

**The Global Climate Change Regime and the  
Post-2012 Agreement: the Potential of the  
European Union to be a Leader**

**FINAL**

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## **Abstract**

The self-declared leader in international environmental negotiations, the European Union (EU) has declared that it is not only possible but imperative that a new climate change agreement be negotiated and ratified by 2012. The EU is a relatively new actor on the international stage. However, it has evolved its position as a dominant world actor in a relatively short time, and one of the places where this evolution is most clear is the negotiations around climate change. The question now is what role the EU will play in the negotiations surrounding the post-2012 agreement. Will it be able to retain the leadership role it has carved out, or will it again take a back seat as the international community looks towards the US for leadership?



## **Introduction**

### ***Can the European Union be a Leader in the Climate Change Regime?***

#### ***Introduction***

International environmental negotiations are complicated and often take years to reach a conclusion. Like other international treaty negotiations, these negotiations are conducted among sovereign states that are looking to negotiate the greatest benefit for themselves. The negotiations on the Law of the Sea took over two decades and the negotiations around the ozone regime took over a decade and are ongoing as new science becomes available.<sup>1</sup> In comparison with these treaties, the climate change regime has been on schedule if not moving more quickly than similar treaties. While negotiations have been contentious and talks have stalled more than once, in the past two decades there have been two international agreements reached on climate change. However, these

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<sup>1</sup> Hunter, David, James Salzman, Durwood Zaelke. *International Environmental Law and Policy*. Third Edition. Foundation Press: New York, 2007.

agreements have not had the desired effect of slowing or halting the impacts of climate change. The time frame for reaching a new agreement is significantly shorter than what has been allotted in previous negotiations. The framework for an agreement post-2012 only provides for four years for negotiations, signing, and ratification. This short time frame has many scholars and policy-makers shaking their heads in disbelief; if it took almost a decade to negotiate and ratify the Kyoto Protocol, how will its successor agreement be negotiated in less than half the time?

The self-declared leader in international environmental negotiations, the European Union (EU) has declared that it is not only possible, but imperative that a new climate change agreement be negotiated and ratified by 2012. The EU is a relatively new actor on the international stage. However, it has evolved its position as a dominant world actor in a relatively short time, and one of the places where this evolution is most clear is the negotiations around climate change. The EU has been the dominant force in international climate change negotiations since the United States withdrew from the Kyoto Protocol in 2001. How the EU has evolved into this role is an interesting history of fifteen disparate states that often had difficulty negotiating a common position and even at times seemed to be working against one another. However, as negotiations progressed these states came together to negotiate as one unified actor, resulting in the ratification of the Kyoto Protocol, an impressive feat of international negotiations. Even people who view the Kyoto Protocol as ineffective acknowledge that without it climate change negotiations today would be much farther behind.

The question now is what role the EU will play in the negotiations surrounding the post-2012 agreement. Will they be able to retain the leadership role they have carved out for themselves, or will they once again take a back seat as the international community looks towards the US for leadership? By analyzing the role the EU played in the ratification of the Kyoto Protocol, it becomes possible to look at current climate change negotiations to determine if the EU will be able to maintain its leadership role, and whether it will be effective in this role. Analyzing the negotiations around the Kyoto Protocol exposes where the EU previously failed in its leadership potential, but also where it was successful. Comparing the situations around the Kyoto negotiations and now allows for an analysis of what has changed in the leadership potential of the EU. I

will argue that their leadership potential has increased since the end of the Kyoto negotiations. They are now in a better situation to utilize their leadership in the current negotiations around the post-2012 agreement, than they were through most of the Kyoto Protocol negotiations because it has increased its cohesiveness as an international actor, it has improved its negotiating ability, and it has shown through its actions that it is possible to address climate change.

Many scholars, especially in the United States, tend to focus heavily on the role the US will play in the current climate change negotiations. They narrow their focus to the argument that no agreement will be effective without the participation and ratification of the US, in a classic international relations assumption that hegemonic great powers are necessary to bring an anarchic state system into line. Indeed, an analysis of past negotiations surrounding the Kyoto Protocol show that the US has been one of the main causes of the weakness of the Kyoto Protocol. The unilateral withdrawal of the US from climate change negotiations in 2001 reflected how rapidly the US could withdraw from international negotiations. While the position of President George W. Bush was that the Kyoto Protocol had no chance of passing through the US Congress may have been correct, his decision to withdraw from negotiations without previously consulting other negotiating parties left a sense of anger and distrust in other international actors. Additionally, the final Kyoto agreement that entered into force was intentionally negotiated to appeal to eventual ratification by the US. It can be argued that this resulted in a weaker Kyoto Protocol than would have emerged if negotiations with all parties had continued.

However, the exit from negotiations by the US left a leadership void and the EU became the dominant negotiator. Prior to the withdrawal of the US from negotiations, the EU had been having difficulty expressing its negotiating position. With the withdrawal of the US, the EU was driven to internal cooperation and came back to the negotiations a stronger and more unified international actor. This strength is what allowed the EU to push forward with negotiations, although with the absence of the US and its significant greenhouse gas emissions the EU was placed in a relatively weak negotiating position.

The EU has only recently become an international actor. It is thus worthwhile to establish what laws and behaviors establish their ability to function as a unified actor in international negotiations, as I shall explain in the next section.

*The European Union as an International Actor*

Is the European Union a legitimate international actor? The EU sometimes acts as a unified actor and at other times functions as independent member states, leading to the question of when the EU is an actor. There is also the dilemma of how and why 28 sovereign states would choose to act in a unified manner on issues. The ultimate conclusion from the literature is that member states do not always choose to act in a unified manner, but in policy areas where their objectives are similar there is a greater chance of the EU acting as a cohesive international actor. Traditional international relations theory is based on realism, which focuses solely on the actions of states. The EU poses some difficulties for analysis, as it sometimes functions as a state, but fundamentally it is not a state. The realist's view of the EU as an actor is that the EU is a collection of states, which sometimes act together to form policies and sometimes act independently.<sup>2</sup> The realists view this behavior as the normal action and interaction of states, rather than as an evolving supranational structure. They view the EU as a tool that member states use to increase their relative power in international relations. At other times the EU is treated as just another intergovernmental organization (IGO); however this is also incorrect because the EU has legal status and other factors that make it more than an IGO.<sup>3</sup> Recent analysis of the EU as an international actor views the EU as an "evolving entity" that acts differently on different issues, but is evolving into a political entity.<sup>4</sup> Within the confines of this paper the EU is viewed as an evolving entity.

In their article, "United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court (ICC) and the Kyoto Protocol" Martijn L.P. Groenleer and Louise G. Van Schaik argue that the EU has only really functioned as an actor on the global stage in the cases of the International Criminal Court (ICC) and the

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<sup>2</sup> Jupille, Joseph and Caporaso, James A. "States, Agency, and Rules: The European Union in Global Environmental Politics" Chapter 11 within Rhodes, C (ed.) *The European Union in the World Community*. Boulder, CO: Lynne Rinner, 1998.

<sup>3</sup> Vogler, John. "In the Absences of the Hegemon: EU Actorness and the Global Climate Change Regime." National Europe Centre. Paper No. 20. Presented at conference on *The European Union in International Affairs*. National Europe Centre, Australian National University, July 3-4, 2002.

<sup>4</sup> Ibid. pg. 214

United Nations Framework Convention on Climate Change (UNFCCC) negotiations around the Kyoto Protocol.<sup>5</sup> Groenleer and Van Schaik analyze the ability of the EU to function as an actor by using a method developed by Joseph Jupille and James A. Caporaso, which describes an international actor's behavior in terms of cohesion, authority, autonomy, and recognition.<sup>6</sup> They then analyze why the EU functions as an actor on the international stage by looking at its role as an actor through institutional perspectives, including the rational choice perspective and the sociological perspective.

Groenleer and Van Schaik define the EU's actor ability as its ability to "function actively and deliberately in relation to other actors in the international system."<sup>7</sup> They use cohesion, authority, autonomy, and recognition to define why the EU can act as an international actor. Then they use their institutional perspectives to analyze why the EU acts as an international actor in some cases and does not act as an international actor in other cases. The rational choice perspective regards institutions as "the formal rules, legal competences and decision-making procedures structuring the policy-making process."<sup>8</sup> Using this perspective the EU's voting system of a Qualified Majority Vote (QMV) creates cohesion among member states.<sup>9</sup> This cohesion is important because not reaching a common position could damage the reputation of the EU, and could hinder smaller member states ability effectively to convey their position. Recognition by other international actors is important, as it forces actors to negotiate only with the EU and not with individual member states. The sociological institutionalist perspective suggests that "actors develop shared knowledge and belief systems that structure their action."<sup>10</sup> This perspective is based on the idea that the EU member states' preferences will begin to converge due to social interaction. As their preferences converge, the EU will begin to function more as an international actor rather than as individual member states.

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<sup>5</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G. "United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol" *JCMS* Volume 45. Number 5. pg. 969-998 2007 also and earlier version Groenleer, Martijn L.P. and Van Schaik, Louise G. "The EU as an 'Intergovernmental' Actor in Foreign Affairs: Case Studies of the International Criminal Court and the Kyoto Protocol" *CEPS (Centre for European Policy Studies* working paper. No. 228. August 2005.

<sup>6</sup> Jupille, Joseph and Caporaso, James A.

<sup>7</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G. pg. 3

<sup>8</sup> *Ibid.* pg. 4

<sup>9</sup> The Maastricht Treaty: Treaty on European Union. Maastricht. February 7, 1992. Article J.3. No. 2.

<sup>10</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G. pg. 5

Groenleer and Van Schaik determine that member states began to coordinate based on their initial preferences. This coordination led to policies that through institutionalization have become Europeanized. The member states' initial preferences on the climate change and international criminal justice were similar and there were formal rules, legal competences, and decision-making procedures that allowed the member states to coordinate in these areas. However, Groenleer and Van Schaik conclude that the factors which ultimately led to the EU functioning as a unified international actor in these cases were the processes of social interaction that resulted in similar preferences being formed. Thus, while the EU does not always function as an international actor, it is clear that in the cases of the ICC and the UNFCCC the EU has functioned as an international actor.

In the case of Kyoto the EU acted cohesively in reaction to the United States withdrawal from the Protocol. Article 174 of the EC Treaty gave the EU the authority to negotiate in the UNFCCC process. Furthermore, the EU's decision to have the Presidency of the EU, as part of the Troika negotiate on behalf of the member states led to greater autonomy.<sup>11</sup> Finally, the United Nations recognized the European Community as a member, with voice and vote in the UNFCCC, although the EU is not recognized as a full member of the UN. The EU has continued to act as an international actor in climate change negotiations and there is every indication that they will continue to act as a unified actor in future negotiations regarding climate change.

#### *The European Union as an Effective International Actor*

While scholars agree that the EU does function as an international actor in some cases, mostly having to do with international environmental governance, the question becomes, how effective is the EU as an international actor? Joseph Jupille, in his article "The European Union and International Outcomes,"<sup>12</sup> argues that there are distinct situations where the EU has changed international outcomes. He argues that the EU voting as a whole rather than as independent member states can affect the outcomes of international negotiations. "The EU affects international outcomes by concentrating the

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<sup>11</sup> The term troika, legally speaking only exists in the Common Foreign and Security Policy. The troika consists of the current EU Presidency, the EU Commission, and the incoming EU Presidency. Groenleer, Martijn L.P. and Van Schaik, Louise G.

