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CLIMATE CHANGE AND THE 'BIG THREE': Preparing the ground for a post-2020 global climate regime?

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China, the United States and the European Union are the world's three largest emitters of CO₂, accounting for more than the half of the emissions poured in the atmosphere. Last year China produced 9.98 billion tCO₂/year, which is nearly 28 percent of the global total carbon emissions (36.1 billion tCO₂/year). The US produced 5.23 billion tCO₂/year, accounting for 14 percent of the global total. The EU²⁸ produced 3.48 billion tonnes of CO₂ per year (tCO₂/year), which is 10 percent of the global total carbon emissions.

In recent years, the global climate-energy landscape registered dramatic changes such as the global economic recession, the US shale gas revolution, the Fukushima nuclear disaster, the ongoing Ukraine crisis, and the latest downward oil price fluctuations.

Differently from Copenhagen, the 'Big Three' seems to be seriously engaged in the formation of the post-2020 global climate policy regime. In the European Council held on October 23-24, 2014, EU leaders agreed upon the new climate-energy targets for 2030: a binding target of 40

percent emissions cut below 1990 levels, a structural reform of the European carbon market, a EU-wide target of 27 percent renewable energy share in the EU's energy mix, as well as a non-binding target of 27 percent of additional energy savings.

Surprisingly, this time China and the US have followed the EU's example. On November 12, 2014, President Barack Obama and President Xi Jinping announced an historical climate agreement in Beijing. The US intends to reduce carbon emissions by 26-28 percent below 2005 levels in 2025. China

intends to achieve a peaking of carbon emissions around 2030 and to increase the share of non-fossil fuels in its energy mix to around 20 percent by 2030.

In the run up to the Paris COP21, the 'Big Three' will be employing different alliance-building strategies which could potentially be complementary to each other.

What are the key areas where China, the US and the EU could converge or clash during the negotiations? What are their implications for a global climate agreement to be sealed next year in Paris?

There are big chances and expectations that this time a global climate agreement will come out of the Paris summit.

As the world's largest carbon emitters, China, the US, and the EU have a special responsibility to lead the fight against climate change.

In the run up to the Paris COP21, the 'Big Three' are employing different alliance-building strategies. The US climate diplomacy targets China and India, as well as other rapidly developing countries. China promotes the interests of developing countries at large, but also accepted to negotiate a bilateral climate deal with the US. The EU promotes a legally binding treaty model, which is very unlikely to leverage the necessary consensus in Paris.

Although different, their alliance-building strategies could potentially be complementary to each other in facilitating the agreement of a new global climate regime.

It remains to be seen whether the future Paris agreement will establish at least a voluntary-type agreement that is backed by effective reporting mechanisms.

Implementation and compliance are the crucial benchmarks for success or failure of any Paris deal.

The countdown to the Paris COP21

The overall official goal of the Paris COP21 is to agree upon a post-2020 climate agreement that should keep global warming below 2°C. The political costs of a Copenhagen-like impasse would be extremely high. There are big chances and expectations that this time a global climate agreement will come out of the Paris summit.

In December 2014, climate negotiations in Lima proved once more to be extremely difficult. After more than two weeks of work, on December 14, 2014, the Lima Conference of the Parties (COP20) managed to approve a preliminary draft for the Paris agreement.¹ The draft outlines the core options to negotiate a post-2020 global climate regime.

The countdown to the COP21 will be characterised by six milestones as follows:

- On February 8-13, 2015, talks on the Paris working document will resume in Geneva.
- By the end of March of this year, each country will have to communicate its Intended National Determined Contribution (INDC) to limit global warming to below 2°. INDCs are assumed to outline emissions reduction targets and domestic actions, as well as possible contribution to financial mechanisms such as the Green Climate Fund.

The positions of the 'Big Three' on each and all the issues under negotiation will have a crucial impact on the future Paris Agreement.

- On May 31, 2015, the parties will present an official project for the Paris agreement.
- On that basis, on June 3-14, 2015, negotiations will resume in Bonn.
- On November 1, 2015, the United Nations Framework Convention on Climate Change (UNFCCC) Secretariat will release an official report that assesses the aggregate effect of all national contributions in slowing rising temperatures.
- On November 30, 2015, the Paris COP21 will start.

However, the key question is whether the future Paris agreement will be good or not. Any Paris deal will clearly be a lowest common denominator agreement. Climate science shows that an agreement of such a type will fail to reach the 2°C target.² From this perspective, any potential Paris agreement is unlikely to be a good one.

Importantly, emerging economies are forecasted to account for 95% of the global emissions increase by 2035.³ If negotiators will not be able to produce an agreement that copes at least with the emerging economies' challenge, the Paris

COP21 will be a double failure. However, negotiators can still make a big difference in the coming months.

