



REGULATION OF ENVIRONMENTAL DAMAGE

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Without a healthy and clean environment, human beings will be deprived of their right to a healthy and productive life. We have learnt substantially how environmental pollution is taking away our rights to such life. So, to keep the biodiversity and environment in a healthy condition is the need of the hour.

Environment and more specifically environmental pollution has no political boundaries. The air polluted in one region can be transmitted to thousands of miles without the manmade barriers. Thus, environmental pollution, global warming, climate change and other related issues have been given more weight at international forums and symposia.

A number of efforts are being made at international and national levels to maintain the equilibrium and resilience characteristics of the ecosystems with the objective to make them sustainable and productive. These efforts are given the nomenclature of international conventions or conferences and protocols.

International environmental problems differ from national environmental problems in the sense that, at international level, there is a no common legal framework to frame rules or policies or there is no supernational power to enforce policies. Hence solutions to international environmental problems have to be found via international cooperation. Reaching a mutually acceptable and enforceable solution is a time consuming and complex task, because the perceived cost and benefits vary among countries. In case of global public bad, for example green house gas emissions, ozone layer depletion, 'free rider' and non compliance problems arise.

Our world is facing multiple environmental crises, especially from different types of pollution. Pollution from one country can affect a neighbouring country, or even have a global impact. For example, untreated industrial waste discharged into rivers causes pollution at its source but can also affect people who live downstream of the discharge point. In large river systems this can create problems if the river crosses a border with another country and carries the pollution with it.

Air pollution from factories, vehicles and wood fires contributes to localised health problems in towns and cities but is also moved around by wind and air currents. These emissions may also contribute to global-level climate change (Salih, 2001; UN-Habitat, 2014). Exporting polluting materials such as hazardous waste from one country to another also raises a concern. There are other ecological crises, such as extinction of animals and plants from the Earth because of destruction of habitats and hunting. Humans' inability to respond to these various crises leads to a need for global policies to strengthen weak institutions and improve governance.

If we could view the Earth from space we would see that we are all living on one planet and share one global environment. There is a great threat to our survival if humankind continues to damage the environment and if countries do not act together. We have shared responsibilities in caring for current and future generations.

Protecting and managing our global shared resources requires institutions that support collective action (Ostrom, 1990). Such institutions include internationally agreed rules, laws and policies, as well as organisations. International agreements that become policies allow countries to work together in trade and investment and in addressing global concerns such as air pollution, water pollution, managing hazardous wastes, and climate change. All these issues are transboundary in nature, which means that the potential impacts from these events and developments cross national boundaries and affect more than one country.

Until the Stockholm Conference of 1972, international cooperation on environmental matters was confined to a few treaties/agreements on pollution of rivers, use of nuclear power and preservation of species. The Brundtland Report of 1987 sent an alert to the world about the urgency of making progress towards sustainable economic development without harming the already sick environment and without depleting the vanishing natural resources. Five years later, the progress on enunciated sustainable development was sought by the UN and United Nations Conference on Environment & Development. Held in June 1992 at Rio de Janeiro in Brazil, the **Rio Earth Summit** as it became popularly known, was the largest environmental conference ever held, attracting over 30,000 people including more than 100 heads of state.

The Rio Conference was held primarily with an objective towards building upon the hopes and achievements of the Brundtland Report with a view to responding to mounting global environmental problems and to agree on major treaties on biodiversity, climate change, and forest management.

The major outcome of the Earth Summit was **Agenda 21**. Agenda 21 is a comprehensive plan of action to be taken globally, nationally, and locally by organizations of the United Nations System, Governments, and Major Groups in every area that humans impact on the environment.

Besides, the Rio Declaration on Environment and Development, and the Statement of Principles for the Sustainable Management of Forests were adopted.

The Earth Summit influenced all subsequent UN conferences, which have examined the relationship between human rights, population, social development, women and human

settlements — and the need for environmentally sustainable development.

Montreal Protocol:

The Montreal Protocol on substances that deplete the ozone layer was signed in 1985 and came into force in January 1987. The aim of the protocol is to protect the stratospheric ozone layer above the earth. The ozone layer absorbs biologically damaging ultra violet light and is vital for protecting the ecosystem. The ozone depleting substances (ODS) are the substances include CFC and halons which have applications in refrigeration, air-conditioning, foam, aerosol sprays, solvents and fire fighting industries. ODS is global bad.

