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The importance of national sovereignty

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Introduction

The Rio Declaration on Environment (1992) admonishes the world to adopt a ‘precautionary approach’ to environmental protection: ‘Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation’ (Principle 15). Substantially the same formula appears in the Framework Convention on Climate Change (Art. 3.3). And the principle seems to be taken very seriously, indeed. In the face of continuing scientific dispute about the causes and even about the likelihood and extent of global warming, the European Union has urged that the developed countries commit themselves, by the year 2010, to cut emission of greenhouse gases by 15 per cent below 1990 levels — implying a quite substantial reduction in consumption of carbon-based fuels, though consumption has actually been rising steadily in most of the world since 1990. Other governments have urged an ultimate goal of reducing overall emissions to half of 1990 levels in the decades after 2010, implying quite drastic reductions in energy consumption or quite dramatic transformations in current industrial patterns.

The ‘precautionary principle’ remains highly questionable, however, even if one thinks it is sensible to make policy judgments on the basis of speculative projections about distant threats. For this principle assumes that governments can focus on a policy equation in which environmental threats and economic costs are the only variables. Such a view is more than naive. It is wilfully blind. The most ambitious programs to deal with global warming are, in fact, so ambitious that their effective implementation would presuppose basic changes in the way the world is governed. Some advocates say that a move toward ‘enhanced global governance’ would be a good thing in itself. A notable example is the UN Commission on Global Governance, which published a 400 page report in 1995 (‘Our Global Neighborhood’) that urges a far wider agenda for ‘enhanced global governance.’ Yet there are surely sizable risks in a move toward a new system of global governance — risks if the enterprise should ultimately fail (as seems likely) and risks of other sorts if it should succeed.

In what follows then, I will try to make the case for a political equivalent of the ‘precautionary approach.’ Threats to the existing system of political authority in the world, based on the sovereignty of nations, should not be treated lightly — even if the threats remain speculative and uncertain.

Effective climate controls imply a new world order

International treaties, including treaties focusing on environmental concerns, have proliferated at a remarkable rate in recent decades. Still, it is a great mistake to think of an agreement to control global warming — at least, an agreement involving substantial reduction in greenhouse gas emissions — as a mere extension of existing trends. In fact,

such an agreement presupposes a dramatic transformation in the way the world is now governed.

To start with, the sheer economic cost of the undertaking is sobering. Or rather, it is dizzying. Nobody can now calculate with any confidence the actual cost of climate controls on the scale now contemplated. But Working Group III of the Intergovernmental Panel on Climate Change acknowledged in its 1995 report ('Economic and Social Dimensions of Climate Change') that 'the costs of substantial reductions [in greenhouse gas emissions] below 1990 levels could be as high as several percent of GDP.' Perhaps it would not finally come to that. Some analysts have argued that energy efficiencies can achieve such results without great pain or dislocation. But the last time energy consumption ceased to grow — as a result of massive price increases, during the oil shocks of the 1970s — much of the world struggled through painful recessions for the better part of a decade. And if we are going to take a 'precautionary approach,' we ought to consider seriously what the pessimistic forecasts would imply. A climate control system that could actually impose economic pain on this scale and still survive would have to be extremely sturdy.

In any case, if we are talking about a project that really does impose costs amounting to some two or three percentage points of global GNP, we are talking about a project that is able to command resources on an entirely unprecedented scale. The only international treaty system that can compare in any way with this scale of effects is the system of trade agreements under successive GATT rounds over the past fifty years (culminating in the more elaborate set of agreements now under the purview of the World Trade Organization). Yet the reduction of trade barriers under GATT (and now WTO) is usually analysed in terms of net economic benefits to the participating nations rather than net costs. Even abstracting from this not unimportant difference, however, the comparison with the GATT system highlights other aspects of a climate control system that make it uniquely ambitious.

The GATT has always rested on self-enforcement. The WTO, with all its elaborate new machinery for arbitrating trade disputes, operates in fundamentally the same way. States that participate in the WTO bind themselves to adhere to certain trading norms. If they do not, they risk particularised trade sanctions from the particular trade partners that have been injured by infractions of the agreed rules. Other countries can generally leave the dispute to the principals and expect that the countries immediately concerned will work out their differences on their own. And particular disputing nations usually do work out their differences rather than face an escalating series of tit-for-tat measures of retaliation between themselves, culminating in a localised trade war. The principal disputants sometimes work out an agreement which is not itself consistent with the official international norms. But that too is acceptable to the international community if it is acceptable

to the immediate disputants — because satisfying the immediate disputants has been the main aim of the trading system.

