

Between the USA and the South: strategic choices for European climate policy

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Abstract

This article discusses Europe's strategic choices in current climate policy. It argues that the future climate governance architecture must pass four tests: credibility, stability, flexibility, and inclusiveness. Drawing on this, I review the strategic choices for Europe, structured around three levels of analysis in political science: climate polity, that is, the larger institutional and legal context of policy making; climate policy, the instruments and targets that governments agree to implement; and climate politics, the actual negotiation process. At each level of analysis, I look at the interests and expectations of two non-European actors or actor groups: the USA, which accounts for over a third of all Northern greenhouse gas emissions, and the group of developing countries, which accounts for the vast majority of humankind. I argue that Europe must take clear principled positions on a number of key issues, in particular the need to have a strong multilateral framework as the sole and core institutional setting for climate policy and to accept the principle of equal per-capita emissions entitlements as the long-term normative bedrock of global climate governance. Both positions, however, will alienate the USA, and both will make it more difficult for the USA to rejoin the international community on the climate issue.

Keywords: European climate policy; US climate policy; Developing country climate policy; Post-2012 climate governance architecture; Kyoto Protocol

Introduction

Europe's position in climate policy is unique. Europe is one of the regions most concerned about climate change, yet it ranks among the highest per-capita carbon dioxide emitters in the world. Europe claims to speak as one actor on the global stage, but suffers from the need for tedious intra-European negotiation and coordination. Europe wishes to take the lead in global climate policy, but struggles with the consequences of this first major attempt at multilateral regime creation without the consent and support of the USA, as well as with its own difficulties in meeting the Kyoto targets. Europeans also like to see themselves as the more cooperative part of the industrialized North when it comes to multilateralism, support for international institutions and

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organizations, and collaboration with developing countries in fighting poverty: but at the same time, European contributions to bilateral and multilateral development assistance programmes have dwindled over the last decades.

Yet Europe's unique position makes it also an ideal bridge between conflicting interests in climate governance (and beyond), notably between the anti-Kyoto coalition in the North – now reduced to the USA and Australia – and the developing world with its plethora of interest constellations. This bridge-position of Europe between the rest of the North and the global South is at the centre of this article. What strategic choices does Europe have when it comes to climate governance in the 21st century? What kind of institutions and governance systems will guarantee a safe landing of the global climate system? What are the different expectations and interests from outside Europe that European policymakers are faced with?

Since the structure of any effective governance system must be tailored to the specific problem at hand,¹ I start with the premise that in climate policy, institution-building will have to convincingly deal with five characteristics:

1. Persistent uncertainties regarding causes, impacts, interlinkages, and nonlinearity;
2. Long, potentially irreversible cause-and-effect relationships and hence planning horizons that surpass the tenure, and even the lifetime, of most present decision-makers and stakeholders;
3. Complex interlinkages between different policy areas within and beyond climate policy;
4. Global interdependence and mutual substitutability of response options (for every global policy target, there is an unlimited number of possible combinations of local responses across nations and time frames with equal degrees of effectiveness);
5. Possibly devastating climate change impacts that current governance systems might not be fully prepared for.

This problem-structure is unprecedented in international relations. Transnational institutions with a time-horizon of centuries are rare – the Catholic Church, with its 2,000-year stable leadership succession and decision-making mechanisms is probably the only empirical example. Stratospheric ozone depletion shares some characteristics with the climate problem, but is less problematic given the availability of substitutes, the restricted use of harmful substances, and the relative confidence of the underlying science. Nuclear proliferation shares a few characteristics, such as global interdependence and catastrophic threats, but also displays much dissimilarity.

Given this complex problem-structure, I argue, as a further, derived premise, that the future climate governance architecture must pass four tests:

1. *Credibility*: Some governments will have to commit resources both domestically and through transnational transfer mechanisms towards solving this problem, based on the assumption that other governments will reciprocate when it is their turn (including governments to come in the future). The climate governance system must thus produce the necessary credibility for governments to believe in this reciprocity over time.
2. *Stability*: This requires that the future climate governance system must be stable enough to withstand political changes in participating countries and altered international interest coalitions.
3. *Flexibility*: Within this stable framework, future governments must have the ability, based on previously agreed procedures and principles, to change regime elements to respond to new

situations and new scientific findings, without harming the credibility and stability of the entire system.

4. *Inclusiveness*: The interdependence of current climate politics, as well as the complexity and uncertainty of the entire climate system that may change the overall interest constellation within a few years, require the governance system to be as inclusive as possible regarding the number of parties involved and the emissions represented by them.

One cross-cutting requirement of these four governance characteristics is the need to establish universally accepted basic norms and problem frames among states. Recent research in the field of international relations² has indicated that the political behaviour of states cannot be explained merely through simple calculations of material interest and power, as earlier theories in the framework of political realism had posited. Instead, states are guided in their behaviour by international norms that prescribe and prohibit certain types of behaviour and that create an international society that ‘socializes’ states – including new governments that have not participated in the original creation of norms, as will be the case for future rounds of climate policy in the decades to come. To be effective, norms must be relatively simple, they must be cross-culturally appealing, and they must be sufficiently clear and unambiguous. For example, the success of the world trade regime in liberalizing trade and phasing out most custom duties within half a century is partially attributed to the simplicity and general acceptability of its basic principles, notably reciprocity and the most-favoured-nation clause. A further example is the development of human rights norms in the course of the 20th century (Risse et al., 1999). In the climate regime, it appears that in particular the definition of Article 2 of the UN Framework Convention on Climate Change, as well as the basic allocation criteria for greenhouse gas emissions, will require the establishment of global norms that have a high degree of simplicity, acceptability, and unambiguity. A second cross-cutting requirement is the need to establish enforceable norms (though not necessarily a regime with strong sanctions). Enforceability means that governments must be able to assess both the normatively required and the factually implemented contribution of other nations to the solution of the problem, once significant costs are involved. This relates both to the clarity of the commitments and the availability of monitoring and reporting mechanisms.

