	3.5
▲ 28	Kazakhstan	185	9.8
▼ 29	Argentina	167	-3.2
– 30	Venezuela	162	-1.4
– 31	Singapore	161	-0.1
▲ 32	Malaysia	148	-0.2
▲ 33	Pakistan	140	0.4
▼ 34	Belgium	137	-11.2
▲ 35	Chile	119	74.1
▼ 36	Uzbekistan	115	-9.4
▼ 37	Algeria	114	6.2
▲ 38	Iraq	104	[illegible]
▼ 39	Greece	100	-5.3
▼ 40	Vietnam	98.8	-4.9
– 41	Czech Republic	95.3	-3.8
▲ 42	Hong Kong	86.0	10.3
– 43	Kuwait	84.9	6.3
▼ 44	Romania	80.5	-16.6
▲ 45	North Korea	79.5	14.3
▼ 46	Nigeria	77.7	-22.4
▼ 47	Philippines	72.4	-2.9
▲ 48	Israel	70.5	4.8
▲ 49	Colombia	70.1	7.9
▼ 50	Austria	69.2	-2.5
▲ 51	Qatar	66.5	4.8
▼ 52	Belarus	60.6	-9.5
▲ 53	Syria	56.9	6.1
▼ 54	Turkmenistan	56.8	-1.2
▲ 55	Portugal	56.5	1.5
▲ 56	Bangladesh	55.1	9.4
▼ 57	Libya	55.0	-3.9
▲ 58	Serbia	52.3	-3.2
▼ 59	Finland	52.2	-4.9
▼ 60	Sweden	50.6	-7.7
▼ 61	Hungary	50.0	-10.7
▼ 62	Denmark	49.6	-8.6
▲ 63	Oman	49.0	9.9
– 64	Trinidad and Tobago	47.8	-4.1
▲ 65	Switzerland	45.8	1.0
▼ 66	Bulgaria	44.5	-11.9
▼ 67	Ireland	40.3	-11.2
– 68	Norway	39.6	-0.3
▲ 69	New Zealand	39.1	-1.1
▲ 70	Peru	38.2	4.0
▲ 71	Morocco	36.5	-2.2
▼ 72	Azerbaijan	36.2	-8.9
▼ 73	Slovakia	35.8	-4.5
– 74	Puerto Rico	33.3	-3.3
– 75	Bahrain	31.1	1.6
– 76	Cuba	30.4	4.7
– 77	Ecuador	29.7	1.7
– 78	Angola	24.0	1.8
▲ 79	Yemen	22.9	11.5
▲ 80	Tunisia	22.9	5.7
▼ 81	Croatia	21.5	-4.7
▲ 82	Jordan	20.0	[illegible]
▲ 83	Dominican Republic	19.9	2.1
▼ 84	Bosnia and Herzegovina	18.3	-15.9
▼ 85	Estonia	17.5	-11.8
▲ 86	Slovenia	17.4	0.5
▼ 87	Lithuania	15.8	-12.8
– 88	Panama	15.5	1.7
– 89	Lebanon	14.6	3.6
– 90	Bolivia	13.9	-2.7
▲ 91	Sudan	13.0	7.0
▲ 92	Sri Lanka	12.8	1.7
▼ 93	Burma	12.5	-9.5
▼ 94	US Virgin Islands	12.5	-3.5
▼ 95	Jamaica	12.1	-4.6
– 96	Netherlands Antilles	11.6	-4.1
▲ 97	Kenya	11.5	2.4
– 98	Guatemala	11.3	-1.4
▲ 99	Armenia	11.2	1.5
▲ 100	Zimbabwe	10.6	18.6
▼ 101	Luxembourg	10.6	-11.2
– 102	Cyprus	9.4	-3.5
▲ 103	Latvia	8.5	8.1
▲ 104	Ghana	8.1	9.6
– 105	Honduras	7.9	-2.4
▼ 106	Brunei	7.6	-27.1
▲ 107	Cameroon	7.5	-1.9
– 108	Mongolia	7.4	-3.8
▼ 109	Macedonia	7.3	-20.1
▼ 110	Uruguay	7.2	-10.2
– 111	Moldova	7.1	-4.1
▲ 112	Ethiopia	6.9	7.1
▼ 113	Costa Rica	6.8	-4.4
▲ 114	Tanzania	6.7	7.1
▼ 115	Ivory Coast	6.6	2.2
▲ 116	Congo	6.3	3.8
– 117	Senegal	6.2	1.8
▼ 118	Tajikistan	6.1	-10.4
– 119	El Salvador	5.9	0.0
– 120	Kyrgyzstan	5.7	-0.4
– 121	Georgia	5.3	-4.9
– 122	Bahamas	5.2	3.1
▲ 123	Papua New Guinea	4.8	6.7
▲ 124	Albania	4.6	3.8
▼ 125	Equatorial Guinea	4.6	-2.1
▼ 126	Gabon	4.6	-3.2
▼ 127	Mauritius	4.6	-1.0
▲ 128	Botswana	4.5	7.7
▼ 129	Nicaragua	4.5	-2.9
▼ 130	Gibraltar	4.4	-3.8
▲ 131	Namibia	4.1	3.7
▲ 132	Paraguay	4.0	3.7
▼ 133	Cambodia	3.9	-6.1
▲ 134	Benin	3.5	4.3
▲ 135	Nepal	3.4	3.8
▼ 136	Iceland	3.4	-7.4
▲ 137	Palestine	3.2	4.3
▲ 138	Madagascar	3.1	13.4
▼ 139	Malta	3.1	-2.5
▼ 140	New Caledonia	3.0	0.0
▲ 141	Togo	2.8	5.6
▼ 142	Reunion	2.8	0.0
▲ 143	Mauritania	2.7	5.3
▲ 144	Zambia	2.7	18.8
▼ 145	Congo, Dem Rep	2.7	-2.6
▼ 146	Martinique	2.6	6.3
▼ 147	Macau	2.4	1.3
▲ 148	Mozambique	2.3	4.6
▼ 149	Guadeloupe	2.2	-5.1
▲ 150	Haiti	2.1	2.9
▲ 151	Suriname	2.0	4.0
– 152	Uganda	1.9	-3.0
▼ 153	Fiji	1.9	-6.2
– 154	Montenegro	1.9	4.3
▲ 155	Djibouti	1.8	3.4
▼ 156	Guam	1.7	-3.5
– 157	Guyana	1.5	0.0
▲ 158	Burkina Faso	1.4	2.1
▲ 159	Seychelles	1.4	6.1
▼ 160	Barbados	1.4	-4.0
▲ 161	Swaziland	1.4	17.0
– 162	Niger	1.3	3.5
▼ 163	Guinea	1.3	-1.2
▲ 164	Sierra Leone	1.3	5.9
▼ 165	Malawi	1.3	4.6
– 166	Laos	1.2	1.1
▼ 167	Wake Island	1.2	-4.3
– 168	French Guiana	1.1	6.1
– 169	Aruba	1.1	4.2
▲ 170	French Polynesia	1.1	7.7
▼ 171	Belize	0.94	-5.4
– 172	Maldives	0.92	3.4
– 173	Somalia	0.90	3.4
– 174	Afghanistan	0.83	-2.9
– 175	Faroe Islands	0.80	6.4
▲ 176	Eritrea	0.77	6.4
▲ 177	Mali	0.74	6.4
▼ 178	Rwanda	0.74	0.0
– 179	Bermuda	0.71	4.2
– 180	Liberia	0.69	2.2
– 181	Antigua and Barbuda	0.69	4.4
– 182	American Samoa	0.67	2.2
▲ 183	East Timor	0.63	8.7
▼ 184	Greenland	0.61	-4.8
▲ 185	Guinea-Bissau	0.46	0.0
▲ 186	Gambia	0.44	15.4
▼ 187	Cayman Islands	0.43	-0.8
▼ 188	Saint Lucia	0.41	0.0
▲ 189	Burundi	0.37	4.0
▲ 190	Cape Verde	0.34	4.5
▼ 191	Bhutan	0.33	-0.1
▲ 192	Western Sahara	0.32	0.0
▲ 193	Antarctica	0.31	17.6
▲ 194	Saint Kitts and Nevis	0.30	11.1
– 195	Grenada	0.30	4.8
▼ 196	Central African Republic	0.29	-31.0
▲ 197	Solomon Islands	0.29	25.0
▼ 198	US Pacific Islands	0.29	0.0
▼ 199	Chad	0.29	[illegible]
▼ 200	Lesotho	0.27	[illegible]
– 201	Saint Vincent/Grenadines	0.27	[illegible]
▲ 202	Nauru	0.20	[illegible]
▼ 203	Tonga	0.15	[illegible]
▲ 204	Cook Islands	0.15	[illegible]
▲ 205	Comoros	0.15	[illegible]
▼ 206	Sao Tome and Principe	0.15	[illegible]
▲ 207	Vanuatu	0.15	[illegible]
▲ 208	British Virgin Islands	0.15	[illegible]
▼ 209	Samoa	0.15	[illegible]
– 210	Montserrat	0.15	[illegible]
▼ 211	Dominica	0.14	[illegible]
▼ 212	Saint Pierre and Miquelon	0.11	[illegible]
– 213	Turks and Caicos Islands	0.06	[illegible]
– 214	Falkland Islands	0.05	[illegible]
– 215	Kiribati	0.04	[illegible]
– 216	Saint Helena	0.01	[illegible]
– 217	Niue	0.01	[illegible]

