

Lessons in the rear-view mirror: The EU, Copenhagen and the Road to Paris

Introduction

From December 7 to 19, 2009, the Danish capital of Copenhagen hosted what would become a watershed environmental summit: the joint meeting of the Fifteenth Session of the United Nations Framework Convention on Climate Change Conference of the Parties (UNFCCC COP 15).

The christening of the meeting as “Hopenhagen” spoke to the expectations of substantial headway being achieved, but by its end, the summit crumbled into “Brokenhagen” (Bodansky 2010; Phillips 2009).

Disenchantment was readily expressed by European political leaders. Speaking of the Copenhagen Accord, the President of the European Commission at the time said “the text agreed today falls far short of our expectations” (Barroso 2009). The Presidency of the European Council during COP 15 said the Accord would “not solve the climate pressures, the climate threat to mankind” (Curtin 2010). The MEP who led the European Parliament’s delegation in the meeting said Copenhagen “demonstrated the highly unsatisfactory and inefficient method of UN conferences” (Vincenti 2009).

European dismay stood in contrast to the more optimistic outlook professed by the United States and China. President Obama said a “meaningful and unprecedented breakthrough” was reached at Copenhagen (The White House 2009). Qin Gang, spokesman for the Chinese Foreign Ministry, noted that “thanks to joint efforts of all parties, important and positive outcomes were achieved at the meeting” (Foreign Ministry of the PRC 2009).

These divergent statements serve as a stepping stone for the present analysis. Why was Copenhagen perceived as a resounding failure by the EU, and what causes could explain its collapse? Can those causes provide lessons for the EU in the realm of climate negotiations? And finally, could those lessons help the EU navigate the similarities and differences between Copenhagen and the upcoming UNFCCC COP21 summit in Paris?

The EU in International Climate Negotiations

The EU is a regional organization that possesses a legal personality distinct to its member states. This legal status grants the EU competence to enter into international agreements with binding effects on its member states, as the latter delegate their competences to the Union’s presiding institutions (Carlarne 2010).

With respect to climate change, the EU “shares” its competence with member states. Shared competency on this issue stems from the Treaty on the Functioning of the European Union’s articles 191 and 192 on environmental protection, with the Treaty of Lisbon explicitly referring to climate change without altering the former’s competency distribution (Vogler 2011).

In practice, shared competency means that both the EU and its member states are parties to the UNFCCC and are present in international climate negotiations (Oberthür & Dupont 2011). The EU's institutions adopt the following roles during negotiations.

- **The Environment Council (ENV):** The Environment Council is the entity responsible for determining the EU's negotiation position in international climate negotiations. Comprised by Environment Ministers representing current member states, ENV assigns a Working Party on International Environmental Issues, 'Climate Change formation', to develop the position. The position is then adopted in a 'Council conclusions' document.
- **The European Commission:** Given that it formulates climate policy within the EU and supervises its implementation, the Commission can gauge the EU's ability to meet international commitments. Thus, the Commission provides input to ENV discussions on the EU negotiation position. During negotiations, the Commission uses ENV conclusions to coordinate a cohesive strategy amongst member state delegates in daily meetings.
- **The European Parliament (EP):** The European Parliament holds a consultative role during climate negotiations. MEPs may attend the summit, but are barred from the daily coordination meetings and from speaking for the EU to the press or other delegates. Consent by the EP, however, is required for the co-decision mechanism to conclude international environmental agreements.
- **The European Council:** The Presidency of the European Council, which operates on a six-month rotating basis, is the original spokesperson and contact for the EU during negotiations. The current Presidency is commonly accompanied by the incoming Presidency and the Commission, forming what other delegates call the "Troika".

(van Schaik 2010; Oberthür & Dupont 2011)

COP15: The EU's negotiation position

In 2007, the EU announced it would reduce its greenhouse gas (GHG) emissions by 20 percent by the year 2020 (Bäckstrand & Elgström 2013). The following year, the Union unveiled an ambitious climate and energy package that created a '20/20/20' framework. In addition to the 20 percent emissions reduction, by 2020, the EU committed to cut energy consumption by 20 percent through energy efficiency and propel the share of renewable energies in the Union's energy consumption to 20 percent (European Commission 2008).