Drawing on this discussion, I now review in detail the strategic choices for Europe in the global context.³ The text is structured around the three key levels of analysis in political science: climate *polity*, that is, the larger institutional and legal context of policy making; climate *policy*, the actual instruments and targets that governments agree to implement; and climate *politics*, the actual negotiation process. At each of these levels, I look at the interests and expectations of two non-European actors or actor groups:⁴ the USA, which accounts for over one-third of all Northern emissions, and the group of developing countries, which accounts for the vast majority of humankind. The actor-quality of the latter has been in doubt since the 1970s, yet has withstood all doomsayers through the continuous, although weakened, existence of the ‘Group of 77/China’, which now includes 132 developing nations. Internal differentiation processes have resulted in conflicting interests within the Group of 77 in many policy domains, such as the negotiations on the law of the sea or trade in agricultural products – and climate policy is yet another area that reveals different interests and strategies within the group. And yet, when larger issues of North–South confrontation are at stake, the Group of 77 still demonstrates remarkable unity (given the large number of countries and interests involved), which expresses itself in the essentially uniform treatment of developing countries in both the climate convention and its Kyoto Protocol. However,

given existing internal conflicts, I focus largely on the ‘mainstream’ of the major, most powerful, developing countries, while neglecting special groupings such as oil-producing nations or small island states.⁵

Climate polity

In the upcoming negotiations of the post-2012 climate regime, the European Union will have to develop a clear vision, not only about the most appropriate climate policies, such as short-term targets and timetables, but also the best climate *polity* – the institutional setting and governance system in which future policies are negotiated, monitored, implemented and internationally enforced. Europe, however, is faced with conflicting demands from different countries.

The US perspective

On the one hand, the USA, Europe’s main traditional partner, has formally rejected the Kyoto Protocol, which the Bush administration has determined to be ‘fatally flawed’.⁶ In addition, the US Senate, which has to ratify any international agreement, determined in 1997 in a unanimous decision sponsored by senators Byrd and Hagel with 65 bipartisan co-sponsors,⁷ that ‘the exemption for Developing Country Parties is inconsistent with the need for global action on climate change and is environmentally flawed’ and that ‘the proposals under negotiation ... could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs, or any combination thereof’.⁸ This perception in the USA has hardly changed. According to Senator Byrd, 5 years later, ‘the conditions outlined in that [Byrd–Hagel] resolution remain the guideposts for U.S. international climate change policy’.⁹ In 2003, Paula Dobriansky, the US Under-Secretary of State for Global Affairs, informed delegates at the conference of the parties to the climate convention of the US position that the Kyoto Protocol was ‘an unrealistic and ever-increasing regulatory straitjacket’.¹⁰ It is unlikely that the entry into force of the protocol on 16 February 2005 and its almost universal acceptance will encourage US participation, given the widespread resistance within the US government towards the protocol, including in the US Senate where a vote on the instrument of ratification would require a two-thirds majority.

The unilateral rejection of the Kyoto Protocol by the USA is no exception but fits into a larger pattern of unilateral policy making. The USA has hindered progress or rejected a number of widely accepted core projects of global governance, including the International Criminal Court, the international treaty on the prohibition of anti-personnel mines, and even the convention on the rights of the child and the convention on the elimination of all forms of discrimination against women. Also many environmental treaties function without the USA, including the biodiversity convention of 1992 and its Cartagena Protocol on safety in the trade of genetically modified organisms, the Basel agreement on the transboundary shipment of hazardous waste and its disposal, and the recent conventions on prior informed consent procedure for certain hazardous chemicals and on persistent organic pollutants.¹¹ The USA’s rejection of the Kyoto Protocol, despite it being almost universally accepted with ratifications by 141 countries, is hence merely one example of a larger pattern in US foreign policy.

Given this situation, a number of (mostly) US researchers have developed a stream of proposals of alternatives to the Kyoto architecture that could allow the USA to (re-)engage in international efforts. First, US actors have tried to encourage developing countries to turn away from the Kyoto basic

framework and to adopt some form of commitments, including voluntary targets of some kind, within or outside the Kyoto system. This strategy has so far only been successful with Argentina, which in 1998 adopted voluntary targets for greenhouse gas emissions (partially motivated by its attempt to join the OECD), and with Kazakhstan, which is not a traditional, mainstream developing country (see details in Egenhofer and Fujiwara, 2003). This US coaxing is often motivated by a popular US problem perception that is framed in aggregate emission data on country level, without consideration of population size or the level of development – such as the rhetoric that ‘China will surpass America in greenhouse gas emissions by 2015’.¹² Given the current US debate on ‘Kyoto’, however, it is doubtful whether the USA will ratify the protocol even in the unlikely event that some developing countries agree to quantified emissions limitation commitments.

Second, some US authors have suggested that the USA should conclude alternative, regional agreements with like-minded countries, for example in Latin America¹³ or with China and possibly other key developing countries (Stewart and Wiener, 2003). Daniel Bodansky, for instance, argues for an ‘institutional hedging strategy’ with the USA becoming the creator of ‘a more diversified, robust portfolio of international climate change policies in the long term’ (Bodansky, 2002a, p. 1). Such regional or small-party agreements could cover only the world’s largest greenhouse gas emitters and would allow for experimentation with alternative international climate regulatory frameworks. For some, such an approach would allow negotiation with only the more ‘moderate’ developing countries, while disabling ‘the hard-line developing countries [...] to prevent more moderate developing states from joining’ (Bodansky, 2002a, p. 6). At some point, however, these regional regimes under US leadership could again allow for reintegration of the world into a single global regime (Sugiyama, 2003; Bodansky, 2002a).

