

**The Role of Green NGOs
in Promoting
Climate Compliance**

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Sammendrag/Abstract <p>This report explores the influence of non-governmental organisations (NGOs) on the design of the climate compliance regime and how they work to promote climate performance among both parties and non-parties to the Kyoto Protocol.</p> <p>NGOs have been quite successful in attaining their goals for the design of the compliance regime: They won acceptance for the dual approach to compliance, with both a facilitative and an enforcement branch, a strong enforcement mechanism, and potentially significant scope for NGO participation in enforcement branch deliberations. A few advisory NGOs seem to have had influence on the design of the compliance regime, but it is more uncertain what their influence would have been without the US coming up with essentially the same approach. NGO influence on the interpretation of sinks and the design of the flexibility mechanisms, issues closely related to the compliance regime, has been very modest. With regard to enhancing future compliance, it is shown that NGOs are likely to pursue both internal and external strategies. The internal strategy denotes using instruments in the compliance system, including participation in compliance, monitoring and verification proceedings. Using options outside the climate regime - the external strategy – includes activities such as promoting renewable energy, influencing consumers and target groups, and shaming ‘laggards’. It is argued that the complex character of the climate change issue requires entrepreneurial skills and a wide NGO repertoire, giving a role to both expert groups and the large environmental organisations.</p>	
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Contents

- 1 Introduction** _____ **1**
- 2 Different NGOs: Different Strategies, Resources and Targets** _____ **3**
- 3 Green NGOs and the Compliance Regime** _____ **7**
 - Access to Negotiations and Delegations** _____ **7**
 - Design of the Compliance Regime** _____ **9**
 - Sinks, Flexibility Mechanisms and Compliance** _____ **10**
 - Influence of Green NGOs** _____ **13**
- 4 Opportunities for NGOs to Strengthen Climate Compliance** _____ **15**
 - Internal Strategies: Using the Instruments in the Compliance System** _____ **15**
 - External Strategies: Options Available Outside the Compliance Regime** _____ **17**
- 5 Conclusions** _____ **21**
- References** _____ **23**
- Interviews** _____ **24**

1 Introduction

There has been a tremendous growth in the number of non-governmental organisations (NGOs) participating in international negotiations and conferences about environmental issues during the last two decades. Most scholars agree that NGOs do make a difference in global environmental politics (e.g. Chatterjee and Finger 1994; Princen and Finger 1994; Wapner 1996; Raustiala 2001), but it is contestable to what extent their efforts have actually affected international negotiation outcomes and domestic implementation of commitments. Little of the literature on NGOs has addressed what actual influence they have on policy outcomes. Studies that have addressed this question, have often confused influence with NGO access, activities or resources in assessing policy outcomes (Betsill and Corell 2001).¹ Thus, a systematic approach to measuring and analysing NGO influence has been called for (Betsill and Corell 2001).

In this report, we address NGOs' role in promoting climate compliance under the Kyoto Protocol. The Kyoto Protocol is not yet in force, and although it is expected to come into force in 2003, we will not know much about the compliance records of most parties until the end of the decade. Therefore, we will focus on how the NGOs have contributed to the design of the compliance system and what their options are for enhancing future compliance. Although we do not pretend to measure NGO influence and causality patterns systematically, we make an informed evaluation of their role in promoting climate compliance. More specifically, the following three questions have been singled out:

- What strategies have NGOs used to influence the development of the compliance system?
- Have NGOs succeeded in influencing the design of the compliance regime?
- What possibilities, both internal and external to the compliance regime, are there for NGOs to promote compliance with climate change commitments?

The first two questions can essentially be answered by studying the development up to the present. The last question is more forward-looking and therefore also more speculative and general. Also, we do not define compliance in a narrow legal sense as this would exclude actors such as the US, which will not become a party to the Kyoto Protocol. We conceive of compliance in the broader political term, and we explore what opportunities there are to promote the climate performance of both parties and non-parties to the Kyoto Protocol. In the following, the three questions above will be addressed in turn.

¹ Exceptions to this observation include Corell and Betsill (2001), Newell (2000), and Arts (1998).

2 Different NGOs: Different Strategies, Resources and Targets

A first observation is that non-state actors in the climate process not only include environmental groups, but also research and academic institutes, business and industry associations, labour organisations, religious bodies and consumer groups.² Although our focus is on the green NGOs, this is no homogenous group. On the one hand we have the traditional ‘activist’ groups; on the other hand, there are more ‘pure’ research-based groups with legal and/or technical expertise to promote environmental goals.

On this basis we distinguish between (1) *activist* organisations, obtaining funding and legitimacy through memberships and popular support, and (2) *advisory* organisations, obtaining funding and legitimacy through their ability to give policy recommendations and provide decision makers with legal, technical or scientific advice. NGOs that are clearly activist are World Wide Fund for Nature (WWF), Greenpeace, and Friends of the Earth. Important advisory organisations or ‘think tanks’ include Center for International Environmental Law (CIEL), Environmental Defence (ED), the Foundation for International Law and Development (FIELD) and several others.³

Against this backdrop we differentiate between two main strategies. First, an NGO can pursue an *insider strategy*, seeking to attain influence by working closely with negotiators and governments by providing policy solutions and expert advice. There are particularly many US based groups in this category. They also engage in knowledge construction, producing research-based reports and papers on particular topics (Gough and Shackley 2001: 338).

Second, NGOs can pursue an *outsider strategy* promoting compliance with international agreements by putting pressure on negotiators, governments and target groups through campaigning, letters of protest, rallying, direct actions, boycotts and even civil disobedience. The tactic here is to influence public opinion in order to induce states to be more flexible in international negotiations, to push governments to comply with international commitments, and to give polluters and environmentally harmful corporations negative public exposure.