The World Development Report 1992 notes that consensus on ODS was easier and effective implementation more likely because

- I. There was a evidence of ozone depletion
- II. Number of producers of ODS was small
- III. Substitutes of ODS was found and were with producers of ODS.

It notes that making payments to countries eligible for assistance has proved cumbersome.

. Since then, it has undergone nine revisions, in 1990 (London), 1991 (Nairobi), 1992 (Copenhagen), 1993 (Bangkok), 1995 (Vienna), 1997 (Montreal), 1998 (Australia), 1999 (Beijing) and 2016 (Kigali) As a result of the international agreement, the ozone hole in Antarctica is slowly recovering. Climate projections indicate that the ozone layer will return to 1980 levels between 2050 and 2070.

As per the protocol and subsequent revisions, developing countries consumption of CFCs may rise to specified ceilings and would be frozen in 1996 , after which must be phased out by 2010. A ban was agreed on trade between parties and non parties to the protocol in the substances controlled by the protocol, products made with them and products containing them. It contains two special provisions

- An Interim Multilateral Fund to help developing countries to adopt replacement of CFCs if they cost more than what is being replaced.
- Transfer of technologies which are substitutes for CFCs, under fair and most favourable conditions.

The treaty is structured around several groups of halogenated hydrocarbons that deplete stratospheric ozone. All of the ozone depleting substances controlled by the Montreal Protocol contain either chlorine or bromine . The provisions of the Protocol include the requirement that

the Parties to the Protocol base their future decisions on the current scientific, environmental, technical, and economic information that is assessed through panels drawn from the worldwide expert communities. To provide that input to the decision-making process, advances in understanding on these topics were assessed in 1989, 1991, 1994, 1998 and 2002 in a series of reports entitled Scientific assessment of ozone depletion, by the Scientific Assessment Panel (SAP).

In 1990 a Technology and Economic Assessment Panel was also established as the technology and economics advisory body to the Montreal Protocol Parties. The Technology and Economic Assessment Panel (TEAP) provides, at the request of Parties, technical information related to the alternative technologies that have been investigated and employed to make it possible to virtually eliminate use of Ozone Depleting Substances (such as CFCs and Halons), that harm the ozone layer. The TEAP is also tasked by the Parties every year to assess and evaluate various technical issues including evaluating nominations for essential use exemptions for CFCs and halons, and nominations for critical use exemptions for methyl bromide. TEAP's annual reports are a basis for the Parties' informed decision-making.

India acceded to the protocol in 1992. In 1993 India prepared a detailed country program to phase out ODS in accordance with the national industry development strategy. About 200 projects are phase out investment and support activities have been approved and funded by multilateral fund. The planned phase out date for manufacture of aerosol products, foam products, mobile air conditioners and refrigeration and air conditioning products is January 2003. Manufacture of products based on other ODS will be terminated by 2010.

In assessing the effectiveness of Montreal protocol in facilitating transfer of technology to India, Alam (1999) reports that, the protocol has made an important contribution by providing financial support to Indian firms to purchase machines and technology. On the other hand, in instances where access to technology was difficult, it is failed to facilitate transfer of technology. An important reason for the failure is that number of technologies relevant to the protocol are heavily protected by Intellectual Property Rights.

Since the Montreal Protocol came into effect, the atmospheric concentrations of the most important chlorofluorocarbons and related chlorinated hydrocarbons have either leveled off or decreased. Halon concentrations have continued to increase, as the halons presently stored in fire extinguishers are released, but their rate of increase has slowed and their abundances are expected to begin to decline by about 2020. Also, the concentration of the HCFCs increased drastically at least partly because of many uses (e.g. used as solvents or refrigerating agents) CFCs were substituted with HCFCs. While there have been reports of attempts by individuals to circumvent the ban, e.g. by smuggling CFCs from undeveloped to developed nations, the overall level of compliance has been high. Statistical analysis from 2010 show a clear positive signal from the Montreal Protocol to the stratospheric ozone. In consequence, the Montreal Protocol has often been called the most successful international environmental agreement to date. In a 2001 report, NASA found the ozone thinning over Antarctica had remained the same thickness for the previous three years; however in 2003 the ozone hole grew to its second largest size. The most recent (2006) scientific evaluation of the effects of the Montreal Protocol

states, "The Montreal Protocol is working: There is clear evidence of a decrease in the atmospheric burden of ozone-depleting substances and some early signs of stratospheric ozone recovery." However, a more recent study seems to point to a relative increase in CFCs due to an unknown source.

