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HOW THE EU CAN HELP TO PREVENT AN UNPLEASANT DÉJÀ-VU IN
GLOBAL CLIMATE NEGOTIATIONS**

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POST-KYOTO RELOADED ? HOW THE EU CAN HELP TO PREVENT AN UNPLEASANT DÉJÀ-VU IN GLOBAL CLIMATE NEGOTIATIONS

When the 2007 conference of the parties (COP) to the United Nations Convention on Climate Change (UNFCCC) adopted the Bali Road Map, it initiated a two-track negotiation process towards a comprehensive post-2012 climate package with a clear deadline: at COP 15, scheduled for December 2009 in Copenhagen, deliberations had to be finalized. Judging from the pace of recent rounds of talks, serious concerns must be raised as to whether this deadline can still be met. To keep them from ending in an impasse, the negotiations urgently require greater and more effective political guidance. For the European Union, this offers a unique opportunity to regain profile as a global player on an issue that many citizens, within and beyond its borders, care about.

Progress at the June and August negotiation sessions in both the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) and the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) has been slow. Under the AWG-LCA track, parties first transformed a chair's proposal for a negotiating text of 50 pages into a 200-page compilation of positions - reflecting a variety of national and particular economic interests -, before trying to downsize it to a manageable format again - with limited success so far. Despite extensive consultations, the Kyoto Protocol Working Group was unable to produce a common text so that debates were largely conducted on the basis of individual proposals by the parties. What's more, the continued separation of the two negotiation tracks - advocated by many developing countries, against the will of the EU and other industrialized parties - as well as the uncertainty about the legal form of the final outcome have continuously delayed a shifting into negotiation mode, that stage in the process during which the purposeful search for compromises takes predominance over defending fixed national positions. Apparently, many parties believe that the familiar strategy of "backloading" will eventually yield the necessary results in Copenhagen. However, holding off decisions until the very end of the negotiation process and operating on the assumption that nothing is agreed until everything is, carries the risk of a serious delay and/or failure of the post-2012 negotiations.

To assess the dangers associated with this type of wait-and-see approach, it is instructive to take a look at what happened during and after the first major reform process in the history of the UN climate change regime. Similar to the Bali Road Map, the April 1995 Berlin Mandate tasked an ad hoc body with negotiating a reform of the UNFCCC regime until COP 3 in late 1997. The Ad Hoc Working Group on the Berlin Mandate (AGBM) held eight sessions, only to see negotiations end in a last-minute bargain among, essentially, the U.S., the EU and Japan at the Kyoto conference. As part of the deal, the Kyoto Protocol introduced not only purely politically set emissions reduction targets for developed countries, but also three flexible

mechanisms (Emissions Trading, Joint Implementation and the Clean Development Mechanism), little known and poorly understood at the time. Their enactment necessitated a painful aftermath, in the form of lengthy talks to prepare the entry into force of the Protocol.

Reports of the infamous Kyoto follow-up process actually read much like science fiction or a likely preview of what might happen after a potential failure in Copenhagen. At COP 4, a year after Kyoto, a new work programme, the Buenos Aires Plan of Action (BAPA), was adopted. Talks were scheduled to be concluded by COP 6 in 2000. Yet, with too much on the table and parties remaining for an extended period in the position-stating phase, almost all decisions were delayed until the final days of that conference. Hopes for a brilliant last-minute proposal by the Dutch COP presidency were disappointed. As a result, it took a COP 6bis and COP 7 in 2001, to reach agreement - four years after Kyoto. Another three and a half years were, for various reasons, including the withdrawal of the Bush administration from the process, spent to bring the Protocol into force.

In the current context, the global community cannot afford to waste this much time to enact a new agreement. The first commitment period of the Kyoto Protocol expires in 2012. A new treaty has to be in force by 2013 in order to respond to the climate scientists' central advice: assuring a peak of greenhouse gas emissions within the next 10-15 years. Steps should therefore be taken to avoid that Copenhagen initiates another post-Kyoto process, or, what's worse, becomes a dead end for the post-2012 negotiation process altogether. It is therefore high time to draw the lessons from the past and reconsider working methods and negotiating strategies.

The Bali Road Map, just like the Berlin Mandate or the BAPA, does not provide the necessary substantial steering to the talks. Such guidance needs to come from the world's leaders, many of whom have repeatedly and recently declared climate change a priority issue. Indeed, the list of global summits ending in lofty language regarding climate change is sheer endless: G-8 and G-20 summits, a host of UN summits on various topics, Global Economic Fora etc. It is now time to put words into deeds, and to take greater ownership of this negotiation process. On the one hand, clear messages are crucial on what to expect from the Copenhagen summit, identifying concrete and ambitious priorities on which the negotiations should focus so as to accelerate the process. It should be apparent, for instance, whether political leaders want to reach agreement on emissions reduction targets or rather on the reform of the regime's governance structures first, and what level of detail they expect the final outcome to take. If necessary, they should also pre-define which decisions could eventually be shifted to a clearly delimited, brief follow-up process. This would lift a lot of weight off the shoulders of the Danish hosts of COP 15, who are currently travelling the world in search of engagement and leadership. On the other hand, to boost the chances of reaching a meaningful agreement in the remaining time, political leaders ought to discard the logic of backloading through an early disclosure of their positions. Meetings within and outside the UN arena, but also important bilateral consultations still provide ample opportunities to give political impulses to the talks. A necessary condition would be that the heads of state - of the most important actors, i.e. the US, the EU, Japan, China and India - do not shy away from actually taking substantial decisions. This implies a break with the tendencies of recurring to vague declarations about emissions reductions in the long-term future and of shying away from the enormous responsibility that these leaders carry in this matter.

The current global financial and economic crisis cannot be an excuse for inaction or delay. The choice between economic recovery and strong climate engagements is in essence a false one: significant short-term stimuli can and should contribute to long-term climate objectives. While it has been recognized, inter alia by the U.S. and the EU, that both objectives are complementary, partial and symbolic discourses and gestures (e.g. subsidies for clean-car technology as a focal point) have to be followed by serious, broad engagements and a sense of clear direction.

To prevent the disagreeable *déjà-vu* of a "Post-Kyoto reloaded" scenario, the EU could contribute its share by providing the much-needed political guidance. One action in the short term, repeatedly requested by developing countries and civil society organizations, would be to concretize - and boost - its financial proposals. On the basis of a recent blueprint by the Commission, criticized for falling short of developing countries' needs for adaptation and mitigation purposes, the European Council has foreseen to deal with this issue in late

October. While some argue that it would be an incautious negotiation strategy to disclose the EU's full position at that stage, it could also be interpreted as a sign of strength and seriousness about climate change. It obviously requires greater political investment into both intra-EU and international climate negotiations from Europe's key leaders. In a similar vein, the EU should attempt to structure the further negotiation process to a larger extent. To this end, it needs to bring its desired minimal acceptable scenario for Copenhagen to the table so as to accelerate the emergence of a consensus on the procedures and general outcome of the process. Above all, it should more forcefully insist on the merger of the two negotiation tracks. A greater disclosure of what it has to offer will actually make stronger demands on the procedures more acceptable and render an acceleration of the talks more probable: if the EU says what it has in store for the developing world, the latter might be more inclined to agree to merging the two negotiation tracks and discussing the desired outcome. This, in turn, may incite other industrialized countries to follow the Union's example.

To overcome the current gridlock, somebody has to take the first step. When first taking office, the new U.S. president had promised to provide the necessary leadership, but has in the meantime come to realize the many constraints placed on his actions by the Senate. So it looks like it is up to the Europeans, one more time.



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