Although the insider-outsider dimension is likely to vary among NGOs, several environmental organisations, especially the major ones with large resources, are likely to pursue a *dual strategy*. Global activists like Greenpeace and WWF also engage in knowledge construction, using scientists and analysts to acquire further understanding on complex issues. The increasing complexities of many international environmental issues, not the least the

² For an overview of the role of the petroleum industry in this context see Skjærseth, this volume.

³ Interviews have been conducted with WWF, Greenpeace, CIEL, FIELD and ED. Therefore, most emphasis will be placed on these organisations.

climate issue, have necessitated this dual strategy. Advisory NGOs, however, usually rely on the insider strategy only.

The broad insider/outsider categories can be broken down in terms of what arenas (actors/institutions) the various types of NGOs target. We assume that NGOs seek to influence one or some combination of the following four arenas, depending upon type of NGO:

1. *International negotiations and processes*: In our case this involves efforts to promote a strong compliance system during the negotiating process. All green NGOs generally participate as observers during the various negotiating sessions. This channel is particularly important for the ‘think-tanks’, feeding ideas into the negotiating process, while pressure and various mechanisms of ‘shaming’ is more important for the activist NGOs. Most green NGOs participating in the climate change negotiations are united in the Climate Action Network (CAN). The major NGOs also have considerable independent international activities that take place outside the framework of CAN.
2. *Domestic climate policy and ratification*: This arena is also be important for all major NGOs, but in somewhat different ways. The insider NGOs may participate in brainstorming and trying to ‘sell’ their ideas to their country’s delegation and government. Activist NGOs may push for domestic ratification of the Kyoto Protocol and seek to influence the development of domestic climate policy instruments in both member and non-member states to the Protocol. NGOs such as Greenpeace, WWF and FoE are particularly important in this regard as they have a large number of country offices and can pool resources towards key countries in the ratification process.
3. *Target groups’ climate policy and behaviour*: There are several target groups for climate compliance: oil and natural gas companies, energy industries, transport, industry production involving greenhouse gas (GHG) emissions, agriculture and waste are among the most important. As long as the Kyoto Protocol has not entered into force, and as long as most states have not yet established forceful domestic climate policies, strategies aimed at influencing target groups *directly* are potentially an important part of the activist/outsider NGOs repertoire. This is likely to continue when/if the Protocol enters into force as behaviour change in target groups is ultimately the only way to reduce GHG emissions.
4. *Public opinion*: This is another important, but diffuse, target for the activist NGOs. They may try to influence public opinion and create awareness to put pressure on governments and target groups. For organisations relying on membership as a significant resource base, this is an important channel – not only to achieve actual influence, but also to attract new members.

This leads us to a final point regarding the potential for NGOs to influence climate policy in general and compliance more specifically: what kind of resources the various types of green

The Role of Green NGOs in Promoting Climate Compliance

NGOs have. There are several sources of leverage, or capital, NGOs can rely on to transmit information and to influence decision-makers, including the following:

1. *Intellectual base*: issue specific knowledge held by the NGO and its ability to provide decision makers with expert advice and analysis
2. *Membership base*: the number of members the NGO has, both nationally and internationally
3. *Political base*: the NGO’s access to decision makers and politicians in office
4. *Financial base*: the financial resources that the NGO can channel into campaigns, lobbying, participation at conferences, commissioning of expert reports, etc.

Several categories could be added to the list, but the purpose is to show that the types of leverage an NGO can apply will contribute to define the organisation’s *opportunity set* with regard to gaining political influence. Further, the resources that an NGO has at its disposal are closely linked to the types of strategies it will chose and the arenas it will target. The intellectual base is the prime ‘weapon’ of advisory NGOs, but other major NGOs are equipped with this tool as well. The more specific expertise and know-how the relevant NGOs have concerning the system of compliance, the higher the *potential* for influencing the making of the compliance regime. We will lump the other three categories (membership, political and financial base) together and label it *political clout*. This is relevant basically to the large activist NGOs. We would assume that the higher the score on this aggregate dimension, the higher the possibility that green NGOs could influence climate policies and thereby increase compliance.

It is important not to confuse resources with actual influence in promoting compliance with the Kyoto Protocol. Resources are characteristics associated with an environmental organisation that may or may not translate into political influence. A number of other variables will be decisive as well for promoting compliance. To sum up, two kinds of environmental NGOs will be investigated: *activist* NGOs and *advisory* NGOs. These types of NGOs are expected to differ somewhat on three dimensions relevant to promoting climate compliance: resources, levels targeted and strategies. The assumed relationship between NGO type and the three dimensions is set out in table 10.1.

Table 10.1: Relationship between NGO type and resources, levels targeted and strategies

	Activist NGOs	Advisory NGOs
Critical resource	Membership base	Intellectual base
Arenas targeted	International negotiations Domestic policy Target groups Public opinion	International negotiations Domestic policy (Target groups)
Strategy	Dual strategy: insider and outsider	Insider only

3 Green NGOs and the Compliance Regime

To measure influence, we will rely on two data sources: (1) *goal attainment*, measured as the correspondence between NGO's positions and proposals and actual negotiations outcomes, and (2) *ego and alter perceptions*, i.e. how NGOs perceive their influence themselves and how negotiators and other key actors judge their influence. As we have interviewed mostly NGOs, there is a chance that we may overestimate their influence. Also, interviews are conducted with a limited number of actors, but we believe them to be some of the most important ones relating to the compliance issue. The conformity between the environmental community's positions and the actual negotiation outcome as stated in texts and final agreements is *one indicator* of their influence in the design of the compliance system.