KYOTO PROTOCOL:

The Kyoto Protocol is an international agreement that aimed to reduce carbon dioxide (CO₂) emissions and the presence of greenhouse gases (GHG) in the atmosphere. The essential tenet of the Kyoto Protocol was that industrialized nations needed to lessen the amount of their CO₂ emissions. The Protocol was adopted in Kyoto, Japan in 1997,² when greenhouse gases were rapidly threatening our climate, life on the earth, and the planet, itself.

- The Kyoto Protocol is an international agreement that called for industrialized nations to reduce their greenhouse gas emissions significantly.
- Other accords, like the Doha Amendment and the Paris Climate Agreement, have also tried to curb the global-warming crisis.
- Today, talks begun by the Kyoto Protocol continue and are extremely complicated, involving politics, money, and lack of consensus.

The Kyoto Protocol mandated that industrialized nations cut their greenhouse gas emissions at a time when the threat of global warming was growing rapidly. The Protocol was linked to the United Nations Framework Convention on Climate Change (UNFCCC). It was adopted in Kyoto, Japan on December 11, 1997, and became international law on February 16, 2005.

Countries that ratified the Kyoto Protocol were assigned maximum carbon emission levels for specific periods and participated in carbon credit trading. If a country emitted more than its assigned limit, then it would be penalized by receiving a lower emissions limit in the following period.

The Kyoto Protocol recognized that developed countries are principally responsible for the current high levels of GHG emissions in the atmosphere as a result of more than 150 years of industrial activity. As such, the Protocol placed a heavier burden on developed nations than less-developed nations. The Kyoto Protocol mandated that 37 industrialized nations plus the EU cut their GHG emissions. Developing nations were asked to comply voluntarily, and more than 100 developing countries, including China and India, were exempted from the Kyoto agreement altogether.

The Protocol separated countries into two groups: Annex I contained developed nations, and Non-Annex I referred to developing countries. The Protocol placed emission limitations on Annex I countries only. Non-Annex I nations participated by investing in projects designed to lower emissions in their countries. For these projects, developing countries earned carbon credits, which they could trade or sell to developed countries, allowing the developed nations a higher level of maximum carbon emissions for that period. In effect, this function helped the

developed countries to continue emitting GHG vigorously. The key elements of Kyoto Protocol:

- ❖ Quantified emission limitation or reduction commitments by Annex I parties of the FCCC (Framework convention on Climate Change), which will reduce GHG emissions by an average 5.2% below 1990 levels by period 2008-21 .
- ❖ Commitment by Annex I parties to show demonstrable progress in this regard by 2005
- ❖ Commitment by Annex I parties to the preparation of inventories of GHG emissions and reporting national plan to the FCCC.
- ❖ Introduction of flexible mechanisms- Joint Implementation(JI), International Emissions Trading(IET), Clean development Mechanism(CDM), which will allow emissions reduction beyond the geographical borders of the countries making the commitment
- ❖ No commitments on non-Annex I countries.

The main reason for introducing the project based flexible mechanisms is that they provide an opportunity for Annex I parties to fulfil their emission reduction commitments in a cost effective manner. These mechanisms may also assist the non Annex I countries in achieving sustainable development by technical and financial transfer.

JI allows Annex I country with a GHG emissions limit to contribute to the implementation of a project to reduce emissions, enhance sinks in another country with a national commitment and to receive credits equal to part or all of the emissions reduction or sink enhancement achievement.

The CDM allows a Annex I country with a GHG emissions limit to contribute to the implementation of project to reduce the emissions and enhance sinks in a country without a national commitment and receive credit equal to part or all of the emissions reduction and sink enhancement achieved.