<sup>12</sup> Jupille, Joseph. "The European Union and International Outcomes" *International Organization*. Vol. 53, No. 2, (Spring, 1999), pg. 409-425.

weight of its fifteen member states on a single substantive position (the EU ‘common position’) and rendering that position critical to any internationally negotiated agreement.”<sup>13</sup> He analyzes how the EU common position has changed outcomes by looking at a spatial analysis of actors’ preferences and amendment rules. He then extrapolates this analysis into two case studies. The first study examines the case of the methyl bromide negotiations at Copenhagen in 1992 and Vienna in 1995. The second case examines the negotiations around hazardous waste trade in Piriapolis in 1992 and Geneva in 1994. He looks at the differences in voting between each of the meetings of the parties for each case. The outcomes in 1995 and 1994 respectively, were influenced by the voting changes that took place in the EU due to the Maastricht Treaty,<sup>14</sup> which came into force in 1993<sup>15</sup>.

The EU position at the Copenhagen meeting (1992) on methyl bromide, an ozone depleting chemical used as a fumigant in crops was formed by a unanimous decision process. Its position was a compromise between the northern states who wanted to freeze the production and use of methyl bromide, and the southern “Mediterranean” states who did not want a freeze. The ultimate outcome was a compromise position that was weaker than the northern states desired. In Copenhagen, this weakened position swayed the international decision on methyl bromide and resulted in a weaker treaty than was desired by other industrialized countries, namely the US. Only the EU voting as a unanimous actor was able to sway the vote. It is unlikely that the Mediterranean states on their own would have been able to sway international negotiations. In Vienna in 1995 however, voting within the EU had changed to allow for a Qualified Majority Vote. Due to the population based voting system, the northern EU states were able to override the hesitations of the southern states. This allowed the EU to negotiate for stronger controls over the use of methyl bromide at the Vienna meeting of the parties.<sup>16</sup>

In the case of hazardous waste trade, it was almost the opposite. The EU entered the Piriapolis COP1 without a formal position and member states argued their own positions. Britain and Germany along with the US, Canada, and Japan opposed a ban on

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<sup>13</sup> Ibid. pg. 410

<sup>14</sup> Maastricht Treaty: Treaty on European Union. Maastricht. February 7, 1992. Article J.3. No. 2.

<sup>15</sup> Jupille, Joseph. pg. 418

<sup>16</sup> Ibid. pgs. 416-419

all shipment of hazardous waste from OECD countries to non-OECD countries, while Denmark and other Nordic states pushed for such a ban. By themselves Denmark, and the Nordic states did not have the power to stand up to the other industrialized countries. However, by Geneva in 1994 the voting within EU member states had changed and the EU entered COP2 with a unified position that was determined by a Qualified Majority Vote. Denmark worked hard to get other EU members to sign on to a ban and was ultimately able to isolate Germany and Great Britain in their position opposing a ban. Thus, at COP2 the EU voting for a ban brought the international outcome closer to what Denmark and the industrializing countries (G77) had desired.<sup>17</sup>

The two case studies Jupille uses show how the EU acting as a single and unified actor can shape international negotiations and outcomes. He concludes using his spatial model that when the EU acts internationally decisions it reached unanimously tend to bring international outcomes closer to the status quo. However, when the EU uses QMV to reach its decisions, it tends to bring international outcomes further from the status quo, creating a greater chance of “revisionist” outcomes.<sup>18</sup>

John Vogler, in his article “The European Contribution to Global Environmental Governance,” analyzes the EU role in global environmental governance and negotiations.<sup>19</sup> Vogler analyzes the Kyoto Protocol negotiations as well as the negotiations at Montreal in 2000 for the Biosafety Protocol to the Convention on Biological Diversity. While Vogler allows that the EU’s sway in international negotiations will increase as the member states increase in numbers, he feels overall that the EU does not contribute greatly to global environmental governance. Vogler argues that the EU has been weak in the “. . . coherent mobilization of the Union’s diplomatic and other capabilities” when it comes to forging multilateral agreements.<sup>20</sup> He goes so far as to suggest that the EU’s greatest addition to global environmental governance may come through the World Trade Organization, where the EU wields considerable power.

Thus Jupille and Vogler disagree on the effectiveness of the EU as an international actor. However, they agree that in the realm of climate change the EU has

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<sup>17</sup> Ibid. pgs. 419-423

<sup>18</sup> Ibid pg. 423

<sup>19</sup> Vogler, John. “The European Contribution to Global Environmental Governance” *International Affairs*. 81, 4 (2005) pg. 835-850.

<sup>20</sup> Ibid. pg. 849

played an increasingly large role and it will likely be called upon to continue this role. Vogler concludes that for the EU to become a more effective international actor in climate change negotiations the EU should pursue a bilateral agreement, specifically with the US.<sup>21</sup> If the EU and the US were to pursue a bilateral agreement, this could possibly work. If, however, a member state of the EU were to pursue a bilateral agreement with the US this would undermine the UNFCCC process, and create a situation similar to what happened at COP6 at the Hague. The EU has acted as a unified actor since the withdrawal of the US from negotiations and therefore should be able to affect the outcome of negotiations.

In conclusion, with the Maastricht Treaty and its provision for a common foreign and security policy for the EU, the EU effectively announced its intentions to function as a cohesive international actor. The treaty states that member states “shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.”<sup>22</sup> While it will take considerable time for the EU to function as a cohesive actor in all policy areas, it has begun to function as an international actor in the policy area of climate change. Jupille’s article shows cases where the EU has been an effective actor in international negotiations around environmental issues. Even Vogler, who finds the EU to overall be an ineffective actor, cannot ignore the fact that the EU is a key player and ultimately a leader in international climate change negotiations.

#### *The structure of this paper*

In this paper, I attempt to analyze how effective the EU has been as a leader in international negotiations surrounding climate change and its potential to maintain its leadership position. The EU has self-identified as the leader in climate change negotiations, and has indicated that it would like to maintain this position. Rather than security, the EU has focused its attention on global environmental governance as an area where it can become the dominant world force.

In chapter 1, I look at aspects of international environmental negotiations, analyzing what steps need to take place and where the sticking points of negotiations are

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<sup>21</sup> Ibid. pg. 849

<sup>22</sup> Maastricht Treaty. Article J.1. No. 4

usually found. I also present the steps Norichika Kanie,<sup>23</sup> Joyeeta Gupta, and Michael Grubb<sup>24</sup> identify as being necessary for a nation to successfully develop its leadership potential in climate change negotiations, and analyze how these qualifications are present or lacking in the EU. The authors define three elements of leadership potential, structural, instrumental, and directional, which I use to analyze the leadership potential of the EU. In broad definitional terms structural leadership is based on power, instrumental leadership is based on negotiation skills, and directional leadership is based on a state's ability to direct international action through their domestic policies. The authors argue that all three leadership elements need to be in place for a state to be an effective leader in international negotiations.

In chapter 2, I explain the negotiations surrounding the UNFCCC and the Kyoto Protocol. By looking at the negotiations step by step it becomes apparent that the EU did not fully evolve as an international actor in negotiations until after the withdrawal of the US. The negotiations expose areas where the EU can be ineffective as a leader and, where it succumbed to its weaknesses. Ultimately, the Kyoto Protocol was weaker than intended because the EU had to compromise too much of its position and it was unable to effectively negotiate for a stronger agreement. On the other side of this argument is the realization that without the leadership of the EU there would be no Kyoto Protocol and climate change negotiations would be starting from a much different position. The evolution of the EU as an international actor in the Kyoto negotiating process outlines how it has become the leader in international environmental negotiations.

In chapter 3, I evaluate the reasons the EU acted the way it did in the climate change negotiations surrounding the UNFCCC and the Kyoto Protocol. I look at different factors, such as past promotion of quantified emissions reductions, the EU's adherence to the precautionary principle, the role of power and security in decision making, and finally the public and industry pressure in the EU. Specifically, I address how these factors distinguish the EU from other leading actors in the climate change regime. The motivation of EU environment ministers is an important part of determining

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<sup>23</sup> Kanie, Norichika. "Assess Leadership Potential for Beyond 2012 Climate Change Negotiation: elaborating a framework of analysis." Draft paper 26 September 2003. Visiting Researcher at Institute for Global Environmental Strategies (IGES), Associate Professor, Tokyo Institute of Technology.

<sup>24</sup> Gupta, Joyeeta and Grubb, Michael. *Climate Change and European Leadership: A Sustainable Role for Europe?* Dordrecht: Boston, 2000.

why the EU makes certain decisions. The underlying motivations of the EU also reflect how the members of the EU have started developing common opinions and positions.

In chapter 4, I analyze what role the EU is seeking to play in the post-2012 negotiations. By analyzing the role they played in the Kyoto Protocol and the reasons behind their decisions, it becomes more apparent why they and most other nations view them as the leader in climate change negotiations. I will argue that the EU would be the best leader for international climate change negotiations in that, they have shown that they can effectively get a complicated and somewhat contentious treaty signed, ratified, and entered into force. With the unilateral withdrawal of the US from climate change negotiations, the US abdicated its leadership position and although it is important to the ultimate agreement, it can no longer be deemed an effective leader in this issue area. This shift in leadership is something that has not been fully recognized by scholars and policy-makers in the US, who often insist on discussing how important the US is to the climate change regime.

### Conclusion

While an international climate change agreement or treaty may not ultimately be the most effective medium for fighting climate change, it is necessary. Smaller more regional organizations may be more effective at combating climate change, but the framework of an international negotiation will be necessary to give these regional organizations the shape and direction they need to be effective. Some scholars and policy makers are arguing that industry-focused or sectoral agreements will be more effective than larger international agreements, but as with regional agreements, these business groups need the structure of international law to be effective. By providing a framework and a central reporting authority, effectiveness and actual change in emissions will be easier to monitor.

While there does not necessarily need to be a leader in negotiations, often one emerges, and states look to this actor to determine their position. The EU is the more appropriate and effective choice to be the leader in negotiations. If the negotiating process were to wait for the US to become a fully engaged leader in negotiations, the negotiating process would be delayed until past the current 2009 deadline. There is some discussion that the international community should wait until after the US elections in

2008. But there is no proof that the next administration will be able effectively to argue their points and get a treaty ratified and into force by the end of the first Kyoto reporting period. Rather than delaying, it is up to the EU to step up once again as a dominant world leader and influence negotiations to keep them progressing. These current negotiations, more than even the Kyoto negotiations, are its time to demonstrate its true potential as an effective and dominant actor in international negotiations.

# **Chapter 1**

## ***International Environmental Negotiations and Elements of Leadership Potential***

The climate change regime is one of the most complicated examples of international negotiations, and scientific uncertainty has been a constant aspect of negotiations. Currently, scientific uncertainty is being cited when trying to determine the effects of climate change, as well as where and when these effects will happen. In the early negotiations, there was scientific uncertainty over whether climate change was in fact happening. This uncertainty has made negotiations around climate change agreements complicated and divisive. At different times different countries have emerged as leaders in climate change negotiations. In the beginning, the United States dominated negotiations and their policy positions were reflected in the policy outcomes. As negotiations progressed, the leadership potential of the European Union increased and it was able to better assert its policy positions. Certain elements of leadership reflect how its potential as a leader increased as negotiations progressed around Kyoto. Before looking at elements of leadership, it is important to explain what goes into international negotiations.

### International Negotiations

Negotiations of international environmental agreements are complicated and can take a long time, but there are certain areas of the negotiating process where countries are more likely to reach an impasse than others. Negotiations encompass many different areas and require the participation and willingness of states to compromise. Initially, there are some facts that need to be met for international environmental negotiations to begin. Parties need to agree that there is a problem which needs to be addressed by international action, and then they need to agree on a set of facts associated with this problem.<sup>25</sup> Following this, they need to acknowledge that this problem is viewed differently by different countries, and countries need to be willing to decide on common policy actions which will overcome conflicting issue positions.

