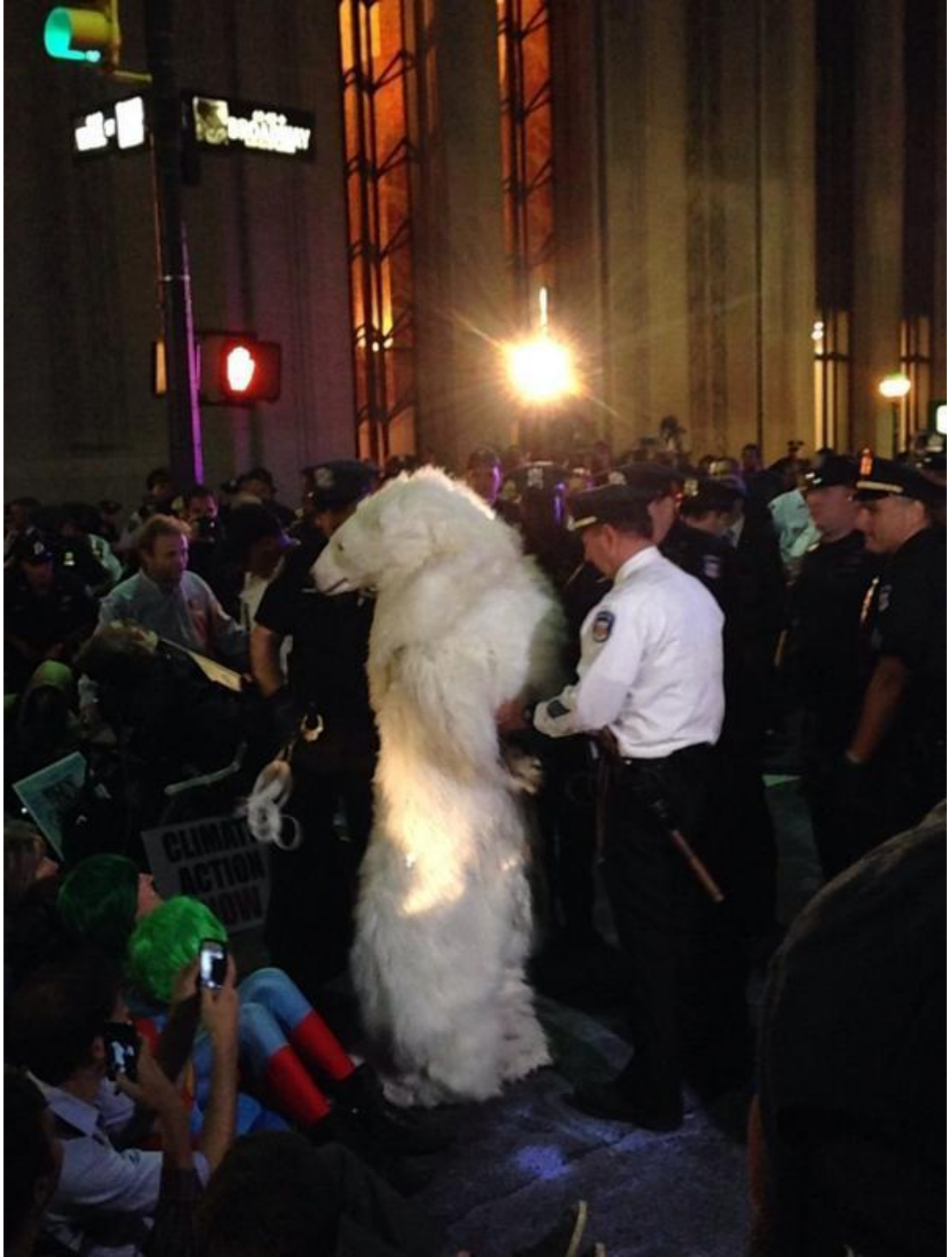
UNIVERSITY of HOUSTON

Introduction to International Climate Change Law

Prof. Tracy Hester

Environmental Law
Fall 2016

Houston, Texas
October 17, 2016


CLIMATE
ACTION

Key International Climate Agreements

- U.N. Framework Convention on Climate Change
  - entered into force in 1994 with 194 signatories, including the United States
  - Established general goals, including a reduction of current greenhouse gas emissions to 1990 levels to help reduce the risk of disruptive climate change
  - Tools: common but differentiated responsibilities, precautionary principle
- Kyoto Protocol – to date, the only binding international agreement with enforceable emission reduction obligations

UNFCCC's Shortfalls

- Commitments:
  - All parties:
    - provide emission inventories (including sinks),
    - implement national plans to mitigate climate change, and
    - assist in transfer of technologies
  - Annex I parties:
    - adopt national policies to mitigate climate change "with the aim of" returning to 1990 emission levels;
    - additional funds to developing countries

- Problems:
  - No enforcement
  - 1990 levels not low enough by scientific consensus

So how did we get here?