IET is a tradable quota regime which establishes a national emissions limit for each participation country and requires each country to hold quota equal to the actual emissions.

Global emissions were still on the rise by 2005, the year the Kyoto Protocol became international law—even though it was adopted in 1997. Things seemed to go well for many countries, including those in the EU. They planned to meet or exceed their targets under the agreement by 2011. But others continued to fall short. Take the United States and China—two of the world's biggest emitters. They produced enough greenhouse gases to mitigate any of the progress made by nations who met their targets. In fact, there was an increase of about 40% in emissions globally between 1990 and 2009.

The Doha Amendment Extended Kyoto Protocol to 2020

In December 2012, after the first commitment period of the Protocol ended, parties to the Kyoto Protocol met in Doha, Qatar, to adopt an amendment to the original Kyoto agreement. This so-called Doha Amendment added new emission-reduction targets for the second commitment

period, 2012–2020, for participating countries. The Doha Amendment had a short life. In 2015, at the sustainable development summit held in Paris, all UNFCCC participants signed yet another pact, the Paris Climate Agreement, which effectively replaced the Kyoto Protocol.

In 2016, when the Paris Climate Agreement went into force, the United States was one of the principal drivers of the agreement, and President Obama hailed it as “a tribute to American leadership.” As a candidate for president at that time, Donald Trump criticized the agreement as a bad deal for the American people and pledged to withdraw the United States if elected.

A Complicated Stalemate

In 2019, the dialogue is still alive but has turned into a complex quagmire involving politics, money, lack of leadership, lack of consensus, and bureaucracy. Today, despite myriad plans and some actions, solutions to the problems of GHG emissions and global warming have not been implemented.

Almost all scientists who study the atmosphere now believe that global warming is primarily the result of human action. Logically then, what humans have caused by their behaviour should be able to be remedied by humans changing their behavior. It is frustrating to many that cohesive action to deal with the human-made global climate crisis has yet to happen.

PARIS AGREEMENT:

The **Paris Agreement** (French: L'accord de Paris) is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC), dealing with greenhouse-gas-emissions mitigation, adaptation, and finance, signed in 2016. The Paris Agreement is a landmark environmental accord that was adopted by nearly every nation in 2015 to address climate change and its negative impacts. The deal aims to substantially reduce global greenhouse gas emissions in an effort to limit the global temperature increase in this century to 2 degrees Celsius above preindustrial levels, while pursuing means to limit the increase to 1.5 degrees. The agreement includes commitments from all major emitting countries to cut their climate-altering pollution and to strengthen those commitments over time. The pact provides a pathway for developed nations to assist developing nations in their climate mitigation and adaptation efforts, and it creates a framework for the transparent monitoring, reporting, and ratcheting up of countries' individual and collective climate goals.

Hammered out over two weeks in Paris during the United Nations Framework Convention on Climate Change's (UNFCCC) 21st Conference of Parties (COP21) and adopted on December 12, 2015, the Paris Agreement marked an historic turning point for global climate action, as world leaders representing 195 nations came to a consensus on an accord that has commitments from all countries aimed at combating climate change and adapting to its impacts.

President Obama was able to formally enter the United States into the agreement under international law through executive action, since it imposed no new legal obligations on the

country. The United States has a number of tools already on the books, under laws already passed by Congress, to cut carbon pollution. The country formally joined the agreement in September 2016 after submitting its proposal for participation. The Paris Agreement could not take effect until at least 55 nations representing at least 55 percent of global emissions had formally joined. This happened on October 5, 2016, and the agreement went into force 30 days later on November 4, 2016.

The aim of the agreement is to decrease global warming described in its Article 2, "enhancing the implementation" of the UNFCCC through:

- (a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
- (b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;
- (c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

This strategy involved energy and climate policy including the so-called 20/20/20 targets, namely the reduction of carbon dioxide (CO₂) emissions by 20%, the increase of renewable energy's market share to 20%, and a 20% increase in energy efficiency. Countries furthermore aim to reach "global peaking of greenhouse gas emissions as soon as possible". The agreement has been described as an incentive for and driver of fossil fuel divestment. The Paris deal is the world's first comprehensive climate agreement.