Table shows total carbon dioxide emissions from the consumption of energy

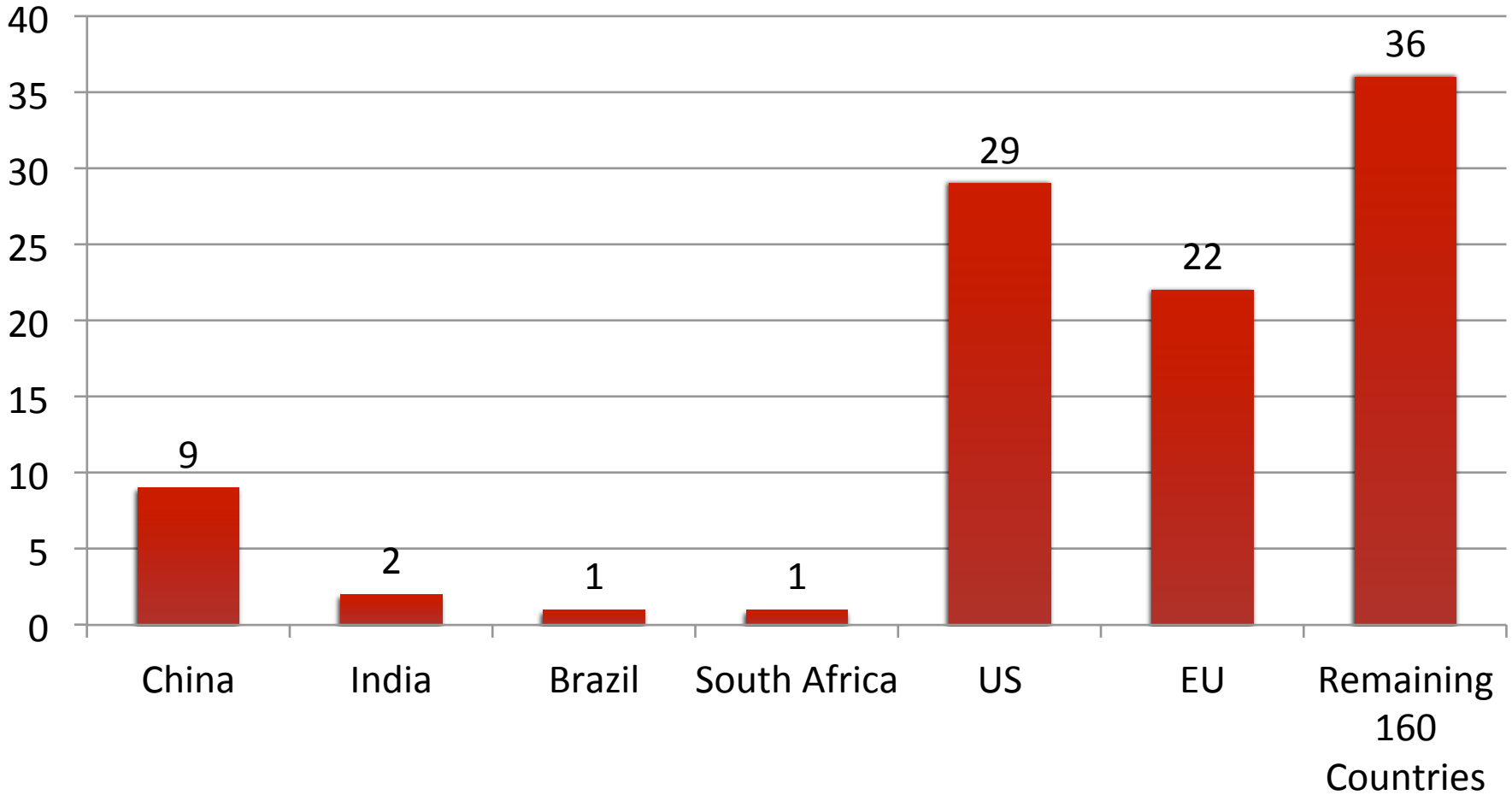
GRAPHIC: MARK McCORMICK, PAUL SCRUTON SOURCE: EIA

Share of Global GHG Emissions (2005)