These announcements were accompanied by a conditional clause. The EU would push its mitigation targets up to 30 percent reductions below 1990 levels by 2020 if an international agreement where developed countries matched the Union's efforts and developing countries limited their emissions growth between 15 to 30 percent below "business as usual" was reached (European Commission 2009). Reciprocity was central to the EU's official negotiation position for Copenhagen.

The position for COP15 was adopted as part of a conscious attempt by the EU to maintain the mantle of climate leadership that it had secured both by itself and through others. The EU's actions are credited as being instrumental in crafting a regulations-based Kyoto Protocol and

‘saving’ it when the United States withdrew in 2001, all while exercising its unique ‘leadership by example’, push for specified targets accompanied by innovative policy instruments and norm-driven vision (Jordan et al. 2010; Schreurs & Tiberghien 2007).

Actions involving the Kyoto protocol and stringent internal mitigation targets reinforced the perception of the Union as a climate leader by negotiating partners. When delegates and observers were asked to identify a party possessing a “leading role in climate negotiations” during the COP 14 meeting, 63 percent of respondents named the EU, an answer almost twice as common as the U.S. and 16 percentage points above China (Parker et al. 2012).

COP 15’s results would turn that perception on its head. The Copenhagen Accord, while recognising a 2-degree Celsius global temperature warming ‘ceiling’ on emissions, outlining a \$100 billion fund for mitigation and adaptation propped by developed nations and introducing the bottom-up system of “pledge and review” contributions by parties, failed to include key components of the EU position – binding, top-down mitigation targets chief amongst these (Curtin 2010).

The same survey of delegates and observers conducted at COP 14 was repeated at COP 15, and its results were reversed. A majority of respondents named the US as a leader in climate negotiations followed by China, with the EU having lost 17 percentage points (Parker et al. 2012).

Establishing causes for failure

Experts who have tried to explain the Copenhagen failure have identified causes that can be roughly organized into three categories: causes ‘external’ to the EU, causes related to the structure of the EU and causes resulting from EU action and inner member state discord.

Externalities

Copenhagen represented a significant shift in the global dynamics of international climate negotiations. The “axis” of negotiations was redirected from an EU-US configuration to a developed-developing nation arrangement, which in reality should be interpreted as a US-China setup (Bodansky 2010). The fact that absolute EU emissions remained well below those of the two largest carbon emitters, China and the US, led observers to point out, as early as 2007, that the ‘titans’ were crucial to a “lasting climate solution” while the Union was made into a “medium-sized power in climate politics” (Bäckstrand & Elgström 2013).

The shift was not only observable in terms of comparative emissions. Radical change in the assertiveness of the US in climate negotiations was facilitated by President Obama and his prioritization of environmental policy in 2009. The negotiation of the Accord is evidence of this. As the Copenhagen meeting progressed, delegates arrived at what appeared to be an intractable stalemate over the differentiation of mitigation commitments – assigning

responsibility not only between developed and developing countries, but also among developing nations by emissions levels (Carlarne 2010).

In a last effort to save Copenhagen, heads of state departed from the norms of climate negotiations and held a series of meetings with little input from their delegates. At the eleventh hour, President Obama interrupted a meeting between the Chinese Premier Wen Jiabao, the Indian Prime Minister Manmohan Singh, the Brazilian President Luiz Inacio Lula da Silva and South African President Jacob Zuma. The US and the 'BASIC' countries emerged with a non-binding political deal that would serve as the basis for the Accord (Haug & Berkhout 2010).

Sorely missing during the brokering of the deal was the EU. A rumor describing how President Barroso of the Commission learned of the 'breakthrough' via text message was spread (Curtin 2010). Was the EU not invited to the critical meeting due to the 'last-minute' flurry that resulted in the deal? In other words, was the EU a passive bystander in the rearrangement of global climate dynamics? Or had the structural deficiencies of the Union that had beset it in previous climate negotiations prevented swift involvement?