Ho-Won Jeong, in his chapter “Dynamics of Environmental Negotiations,” in *Global Environmental Politics: Institutions and Procedures*, discusses the different aspects of international environmental negotiations and shows where these negotiations can run into problems. Agenda-setting is one of the initial steps in international environmental negotiations, as it allows states to articulate their interests and develop an agenda for negotiations. Agenda-setting is also where various scientific and expert committees are formed, an example of this being the Intergovernmental Panel on Climate Change (IPCC). The purpose of these scientific and expert committees is to decrease uncertainty as an issue in negotiations. When there is a lack of scientific coordination and certainty this can be a sticking point in negotiations, and it is difficult to set the agenda. If, in this pre-negotiation stage, it is difficult to reach a consensus, it is likely the final agreement will reflect this weakness. This is highlighted in comparing the emissions reductions targets for the Kyoto Protocol and the proposed targets for the post-2012 agreement; as scientific uncertainty has decreased, the importance and impact of the agreement has increased.

Another key aspect of international environmental negotiations is the bargaining that takes place between different actors. “Competing goals have to be compromised so

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<sup>25</sup> Jeong, Ho-Won (Ed.). “Dynamics of Environmental Negotiations.” *Global Environmental Politics: Institutions and Procedures*. Global Issues Series. Palgrave: New York, 2000.

that expectations can converge on focal points.”<sup>26</sup> In the international negotiations process, actors are pursuing their own interests; this makes the decision-making process an intricate balancing of states’ interests with progress in negotiations. This means that the final agreement has to be widely acceptable to a broad range of states, which sometimes results in an agreement reflecting the lowest common denominator. It is up to the leadership of the regime to direct negotiations away from this lowest common denominator and towards more creative ways to solve the problem. An example of this is the flexible mechanisms in the Kyoto Protocol, which made the Protocol acceptable to a wider range of developed countries.<sup>27</sup>

In the post-2012 negotiations thus far, only the agenda has been set. In the December 2007 Bali meeting, the only document that came out of negotiations was a Bali Road Map, or the agenda for the negotiations of the post-2012 agreement. While it may seem as if this is an ineffective beginning to the negotiations for a new agreement, it reflects a vital step in the international negotiations process. What remains to be seen is what compromises will be made and what creative solutions will be reached to entice not only the US back into negotiations, but to also bring developing countries to the negotiating table. Will the climate change leadership be able to come up with creative ways to solve the current disagreements in time for a new agreement to be reached?

*Assessing Leadership Potential: Elements of Leadership Potential*

In assessing the potential for EU leadership in the post-2012 climate change negotiations, I will be evaluating the EU’s potential as a leader using the leadership modes established and defined by Joyeeta Gupta and Michael Grubb in chapter two of *Climate Change and European Leadership: a sustainable role for Europe.*<sup>28</sup> I will also be using the qualifications defined by Norichika Kanie in his draft paper, “Assessing Leadership Potential for Beyond 2012 Climate Negotiation: elaborating a framework of analysis.”<sup>29</sup> In this draft paper Kanie’s analysis is based on the three modes of leadership: structural, instrumental, and directional. Kanie reaches his three modes by

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<sup>26</sup> Jeong, Ho-Won. P. 112.

<sup>27</sup> Jeong, Ho-Won.

<sup>28</sup> Gupta, Joyeeta and Grubb, Michael (Eds.). *Climate Change and European Leadership: A Sustainable Role for Europe?* Environment & Policy, Volume 27. Kluwer Academic: Dordrecht, 2000.

<sup>29</sup> Kanie, Norichika. “Assess Leadership Potential for Beyond 2012 Climate Change Negotiation: elaborating a framework of analysis.” Draft paper 26 September 2003. Visiting Researcher at Institute for Global Environmental Strategies (IGES), Associate Professor, Tokyo Institute of Technology.

evaluating the leadership typology identified by Grubb and Gupta, who explain the multilateral leadership typology as originating with Oran Young (1991), then Arild Underal (1994), and finally by Raino Malnes (1995). These three authors each identify three modes of leadership. Young focuses on structural, entrepreneurial, and intellectual, Underal focuses on coercive, instrumental and unilateral leadership, finally Malnes focuses on “sticks and carrots,” problem-solving and directional leadership.<sup>30</sup>

Grubb and Gupta conclude that the modes of leadership best suited to assessing leadership potential in climate change negotiations are: structural, instrumental, and directional. They use these three leadership elements to evaluate the potential of the EU to be a leader in climate change negotiations surrounding the Kyoto Protocol. For the purposes of this paper I will be using these leadership elements to evaluate the potential of the EU to be a leader in the post-2012 climate change negotiations. But, I will also be looking at where the EU’s strengths and weaknesses were during the Kyoto Protocol negotiations and how these have changed or remained the same, and how this has enhanced or diminished its potential as a leader.

### Structural Leadership

Grubb and Gupta define structural power primarily as the ability to wield economic and political power in a leadership position. The EU as a collective entity can wield considerable structural power by virtue of its economic, technical, and political strengths. As a collective entity the EU wields considerably more power than each state does independently. Kaine starts with Grubb and Gupta’s definition of structural power and then isolates issue-specific structural power in terms of climate change. Issue-specific power in the climate change regime is tied to “the size of present and potential future GHG [greenhouse gas] emissions.” The EU is comparable to the US in terms of its greenhouse gas emissions, although its per capita emissions are considerably less. The extreme case of structural leadership would be hegemony, but the authors agree that hegemony is not necessary in climate change negotiations, and in fact hegemony could be detrimental to climate change negotiations.<sup>31</sup> In his analysis Kaine combines the major sources of structural power, military expenditure and GDP with the issue-specific power

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<sup>30</sup> Gupta, Joyeeta and Grubb, Michael.

<sup>31</sup> Kaine, Norichika.

of CO2 emissions and GDP to create a chart reflecting individual states' levels of structural power. In his analysis, he notes that the US and EU are the two largest states in terms of structural power. This analysis was completed prior to the enlargement of the EU; with the enlargement, the EU has become considerable in terms of structural power. The G77s follow the EU and US in terms of structural power. Independently Japan and China would follow, but would probably need to combine as a regional entity to compete with the EU and US.<sup>32</sup>

Structural power outlines the ability of a state to influence another state's actions and decision-making. Structural power is an important element of leadership potential, but it alone cannot define who will be a leader in international negotiations. It is only one source of power and if structural power were the only power that mattered, the US would be the only state that mattered. As this is not the case, and the Kyoto Protocol was ratified and entered into force without the participation of the US, there are other sources of power that are also relevant.

#### *Instrumental Leadership*

Grubb and Gupta along with Kaine identify instrumental leadership as another important element or mode of assessing leadership potential in the climate change regime. Instrumental leadership is the most important leadership skill when a country is present at negotiations, as it is the ability to use diplomatic skills to build coalitions and negotiate structures. Kaine explores two types of instrumental leadership, entrepreneurial leadership and interactive leadership. Entrepreneurial leadership refers to negotiation skills; an important factor in negotiation skills is the institutional capacity of an individual country. Kaine provides the example of a diplomatic negotiator who has little discretion and has to constantly seek the approval of his/her home country. When a negotiator has greater discretion they are able to be effective because they have more capacity to make decisions quicker. Rather than constantly checking to make sure what they are negotiating is approved, the negotiator has the authority to negotiate on behalf of state meaning the negotiations proceed more effectively. When a diplomatic negotiator has little discretion they are constantly having to leave negotiations to verify their position, this slows the negotiations. In certain negotiations the EU has had little

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<sup>32</sup> Ibid.

institutional capacity, rendering it an ineffective negotiator. Interactive leadership refers to the relationship between state actors and non-state actors in negotiations, essentially the influence non-state actors have on a state's negotiating position. Grubb and Gupta claim the EU has difficulty with institutional leadership due to the diversity of its members and its lack of a central authority. In the years following their analysis, the diversity of the EU's members has increased, but its level of central authority has actually increased.

### Directional Leadership

The third element or mode of leadership identified by Grubb and Gupta, as well as by Kaine, is directional leadership. Directional leadership is one of the most important aspects of leadership in terms of the EU's leadership potential, as it is the leadership element that refers to leading by example. Directional leadership is based on domestic policy actions, institutions, technology, and the ability of these to influence international action.<sup>33</sup> By instituting and implementing domestic policy, one country can illustrate to the international community that the action is possible and that it does not have debilitating consequences on economic growth and stability. The EU has been attempting to use directional leadership with its emissions trading scheme.

One of the main aspects of directional leadership that Kaine identifies is the intellectual capacity of a country to change perceptions of uncertainty, risk, and ways of interpreting information. This type of leadership has been illustrated by various "epistemic communities" such as, the Intergovernmental Panel on Climate Change (IPCC) and the secretariats of multilateral environmental agreements (MEAs).<sup>34</sup> Another aspect of directional leadership is the ability of the domestic policy action to function as the base for a country's international negotiating position. As Kaine writes, "successful fulfillment of the Kyoto target with little impact on economy would be able to serve as a rationale for arguing to continue the Kyoto regime."<sup>35</sup> Successful domestic policy action can also indicate the completion of a primary requirement and the entrance into a second round of requirements. For example, with the end of the first Kyoto reporting period approaching, countries that have met their emissions reductions targets will be ready to

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<sup>33</sup> Gupta, Joyeeta and Grubb, Michael.

<sup>34</sup> Kaine, Norichika.

<sup>35</sup> Ibid.

accept more stringent targets. Countries that have failed to meet their targets or have not previously had targets will find it more difficult to accept further reductions.

According to Grubb and Gupta, directional leadership is the element where the EU has the most potential to establish its potential. Grubb and Gupta cite the diversity of the EU member states as the reason for this. The diversity of the member states means that the EU is able to be more innovative with its policies and technologies than smaller and more centralized states. Additionally, the diversity of the states allows the EU to develop policy instruments and institutions that would be more easily extrapolated and applied at a global level. For example, if the policies the EU is undertaking do not negatively affect the economies of some of its newer, economy-in-transition countries, then it can be reasonably assumed that these policies would be more acceptable to other developing and economy-in-transition countries. Also, if these policies can be implemented across the diverse set of EU economies, they could likely be applied at the global level with its diverse set of economies.

### Conclusion

Both Kaine and co-authors Grubb and Gupta identify directional leadership as the area where the EU currently has the most potential over other developed countries. However, they underscore that structural and instrumental leadership are equally important. Without all three elements of leadership the authors feel no country can be a successful leader in climate change negotiations. Using these three elements of leadership then, I will evaluate the potential for the EU to be a leader in climate change negotiations for the post-2012 agreement. With these elements, it is possible to isolate where the EU fell short of its leadership potential in previous negotiations for the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, and where they met their leadership potential. This analysis should make it possible to estimate its ability to meet its leadership potential in future negotiations. While international environmental negotiations are a long and complicated process, there is hope that the process could result in a comprehensive agreement that addresses the issues.