Contributions each individual country should make to achieve the worldwide goal are determined by all countries individually and are called *nationally determined contributions* (NDCs). Article 3 requires them to be "ambitious", "represent a progression over time" and set "with the view to achieving the purpose of this Agreement". The contributions should be reported every five years and are to be registered by the SECRETARIAT.

The 32-page document establishes a framework for global climate action, including the mitigation of and adaptation to climate change, support for developing nations, and the transparent reporting and strengthening of climate goals. Here's what it aims to do:

Limit global temperature rise by reducing greenhouse gas emissions.

In an effort to "significantly reduce the risks and impacts of climate change," the accord calls for limiting the global average temperature rise in this century to well below 2 degrees Celsius, while pursuing efforts to limit the temperature rise to 1.5 degrees. It also asks countries to work to achieve a leveling-off of global greenhouse gas emissions as soon as possible and to become carbon neutral no later than the second half of this century. To achieve these objectives, 186

countries—responsible for more than 90 percent of global emissions—submitted carbon reduction targets, known as “intended nationally determined contributions” (INDCs), prior to the Paris conference. These targets outlined each country’s commitments for curbing emissions through 2025 or 2030, including both economy-wide carbon-cutting goals and the individual commitments of some 2,250 cities and 2,025 companies.

The United States—the world’s largest historical emitter and the second-biggest current carbon emitter after China—committed to cutting overall greenhouse gas emissions by 26 to 28 percent below 2005 levels by 2025. U.S. initiatives to achieve the target include the Clean Power Plan (a state-by-state program to cut carbon pollution from the power sector) and the tightening of automotive fuel economy standards to reduce transportation emissions—both policies the Trump administration is working hard to roll back

Provide a framework for transparency, accountability, and the achievement of more ambitious targets.

The Paris Agreement includes a series of mandatory measures for the monitoring, verification, and public reporting of progress toward a country’s emissions-reduction targets. The enhanced transparency rules apply common frameworks for all countries, with accommodations and support provided for nations that currently lack the capacity to enable them to strengthen their systems over time.

Among other requirements, countries must report their greenhouse gas inventories and progress relative to their targets, allowing outside experts to evaluate their success. Countries are also expected to revisit their pledges by 2020 and put forward new targets every five years, with the goal of further driving down emissions. They must participate in a “global stock take” to measure collective efforts toward meeting the Paris Agreement’s long-term goals as well. Meanwhile, developed countries also have to estimate how much financial assistance they’ll allocate to developing nations to help them reduce emissions and adapt to the impacts of climate change.

These transparency and accountability provisions are similar to those in the frameworks of other international agreements. While the system doesn’t include financial penalties, the requirements are aimed at making the progress of individual nations easy to track and fostering a sense of global peer pressure, discouraging any dragging of feet among countries that may consider doing so.

Mobilize support for climate change mitigation and adaptation in developing nations.

Recognizing that many developing countries and small island nations that have contributed the

least to climate change could suffer the most from its consequences, the Paris Agreement includes a plan for developed countries—and others “in a position to do so”—to continue to provide financial resources to help developing countries mitigate and increase resilience to climate change. The agreement builds on the financial commitments of the 2009 Copenhagen Accord, which aimed to scale up public and private climate finance for developing nations to \$100 billion a year by 2020. (To put that into perspective, global military spending in 2017 alone was about \$1.7 trillion, more than a third of which came from the United States.) The Copenhagen pact also created the Green Climate Fund to help mobilize transformational finance using targeted public dollars. The Paris Agreement established the expectation that the world would set a higher annual goal by 2025 to build on the \$100 billion target for 2020 and would put mechanisms in place to achieve that scaling up.

While developed nations are not legally bound to contribute a specific amount to the mitigation and adaptation efforts of developing countries, they are encouraged to provide financial support and are required to report on the financing they supply or will mobilize

Rarely is there consensus among nearly all nations on a single topic. But with the Paris accord, leaders from around the world collectively agreed that climate change is driven by human behavior, that it’s a threat to the environment and all of humanity, and that global action is needed to stop it. It also created a clear framework for all countries to make emissions reduction commitments and strengthen those actions over time. Here are some key reasons why the agreement is so important:

- ❖ *Human-generated emissions cause global warming.*
- ❖ *Global warming threatens climate systems.*
- ❖ *Climate change endangers human health*
- ❖ *Global warming can be mitigated only with global action.*

The negotiators of the agreement, however, stated that the NDCs and the target of no more than 2 °C increase were insufficient; instead, a target of 1.5 °C maximum increase is required, noting "with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the intended nationally determined contributions do not fall within least-cost 2 °C scenarios but rather lead to a projected level of 55 gigatonnes in 2030", and recognizing furthermore "that much greater emission reduction efforts will be required in order to hold the increase in the global average temperature to below 2 °C by reducing emissions to 40 gigatonnes or to 1.5 °C".