With the climate control system, by contrast, deviations cannot be left to the immediate disputants to work out. Nor can the system leave it to the immediate victims to challenge any particular country's infractions of the system norms. Such a system of self-enforcement by victims cannot operate under the climate control system because, in fact, there are no immediate victims. Whatever harm may be perpetrated by excessive emission of greenhouse gases is remote and indirect. Though some countries would suffer more harm from a global warming trend than others, there is still no way to correlate possible future damage, decades hence, with the particular actions of a particular offending country today. So international machinery for enforcing the climate control system will have to be far stronger than anything the world has been able to establish under the World Trade Organization.

The climate control system would be far more ambitious than the current trade system in another respect, too. The GATT began fifty years ago with only 22 participating countries. Communist and Third World countries long refused to have anything to do with it. Yet the advantages of trade liberalisation did not require universal participation or anything like it. This was an immense advantage in getting the trade system started. It has also been a great advantage in attracting new participants in recent years: the participating countries could demonstrate the advantages of trade liberalisation to the skeptics and doubters.

But the climate control system cannot operate for very long on this sort of voluntary and selective basis. Even though the Framework Convention on Climate Change contemplates that developed countries will lead the way, it is widely acknowledged that the burden of controlling greenhouse gas emissions cannot rest entirely on developed countries — much less on a self-selected set of developed countries. Based on present trends, China and India alone are projected to increase their energy-related emissions more than all the OECD countries combined, if the latter simply carried on according to present trends. All the gains from actual OECD reductions could easily be wiped out by these two developing giants, if they do not join in climate control measures. Even without OECD reduction, developing countries are projected to represent nearly half of world energy use by 2010, which makes it impossible for developed nations to carry the reduction burden on their own. Without nearly universal compliance, moreover, there would be strong incentives simply to shift energy intensive economic activities from the environmentally-conscious, Good Samaritan nations to the scofflaw nations.

What this means is that recalcitrant countries will have to be cajoled. There will have to be a system of sanctions or threatened sanctions which not only hold states to their commitments but somehow bring them to commit in the first place. Almost certainly this

will mean a system that can offer inducements for cooperation along with threatened penalties for non-cooperation. Already, there is talk of technology transfer and financial credits. But it seems inevitable that something more ambitious will be necessary. So we are talking about redistribution of resources on a very substantial scale.

Finally, to make climate controls effective, the system must control not just official governmental action — the target of the existing trade agreements — but the actions of millions or hundreds of millions of participants in each of the world's national economies. Yet it is one thing to provide a forum for challenges to tariff impositions or trade restrictions imposed on a particular import from another country. It is quite another thing to sustain a system that can determine whether governments have actually imposed the carbon taxes or use-restrictions required by climate control agreements. In other words, the climate control system will have to provide means for monitoring not just the disputed official actions of governments against particular foreign companies, but the failure of governments to control a vast range of activities in their own countries. Here again threats and penalties would have to be combined with quite substantial international assistance. Without such assistance, many developing countries simply lack the technical capacity to make good on their control commitments at home — as we can now see, for example, from the frustrations experienced in the international effort to suppress trade in narcotics.

To sum up then, we have a system which can command vast resources. In this respect, it is totally unlike that vast range of international norms which are widely accepted because they impose such minimal costs (as with conventions on air traffic control, postal delivery and so on and so on). Nor can the climate system be understood as a sort of self-enforcing tort system, defining universal norms of non-interference among sovereign states in the manner of customary international law. Nor still can it be conceived in terms of contracts between self-interested parties, whose very self-interest on both sides gives some assurance of fulfilling commitments, as in trade agreements and cross-border pollution agreements. We are instead talking about a system in which international authority can secure compliance with complex requirements even when there are neither immediate victims nor immediate beneficiaries, an authority which can mobilise vast resources and, in effect, arrange for vast redistribution of wealth, curbing the appetites of the strong and curing the incapacities of the weak. This is not international law as it has ever existed. This is a prescription for 'global governance.'

Global control on this scale is unlikely to be sustained

How likely is it that our world of independent nation-states can actually sustain a project in global governance on this scale? Two facts loom very large on the side of doubt: the benefits of this project will remain speculative and remote — and they will be quite unevenly distributed.