## Chapter Two

### *The European Union's Role in the Global Climate Change Regime: A Kyoto Case Study*

It is now acknowledged that without the European Union there would be no Kyoto Protocol. As Schnabel and Rocca write,

The EU's unanimous support for the Kyoto Protocol on global warming turned that agreement into a virtual litmus test of environmental responsibility, muting debate over its scientific premises and discrediting alternative approaches to the balance between economic growth and protection of natural resources.<sup>36</sup>

However, what is often forgotten is that the EU was not always the cohesive proponent of climate change that is present at today's negotiations. The withdrawal of the United States from the Kyoto Protocol negotiations was one of the key factors that prompted the cohesion in the EU's negotiating position. This withdrawal also resulted in the EU compromising most of its former positions, especially regarding its previous opposition to emissions trading. The EU position and policies have evolved over time into a

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<sup>36</sup> Schnabel, Ambassador Rockwell A. and Rocca, Francis X. *The Next Superpower? The Rise of Europe and Its Challenge to the United States*. Rowman & Littlefield: New York, 2005. pg. 59

cohesive and proactive set of policies, for both internal behavior as well as the international community. Rather than adhering to one set of doctrines, the EU's position has evolved through the years and the negotiations. While it has compromised on some of its key tenets, resulting in a weaker Kyoto Protocol, it ultimately believed that any agreement was better than no agreement. If the EU had not focused so heavily on ratification of the Kyoto Protocol, where would global climate change negotiations be today?

### The Kyoto Protocol

The Kyoto Protocol was prompted when it became apparent that the United Nations Convention on Climate Change (UNFCCC) did not do enough to curb the effects of climate change because it lacked binding emissions reduction targets. In December 1997, the Kyoto Protocol was signed and the signatories committed to binding emissions reduction targets for developed countries. After the initial signing, the negotiations surrounding Kyoto lasted for almost a decade until ratification in 2005. In 2001 as talks at the Hague collapsed it seemed as if the Kyoto Protocol might never become ratified and enter into force. The future of the Protocol seemed even more dismal when US Environmental Protection Agency Administrator Christine Todd Whitman announced that "the Kyoto protocol was dead as far as the administration was concerned . . ."<sup>37</sup> and the recently elected President George W. Bush announced the withdrawal of the US from the Kyoto negotiations.

However, the withdrawal of the US did not lead to the complete abandonment of the Protocol; instead it propelled nations, especially the EU, into action. Responding to the US withdrawal, the EU committed itself to Kyoto. The EU's clear policy choice on the issue of climate change resulted in strong motivation to entice other industrialized countries, namely Russia, to join. Ratification became a mission of the EU and caused the member states to create one EU position in negotiations, rather than the differing positions under which they had previously negotiated.

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<sup>37</sup> Pianin, Eric. "U.S. Aims to Pull Out of Warming Treaty; 'No Interest' in Implementing Kyoto Pact, Whitman Says" *The Washington Post*. March 28, 2001. pg. A01.

### Negotiating the UNFCCC and the Kyoto Protocol

The EU has been advocating for binding emissions reduction targets even prior to the 1992 United Nations Conference on Environment and Development (UNCED), where the UNFCCC was signed. They were opposed in these efforts by the other developed countries, mainly the US. The initial EU proposal was a stabilization of CO<sub>2</sub> emissions at 1990 levels by 2000; the US opposed this specific target.<sup>38</sup> The EU went so far as to state at an October 1990 meeting of the EU Energy and Environment Ministers that it would take measures to achieve this stabilization if a similar commitment were made by other developed countries. Some individual member states announced that they would commit to even stronger reductions; Germany stated it would commit to a 25% reduction of 1987 levels by 2005.<sup>39</sup> However, this was a rather empty statement of political posturing as the EU had no concrete internal policies to combat climate change when it signed the UNFCCC.<sup>40</sup> The EU was one of the first international actors to push for binding emissions reductions, but it was unwilling at this stage to develop these policies internally until other developed countries adopted similar policies. The UNFCCC ultimately only committed developed countries to the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>41</sup> Germany was such a strong advocate for binding emissions reductions that they volunteered to host the COP1, which resulted in the Berlin Mandate, an agreement of the parties to the UNFCCC that a protocol setting quantified emissions reductions targets was necessary.

Initially in the Kyoto negotiations, the EU proposed a 15% reduction for all developed countries, with its fifteen member states counting as one unit, the “EU bubble.” This EU bubble would allow some states significantly to reduce their emissions

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<sup>38</sup> Pallemarts, Marc and Williams, Rhiannon. Chapter 2. “Climate Change: The International and European Policy Framework” in Peeters, Marjan and Deketelaere, Kurt (Eds.) *EU Climate Change Policy: The Challenge of New Regulatory Initiatives*. Part of series: *New Horizons in Environmental Law*. Edward Elgar Publishing: United Kingdom, 2006.

<sup>39</sup> Schreurs, Miranda A. “The Climate Change Divide: The European Union, the United States, and the Future of the Kyoto Protocol” in Vig, Norman J. and Faure, Michael G. *Green Giants? Environmental Policies of the United States and the European Union*. Part of series: Kamieniecki, Sheldon and Kraft, Michael E. (Eds.) *American and Comparative Environmental Policy*. MIT Press: Cambridge, 2004.

<sup>40</sup> Ibid.

<sup>41</sup> *United Nations Framework Convention on Climate Change (1992)*. Article 2.

Hunter, David, James Salzman, and Durwood Zaelke. *International Environmental Law and Policy: Treaty Supplement*. Foundation Press: New York, 2002.

while other states actually increased theirs. Other developed countries called the EU bubble unfair, because the developed countries within the bubble would be allowed to have differentiated reduction targets, but the developed countries outside the bubble would not. The negotiated compromise resulted in all developed countries having differentiated reduction targets, with the EU-15 counted as one unit. However, the EU did not actually begin evaluating member states' emissions reductions until close to the end of the Kyoto negotiations. In March 1997, the EU came to the realization that the policies and measures it was proposing would only achieve two-thirds of the 15% proposed reduction. Thus it settled on the emissions reduction target of 8%, a much more attainable goal.<sup>42</sup>

Another area of contention was whether developing countries should be a part of this initial protocol. The EU was concerned about the lack of commitments that were to be made by developing countries; however it felt that developed countries had the moral responsibility to act first.<sup>43</sup> The EU was concerned about the financial and technological demands that developing countries might make. The parties to the convention further disagreed on how emissions reductions could be achieved. The EU was staunchly skeptical of the idea of flexible mechanisms, such as emissions trading, joint implementation, and the Clean Development Mechanism. During this time in the negotiations, the EU argued that the majority of the reductions had to come from domestic action and sources. The other main source of contention was over which greenhouse gases should be regulated. The EU wanted to regulate only carbon dioxide, nitrous oxides, and methane. The US advocated for these gases as well as three others: hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

The 1997 negotiations in Kyoto at the COP3 were resolved only in the last few days of the convention. Ultimately, the EU gave in to the US on most positions. The greenhouse gases to be regulated were named at six rather than three. The addition of these three gases ensured that it would be virtually impossible for the EU to reach a 15% reduction, thus they committed to the lower 8% reduction. This lower reduction target

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<sup>42</sup> Pallemerts, Marc and Williams, Rhiannon.

<sup>43</sup> Ibid.

also allowed other states to agree to lower targets.<sup>44</sup> The remaining points of contention, notably how the reductions were to be achieved, were to be negotiated at subsequent conferences. The EU compromised in Kyoto, and this ultimately resulted in a weaker agreement with many critics saying the protocol took too long to achieve too little. The only area where the EU was successful was the fact that the US signed the protocol, even though there were no emissions reductions targets set for developing countries.

*Climate Negotiations beyond the Kyoto COP3: The Hague, Bonn, and Marrakech*

The COP6 at the Hague in 2000 ended in the collapse of negotiations and caused many to think that it could indicate the collapse of the Kyoto Protocol entirely. There are numerous reasons for the collapse of these negotiations, but most important to this paper is the role the EU played in causing the collapse. Jan Pronk, the Dutch Environment Minister who presided over the conference, holds some of the blame for the collapse. When the negotiators were unable to reach any agreements during the first part of the conference, the later-arriving ministers arrived to massive texts and bureaucratic negotiations. Usually, at the point when the ministers arrive, they can focus on deal-making. Pronk proposed an alternative, condensed text for negotiating. This condensed text was only twelve pages long, consisted of bullet points, and abandoned all the legal text that had been negotiated over the previous two years. This method was based on the approach taken in European Council meetings, and left those used to UN negotiations confused as to what the status of this document would be, and whether it would be sufficient for ratification.<sup>45</sup>

More destructive than the confusion over the UN negotiations process was the confusion within the EU. John Prescott, the United Kingdom Deputy Prime Minister, left the general ministerial meeting to begin bilateral discussions with the US. This caused some finger pointing among the EU member states. The UK said they had the support of the EU Troika in these talks and that the French Minister Dominique Voynet and other key European ministers agreed to support the agreement reached by the UK and US. However, these ministers failed to support the agreement when the UK presented it to the full group of EU ministers. The EU ministers said that the UK never had the authority to

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<sup>44</sup> Ibid.

<sup>45</sup> Grubb, Michael and Yamin, Farhana. "Climatic collapse at The Hague: what happened, why, and where do we go from here?" *International Affairs*. 77, 2 (2001) pp. 261-276

reach a deal with the US and that the Troika only agreed to present the agreement to the group of ministers, not champion it. Additionally, the agreement the UK and the US were discussing behind closed doors did not include any negotiations of the main issues that were supposed to be decided at The Hague: finance, technology transfer, adaptation, and compliance. Later the UK press blamed the collapse on the inconsistent position of the French president of the EU, and the fighting that happened among the EU ministers. The EU ministers fought back and said the UK had compromised too many of the EU's positions when it was in talks with the US. The UK had given into too many of the concessions on carbon sinks and supplementarity<sup>46</sup> the US and other non-EU OECD countries had been asking for. To complicate matters, the French had sought compromises with developing countries that did not have the support of the EU and had never even been brought to the attention of the EU.

At the Hague, the EU was hindered in its decision-making by having to negotiate on behalf of 15 states, rather than one state. Also, other negotiating blocs function more effectively with internal negotiations than the EU. Other blocs such as, the Alliance of Small Island States (AOSIS), usually seek general broad positions that are dominated by a few powerful members, but each country speaks individually in the general meetings. The EU internal discussions are more focused and have to be more direct, as it is negotiating as one within the general meetings, therefore the internal negotiating of the EU takes considerably longer. This was shown at the Hague, when the EU was still in internal negotiations while the final plenary session had already begun. For example, it was still negotiating which amendments to propose to the President's text, when all other countries had already presented their amendments and negotiations surrounding these amendments had already begun. At the Hague the EU functioned as a "negotiating bloc/group" rather than as a team. Fundamental to their negotiating failure, they did not arrive at the Hague with the ability to be flexible in their negotiations, they did not have fallback options or decisions on where and when to compromise. The inability of the EU to negotiate effectively at the Hague was a major contribution to the collapse of

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<sup>46</sup> Supplementarity is the idea that internal emissions reductions should take precedent over emissions reductions from external flexible mechanisms. For example, when conducting emissions trading, states' emissions reductions should come from domestic actions prior to being sought through trading. The term comes from the Kyoto Protocol's supplementary principle and is mentioned in articles 6, 7, and 12.

negotiations. Ultimately COP6 had to be broken into two sessions with COP6 Part II or COP6 bis to be held at Bonn six months after the Hague.

Between COP6 and COP6 Part II, President George H. W. Bush was elected president of the United States and he quickly indicated his intention to withdraw from the Kyoto Protocol. The United States unilaterally withdrew without discussing this decision with the EU or other developed countries. Various European leaders tried to bring the US back into negotiations without success. This created anger among the EU and other developed countries that had spent considerable time negotiating the Kyoto Protocol. The European Council acted in direct reaction to the US withdrawal by committing itself to the passage of the Kyoto Protocol. “Paradoxically perhaps, EU member states seemed more willing to formulate common positions and undertake joint actions because of rather than in spite of the US (op)position.”<sup>47</sup> Thus, the EU began working as a united bloc to keep other developed nations, mainly Canada, Japan, and Russia in negotiations. The EU launched a concentrated diplomatic effort between COP6 and COP6 part II, to make sure that these countries did not follow the US in defecting. Acting as a united bloc rather than individual states greatly increased the influence of the EU on other states and negotiations continued. The EU kept Russia on board by saying that if Russia remained committed to Kyoto, the EU would not use the weight of its 15 member states to block its admission into the World Trade Organization (WTO), the implication being that if Russia did withdraw its support of Kyoto, the EU would use its weight block Russia’s admission. Ultimately, there was still the hope among most of the states that the US would rejoin negotiations if the process continued.

