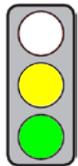


KEY ISSUES

Objective of the Communication: The Commission wants to prepare the EU for the final round of negotiations before the Climate Conference in Paris in December 2015 and, for this purpose, defines the overall GHG reduction target which the EU wants to achieve and the requirements that the EU has in relation to the planned international Climate Change Agreement ("Paris Protocol").

Affected parties: Whole economy



Pro: (1) The aim of concluding a legally binding Climate Change Agreement is an important step towards effectively protecting the environment. The more countries that take part in climate protection, the lower the risk of "carbon leakage".

(2) Legally binding climate protection obligations for all contracting Parties may reduce the cost of climate protection.

Contra: The Commission ignores the fact that failure to reach a Climate Change Agreement whilst continuing to pursue the EU's unilateral climate protection policy, will have high economic costs for the EU which will not be balanced by any climate policy benefit.

CONTENT

Title

Communication COM(2015) 81 of 25 February 2015: **The Paris Protocol – A blueprint for tackling global climate change beyond 2020**

Brief Summary

► Context and objectives

- According to the Commission, all countries of the world should make "substantial and sustained" efforts to reduce their greenhouse gas emissions (GHG emissions) (see also: [cepCompass Climate and Energy Policy of the EU](#), p. 3 et seq.), in order (p. 3)
 - to limit the rise in the global average temperature to below 2°C compared with pre-industrial levels ("below 2°C objective") and
 - to prevent the "severe, pervasive and irreversible" consequences of climate change.
- Since 1994, as part of the United Nations Framework Convention on Climate Change (UNFCCC), 90 developed and developing countries, including those of the EU, have pledged to "curb" their GHG emissions by 2020 (p. 3).
- Since previous promises by the Parties to the UNFCCC have been insufficient to achieve the below 2°C objective, a Climate Change Agreement, legally binding for all Parties, needs to be concluded as a Protocol to the UNFCCC in Paris in December 2015 and implemented from 2020 onwards ("Paris Protocol").
- At the climate conference in Lima in December 2014, it was agreed that the countries should submit their own GHG reduction targets, as an "Intended Nationally Determined Contribution" (INDC), to the secretariat of the UNFCCC, well ahead of the Paris climate conference. The Commission takes the view that this has brought "a robust agreement in Paris within reach" (p. 3).
- This Communication will prepare the EU for the final round of negotiations before the Paris climate conference. For this purpose, it defines
 - the overall GHG reduction target which the EU is aiming to achieve, and
 - the requirements that the EU will place on the Paris Protocol.

► EU's intended GHG reduction target

- The European Council decided in October 2014 to reduce CO₂ emissions in the EU by at least 40% by 2030 as compared with 1990 levels (Conclusions of the European Council of 23/24 October 2014; see [cepInput Climate and Energy Targets 2030](#)). This will be the EU's INDC for the Paris Protocol (p. 15 et seq. Table 1).
- The Commission currently sees no merit in proposing "a higher conditional target". If the outcome of the negotiations "warrants a more ambitious target", however, the EU should consider the use of international credits "to complement domestic commitments" (see [cepCompass EU Climate and Energy Policy](#), p. 15 et seq.). (p. 6)

► **Main requirements to be addressed by the Paris Protocol**

- Global emissions should be reduced by at least 60% of 2010 levels by 2050.
- All Parties should enter into "ambitious" and "legally binding" climate protection commitments "that put the world on track towards achieving the below 2°C objective" (p. 5).
 - In principle, every country should enter into a climate protection commitment in order to be able to join the Paris Protocol and be permitted to participate in the decision-making process under the Protocol and gain access to "financial and other resources".
 - Countries advocating that climate protection commitments should not be legally binding must demonstrate how the Paris Protocol targets can be delivered under "an alternative approach".
- The Paris Protocol should enter into force as soon as it has been ratified by countries together accounting for 80% of global GHG emissions in 2015.
- The Paris Protocol should require the Parties to formulate measures facilitating adaptation to climate change [see Communication COM(2013) 216; [cepPolicyBrief](#)], aimed inter alia at reducing flood risk and soil erosion.

► **Sharing global responsibility for emissions reduction**

- A country's INDC should represent a "significant progression in the level of ambition" of its existing commitment. Countries with high GHG emissions and a large potential for GHG reduction "must have the most ambitious mitigation commitments" (p. 7).
- All G20 high and middle-income countries should submit their INDC by the end of the first quarter of 2015. Least Developed Countries (LDCs) will be allowed greater flexibility.
- The Paris Protocol will cover all sectors – including agriculture and forestry – and require them all to effect emissions reductions (p. 7).
- The International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO) should regulate emissions from international aviation and shipping by the end of 2016.