Third, and related to the second point, US authors are often less than enthusiastic about the role of the United Nations in climate governance, and see the UN system as part of the problem rather than a solution. Negotiations under the UN umbrella are seen as being too ‘large, unwieldy, ideologically laden’ to oversee the ‘simple tasks of the kind required [under the climate convention]’ (Bodansky, 2002a, 3) – an argument starkly in contrast with the Southern view that refuses to accept climate governance as a ‘simple’, technical issue and that supports the UN as a body where numbers count and Southern interests are respected.

Fourth, US authors have proposed joint action through issue-specific agreements (cf. the analysis in van Asselt et al., 2004). These could include targets for specific sectors, e.g. energy-efficiency standards for the global automobile industry that would need to bring together only the most important car-producing countries (Barrett, 2002, p. 6); specific policies, such as energy taxes; agreements and targets for cooperation in scientific research and technology development (Benedick, 2001; Aldy et al., 2003; Barrett, 2002; Tol, 2002), including on carbon sequestration¹⁴, renewables, geological storage and energy conservation; targets on technology transfer and capacity building; and specific measures to increase cooperation regarding adaptation.

Fifth, the USA is at the forefront of promoting public–private and private–private partnerships at the global level, notably in supporting the so-called ‘type-2 outcomes’ of the 2002 World Summit on Sustainable Development (as opposed to type-1 traditional intergovernmental agreements) (for an overview, see Hale and Mauzerall, 2004).

Not all of these proposals and approaches are exclusively linked to US authors or to the US administration,¹⁵ nor do they all deny a role for, or the continuing existence of, a multilateral framework. In theory, issue-specific or regional agreements could be reached outside the climate convention,

but also within its framework (for example in the form of new protocols), or even as part of an amended Kyoto Protocol. Many proposals also either suggest a role for the climate convention as facilitator of other approaches (Sugiyama, 2003) or envisage a return to this framework over time (e.g. Stewart and Wiener, 2003; Bodansky, 2002a, 2002b). Likewise, the US administration does not represent ‘all America’: many promising initiatives on climate policy are under way in the USA below the level of federal policy, including at state level¹⁶ or through private agreements (including the Chicago Climate Exchange, created in 2001). Yet, in sum, the US administration and large sections of its academic and policy communities expect Europe to be open to international agreements of a different kind, and implicitly to abandon the pursuance of the Kyoto accord and the ‘Kyoto approach’ that the Bush administration has determined (like quite a few other agreements) to be ‘flawed’.

The Southern perspective

Developing countries, on their part, continue to support the multilateral approach in climate policy as in other policy domains, and most Southern nations have ratified the Kyoto Protocol. Multilateralism allows the South to count on its numbers in diplomatic conferences and gain bargaining power from a uniform negotiation position; it allows for side-payments across negotiation clusters within a policy domain and across different policies; and it minimizes the risk of developing countries being coerced into bilateral agreements with powerful nations that might offer them suboptimal negotiation outcomes. For the many smaller and medium-sized developing countries, unity is strength, and multilateralism is its only guarantee. Since the emergence of the climate issue, the South has therefore sought to bring all negotiations under the UN framework and to frame global warming as an overarching political problem with implications far beyond mere environmental policy. Therefore, climate change was located directly under the UN General Assembly, which declared the issue in 1988 a ‘common concern of [hu]mankind’¹⁷ and convened the intergovernmental negotiation process two years later. Climate change was hence framed as a prime example of a problem of environment *and* development, and it remained in the negotiations outside the coordinating influence of the issue-specific UN Environment Programme.

Europe’s strategic choice

The European Union stands between conflicting expectations: joining the USA in its attempt to scuttle the multilateral process and to engage in sectoral or selective agreements between a few like-minded partners, or supporting the South in its wish to keep all institutional and policy development under the overall umbrella of the UN and of the UN climate agreements. Both strategies can coexist only to a limited extent: the European Union needs to make strategic choices.

On the one hand, sectoral, selective or non-legally-binding agreements bear the promise of quicker solutions, since negotiations are easier given the smaller number of actors and interests at the table and the non-binding nature of the outcome. The advantage of fewer parties has been emphasized by some strands of negotiation theory, which posit stronger commitments and faster progress the fewer (like-minded) parties participate in a given negotiation. Some cite the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer (e.g. Simpson, 2002, p. 72), which was negotiated in the mid-1980s within a small group of industrialized countries with only a few developing countries involved.

On the other hand, a selective agreement will produce, first, a solution that applies only to the few participating countries and fits the interests only of those countries, and it is not guaranteed that other countries will later join. Second, a quick success in negotiating sectoral agreements might run counter to long-term success, when important structural regime elements have not been sufficiently resolved. Third, smaller agreements with only a few ‘like-minded’ countries will decrease the opportunity for creating package deals, which will minimize the overall policy acceptance and effectiveness (Sugiyama, 2003; Tangen and Hasselknippe, 2003). The 1987 Montreal Protocol illustrates all three problems: Even though the protocol was relatively quickly negotiated within the OECD group, it was subsequently not accepted by the major developing countries. Two years after adoption of the protocol, only 10 had ratified the treaty, and of the 13 developing countries whose CFC consumption appeared to rise most sharply in 1987, only Mexico, Nigeria and Venezuela had joined (Kohler et al., 1987). In August 1989, a UN working group¹⁸ therefore warned that ‘for the Protocol to be fully effective in its purpose of controlling the emissions of CFCs and halons, all countries must become Parties’. Both China and India agreed to ratify the treaty only after substantial changes to its basic structure had been made.

