

BASIC Meeting of Experts

**equitable access to carbon space and issues related
to trade policy and climate change**

Summary of meeting

Tianjin 9 - 10 October 2010

This presentation is the result of a discussion between academic experts from Brazil, China, India and South Africa, and does not necessarily represent the official position of the governments of these countries.

Background: BASIC Rio Ministerial Mandate (Rio statement – Rio Outcome)

Following the guidance defined by Ministers at their Cape Town meeting, **experts from BASIC countries met and exchanged views on issues of equity**. Ministers welcomed the results of these consultations. They underlined **the need for further collaboration among BASIC experts on this issue**, with a view to **understanding the economic, social, scientific and technical implications of equitable access to carbon space and strengthening a common consideration of this matter**.

Ministers emphasized the issue of equitable access to carbon space as a central element in the building of a balanced and comprehensive outcome for the climate change negotiations.

Background: BASIC Rio Ministerial Mandate (Rio statement – Tianjin meeting)

.... A meeting of experts would be held alongside this Ministerial meeting, in order to take forward the discussions on equitable access to carbon space and also address issues related to trade policy and climate change.

Rio Understanding

◆ Defining the carbon budget

- 2 °C implies a budget, a physical constraint, a finite budget between now and a set future date, taking into account historical emissions
- The quantum of this amount requires further analysis
- The “total carbon budget” is understood as the overall emissions space, including past and future emissions consistent with 2 degrees; the “future carbon budget” is the quantum of future emissions to be shared

◆ Equitable access to the budget

There are essentially 3 broad approaches to equitable sharing the global carbon budget

- Brazil: Historical responsibility for temperature increase
- China and India: per capita accumulative approach
- SA: Three principle based criteria: responsibility, capability and sustainable development

◆ Approaches: convergence and diversity

- Equitable sharing of the budget is based on a common search for fairness and equity, But this work is approached from different perspectives
- When we look at these approaches there are different implications for BASIC countries and all other developing countries

Understanding from the Rio: Bridging the gaps

◆ We have identified the need to do further work:

- To show the results of the all approaches on a group of issues relevant to the 4 BASIC countries (e.g. carbon budget allocations, finance, technology transfer, other)
- To seek convergence in our approaches, with the purpose of setting a technical basis/reference framework
- To engage in collaborative research and communication on these issues

◆ The Rio meeting has a common framework of thinking:

- Historical responsibility must be included as one of the criteria for sharing of the budget
- A definite carbon budget is required

Follow-up of Rio Meeting on Equitable Access to Emission Space

- ◆ Principles and criteria**
- ◆ Methodologies and calculations**
- ◆ Implications for BASIC and other Non-Annex I and Annex I countries**

Principles and criteria

◆ Principles:

A principled approach to equitable access to emission space is preferable to a purely political compromise. For equitable access to emission space, and in accordance with CBDR and RC, the following principles are identified:

- Each person has an equal right:
- Responsibility (Historical + future)
- Capability
- Sustainable development

◆ Criteria

The following criteria are one way to reflect the above principles:

- Equal cumulative emissions entitlements per capita
- Historical and future Contribution to climate change
- GDP per capita and other elements of human development

Methodologies and Calculation

- ◆ Broadly there are **two approaches** to allocation
 - **Burden sharing: How much to reduce?** Equal Burden sharing (Historical responsibility for temperature increase; Three principle based criteria: responsibility, capability and sustainable development)
 - **Entitlement allocating: How much each person is entitled to emit?** Equal Entitlements (per capita accumulative approach)
- ◆ **Common elements** : Both lead to equitable access to emission space, require periodical review, and emission trading.
- ◆ **Elements Specific:**
 - **For burden sharing**, there is a need to define a BAU scenario and an emission pathway, based on which the amount of reduction can be equitably allocated. Periodical reviews of burdens and future emissions have to be carried out to take into account changes in capabilities and in the structures of the economies of different countries.
 - **For entitlement approach**, the total global budget is equitably distributed without reference to BAU scenario. However, each country will have to make an aggregate of its budget available and determine an emission pathway compatible with its budget, including emission trading. Periodical review is also required for future periods of emissions so as to ensure on track to be within budget.

Implications for Annex I countries

- ◆ Both burden sharing and entitlement approaches would have clear implications for Annex I countries.
- ◆ **Under burden sharing approaches**, AI countries will have a larger burden than they currently pledge.
- ◆ **Under entitlement approach**, AI will have a more limited space left than the space they claim. AI countries have already over occupied their emission space compared to their fair share.

