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Kyoto Protocol and Cancun Agreements: An Overview

An international framework basically means a global negotiation of a particular objective between the world nations, global federations and multinational companies which work towards achieving a common primary objective. Two such international frameworks discussed below are Kyoto protocol and Cancun agreements

Kyoto protocol

The history:

Kyoto protocol is actually “Kyoto protocol to the UNFCCC” To understand the background one has to understand the UNFCCC. It is an international treaty addressing the concerns of climate change.

The Intergovernmental Panel on Climate Change, established by the United Nations Environment Programme and the World Meteorological Organization in 1988, while mentioning the long term effects of global warming, it has included that there will be general rise in sea level around the world, resulting in the inundation of low-lying coastal areas and the possible disappearance of some island states; the melting of glaciers, sea ice, and Arctic permafrost; an increase in the number of extreme climate-related events, such as floods and droughts, and changes in their distribution; and an increased risk of extinction for 20 to 30 percent of all plant and animal species.

The primary objective of UNFCCC is

To stabilize greenhouse gas concentrations at a level that would prevent dangerous anthropogenic (human induced) interference with the climate system. The UNFCCC took effect on March 21, 1994. It now has a nearly universal membership. Parties to the Convention are the 197 countries that have ratified the Convention.

Trans India Law Associates, Advocates & Legal Consultants

Office: TILA SUITE, JA-120, DLF Tower - A, Jasola District Center, New Delhi-110025
Chamber: TILA Chamber No. 555, New Delhi Court Complex, New Delhi-110 001 Tel.: 91-11-26943664, Fax.: 91-11-26970075 Whatsapp: +91 9810070075

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Some terms to understand are:

COP: Conference of the Parties; this means that all states that are parties to convention meet every year unless otherwise is agreed by the parties and at such COP the parties review the Convention's implementation, as well as any other legal instruments adopted by the COP, and make any decisions appropriate to ensure the Convention's successful implementation, such as operational and administrative arrangements.

Annex I: The countries are divided into certain groups based on their commitments to the convention and likewise parties under this head include;

- i. Industrialized countries that were members of the OECD (Organization for Economic Co-operation and Development) in 1992 and
- ii. Countries with economies in transition (the EIT Parties), including the Russian Federation, the Baltic States, and several Central and Eastern European States

Annex II: similarly parties under this head include OECD members of Annex I, but not the EIT Parties.

Non Annex I: under this head the parties will be mostly the developing nations and countries who are vulnerable given the changes of climate.

- The COP3 took place on 1st December 1997 and ended on 10th December 1997 in Kyoto, Japan. It was the first protocol to the UNFCCC, ratified by at least 55 Annex I signatories who together accounted for at least 55 percent of total carbon dioxide emissions in 1990, entered into force on 16th February 2005, 90 days after being ratified. Currently the protocol has 192 parties USA signed but has not ratified the Protocol. (Canada withdrew in December 2012.)

Introduction to the protocol:

The objective of Kyoto protocol is to implement the objective of UNFCCC. The main aim of this protocol/international treaty can be summed up as:

- reduce carbon dioxide emissions and the presence of greenhouse gases
- protect carbon sinks and reservoirs of GHGs
- Increase in use of renewable resources

The greenhouse gases mentioned in the aims and objectives of these treaties include the following 6 GHGs (Green House Gases):

- carbon dioxide (CO₂),
- Methane (CH₄),
- nitrous oxide (N₂O),
- hydrofluorocarbons (HFCs),
- perfluorocarbons (PFCs), and

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- sulfur hexafluoride (SF₆)

In a nutshell, the Kyoto Protocol puts the United Nations Framework Convention on Climate Change into action by committing developed and developing countries to restrict and reduce greenhouse gas (GHG) emissions in line with agreed-upon individual goals. The Convention only requires certain countries to implement mitigation policies and interventions and to report on a regular basis.

Since it recognizes that developed countries are primarily responsible for the current high levels of GHG pollution in the atmosphere, it only connects them and imposes a heavier burden on them under the concept of "common but differentiated responsibility and respective capabilities."

The first commitment cycle:

The first commitment cycle of the Protocol began in 2008 and ended in 2012. The Protocol was followed by all 37 industrialized countries and the European Community who have committed themselves to binding targets for GHG emissions. Since their national emissions were significantly higher than their goals, nine countries had to use the flexibility mechanisms to finance pollution reductions in other countries.

The targets apply to the six greenhouse gases as discussed earlier and these six GHGs are translated into CO₂ equivalents in determining reductions in emissions. These reduction targets are in addition to the industrial gases, chlorofluorocarbons, or CFCs, which are dealt with under the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer.