Institutional Structure

The sidelining of the EU at crucial junctures in Copenhagen could be explained by the effects of its institutional arrangement during negotiations. The following problems have been identified by academics and while the first two have been partly addressed by the EU, the last one remains prevalent.

- **Ministry disaggregation** – The preeminent role of Environment Ministers in crafting an EU negotiation position spells out difficulty when coordinating the implementation of an international agreement with other ministries. Climate change increasingly breaches the boundaries of the environmental, inviting economic, trade, diplomatic and energy considerations. The fact that other ministries played a small role in reaching a common position limited the formulation of a pragmatic negotiation mandate. The EU tried to strengthen coordination by increasing the role of the Economic and Financial Affairs Council on matters related to climate financing, establishing the Green Diplomacy Network and creating the Directorate General Climate Action (DG CLIMA) within the Commission.
- **A rotating Presidency** – Changing the Presidency every six-months has been criticized for sapping continuity in the long-term negotiation strategy of the Union. More worryingly, the system has been attributed with causing a loss of 'institutional memory', as teams of negotiators appointed by the current Presidency face a steep learning curve only to be rotated out in a short period of time. The EU tried to redress these issues by reorganizing the ENV Working Party and assigning permanent 'issue leaders' and 'lead negotiators' (DG CLIMA for the latter), which the Presidency usually consults. Additionally, every 18 months the three Presidencies scheduled for office meet to draft a common agenda for their respective tenures.

- **Member states and the ‘bunker’** – Needing to coordinate a common position amongst member states in daily meetings within a summit presents the EU with flexibility and speed constraints. In addition to spending valuable time discussing a shared EU position any time other delegates offer proposals, the rigidity of ENV conclusions adds a further bind on the Union’s ability to adapt to ad hoc developments. The ‘bunker’ was singled out by Connie Hedegaard, the Danish politician who presided over COP 15, when discussing the height of negotiations: “Those last hours in Copenhagen, China, India, Japan, Russia, the US...each spoke with one voice, while Europe spoke with many different voices”.

(Afionis 2011)

Deliberate action and inner discord

A different group of experts maintain that direct actions by the EU alienated negotiation partners, resulting in the Union’s marginalization. Furthermore, the failure of member states to speak in ‘one voice’ may have been due more to substance rather than structure.

First, observers note that the premature release of an ambitious and inflexible negotiation position unintentionally limited the room for the EU to manoeuvre. The EU clearly defined its ideal of a Copenhagen agreement in an attempt to project leadership, which reduced the need for other delegates to engage with it and more importantly, hinted that the Union would agree to any deal to avoid total humiliation (Curtin 2010).

Compounded with the problem of the negotiation position was the ambition of the EU’s reciprocity principle, a strategy that misread the domestic political realities of the US and China. Despite President Obama’s environmental championing, he still faced scepticism to implementing climate policy in line with an international agreement in Congress, a fact that restrained the motivation for the US to align with the EU (Groen & Niemann 2013). China’s prioritization of reducing poverty and sustaining economic development, appealing to other BASIC nations, stressed voluntary commitments and consistently rejected specific mitigation targets like those preferred by the EU (Parker et al. 2012).

Second, the EU failure to invest in meaningful coalitions with other international partners and regional organizations led to its isolation at vital moments of the negotiations. Banking on its normative imperative, the EU decided to “go it alone” and did not build alliances with developing countries in the months prior to COP15, a mistake that the Union realized too late when it tried to approach the Association of Small Island States during the meeting (Backstrand & Elgström 2013).

Finally, the cacophony of the EU that Hedegaard referred to was as rooted in the Union’s negotiation structure as in substantial political disagreements between member states. Eastern European states argued with the UK and the Scandinavians over the ‘carry-through’ of emissions reductions into the second period of Kyoto; with the UK, Germany, France and the Scandinavians over the financing of climate mitigation and adaptation for developing nations;

and, most notably, over the 30 percent reciprocal mitigation position itself - Poland and Italy leading the resistance on the latter dispute (Groen & Niemann 2013).