The first factor — doubt about the benefits — is inherent in the enterprise and cannot be waived away by solemn recitals of the ‘precautionary principle’ nor by indignant denunciations of ‘junk science.’ We cannot run a controlled experiment on global warming. Even if atmospheric science makes considerable strides in the coming decades, we must assume that even among reputable scientists there will be continued expressions of doubt and skepticism about global warming. The point is not that the skeptics are necessarily better scientists than the alarmists. The point is that, if control measures prove to be costly, the skeptics are likely to receive an increasingly receptive hearing. There is a human tendency to believe what one wants to believe — a tendency affecting politicians and governments as much as individual men and women. To overcome this tendency, it is often necessary to display dramatic and vivid evidence. We are not likely to have such evidence in the next decade or two regarding the possible effects of climate change fifty or a hundred years hence.

If one thinks about international commitments on this scale, the only real analogy is in the field of national security. There one can certainly find many examples of countries maintaining very costly commitments to defense preparedness over an extended period of years. But the commitment turns on the perception that national independence may be forfeit to unpreparedness. Can the threat of global warming — decades into the future — be made as vivid to mass publics as the threat of military calamity or foreign conquest?

And here is where the second factor comes into play — that is, the uneven distribution of the benefits that might be anticipated from a climate control system. Suppose the world does not institute an effective program of controlling greenhouse gas emissions and suppose that the result is a definite warming of the earth’s surface: climatic change will have quite different effects on different countries. Canada, Russia and perhaps the USA and some other countries may well experience improving conditions for agriculture, reduced heating costs and actually reap net economic benefits from the change. If there is melting of polar ice and a consequent rise in sea levels, this may unleash disastrous conditions for low-lying coastal areas while doing no great harm to other areas. So, not surprisingly, small island nations have urged the most ambitious reduction targets for greenhouse gases, seeking in this way to shift some of their own weather risks onto the rest of the world. But apart from such inherent geographical differences, countries most dependent on subsistence farming or a single export crop will clearly be least well equipped to deal with climate disasters. Meanwhile, countries with more diversified economies will be less vulnerable to particular weather calamities and wealthier nations will have more resources to cope with whatever problems do develop. For most developed countries, it will be very tempting to think that they can do reasonably well, even in a world where global warming does occur.



Once the problem is viewed in the light of these differences — and many political advocates insist on viewing it in this light — the prospects for a coordinated response look very much less encouraging. States will put whole populations at risk to protect disputed parts of their territory; they are much less quick to go to war to protect some other country's territory. States will tax affluent regions to help poor regions. The rich countries of the world do not feel great obligation to the poor regions.

Thus, at the peak of President Reagan's defense build-up, the United States was willing to expend well over 6 per cent of GNP on military readiness. As the Cold War wound down, the Defense budget was reduced, falling below 4 per cent of GNP by the mid-1990s. Yet US foreign economic assistance, though substantially increased, has remained well below 0.4 per cent of GNP, even at time when contributions to Egypt and Israel, to Russia and other states in Eastern Europe are promoted as necessary measures to reduce the risk of war and upheaval in vital regions — within the next few years. What would the United States pay to avoid catastrophic flooding in Bangladesh — late in the next century?

So, from many points of view, it is not easy to believe that an ambitious climate control program can be sustained long enough or widely enough to make a difference. If and when it starts to impose major economic strain on major economies, we can expect to see calls for rethinking the whole system, followed by unilateral initiatives to escape the associated burdens. And if the system is perceived to be faltering in major places — if, say the United States and a few others withdraw — controls will likely collapse everywhere. What country would continue with curbs on its own economy when its efforts at reducing emissions are being steadily cancelled by the higher emissions from other countries and those other countries reap economic rewards for their desertion?

Perhaps it will take a decade or more to prove that the system cannot be sustained. The proof may still be costly. Even to begin to mount a program on this scale will require a vast amount of public debate and political mobilisation. To have it fail so completely, within a decade, would threaten a proportional degree of cynicism and despair about international cooperation in any other sphere. Spectacular failure on climate change would probably undermine the political confidence required for otherwise feasible international undertakings — including environmental undertakings. That is not a small cost.

But perhaps a climate control system can be sustained — or given the benefit of the doubt and continually revived — for more than a decade. The start-up costs, in political terms, would still be formidable.



Political costs to an effective climate control system

If one can imagine a system of climate controls working at all — simply in the sense of achieving its planned reductions of greenhouse gas emissions, until the initial target year of 2010, let us say — one must accept a whole series of likely political consequences as the nearly inevitable price for that technical success. First, one must accept the likelihood that international tensions will increase. In effect, climate control is a project that involves rationing of energy consumption. It is bound to generate a great deal of contention and recrimination among nations — as rationing schemes almost always do within nations.