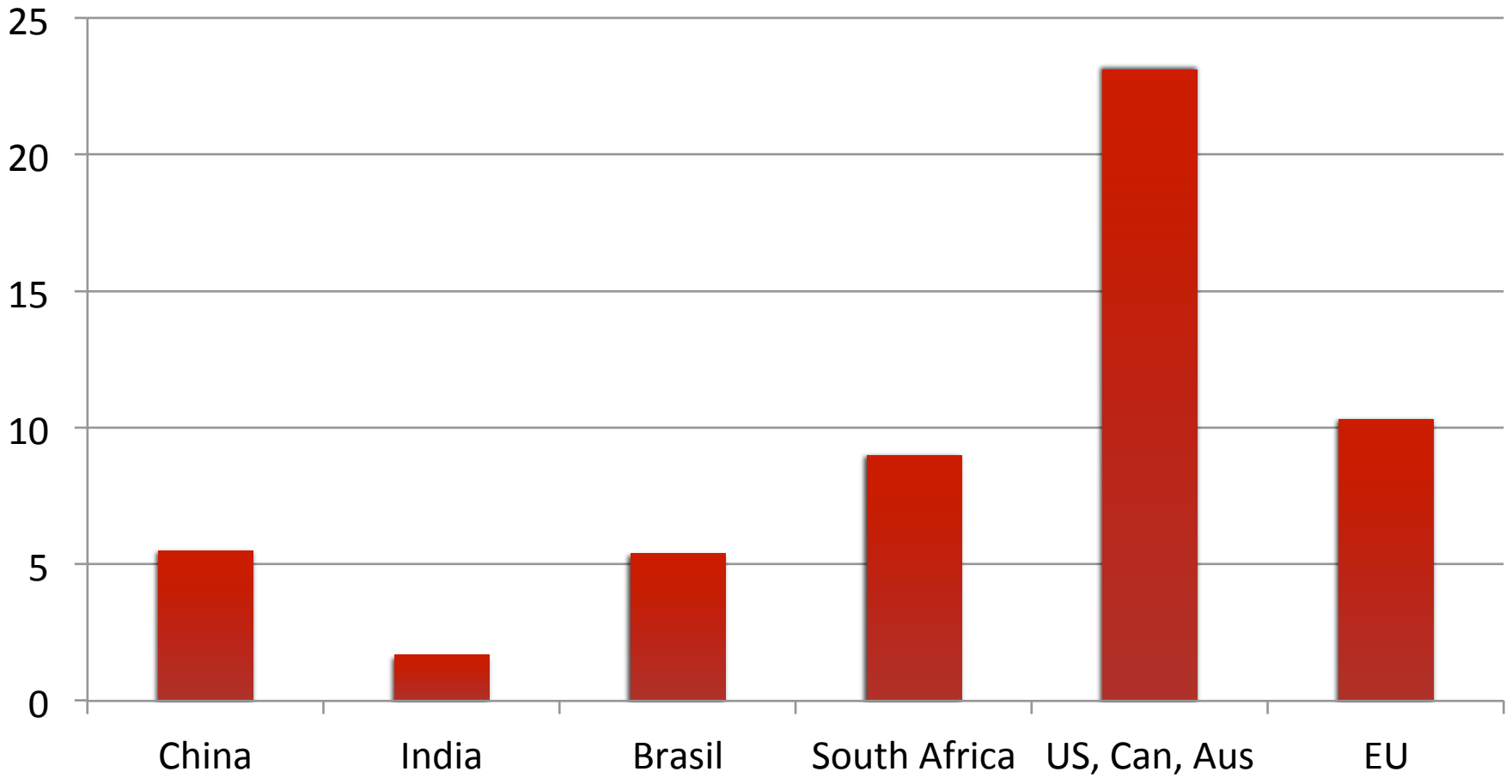
Cumulative % of Historical Emissions

(2005)



Per Capita GHG Emissions

(2005, tco2eq)



What to Look for in Nations' Positions

- **Allocation of Burdens & Benefits**
- **Capacity/Willingness to:**
  - Mitigate domestically
  - Help with mitigation elsewhere
  - Adapt & deal with impacts domestically
  - Help with impacts and adaptation elsewhere
  - Accept conditions (such as: low emissions development path) in return for help

Negotiating The Post 2012 Regime:
Key Challenges

Possible Principles For Allocation Of Burdens & Benefits:

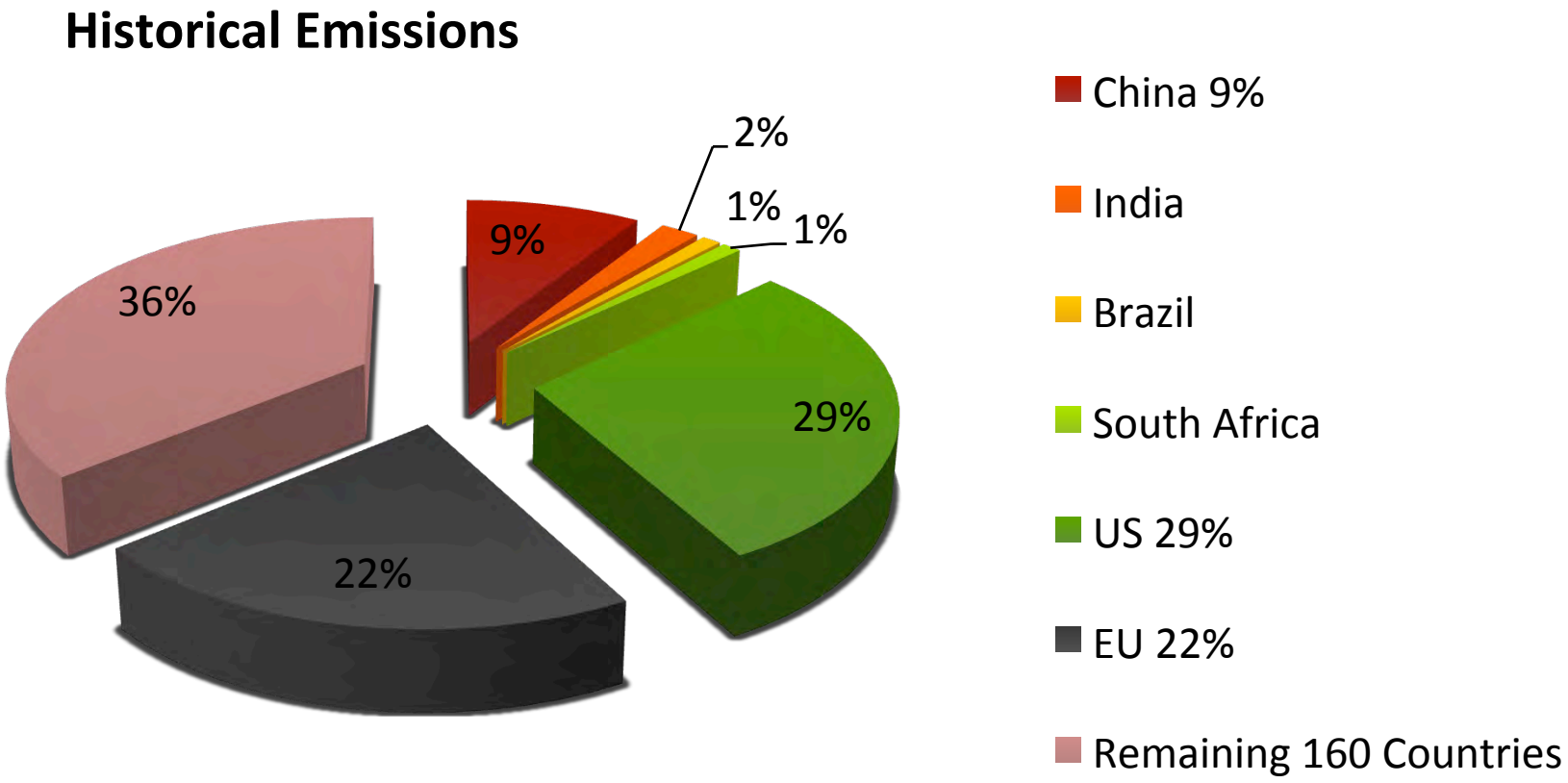
- Historical Responsibility
- Capacity
- Potential

Equity "Yard Stick"? What is fair?

