IMPLEMENTING THE PARIS AGREEMENT ON CLIMATE CHANGE

Centrum für Europäische Politik

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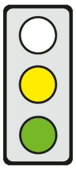
KEY ISSUES

Objective of the Communication: The Commission sets out how the EU will implement the global deal on climate change concluded in Paris in December 2015 ("Paris Agreement").

Affected parties: Whole economy



Pro: (1) The Paris Agreement is a necessary step towards effective climate protection as it covers 98% of global GHG emissions.

(2) Pricing carbon emissions, including those in third countries, creates incentives to emit less CO_2.

(3) Trade deregulation for environmentally sustainable goods and services between the EU and third countries has a positive effect on growth and employment.

Contra: (1) The EU legislation on carbon leakage is neither "balanced" nor sufficient.

(2) The proposed amendment to EU law, whereby energy efficiency is to be given "priority", should be rejected because not all energy consumption is environmentally harmful.

CONTENT

Title

Communication COM(2016) 110 of 2 March 2016: The Road from Paris: assessing the **implications of the Paris Agreement** and accompanying the proposal for a Council decision on the signing, on behalf of the European Union, of the Paris agreement adopted under the United Nations Framework Convention on Climate Change

Brief Summary

Unless otherwise indicated, article numbers refer to the "Paris Agreement".

- **Context and objectives**
  – On 12 December 2015 in Paris, the 195 Parties to the United Nations Framework Convention on Climate Change (UNFCCC) agreed on the so-called "Paris Agreement" as the successor to the Kyoto Protocol which expired in 2012. It covers 98% of all global greenhouse gas emissions (GHG emissions).
  – The Paris Agreement will
    - reduce the risks and effects of climate change (Art. 2) and
    - be binding on all Parties.
  – The Commission
    - explains the main provisions of the Paris Agreement,
    - presents possible measures to implement the Paris Agreement in the EU and
    - announces legislative proposals on this.

- **Main provisions of the Paris Agreement**
  – In the long term, the increase in global average temperatures will be limited (Art. 2)
    - to well below 2°C above pre-industrial levels and
    - and if possible to 1.5°C above pre-industrial levels.
  – In order to achieve these global targets, all Parties to the Agreement must implement national climate protection measures on GHG reduction (Art. 3).
    - Each Party to the Agreement establishes their own national GHG reduction targets (Nationally Determined Contributions, NDC) and climate protection measures. These will correspond to the "highest possible ambition". (Art. 4 (2))
    - Member States must take national measures in order to reach their NDC (Art. 4 (2)).
    - The Parties must communicate their NDC to the Secretariat of the UNFCC.
    - In 2023 and every five years thereafter the Parties to the Agreement jointly have to take stock of the GHG reductions achieved ("global stocktake", Art. 14 (1) and (2)).
    - On the basis of the stocktake, the Parties will enhance their NDC at least every five years (Art. 4 (11) and Art. 14 (2)).
  – The industrial countries must provide developing countries with financial support to help them achieve the aims of the Paris Agreement (Art. 9).

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– The Paris Agreement (Art. 20 and 21) only comes into force if
  - at least 55 Parties to the Agreement have accepted its legally binding nature – "ratified" it – and
  - these Parties account for at least 55% of global GHG emissions.
– The Commission suggests that the Paris Agreement be ratified "as soon as possible" (p. 11).

► **EU proposal to implement the Paris Agreement**

The EU registered its NDC with the UNFCC in March 2015. This states that the EU intends to reduce its GHG emissions by at least 40% as compared with 1990 levels (Conclusions of the European Council of 23/24 October 2014, see cep**Input**; Communication COM(2015) 81, see cep**PolicyBrief**).

