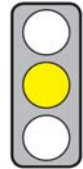


MAIN ISSUES

Objective of the Communication: The Commission takes stock of the UN Climate Conference in Copenhagen of December 2009 and outlines its further strategy.

Parties affected: The entire economy, in particular power supply companies and energy-intensive companies.



Pros: (1) A global approach is required in order to meet the challenges of climate change.

(2) The expansion of emissions trading fosters the efficiency of climate protection policy.

Cons: (1) The Commission fails to develop an EU strategy for climate action for the likely event that an international agreement is not reached.

(2) The Commission remains silent on the major question of whether or not it would adhere to a unilateral EU policy to tackle climate change; this would destroy jobs without protecting the climate.

(3) Surplus emission rights from the Kyoto Protocol should not expire.

CONTENT

Title

Communication COM(2010) 86 of 9 March 2010: **International climate policy post-Copenhagen:** Acting now to reinvigorate global action on climate change

Brief Summary

► Object and Aims

- The Commission aims to take stock of the results of the UN Climate Conference in Copenhagen in December 2009, which, according to the Commission, “fell well short of” the European ambitions (p. 2).
- It remains the “primary objective” of the EU to reach a legally binding follow-up agreement to the Kyoto Protocol, which will expire at the end of 2012, under the Framework Convention on Climate Change (UNFCCC) (p. 3).
- For that purpose the Commission wishes to set out the guidelines for a multi-level strategy “to help maintain the momentum of global efforts to tackle climate change” (p. 2).

► Taking stock of the UN Climate Conference in Copenhagen

- According to the Commission, the “main outcome” of the Copenhagen Climate Conference was the agreement among 29 Heads of State and Government on the “Copenhagen Accord” on 18 December 2009.
 - The Copenhagen Accord primarily anchors (p. 3):
 - the objective to limit global warming below 2°C above pre-industrial levels,
 - the basic rules for monitoring, reporting and verifying (MRV) climate actions by industrial and developing countries as well as
 - a commitment to providing “significant financing” for climate actions (see below).
 - The Commission criticises the fact that the Copenhagen Accord (p. 4):
 - “falls well short” of the EU’s objective to reach a “robust and effective legally binding” follow-up agreement to the Kyoto Protocol, which will expire at the end of 2012;
 - does not eliminate the shortcomings of the Kyoto Protocol (see below) and
 - was only “taken note” of in the Conclusions of the UN Climate Conference.
- According to the Commission, “by far the biggest achievement” (p. 8) of the Copenhagen Climate Conference was the fact that the major industrial and developing countries, together emitting more than 80% of worldwide greenhouse gases, were able to present by the end of January 2010 their emission reduction targets and actions for the period until 2020 [[SEC\(2010\) 261, p. 10 sqq.](#)].

► Funding climate protection and adaptation actions in developing countries

- Pursuant to the Copenhagen Accord, the EU and other industrial countries are funding climate protection and adaptation measures in developing countries
 - For the period 2010-2012 in the form of a “fast-start support”, with 30 billion USD (EU contribution: € 7,2 billion) and
 - until 2020 with USD 100 billion per year.

- According to the Commission, the means for that can be taken from the following sources:
 - international emissions trading: up to € 38 billion per year. Through the EU emissions trading system (EU ETS) developing countries receive financial flows both from the Clean Development Mechanism (CDM) and as of 2013 also from a part of the auction revenues made under EU emissions trading.
 - “international public funding”: € 22 to 50 billion per year. The EU should “contribute a fair share” (p. 11) and, for the period after 2012, make a “single, global EU offer” [cp. Communication on stepping up international climate finance COM(2009) 475, p. 4; see [CEP Policy Brief](#)].
 - International aviation and maritime transport could provide an important “source of innovative financing” (p. 11).

► **Shortcomings of the Kyoto Protocol**

According to the Intergovernmental Panel on Climate Change (IPCCC), between 1990 and 2020 25% to 40% of greenhouse gas emissions need to be reduced in order to keep global warming below 2°C. According to the Commission, the 2°C target of the Kyoto Protocol cannot be met for three reasons:

- The current pledges made by industrial countries to reduce their greenhouse gas emissions between 1990 and 2020 range from only 13.2% to a maximum of 17.8%.
- Emissions reductions since 1990 have resulted to a large extent from the industrial collapse in Eastern Europe in the 1990s. Russia and the Ukraine in particular will probably not fully use the amount of emissions assigned (AAU) to them by the Kyoto Protocol amount units (so-called “hot air”).
 - Should the Kyoto Protocol also be applied beyond 2012, the surplus emissions would be automatically allocated to the commitment period that follows.
 - The Commission is afraid that “headline cuts in emissions” would be undermined. According to the Commission’s calculation, by 2020 emissions will have fallen by only 6.4% instead of 13.2% (minimum pledge) and/or by 11.0% instead of 17.8% (maximum pledge) [cp. [CEP Graphic](#)].
- A cut in greenhouse gas emissions through land use, land-use change and forestry (LULUCF) can be offset against national emission targets, according to the Kyoto Protocol (Art. 3 (3)).
 - Should the Kyoto Protocol be applied beyond 2010, emissions reductions could be claimed without additional climate actions. According to the Commission, this brings “no real environmental benefit” (p. 6).
 - The Commission is afraid that the LULUCF accounting rules will weaken the reduction targets of industrial countries by an additional 9% for the period of 1990-2020. According to the Commission’s calculations, then there would even be a 2.6% (minimum pledge) increase in emissions, or emissions would drop by only 2% (maximum pledge) [cp. [CEP Graphic](#)].

► **UN Climate Conference in Cancun/Mexico (2010)**

- The EU’s major goal for the next Climate Conference to be held in Cancun in December 2010 is to adopt a “balanced set of concrete, action-oriented decisions” (p. 3) which:
 - integrate the guidelines from the Copenhagen Accord into UN negotiations;
 - make a formal decision on the emission reduction targets and climate actions announced by industrial and developing countries in January 2010;
 - eliminate gaps in the Kyoto Protocol and
 - tackle further issues, such as the development of an international emissions trading and the reduction of emissions from international aviation and maritime transport
- According to the Commission, concrete decisions in Cancun should form the basis for a “fully fledged legal framework” to be adopted during the climate summit in South Africa at the end of 2011 (p. 4).

► **International emissions trading (“carbon market”)**

- The Commission stresses that an international emissions market should be built by “linking compatible domestic cap-and-trade systems” (p. 12).
- The Commission aims to:
 - develop an OECD-wide emissions market by 2015 and
 - an “even broader market” by 2020, including the US, Japan and Australia.

► **“Roadmap 2050”**

- The Commission has announced that it intends to outline a “roadmap 2050” for the EU’s transition to a “low carbon economy by 2050”.
- The EU wishes to reduce its greenhouse gas emissions:
 - by 20% for the period 1990-2020;
 - by 30% for the period from 1990-2020 “if the conditions are right” (p. 2);
 - by 80%-90% for the period 1990-2050.
- The Commission wishes to analyse the milestones on the pathway to 2050, in particular by:
 - assessing “scenarios of the ambition level “ for 2030 and
 - developing strategies to cut emissions in the major emitting sectors (energy production and consumption and transport).
- Moreover, the Commission wishes to analyse the position of energy intensive industries which are under threat of being relocated outside the EU.

Changes Compared to the Status Quo

None

Statement on Subsidiarity

The Commission does not address the issue of subsidiarity.

Policy Context

In order to stabilise the greenhouse gas concentration in the atmosphere at a level which is not detrimental to the climate system, in 1997, as part of the Kyoto Protocol of the UN Climate Protection Agreement, the European Union and its Member States undertook to jointly reduce greenhouse gas emissions by 8% for the period 2008-2012 compared to 1990 levels. During the Copenhagen Climate Conference in December 2009 they failed to conclude a legally binding follow-up agreement to the Kyoto Protocol, which will expire at the end of 2012.

Options for Influencing the Political Process

Leading Directorate General:	DG Climate Action
Consultation procedure:	Not applicable

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Combating climate change is possible only at a global level if all countries emitting significant amounts of greenhouse gases participate. Therefore, the Commission's approach to reach a worldwide climate agreement is to be welcomed in general.

However, **negotiations in Copenhagen proved that the EU is not able to push through its concept of a climate protection agreement at an international level.** There is neither any international consensus of the necessity for a legally binding nature of such an agreement, nor for the ambitious EU targets. Following a realistic policy approach it is clear that this will not change within a few months. **Therefore, the Commission should have explained in its Communication its vision of a future EU climate policy against this background;** unfortunately, it did not do so.

At present, if the Kyoto Protocol were to be continued with the existing contract partners and if the existing mechanisms were maintained, this would be considered a success. In addition, the EU could further expand international cooperations by way of bilateral agreements and thus further internationalise climate policy.