Principle 1: Historical Responsibility

- Cumulative emissions
- Pre-industrial GHG (280 ppm) as baseline
  - Responsible for increase in GHG since (390 ppm)
- Linked to non-natural (i.e. human) emissions
- Allocate responsibility according to total emissions since industrial revolution
- Adjusted over time

Cumulative Historical Emissions
(up to 2005)

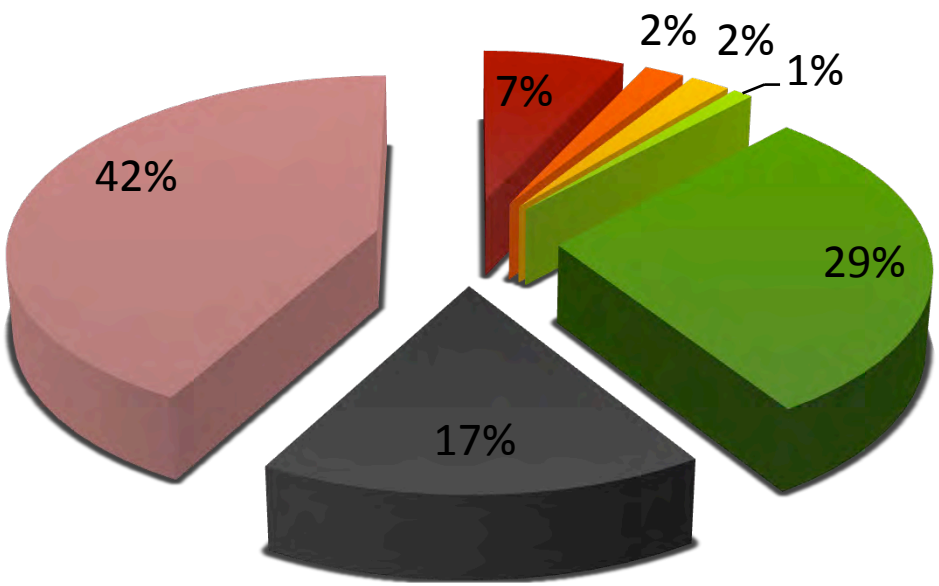


Principle 2: Capacity

- **Ability to make reductions & meet population needs**
- **Ability to assist other States**
- **Ways to measure capacity**
  - GDP
  - Human Development Index
  - Access to technologies that are part of the solution
  - Access to energy and other resources that are part of the solution (particularly if they can be exported)
  - Other special circumstances?

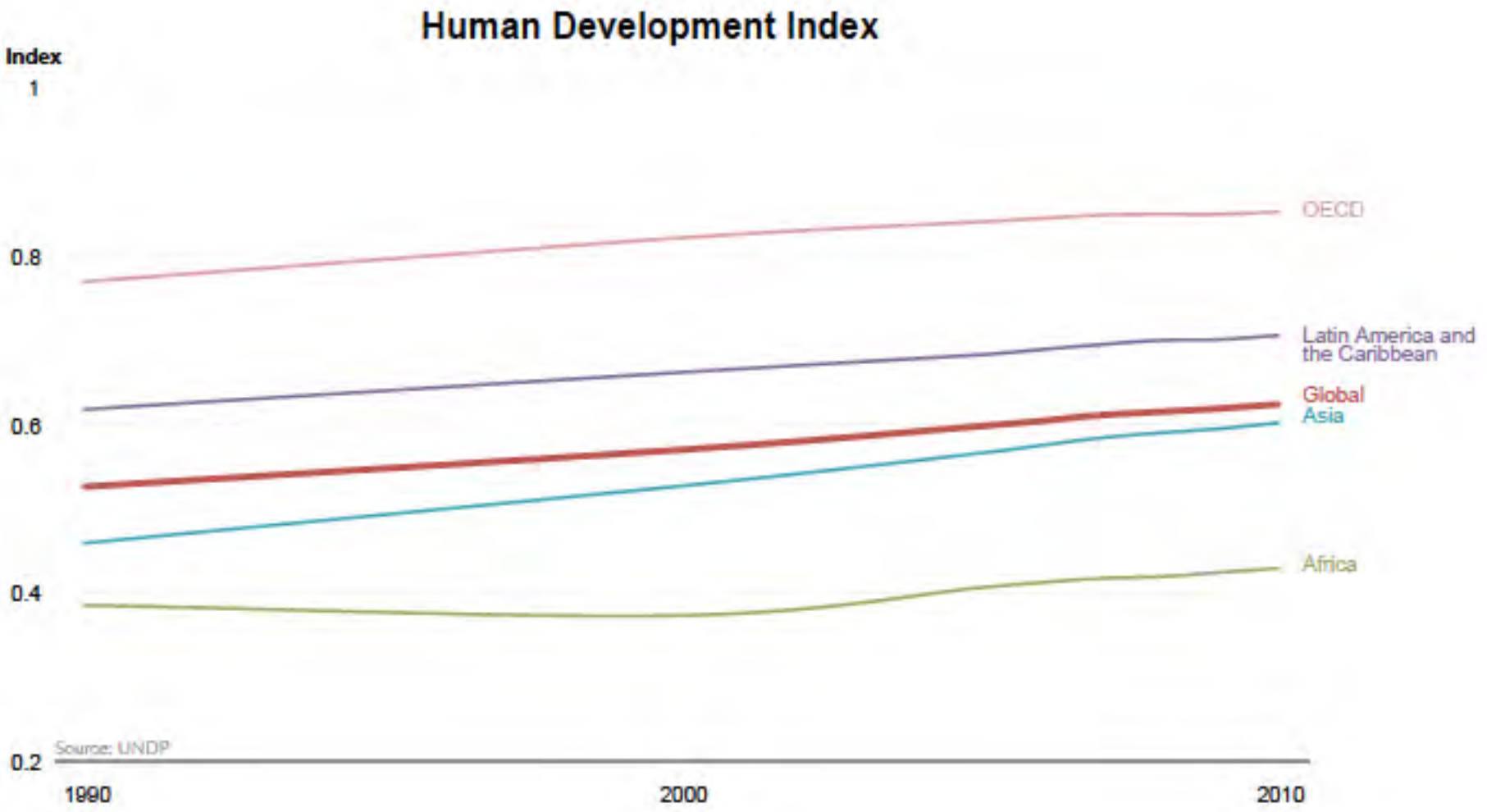
Capacity: Contribution to GDP

Global GDP 2009



- China 7%
- India
- Brazil
- South Africa
- US 29%
- EU 17%
- Remaining 160 Countries