When the negotiating began again at Bonn, the two dominant actors were the EU and Japan. Japan took over many of the former US positions, thinking that if the final agreement resembled what the US had originally been negotiating for, the US would be able to rejoin the Kyoto Protocol at a later date. Without the support of Japan, the Kyoto Protocol would be dead; therefore, the EU was essentially at the mercy of Japan and gave

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<sup>47</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G. “United We Stand? The European Union’s International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol” *JCMS* Volume 45. Number 5. pp. 969-998 2007 also an earlier version Groenleer, Martijn L.P. and Van Schaik, Louise G. “The EU as an ‘Intergovernmental’ Actor in Foreign Affairs: Case Studies of the International Criminal Court and the Kyoto Protocol” *CEPS (Centre for European Policy Studies* working paper. No. 228. August 2005.

in to almost every demand. With its back against the wall, the EU chose to take the position that any agreement was better than no agreement. Ironically, while the EU had previously argued hard for a cap on flexible mechanisms, its ultimate adoption without a cap may be the only way the EU will meet its first Kyoto targets. The European Parliament passed the agreement reached at the COP6 Part II by 398 to 9, while simultaneously criticizing it for being too weak by not including sanctions for non-compliance. There was still the hope after Bonn that the US would agree to ratify the multilateral agreement, since it was almost identical to the agreement they had been advocating. However, the US has yet to ratify the Kyoto Protocol and it is unlikely that it will ever ratify it. It is considered ironic by many the US has turned its back on an agreement that it designed, essentially turning its back on its own agreement.

Entering the 2001 Marrakech round, all that was left to negotiate were the technical details of the agreement. This round progressed without any major drama or negotiating hold-ups and resulted in “an important victory for European environmental leaders.”<sup>48</sup> EU Environment Commissioner, Margot Wallstrom claimed: “I think something has changed today in the balance of power between the US and the EU”<sup>49</sup>

The Kyoto Protocol has many critics who criticize all aspects of the Protocol; however, it should be acknowledged that it was a great achievement of international negotiations that there is even a Kyoto Protocol. From the first attempts by the US to derail climate change talks in Montreal, to the collapse of negotiations at the Hague and the withdrawal of one of the major actors, there were many opportunities for the agreement to fail. The EU evolved from a position of relative weakness and confusion to a leadership role within the climate change regime. This is a position that it sought and on which it continues to take pride.

### Conclusion

The EU has not consistently been an effective actor in the global negotiations surrounding climate change. However, it has maintained consistency in its position of what will constitute effective climate change action: quantifiable emissions reductions

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<sup>48</sup> *Washington Post*. November 11, 2001. p. A2.

<sup>49</sup> *Earth Negotiations Bulletin*. (2001) *Earth Negotiations Bulletin* 12 (176): 1-15. cited in: Vogler, John and Bretherton, Charlotte. “The European Union as a Protagonist to the United States on Climate Change” *International Studies Perspectives*. (2006) 7, pp. 1-22

targets. By maintaining this position, the EU has lent credibility to its position as the leader of climate change negotiations. The EU's ability to lead the Kyoto Protocol negotiations to a ratified treaty in the face of so many obstacles proves how far its leadership effectiveness has come.

From the beginning the EU and the US were negotiating for different results. At the UNFCCC, the EU was trying to negotiate an agreement that would resemble the future Kyoto Protocol, and the US was trying to minimize any international influence in its domestic affairs. It is unlikely that in 1992 there was an understanding in the US of what a role climate change would play not only in its domestic affairs, but in international relations. By supporting the Kyoto Protocol, the EU has effectively established itself as the "greener" nation and the US as an uncaring and polluting nation. The US's unilateral withdrawal from the Kyoto Protocol and its position that it will never ratify it has isolated it in international negotiations surrounding climate change. The EU has greatly benefited from this misstep by the US, and will continue to benefit in the future climate change negotiations.



## Chapter Three

### *Explaining the Motivations of the European Union*

There are many reasons the European Union decided to pursue the ratification of the Kyoto Protocol even in the face of apparent failure. The EU has advocated for mandatory quantifiable emissions reductions almost from the very beginning of climate change negotiations, going back further than United Nations Conference on Environment and Development (UNCED) to the second World Climate Conference in 1990.<sup>50</sup> Within the European public and its leaders there has long been a greater recognition of climate change as an environmental issue. The EU has promoted the precautionary principle as an important part of environmental policy; it has surpassed the US as the dominant promoter of the precautionary principle. From a power perspective, environmental protection has become a major component of European foreign politics. In terms of security, the EU has recognized the need to decrease the use of fossil fuel as an important

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<sup>50</sup> Pallemarts, Marc and Williams, Rhiannon. Chapter 2. "Climate Change: The International and European Policy Framework" in Peeters, Marjan and Deketelaere, Kurt (Eds.) *EU Climate Change Policy: The Challenge of New Regulatory Initiatives*. Part of series: *New Horizons in Environmental Law*. Edward Elgar Publishing: United Kingdom, 2006.

component of domestic security. It has also acknowledged that if it pursues greenhouse gas emissions reductions and a reduction in the use of fossil fuels without international commitments, it faces issues in economic security. Finally, the EU as a whole and EU member states have faced less pressure from industry than other developed countries. *Quantified Emissions Reductions Targets as a long-term policy goal of the European Union*

The EU has been pushing for quantified emissions reductions targets from the beginning of climate change negotiations. In 1989 President Mitterrand of France, Dutch Prime Minister Lubbers, and Netherlands Prime Minister Brundtland attempted to push climate change to the front of the political agenda. The goal was to unite progressive countries around the issue of climate change, thus putting pressure on other industrialized nations.<sup>51</sup> Until negotiations began on the Kyoto Protocol, the EU was unable to convince other developed countries that quantified emissions reductions targets would be necessary for the international community to successfully fight climate change. It has also pushed for more stringent targets from the beginning, and it is once again pushing for the biggest reductions in the negotiations surrounding the post-2012 agreement. This consistent position of pushing for quantified emissions reductions targets has allowed both the EU populace and EU policy makers to think of quantified emissions reductions as the only effective way to address climate change. In other countries where voluntary emissions reductions have been pushed, the populace and policy makers do not view quantified and mandatory targets in the same way.

*The European Union's adherence to the Precautionary Principle*

From the beginning, the EU was an advocate of the precautionary principle, believing that the risks of unmitigated climate change outweighed the scientific uncertainty. The precautionary principle is one of the basic principles in International Environmental Law. It “forbids using scientific uncertainty as a reason for postponing cost-effective measures to prevent environmental harm.”<sup>52</sup> Within individual European governments and within the European Parliament environmentalists have found seats

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<sup>51</sup> Pallemarts, Marc and Williams, Rhiannon.

<sup>52</sup> Hunter, David, James Salzman, and Durwood Zealke. *International Environmental Law and Policy*. Third Edition. Foundation Press: New York, 2007.

allowing them to influence EU policies. The European Community Treaty reflects the environmental influence in the government by establishing that:

Community policy on the environment shall aim at a high level of protection . . . It shall be based on the precautionary principle and on the principles that preventative action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.<sup>53</sup>

The precautionary principle in the EU was initially used in reference to public health, but as environmental damage increased and could not be attributed to a single identifiable source, the precautionary principle also began to be used in reference to the environment. In the 1990's the EU surpassed the US in its use of the precautionary principle and the EU is currently party to more international treaties and conventions such as, the Convention on Biological Diversity and the Stockholm Convention on Persistent Organic Pollutants, which adhere to the precautionary principle.<sup>54</sup> The rise in the use of the precautionary principle can also be tied to the rise of environmental non-governmental organizations (NGOs) in the EU. With the rise of the Green Party in more powerful member states, NGO influence in government grew and the precautionary principle became more prevalent in environmental laws, treaties, and conventions. In addition to constitutional status in the European Community Treaty, the precautionary principle is also cited in legislation and legal cases giving it the status of a normative law in the EU.

#### *The European Union and Power*

The EU is considered to wield and to focus more on soft power than hard power, and environmental politics are an example of where it has chosen to focus its soft power. According to Joseph Nye, soft power is “co-optive power” so rather than altering the discussion using “coercion or inducement,” soft power changes the discussion by the

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<sup>53</sup> European Community Treaty, Article 174(2). Quoted in Schreurs, Miranda A. “The Climate Change Divide: The European Union, the United States, and the Future of the Kyoto Protocol” in Vig, Norman J. and Faure, Michael G. *Green Giants? Environmental Policies of the United States and the European Union*. Part of series: Kamieniecki, Sheldon and Kraft, Michael E. (Eds.) *American and Comparative Environmental Policy*. MIT Press: Cambridge, 2004.

<sup>54</sup> Christoforou, Theofanis. “The Precautionary Principle, Risk Assessment, and the Comparative Role of Science in the European Community and the US Legal Systems” Chapter 1, in Vig, Norman J. and Faure, Michael G. *Green Giants?* MIT Press: Cambridge, 2004.

attractiveness of culture and values.<sup>55</sup> According to Kagan, the EU is more inclined to peace and rule-based international order, making it more open to a re-design of the world order.<sup>56</sup> This soft power basis can be traced back to the very founding of the EU. According to Ambassador Rockwell A. Scanabel, the EU was formed through voluntary actions taken for the common good, not in response to military action.<sup>57</sup> The EU would rather influence international decision-making by inducement rather than by force with the use of economic sanctions or military action.<sup>58</sup> In climate change negotiations the EU's position is often in line with the position of developing countries. Developing countries were part of the "green group," which consisted of the EU and the developing countries that supported the EU's position, the EU often acted as an intermediary between developing countries and other developed countries.<sup>59</sup> Over the course of negotiations and most notably at the Hague, the US and the other non-EU OECD countries, or the "Umbrella Group," including Japan, Canada, Australia, Norway, New Zealand, Russia, Iceland, and the Ukraine, found themselves in opposition to the "Green Group." The EU's ability to use soft power to induce change might make it a more likely candidate to entice developing countries to participate in the post-2012 agreement.

When the US withdrew from the Kyoto Protocol negotiations it left a leadership post that the EU eagerly took up. Taking the leadership role in the Kyoto negotiations has led to the EU being viewed as the leader in all environmental negotiations. While environmental protection has been an important part of policy within the EU member states for a number of years, it was its role in the later part of Kyoto negotiations that pushed it to the forefront of their policymaking. As Martijn L. P. Groenleer and Louise G. Van Schaik write, "the ultimate aim of the EU in the climate negotiations is to establish a multilateral climate agreement with binding commitments. This is in line with

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<sup>55</sup> Schnabel, Ambassador, Rockwell A. and Rocca, Francis X. *The Next Superpower? The Rise of Europe and Its Challenge to the United States*. Rowman and Littlefield: Oxford, 2005.

<sup>56</sup> Kagan, Robert. *Of Paradise and Power: America and Europe in the New World Order*. New York: Vintage Books. 2004. cited in Gupta, Joyeeta. "Good governance and climate change: Recommendations from a North-South perspective" pgs. 297-315 in Peeters, Marjan and Deketelaere, Kurt (Eds.). *EU Climate Change Policy: The Challenge of New Regulatory Initiatives*. Series: *New Horizons in Environmental Law*. Edward Elgar Publishing: United Kingdom, 2006.