At present, the EU should not intensify its unilateral efforts in climate policy, for **a solo run of the EU would only incur tremendous costs but would not generate any relevant benefits for the climate.** First, this is due to the fact that companies operating in business sectors that emit vast amounts of greenhouse gases and are exposed to global competition will increasingly relocate their production outside the EU where a less ambitious climate policy is pursued. Second, a substantial amount of the fossil fuels which remain unused in the EU are not saved globally but merely burnt somewhere else outside the EU. For a fall in the demand for fossil fuels in the EU tends to mean a fall in the price of fossil fuels on the world markets, which in turn creates a rise in demand for fossil fuels in other parts of the world. **The Commission ignores these related practical constraints and fails to address the question of whether or not it wishes to adhere to a unilateral climate policy.**

Before the Copenhagen climate negotiations it was already obvious that a worldwide climate agreement could not be reached without funding developing countries. [see [CEP Policy Brief](#) on stepping up international climate finance COM(2009) 475]. The level of the funding agreed in Copenhagen equals approximately the dimensions which had been previously projected by the EU. The Commission should have explained under which conditions it is now willing to support developing countries with funds; again, it failed to do just this.

Impact on Efficiency and Individual Freedom of Choice

The Commission's commitment to the expansion and the linking of domestic cap-and-trade systems is to be welcomed, since it would altogether reduce the worldwide costs of necessary adaptations.

However, the Commission should forgo its pledge that emissions from the Kyoto Protocol which remain unused by 2012 **expire.** The call for any retroactive amendments to the Kyoto Protocol weaken the credibility of a new agreement and thereby the acceptance of EU climate policy as a whole. In fact, the emissions concerned did remain unused, not due to climate protection efforts but due to a weakened economic activity. Yet for the climate it is irrelevant how emissions are saved. From the Commission's point of view, emission caps created by cyclical drops should also lead to expiring emissions – an approach which is to be rejected. Besides, the contract partners of the Kyoto Protocol are free to buy unused emissions and to shut them down.

Impact on Growth and Employment

The Commission expects – as costs for the climate protection – a 1.2% cut in the EU's GDP and a 0.4% fall in employment by 2020 should the climate agreement be concluded in its current form [cp. Commission's Working Document SEC(2009) 101, Part 1, p. 54]. These are to be seen alongside – unquantifiable – lower damages through climate change.

If the worldwide climate agreement fails and if the EU adheres to its unilateral climate policy, then losses in growth and employment will be much higher and, at the same time, create no climate benefit, because companies will migrate to countries with a less expensive climate policy

Impact on Europe as a Business Location

The more successfully other countries are incorporated into emissions reduction policies, the less negative the effects of the EU's commitment to reduce emission on the quality of Europe as a business location will be. However, as long as a worldwide climate agreement is unlikely, unilateral emission cuts are accompanied by unilateral cost increases, without any measurable benefits for the climate. This is detrimental to Europe as a business location.

Legal Assessment

Legislative Competence

The EU has the power to act in the field of environmental policy (Art. 192 TFEU) and therefore may base the respective actions on the back-up competence of Art. 352 TFEU (cp. ECJ, No. 22/70 – AETR; ruling case-law). Moreover, Art. 191 (1) TFEU defines that the EU environmental policy must contribute primarily to international climate actions. The related international treaties of the EU must be negotiated and concluded pursuant to the procedure laid down in Art. 218 TFEU.

Subsidiarity

Unproblematic.

Proportionality

Unproblematic.

Compatibility with EU Law

Currently not foreseeable.

Compatibility with German Law

Currently not foreseeable.

Alternative Policy Options

Surplus emissions from the Kyoto Protocol should not expire after 2012. The Commission should develop a strategy for an EU climate policy in the (likely) event that an international treaty will not be concluded in the near future.

Possible Future EU Action

See content.

Conclusion

The Copenhagen climate negotiations proved that the EU is not able to push through its vision of a climate agreement at international level. In its current Communication the Commission should have presented its concept of a future climate policy in the EU as it would look should a worldwide agreement fail to be concluded even in the medium-term; this it does not do. Neither does it address the key question of whether or not it will adhere to a unilateral climate policy, nor the conditions under which it is willing to support developing countries by funding their climate actions. It is to be welcomed that the Commission advocates emissions trading, since this increases the efficiency of climate policy. However, emissions from the Kyoto Protocol which remain unused by 2012 should not expire, as this would undermine the credibility of a new agreement. As long as a worldwide climate agreement remains unlikely, unilateral emission cuts will be accompanied by unilateral cost increases without any measurable climate protection effects.