Important *determinants* of influence may be decision makers responsiveness and demand for advice, pressure from business and industry groups, governments' responsiveness, and, not least, the potential for alliances with more powerful actors.⁴ The problem of causality looms large when trying to isolate the influence of one set of actors from that of others. Within the framework of this report we can only deal with this on an ad hoc basis, making an informed evaluation of the different respondents.

Access to Negotiations and Delegations

While NGOs have been formally accredited as observers to the climate change negotiations since the talks began in 1991, participation in the negotiations have in practice taken the following forms: access to the conference venue, presence during meetings, interventions during debate, face-to-face lobbying of delegations, and distribution of documents (Oberthür et al. 2002). Somewhat paradoxically, most of the final negotiations of the compliance procedure, where most delegates agreed on the need for transparency, were conducted behind closed doors. Although 'participation does not equal influence', it has certainly been a drawback for the green NGOs to have been shut out from important forums. NGOs have therefore had to rely on traditional 'corridor politics' by face-to-face lobbying and distribution of documents in the lobby in between sessions.⁵ There are ways, however, to overcome the problem of lacking access. For example, there has been a rather small but important network of experts on compliance that interacted frequently. Some of these are official delegates, others are NGOs and academics.⁶ Other ways for NGOs to get more direct access to negotiating tables and other closed forums is through participation on government delegations

⁴ It is the rather rare alliance between powerful states and powerful NGOs that can explain the seemingly very strong influence of green NGOs in the international whaling regime. How strong this influence would have been in the absence of this alliance is more uncertain (Andresen 2001).

⁵ It appears the lobby is not the only place for lobbying. It has been claimed that the toilets are used as well. So the concept of 'rest-rooms' may not apply to key delegates...

⁶ Many of the respondents pointed to this informal network.

as representatives of civil society constituencies or as expert advisors (Oberthür et al. 2002: 134). For example, FIELD, Greenpeace and WWF have all helped AOSIS with policy advice and scientific backup in the climate negotiations (Newell 2000: 143) and FIELD lawyers have frequently been accredited as members of small islands delegations (Oberthür et al. 2002: 135).⁷

Apart from participation and lobbying internationally, access to national governments is crucial for NGO influence. Access to governments can be in the form of consultative meetings and regular meetings with civil servants (Newell 2000). Many US based advisory NGOs have worked closely with the government, and they have enjoyed a high degree of access (Eikeland 1994; Newell 2000). According to Newell (2000:132), World Resources Institute (WRI), Natural Resources Defence Council (NRDC), Environmental Defence (ED), the Woods Hole Research Center and the Audubon Society 'all worked closely with US policy makers and UN agencies in formulating policy options on climate change'. In the US, there were regular meetings before negotiating sessions. It started out with meetings between delegations and different kinds of non-state actors, but over time these have been split up and green NGOs meet separately. US decision makers have said that open brainstorming and other kinds of interaction have been very useful for them (Bodansky December 2000). However, with the change of the US administration, environmental NGOs in the US no longer enjoy a high degree of access to the government, and they have to use other channels to gain influence in future climate change negotiations (Anderson, July 2002).

One strategy to increase access, or compensate for lack of access, is to form alliances with other environmental NGOs to share information and co-ordinate positions. In the climate change issue nearly all environmental NGOs co-ordinate their positions through the Climate Action Network (CAN).⁸ Created in 1989, CAN now is a global network of almost 300 environmental NGOs working to curb human-induced climate change to ecologically sustainable levels.⁹ To achieve this end, CAN-members exchange information, work out joint position papers at climate change negotiations and co-ordinate strategies at international, national and local levels. Being the recognised umbrella NGO in the international negotiations, CAN unites activist and advisory environmental NGOs in one network. CAN is split into a number of working groups according to issue area, and there is a separate group on compliance issues. Over time CAN is said to have developed into a well functioning body, characterised by good procedures, open discussions and loyalty by member organisations. (Gulowsen, May 2002; Singer, July 2002). Although CAN is more important for the less resourceful groups than for the major ones, the CAN network usually is an effective way of communicating NGO positions with one voice during the climate negotiations.

⁷ According to Arts (1998) it is well known that FIELD made the proposed AOSIS Protocol in 1995.

⁸ Smaller partnerships between environmental NGOs is also commonplace, be it joint actions, policy proposals, or initiatives.

⁹ <http://www.climatenetwork.org/>

Design of the Compliance Regime

Compliance has been described as an *atypical* issue in the international climate negotiations, characterised by few actors involved and lack of strong opinions (Dovland, June 2002, Wisner, March, 2002). Until Bonn (COP6 part 2, July 2001) and Marrakesh (COP7, October/November, 2001), the compliance issue was low on the agenda during the negotiations. The questions of targets and time-tables and the flexibility mechanisms took most of the energy. Until the final stages of the negotiations, the issue received scant attention – not only from the negotiators but also from most of the NGO community. This has, however, provided a ‘window of opportunity’ for green NGOs with particular expertise and competence (Wisner, March 2002).

The first important workshop on the compliance issue was arranged in Vienna, October 1999. At the Vienna meeting CIEL and WWF presented a joint paper, proposing the main elements of a compliance system for the climate regime – based on lessons from other relevant international regimes. CIEL, a small advisory NGO based in Washington DC, associated itself with WWF not only because they agreed on the compliance issue, but also because WWF had much more political clout (Wisner, March 2002). These and a few other NGOs with expertise in compliance were allowed to present their views and insight during a series of informal workshops arranged to address the compliance issue. CIEL and WWF jointly introduced the idea of a dual approach to compliance, which refers to a combination of a facilitative body available to assist parties to comply with their commitments and a judicial like enforcement body (See Morgan and Porter 1999). This basic approach was similar to the US approach to compliance. In a submission *before* the Vienna workshop the US called for a separation of the facilitative and enforcement functions.¹⁰ Still, CIEL/WWF and the US had not worked together on this prior to Vienna (Wisner, March 2002). The dual approach has been kept and endorsed by all parties in the Marrakech Accord.¹¹

CAN has left most of the responsibility for the work with the compliance system to a small group of experts. Most of the green NGOs have neither been very interested nor knowledgeable on the issue. The Compliance Working Group is the smallest one in CAN, usually composed of some 20 members and mostly chaired by CIEL, illustrating the rather low-key technical and complex nature of the issue. Among the large traditional activist groups, WWF has been most active on the compliance issue while organisations like Greenpeace and Friends of the Earth have been less involved. To some extent this reflects a *strategic division of labour* between the NGOs (Raquet, July 2002). Some NGOs work mainly on the mechanisms, some on compliance and some mainly on external issues.