► **Monitoring, Accountability and Adaptation**

- The Paris Protocol should contain "robust rules" on monitoring, reporting and verification of GHG emissions and how they are offset against the climate protection commitments of the Parties (p. 8).
- A "body to address questions over compliance" consisting of independent experts, should assist the Parties with the implementation of the Paris Protocol and monitor whether they are complying with their commitments (p. 9).
- Contracting Parties that do not comply with their commitments should be "held accountable" by way of a procedure stipulated in the Paris Protocol (p. 8).
- Every five years, the Parties' climate protection commitments should be examined as to whether they are sufficient to realise the below 2°C objective ("Global Review"). If this is not the case, they will be brought into line with "the latest science". (p. 5 and 8)

► **Funding climate protection and international collaboration**

- According to the Commission, the transformation to a low-emission economic system can only be achieved by "shifts in investment patterns" (p. 9). The Paris Protocol will therefore promote investment in "low emission, climate-resilient programmes and policies" and oblige all countries to ensure a more climate friendly investment environment.
- The Green Climate Fund (GCF) and the Global Environment Facility (GEF) will give priority to the poorest countries and those most vulnerable to climate change.
- The Paris Protocol should promote a systematic exchange of experience within and across the various regions of the Earth.

► **Additional EU measures**

- The EU will step up its "climate diplomacy" ahead of the Paris conference by (p. 11 et seq.)
 - raising climate protection as a priority at G7 and G20 meetings and the UN General Assembly and
 - taking more account of climate protection in the context of the EU development cooperation.
- The EU research and innovation support programme "Horizon 2020" will remain fully open to third countries with respect to climate protection technology because climate protection technology
 - is necessary for achieving climate protection objectives,
 - creates jobs and
 - contributes to economic growth.
- By mid-2015, the Commission wants to submit initial legislative proposals to implement the Climate and Energy Policy up to 2030.

Policy Context

In the 1997 Kyoto Protocol, the then European Community, its Member States and other industrial countries undertook to reduce their GHG emissions between 2008 and 2012 (see [cepCompass EU Climate and Energy Policy](#), p. 3 et seq.). Attempts to agree on a successor to the Kyoto Protocol with binding obligations to reduce GHGs have so far proved unsuccessful. At the 2009 Climate Conference in Copenhagen, some countries gave non-binding assurances to take reduction measures ("Copenhagen Accord"; Communication COM(2010) 86, see [cepPolicyBrief](#)). At the 2010 Climate Conference in Cancún, the community of states agreed the below 2°C objective. At the 2011 Conference in Durban, a working group was assigned to prepare for the conclusion of a legally binding Climate Change Agreement.

Options for Influencing the Political Process

Leading Directorate General: DG Energy (leading)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The overriding objective of the Commission to reduce environmentally harmful GHG emissions, is basically appropriate because citizens and companies do not have sufficient incentives to emit fewer GHGs in order to contribute to climate protection.

The Commission's aim to conclude a legally binding Climate Change Agreement, applicable to all Parties, in order to achieve the below 2°C objective, **is an important step to effectively protect the climate**. Since climate change depends on the global amount of emissions of greenhouse gases, the climate can only be protected at a global level. **The more countries who take part in climate protection, the lower the risk of emissions being transferred** by companies to countries with no or only a low level of climate protection obligations ("**carbon leakage**"). Carbon leakage can result in a global increase in CO₂ because companies in these countries are permitted to operate with higher levels of CO₂ production than in their previous location. Irrespective of this, less demand for fossil fuels in countries with a strict climate policy tends to result in falling world market prices. This leads to a rise in demand in other countries and therefore to an increase of emissions in these countries.

The Commission's view, that an agreement on legally binding climate protection obligations is "within reach", is doubtful because the climate protection negotiations in recent years have shown that it is extremely difficult to achieve genuine international consensus on climate protection.

Although a legally binding agreement is the most likely way of ensuring that the Parties comply with their obligations, the Commission has failed to present alternative options in the event that it proves impossible to reach a consensus on legally binding climate protection obligations. Equally, it has failed to mention what consequences this would have for EU climate protection policy. **The Commission ignores**, but must be aware of, **the fact that another failure to reach a global Climate Change Agreement whilst at the same time continuing to pursue the EU's unilateral climate protection policy, will have high economic costs for the EU which will not then be balanced by any relevant climate policy benefit**.