The maximum amount of emissions (measured as the equivalent in carbon dioxide) that a Party may emit over a commitment period in order to comply with its emissions target is known as a Party's assigned amount. The individual targets for Annex I Parties are listed in the Kyoto Protocol's Annex B.

The Annex I Parties' pollution limits vary from one another. Some Parties have emissions limitations that are lower than the base year level, while others have limitations that are higher than the base year level (no allowed rise above the base year level).

Second commitment cycle: Doha amendment;

In 2012, Australia, the European Union (and its then 28 member states, now 27), Belarus, Iceland, Kazakhstan, Liechtenstein, Norway, Switzerland, and Ukraine committed to a second commitment cycle, known as the Doha Amendment to the Kyoto Protocol, in which 37 countries have binding targets: Australia, the European Union (and its then 28 member states, now 27), Iceland, Kazakhstan, Liechtenstein, Norway, Switzerland, and Ukraine. Belarus, Kazakhstan, and Ukraine have indicated that they may withdraw from the Kyoto Protocol or refuse to implement the second-round goal amendment.

Japan, New Zealand, and Russia took part in the first round of Kyoto but did not commit to any new goals in the second commitment period. Canada (which left the Kyoto Protocol in 2012) and the United States are two other developing

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countries without second-round targets (which has not ratified).

The Doha Amendment has been ratified by 147 countries as of October 2020 as threshold for entry into force of the Doha Amendment was achieved, a total of 144 instruments of acceptance are required for entry into force and the amendment entered into force on 31 December 2020.

Following are included in the amendment:

- New commitments for Annex I Kyoto Protocol Parties who agreed to take on commitments for a second commitment duration running from January 1, 2013 to December 31, 2020;
- Parties will be required to report on a revised list of GHGs during the second commitment period; and
- Several articles of the Kyoto Protocol that explicitly referred to issues from the first commitment period and required to be revised for the second commitment period were amended.

During the first commitment cycle, 37 industrialized countries and economies, as well as the European Community, agreed to cut GHG emissions by 5% on average compared to 1990 levels. Parties pledged to reduce GHG emissions by at least 18% below 1990 levels in the eight-year timeframe from 2013 to 2020 during the second commitment period; however, the composition of Parties in the second commitment period differs from the first.

Flexibility market based mechanisms:

One important element of the Kyoto Protocol was the establishment of flexible market mechanisms, which are based on the trade of emissions permits. Under the Protocol, countries must meet their targets primarily through national measures. However, the Protocol also offers them an additional means to meet their targets by way of three market-based mechanisms.

The economic foundation for this versatility is that the marginal cost of reducing emissions varies by country. The cost of abating the last tone of CO₂ for an Annex I/non-Annex I Party is known as the "marginal cost." Studies indicated that the flexibility mechanisms could reduce the total (aggregate) cost of meeting the Kyoto goals at the time of the original targets. Studies have also shown that by using the flexibility mechanisms, national losses in Annex I GDP can be minimized. This has the added benefit of encouraging green investment in developing countries and involving the private sector in efforts to reduce and stabilize GHG emissions at a safe level.

The three market-based mechanisms are:

- International Emissions Trading (ET)
- Clean Development Mechanism (CDM)
- Joint implementation (JI)

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Terms to understand:

- i. **Annex B:** Annex B is an adjusted list of the countries identified under the protocol who have their reduction targets formally stated. (quota for reduction)
- ii. **Assigned amount units (AAUs):** Parties with commitments under the Kyoto Protocol (Annex B Parties) have accepted targets for limiting or reducing emissions. These targets are expressed as levels of allowed emissions, or assigned amounts, at over the 2008-2012 commitment period.
- iii. **Carbon trading:** Emissions trading, as described in Article 17 of the Kyoto Protocol, enables countries with excess emission units - emissions that are allowed but not "used" - to sell them to countries that are exceeding their targets. As a result, a new product in the form of emission reductions or removals was produced. People simply refer to carbon trading since carbon dioxide is the most common greenhouse gas. Carbon is now tracked and exchanged in the same way as other commodities are.
- iv. **Removal unit (RMU):** units calculated on the basis of land use, land-use change and forestry (LULUCF) activities such as reforestation
- v. **Emission reduction unit (ERU):** These are the units earned from an emission-reduction or emission removal project in another Annex B Party (AI countries only), each equivalent to one tonne of CO₂, which can be counted towards meeting its Kyoto target.
- vi. **Certified emission reduction (CER):** These are the units earned when a country with an emission-reduction or emission-limitation commitment under the Kyoto Protocol (Annex B Party) to implement an emission-reduction project in developing countries, each credit equivalent to one tonne of CO₂, which can be counted towards meeting Kyoto targets.