<sup>57</sup> Schnabel, Ambassador, Rockwell A. and Rocca, Francis X.

<sup>58</sup> Ibid.

<sup>59</sup> Lacasta, Nuno S, Surajei Dessai, Eva Kracht, and Katherine Vincent. "Articulating a consensus: the EU's position on climate change" in Harris, Paul (Ed.). *Europe and Global Climate Change: Politics, Foreign Policy and Regional Cooperation*. Edward Elgar: United Kingdom, 2007.

the EU's overall commitment to multilateralism and sustainable development.”<sup>60</sup>

Following the withdrawal of the US from climate change negotiations, the EU launched an international diplomatic campaign to ensure that other developed countries, especially Japan, Canada, and Russia, did not follow the US in abandoning negotiations.<sup>61</sup>

Climate change negotiations and environmental protection in general have given the EU a more secure place in foreign relations and have allowed it to become an international leader in decision making. The EU will seek to further enhance this image through the negotiations around the post-2012 agreement. By getting the Kyoto Protocol ratified, the EU accomplished what many thought was an impossible feat. It will hope to accomplish this again with the post-2012 agreement, fully entrenching itself as the leader in climate change negotiations and international environmental negotiations in general. The concept of power and security is often co-mingled in international relations, and in the traditional theoretical framework states' are constantly seeking power to increase their security.

#### *The European Union and Security*

The EU is (and was during the negotiations surrounding Kyoto) dependent on foreign fossil fuel resources, mostly from Russia and the Middle East. One of the realizations within Europe was that it needed to decrease its dependence on foreign fossil fuel sources, and the way to do this would be to increase efficiency and to switch to renewable energy. These actions would take a major investment, both financial and societal.<sup>62</sup> A move to greater efficiency and renewables would initially require major infrastructure and lifestyle changes. If the EU undertook these efforts and no other industrialized country was simultaneously undertaking the same efforts, it would be put

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<sup>60</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G. “United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol” *JCMS* Volume 45. Number 5. pp. 969-998 2007 also an earlier version Groenleer, Martijn L.P. and Van Schaik, Louise G. “The EU as an ‘Intergovernmental’ Actor in Foreign Affairs: Case Studies of the International Criminal Court and the Kyoto Protocol” *CEPS (Centre for European Policy Studies* working paper. No. 228. August 2005. Citing within quote. European Council, Presidency Conclusions, December 2003; Commission Communication COM (2003) 526 final. And European Council, Presidency Conclusions, June 2001; Commission Communications: COM (2001) 264 final, COM (2002) 82 final, COM (2003) 829 final.

<sup>61</sup> Vogler, John. “In the Absence of the Hegemon: EU Actorness and the Global Climate Change Regime.” National Europe Centre Paper No. 20. Presented to conference on *The European Union in International Affairs*, National Europe Centre, Australian National University, July 2002.

<sup>62</sup> Groenleer, Martijn L.P. and Van Schaik, Louise G.

at a competitive disadvantage and would likely suffer large economic losses.<sup>63</sup>

Therefore, it became in its best interest to ensure other industrialized countries were also undertaking a shift to greater efficiency and use of renewables. With the withdrawal of the US from negotiations, ratification by Russia became the only way the EU could ensure the Kyoto Protocol would enter force. By ensuring Russia's participation, the EU was able to get the Kyoto Protocol ratified and has begun to increase its energy security. As mentioned, the EU induced Russia to remain committed to the Kyoto Protocol by promising to back Russia's entrance into the World Trade Organization (WTO).

*The European Union and domestic pressure: the public and industry*

Industries in the EU have in general tried to work with the government to try to influence implementation policies, rather than oppose them outright. Because European industries and businesses did not oppose the Kyoto Protocol, the government of the EU faced less pressure from industry than other industrialized countries, namely the US. Industries in the EU view environmental measures as inevitable and are therefore more accepting of their passage, although in some cases this is only because they realize they can relocate their operations in another area with weaker environmental measures.<sup>64</sup> In the EU population, there is also a greater acceptance of government influence in economic decision-making. This acceptance reflects the social-democratic political structure. As Grubb and Gupta have found,

Unlike the US, the population in Europe is far more willing to support small steps in relation to climate change. If the US wishes to impose a tax there is a revolution. People in Europe see benefits in other environmental areas, such that it is an act of faith for them to expect that there will be benefits on climate change. People are willing to pay a certain price<sup>65</sup>

Within the EU, environmental NGOs have played a constructive role, and they have been effective at pushing their issues into the international agenda of the EU. NGOs in the EU are deemed to play a large role in EU policy. In part this has to do with the number of

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<sup>63</sup> Ibid.

<sup>64</sup> Gupta, Joyeeta and Grubb, Michael. *Climate Change and European Leadership: A Sustainable Role for Europe?* Environment & Policy, Volume 27. Kluwer: Dordrecht, 2000.

<sup>65</sup> Quote from interviewees. Quoted in Gupta, Joyeeta and Grubb, Michael. P. 266.

Green Party representatives and environmentalists in political positions at the state and EU governing level.<sup>66</sup>

### Conclusion

With its internal politics more amenable to greenhouse gas regulations, the EU was able to take a stronger stance during climate change negotiations. Focusing on environmental protection as a way to increase its influence in foreign relations, the EU took advantage of the leadership void left by the US and has since become the de facto leader in climate change negotiations. Becoming a world leader is the goal of most nations, and within global environmental politics the EU has sought to carve out a niche where it can be dominant. Thus far it has succeeded. Underlying its desire to be a world leader on these issues was its desire to be less dependent on other nations for its energy supply. By pursuing the Kyoto Protocol the EU has set a course where in the future it will be significantly less dependent on foreign fossil fuels and therefore less influenced by the politics of Russia and the Middle East.

The EU has effectively managed through its actions to present itself as the “greener” actor while the US is the polluting nation that tried to destroy the Kyoto Protocol. This image in the international community has translated into stronger environmental opinions in the population in the EU. Industry has indicated that it may not take such an uninvolved role during the next round of negotiations, and when the EU released its latest energy policy in January 2008, there was some grumbling among industry. However, the EU government is already working with industry to ensure that by the EU taking stronger actions on climate change it is not creating a competitive disadvantage. The EU’s long-standing belief that climate change is a significant issue shaped its actions throughout the climate change negotiations around the Kyoto Protocol. This belief also provided it with a way to become involved in international relations in a leadership position.

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<sup>66</sup> Gupta, Joyeeta and Grubb, Michael.



## Chapter 4

### *Analyzing the Potential of the European Union to Be a Leader in the Post-2012 Climate Change Negotiations: Using the Kyoto Negotiations as a basis of analysis*

The US is a strong political actor whereas the EU is a slow moving but weighty ship. The Community position has more weight in the long term. The US often cannot define a credible negotiating platform – they cannot think of all the ramifications, on North-South issues for example as the Community can. In climate, forests and biodiversity the EU is the only leader while the US is absent, blocking or destructive.<sup>67</sup>

Thus far in the press and among scholars in the United States, the main discussion around the post-2012 negotiations has focused on whether the US will sign and ratify the next climate change agreement. There is a common realization that without the full participation of the US, the next climate change agreement or treaty will fail in its efforts to fight climate change. While the US does need to be a partner to the post-2012 agreement, there also needs to be leadership in place ensuring that the US does not drive negotiations towards a weak and ineffective agreement. The European Union

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<sup>67</sup> Interview DGXI Brussels 4 June 1996. Quoted in Vogler, John. "In the Absence of the Hegemon: EU Actorness and the Global Climate Change Regime." National Europe Centre. Paper No. 20. Presented at conference on *The European Union in International Affairs*. National Europe Centre, Australian National University, July 3-4, 2002.

demonstrated its ability to work as a leader in international negotiations through its efforts with the Kyoto Protocol. Most of the literature on the potential of the EU as a leader in international environmental negotiations was written while the Kyoto Protocol was still being negotiated, so it focuses on the ability of the EU to get Kyoto ratified and entered into force. Since then, there has been little analysis or literature on how the EU will function as a leader in climate change negotiations following the Kyoto Protocol, except to state that they are the leader.

While there does not necessarily have to be a leader in climate change negotiations, with clear leadership the negotiations can progress faster and achieve more. While the possibility of the EU and the US jointly forming a leading partnership is not out of question, this is unlikely as the two actors are interested in pursuing their own interests in international negotiations. Additionally, the EU has consistently pursued stronger emissions reductions targets, which has often put it at odds with the US which has favored voluntary measures. The elements of leadership potential that I described in chapter two were used originally to evaluate the potential of the EU as a leader in the climate change regime during the time of the Kyoto Protocol. By using these same leadership elements it is possible to discern how the EU has progressed as a leader. Conversely it is also possible to analyze where its weaknesses are and to determine if these weaknesses may prohibit it from maintaining its leadership role. Evaluation of these strengths and weaknesses clarifies that the EU has progressed in its potential to be a leader and indicates that it can be an effective leader in the climate change regime.

*The Strengths and Weaknesses of the European Union during the Kyoto Protocol Negotiations*

According to Grubb and Gupta, prior to the ratification and entrance into force of the Kyoto Protocol, there were signs that the EU had some of the leadership elements needed to effectively lead the climate change negotiations.<sup>68</sup> There was a consistent political will within EU member states to develop a long-term agenda that would effectively address climate change through significant commitments. Once the EU began presenting a common position, it was presenting the common position of 15 states, giving

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<sup>68</sup> Gupta, Joyeeta and Grubb, Michael (Eds.). *Climate Change and European Leadership: A Sustainable Role for Europe?*. Environment & Policy, Volume 27. Kluwer: Dordrecht, 2000.

them considerable weight. The EU was capable of implementing common policies and measures in its member states, which by affecting all of them would also motivate all of them to ensure there was an international agreement reached. Finally, the EU had a better long-standing role with developing countries allowing it to act as an intermediary between the North and South.<sup>69</sup> All of these strengths are still present today, although many scholars agree that the EU has not effectively used its relationship with developing countries. Leveraging this relationship in the post-2012 negotiations will be vital as so much of the negotiations will be focused on what role the developing countries will take in the post-2012 agreement.

There were some weaknesses present in the EU during the Kyoto Protocol negotiations, which according to Grubb and Gupta could have prevented it from realizing its leadership potential. As a new negotiating unit, the EU was initially an ineffective and inexperienced negotiator, as it was often too focused on internal discussions. Also, as a new negotiating unit there was the temptation for individual member states to begin negotiating bilaterally with states where they had past political ties. There was also a feeling of inertia in the EU's negotiating position, once it had decided on a policy decision there was no room for fluctuation, and the EU was ineffective at dealing with policy changes in other actors. All of these weaknesses were highlighted at the Hague when the EU's incompetence at international negotiations contributed to the collapse of negotiations.

However, the EU is now a more experienced negotiator and has shown that it can effectively negotiate as a unified bloc, rendering this initial weakness diminished. Additionally, while there is still some evidence of strong bilateral relations, such as those between the UK and the US, it is now commonly recognized now that a bilateral climate change agreement would refer to the EU and the US, not an individual member state and the US. The EU has also improved its internal negotiations, so there is hope that it will no longer slow down international negotiations with its internal discussions. The EU showed that it is able to change its policy position throughout the Kyoto Protocol negotiations, the main tenets of the EU position did not change, but it was willing to

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<sup>69</sup> Gupta, Joyeeta and van der Grijp, Nicolien. "Strengths, weaknesses, opportunities and threats of the EU" Ch. 14 in Gupta, Joyeeta and Grubb, Michael.

compromise on implementation. Another weakness of the EU cited by Grubb and Gupta was that it had no experience with flexible mechanisms. While this was true at the time, the EU now has more experience with flexible mechanisms in terms of GHGs than anyone else. While their initial foray into their EU-ETS (European Union Emissions Trading Scheme) for CO<sub>2</sub> emission had some kinks, it should function better in the future and the EU will likely reap some first-mover advantages.