- What is the Kyoto Protocol?
  - Technically, the Kyoto Protocol is a supplemental agreement within the U.N. Framework Convention on Climate Change
  - For many years, it was the most significant international climate change convention that imposed binding emission limits on the nations who ratified it
  - The Kyoto Protocol established important legal mechanisms to help reduce emissions over time

Canada pulls out of Kyoto Protocol

CBC News
Posted: Dec 12, 2011 4:00 PM ET
Last Updated: Dec 13, 2011 7:57 AM ET

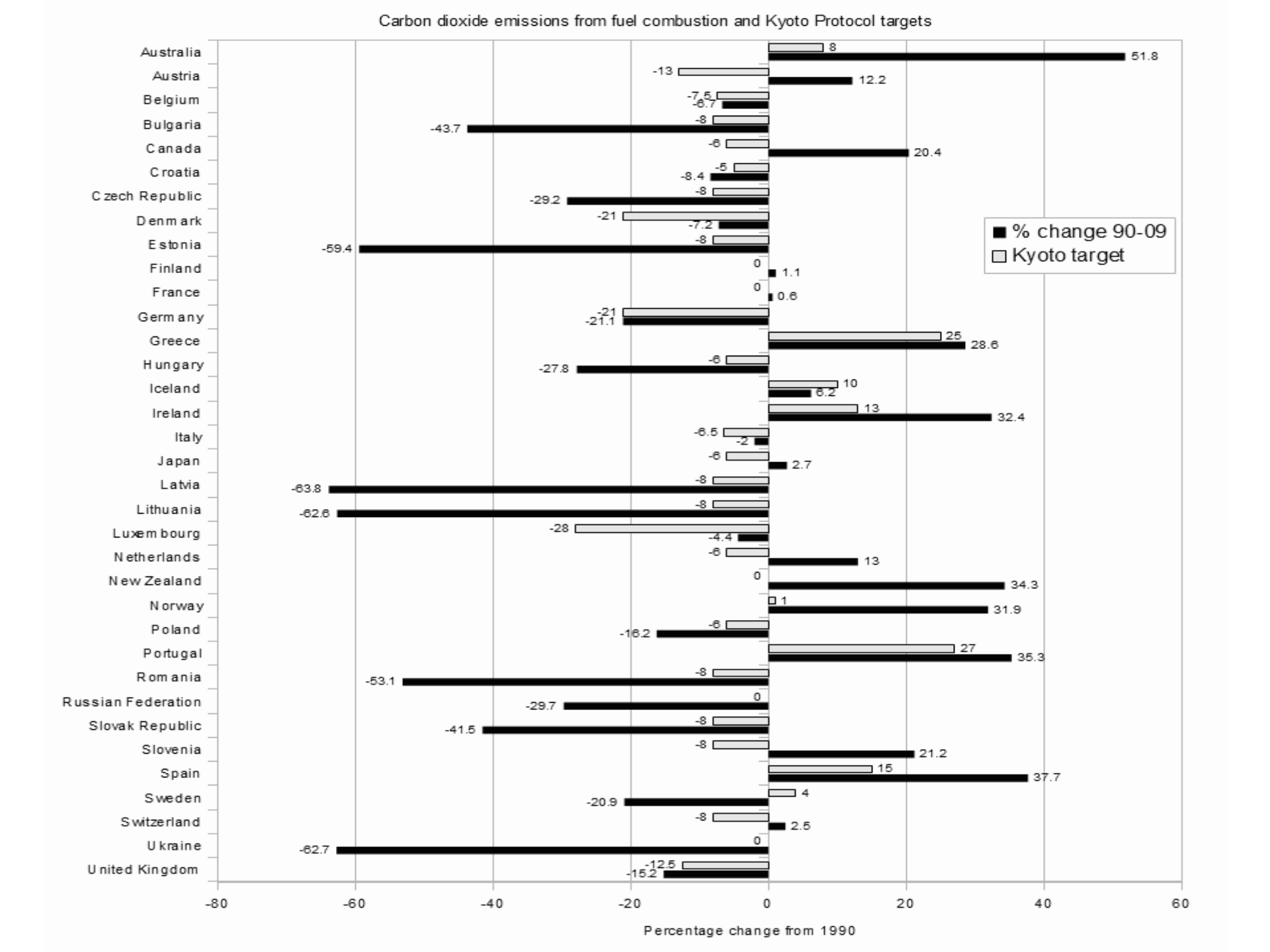
Kyoto Protocol

- Agreement adopted, after much drama and brinksmanship, on Dec. 11, 1997. Ratified in February 2005 after the Marrakesh Accords and Russian approval (Article 25)

- Core concepts:
  - Targets and timetables for binding emission reduction commitments
    - Quantified emissions limitation and reduction objectives (QLROs) for Annex I parties (Annex B to Kyoto)
  - Flexibility mechanisms: joint implementation, emissions trading, Clean Development Mechanism

Kyoto – Flexibility Mechanisms