¹⁰ The US submission is dated July 30, 1999 (FCCC/SB/1999/MISC.12)

¹¹ The CIEL/WWF working paper also suggested a ‘screening committee’ (Morgan and Porter 1999), but this idea was not accepted.

The legal character of any consequences of non-compliance caused much controversy in the negotiations. All major green NGOs favoured legally binding consequences, but the decision was deferred to the first COP/MOP after the Kyoto Protocol's entry into force – seemingly a major setback for the green movement and other 'progressive' forces. Although not much flagged in the media, the US was previously one of the strongest proponents of the legally binding approach.¹² This could be seen in the pressure it put on reluctant 'colleagues' in the Umbrella Group; Russia, Japan, Canada and Australia. The new administration, however, changed policy, and the pressure on the 'gang of four' was gone. Considering the eagerness of the EU and others to conclude the agreement, the reluctant parties succeeded in getting the issue postponed to the COP/MOP.¹³ The green NGOs regretted the outcome, but some of them are pragmatic and downplays its significance, acknowledging that it is difficult to force a country into compliance under real world circumstances.

Obviously a key point for all green NGOs was to secure maximum openness and public participation in the compliance regime. Up until Marrakesh, it seemed an open access compliance regime with strong public participation would emerge. The US had also been the strongest supporter of this approach among the major actors.¹⁴ Once more, the new US administration changed position on what was believed to be an important principle for the US. With this turnabout, the issue lost its importance during the negotiations. The strongest opponent to an open compliance regime, Russia, seized this opportunity. Russia did not want information open to the public and did not want NGOs to submit information.¹⁵ The compliance system eventually became somewhat less transparent and open than the NGOs had advocated, but they were successful in ensuring that NGO observers may attend enforcement branch deliberations and hearings, unless the branch decides otherwise. Furthermore, NGOs may submit technical or factual information to the facilitative and the enforcement branch, although the enforcement branch is only required to rely upon information from 'official' sources. In sum, then, NGO goal attainment on the compliance system was generally quite high.

Sinks, Flexibility Mechanisms and Compliance

Although there has been little contention between the NGOs regarding the compliance regime, narrowly defined, they have not been unified on closely related issues, in particular sinks and the flexibility mechanisms. This is due not the least to differences in philosophies regarding the *role of the market* as a means to reduce GHG emissions in the implementation

¹² The US position follows logically from its reputation of keeping agreements due to the requirement to pass implementation legislation.

¹³ It appears that the new US negotiation team wanted to uphold the position on this issue, as it was an important principle in US policy, but they were given direct orders from the White House to change position.

¹⁴ The EU also supported this approach, but with less vigor.

¹⁵ Some G-77 countries supported Russia, and it has been claimed that the EU gave in too easily to Russian pressure.

of the flexibility mechanisms in the Kyoto Protocol. In general, ‘the more market and the more sinks’, the easier it will be for most parties to comply with their commitments. The traditional NGO view has been opposed to such a market-based approach, as it would reduce the need for tough domestic actions to reduce emissions. This, however, does not apply to all green NGOs.

Environmental Defence (ED), a US-based NGO, relies on a market-based approach. According to Newell (2000:128), it ‘boasts the largest assemblage of scientists, economists and lawyers of any national NGO working on climate change’. In contrast to most expert organisations, ED has quite a large member base. It was also among the main architects behind the US system of tradable SO₂ permits, designed and put into operation more than a decade ago (Petsonk, March 2002). ED has worked relentlessly to get the negotiators to adopt a similar approach for the international climate regime. Considering its expertise, close interaction with the US administration and its political clout, there is reason to believe that it has had an effect on the design of the Kyoto mechanisms – mainly a US brainchild (Grubb et al. 1999). In general, ED has sided with the US – against the EU – in its interpretation of the Kyoto mechanisms.¹⁶

ED is also among the few environmental NGOs supporting the previous US administration on the interpretation of sinks – the possibility to claim emission credits for carbon stored in forests and soils.¹⁷ At The Hague (COP6) and in Bonn (COP6 part 2) most green NGOs argued that sinks should not be included as CDM projects and that ‘additional activity sinks’ (Article 3.4 of the Kyoto Protocol), which can include land management, agricultural practices and forest management, would put the integrity of the Kyoto Protocol at stake.¹⁸ This placed a considerable strain on CAN (as well as negotiators), and ED excluded itself from CAN at the Hague meeting but is now once more attending the CAN meetings.¹⁹ The agreement in Bonn and the final agreement in Marrakesh (COP7) include sinks in the CDM, and the liberal interpretation of the ‘additional activity sinks’ prevailed during the negotiations, against the mainstream NGO position. We can thereby safely conclude that mainstream NGOs have had little influence on this turn of events. However, we cannot conclude that the outcome is a result of ED’s influence because the same outcome was promoted by other, very powerful, actors – notably the US.