As these previous strengths and weaknesses show, the EU has matured as an international actor. Many of the initial weaknesses and questions about the leadership potential have been answered through its actions getting the Kyoto Protocol ratified and entered into force. In the negotiations since, the EU has remained a dominant figure in climate change negotiations. Additionally, the US cannot technically participate in the Kyoto Meeting of the Parties (MOPs), meaning the EU is the dominant developed country actor in those negotiations. Looking at the leadership elements defined in chapter 1, structural, instrumental, and directional, it becomes even more apparent that the EU has evolved into a dominant actor in international environmental negotiations. It also becomes apparent that it has the potential to remain an effective leader in climate change negotiations.

### Structural Power

There is little debate that the EU clearly wields a lot of structural power. With the full weight of the economies and populations of 27 member states, the EU is an economic force in international relations. Last month (March 2008), the EU 15 passed the US in terms of Gross Domestic Product (GDP),<sup>70</sup> making the EU the world's largest economy.<sup>71</sup> The collective 27 member states also wield considerably more power in international relations as a negotiating bloc than they each would independently. Other states that negotiate as blocs, such as the Alliance of Small Island States (AOSIS) do not have the combined political and economic power of the EU. This is due to the EU's unique structure as an actor. Although it is not a state, it functions as more than just a regional group of states.

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<sup>70</sup> 2007 GDP of the US was \$13,843,800 (USD) and the 2007 GDP of the EU was €8, 847, 889 (euro), when the Euro began trading at \$1.56, the EU's economy became larger than the US economy

<sup>71</sup> Corsi, Jerome R. "U.S. loses No. 1 ranking as dollar drops: European Union now has world's biggest economy." [www.WorldNetDaily.com](http://www.WorldNetDaily.com) March 18, 2008.

Ironically the EU has lost some structural power in terms of its CO<sub>2</sub> emissions. It is no longer the number two CO<sub>2</sub> emitter; that honor is bestowed to either the US or China depending on the study. The EU still contributes significantly to greenhouse gas emissions; its total emissions decrease was only 0.9% of 1990 levels in 2004. However, the projection of member states still has it reaching its target of decreasing emissions by 8% of 1990 levels by 2010.<sup>72</sup> Structural power is an important leadership element, as it gives states the power to be heard in international negotiations. The relative economic, political, and technical strength of a country determines how other countries view the importance of their involvement. Even with its absolute and relative decreased GHG emissions, the EU is still a strong force in terms of structural power, which has not effectively decreased or increased since the Kyoto Protocol negotiations. Collectively, the EU is one of the most important actors in international relations.

#### Instrumental Power

The leadership element where the EU has traditionally had the most difficulty is instrumental power. Historically the EU has been an ineffective negotiator. In the past, it has had difficulty using diplomatic skills to build coalitions and negotiate structures. However, its actions following the US withdrawal from the Kyoto Protocol negotiations showed that it does have the ability to use diplomatic skills. As mentioned, after the US withdrawal, the EU launched an international diplomatic mission to ensure the remaining “umbrella” group members did not follow the US in defecting from the Kyoto Protocol. This unprecedented EU diplomatic mission was successful, and Japan, Canada, and Russia did not defect. Even Australia under a new president, has now ratified the Kyoto Protocol, although that cannot be attributed to diplomatic actions of the EU.<sup>73</sup> The US is now the only developed country not to have ratified the Kyoto Protocol.

The EU is still not always the most effective negotiator. Its position can be hampered by its sheer number of member states and there is and will probably always be some element of internal negotiations that have to take place at COP/MOPs, although it is

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<sup>72</sup> This is based on the following projected decreases: -0.8% from carbon sinks, -2.6% from Kyoto mechanisms, -4% from additional domestic policies and measures, and -0.6% from existing domestic policies and measures. European Environment Agency Report No 9/2006. “Greenhouse gas emission trends and projections in Europe 2006.” Copenhagen: 2006.

<sup>73</sup> Associated Press. “Australia ratifies Kyoto global warming treaty.” [www.msnbc.com](http://www.msnbc.com), Posted on December 3, 2007. <http://www.msnbc.msn.com/id/22081582/>

unlikely that the sheer quantity of internal negotiations seen at the Hague will be seen again. There are still instances of backroom action between individual member states and other non-EU states. There are some reports that negotiators from certain member states will apologize for the position of the EU when in private conversation with the US and other countries. While these individual countries or negotiators may feel that the position of the EU is too strong, these side comments undermine the position of the EU and its effectiveness in presenting this position. As we have seen instrumental leadership can be separated into two different elements, entrepreneurial leadership and interactive leadership. In regards to entrepreneurial leadership, the EU still has to progress; it does not have the institutional capacity to make decisions on its own. Before committing to decisions in international negotiations, the EU negotiating team has to ensure that the decision is approved by the EU government. This is not really so different from other countries, though; all country delegates have to get approval from their respective governments before agreeing to something. In terms of interactive leadership, the EU's negotiating position is influenced to some degree by non-state actors. As previously mentioned, environmental NGOs are active in the EU and there are Green Party members in elected and appointed positions in the national and regional government.

There is an aspect of instrumental power where the EU does have potential to grow in terms of negotiations and coalition building. The G77, minus China and India, has aligned itself with the position of the EU through most of the climate change negotiations. According to interviews conducted by Grubb and Gupta, the EU has a long-standing role with developing countries, and is often seen as environmentally effective and sympathetic to developing countries.<sup>74</sup> The EU has consistently advocated the position that the developed countries should act first, and that they should assist developing countries in adopting and implementing climate policies. Developing countries entered into the climate change negotiations in the United Nations Framework Convention on Climate Change and the Kyoto Protocol thinking this was how the agreements would be shaped. When the US changed course half-way through and said that developing countries had to make quantified emissions reductions targets as well, this angered many developing countries. The developed countries are considerably more

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<sup>74</sup> Gupta, Joyeeta and Grubb, Michael.

responsible for climate change in terms of cumulative emissions and the developing countries feel that they have the right to develop and to use their resources as developed countries did. With the important role developing countries are expected to play in the negotiations around the post-2012 agreement, the EU is in a unique position to act as an intermediary between the North and the South. If this relationship is utilized effectively this could be the where the EU fully utilizes its instrumental power.

### Directional Power

The greatest leadership potential of the EU lies in its ability to effectively use its directional power. As a collection of states, some developed, some considered in transition, the EU is in a unique position to function as a microcosm of international actions on climate change. When the Kyoto Protocol was being negotiated there was the recognition that the EU with its 15 diverse member states would be able to develop and test EU-level policies that could then be extrapolated out to the international community as a whole. With the addition of its new member states, especially the member states who are considered to have transition economies, this potential to function as a microcosm has only increased. In their analysis of the leadership potential of the EU in the Kyoto negotiations Grubb and Gupta presented different scenarios based on different paths the EU could take to leadership, one of these scenarios is the “EU as microcosm.”<sup>75</sup> In this scenario the EU takes the leadership in the climate change regime during the Kyoto Protocol negotiations and functions as a microcosm for the international community. The EU’s strengths in handling diversity, subsidiarity, and devolution of decision-making powers towards a common goal among other lessons could be used to learn how to handle these same situations in the international community.

The EU has proposed an ambitious internal climate change plan, putting it in front of other developed countries in terms of commitments. It has adopted the policy that “industrialized countries should collectively cut their emission of greenhouse gases to 30% below 1990 levels by 2020”<sup>76</sup> with the ultimate goal being a cut of 60-80% by

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<sup>75</sup> Gupta, Joyeeta and Grubb, Michael.

<sup>76</sup> “Combating Climate Change: The EU Leads the Way” European Commission. Series: *Europe on the move*. Brussels: 2007. p.5

2050.<sup>77</sup> In order to set an example and outline its commitment, “the EU has agreed to cut its own greenhouse gas emissions by at least 20% by 2020 regardless of what other countries do.”<sup>78</sup> By committing member states to a 20% reduction now, without waiting to see what happens in the 2012 agreement negotiations, the EU is maintaining its strong position in climate change negotiations. It is maintaining its position that quantified emissions reductions targets are the only way to achieve meaningful action on climate change, and it is also committing itself to the international negotiations process. By committing member states, this proposed agreement provides a powerful incentive for the EU to see strong commitments reached in the post-2012 agreement. It has also claimed that through an analysis done by the European Commission, the investment “to achieve a low-carbon economy would cost only around 0.5% of world GDP between 2013 and 2030.”<sup>79</sup> This claim directly refutes what other developed countries claim: that mandatory action to reduce greenhouse gas emissions will negatively affect economic growth and stability.

The EU has identified a number of ways it intends to achieve these reductions: improving energy consumption, increasing the role of renewable energy, increasing the role of biofuels,<sup>80</sup> promoting low and zero-emitting technologies, integrating EU energy markets, integrating EU energy policy with other policies and finally, increasing international cooperation.<sup>81</sup> Recognizing that technological advancement alone will not account for all the emissions reductions that need to happen, the EU has taken the position that a meaningful reduction in energy consumption (20% from business as usual)<sup>82</sup> needs to be an important part of any climate change policy. In addition to reducing consumption, increasing the use of renewable energy technologies is equally as important, the EU’s goal is to increase renewable energy to 20% of total energy

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<sup>77</sup> “EU action against climate change: Leading global action to 2020 and beyond.” European Commission. Belgium: 2007. p. 9

<sup>78</sup> “Combating Climate Change: The EU Leads the Way” p. 5

<sup>79</sup> “EU action against climate change: Leading global action to 2020 and beyond.” p. 7

<sup>80</sup> The EU has placed a caveat on its desire to increase the use of biofuels. “Whether produced in the EU or not, we must ensure that the production of biofuels is sustainable, i.e. does not lead to deforestation or loss of biodiversity, or undermine food production.” It should be noted that there are some strong critiques by environmental and human rights NGOs, of the EU’s promotion of the use of biofuels. “Combating climate change: The EU leads the way.” P. 18

<sup>81</sup> “Combating climate change: the EU leads the way”

<sup>82</sup> “EU action against climate change: Leading global action to 2020 and beyond.” p. 10

consumption by 2020. The EU has committed to raising the use of biofuels in place of petrol and diesel to 10% from its current 1% usage, and it is looking at newer technologies such as carbon capture and sequestration.<sup>83</sup> These energy policy commitments are not small and they still have to pass the governments of member states and the European Parliament.<sup>84</sup> If the energy policy measures do pass and the EU begins implementing these efforts to improve its energy usage and reduce its dependency on fossil fuels, this will be an important example to other countries that it is possible to achieve meaningful changes in energy policy without facing economic losses. The EU's progressive energy policies will likely face tough resistance from industry, and how the government handles this resistance will be indicative of what other countries could face from implementing similar policies. The EU has stated that it will address the concerns of industry, in order to avoid a situation where industries who feel the EU's policies are too stringent relocate to areas with more lax energy policies.