In the ozone regime, the Southern contribution to the problem was small, yet threatened to grow. In climate governance, the Southern role is much larger from the outset. Regional agreements of a few like-minded players, in the hope that others will later follow, do not promise to bring the long-term trust and regime stability that is needed in the climate domain. An ‘institutional hedging strategy’ (Bodansky, 2002a) with different policies and regimes scattered around the globe might seem to be a novel and reasonable solution at first sight. In the long run, however, such a strategy would cause havoc to the larger goal of building a truly universal climate governance architecture. The post-2012 climate governance system requires institutional mechanisms that are trustworthy, stable, flexible, provide for cross-issue bargains, and include all nations. This can be offered only by a global framework agreement that sets out the constitutional rules of climate governance in the 21st century, and detailed agreements on sub-questions that are negotiated within the larger, stable, normative system that sustains the ‘grand bargain’ (see also Müller et al., 2003). Europe needs to play a major role in this centennial project.

Climate policy

A second key strategic decision for the European Union is the choice of the ‘right’ policy to be supported. To the extent that the Kyoto approach will continue to be followed, governments soon need to agree on new sets of targets and commitments for different countries after 2012. Key decisions to be taken refer to the kinds of commitments (degree of binding force), their time frame, and their content (degree and form of differentiation). Again, Europe is faced with varying demands from different parts of the world.

Type and time frame of commitments

The US perspective

In the USA, the Kyoto Protocol is largely perceived as asking too much too soon from its parties. US authors propose instead that targets should be lowered or abandoned in the short term (but may be stricter in the long run) (Benedick, 2001; Barrett, 2001, 2002); should have a variety of safety

valves, such as price caps in the case of emissions trading (Aldy et al., 2001; Bodansky, 2002a; Victor, 2001) or an ‘uncapped’ emissions trading (Bradford, 2002); should be replaced (or strongly complemented) by market-based mechanisms (Bradford, 2002), by transnationally harmonized environmental taxation (Cooper, 1998, 2001), or by sectoral, issue-specific agreements (as outlined above) (e.g., Barrett, 2001, 2002; Benedick, 2001); and should guarantee or at least provide strong incentives and mechanisms to ensure that developing countries will also be covered at some time, for example through voluntary measures (Aldy et al., 2001; Stewart and Wiener, 2003).

The official US Global Climate Change Initiative of 2002 does not directly relate to the Kyoto Protocol – which is rejected – but includes a unilateral target for reducing the greenhouse gas intensity of the US economy by 18% until 2012 (which comes close to business-as-usual trends in the USA and will further increase total US emissions). The Initiative also plans to encourage industry to voluntarily adopt non-binding emissions intensity targets and to provide additional support for research and technology development, including carbon sequestration and hydrogen fuels.

The Southern perspective

Developing countries, on their part, expect industrialized countries to act; that is, to send a clear signal regarding their seriousness by committing themselves to enforceable and demanding short-term (and long-term) targets. Such targets are rejected for reduction commitments of the South itself (see also Simpson, 2002, pp. 45 et seq.). India’s (then) Prime Minister, Atal Bihari Vajpayee, when opening the 2002 Conference of the Parties to the Climate Convention in New Delhi, listed all reasons usually given by Southern representatives when rejecting early targets for the South: First, that per capita greenhouse gas emissions are only a fraction of the world average and an order of magnitude below that of many developed countries; second, that ‘the ethos of democracy’ cannot support ‘any norm other than equal per capita rights to global environmental resources’; third, that Southern per-capita incomes are a small fraction of those in industrialized countries; fourth, that developing countries lack adequate resources to meet their basic human needs and that climate change mitigation will bring additional strain to already fragile economies of the South; and fifth, that the greenhouse gas intensity of Southern economies at purchasing power parity is low and in any case below that of industrialized countries (Vajpayee, 2002).

The Delhi Declaration on Climate Change and Sustainable Development, adopted at the same conference, has again emphasized that development and poverty eradication are the overriding priorities of the South, and that nations have common, but clearly also differentiated, responsibilities. In the words of Thomas Schelling, ‘there is no likelihood that China, India, Indonesia, Brazil or Nigeria will fully participate in any greenhouse-gas regime for the next few decades. They have done their best to make that point clear, and it serves no purpose to disbelieve them.’¹⁹ Instead, developing countries highlight the core North–South compromise of the Climate Convention, notably Article 4.3, which obliges the North to provide new and additional financial resources to meet the agreed full incremental costs of measures agreed between developing countries and the Global Environment Facility, and Article 4.7, which stipulates that the extent to which developing countries will effectively implement their commitments under the convention will depend on the effective implementation by industrialized countries of their commitments under the convention related to financial resources and the transfer of technology (Biermann, 1999, 2002). Finally, many developing countries point to their real achievements in combating greenhouse gas emissions through a variety of measures, including through fiscal reform, economic restructuring, or renewable energy programmes (Müller et al., 2003).

Europe's strategic choice

What approach should the European Union follow? As for the South, it is unlikely that developing countries will accept quantified commitments in the near future; in the long run, all will depend on the degree of North–South differentiation that is being negotiated (discussed below).