Five key lessons from Copenhagen

After surveying the literature that identifies varying, but often interplaying causes of the EU's failure at Copenhagen, the following lessons emerge.

1. The EU now operates in a global climate regime with the US and China at its centre. The Union will have to carve its positioning in the regime with an eye towards the geopolitical realities these two nations offer in the lead-up to future negotiations.
2. The EU must be aware of the structural hurdles its unique institutional arrangement produces during negotiations. The Union should continue to streamline its organization but keep in mind the concerns of member states over further delegated authority.
3. The EU must be conscious of the involuntary consequences an ambitious but inflexible negotiation position entails. In communicating a strong commitment to its ideal agreement scenario while portraying itself as a rigid actor, the Union risks alienating negotiating partners. The Union should therefore pursue its ambition to the extent that it still possesses room to manoeuvre.
4. The EU cannot afford to "go it alone", as failing to build coalitions for international meetings will isolate it during negotiations. The Union should invest significant resources in reaching out to partners both prior and during climate negotiations.
5. Portraying a coherent EU through ENV conclusions and coordination meetings may hide latent disagreements between member states. The Union should endeavour to harmonize member state positions in order to ease the conservation of a common mandate throughout negotiations.

A road map for Paris?

Applying these lessons in the context of some differences and similarities between Copenhagen and COP21 in Paris may help the EU to achieve a successful summit.

Momentum in the US and China points to a more climate-conscious political environment than during Copenhagen. The world's two largest emitters have released moderate intended nationally determined contributions (INDCs) complemented by significant policy mechanisms. (Climate Action Tracker 2015; Goldenberg 2015).

However, one of the key lessons calls for the EU to be sensitive to the political realities inherent to each nation. Since the announcement of the Clean Power Plan, Republican legislators are preparing to adopt a defiant stance in Congress to the Plan itself and a climate agreement being reached in Paris (Restuccia 2015), recalling the domestic skepticism that shackled Obama's

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ambitions in Copenhagen. The Union must at least recognize this constraint when conducting negotiations.

That recognition may help ground the strong, normative negotiation position of the EU for Paris. In March 2015, the EU formalized its own INDC, which aims to reduce GHG emissions by 40 percent below 1990 levels by 2030, making it one of the more aggressive pledges in COP21 (Climate Action Tracker 2015). The DG CLIMA Commissioner, when commenting on the September 2015 ENV conclusions outlining the negotiation position of the EU, said the Union would not settle for anything other than a legally-binding agreement in which parties' emissions targets are reviewed every five years (Vaughan 2015).

The EU has sent firm signals to other parties, a strategy that was similar to the one adopted in Copenhagen. The lesson that calls on the Union to be more flexible while promoting its vision may determine the degree to which it is able to engage with other actors in Paris, as some observers have noted that its negotiation position, especially the binding of mitigation targets, may yet again clash with the interests of the US (Oroschakoff 2015).

Finally, the common ENV conclusions that DG CLIMA refers to have not been spared tough discussions amongst member states. An EU summit in October 2014 over the Union's proposed INDC partly reconciled inner discord over mitigation targets, in contrast to the bitter disagreements running into Copenhagen. The October summit appeased coal-dependent Poland, who had spearheaded the COP15 resistance, by including a 'flexibility clause' for the European Council to revise its mitigation targets following Paris and promising compensation for a transition to cleaner energy (Mathieu 2014; Gotev 2014).

Nonetheless, one of the aforementioned lessons begs for scrutiny of the EU's common position. A draft text on the September 2015 ENV conclusions shared by Carbon Pulse includes a section that names 'Outstanding Issues', most notably "a possible increase in 2030 mitigation ambition by the EU and its member states...and climate financing" (European Council 2015). Member state coordination on these issues will be essential if the Union is to act in a coherent fashion in Paris.

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