Human Development Index

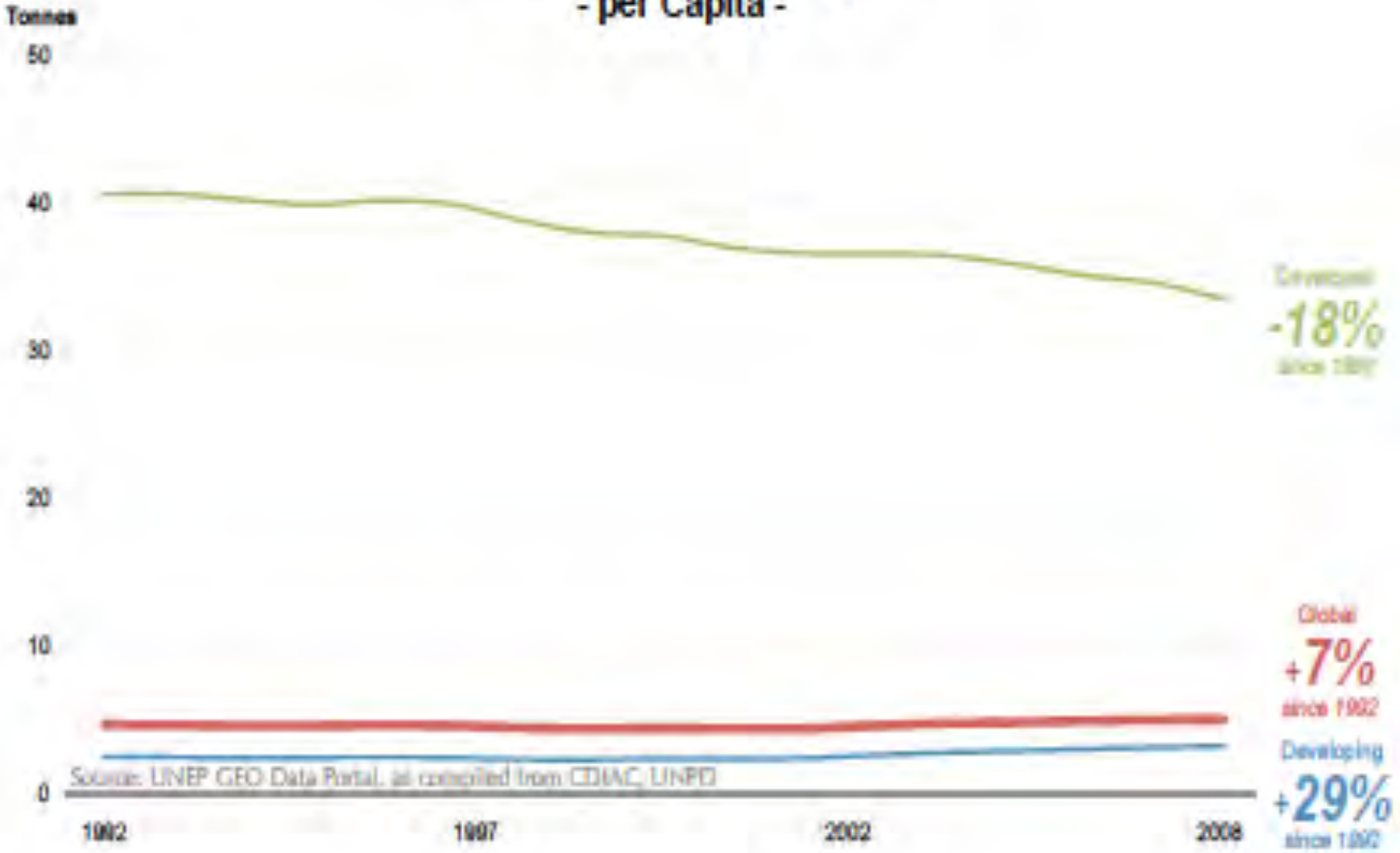


Principle 3: Potential

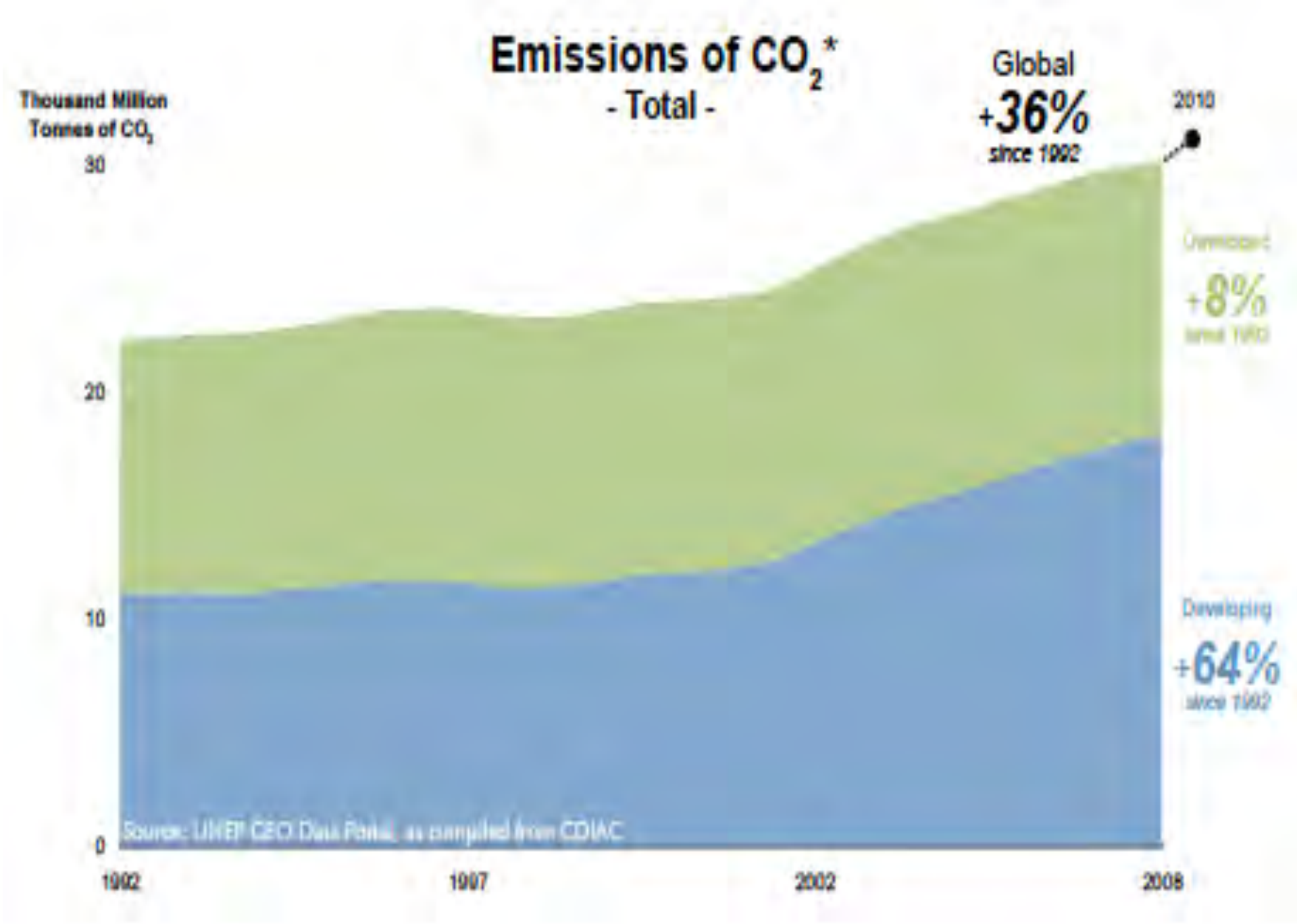
- **The higher the current emissions, the greater the potential**
- **The higher future BAU emissions, the greater the potential**
- **Other factors:**
  - Domestic energy sources available
  - Current and future business as usual energy needs
  - Climate (heating, air conditioning needs)
  - Other differences in potential to make reductions (rural vs urban…)

