EU Communication

CLIMATE CHANGE AGREEMENT 2015

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KEY ISSUES

Objective of the Communication: The Commission presents options for shaping an international climate change agreement which is to be concluded by the end of 2015.

Affected parties: Entire economy, particularly energy suppliers and energy-intensive industries.

Pro: The aim of including all major "economies and economic sectors" into an international climate change agreement, relieves the problem of carbon leakage and opens up new cost-effective reduction potential.

Contra: (1) The Commission has still failed to develop an "alternative plan" in the event that the climate negotiations fail, or to identify the consequences for EU climate change policy.

(2) Carbon pricing for international aviation and maritime transport should not be determined by policy but by including these sectors into an emission trading system.

CONTENT

Title

Communication COM(2013) 167 of 26 March 2013: **The 2015 International Climate Change Agreement:** Shaping international climate policy beyond 2020

Brief Summary

Page references refer – in the absence of any indication to the contrary – to the Communication COM(2013) 167.

► **Background**
- In the 1997 Kyoto Protocol to the UN Framework Convention on Climate Change (UNFCCC), the EU and a number of other industrialised nations pledged to reduce their emission of greenhouse gases ("GHG emissions") between 2008 and 2012 as compared with 1990 levels.
- Negotiations on a follow-up agreement to the Kyoto Protocol, which expired in 2012, containing binding obligations under international law to reduce emissions, have not yet been successful.
  - In the course of the UN Climate Conference in Copenhagen in 2009 [cf. Communication COM(2009) 39 "Towards a comprehensive climate change agreement in Copenhagen", see cep**PolicyBrief**] some countries, including USA and China, gave non-binding pledges on emission reduction ("Copenhagen Accord") [cf. Communication COM(2010) 86 "International climate policy post-Copenhagen", see cep**PolicyBrief**].
  - At the 2010 UN Climate Conference in Cancún, the countries recognised the objective of permanently restricting the rise in the average global temperature to a maximum of 2°C as compared with the pre-industrial levels ("2°C goal").
  - At the 2011 UN Climate Conference in Durban, a working group ("Durban Platform") was commissioned to prepare an extensive "legally binding" international Climate Change Agreement which is to be concluded in 2015 and take effect from 2020 ("2015 Agreement").
- In this consultative Communication and the accompanying background document [SWD(2013) 97], the Commission provides information about its objectives for a future climate change agreement and calls for all interested parties to express their opinion on its design.

► **Framework Conditions**
- Human-induced GHG emissions are continuing to rise globally.
- The Commission believes that emerging economies will become an increasing source of economic growth and emissions in the future [SWD(2013) 97, p. 2].
- The pledges made so far on emission reduction by 2020 are not enough to achieve the 2°C goal. At best, they will "deliver no more than one third of what is needed by 2020" (p. 2).

► **Objectives**

The 2015 Agreement should, so the Commission believes, achieve the following objectives:
- Emissions of greenhouse gases (GHG) should be reduced beyond the current pledges insofar as this is necessary for achieving the 2°C goal.
- All major "economies", including Brazil, China, India and USA, and economic sectors (p. 4) should be set legally binding goals on emission reduction.

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– Companies should have no reason for transferring their production and the accompanying GHG emissions to countries without "strict" regulations on climate protection ("Carbon Leakage"; see cepDossier on EU Climate Change Policy, p. 15).
– The countries most at risk from climate change should be supported in making the necessary changes.
– Issues with relevance to the climate should also be taken into account in other policy areas – e.g. energy, transport, and agriculture.
– Additional bi-lateral and multilateral initiatives, which supplement the 2015 Agreement – e.g. the "the initiative to phase out fossil fuel subsidies under the G20", p. 5 – will be encouraged.
– Emission reduction and the cost of adjustment measures must be shared "fairly" (p. 5).
– Despite their respective contributions to global emission reduction, the countries must be able to pursue "sustainable economic development" (p. 4).
– The 2015 Agreement should be adjusted over time where the underlying conditions – "national or regional socio-economic circumstances" – change (p. 6).

► **Climate Protection**
The Commission considers it necessary to reduce global GHG emissions to below the 1990 level by 2030. In order to achieve this goal it believes there is need for clarification of the following points (Question 4, p. 6): On what basis should the required emissions reductions be distributed between the parties to the Climate Change Agreement so that
– the 2015 Agreement is seen as fair, and
– "any shortfall in ambition" is avoided (p. 6)?