International Emissions Trading: Emissions trading, as set out in Article 17 allows countries that have emission units to spare - emissions permitted them but not "used" - to sell this excess capacity to countries that are over their targets. Article 17 read as;

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting

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quantified emission limitation and reduction commitments under that Article.¹ Under the Kyoto Protocol, transfers and acquisitions of these units are monitored and registered via registry systems. The safe transfer of emission reduction units between countries is ensured by an international transaction log.

The commitment period reserve

To resolve the concern that Parties could "oversell" units and thus fail to meet their own emissions goals, each Party is required to keep an ERU reserve in its national register. This reserve, referred to as the "commitment period reserve," must not fall below 90% of the Party's allocated amount or 100% of five times its most recently checked inventory, whichever is lower.

Clean Development Mechanism (CDM): The Clean Development Mechanism (CDM), defined in Article 12 of the Protocol, where a country can earn saleable certified emission reduction (CER) credits, each equivalent to one tonne of CO₂, which can be counted towards meeting Kyoto targets. Article 12 is read as;

1. A clean development mechanism is hereby defined.
2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

- (a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

- (b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.²

Many consider the process to be a game-changer. It's the world's first global environmental investment and credit system, offering CERs, a structured carbon offset instrument. The framework promotes sustainable development and emission reductions while allowing developed countries some flexibility in meeting their emission reduction or restriction goals.

A CDM project must produce emissions reductions in addition to those that would have existed otherwise. The projects must pass a comprehensive registration and issuance process that is open to the public. Approval for these projects is given by the Designated National Authorities. The mechanism, which has been in operation since the beginning of 2006, has already reported over 1,650 projects and is expected to generate CERs totaling more than 2.9 billion tonnes of CO₂ equivalent during the Kyoto Protocol's first commitment phase, 2008–2012.

Joint implementation: this mechanism allows a country with an emission

¹ **Kyoto Protocol** to the United Nations Framework Convention on Climate Change, Dec. 10, 1997, 2303 U.N.T.S. 162

² *Id at*

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reduction or limitation commitment under the Kyoto Protocol (Annex B Party) to earn emission reduction units (ERUs) from an emission-reduction or emission removal project in another Annex B Party. It is read under article 6 as;

For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provided that:

- (a) Any such project has the approval of the Parties involved;
- (b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;
- (c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and
- (d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.³

Joint implementation allows Parties to meet a portion of their Kyoto obligations in a versatile and cost-effective manner, while the host Party profits from international investment and technology transfer.

The projects under this must result in a reduction in emissions from sources or an increase in removals from sinks that is greater than what would have occurred otherwise. Projects must be approved by the host Party, and participants must be granted permission to participate by one of the project's parties.

Projects starting as from the year 2000 may be eligible as JI projects if they meet the relevant requirements, but ERUs may only be issued for a crediting period starting after the beginning of 2008. In November 2008, only 22 JI projects had been officially approved and registered. The total projected emission savings from JI by 2012 are about one tenth that of the CDM.

Cancun agreements:

The sixteenth session of the Conference of the Parties to the UNFCCC and the sixth session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol took place in Cancun and was hosted by the Government of Mexico. Nearly 12,000 people attended the Cancun Climate Change Conference, including 5,200 government officials, 5,400 UN bodies and agencies, intergovernmental organizations, and nongovernmental organizations, and 1,270 accredited members of the media.

So, basically Cancun Agreements were a set of significant decisions by the international community to address the long-term challenge of climate change collectively and comprehensively over time, and to take concrete action immediately to speed up the global response to it. The meeting laid the groundwork for the world's most extensive and far-reaching international

³ *Id* at

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response to climate change, reducing carbon emissions and establishing a mechanism that held all countries responsible for those reductions.

The Cancun Agreements also contained the most extensive package of climate change assistance ever agreed upon by governments. It included financial, technological, and capacity-building assistance to assist those countries in meeting their urgent needs to adjust to climate change and accelerate their plans to transition to low-emission economies that can also withstand the negative effects of climate change.

The agreement acknowledges that climate change poses an immediate and potentially irreversible danger to human societies and the earth, and that all parties must act quickly to resolve it. It declares that climate change is one of the most critical issues, and that all parties must share a long-term vision for cooperative action in order to achieve the Convention's goals, including the achievement of a global target.