The Commission's call for the International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO) to effectively regulate their emissions prevents distortions of competition between airlines and/or shipping companies as a result of the unilateral climate protection requirements of some countries. Thus, EU airlines are currently subject to emissions trading (Art. 3a et seq. Directive 2003/87EC; see [cepPolicyBrief](#)) and as a result have a competitive disadvantage compared to airlines e.g. from the Middle East where there are no climate protection measures for airlines. The ICAO and IMO have so far, however, failed to comply with calls to regulate their emissions.

Establishing "robust rules" for monitoring, reporting and verifying GHG emissions as well as for offsetting them against the climate protection commitments of the Parties is an important requirement in order to be able to hold individual Parties effectively "accountable". In this regard, setting up a "body to address questions over compliance", may be a great help, particularly for countries that lack capacity and comprehensive knowledge of climate protection. In addition, it may contribute to clarifying matters of dispute. The Paris Protocol should, however, stipulate how to ensure the independence of the experts appointed to this body.

The proposal to review the climate protection obligations of the Parties every five years, increases the credibility of such an agreement. Thus, it will be possible to determine whether the Protocol needs adaptations in the future in order to achieve the below 2°C objective.

Support payments to the poorest countries and those most vulnerable to climate change are likely to be an essential requirement for establishing a Climate Change Agreement.

The unrestricted access of third countries to Horizon 2020 contributes to the transfer of knowledge. This is necessary to ensure that climate protection is achieved effectively and promptly.

Impact on Efficiency and Individual Freedom of Choice

Legally binding climate protection obligations for all Parties may develop new potential for the avoidance of GHGs and thereby **reduce** global **climate protection costs** because it is possible that in countries not yet involved in climate protection, GHG avoidance can be achieved more cheaply than in those that are already involved.

Taking account of measures to adapt to the consequences of climate change in the Paris Protocol may result in the avoidance of economic harm e.g. production stoppages due to flooding.

The Commission rightly calls for all sectors worldwide and thus all emitters to be included in climate protection policy. This allows, firstly, for maximum utilisation of the potential for emissions reduction. Secondly, distortions in global competition between companies within one sector are avoided. The Paris Protocol should not, however, stipulate any sector-specific emissions reductions; this may result in inefficiencies because the location of the emissions reductions is irrelevant to the climate. These should in fact take place where they can be achieved most cost effectively.

Impact on Growth and Employment

Climate protection obligations require investment in emissions reduction. This has a negative impact on growth and employment as this investment is no longer available to the same extent for more productive use. The reduction of economic growth is the price to be paid for avoiding damage resulting from climate change which is not quantifiable and as a benefit is balanced by the loss in growth.

Although climate protection technologies create jobs, the Commission ignores the fact that, in return, existing jobs in emission-intensive sectors are lost. In addition, climate protection measures make production more expensive which tends to have a negative effect on growth and employment.

Impact on Europe as a Business Location

As long as there is no global Climate Change Agreement, unilateral emissions reductions, such as the European Council passed in 2014, will be accompanied by unilateral cost increases without noticeable benefit in terms of climate policy. This is hugely detrimental to Europe as a business location. A global Climate Change Agreement, with legally binding climate protection obligations for all Parties, reduces Europe's locational disadvantage arising from the obligation to effect emissions reduction. A global agreement even strengthens Europe as a business location because, as a pioneer in this area, the EU has already created the essential framework e.g. the EU Emissions Trading Scheme. In addition, as a result of the creation and use of this framework, companies and authorities have specific knowledge and experience with climate protection instruments. This knowledge and experience will first have to be acquired by the other countries.

Legal Assessment

Legislative Competency

As the EU is authorised to take measures in the area of environment policy (Art. 192 TFEU), it can base relevant external action on Art. 216 TFEU (cf. also ECJ, Case 22/70 – AETR; settled case law). In addition, Art. 191 (1) TFEU makes it clear that EU environment policy should contribute in particular to international climate protection measures. International agreements with the EU must be negotiated and concluded in accordance with the procedure under Art. 218 TFEU.

Subsidiarity

Unproblematic. Climate protection is not only a cross-border problem but actually a global one which individual countries cannot solve.

Conclusion

The aim of concluding a binding Climate Change Agreement is an important step towards effectively protecting the environment. The more countries that take part in climate protection, the lower the risk of "carbon leakage". The Commission ignores the fact that failure to reach a Climate Change Agreement whilst continuing to pursue the EU's unilateral climate protection policy, will have high economic costs for the EU which will not be balanced by any climate policy benefit. Legally binding climate protection obligations for all contracting Parties may reduce the cost of climate protection.