This position of ED, as well as some other US-based ‘think-tanks’, versus Greenpeace and other more traditional green NGOs, mirrored the differences in philosophy between the US

¹⁶ The EU has later made a ‘U-turn’ on this issue and has become a firm supporter of the flexibility mechanisms (Christiansen and Wettstad 2003).

¹⁷ Nature Conservancy as well as NRDC also supported the use of sinks.

¹⁸ The ‘additional activity sinks’ have also been called the ‘do nothing’ sinks (Begg 2002: 334).

¹⁹ There does not seem to be any clear-cut rules as to who can be members of CAN. However, the general rule is that national members must support the organisation applying for membership, and the applicant must be accepted by all CAN members (Bradley, July 2002).

and the EU in their regulatory approaches during most of the negotiation process. The fact that ED sided with the US on key points has made it somewhat ‘suspicious’ in many green quarters, and Greenpeace and ED have been opposing poles. Most of the other major NGOs have been closer to the Greenpeace pole on issues like sinks and the flexibility mechanisms. ED also argued for no cap on the flexibility mechanisms to ensure cost-efficiency, whereas the major NGOs strongly favoured such a cap. The major NGOs were not successful in persuading the delegates to adopt their positions here either.

ED advocated that compliance be built into the rules for emission trading, claiming that this would make a separate compliance system redundant (Petsonk, March 2002). Although ED did not succeed on the last account, compliance was actually built into the rules for emission trading in two ways. First, a Party that is not in compliance is not eligible to *sell* allowances. The enforcement branch will have the authority to suspend and reinstate that eligibility. Second, a Party may in reality ‘borrow’ quotas from the next commitment period with a 30 percent penalty accruing (the ‘1.3 multiplier’). Hence, borrowing quotas for emissions in excess of the country target from the next commitment period is a way to stay in compliance. This is in line with the US position during the negotiations. All major green organisations – as well as the EU – were initially opposed to borrowing, as this in effect means that real emission reduction is delayed to the next commitment period. Again, ED was one of the major exceptions. ED was against the more strict penalty suggested by EU (1.5) and again sided with the US (1.3), as this would secure the necessary flexibility – a lesson learned from the US acid-rain trading regime. In the end, this did not become a major controversy and the parties agreed on the 1.3 penalty.

In part as an alternative to borrowing emission quotas, CIEL and CAN had long fronted the idea of a *compliance fund*, provided that it was designed in such a way that real emissions reductions would be achieved (See Wisner 2001). The idea, however, was captured and given a new meaning after the US, Canada and France at COP6 in The Hague tried to use it as a way to introduce a ‘price cap’ on costs into the Protocol – ‘a mechanism that could allow countries to comply with their Kyoto targets by paying a discounted fee instead of accomplishing actual emissions reductions’ (Wisner 2001). This turned out to be a critical issue at the session in The Hague. During the negotiations running up to The Hague, CAN had been able to convince several states to endorse the compliance fund idea; now they suddenly found themselves in a situation where they had to fight the idea due to the new meaning given to the issue. The problem was that most EU ministers ‘were at best vaguely familiar with it [compliance fund], recognising it only as something the green groups wanted’ (ibid). At a press briefing, CAN declared ‘war’ on the ‘new’ compliance fund and CIEL and other key expert NGOs mobilised their people on compliance to convince EU ministers to reject the idea. In the end, CAN’s ‘war on the price cap and voluntary fund’ and the expert NGOs efforts to fight the idea gave results. EU and those ‘Umbrella Group’ countries that had never been enthusiastic about the fund – including New Zealand, Australia and Japan – went against the proposal and the idea never went anywhere.

Influence of Green NGOs

Where does this leave us in terms of NGO influence? We are in no position to answer this conclusively, but some observations are warranted. In the initial phase it may be that some of the advisory NGOs qualified as *intellectual leaders* (Young 1991) as a result of their ability to frame the compliance issue in a novel and constructive way. Their specific impact, however, is uncertain – as the US came up with essentially the same approach when the issue surfaced in 1999. Be that as it may, considering both the lack of knowledge surrounding this complex but important issue and the lack of priority given to it by most delegations, there is no doubt that the persistence and expertise of a few advisory NGOs have been important for the making of the compliance regime. In line with Werksman (this volume), ‘Their [NGO experts] consistent support for a strong enforcement mechanism, and their ability to articulate how such a system could work in practice helped to maintain the focus of the negotiations on the need for an effective enforcement branch’. Although this does not apply to all green NGOs, but primarily to a few advisory organisations, CAN and the major groups supported the advisory NGOs’ work.

NGOs have been quite successful in attaining their goals for the design of the compliance regime – narrowly defined. Goal attainment was high in terms of acceptance for the dual approach to compliance, which includes both a facilitative and an enforcement branch, a strong enforcement mechanism, and potentially significant scope for NGO participation in enforcement branch deliberations and hearings. However, in their opinion, the compliance regime could have been better in terms of ensuring legally binding consequences, and the regime became more closed than they had advocated.

There is some discrepancy between *ego* and *alter* perceptions about NGO influence. According to the Norwegian delegation leader, NGOs had relatively modest influence on the design of the compliance regime, whereas US legal experts played a key role (Dovland, June 2002). Nonetheless, the close interaction between some NGOs and delegates ‘makes it difficult to pinpoint who influences who’ (ibid.). Apart from bringing their expertise to the negotiating table, maybe their most important channel of influence has been through *alliances* with key actors. The most important ally regarding the compliance regime on questions like the dual approach to compliance proceedings, public participation and legally binding consequences was the previous US administration. When they lost access to such allies with the turnabout of the new US administration, their influence was dramatically reduced. This may indicate that in absence of such allies, their *independent* influence is modest. Moreover, their influence was fairly high when compliance was coined in more technical-neutral terms in the early phase. When the issue was more polarised towards the end of the negotiations, their influence was reduced.