► **Climate Adaptation**
The Commission refers to an increase in problems adapting to climate change (cf. White Paper COM(2009) 147, see cepPolicyBrief), the impact of which may vary greatly worldwide. The Commission therefore sees a need for clarification of the following points (Question 5, p. 7):
– To what extent should the 2015 Agreement take account of such adaptation problems?
– To what extent can the 2015 Agreement incentivise the integration of climate adaptation considerations into all relevant policy areas – e.g. "coastal area and water management" (p. 7)?

► **Financing, New Technologies and Market-based Instruments**
– The 2015 Agreement should, according to the Commission, take account of the following "means of implementation" (p. 7):
  - A price should be put on carbon emissions from international aviation and maritime transport. In addition to emission reduction, it may also serve to generate income.
  - Market based instruments will be deployed so that the emissions reduction goals can be achieved cost-effectively. The Commission indicates that, in addition to the "flexible mechanisms" of the Kyoto Protocol – e.g. Clean Development Mechanism – an increasing number of emission trading systems have been developed at national and regional level.
  - "Appropriate financing" (p. 7) for climate protection and climate adaptation measures in the least developed countries are to be developed.
  - The Green Climate Fund, which will support climate protection and adaptation measures in developing countries by 2020 with USD 100 billion annually [cf. Communication COM(2010) 86 "International Climate Policy Post-Copenhagen", see cepPolicyBrief], will not only be financed by the industrial countries in the future, but also by emerging economies with an increasing per capita gross domestic product (GDP) – e.g. China.
  - Framework agreements that can help to encourage and incentivise the faster dissemination of new technologies internationally are to be developed.
– The Commission sees a need for clarification on how the UNFCCC and specifically the new Climate Change Agreement can encourage financing, the development of new technologies and the use of market-based instruments (Question 6, p. 9).

► **Implementation**
A legally binding climate change agreement requires "a robust system of compliance and enforcement" (p. 9). This system should ensure that all countries taking part in the Climate change agreement comply with their commitments, receive support where necessary and are "held accountable" for non-compliance (p. 9). The Commission therefore sees a need for clarification on the following points (Question 7, p. 9):
– How can transparency of the system of accountability – measurement, reporting and verification – be improved?
– To what extent will an accounting system have to be standardised globally?
– How should countries be "held accountable" (p. 9) when they fail to meet their commitments?

- **Shaping the Negotiating Process**
  - The Commission wants to make the negotiating process for the UNFCCC more effective and efficient. It believes that
    - the consensus rule should be abolished in order to avoid results based on the "lowest common denominator" (p. 9),
    - the annual frequency of conferences should be reconsidered,
    - rather than rotating annually, Conference Presidencies could either be shared by several countries over several years or held by one country for two years,
    - the number of technical meetings should not be increased,
    - the process should allow greater consideration to be given to the views of stakeholders
    - a strengthened role should be given to the Convention Secretariat.
  - The Commission considers that there is need for clarification on how the negotiation process could be improved so that it results in a successful 2015 Agreement.

Policy Context

In order to contribute to achieving the 2°C goal, the EU has unilaterally committed itself to reducing its GHG emissions by 2020 by at least 20% based on 1990 levels; at the same time, it has announced an emission reduction of 30% if, within the framework of a Kyoto-follow-up agreement, other industrial countries commit to "similar emission reductions" and the emerging economies commit to a contribution commensurate "to their differentiated responsibilities and respective capabilities" (European Council 8/9 March 2007, Presidency Conclusions of 2 May 2007, 7224/1/07 REV 1; cf. Communication COM(2010) 265 "Options for reducing greenhouse gas emissions by more than 20%", see cep**PolicyBrief**). In addition, the EU wants to increase by 20% the amount of renewable energy as a proportion of overall energy consumption by 2020 and save 20% of the forecast energy consumption for 2020. By 2050, the energy system should be largely de-carbonised and GHG emissions reduced by 85–90%. To implement these "20-20-20 goals", the EU has now created an emission trading system and taken numerous other measures (see cep**Dossier** and cep**PolicyBrief** on EU Climate Protection Policy). In addition, the Commission has initiated a discussion on the EU's climate and energy goals up to 2030 [cf. Green Paper COM(2013) 169 "A 2030 framework for climate and energy policies"].
The opinions expressed in the context of the consultation procedure have been published at a conference of stakeholders. In conjunction with the Member States, the Commission also wants to organise sensitisation campaigns and public debates. In order to hear the views of non-EU states, the Commission will also present and debate this consultative document at international conferences.