Nations in the underdeveloped world have already made clear that they will not submit to the same controls as the developed world, since their own per capita consumption of energy is vastly below that of OECD countries. But no program can succeed without enlisting control efforts in the poor countries. So we can anticipate a good deal of angry debate, recapitulating Marxist rhetoric of the 1960s and 70s about the rich nations enjoying their affluence on the backs of the poor — accompanied, perhaps, by an ugly undercurrent of Western complaints about the shiftless or heedless ways of the poor nations.

Meanwhile, we can expect further recriminations between the major developed nations, particularly between the European Union and the United States. The inescapable fact is that these trade partners — and trade rivals — will be differently affected by the same policies. Germany and Britain have experienced much lower increases in greenhouse gas emissions over the past decade than the United States (or indeed than the OECD average), as a result of shifts away from past reliance on coal, which they have been undertaking for unrelated reasons. Not surprisingly, then, Germany and Britain have been strong advocates for ambitious emission reduction targets, which would give maximum play to their own comparative advantage in this area. So we can expect that the US and the EU will engage in extended disputes about implementation of climate control policies, disputes more intense perhaps than the disputes over trade policy that once seemed to imperil the successful completion of the Uruguay Round of the GATT. We should also expect to see new frictions, as they argue not only over their own records but over the proper approach to the poor countries. We should expect then to see (perhaps with an ironic role reversal) something like the tensions engendered during the early Cold War when the United States tried to rally the Free World by inveighing against the immorality of ‘neutralism’ — and squabbled continually with its European partners not only over burden-sharing in defense but over what line to take with less immediate threats like Cuba and China.

The second consequence one must expect is a fraying of other international commitments. It is not just that cooperation becomes more difficult in an atmosphere of tension. Perhaps more importantly, successful pressure requires focus — which means that ‘secondary’ questions get pushed to the ‘back burner’ in diplomacy and many issues that had once



seemed urgent are relegated to ‘secondary’ status. During the Cold War, the American focus on national security issues made the United States much more willing to indulge valued military allies on objectionable trade practices (as with Japan) and on gross political oppression (as in Latin American and Southeast Asia). Today, the United States has largely abandoned its previously expressed concerns about human rights abuses and given way even on trade disputes with China, in order to enlist Chinese cooperation on more urgent matters, such as the handling of impending crises in Korea or curbing the flow of dangerous weapons to renegade regimes. A system which requires the major Western powers to focus diplomatic efforts on extending climate control measures to China — and India, Indonesia and Brazil — is a system in which they cannot so readily pursue other concerns. Inevitably, improvements in the functioning of the WTO will be threatened by this diversion of attention, along with an array of peace-keeping, arms control and human rights concerns. Other environmental concerns — such as protection of world fisheries or endangered species — may also suffer in consequence.

Paradoxical as it may seem, the climate control system is almost certain to generate new and more costly international programs, however, even while it frays existing ventures. The imperative of securing widespread cooperation will encourage new programs as ways of mustering support and reconciling balky nations. Poor nations will want concessions in other areas (for example, in trade policy) to compensate them for climate commitments. Major oil exporting nations, concerned about the effects of energy taxes on their own economic mainstay, will want favoured treatment for their oil, as compared with energy sources elsewhere. Countries with vulnerable coastlines may seek special dispensations (to prepare for future disasters), while landlocked countries seek other compensations (for not being eligible for the vulnerable coastline dispensation).

One must also anticipate the rapid growth in centralised institutions, giving authoritative status to international bureaucratic experts. How are overall emissions to be measured? If rich countries are allowed to ‘trade’ their own reduction obligations against assistance to poor countries for more cost-effective reductions (as is widely proposed), how can the effectiveness of these ‘trades’ be supervised and enforced? How will such ‘trade’ ventures be distinguished from grants or investments that would have occurred anyway? There will be more and more technical questions about implementation of climate control commitments, requiring more and more expert guidance. Though there will be continual jockeying among national governments on the underlying policy issues, there will be a need to present convincing ‘expert findings’ — impartial and international — to home constituencies when deals are finally struck. Moreover, international bureaucrats may well prove adept at intimidating scientific or technical dissenters (as governments learn that only ‘respectable experts’ can help them in their disputes), thereby further extending their own authority.



Finally, one must expect continual mobilisation of opinion on the menace of global warming. To make control commitments stick, skeptical voters must be convinced that the threat is very great and very certain. President Carter tried to summon support for his energy policies in the late 1970s by calling the energy crisis ‘the moral equivalent of war.’ An effective climate control system will have to deploy such appeals with more success than President Carter did. And that will risk all the governmental heavy-handedness — all the measures of political intimidation, moral pressure and silencing of dissidents — that mobilisation for war or cold war has entailed in the past.