Regarding the US perspective that argues against short-term targets, it seems unlikely from a political science perspective that exclusively long-term targets will do much good. The key issue in building the global climate governance system is trust and credibility. Nations that incur costs today need to be able to assume that other nations will do the same tomorrow. Long-term targets that do not build on short-term targets derived from long-term visions will lack such credibility. It will be comparatively easy to find agreement on targets for 2030 or 2050 if no clear policy commitment for the present is involved. Yet it will be difficult for decision-makers to believe that other nations will in fact adhere to such long-term targets, and it will be impossible to verify. No regime exists today that commits nations to targets 50 years from now. The world trade regime, the international financial and economic order,²⁰ and all environmental regimes commit parties to obligations right here and now. None allows nations to defer compliance to a time when all the present decision-makers are retired and no longer accountable.

Safety valves may increase participation in the short run, but reduce incentives for countries to enact strong domestic measures in the present. The same is true for regimes with low enforcement procedures. Informal, essentially non-binding, pledge-and-review and blame-and-shame systems have worked in the early stages of environmental regimes, in the process of broadening coalitions or in other policy areas, such as human rights. In issue areas where sizeable governmental expenses and societal losses are at stake, governments usually rely on clear, enforceable obligations often even subjected to independent adjudication. This is the success story of phasing out border customs through the General Agreement on Tariffs and Trade, and it also stood at the centre of the global phase-out of ozone-depleting substances. Clear, enforceable, short-term obligations are hence what the European Union needs to support in climate governance, too.

Degree of commitments and form of differentiation

The agreement on the time frame and type of future agreements will eventually depend on the degree of commitments to be negotiated, and here in particular on the allocation of commitments to each negotiation partner. The differentiation of obligations between nations under the Kyoto Protocol is based on political criteria, such as the exemption of all members of the political ‘Group of 77’ from quantified reduction commitments, and within the OECD block on a mix of economic costs and negotiation power and skills. This *ad hoc* procedure was inevitable in order to find sufficient support in the international community for creating the climate regime in the first place. Yet it is doubtful whether this willingness-to-pay approach can continue after 2012. At some point, generally agreed *a priori* criteria for the definition of a country’s emissions reduction obligation will be required.

The US perspective

The USA and Australia seek to link future commitments to (a combination of) different principles, such as the principle of equal allocation of emissions rights to each unit of gross national product (which could be seen as a principle of need), the principle of protection of ‘acquired’ past emission

rights (grandfathering), or the principle of equal energy efficiency (carbon-intensity targets). Again, these principles correlate and would result, if implemented, in comparably smaller obligations for richer industrialized countries. The sum of these principles could also be seen as the principle of equal cost of environmental policy, since each nation will have to reduce emissions in proportion to its overall economic activity. A sizable reallocation of economic resources between countries is unlikely under the principles submitted by the USA, which are hence socially conservative.

The Southern perspective

By and large, actors from the South strive for the early acceptance of one, some, or all of the following principles:

1. The principle of equal entitlement of all human beings to equal emissions (allocation of emission rights to countries based on their current population)
2. The principle of historic responsibility (allocation of current emission rights in negative correlation to the amount of past emissions)
3. The principle of basic or survival emissions (relief of countries from reduction obligations below a certain flat rate basic emission)
4. The principle of economic acceptability within the context of poverty reduction (relief from reduction commitments if the level of development is below certain levels) (for more detail on Southern perspectives, see Gupta, 1997; Najam et al., 2003; Simpson, 2002).

While these principles are derived from different claims to overarching principles of justice and fairness, they correlate and would, if implemented, exempt developing countries from obligations largely in proportion to their economic development and wealth.

Underlying this conflict between different principles is the overall conceptualization of the global warming problem, especially whether it is being framed as a global resource (to be allocated) or as an environmental problem (to be resolved). The Southern conception comes down to the view that the Earth's greenhouse gas absorption capacity constitutes a global resource to be allotted to humankind based on need (that is, in favour of the poorest) or based on equal per-capita entitlements (essentially a human-rights claim): this was the approach taken by the South also regarding the allotment of deep seabed mining resources, Antarctica, the geostationary orbit (here linked to quasi-territorial claims), or even 'the moon and other celestial bodies' (as a 1970s treaty read). Under-utilizing one's own quota of resources would then justify a transnational wealth transfer of those who wish to over-utilize their share. The US conceptualization, on its part, instead views the global warming problem as a burden to be fairly shared by all nations in a way that allows all partners, rich and poor, to suffer to comparable degrees and as little as possible. Transnational wealth transfer is, in such a view, unjustified,²¹ and existing entitlements to wealth are protected and to be conserved.

Both sets of principles are mutually exclusive in their pure formula (though the US perspective could, of course, allow for exemptions for the poorest and most needy). However, all allocation principles can be combined in mixed formulas, and it is here that substantial debate has centred (for a discussion of options and further references, see Philibert and Pershing, 2001). A mixed formula – e.g. the allocation of emission entitlements based on weighted indicators for population and wealth, or population and grandfathering (such as contract-and-converge) – seems to be the only way to develop a sufficiently broad compromise for the upcoming years. This could be linked to triggering

thresholds, such as the relief from commitments of all developing countries with per-capita emissions below the global average (which would serve as a safety valve for developing countries to enter global agreements) (see Müller et al., 2003, p. 2-7). A mixed formula could also be negotiated within a transition trajectory that eventually leads to one final basic formula, such as equal per-capita emission allotments ('contract and converge').