Main choke points for negotiators

The positions of the 'Big Three' on each and all the issues under negotiation will have a crucial impact on the future Paris Agreement. Over the next eleven months, four are the main choke points during the negotiations: the differentiation between developed and developing countries, implementation and compliance, climate finance, and the legal form of the agreement.

Firstly, the **differentiation between developed and developing countries** will be a *sine qua non* condition for any agreement in Paris. At the Lima COP20, China made it clear once more. On the one hand, the future regime is expected not to excessively burden developing countries – which ultimately aim to raise the living standards of their citizens. On the other hand, a specific distinction in favour of developing countries will be made also as far as climate finance is concerned. Finance will have to prioritise developing country needs, strategies and priorities. Here the focus will be on project finance, technology transfer and capacity-building with the aim of: facilitating low-emission growth, reducing high-carbon investments, as well as boosting 'climate-proof' investments

Secondly, **implementation and compliance mechanisms** are much more than a choke point. In my opinion, this is the crucial benchmark

for success or failure of any future Paris Agreement. If we manage to have serious implementation and compliance mechanisms in place, we will be able to slow down the global emissions increase. This being said, a below-2°C scenario is very unlikely or out of question. If we don't have serious mechanisms in place, however, we will be spectators of a massive increase in global emissions – especially in emerging economies as well as other developing countries.

Back in Copenhagen, it became evident that China will never accept a binding universal treaty on climate change. This means that any future Paris agreement should go for innovative soft-law instruments. The international community has now a shared responsibility to create credible implementation and compliance mechanisms.

To be credible, the mechanisms to be adopted in Paris should at least foresee: (a) an independent body that (b) promotes implementation and compliance and (c) assess countries' performance. These points set the floor (not the roof) for any sound, consistent, transparent climate action. While the preliminary draft approved in Lima includes such an option, it also includes a *statu quo* option (i.e. no specific provisions required). It is yet to see whether countries will be able to agree or not upon sound implementation and compliance mechanisms. Certainly, implementation and compliance will give a hard time to negotiators. Clearly, this will potentially be one of the key choke points.

1. United Nations Framework Convention on Climate Change (UNFCCC), *Decision -/CP.20: Lima call for climate action*, Lima, 14 December 2014.
2. RAUPACH, M.R. et al. (2014), 'Sharing a quota on cumulative carbon emissions', *Nature Climate Change* 4, 873–879; PETERS, G.P. et al. (2013), 'The challenge to keep global warming below 2 °C', *Nature Climate Change*, 3, 4–6.
3. BP (2014), *BP Energy Outlook 2035*, London, January 2014.

To set up right implementation and compliance mechanisms, the transparency and comparability of national commitments will be crucial issues on which the parties will have to compromise. The Lima COP20 raised the expectations for the creation of a highly transparent post-2020 global climate regime.

The ambition is that countries could share standardised, comparable, consistent information about their domestic climate action – without compromising flexibility though. Interestingly, there is also a clear willingness in supporting the integration of climate objectives into other policy areas such as energy, agriculture, transport, national fiscal accounts according to country priorities. The EU and the US are in favour of building transparency. For China, flexibility and national sovereignty in climate matters are non-negotiable priorities.

Thirdly, **climate finance** will remain a central issue during the negotiations. Any credible implementation and compliance mechanisms should be accompanied by adequate finance. The ambition is that countries should be able to de-

liver predictable funding for the right implementation of the future Paris Agreement. In Lima progress were already made with the Green Climate Fund (GCF), which will receive a first capitalisation of more than USD10 billion. This clearly showed a strong engagement on the part of the US, China and the EU in the allocation of financial resources devoted to the fight against climate change. The GCF will be a test-case for the post-2020 climate finance.

A matter which is still under discussion is how to redistribute climate finance. This puts a question mark on whether the parties will decide for a balanced approach of a 50:50 allocation of financing for adaptation and mitigation or will rather prioritise adaptation.

Fourthly, **the legal form of the agreement** is still under discussion. The preliminary draft still outlines three different options - varying from a legal commitment to a more soft-law agreement based on non-binding domestic contributions or actions to limit global warming. However, the future Paris deal is likely to be a non-binding type agreement.

Facilitating implementation and compliance with the Paris Agreement

All countries will have to negotiate specific provisions on the implementation and compliance of the future Paris Agreement. The Lima COP20 made it clear that implementation and compliance could be pursued in a manner that is expert-based, non-confrontational and non-judicial. The Paris preliminary draft outlines the following four options:

Option 1: The governing body shall adopt procedures and/or mechanisms in order to assist Parties in implementing their commitments/contributions and/or to address compliance issues.