The biggest element of directional leadership the EU has is its EU-ETS. As the first and largest international carbon trading system, the EU-ETS acts as an important example of how the international carbon trading system could look. The EU-ETS currently covers about 45% of total EU CO<sub>2</sub> emissions from industry, but this amount will increase and also be dispersed over a wider range of institutions.<sup>85</sup> There are also proposed changes to make the system better. For example, in the new system pollution permits for electrical utilities would be administered by the EU executive in Brussels, rather than by individual member states. Also, the electrical utilities would be charged for these permits, which they currently receive for free.<sup>86</sup> These same changes would apply to other industries, and this is where the EU is going to face its greatest resistance from industry and possibly the public. Electrical utilities will be able to pass the additional cost onto the public, but exporting industries will not be able to do the same and they will be looking to the EU for ways these additional costs can be balanced out. As with its improvement in energy policy, the EU has to be careful not to drive industry to relocate to other countries with lax energy policies. The EU-ETS started off a bit

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<sup>83</sup> Ibid.

<sup>84</sup> Kanter, James. "EU backs measures to combat climate change." *International Herald Tribune*. Brussels: January 23, 2008. <http://www.ihf.com/articles/2008/01/23/business/23climatefw.php>.

<sup>85</sup> "EU action against climate change: Leading global action to 2020 and beyond."

<sup>86</sup> Kanter, James.

shaky with an over-allotment of pollution permits, but the system is now functioning and many scholars and policy-makers who were initially skeptical of the carbon trading system are looking to it as an example of how the global carbon market may one day look. There is even some movement in individual US states to model their carbon trading markets after the EU-ETS with the possibility that the markets could join in an international market in the future.<sup>87</sup>

These proposed measures, internal to the EU-27, are indicative of the significant commitments the EU member states are willing to undertake in their commitment to reducing greenhouse gas emissions and keeping the rising global temperature below a 2% increase. While these environmental measures still have to pass the European Parliament and individual states' governments, it is likely that they will eventually pass. These measures were drafted by representatives of each member state, so most of the negotiations between states should already be resolved. The biggest challenge the measures are going to face will be the reaction of industry. If passed, these measures will be an important example to the international community of the progressive steps the EU is willing to take. More importantly these steps show the international community that it is possible to take modernize energy policy and commit to greenhouse gas reductions without negatively affecting economic growth. A quote from the President of the European Commission illustrates why the EU is pursuing these progressive measures: "Europe can be the first economy for the low-carbon age."<sup>88</sup> If the EU does in fact become the "first economy" it will be a perfect microcosm to other countries of what they can achieve.

### Conclusion

The EU is by no means a perfect leader, it has flaws. It can complicate negotiations with its internal negotiations, it can be inflexible in its position, and as it is no longer one of the top two emitters it is slightly less important to the overall global emissions reductions. The EU has also, to date, not effectively used its past relationship with developing countries. But many developing countries do still look to the EU as a leader because it adheres to the principle that developed countries need to act first. With

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<sup>87</sup> Mason, Jeff. "California Eyes Joining EU Emissions Trading Scheme." *Reuters*. Belgium: March 30, 2007. <http://www.planetark.org/dailynewsstory.cfm/newsid/41166/story.htm>.

<sup>88</sup> Kanter, James.

the increasing emissions of the developing countries, the EU has begun calling for these countries to address their rising emissions by decreasing the emissions intensity of their economic development. At the same time the EU is still willing to address the fact that developing countries will need support to adopt progressive climate change policies and in regards to their adaptation to climate change.<sup>89</sup>

But the EU outweighs its weaknesses with its strengths in leadership elements. In terms of structural leadership the EU is no longer one of the largest emitters, but it is still a large emitter, and the fact that it has managed to reduce its emissions should increase its power in climate change negotiations. The fact that it is projected to reach its emissions targets indicates that its climate change policies dictated by the Kyoto Protocol are effective in reducing greenhouse gas emissions. Even more important in terms of the international community is that the EU's economy has not been negatively affected by its climate change policies.

One of the EU's biggest challenges in terms of maintaining recognition as a leader will be fighting the dominant political thought that the US is the most important actor in the post-2012 climate change negotiations, and that therefore negotiations should cater to them. The EU needs to fight the movement that perhaps the negotiations for the next agreement should wait until there is a new US administration in office. History has shown that the US is a fickle actor in international negotiations, especially climate change negotiations. There is no proof as of yet that the next President will commit to the international negotiations, or that he or she will be able to move the US Congress to ratify this new climate change agreement. The US has previously abandoned a climate change agreement of its own design, without regard for the international community. This kind of unilateral behavior is not what is needed by the leadership in climate change negotiations. The EU presents a more unified and cohesive leadership, its member states have agreed to quantified binding emissions reductions targets, and its fundamental position on climate change is unlikely to change. As indicated by an unnamed delegate at

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<sup>89</sup> "EU action against climate change: Leading global action to 2020 and beyond."

the recent COP13/MOP3 in Bali, Indonesia developing countries view the US with distrust: “Anything the U.S. proposes, people are going to be suspicious about.”<sup>90</sup>

The EU’s directional leadership potential is only increasing with its latest climate change policies. Through its actions adopting the Kyoto Protocol, the EU was able to show that it is possible to adopt the policies in the Kyoto Protocol without economic collapse or facing competitive disadvantages in the global market. With this example, the international community is negotiating the post-2012 climate change agreement in the same principles as the Kyoto Protocol. There has been some discussion of sectoral emissions reductions targets, but the international community has seen that country-level emissions reductions targets can work. With its proposed climate change policies, the EU is set to remain the example to the international community of how climate change can be addressed among a diverse group of states.

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<sup>90</sup> Eilperin, Juliet. “U.S. Strategy Succeeds in Bali: Climate Talks Turn to Efforts Other Than Emissions Targets.” *The Washington Post*. December 13, 2007. p. A27.

## Conclusion

The climate change negotiations for the post-2012 agreement have only just begun and the outcome of the negotiations is crucial to the fight against climate change. The international scientific community has become more and more unified in its assessment that climate change is real, happening, and potentially devastating to human life, development, and the world's economy. This realization is driving international negotiations, and there is an acknowledgment that this next climate change agreement needs to have meaningful emissions reductions targets. The Intergovernmental Panel on Climate Change (IPCC) was awarded the Nobel Peace Prize in 2007, reflecting the growing global realization that climate change is happening and it is an important issue.<sup>91</sup> The European Union has been at the forefront of pushing for meaningful emissions reductions targets and it has illustrated through its domestic actions that it is willing to "put its money where its mouth is." Now what remains is for the EU to lead the post-2012 negotiations to an agreement that achieves meaningful reductions in greenhouse gas emissions on a short time scale.

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<sup>91</sup> Gibbs, Walter and Lyall, Sarah. "Gore Shares Peace Prize for Climate Change Work." *The New York Times*. October 13, 2007.

While the EU could have been considered a problematic leader in the beginning of climate change negotiations, it has evolved into a dominant world power in international environmental negotiations. It has the ability to lead climate change negotiations and if it uses its ability to the fullest it also has the ability to drive the post-2012 agreement towards committing to significant emissions reductions targets. Following the withdrawal of the United States from the Kyoto Protocol negotiations, the EU became the dominant actor in climate change negotiations, and it is still viewed as the dominant actor by many. Its ability to take a “dead” international agreement and get it ratified and entered into force illustrates the strength that the EU possesses as an international actor.

While ratification and implementation by the US is necessary for effectively combating climate change; the US is not and will no longer be an effective and good leader. John Vogler states that “the idea of US environmental leadership has, to put it politely, ceased to be credible.”<sup>92</sup> Directly countering the claims made by Richard Benedick in *Ozone Diplomacy: New Directions in Safeguarding the Planet*, that the Montreal Protocol negotiations make a case for American leadership.<sup>93</sup> It is now up to the EU to solidify this position, it began flexing their strength at the Bali COP13/MOP3. The EU and the US were at an impasse over having a quantified emissions reductions target outlined on the Bali Action Plan, with the US opposed. The EU showed its strength by threatening to boycott Washington’s major economies meetings. Without the full participation of the EU in these meetings they would be completely ineffective. The compromise decision had the IPCC recommendations footnoted on the Bali Action Plan.<sup>94</sup> While this is hardly the ideal place for them to be stated, it is significant that the recommendations are even on the initial document for negotiating the post-2012 agreement. It is up to the EU in the coming negotiations to fully realize its leadership role and to dictate the pace and commitments of these negotiations, if it allows the current

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<sup>92</sup> Vogler, John. “In the Absence of the Hegemon: EU Actorness and the Global Climate Change Regime.” National Europe Centre Paper No. 20. Presented to conference on *The European Union in International Affairs*, National Europe Centre, Australian National University, July 2002.

<sup>93</sup> Vogler, John. Citing Benedick, Richard. *Ozone Diplomacy: New Directions in Safeguarding the Planet*. World Wildlife Fund, Georgetown University Institute for the Study of Diplomacy. Harvard: 1998.

<sup>94</sup> Eilperin, Juliet. “Climate Change Compromise Plan Offered in Bali” *The Washington Post*. December 15, 2007, p. A17.

US administration to derail discussions of quantified emissions reductions targets then it will have failed in its leadership role.

There is a lot of talk among scholars that maybe the international sphere is not the right forum for solving the climate crisis. While this may ultimately be true, any regional or sectoral organization will need to have the overarching guidance of an international framework. An international framework provides the structure and targets that will be needed for regional or sectoral organizations to be effective and cohesive. Without an overarching structure, it is likely that action on climate change would focus on more voluntary agreements and other ineffective measures. While the “Major Economies” or “Major Emitters” meetings created by the US might have the right idea for what will be the ultimate shape of the climate change regime. There is intense distrust that the US is leading these meetings. In the beginning and even now there is the fear that these meetings are really just a way for the US to push voluntary emissions targets and undermine the United Nations Framework Convention on Climate Change (UNFCCC) process. If there was an overarching agreement where states had committed to taking action in a certain manner, this fear would be diminished. Additionally, if it was not the US leading the meetings, there would be less concern about them.

The EU has evolved into its position as a dominant world actor in a short amount of time and its role in the climate change regime cannot be ignored. Without the EU there would be no Kyoto Protocol and climate change negotiations would be further behind where they currently are. The EU began negotiations as 15 separate states and over the course of negotiations it evolved into a unified and powerful actor. Without the withdrawal of the US it is possible the cohesion would not have happened and this dominant world actor would not have emerged. The EU is an “evolving entity” and the climate change regime is where this fact is most clear.

Looking at its strengths, weaknesses, and leadership elements it is obvious that the EU has the qualities to maintain its leadership in the climate change regime. With its 27 member states, the EU represents 27 votes in negotiations, and it represents the population and economies of those states. This amount of structural power provides the EU with a commanding place in international relations. Its long-standing relationship with developing countries provides the EU with a unique opportunity to encourage

developing countries to begin taking action on climate change. If the EU is able to lead international negotiations where developing countries are also committing to action on climate change, then it is likely the US will ratify the agreement. Directionally, the EU has committed itself to the UNFCCC process and if it meets its current emissions reductions targets, it will be in a position to influence other developed country actors. By meeting its targets without facing significant economic challenges the EU can prove the argument of the US wrong. The EU has grown as an international actor and it has overcome many of the weaknesses it presented during the Kyoto Protocol negotiations.

Though its actions during the Kyoto Protocol negotiations, especially its actions getting the protocol ratified and entered into force, the EU demonstrated that it does have the leadership skills to lead international negotiations. The EU possesses elements of structural, instrumental, and directional power, which establish that it does have the international clout and skills to direct negotiations. In regards to its directional power, the EU is in the most unique position in the world to take advantage of this and use it to influence international negotiations. Ultimately the EU has the skill set required to firmly establish itself as the leader in climate change negotiations, but it is up to the EU to actually follow through. It is up to the EU to take a stand in the next year and a half of negotiations, and push negotiations towards an agreement that is more in line with the scientific assessments put forth by the IPCC. The EU has the ability; it is now up to them to use it effectively and lead the international negotiations towards a more meaningful climate change agreement.

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