Emissions of CO_2*

- per Capita -



Source: UNEP GEO Data Portal, all compiled from CDIAC, UNFD


Emissions of CO_2*
- Total -
Thousand Million Tonnes of CO_2
30
20
10
0
1992
1997
2002
2008
2010
Global
+36%
since 1992
+8%
+64%
since 1992
Source: UNEP GEO Data Portal, as compiled from CDIAC

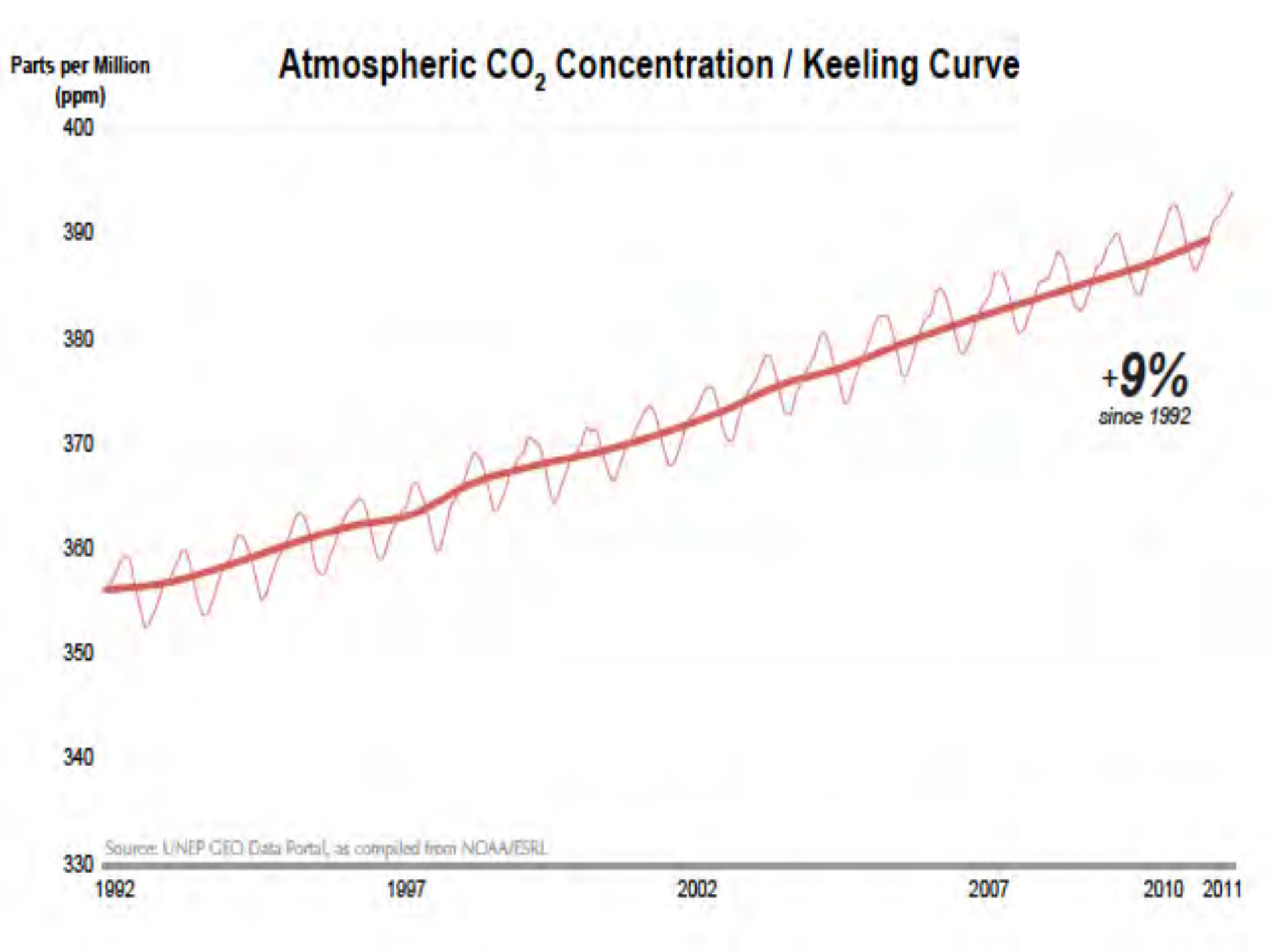
Role of Equity

- **Equity to determine how principles might interact?**
  - Historical responsibility = Why? What?
  - Capacity = Why? What?
  - Potential = Where?
- **Different for Mitigation/Adaptation, Domestic/Int'l?**
- **Inter-generational equity**
  - Ensure adequacy?
    - Science based or negotiated? What level of harm is ok?
  - Liability for future impacts & adaptation?

Equity & Adequacy

- **This is about ensuring the global effort is "enough" to "address" climate change**
  - Article 2, preventing dangerous human interference with climate system
- **Important to be clear about what that means, to ensure meaningful progress**
  - 2 degrees, 400ppm, ... an attempt at dealing with this, but may be inadequate…
- **Would help to have resolved "liability", but how?**

Atmospheric CO_2 Concentration / Keeling Curve



Proposed Approaches for Post 2012

- **Continue with Kyoto**
- **Bottom-up Approaches**
- **Multi-track Approaches**
- Per Capita Allocation
- Historical Responsibility Allocation
- Intensity Target Approaches
- Individualized Treatment of Parties
- Sectoral Targets

Proposal: Continue with Kyoto

Key Element: Binding absolute emission limits

- Tougher targets?
- More countries included?
- Continue with pledge based allocation?
- Changes in rules?
  - CDM/JI (additionality, SD, distribution)
  - Sinks (forest management)
  - Emissions trading (banking, fungibility)
  - Reporting
  - Compliance

Proposal: Bottom-up Approaches

Key Elements: Pledge-based & non-binding

- **Voluntary pledges** such as in the Copenhagen Accords
  - Could commit to low emissions development path compared to business as usual
  - Could commit to specific measures, such as to public transportation infrastructure, or a carbon tax
  - Sectoral CDM an option
- Motivation to make adequate commitment?
- Motivation to comply?