- The Kyoto Protocol provides three flexible mechanisms that Annex I parties can use to meet their emission reduction obligations
  - International Emissions Trading
  - Joint Implementation
  - Clean Development Mechanism
- Fundamental question – auction vs. grandfathering?


Carbon dioxide emissions from fuel combustion and Kyoto Protocol targets
Australia
Austria
Belgium
Bulgaria
Canada
Croatia
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Italy
Japan
Latvia
Lithuania
Luxembourg
Netherlands
New Zealand
Norway
Poland
Portugal
Romania
Russian Federation
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Ukraine
United Kingdom
8
51.8
-13
12.2
-7.5
-6.7
-8
-43.7
-6
20.4
-5
-8.4
-8
-29.2
-21
-7.2
-8
-59.4
0
1.1
0
0.6
-21
-21.1
25
28.6
-6
-27.8
10
6.2
13
32.4
-6.5
-2
-6
2.7
-8
-63.8
-8
-62.6
-28
-4.4
-6
13
0
34.3
1
31.9
-6
-16.2
27
35.3
-8
-53.1
0
-29.7
-8
-41.5
-8
21.2
15
37.7
4
-20.9
-8
2.5
0
-62.7
-12.5
-15.2
% change 90-09
Kyoto target
-80
-60
-40
-20
0
20
40
60
Percentage change from 1990

UNFCCC After Kyoto

- Copenhagen Accord 2009 (COP 15)
  - U.S., China, Brazil, India and South Africa

- Cancun Agreement 2010 (COP 16)

