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Missing Biennial Update Reports: an explanation and concerns for the Paris Agreement

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The UNFCCC negotiating session in Bonn last month saw countries have frank, conceptual conversations on an essential component of the new climate regime to be instituted at COP21: transparency of implementation. This contrasted with discussions on other negotiating topics, which were widely mired in procedural issues. The opportunity this allowed for countries to exchange and converge on views is critical, as they need to reach consensus by December on the guiding principles of the new transparency system, and inscribe them in the Paris Agreement (see our previous blog post and IDDRI working paper on the new

transparency system under the Paris Agreement).

Countries notably agreed that the new transparency system must build on the current system, established in Cancun in 2011 and which instituted bi-annual reporting and review processes for developed and developing countries. Developing country negotiators were particularly adamant about this point, stating it repeatedly.

However, there was an elephant in the room.

At present, less than 10 percent of developing countries are actually participating in the current transparency system. Indeed, to date only 13 of them have submitted their first Biennial Updated Report, which was due in December 2014. It is through this central report to the current transparency system that developing countries submit Greenhouse Gas (GHG) inventories and progress on mitigation action implementation.

This blatant discrepancy between negotiators' insistence on building the new system on the current one, and the widespread lack of submissions was not raised in the negotiating room. Outside, several developing countries listed factors to justify their delays, or explain that of others, including: building national institutional capacity to produce information to be reported takes time, funding from developed countries arrived too late to start on time, internal bureaucratic delays mired prompt submission.

These difficulties also signal the very different point developing countries are starting from on bi-annual reporting as compared to developed countries (all of whom, tellingly, punctually submitted their Biennial Reports for their respective January 2014 deadline). Up to present, developing countries were only requested to submit a general 'National Communications' report every so often (they typically did so every five to six years), and many often hired external consultants to do so. In contrast, the requirement developed countries face to submit information more regularly (GHG inventories annually and National Communications every four years) is longstanding.

Developing countries also face statistical challenges. These touch not only those least developed countries and small countries with limited institutional capacity—but also major emerging economies such as China, whose recently revised GHG emissions data varies significantly from number in data collected previously.

These difficulties are acknowledged and taken account of in the Biennial Update Report guidelines, adopted by Parties at COP17. The guidelines first call on developed countries to provide funding to address developing countries' lack of capacity. A good picture of the current situation may only emerge with a detailed country by country analysis of the funding conditions, for example: the dates when the country requested the funding, when it was disbursed, and what percentage of the total reporting cost would the financing cover. Yet currently only a fraction of this information is publically available.[1]

Furthermore, the December 2014 deadline was not entirely firm. Guidelines indeed state developing countries 'should' submit by this date (the term 'should' having a softer connotation than 'shall'), as an acknowledgement of developing countries' need for greater time and flexibility the first time around. Notwithstanding, the guidelines do follow this by instituting a new obligation of conduct for developing countries to report bi-annually (employing in this case the term 'shall').

Despite these realities and limitations, lack of Biennial Update Report submissions remains concerning as it relates to the new climate regime the Paris Agreement is set to institute.

Firstly, how can a new transparency system which catalyzes countries to raise their ambition over time possibly be created on the basis of the current transparency system, if participation in the current system by developing countries is insufficient to draw learnings in a timely manner? Our recent IDDRI paper on the new transparency system finds it insufficient to only look at the guidelines of the current system to draw lessons on strengths and weaknesses—only the reports can show how countries interpret and apply them. With only a few years available to craft the transparency system's workings (by 2020), the time window for drawing learnings is relatively narrow. It is thus paramount that developing countries submit their Biennial Update Report as soon as possible.

Furthermore, it is too early yet to tell whether the current Biennial Update Report submission delays are normal for a first round of submissions, or if they betray a deeper lack of buy-in and adherence to the current transparency system. Yet the possibility that it could be the latter should be concerning to all countries who want the Paris Agreement to institute a successful and lasting climate regime, as a solid transparency system in which countries share information on implementation of contributions is a cornerstone of the new climate regime. Broad participation by countries in this system is essential for it to be able to build trust in collective action, in turn unlock greater ambition by countries.

The lack of Biennial Update Report submissions also raises concern for the success of the Paris Agreement more broadly—if countries are not fulfilling their current obligations of conduct, might they not fail to do so as well under the Paris Agreement? This is particularly concerning if obligations end up being primarily of this type, a possible scenario in light of the difficulties the United States faces in ratifying an agreement with obligations of result. This might mean that to be a Party to the agreement, countries submit and update Nationally Determined Contributions (NDCs), and have an obligation of conduct to reach their NDC (e.g. 'aim to reach' their NDC), all while not being legally bound to achieve their commitment.

Two sets of consequences can be drawn from these observations.

First, it is important that countries realize that a good transparency system is an essential component of the new agreement, and to build a good transparency system developing countries should submit their Biennial Update Reports as soon as possible. Developed countries should play their part to enable the capacity of developing countries to submit promptly, by providing appropriate funding and other support. Developing countries must also understand that submitting their Biennial Update Reports is a marker of good-will and buy-in not only into the current and future transparency systems, but also to the Paris Agreement at large.

To enable broad participation of all countries in the new transparency system, developed countries should be particularly attentive to providing prompt and sufficient funding for all countries (and in particular those with the least capacity) to be able fully participate in the upcoming reporting and review processes. Developed countries could consider advancing at Paris a channeled quantitative financial commitment to this end.

This situation also shows that to ensure the success of the Paris Agreement, countries must think through how obligations of conduct can be strengthened as much as possible, especially if the climate regime ends up being based primarily on obligations of conduct. Straight out sanctions might not be desirable, nor aligned with the spirit of bottom-up cooperation that the new climate regime is being founded on. Yet other material consequences should be explored. Empirical evidence from the Kyoto Protocol suggests that this could be quite effective. Indeed, developed countries that did not fulfill their reporting obligations under the Protocol faced suspension from the use of market mechanisms, and the rate of reporting under the Protocol was excellent.

It is not surprising that in this hectic year, notably amidst the spotlight on Intended Nationally Determined Contributions (INDCs), the lack of Biennial Update Reports submissions has slipped under the radar. Yet it is not the less concerning. Countries must take this seriously and address it promptly, if the success of the Paris Agreement is to be ensured.

[1] UNFCCC, (December 2014) Information provided by the Global Environment Facility on its activities relating to the preparation of national communications and biennial update reports

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