Proposal: Multi-track Approach

Key Elements: 3 different tracks

- **Kyoto Track** (tougher targets for A1, & a few more Parties)
- **Decarbonisation Track** (softer mitigation track, NA1, except LDCs)
- **Adaptation Track** (Assistance according to responsibility and capacity)

The Negotiating History

- Montreal 2005 (Start)
- Bali 2007 (2 Year Mandate)
- Copenhagen 2009 (Deadline Missed)
- Cancun 2010 (Rebuilding Trust?)
- Durban 2011 ???

Modest Start in Montreal 2005

- Agreement to negotiate new emissions reduction targets under Kyoto for post 2012; brings in Annex 1

- Initiated discussion under UNFCCC on how to more effectively implement UNFCCC; to bring in Non-Annex 1 & US

The Bali Roadmap 2007

- Raised status of **technology & finance** to the level of mitigation & adaptation (2=>4 Pillars)
- First movement from G-77 on mitigation
- Signs of acceptance of the IPCC AR4 science on adequacy: 2 C, 400 ppm, 10 yr peak, 80% by 2050
- Set 2 year timeline to

  negotiate new regime

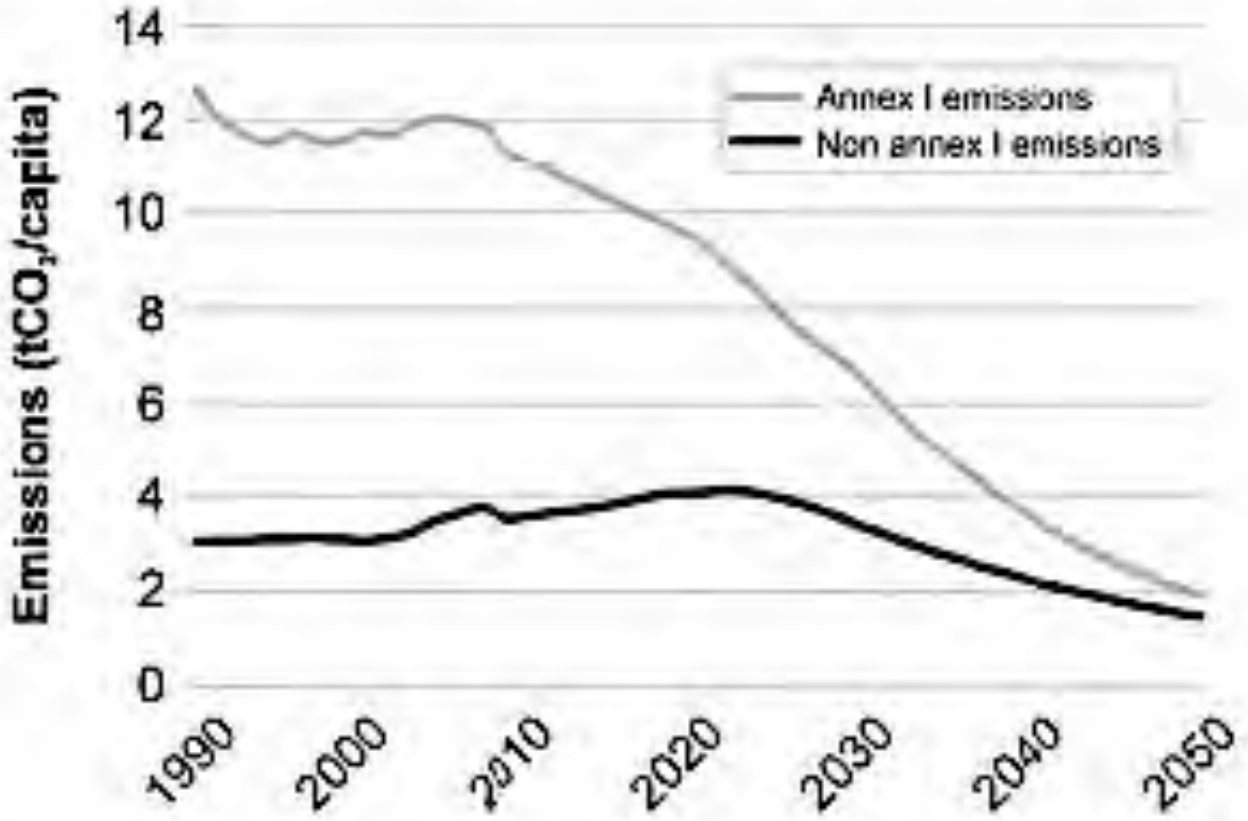


Figure 5.1: The consequences for the developing world of a global emission reduction target of 50% by 2050 combined with a target of 80% reductions by Annex 1 countries over the same period.

Source: Developed by Sivan Kartha, Stockholm Environment Institute.

Bali Roadmap: Parallel Processes

- Kyoto Process (KP AWG)
  - Adequacy language key
  - Mainly about new Annex 1 targets
- UNFCCC Process (LCA AWG)
  - Non Kyoto developed states mitigation effort
  - G-77 mitigation effort
  - Technology
  - Finance
  - Adaptation

Bali Roadmap: 4 Pillars

- Adaptation
  - Focus had been on national action
  - CDM Adaptation Fund established, future?
- Mitigation
  - Developed, Developing, Differentiation
- Technology Transfer
  - Funding, other means?
- Finance
  - Direct finance versus cap & trade, …

Failure in Copenhagen

The KP AWG (No deal)

- Negotiations under the KP
  - US not a party
- Limited to post 2012 mitigation efforts of developed countries (not US)
- Future of CDM, ET, JI, Sinks
- Separation of KP & LCA made negotiations more difficult

Failure in Copenhagen

The LCA AWG (No deal)

- Tried to find a place for the US, (otherwise KP AWG dealing with mitigation by developed countries)
- Tried to deal with mitigation in developing countries & assistance needed
- Tried to deal with adaptation,

  finance, technology and shared

  vision (i.e. long term targets)

Copenhagen Accord

- Not under UNFCCC, support from 130+
- Endorsement of 2 degrees Celsius
- Need for GHG emissions to peak a.s.a.p., and in A1 before NA1.
- Recognition that developing countries need assistance.
- A1 to submit quantified economy wide emission targets for 2020. (done, but weak)
- NA1 to submit a list of mitigation actions. (some)

Copenhagen Accord

- $US 30 billion from 2010 to 2012 for adaptation and mitigation.
- A1 to increase funding to $US 100 billion a year by 2020.
- Green Climate Fund to support adaptation, REDD-plus, other mitigation, capacity building, technology.
- Establish a technology mechanism.
- Review by 2015 to consider adequacy & 1.5 degrees