In the ‘big’ polarised issues such as the flexibility mechanisms and sinks, the large activist NGOs have been more profiled, but their influence has been very modest. The major NGOs

lost the major battles over sinks as well as over the interpretations on the mechanisms. Among the NGOs we have focused on, ED has seemingly been the most successful on these accounts, but the alliance with the US has, of course, been crucial.

4 Opportunities for NGOs to Strengthen Climate Compliance

Internal Strategies: Using the Instruments in the Compliance System

It has been maintained that ‘where civil society (...) has specific expertise, its monitoring capabilities can enhance transparency, increase certainty, and promote compliance’. (Wiser 1999: 4). Let us consider some options for NGOs to strengthen climate compliance by using or enhancing instruments in the climate regime: First is participation in *compliance proceedings*. There will potentially be significant opportunities for NGO to participate in compliance proceedings. Intergovernmental organisations and NGOs will be entitled to submit technical and factual information to the compliance committee’s relevant branch, that is, either the facilitative or the enforcement branch (Decision 24/CP.7 of the Marrakesh Accords, Section VIII (4)). The enforcement branch is only required to rely upon information from ‘official’ sources, but it will be difficult to ignore reliable information submitted by competent IGOs or NGOs (See Ulfstein and Werksman, this volume). The two branches of the compliance committee may seek expert advice (VIII (5)), possibly giving NGOs scope for influence. Furthermore, the information considered by the relevant branch shall be made available to the public, unless the branch, of its own accord or at the request of the Party concerned, decides otherwise (VIII (6)).

Second, NGOs may monitor *sinks projects and Clean Development Mechanism (CDM) project activities* and attend *Executive Board CDM meetings*.²⁰ This is essential to prevent misuse of the Kyoto Protocol in general and the flexibility mechanisms in particular. For example, NGOs work to prevent the CDM – which assists developing states in reducing GHG emissions, while assisting developed states to meet their commitments – from being used to finance ‘clean’ coal power plants. ‘Green’ or ‘clean’ coal plants, a contradiction in terms according to the NGOs, refers to plants with lower CO₂ emissions than existing plants, or merely lower emissions than the *average* CO₂ emissions of existing plants. NGOs will also try to monitor the quality of CDM sinks projects. Moreover, one of the NGO community’s greatest fears is that the CDM could be used to finance nuclear energy, or that the Kyoto Protocol in general might be portrayed as an argument in support of building nuclear power plants. How can the NGOs work to avoid such a development? Executive Board CDM meetings are broadcasted on the UNFCCC website, which may give good overview and transparency (Anderson, July 2002). Similarly, ‘CDM watch’ and ‘Sink watch’ are two Internet sites under development by private initiative to monitor and keep track of the quality of new projects. Initiatives like CDM and Sink watch may become important, but they are still in a very early phase (ibid.).

²⁰ In practice, it seems that NGO attendance at Executive Board CDM meetings is limited to observing a live web-cast on the UNFCCC website.

Networks like CAN may be effective in exposing ‘bad projects’, and big NGOs such as WWF, Greenpeace and FoE may develop their own instruments to monitor CDM projects through their international and national networks. NGOs themselves believe that monitoring big CDM projects will become an important instrument to ensure the quality of such projects (Gulowsen, May 2002). Even if NGOs are not able to influence the CDM Executive Board, project investors may very well be sensitive to NGO shaming. Merely the threat of NGO shaming may actually prevent investors from engaging in ‘bad projects’. However, even though it is possible to monitor some projects, it will probably be difficult to keep track of all CDM projects. NGOs will, to some extent, have to rely on the CDM rules and focus on them (Anderson, July 2002).

Third, another ‘loophole’ in the Kyoto Protocol, as most NGOs see it, is ‘*hot air*’ *emission trading*. This is the potential of Russia and other CEE countries to sell some of their surplus GHG emission allowances as part of an international trading regime. Due to industrial and economic changes in Russia and the CEE countries since 1990, these countries have received a GHG emission budget far in excess of what they need. Hot air emission trading may thus lead to emissions being significantly higher than they would have been in the absence of such trading. Quotas must be traceable back to the country of origin, and NGOs are likely to try to prevent Parties or investors from trading hot air quotas. NGOs already work to convince Parties to refrain from using the ‘hot air loophole’ and they will probably shame Parties that buy hot air quotas from Russia and CEE countries. However, as Newell (2000: 151) points out, private inter-firm trading removes an element of public oversight, thus reducing the scope for NGO influence.

NGOs fear that, combined, these ‘loopholes’ *could* mean there will be no actual reduction in the global GHG emissions, putting the integrity of the Kyoto Protocol at stake. To persuade Parties to refrain from using the loopholes, Greenpeace has developed sophisticated computer models with ‘loophole analysis’, showing country-specific data on the potential consequences of exploiting the loopholes (Raquet, July 2002).²¹

Fourth, although Annex I Parties are the main targets of NGO attention, NGOs may also be able to influence the performance of non Annex I parties. The transfer of technology from Annex I Parties to non-Annex I Parties under the Climate Convention will be administered through the Global Environmental Facility (GEF). The World Bank’s policy with respect to GEF is in general to include NGOs in the development and implementation of the facility (Princen and Finger 1994: 19). The Bank meets regularly with large Washington, DC-based environmental NGOs (Princen and Finger 1994: 6). One specific point of entrance for NGOs in the climate case is the Ad Hoc Working Group on Global Warming and Energy, under the Scientific and Technical Advisory Panel of the GEF (Newell 2000: 150). NGOs can try to

²¹ This kind of computer analysis was actively used by Greenpeace during the climate negotiations to show delegates the consequences of different proposals on the table (Raquet, July 2002).

ensure the quality of technology transferred from Annex I to non-Annex I parties, as well as its appropriateness to local circumstances, but it is likely that governments themselves will secure firm control with capital-intensive projects (ibid.).