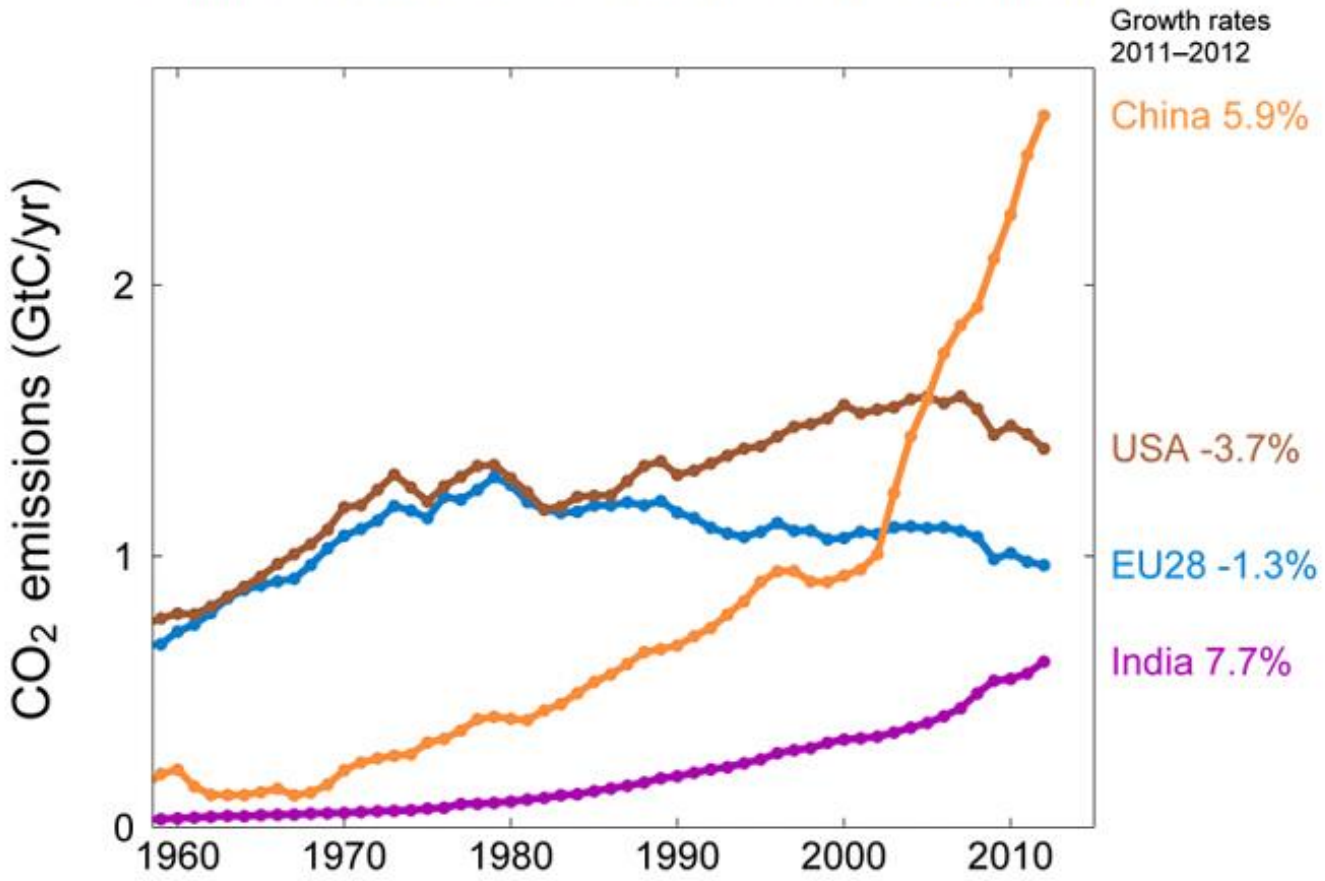
- Durban Platform (COP 17) 2011 & Doha Accord (COP 18) 2012
  - Rejection of 2d Kyoto Commitment by Canada, Russia, Japan, New Zealand and all developing countries
  - EU continued with trading system
  - Commitment to reach new agreement by 2015

- COP 20 – Lima
  - Green Climate Fund
  - Differentiated responsibility debate in light of changed emission patterns – Loss and Damage Mechanism

GLOBAL CARBON PROJECT

Top Fossil Fuel Emitters (Absolute)

Top four emitters in 2012 covered 58% of global emissions
China (27%), United States (14%), EU28 (10%), India (6%)



With leap year adjustment in 2012 growth rates are: China 5.6%, USA -4.0%, EU -1.6%, India 7.4%.

Source: CDIAC Data; Le Quéré et al 2013; Global Carbon Project 2013

What's Ahead

- The new Paris Agreement and its implementation (Marrakesh)
  - IDNCs by all parties, including developing nations (China, India)
  - Earlier bilateral commitments to lay groundwork (U.S.-China)
  - 1.5 degree goal
  - "True up", disclosure, and continual and review of goals
  - On way to ratification by required number of parties
  - The special role and legal posture of the United States
- Montreal Protocol expansion to include HFCs
- Climate attribution, liability and intervention
- Other GHGs and black carbon initiatives