Europe's strategic choice

The European Union, again, stands between the different positions, and it appears likely that the Union will have to take the lead to foster a global compromise. A number of arguments speak in favour of supporting, as a long-term goal, the principle of equal per-capita emissions; that is, accepting mixed formulas only as trajectory to a final allocation based on one principle. First, there is some precedent in the Montreal Protocol, which used per-capita emissions in its definition of privileged developing countries in a system that for the most part worked well and was widely accepted, including by the USA.²² Second, per-capita entitlements have an inherent appeal, due to their link to basic notions of human rights, which attracts populations in both the South and the North – the European philosopher Kant (1795/1983) affirmed 200 years ago the 'Recht des gemeinschaftlichen Besitzes der Oberfläche der Erde' [right of common ownership of the Earth's surface]. Third, only such a clear principle is likely to have the normative power to grant the climate governance system the institutional stability it needs in the decades and centuries to come – a complicated multifactor formula will not only be unlikely to bring stability, strength and clear expectations, but will also have to be continuously renegotiated, which will harm climate governance in the long run. Fourth and more practically, it seems unlikely that the developing world will ever sign up to any serious climate change agreement that includes the South but does not build on the final principle of equal per-capita entitlements. In the unequivocal words of the Indian Prime Minister at the 2002 Conference of the Parties to the Climate Convention, it does not seem that 'the ethos of democracy can support any norm other than equal per-capita rights to global environmental resources' (Vajpayee, 2002).

Many arguments have been brought forward against the principle of equal per-capita entitlements. None is convincing. The argument that equal per-capita entitlements will create perverse incentives for population growth (see, e.g. Smith et al., 1993, p. 72) overestimates the likely market value of emission rights and underestimates the many serious policy problems that come with population growth. Incentives for recipient Southern nations to push in international negotiations for ever harder global emission caps (which would increase the market value of their excess emission rights) could be reduced through the introduction of double-weighted majority voting as under the Montreal Protocol or the Global Environment Facility. It might well be that the income of developing countries from emissions trading will not be used for climate change mitigation, but for other purposes – but so it is with any marketable resource, such as land, water, or biological resources. Likewise, different developing countries will benefit differently from equal per-capita entitlements – richer countries such as South Africa will benefit significantly less, if at all – yet this also seems justified. Finally, although equal per-capita entitlements of countries ignore the question of unequal per-capita emissions within nations, which differ substantially in many (especially developing) countries, it is doubtful whether governments will ever allow international regimes to address domestic distributive issues. They would be technically difficult to handle in any case.

There remains one key problem with the principle of equal per-capita entitlements: once linked to emissions trading, the principle will create some, potentially significant, financial transfer from North

to South. This will be a major incentive for developing countries to join the mitigation regime, but also the key disincentive for the North to accept it. Mixed formulas for a transition period of several decades seem to be the only solution in order to limit North–South transfers to politically acceptable proportions. These could be accompanied by sizeable transaction fees for emissions trading that would be used exclusively to pay for environmental projects (in the South); this would direct some of the transferred resources to global mitigation efforts and still benefit Southern interests. Over time, efficiency gains in the North and economic expansion in the South are likely to result in some degree of converge of per-capita emissions of most nations. In the long run, only poor countries with limited economic activity will remain major net beneficiaries of global emissions trade, which could be compared to them renting out their space and sink capacity to the majority of the more industrialized countries. In sum, climate governance will be successful only if it builds on short-term quantified targets based on a mixed formula that strives towards one long-term principle – equal per-capita entitlements. Europe needs to play a leading role in achieving this goal.

Climate politics

These strategic choices will finally influence European climate politics. Again, the Union is faced with two major negotiating situations: the anti-Kyoto coalition of the USA and Australia, and the group of developing countries.

European climate politics vis-à-vis the USA

European climate politics *vis-à-vis* the USA will develop between two alternatives, conciliation or confrontation. A conciliation strategy would include the preparedness of the European Union to engage with the USA in accepting separate agreements outside the Kyoto framework or to abandon the Kyoto process (after 2012) altogether, and to join the USA in pressuring developing countries to accept a ‘meaningful participation’ in the climate regime.²³ The aim of a conciliation strategy would be to bring the USA eventually back into the multilateral process, even though probably largely on Washington’s terms. This conciliation strategy would entail a number of benefits for the European Union: it would improve transatlantic collaboration and help the climate process through enticing the world’s largest greenhouse gas emitter to increase mitigation efforts. On the other hand, bringing the USA back into the multilateral climate framework might require a softening of the overall environmental policy ambition, which could negate gains from increased US efforts. Increased pressure by the EU on the South to engage in ‘meaningful participation’ might increase the North–South rift in climate policy. Regarding the overall political framework, it might even be in the larger political interest of the EU to resist the temptation of assuaging the USA and instead to assert its own independent role on the global stage by making the Kyoto accord a widely visible success story even without US participation (for more detail, see Biermann and Sohn, 2004).

The latter would require a more confrontational stance and an assertive strategy for making Kyoto work and developing robust incentives for the USA to participate or at least not to obstruct the multilateral effort. One issue that might play an increasing role in the future is the growing gap in the cost of energy in European countries and in the USA, partly due to differences in environmental and energy taxation. Theoretically, such differences in energy taxation could be levelled out through the introduction of border tax adjustments for US products imported into

Europe. I have shown in previous papers (Biermann and Brohm, 2003, 2005) that such border tax adjustments are unlikely to be in violation of world trade law. To some extent, the USA itself has applied similar measures in support of its own taxation of ozone-depleting substances. Border tax adjustments could relate to certain benchmarks of energy content in a given product, and they could be restricted to particular energy-intensive industries or products. The US experience with border tax adjustments on ozone-depleting substances indicates that such schemes can indeed be administered and implemented. Nonetheless, turning energy price differentials between Europe and the USA into a political issue and countering it by levying border taxes on US products (and by rebating European exporters) will result in significant transatlantic conflicts that need to be considered by EU decision-makers.

European climate politics vis-à-vis developing countries

European climate politics *vis-à-vis* the developing world, on the other hand, is squarely linked to the overall context of North–South relations, including European external economic policies. In the long term, even massive attempts by industrialized countries to scale down greenhouse gas emissions will not suffice to mitigate climate change if developing countries do not join the effort at some point and reduce their overall emissions. The question, rather, is when, on what terms, and which developing countries will accept costly obligations.