At present, 197 countries—every nation on earth, with the last signatory being war-torn Syria—have adopted the Paris Agreement. Of those, 179 have solidified their climate proposals

with formal approval—including the United States, for now. The only major emitting countries that have yet to formally join the agreement are Russia, Turkey, and Iran.

The process of translating the Paris Agreement into national agendas and implementation has started. One example is the commitment of the least developed countries (LDCs). The LDC Renewable Energy and Energy Efficiency Initiative for Sustainable Development, known as LDC REEEI, is set to bring sustainable, clean energy to millions of energy-starved people in LDCs, facilitating improved energy access, the creation of jobs and contributing to the achievement of the Sustainable Development Goals. Per analysis from the Intergovernmental Panel on Climate Change (IPCC) a carbon "budget" based upon total carbon dioxide emissions in the atmosphere (versus the rate of annual emission) to limit global warming to 1.5 °C was estimated to be 2.25 trillion tones of overall emitted carbon dioxide from the period since 1870. This number is a notable increase from the number estimated by the original Paris Climate accord estimates (of around 2 trillion tones total) total carbon emission limit to meet the 1.5 °C global warming target, a target that would be met in the year 2020 at 2017 rates of emission. Additionally, the annual emission of carbon is estimated in 2017 to be at 40 billion tones emitted per year. The revised IPCC budget for this was based upon CMIP5 climate model. Estimate models using different base-years also provide other slightly adjusted estimates of a carbon "budget".

“A world that is safer and more secure, more prosperous, and more free.” In December 2015, that was the world President Barack Obama envisioned we would leave today’s children when he announced that the United States, along with nearly 200 other countries, had committed to the Paris Climate Agreement, an ambitious global action plan to fight climate change.

Now that future may be in jeopardy, with President Donald Trump preparing to withdraw the United States from the accord—a step that legally he can’t take until after the next presidential election—as part of a larger effort to dismantle decades of U.S. environmental policy. Fortunately, instead of abandoning the fight, city, state, business, and civic leaders across the country and around the world are ramping up efforts to drive the clean energy advances needed to meet the goals of the accord and put the brakes on dangerous climate change—with or without the Trump administration.

Trump and Paris agreement: Following through on a campaign promise, Trump—a climate denier who has claimed climate change is a “hoax” perpetrated by China—announced in June 2017 his intent to withdraw the United States from the Paris Agreement. Yet notwithstanding the president’s declaration from the Rose Garden that “We’re getting out,” it’s not quite that easy. The process for withdrawing requires that the agreement be in force for three years before any country can formally announce its intention to drop out. Then it has to wait a year before actually leaving the pact. This means the earliest the United States could officially exit is November 4, 2020—a day after the presidential election. Even a formal withdrawal wouldn’t necessarily be permanent, experts say; a future president could rejoin in as short as a month’s time.

Since Trump’s announcement, U.S. envoys have continued to participate—as mandated—in U.N. climate negotiations to solidify details of the agreement. Meanwhile, thousands of leaders nationwide have stepped in to fill the void created by the lack of federal climate leadership, reflecting the will of the vast majority of Americans who support the Paris Agreement. Among city and state officials, businesses leaders, universities, and private citizens, there has been a groundswell of participation in initiatives such as America’s Pledge, the United States Climate Alliance, We Are Still In, and the American Cities Climate Challenge. The complementary and sometimes overlapping movements aim to deepen and accelerate efforts to tackle climate change at the local, regional, and national levels. Each of these efforts is focused on keeping the United States working toward the goals of the Paris Agreement despite the attempts by Trump to take the country in the opposite direction.

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