Option 2: A compliance mechanism or committee / implementation committee / a standing body responsible for promoting implementation and compliance and assessing Parties' performance is established;

Option 3: Implementation shall be strengthened through enhanced transparency, including through the consideration of the multilateral consultative process under Article 13 of the Convention;

Option 4: No specific provisions required.

For option 1 and option 2, arrangements shall cover [among others]:

Structure of the mechanism / committee:

Option (a): Separate branches – an enforcement branch for Parties that have a QERC in Annex A / to review compliance with commitments made by developed country Parties and those developing country Parties that have made economy-wide quantified emission reduction commitments, with respect to their commitments on mitigation, as well as commitments on adaptation, finance, technology transfer and capacity-building, and a facilitative branch for commitments and strategies in Annex B / to review the implementation of contributions made by developing countries and to assist them in their efforts to meet these contributions; the Compliance Committee may establish technical panels to assist them in their task;

Option (b): A standing, non-political, expert body of members who serve in their individual capacity, responsible for facilitating and promoting compliance with the obligations under the agreement;

Option (c): One body for facilitation;

Option (d): Platforms to deal with early warning, facilitation and enforcement.

Modalities such as:

- Membership;
- Triggers to commence a procedure:
 - Early warning for potential non-compliance;
 - Technical expert teams triggering questions of implementation.
- Procedures;
- Use of economic instruments:
 - Use of economic instruments such as market mechanisms as a way to promote compliance.
- Measures and/or consequences:
 - Option (a): Facilitative measures only;
 - Option (b): Facilitative measures and sanctions for recurring non-compliance;
 - Option (c): Facilitative measures for non-Annex I Parties and sanctions for Annex I Parties;
 - Option (d): Expert groups that support developing country Parties in the preparation and implementation of contributions.
- The Compliance Committee shall report annually to the Conference of the Parties to this agreement.

Source: UNFCCC, Decision -/CP.20.

China and the US are in favour of a non-binding agreement to be sealed in Paris, and see that a Kyoto Protocol-like agreement is not politically viable. China intends to deal with air pollution and emissions reduction at domestic level, but aims to preserve its economic model. The US equally wants to preserve its economic competitiveness and support domestic-centred climate action as a way to limit global warming. By contrast, the EU is a firm believer of the need to go for a legally binding international agreement as the only way to put countries on track with a 2°C consistent pathway.

The US could support a voluntary-type agreement backed by strong reporting mechanisms. An option could be that of having voluntary but nationally binding targets. However, this cannot be taken for granted in Paris. Clearly, the new global climate regime should be an evolving regime that may allow to monitor and modify targets over time. However any bottom-up regime with no consistent reporting mechanisms will not be sufficient.

The 'Big Three' and alliance-building efforts: diverging but complementary strategies?

In the run up to the Paris COP21, the 'Big Three' will be employing different alliance-building strategies which could potentially be complementary to each other.

China remains the crucial factor for any type of global climate deal

The EU started out with domestic climate policy. Between January and October of last year, the EU member states discussed the key orientations of the Union's energy and climate policies for the next decade. On October 23-24, 2014 the European Council agreed upon the **climate-energy targets for 2030**: a binding target of 40 percent emissions cut below 1990 levels, a structural reform of the Emissions Trading System, a EU-binding target of 27 percent renewable energy share in the overall energy mix, as well as an optional target of 27 percent of energy efficiency.

Right before the Lima COP20, the European Commission was caught in a period of political change. A new Commission headed by President Jean-Claude Juncker took office on November 1, 2014. Just one month ahead of Lima, Juncker mainly worked with the college of Commissioners on the organisation of the new Commission in terms of structure, teams and respective portfolios. President Juncker merged DG Energy and DG Climate Action under the lead of Commissioner Miguel Arias Cañete, and launched the **Energy Union** project under the lead of Commission Vice-President Maroš Šefčovič.

In the first quarter of 2015, the EU will launch a climate diplomacy offensive in order to create the necessary consensus on a post-2020 legally binding agreement to be sealed in Paris. The Commission is preparing an action plan for climate diplomacy to be approved by the Council in January. This is about a massive deployment of diplomats and officials aimed at winning new national climate pledges as well as strategic bloc of countries ahead of the Paris summit.

What is clear is that the EU is not anymore a climate leader in international negotiations. Instead, the EU is seeking to play a role of mediator – taking a more pragmatic approach that seeks a balance between decarbonisation goals and economic competitiveness in times of austerity.⁴ Back in 2011, the EU climate diplomacy efforts taken by Former Commissioner Connie Hedegaard were crucial in the Durban climate summit. The EU fostered the creation of the so-called Durban Alliance between the Cartagena group of progressive countries, the Least Developed Countries, and Small Island states.