A key condition of the South appears to be that some form of the principle of equal emissions per capita is accepted by relevant actors in the North. In addition, many developing countries link their preparedness to shoulder parts of the burden not only to the details of the commitments to be undertaken and the overall regime structure, but also to possible larger bargains within and outside the climate policy domain. Russian acceptance of the Kyoto Protocol has been interpreted by some observers as being linked to European support for Russia's accession to the World Trade Organization. Engaging developing countries could require similar grand bargains. For one, progress in the climate policy domain could be linked to concessions of the EU in WTO negotiations, for instance when it comes to trade in agricultural products, textiles, or patent rights. For the South, it is key that the North accepts climate change as part of the larger quest for sustainable development, not as a purely environmental problem (see also Najam et al., 2003, p. 228). Second, the climate convention itself links any mitigation efforts of developing countries with the reimbursement of their incremental costs by the North through new and additional resources. Again, the seriousness of the EU's intention to participate in global programmes for the transfer of climate-friendly technology or to support the replenishment of the Global Environment Facility will have a direct influence on the preparedness of the South to assume commitments to at least stabilize greenhouse gas emissions.

Similarly, the main concern of developing countries is not so much the mitigation of climate change – which they expect the North to do, given its higher responsibility and capability – but adaptation (see also Najam et al., 2003, p. 227). Climate science increasingly confirms that it is the South that will suffer most from climate change. Exposure to climate risks in the South may be higher in some regions, and vulnerability in many poorer countries is certainly high. Assistance in adapting to climate change is therefore one key demand that the South directs to the EU, including in the form of an adaptation protocol to the Climate Convention, as proposed by India. Europe needs to respond to this challenge. Preventing large-scale damages through climate change is not only a humanitarian responsibility; it is also politically required. Increasing global interdependence

will increase European involvement in the calamities befalling the South brought about by climate change impacts, ranging from floods and storms to drought and land degradation, all of which could result in economic crisis, migration, and political instability. Last, but not least, assisting developing countries in their adaptation efforts will be an important bargaining concession in the overall negotiation of the post-2012 climate regime.

And yet, while mitigation has been intensively studied in both its technical and political dimensions, the emerging need for global adaptation governance is not well understood. This applies both to incremental climate change and to sudden climate change impacts. What will be the best national and international political response to slowly shifting climate zones that will affect sectors as diverse as agriculture, forestry, tourism and human settlement? What political, social and legal criteria will determine the direction of adaptation efforts, since not each and every asset can be equally protected from climate change? How to deal with national, regional or even transcontinental migration due to climate change? The developing countries request the North to assist in finding solutions to these problems, and to shoulder a sizable part of the burden of increasing the adaptive capacity in the South. Europe will have to respond to this challenge.

Conclusion

In climate governance, as well as in other areas of global environmental governance, Europe stands in the middle between the USA and the South. It stands between the adherence to its traditional ally on the other side of the Atlantic – which appears to show decreasing respect for, and interest in, European positions and interests – and the new rising powers in the developing world, notably in Asia, with China, India and the ASEAN. In another paper (Biermann and Sohn, 2004), I have argued that Europe should take this strategic position more seriously and should consciously strive to build up stronger, more stable relationships with the emerging great powers of Asia. In climate governance, Europe is forced to mediate its own interest in the climate issue with a multitude of non-European interests and negotiating positions, but also to forge a coalition of nations that is able to secure a credible, stable, flexible and inclusive governance system for the decades and centuries to come. In this article, I have argued that Europe should take clear principled positions on a number of key issues; in particular the need to have a strong multilateral framework as the sole and core institutional setting for climate policy, and to accept the principle of equal per-capita emissions entitlements as the long-term normative bedrock of global climate governance. Both positions will alienate the USA, and both will make it more difficult for the USA to rejoin the international community on the climate issue.

Yet there might be ways to engage the USA without compromising on the core principles of multilateralism and equal entitlements. One way could be to link the European emissions trading system within the larger Kyoto context with actors and institutions in the USA (Bodansky, 2002a; Danish, 2004). This would require a number of design features, including similarly defined permits, compatible systems for tracking trades, comparably rigorous greenhouse gas emissions monitoring and reporting systems, and comparably stringent compliance systems (Danish, 2004). These requirements are tough but not unfeasible. The recent ‘linking directive’ of the EU acknowledges the option of linking trading schemes by providing for the possibility of linking the EU trading scheme with that of regional authorities in non-Kyoto countries.²⁴ In any event, a successful trading scheme in Europe that effectively brings down greenhouse gas emissions in Member States within

a reasonable cost range will remain the most powerful tool to convince actors in the USA, and possibly also in the developing world, that climate policy can work. This might be the largest contribution by Europe.

As expressed by a French delegate at the 2003 conference of the parties to the climate convention, the 21st century will be remembered either as the century of climate change suffering and collective irresponsibility or as the century of climate control and the ‘maturing of humanity’.²⁵ Many expect the European Union to lead in this daunting challenge. Future generations might consider the current construction of a climate governance architecture as one of the largest collective institution-building efforts that humankind has ever faced, and on a par with the San Francisco conference that saw the creation of the United Nations Organization. At present, however, it remains to be seen whether the EU will live up to this challenge. The president of the ninth conference of the parties, Miklós Persányi, compared the current institution-building process with the construction of the Milan cathedral, one of the hallmarks of European Gothic art. He did not mention, however, that building this cathedral took the time and energy of five generations of Milanese and no less than 119 years. It is hoped that European construction work on climate governance will require less time.