Copenhagen Assessment

- Generally considered a failure, because:
  - Process terrible & no agreement under the UNFCCC
    - Negotiated by US, EU, & BASIC
  - ~ 60 countries did not endorse the Accord
  - A1 targets don't get us to 2 degrees
  - Not clear that 2 degrees is adequate
  - Not clear that funding is enough
  - No agreement on funding sources
  - No agreement on legal architecture
  - No agreement on verification & compliance

Copenhagen to Cancun

- Expectations low for Cancun
- By now clear that US administration is currently not able to pass national legislation (EPA action, litigation)
- No change in EU position
- Japan opposed to 2nd CP under Kyoto, but offered 25%
- Mexico worked hard to build trust in the process, Cancun agreements under UNFCCC
- Clear early that “final agreement” put off until Durban

Rebuilding Trust in Cancun

- **Shared Vision**
  - 2 degrees Celsius
  - To be guided by science & equity
    - No agreement on what that means, no principles for allocation of responsibility
  - Review by 2015 to consider adequacy (1.5)
  - No agreement on “peaking” or long-term goal

Cancun Agreements

- **Adaptation**
  - Cancun Adaptation Framework
    - Identifies priority areas for action
  - Adaptation Committee
    - Responsible to the COP
    - Details to be worked out at COP 17 in Durban
  - Finance the “Big Issue”

Cancun Agreements

- **A1 (Developed) Mitigation**
  - Copenhagen Accord commitments brought under the UNFCCC process
  - Countries are urged to increase their level of ambition in line with AR4 of the IPCC
  - Little detail on reliance on ET, JI, CDM, sinks to meet targets, nothing on compliance…
  - Provisions for enhanced MRV for obligations re mitigation, technology & finance

Cancun Agreements

- **NA1 (Developing) Mitigation**
  - Poverty eradication and economic development are priorities
  - Mitigation action commitment from Copenhagen brought under UNFCCC
  - Registry for supported and unilateral NAMA's
  - Int'l MRV of supported NAMA's
  - National Communication every 4 years, biennial reports on mitigation actions & support
  - ICA on unilateral NAMA's
  - Framework for REDD

Cancun Agreements

- **Technology**
  - **Technology Mechanism** established
    - Technology Executive Committee (TEC)
      - Made up of 20 experts, ready to start work
      - To identify needs, priorities, actions to overcome barriers and catalyze development & use of technology action plans
    - Climate Technology Centre and Network (CTCN)
      - Still work to do to get it going
  - **Priorities**: Strengthening national innovation systems, developing & deploying environmental sound technologies
  - **Unresolved**: Issues of funding & intellectual property rights

Cancun Agreements

- **Finance**
  - 30 Billion commitment brought under UNFCCC
  - 100 Billion/year commitment by 2020 brought under UNFCCC
  - No agreement on public vs private sources
  - Reference to AGF report, but no specific funding sources identified
  - Green Climate Fund established (transitional committee to operationalize)

State of the Negotiations

- No agreement on targets for A1 (urged to increase ambition)
- US a real challenge to bring in (A1, but not Kyoto)
- Canada, New Zealand, Russia, … reluctant participants
- All this allows developing countries to continue to resist meaningful action
- Some are nevertheless showing leadership

The United States

- Not wiling to take on an international commitment that it cannot implement at home
- Approach is to only commit internationally after domestic implementation is secured
- No comprehensive national mitigation plan anytime soon
- Not willing to join KP
- Limited willingness to fund developing countries
- Feels economically threatened by China

Canada

- Only country to ratify & then renounced the Kyoto Protocol
- Cancelled important federal mitigation programs but subsidizes the O&G sector ~ $1.4 billion annually.
- Senate killed the only piece of climate change legislation under consideration in Parliament without debate
- Actively lobbying against policies in the EU and US that try to deal with the high GHG emissions from the tar sands

Canada

- It is the only country to weaken its target in Copenhagen.
- Hiding behind the US without the same domestic challenges
- Bottom Line:
  - Not interested in advancing negotiations
  - Not influential, but a problem, similar to Saudi Arabia

The European Union

- Significant economic investment in climate mitigation
- France, Germany, Britain committed to low GHG emissions development path
- Some EU countries more reluctant
- Open to KP 2nd CP, but only if…
- Financial crisis is hurting EU position
- Will not block a good agreement, but not leading as much as it used to

China

- East/west divide internally
  - East very under-developed
  - Parts of west much closer to a developed country
- Domestic action versus international commitment
  - Quite aggressive in domestic action
  - Resisting international commitment & oversight
- China's domestic interest versus China as a global player
  - within BASIC, within G-77, G-20, Globally…

India

- Historical responsibility versus capacity
- Least developed of BASIC
- Perhaps most concerned that future development will be constrained
- Most insistent that developed countries take on 2nd CP under Kyoto
- Most insistent that developing counties not be required to take on firm targets

Durban To Do List

- Short, medium, and long-term targets consistent with the science, CBDR, & precaution (Global, G-77, Annex I)
- Adjustments to Kyoto Mechanisms
- Sources of finance for mitigation & adaptation in G-77
- Agreement on how to make key technologies available on large scale in G-77
- Agreement on mitigation commitments that includes US & Brazil, South Africa, India, China (BASIC)
- **Legal form of agreement**

Legal Form Options Kyoto

- **2nd CP & amendments to Annex B** (unrealistic)
- **'Political 2nd CP' - captured in a CMP decision:** (ambitious)
  - agree to future amendments to Annex B, & to Kyoto rules
  - agree on 'transitional arrangements'
  - apply these from 1 January 2013, without pursuing signature/ratification

Legal Form Options Kyoto

- Agree to continue with certain/all Kyoto rules/ mechanisms/targets for a defined period until there is a single agreement – captured in a:
  - CMP decision within the UNFCCC
  - Agreement outside the UNFCCC involving those willing (possible?)
- Agree to continue discussions (or do nothing)

Legal Form Options Beyond Kyoto

- **Legally binding agreement** (unrealistic)
- **COP decision with mandate to negotiate legally binding agreement**
  - Option 1: clear scope, elements, process, timeline & outcome (ambitious)
  - Option 2: open on scope, elements, process, timeline and outcome (ambitious, possible?)
- **Continue negotiating legal form**

Substantive Issues for Durban & Beyond

- **The Ambition Gap**
  - 2 degrees goal
  - Insufficient short and medium term commitment to get there (A1)
  - Debate over need to go to 1.5 degrees
- **Finance**
  - 30 billion short-term finance 2010 - 2012
  - 100 billion a year long-term finance by 2020
    - Private versus public funding
    - Sources
- **Future of Kyoto & its basic approach**

The Long Term View

- We live in a carbon constrained world
- We will increasingly be forced to reduce/eliminate emissions or pay (or some combination)
- The cost of emitting will go up & up the more we delay
- Economic opportunities in finding solutions will grow
- Climate change will reach all aspects of our lives
- Cost of adaptation and the impacts will continue to increase as we continue to delay adequate mitigation action