– **Developing renewables**
  - According to the Commission, the transition from fossil fuels to "clean energy is irreversible and non-negotiable" (p. 5).
  - In order to speed up the development and introduction of innovations in "clean energy", the EU has undertaken to use 35% of the money in the EU Framework Programme for Research and Innovation ("Horizon 2020") for "climate-related activities" (p. 5).
– **Investment in low-emission technologies**
  - "Rapidly scaling up private investment" is essential for the transition to a "low emission economy" (p. 6).
  - Funding from the European Fund for Strategic Investments [EFSI, Regulation (EU) 2015/1017, see cep**PolicyBrief**] will be used for emissions reduction and energy efficiency (EU) 2015/1017.
  - In order to activate investment in climate protection, there must be effective free movement of capital across borders, as already proposed by the Commission for setting up a "Capital Markets Union" [Communication COM(2015) 468, see cep**PolicyBrief**].
– **Pricing of carbon emissions**
  - The pricing of carbon emissions – e.g. by emissions trading or taxation – creates a level playing field for CO_2 reduction. The EU should motivate third countries to price carbon emissions.
  - In the EU, companies in certain sectors are subject to the EU Emissions Trading System (EU-ETS). They can only emit GHGs if they own the corresponding emission rights ("certificates"). (ETS Directive 2003/87/EC, Art. 12 (2) (a) and 3; see cep**Compass**, p. 10 et seq.)
  - The Commission has already submitted a proposal to adapt the EU ETS to the GHG reduction target for 2030 [Directive COM(2015) 337, see cep**PolicyBrief**]. It believes that the proposed provisions to prevent the relocation of carbon emissions to non-EU countries ("carbon leakage") "strike the right balance" (p. 7).
– **Global action**
  - When it comes to implementing the Paris Agreement, the EU must "ensure" that other major economies also "press ahead" with commitments (p. 5).
  - Trade between the EU and third countries in "green goods and services" will be liberalised (p. 8).
  - The EU should promote "ambitious outcomes" for GHG reduction in the context of negotiations in
    - the International Civil Aviation Organisation (ICAO) and
    - the International Maritime Organisation (IMO)

► **Future legislative proposals by the Commission**

– "As the next step", the Commission is aiming to propose a decision on GHG reduction measures in relation to land use, land use change and forestry (LULUCF) (p. 9).
– For the post-2020 period, the Commission wants to propose legislation
  - to create "reliable and transparent governance" and
  - to establish planning and reporting requirements related to climate and energy.
– The Commission wants to adapt EU law in a way which "puts energy efficiency first" (p. 9).

Policy Context

In 1997, the then European Community, its Member States and other industrial countries undertook, in the Kyoto Protocol, to reduce their GHG output between 2008 and 2012 (see cep**Compass**, S. 3 f.). At the 2009 Climate Conference in Copenhagen, at which no follow-up agreement to the Kyoto Protocol could be reached, some countries promised to implement non-binding GHG reduction measures ("Copenhagen Accord"; Communication COM(2010) 86, see cep**PolicyBrief**). At the climate conference in Cancun in 2010, the signatories to the UNFCCC agreed on the 2°C target. On 22 April 2016, 174 Parties to the Agreement, including the EU and its 28 Member States, signed the Paris Agreement in New York. Since then, fifteen non-European Parties have ratified the Paris Agreement.

Options for Influencing the Political Process

Directorates General: DG Energy (leading)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The actual impact of the Paris Agreement will depend on what GHG reduction targets (NDC) are set, particularly by the countries with the highest emissions, and the extent to which these targets are then in fact achieved. **The Paris Agreement is,** though, **a necessary step towards effective climate protection as it covers 98% of global GHG emissions.** National or regional efforts cannot achieve this. The required quorums for ratification must however be met. The Commission's call for the Agreement to be ratified as soon as possible is therefore appropriate.

The Commission should emphasise that the Paris Agreement does not establish a level playing field because national climate protection costs vary as a result of NDCs, which are established nationally. On the other hand, their introduction has made a major contribution to enabling a global climate change agreement to be achieved at all.

The regular stocktake of the GHG reductions which have been attained may help to ensure compliance with the Paris Agreement; compliance cannot however be guaranteed because the Paris Agreement does not provide for any sanctions in the event of failure to meet the GHG reduction targets which are set by the countries themselves. The long-term design of the Paris Agreement is at odds with the fact that national governments are only elected for a few years. There is therefore a risk that with any change of government, the willingness to comply with climate protection targets set by the previous government will vanish.