Finally, the questions of *verification and monitoring* (Articles 5, 7, and 8 in the Protocol) are extremely complex and boring for the media and the public – a general problem with the issue area (Gulowsen 2002). The complex and technical nature of verification and monitoring may be a considerable problem with regard to transparency and openness. Most NGOs realise that, although it will be a tremendous challenge for them to make the whole issue area more interesting to the public at large, it is a necessary step to improve future climate performance.

External Strategies: Options Available Outside the Compliance Regime

The outsider strategy – that is, directing efforts at government, industry and the public – has been used less than the insider strategy in the climate change issue. Greenpeace and other traditional activists have been relatively more active using the insider strategy. The explanation might be that the *character* of the climate problem and the *framing of the issue* in society are more important for the choice of strategy than is the characteristic *role* of the organisation (Pleune 1997).²² In comparison to several other environmental problems, the climate problem is far more difficult and complex: its causes can be found in nearly all of society; there are no obvious alternatives to the combustion of fossil fuels; there is no one single target group that can be aimed at; and there are no solutions that will alleviate the problem in the short term (Gogh and Shackley 2001: 330-31).

These observations are by and large confirmed by those activist organisations we have interviewed. National offices, whether those of Greenpeace or WWF, feel that it is very difficult to generate interest among people due to the complexity and diffuse nature of the climate change problem. It has been maintained that Greenpeace, US has almost ‘given up’ on promoting the Kyoto Protocol in the US due to lack of interest and results (Skjærseth and Skodvin 2001). More specific and understandable problems are much simpler to work with, and ‘sell’. It has also been claimed that national actions have not been sufficiently linked to the international negotiation process (Gulowsen, May 2002). Enthusiasm on the part of NGOs to campaign for the Kyoto Protocol may also have waned because the Protocol is seen as a very weak instrument to reduce emissions. Still, they support the Kyoto Protocol because ‘it’s the only game in town’ and they believe that the climate negotiations are a ‘learning experience’ and a process that will continue to move forward (Raquet, July 2002).

After the meeting in The Hague, November 2000, there had been tremendous disappointment in the green NGO community, and many had declared that they would abandon their efforts

²² Pleune (1997) found evidence confirming this proposition in a study of Dutch environmental NGOs’ strategies in relation to climate change.

because of lack of financial resources and results. Then, on March 13 2001, US President G. W. Bush Jr. officially rejected the Kyoto Protocol. This created nothing less than an uproar among a number of European nations and the green NGO community. Paradoxically, the Bush statement injected new energy into the process. It is thus claimed that ‘the Bush no to Kyoto is the only good thing Mr Bush has ever done for climate protection’ (Raquet, July 2002). As a direct result ‘*The Ratify Kyoto Now*’ campaign was launched by Greenpeace. It appears that the momentum created was rather short-lived (Gulowsen, May 2002), and not all observers share the opinion that it had much of an effect (Dovland, May 2002). WWF, in February 2002, launched a similar ratification campaign for the Kyoto Protocol, originally running until the World Summit on Sustainable Development (WSSD) in August/September 2002.²³ The causal chain is long and complex with a number of intervening factors, but it may be that NGO activism on this point had some effect on the agreement reached in Marrakech in November 2001, as well as on Russia’s and Canada’s statements at the World Summit in Johannesburg that they will ratify the Kyoto Protocol, thereby bringing the Protocol into force.²⁴

Greenpeace has also done some lobbying towards main target groups, like the oil industry, in various countries. One of the more successful ones, particularly in the UK, is said to be the ‘Stop Exxon’ campaign, which was closely co-ordinated with the ‘Ratify Kyoto Now’ campaign (Gulowsen, May 2002). The purpose of the campaign was not only to target Exxon’s climate strategy, but also to get other ‘decent’ actors to disassociate themselves from Exxon (and the US). ‘As we could present a real climate villain’, it is claimed, ‘it became easier for the public to engage and show positions outside polling stations’ (Gulowsen, October 2002). It is admitted that it is uncertain what lasting effect the campaign had, if any, but at least it got a lot of media attention. Greenpeace has also produced a briefing report, *Corporate America and the Kyoto Climate Treaty*, exposing companies opposing the Protocol as well as listing corporate donations to the Republican Party Presidential campaign for G. W. Bush Jr. (Greenpeace, 2001).

Being shamed as a laggard can be harmful for a state, (even if not a party), corporation or industry. For states, their reputation in the international community may be at stake. For small countries like Norway, this is certainly a potential problem, but large states, particularly the US, do not seem to care much about ‘soft’ shaming. It has been claimed that ‘unless the Europeans come up with tougher measures to show that they mean business, which does not seem likely, it won’t have much effect’. (Diringer, PEW, March 2002) For business and industry, their reputation among customers and partners may be harmed. This has little or no effect on some companies, but others are more sensitive. (Skjærseth and Skodvin 2001).

²³ WWF has drawn up a ‘hit list’ of 25 states that must ratify to turn the Protocol into international law (WWF 2002).

²⁴ The campaign was given high priority by NGOs in the preparations for the WSSD, August/September, 2002.