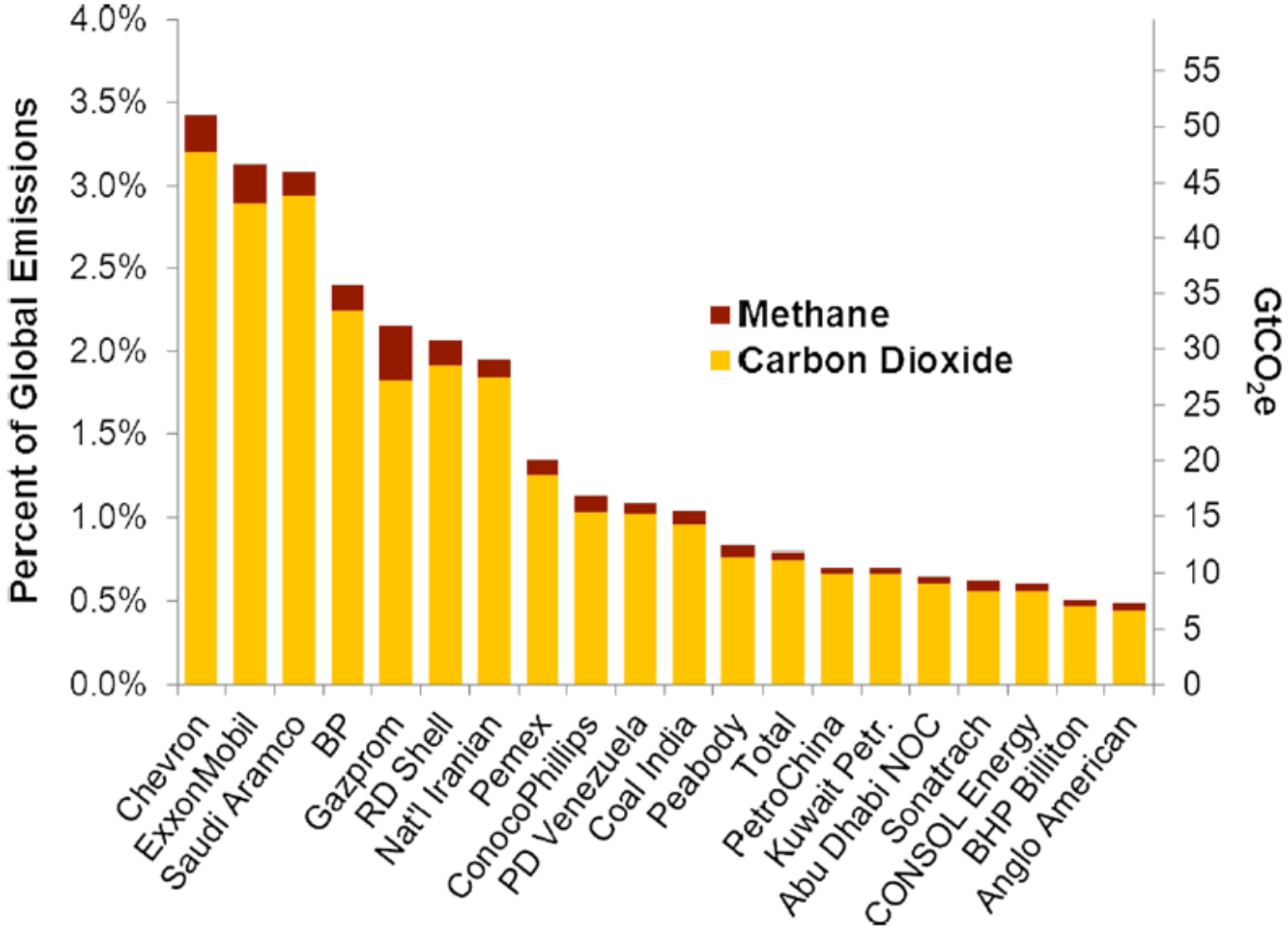


Fig. 2 Cumulative emissions from 1854 to 2010 traced to historic fossil fuel production by the largest investor-owned and state-owned oil, gas, and coal producers, in percent of global industrial CO_2 and methane emissions since 1751. Data source: Heede (2014)

ATMOSPHERIC RECOVERY LITIGATION: MAKING THE FOSSIL FUEL INDUSTRY PAY TO RESTORE A VIABLE CLIMATE SYSTEM

BY

MARY CHRISTINA WOOD* & DAN GALPERN**

At its core, the public trust principle encompasses the reserved and inalienable rights of citizens to a healthy environment. The principle imposes a sovereign duty on government to protect crucial natural resources for the benefit of present and future generations of citizens. The climate system and atmosphere support all life on Earth, yet governments worldwide continue to allow carbon dioxide pollution that propels climate disruption. Scientists have made clear that such pollution imperils the habitability of Earth and jeopardizes the stability of human civilization, yet governments do vanishingly little to force major carbon polluters to change their ways. Irreversible tipping points loom dangerously ahead. The public trust commands governments to protect a viable climate system and authorizes citizens to turn to the courts when government fails.

Questions?

Professor Tracy Hester
University of Houston Law Center

tdheste2@central.uh.edu
713-743-1152 (office)