The pricing of carbon emissions, including those in third countries, called for by the Commission, **creates incentives to emit less CO_2.** It only gives rise to a level playing field for GHG reduction, however, where the price level for CO_2 is the same in all countries. This ultimately requires a global trading scheme for emissions rights which is not currently in sight.

The Commission's view, that its 2015 **proposals for EU legislation on carbon leakage** "strike the right balance", is therefore untenable; they **are neither balanced nor sufficient:** These proposals provide that, as from 2021, companies at risk of emigration will be granted a much smaller share of free allowances than before thus increasing their costs, irrespective of whether this takes place to the same degree in the rest of the world. This significantly exacerbates the risk of emigration and is thus harmful to EU economies.

The Commission's proposal to "ensure" that other economies comply with their self-imposed climate protection commitments may help to ensure that the Paris Agreement does in fact have a positive effect on the climate. The Commission should, however, indicate how it is going to achieve this, particularly since the commitments are voluntary.

Impact on Efficiency and Individual Freedom of Choice

Private investment in low-emission technologies helps in the achievement of climate targets. Since this is often cross-border investment, the planned Capital Markets Union may support such investment because it provides for the removal of barriers to the free movement of capital across borders thereby increasing the efficiency of capital investment.

Rules on GHG reduction at ICAO level will harmonise competition conditions between European and non-European airlines because, at the moment, emissions from flights between two EU airports are subject to allowances under the EU ETS. Airlines whose hubs are outside the EU can therefore offer cheaper prices for feeder flights from EU airports than airlines whose hubs are in the EU. Competition is thus distorted to the detriment of EU airlines where travellers have the option to use non-EU airports.

Rules on GHG reduction at IMO level will harmonise competition conditions between modes of transport because maritime transport is currently the only mode of transport which is not yet subject to any requirements on GHG emissions reduction.

In the medium term, the EU should lobby for a global emissions trading system that, as far as possible, covers all sectors which produce emissions. This will remove the risk of carbon leakage and ensure effective climate protection. In addition, the efficiency of climate protection will be increased where it is left up to the market players to find out which sectors allow for emissions reduction at the lowest cost.

The proposed amendment to EU law, whereby energy efficiency is to be given "priority", should be rejected because not all energy consumption is environmentally harmful. In addition, the pricing of CO_2, as advocated by the Commission, already creates incentives for the efficient use of energy. The Commission should at least indicate what additional contribution to climate protection will come from a new "priority".

Impact on Growth and Employment

Trade deregulation for environmentally sustainable goods and services between the EU and third countries reduces trade barriers. As a result, the costs of cross-border trade fall and the volume of trade increases. This **has a positive effect on growth and employment.** In principle, however, in order to increase the positive impact, the Commission should not only facilitate trade in environmentally sustainable goods and services but in all products.

Impact on Europe as a Business Location

If the EU at least managed to ensure that countries with high emission levels entered into effective self-imposed climate protection commitments and actually complied with them, this would have a positive impact on Europe as a business location because it would reduce the disadvantages currently existing in the EU due to high unilateral climate protection costs. If this does not occur, however, the EU should reduce its climate protection targets to avoid further detriment to Europe as a business location. The Commission fails to comment on this issue.

Legal Assessment

Legislative Competency

Unproblematic. The EU is empowered to issue environmental measures to protect the climate (Art. 192 TFEU). Art. 191 (1) TFEU makes it clear that EU environment policy also aims to promote international climate protection measures. The EU can base corresponding external action on Art. 216 TFEU (cf. also ECJ, Case 22/70 – AETR; settled case law). International EU treaties in this regard are negotiated by the Commission on the instructions of the Council (Art. 218 TFEU).

Subsidiarity

Unproblematic. Climate change is not only a cross-border problem but a global one which cannot be solved by individual countries.

Conclusion

The Paris Agreement is a necessary step towards effective climate protection as it covers 98% of global GHG emissions. Pricing carbon emissions, including those in third countries, creates incentives to emit less CO_2. The EU legislation on carbon leakage is neither "balanced" nor sufficient. The proposed amendment to EU law, whereby energy efficiency is to be given "priority", should be rejected because not all energy consumption is environmentally harmful. Trade deregulation for environmentally sustainable goods and services between the EU and third countries has a positive effect on growth and employment.