The agreement also recognizes that significant reductions in global greenhouse gas emissions are needed in order to keep the increase in global average temperature below 2 degrees Celsius above pre-industrial levels, and that parties should take immediate action to meet this long-term goal, consistent with science and on the basis of equity; and recognizes the need to reduce global greenhouse gas emissions in order to keep the increase in global average temperature below 2 degrees Celsius above pre-industrial levels; and recognizes the need to reduce global greenhouse gas emissions in order to keep the increase in global average temperature below 2 degrees Celsius above pre-industrial levels. The agreement also states that combating climate change would necessitate a paradigm shift toward a low-carbon society.

Main objectives and key highlights of the agreement are:

i. Adaptation:

The Cancun Agreements created an Adaptation Committee by creating an adaptation framework, which is responsible for overseeing the Convention's adaptation activities. This Committee does not have the power to force countries to adapt or to finance adaptation. If it has some meaning, it will come from its convening power and knowledge brokering. Nonetheless, many countries welcome the Committee's arrival because many have asked for assistance in evaluating their own vulnerabilities, and having a structured structure can help disseminate good practices more effectively.

Assist the particularly vulnerable people in the world to adapt to the inevitable impacts of climate change by taking a coordinated approach to adaptation.

ii. Mitigation:

Under this mechanism the developed countries must establish clear goals and a timely schedule for reducing human-generated greenhouse gas

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emissions over time to keep the global average temperature rise below two degrees. There must be a positive attitude for the participation of all countries in reducing these emissions, in accordance with each country's different responsibilities and capabilities to do so.

Review progress made towards the objective of commitment of a maximum temperature rise of two-degree Celsius above pre industrial levels and a review by 2015 on whether the objective needs to be strengthened in future, including the consideration of a 1.5C goal, on the basis of the best scientific knowledge available was made.

- iii. **The establishment of a new Green Climate Fund:** a fund exclusive for the climate related aid is developed through this agreement and this fund emphasizes more on prioritizing and governing climate aid while concentrating on both mitigation and adaptation. The Fund is to be administered by the World Bank for a three-year probationary period with the long-term manager to be agreed thereafter.

In short the Green Climate Fund is established and developed to provide financing to projects, programs, policies and other activities in developing countries via thematic funding windows.

- iv. **The establishment of a new Technology Mechanism:** The Cancun Agreements take a novel and potentially fascinating approach by establishing an international Technology Mechanism to promote the sharing of clean technology information among all countries, with a special emphasis on developing countries. The parties agreed to make this new technological mechanism which will be in full operation by the year 2012. This new technological mechanism will be helpful in boosting the innovation, development and spread of new technologies which are climate friendly as there is universal acknowledgment that addressing climate change will require the widespread deployment of current low-carbon technologies and the development of new ones.

This mechanism can therefore be considered as a tool that mobilizes the development and transfer of clean technology to augment efforts that in turn address the climate change by getting it to the right place at the right time and for the best effect on both adaptation and mitigation.

The process consists of an executive board and a Climate Technology Centre and Network (CTCN), with goals including improving domestic technical expertise, deploying and disseminating renewable

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technologies, investing in technology growth, climate change observation systems, and national innovation and technology innovation systems.

- v. **Agreement on a framework to reduce deforestation:** another main objective or highlight to know about is the immediate need to protect the world's forests, which are a major repository of carbon. The Cancun Agreements provided guidelines for developing countries to identify and implement REDD+ actions that could reduce greenhouse gas emissions from deforestation and land use change, and encourage developed countries to assist in this process. REDD or REDD+ means; reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.
- vi. **CCS and Standardized Baselines in the CDM:** One of the successful Kyoto Mechanisms has been the Clean Development Mechanism, or CDM, which allows projects in developing countries to receive carbon credits for reducing emissions below a business-as-usual baseline. To this point, CDM projects were primarily in industrial processes, renewable energy and energy efficiency. The Cancun Agreements broaden this framework to include carbon dioxide capture and storage (CCS) in geological formations, a move that will almost certainly have significant consequences for both credit access and more constructive representation of certain oil and gas producing countries.

Kyoto Protocol and Cancun Agreements

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In case of any further clarification/ information please contact-

Raj Singh Niranjn
Managing Partner
Trans-India Law Associates
Mob: +91 9810070075
E-mail: rsn@tila.in

Dr. Rajni Patel
Joint Managing Partner
Trans-India Law Associates
E-mail: rajni@tila.in

Ms. Girisha Sinha
Associate Advocate
Trans India Law Associates
Mob: +91 7978718876
E-mail: girishasinha20@gmail.com



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Office: TILA SUITE, JA-120, DLF Tower - A, Jasola District Center, New Delhi-110025
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