It seems unlikely that this can be sustained for decade after decade. But the political costs can be considerable even if the program collapses after fifteen years. And what if it should prove to have staying power beyond that? Perhaps the economic costs will prove less than the worst forecasts would have it. Perhaps it will be easier, in consequence, to harmonise and coordinate these less burdensome measures. Even so, this happy result has some unhappy implications.

Liberalisation vs global governance

If an emerging system of ‘global governance’ does prove sufficiently supple and effective to sustain a global climate control policy over an extended period, it will be a quite new presence in world politics — and in the domestic politics of many nations. One need not view it as an incipient tyranny or a new guise for imperialism. But it is only prudent to recognise that dissidents and demagogues, particularly in countries experiencing economic difficulties, will be quick to say such things. Even if global governance is politically tolerable, however, it may carry some worrisome risks for that very reason.

Global governance means global planning. One way or another, the climate control system means a global plan for reducing energy consumption or in other words, a scheme for rationing energy use. If the world can have global governance to ration energy — the life-blood of modern economies — what might global governance not attempt? As it is, the FCCC and subsequent policy statements are replete with the slogan of ‘sustainable development’ — a phrase which implies (at least to many who deploy it) that finite mineral resources must be rationed by governments rather than simply allowing market forces to bring alternative materials into wider use at a rate conditioned by changing supply. Some visionaries are still more ambitious. M.Z. Cutajar, Executive Secretary to the FCCC Secretariat, has recently observed that ‘the present consumption patterns of the rich [countries] cannot be generalised globally without unimagined consequences for resource management and environmental security. So it is necessary to bring about sensible changes in those patterns, through education and incentives ... technical standards and fiscal measures that stimulate ... change in consumption habits.’ (UN Climate Change Bulletin, No. 14, 2d Qtr, 1997).



But the world's experience is that the most potent demands for protection come not from victims of environmental degradation but rather from the victims of economic dislocation — and not usually from the most tragic of those victims, either. Every developed country has a long history of undertaking restrictive regulations and selective subsidies to protect some particular threatened industry or economic sector. Much of this protection has been eroded by the pressures of global trade — and some by direct agreement in GATT rounds. A world that can organise to protect itself — or its most vulnerable populations — from environmental menace is a world that can organise to protect vulnerable states from economic pressures. Domestic experience suggests that such protection is likely to protect against competitive pressures by thwarting change and adaptation.

If one can imagine climate controls taking effect, one must recognise that they provide tools and examples for other kinds of controls, too. Climate controls can thus nurture constituencies for protection and redistribution as they affect opinion about what is realistic to expect. In the 1970s, Third World nations demanded a 'New International Economic Order,' under which the United Nations would sponsor cartels to lift and stabilise the price of basic commodities exported from poor countries. It didn't happen, because Third World countries could not agree among themselves on practical arrangements and the Western nations had no interest in promoting new OPECs. In the 1990s, organised Labor and other constituencies in the developed world have clamoured for international standards to prevent the shift of manufacturing to countries where Labor is 'unfairly underpaid' and environmental safeguards are neglected. This project, opposed by developing countries and by major business interests in the developed world, has also proved stillborn. But schemes that have seemed unworkable and unrealistic in the past may look rather different in the context of an effective system of climate controls, with all it implies about the potential reach of global governance.

Conversely, global competition — which is now a powerful argument for making painful adjustments in domestic economic policies — may seem much less powerful in a world that can sustain a program of climate controls. The countries that have done best in the past two decades — the tigers of East Asia and the more recent tigers of Latin America — are those that abandoned the fruitless quest for international redistribution and instead found their niche in open trade. In many of these countries, wider exposure to international competition has encouraged liberalisation at home. The same pattern has been observed in almost all the developed nations over the past two decades. These trends may not always go together. But certainly the trend toward the lowering of trade barriers over the past two decades has run parallel with a renewed respect for the virtues of free markets and a fading of expectations for grand schemes of redistribution and control — both in international and in domestic political arenas.



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In fact, the classical framework of international law — premising a world in which sovereign states are equal and independent by the very nature of their sovereignty — was a projection from classical liberal theories about the equality and independence of men in the state of nature. Notions of national sovereignty were closely connected, in the thought of the Enlightenment, with liberal notions about individual rights. Ever since then, arguments about sovereignty have regularly been linked with arguments about private property and personal liberty. Both reflect the same skepticism about the benevolence of outside powers, the same distrust of asserted commonalities, the same root impulse to insist on independence. But this outlook, so remarkably revived in the political trends of the past two decades, continues to face opposition and challenge. A functioning climate control system would certainly offer powerful encouragement to this opposition. In the long run, that may be its greatest cost.