Promoting *renewable energy* is another possibility to improve climate performance and all the big green NGOs work towards this end. The quite ambitious goal some states proposed at the WSSD for 10 percent use of *new* renewable energy sources globally by 2010 was also promoted by all the major green NGOs, but it was not adopted. Due to fierce resistance from the USA, Japan and OPEC countries, the less ambitious goal of 15% use of renewable energy globally by 2010 – fronted by the EU – was not accepted at the WSSD either. In the end, states could only agree to substantially increase the global share of renewable energy sources – an outcome far less committing than the NGO community’s call for a time-bound target.²⁵

Working on *consumer choices* has proven to be an effective NGO strategy in promoting compliance with the Montreal Protocol on ozone depleting substances. In the climate issue, this external compliance mechanism requires a very broad and extensive approach, which makes it less relevant and usable. NGOs try to influence individual consumer behaviour by encouraging consumers to switch to ‘green’ electricity, consume energy more efficiently, save energy in homes etc. The problem is that there is no one single and easy alternative that can be offered to consumers, such as the use of spray cans without CFSs in the ozone case. Environmental NGOs working on public and consumer awareness on global warming may to some extent have *indirectly* contributed to some corporate support for the Kyoto Protocol and self-imposed climate policies and emission targets. But overall, the effect so far seems to have been moderate.

The consequence of the complexity of the climate issue may be that pragmatic and co-operative solutions may be more suitable than traditional NGO activism. Therefore, green NGO *alliances or partnerships with industry and business* may turn out to be a more promising avenue, as it conceives of the target group as part of the solution, rather than the problem. Some US-based NGOs have a predilection for this strategy. In fact, with the Bush administration in office and little public awareness about the climate problem, the best option for US-based NGOs may be to work with corporations to cut GHG emissions (Anderson, July 2002). For example, ED in 2000 announced a ‘Partnership for Climate Action’ with several corporations, including oil and energy companies, that commit themselves to publicly declaring a global GHG emission limitation commitment. WWF has launched a similar, but somewhat stricter, business partnership called *Climate Savers*. Under this scheme, WWF only accepts agreements with companies that are willing to take on real emission reductions and time tables. (Singer, July 2002). Greenpeace has also pursued this strategy, among other things by nurturing relationships with financial investors, encouraging them to invest into renewable energy rather than fossil fuel energy (Baird 1996 in Newell 2000: 135) and by establishing a partnership with a number of clean energy companies and trade associations (Newell 2000: 135). At the WSSD, Greenpeace and the World Business Council for

²⁵ Nevertheless, the EU and several other ‘like-minded states’ committed themselves to pursue a time-bound renewable energy target through a ‘coalition of the willing’, as EU environment commissioner Margot Wallström presented it at the Summit.

Sustainable Development, who fiercely opposed each other ten years ago in Rio, *jointly* announced that they are united in demanding governments to agree on one global framework to deal with climate change.²⁶ This may signal a new development in the relations between industry and activist environmental organisations, but the significance of this event should not be overestimated.

²⁶ Press release, World Business Council for Sustainable Development (28.08.02): 'Traditional adversaries call on governments for an international framework to address the risks of climate change'.

5 Conclusions

In evaluating NGO *goal attainment*, it has proved necessary to differentiate between the narrowly defined compliance regime and linked issues such as the flexibility mechanisms and sinks, as well as between activist and advisory NGOs. Although the compliance regime, from the NGO perspective, could be better in terms of public participation as well as on legally binding consequences, overall goal attainment was quite high. With regard to *ego and alter perceptions*, NGOs perceive, not surprisingly, that they have had more influence than more neutral respondents estimate. The insider strategy seems to have had some success in shaping the compliance regime, especially in the early phase before the issue was more politicised, but the close interaction between some NGOs and delegates makes it very difficult to reveal actual patterns of influence. Apart from providing knowledge and expertise, green NGOs have relied heavily on forming strategic alliances with key actors. When such alliances have broken down, the NGOs were no longer very influential. This may cast doubt over the extent of their *independent* influence on the design of the compliance regime.

More indirectly related to compliance issues, NGOs differ on their views on the flexibility mechanisms and sinks. Here, some US advisory NGOs have had high goal attainment, whereas the big, activist NGOs have had low goal attainment. This is not to say that the advisory NGOs necessarily have had more influence than the activists. There can obviously be a measurement problem in assessing the effectiveness of the insider versus the outsider strategy. Advisory NGOs typically have policy solutions that are more acceptable to governments or closer to governments' own positions. Activist NGOs, on the other hand, typically have more radical and far-reaching solutions. It is important to note, however, that the activist groups have expended most effort on these more high level political issues, while some expert groups have had a more narrow focus on the compliance issue. In that sense, the latter group has got more mileage from their effort than the major NGOs, whose political clout has so far been of limited significance. On this complex issue it may seem that intellectual capital is more important.

As to the question of how the NGOs can enhance future compliance, there are a number of opportunities to adopt internal strategies by making use of the existing regime. High on the NGO agenda is the effort to close the 'loopholes' related to sinks and the flexibility mechanisms. The extent to which action and shaming will make a difference is likely to depend on *inter alia* the size and tradition of the country in question, how the facilitative and enforcement branch will operate in practice, and the extent to which environment (climate change) is an important issue among the public. There are also number of ways NGOs may adopt external strategies and work to promote climate performance independent of the compliance system, including promoting renewable energy and energy saving, co-operating with industry and business, shaming climate 'villains', and working on consumer choices.

While such strategies have proved useful in other issue areas, expectations should be more modest here. The complexity of the climate issue has made the traditional activist role of the NGOs very difficult. Seemingly, the climate issue is difficult to ‘sell’ and for people to relate to. NGOs have engaged in a wide variety of actions with and against states, target groups and parts of the public to rally support for more proactive climate policies and for more speedy ratification processes. There have probably been some direct, and more indirect, effects of this work, but there can hardly be said to have been any major breakthroughs. This is a slow, cumbersome and ‘heavy’ political and economic process. So far, most evidence points more toward adaptation as a main direction for policy efforts rather than strongly curbed emissions. If this is correct, it may be that the insider strategy with expertise and co-operation with target groups will be more effective than confrontation – but politically it may be difficult for some of the NGOs to swallow.

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