The EU is likely to follow a similar strategy. Some commentators say the EU is aiming at a coalition with the countries of the Independent Alliance of Latin America and the Caribbean (AILAC), namely Chile, Colombia, Costa Rica, Guatemala, Panama and Peru. This would certainly raise the pressure on developing countries and top carbon emitters such as China, India or Argentina. The EU will also probe compromises with veto players such as China, the US and India.

The EU (and especially French) diplomacy also seeks to foster a different atmosphere in the countdown to the Paris COP21. In the run-up to the Copenhagen, many claimed that the summit was the last chance to save the planet and raised unrealistic expectations about a binding treaty which ended up in deadlock. This time, the EU seeks to convince negotiators that reducing emissions is a win-win solution for developing countries and industrialised countries.

There is however a big question mark on whether the EU climate diplomacy offensive will be able to leverage sufficient consensus about a binding-type treaty. From a political perspective, the predominant goal for any sort of Paris deal is that the US, the EU, China, India as well as other developing countries should finally hold together under a one-size-fits-all agreement. It is clear that the yearly emissions increase by 2035 will largely depend on emerging economies and other rapidly developing countries. If the Paris Agreement fails to deal with this one issue, the post-Paris climate regime will not be effective. To avoid another Copenhagen-like impasse, the international community may find a way to keep all the countries together. This however means we need to go for a non-binding treaty that allows for flexibility and domestic-centred climate policies.

The US climate diplomacy offensive started one year ago. While the EU was negotiating its domestic climate-energy targets for 2030, the Obama administration initiated contacts with Beijing to negotiate a bilateral deal. On November 12, 2014, President Barack Obama and President Xi Jinping announced an historical **climate agreement** in Beijing. The US pledged to reduce carbon emissions by 26-28 percent below 2005 levels in 2025. As compared with the EU 40 percent pledge, the US in-

4. FROGGATT, A., CARAFA, L., MARENGO, U. and ZIMMERMANN, M. *The Nexus between Climate and Energy Policies in Europe*, London: Chatham House, 2012. BÄCKSTRAND, K. and ELGSTRÖM, O. 'The EU's role in climate change negotiations: from leader to 'mediator'', *Journal of European Public Policy*, 20(10) (2013) p. 1369-1386.

tends to cut emissions by 9.6 to 12 percent below 1990 levels.⁵ Importantly, China pledged to achieve a peaking of carbon emissions around 2030 and to increase the share of non-fossil fuels in its energy mix to around 20 percent by 2030.

The key question here is whether the US-China climate agreement is a game-changer or not. From a political perspective, it certainly changes much the game. The old argument that the US cannot engage in any global emissions reduction agreement that does not include China and other developing countries seems to have come to an end. For the first time ever, a developing country (which is the world's largest carbon emitter) announced a peak date for its carbon emissions. This creates unprecedented political momentum for the Paris COP21.

From a policy perspective, however, the US-China bilateral deal does not change the game much.⁶ The US 2025 pledge is in line with the 2°C target, provided that Washington manages to successfully implement such policies. But China's emissions peak pledge is business-as-usual. Climate science estimates that China's carbon emissions would need to peak between 2020 and 2025 in order to be in line with the 2°C target – that is five to ten years before the date announced by Beijing.

For the US climate diplomacy, the next country on the go is India (i.e., the world's fourth largest emitter of CO₂). President Obama will visit Prime Minister Narendra Modi in January 2015, with the aim of developing a partnership in the area of clean energy. However, a joint agreement similar to the one with China seems to be very unlikely. India makes the fight against energy poverty and electricity access a top priority for its domestic policies.

It remains to be seen whether the future Paris agreement will establish at least a voluntary-type agreement that is backed by effective reporting mechanisms

The EU and the US alliance-building strategies target different type of countries, but could well be complementary in facilitating an agreement in Paris. However, China remains the crucial factor for any type of global climate deal. Beijing seems to be engaged in taking on international responsibilities that are commensurate with its national conditions, and will promote South-South climate cooperation. However, Beijing made it clear that it has no intention of setting aside the old developed-versus-developing-countries divide.

It remains to be seen whether the future Paris agreement will establish at least a voluntary-type agreement that is backed by effective reporting mechanisms. Implementation and compliance is the crucial benchmark for success or failure of any Paris deal. Quoting the Norwegian **CICERO** research group, it seems clear that “the measures that are politically feasible are ineffective and the measures that would be effective are politically infeasible.” Negotiators have now an historical responsibility to bridge over political feasibility and policy effectiveness.

5. Global Carbon Project, *G. Peters projections*, 12 November 2014.

6. CARAFA, Luigi. 'Is the US-China Climate Agreement a Game-changer?'. *The International Spectator*, (2015) forthcoming.