Implications for BASIC and other non Annex I countries

- ◆ **Both burden sharing and entitlement approaches would have varied implications for BASIC and other non-Annex I countries.**
- ◆ **For non Annex I as a group, both approaches are favorable**
- ◆ **Under the entitlement approach with emissions trading, SA would be a buyer very soon but ways have been suggested to mitigate such an impact under BASIC framework**

Comparisons of preliminary results between two approaches (GtCO₂)

	Entitlement Approach(2006-2050)	Burden sharing (2010-2050)
Annex I	-365	-545
Non Annex I	1,603	1,802
Brazil	59	58
India	377	266
China	381	421
S. Africa	4.3	32
∑BASIC	821	777
Gap between two approaches		-44
Including LULUCF	NO	YES

Note: Two approaches have somewhat different assumptions. 'Entitlement' approach considers a global budget (2001-2050) as 1440 GtCO₂, while the C budget derived from 'Burden Sharing' considers it at 1700 GT.

Issues related to trade policy and climate change

- ◆ Legal aspects
- ◆ Main rationale
- ◆ Operational complexities/difficulties
- ◆ Types and Alternatives
- ◆ Overall assessment of impact from such a measure and Conclusions
- ◆ Recommendations

Legal aspects

◆ Under the WTO

- It is unclear whether BTA for climate compliance would be considered legal under the WTO, and it will remain unclear until a measure is brought to the dispute settlement body and final ruling is issued with respect to that particular case.
- In cases it can be compatible with WTO, depending on design and application
 - Design and application shall be non-discriminatory between countries (Article I of GATT), non-discriminatory between domestic and imported like products (Article III), and shall not create quantitative restrictions (Article XI).
 - Measures can still be compatible even if they do not meet the above based on general exceptions under Article XX (protection of human, animal, or plant life, and conservation of exhaustible natural resources) and subject to the Chapeau (application shall not resort to arbitrary or unjustifiable discrimination, or disguised restriction on international trade).
- However, it is difficult to have it established

Legal aspects

- ◆ **Under UNFCCC:** BTA applied by Annex I countries against Non Annex I countries exports potentially violates the following UNFCCC principles
 - Common but differentiated responsibilities (III.1) is central to the Climate convention, which provides for differentiated treatment between developed and developing countries.
 - Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary, or unjustifiable discrimination or a disguised restriction on international trade (Article III.5).

Legal aspects

- ◆ **A potential tension between WTO principle of non-discrimination and UNFCCC CBDR principle.**
 - WTO does however admit discrimination between products based on justifiable (legitimate) environmental policy goals. In this regard, it uses the similar language to the UNFCCC (III.5).
 - It also provides for non-reciprocal special and differential treatment for developing countries.
 - The relationship between the WTO and any multilateral environmental agreement is not regulated on the context of WTO. Rules and principle agreed outside of WTO are not binding on the WTO. However, there are on-going discussions during the Doha Round on the relationship between WTO and any MEA.
 - The UNFCCC does recognize under Article IV.10 the importance of considering the impact of response measures on exports from developing countries
- ◆ **There is no dispute settlement mechanism under the UNFCCC, but there is one under the WTO.** If countries concerned are parties to both agreements, the relations can be regulated. The regulation should be: UNFCCC principles and rules can be used as references to interpretation of WTO rules.

Main rationale

◆ Carbon leakage

- This is the **primary environmental justification** used by the EU and US for imposing BTA. However, there is no compelling evidence that carbon leakage is a problem as significant as is feared, in particular if it is looked at globally.

◆ Competitiveness

- This is the **primary economic motivation** for imposing BTA. The impact of such a levy might be limited as competitiveness is determined by many other factors as well, including labor, capital, technology and other natural resources. However it is an important issue with political implications for domestic policy in developed countries.

◆ Global Welfare

- Global welfare is a recent justification for BTA by the Centre for European Policy Studies (not an official position). This term does have more moral appeal than economic competitiveness and higher social appeal than environmental consideration. However, under UNFCCC, an equitable global deal would require financing and tech transfer from the developed countries to enhance global welfare.

Types and Alternatives

◆ Types

- border tax adjustment measures (internal indirect taxes on imported goods)
- compulsory purchase of emissions allowances

◆ Alternatives for importing countries

- Free allocation of carbon credits
- Exemption of domestic carbon tax or tax rebate on sector-specific products,
- Subsidies
- Voluntary measures such as carbon labeling
- Standards (technological)

Overall assessment of impact from such a measure

- ◆ It will affect negatively carbon intensive products from the exporting countries, especially on large exporters where carbon intensity is high**
- ◆ It will protect carbon intensive sectors and raise consumer prices in the importing countries**
- ◆ Proving WTO compatibility of BTA for climate compliance is likely to be challenging**

Recommendations for consideration by Ministers

- ◆ **No BTA for climate compliance against developing countries**
- ◆ **In case developed countries initiate such a measure,**
 - **BTA should be multilaterally addressed under UNFCCC, including defining a basis for exemption**
 - **Negotiation of BTA should not be initiated under WTO**

Suggestions for further work

- ◆ **Equitable access to emission space**
 - Further convergence of two approaches using standardized parameters
 - Financial flows/transfers under these two approaches
- ◆ **Financial mechanisms:** response to AGF
- ◆ **Equity Implications of adaptation**
- ◆ **Consumption based approach:** linking equitable access to emission space to issues related to trade policy
- ◆ **Better structuring BASIC Expert collaboration**

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