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Notes

- 1 On the debate of the problem-fit of institutions, see Young (2002).
- 2 This is largely linked to the theoretical strand of sociological institutionalism. See, among many others and with further references, March and Olsen (1998), Finnemore (1996), Hall and Taylor (1996), Barnett and Finnemore (1999), Biermann and Bauer (2005) and Finnemore and Sikkink (1998).
- 3 On climate policies pursued within Europe, see, e.g., Nilsson and Nilsson (2005).
- 4 The positions of non-European industrialized countries are reviewed in, e.g., Müller et al. (2003).
- 5 These smaller Southern country coalitions, all of which harbour views which are not necessarily in conflict with general G-77 positions but can rather be seen as additional, issue-specific special interests, are the Organization of Petroleum Exporting Countries, the Alliance of Small Island States, the Least Developed Countries, and the small Environmental Integrity Group (Mexico, South Korea and Switzerland).
- 6 Analysed in, for example, Andresen and Agrawala (2001).
- 7 The Byrd–Hagel Resolution, sponsored by Senator Robert Byrd (D-WV) and Senator Chuck Hagel (R-NE), passed by the Senate with a 95-0 vote, 105th Congress, 1st Session, S. Res. 98.
- 8 The Clinton administration signed the Kyoto Protocol on 12 November 1998, but did not submit it to the Senate for consideration and ratification. The Bush administration has declared its intention not to ratify.
- 9 Opening Statement of US Senator Chuck Hagel at the Joint Hearing of the Senate Foreign Relations Committee and the Environment and Public Works Committee, 24 July 2002. Available at http://epw.senate.gov/107th/Hagel_072402.htm.
- 10 Quoted in *Earth Negotiations Bulletin*, vol. 12, no. 231, 15 December 2003.
- 11 Of course, non-ratification does not always imply non-compliance. In particular regarding the USA, international agreements are at times not ratified by the US Senate, but are still largely complied with by the administration. This is not the case, however, for the Kyoto Protocol, which all branches of the current US government reject.
- 12 This date and comparison was given in the Byrd–Hagel Resolution (based on the assumption that the USA would implement the Kyoto Protocol). See Müller et al. (2003) for a useful discussion of the China–USA comparisons.
- 13 Bodansky (2002a, p. 6) suggests Colombia, Costa Rica and Mexico, traditionally close allies of the USA and, in the case of Mexico, even a member of NAFTA.

- 14 See the US-led Carbon Sequestration Leadership Forum, available at http://www.fe.doe.gov/programs/sequestration/cslf/cslf_charter.pdf.
- 15 For example, CICERO researchers also propose a coalition of most willing nations as ‘an interesting supplement to a global UN-based process [...] in particular if the Kyoto Protocol should fail’ (Torvanger et al., 2004, p. ii).
- 16 This includes the agreement of July 2003 of ten north-eastern US states to develop a regional strategy to mitigate carbon dioxide emissions from power plants, including through regional cap-and-trading programmes. The same US region has begun in 2001 to work with Canadian provinces on emission reduction programmes.
- 17 UN General Assembly Resolution 43/53 of 6 December 1988. See Biermann, (1996, 2002).
- 18 Informal Working Group of Experts on Financial Mechanisms for the Implementation of the Montreal Protocol (1989, para. 8).
- 19 Schelling (2002, p. 3), cited in Müller et al. (2003, p. 5-1).
- 20 One exception of long-term commitments that surpass the tenure of existing policymakers is the granting of long-term loans between governments. Experiences with this system, however, do not bode well for having it implemented in the climate regime.
- 21 For such a perspective that explicitly argues that ‘developing countries should be fully compensated for their emission abatement efforts, but should not receive any further transfers’, see C. Böhringer and C. Helm (2004, unpublished).
- 22 The 1987 Montreal Protocol provides special rights and lesser obligations for all developing countries with a per-capita annual consumption of less than 300 g of controlled substances. This threshold was chosen to be so high that almost no developing country ever crossed it: In 1995, only five developing countries – Kuwait, Lebanon, Slovenia, United Arab Emirates and Cyprus – had to comply with the commitments of industrialized countries, whereas 101 developing countries (including Romania and the successor states of Yugoslavia except Slovenia) fell under the purview of the special regulations.
- 23 It is too early to tell whether the recent visit of US President George W. Bush to Europe has resulted in a mutual reconciliation on climate policy. The joint action programme of Germany and the USA, agreed upon in February 2005 during Bush’s visit to Germany remains vague. While both countries reaffirm their ‘history of working together ... to ... mitigate greenhouse gas emissions through such mechanisms as the UN Framework Convention on Climate Change and its Delhi Declaration, the G-8 Action Plan on Science and Technology for Sustainable Development, and the World Summit on Sustainable Development Plan of Implementation’, the Kyoto Protocol is not mentioned. Instead, both governments commit to ‘broaden and reinforce their activities in three areas of common action to improve energy security and reduce pollution and greenhouse gas emissions, while supporting strong economic growth: First, joint activities to further develop and deploy cleaner, more efficient technologies to support sustainable development; second, cooperation in advancing climate science and developing effective national tools for policy action; third, joint action to raise the efficiency of the energy sector and address air pollution and greenhouse gas emissions in our own countries and around the world’ (see German Government, 2005).
- 24 Environment Daily, 7 April 2004. In order to reach consensus on the proposed directive, the European Parliament was forced to tone down the wording of this provision. Providing explicitly for a possibility to link the EU trading scheme with, for example, the New England/Eastern Canadian trading scheme could undermine the US domestic approach and would probably be an affront to the Bush administration.
- 25 Quoted in Earth Negotiations Bulletin, vol. 12, no. 231, 15 December 2003.

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