Options for Influencing the Political Process

Responsible Directorate General: DG Climate

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Since climate change depends on the globally emitted amount of greenhouse gases, abatement measures taken so far by the individual regions will not be sufficient to achieve the policy-based 2°C goal and thereby increase the chance of reducing the effects of climate change. **The aim** of the Commission **to include all major "economies and economic sectors" in an international climate change agreement** with legally binding emission reductions**,** is therefore appropriate. It also **relieves the problem of carbon leakage**.
This arises where companies transfer their production to countries with less stringent climate protection regulations or lose market share to competitors in these countries. On the one hand, carbon leakage tends to lead to an increase in global emissions because it allows the same production quantity to be manufactured while producing more CO_2. On the other hand, falling demand for fossil fuels by companies in countries with a strict climate policy does not result in a corresponding global reduction because the drop in demand tends to result in a drop in world market prices which in turn leads to increasing demand for fossil fuels in countries with less stringent climate protection regulations. This is also a form of carbon leakage.
The Commission has so far always failed to develop an "alternative plan" in the event that the climate negotiations fail, or to identify the consequences for EU climate change policy [inter alia Climate Protection after Copenhagen COM(2010) 86, see cep**PolicyBrief**, Roadmap for moving to a competitive low carbon economy in 2050 COM(2011) 112, see cep**PolicyBrief**]. An "alternative plan" is not developed here either.
It does, however, call for the potential 2015 Agreement to be supplemented by additional bilateral and multilateral initiatives. Although such initiatives cannot make up for the lack of a climate change agreement they do provide the possibility of enhancing international cooperation and gaining experience of multinational instruments. This could be vital for climate protection in the event that the international climate negotiations fail.

There is still a lack of clarity as to the Commission's position, in particular with regard to the aims for 2030 and the other strategies which make up the EU's path to becoming a low-CO_2 economy [inter alia Roadmap for moving to a competitive low carbon economy in 2050 COM(2011) 112, see cep**PolicyBrief**].

Impact on Efficiency and Individual Freedom of Choice

The aim of including all major "economies and economic sectors" into an international climate change agreement with legally binding emission reductions, **opens up new cost-effective reduction potential**.
The climate change agreement should take account of adaptation measures and provide incentives for implementing them. This may allow secondary economic loss, e.g. production stoppages due to flooding, to be avoided [see White Paper on Adapting to Climate Change COM(2009) 147, cep**PolicyBrief**].
The Commission's proposal to introduce carbon pricing for international aviation and maritime transport gives rise to questions. The wording gives the impression that carbon pricing will be determined by policy. **Carbon pricing for international aviation and maritime transport should not, however, be determined by policy but by the market by including these sectors into an emission trading system.** Firstly, emission trading is an accurate measure because the number of securitised emission rights determines the upper limit for emissions. This will not be achieved where the carbon price is based on policy. Secondly, it is also cost efficient because it is cheaper to ensure compliance with the fixed upper limit than e.g. by way of regulation: companies can choose whether to avoid emissions themselves or by way of third parties. They will undertake their own measures to reduce emissions as long as the cost of the last emission reduction unit is lower than the price of a securitised emission right. This mechanism has the effect that companies who are able to abate emissions relatively cheaply will reduce more emissions than companies whose abatement costs are relatively high.

Impact on Growth and Employment

Climate protection and climate adaptation result in costs which have a negative effect on growth and employment. These must be seen alongside the – unquantifiable – losses resulting from climate change.

Impact on Europe as a Business Location

A successful global climate change agreement reduces the disadvantages of Europe as a business location arising from its unilateral emission reduction obligations because the latter involve unilateral cost increases – and moreover, no measurable climate protection.
A successful worldwide climate change agreement strengthens Europe as a business location because the EU, having led the way, already has the essential framework in place, e.g. emission trading system. In comparison to countries that still have to create this framework there is therefore no tying-up of additional resources. In addition, as a result of setting up and utilising the frameworks, companies and authorities now have specific knowledge and experience with climate protection instruments. Other countries still have to gain this knowledge and experience.

Legal Assessment

Legislative Competency

Since the EU is authorised to take measures in the area of environment policy (Art. 192 TFEU), it can base the corresponding action on Art. 216 TFEU (cf. ECJ, Case 22/70 – AETR; settled case law). In addition, Art. 191 (1) TFEU makes it clear that EU environment policy should help to promote, in particular, international climate protection measures. International law treaties in this regard must be negotiated and concluded by the EU in accordance with Art. 218 TFEU.

Subsidiarity

Unproblematic. Climate protection is not just a cross-border problem but a global one that individual countries cannot solve.

Conclusion

The aim of including all major "economies and economic sectors" into an international climate change agreement with legally binding emission reductions, relieves the problem of carbon leakage and opens up new cost-effective reduction potential. The Commission still fails to develop an "alternative plan" in the event that the climate negotiations fail, or to identify the consequences for EU climate change policy. Carbon pricing for international aviation and maritime transport should not be determined by policy but by including these sectors into an emission trading system.

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