

# **Transatlantic Cooperation on Climate and Energy Policy after the US Midterm Elections**

## **A European Perspective**

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# INTRODUCTION

Conditions for US climate and energy policy have considerably changed after comprehensive climate and energy legislation has failed in the 111th Congress. In the newly elected 112th Congress, emphasis will likely shift away from climate change to more orthodox supply side energy strategies. At the same time, the Obama administration has announced that the US will continue to pursue moderate greenhouse gas reduction objectives and will remain engaged within the international process to design a global climate change regime. The US will also remain engaged with the European Union, although emphasis has recently shifted towards cooperation within the transpacific space.

Against the background of the above mentioned developments, this paper will explore the consequences for the European Union's climate and energy strategy as well as for a future international climate regime. From a European perspective this paper explore ideas for enhanced transatlantic climate and energy cooperation, both bilaterally as well as with partners in emerging economies and developing countries. Some of those ideas point well beyond the short term opportunities that present themselves in the next two years until the end of 2012.

Transatlantic cooperation on climate change as well as active participation of both sides within international efforts remains indispensable to achieve success. However, considering political restraints on sides, US and European cooperation on climate change should not be overburdened with unrealistic expectations. Still, the common relationship can draw on a basis of close economic integration, strong cooperation in science and technology and a still existent high public awareness about the basic fact that our current practices to supply our economies with energy are highly unsustainable both economically and ecologically.

# US CLIMATE AND ENERGY POLICY AFTER THE MID-TERM ELECTIONS

When President Obama took office in January 2009, hopes were high for a shift in US energy and climate policy. The new US administration made clear that she wanted to move fast on comprehensive energy and climate legislation and re-engage internationally. Separate energy and climate bills were soon drafted in the US Congress. Leading up to the UN climate summit in Copenhagen, in December 2009, President Obama announced a domestic greenhouse gas reduction target of 17% by 2020 based on 2005 levels, although contingent on Congress enacting legislation. At the same time, US negotiators re-engaged in international climate talks with a view to join an international agreement under the roof of the UN.

In the last two years a number of events and developments have shaped US energy and climate policy decision making. Those factors are important to understand why comprehensive energy and climate legislation ultimately failed although considerable efforts were made both within Congress and by the administration. They also remain important independently of whether tactical mistakes were made or wrong priorities were set along the way.

Although political majorities in the US Congress have shifted, the above mentioned developments will remain the backdrop to further decision making and should therefore be analysed properly.

## Economic and Fiscal Crisis

The financial and successive economic crisis overshadowed the first two years of the Obama administration. Efforts to stabilize financial markets, address the economic crisis and rising unemployment made other policy initiatives increasingly difficult to support. Polling numbers – see page 8 – indicated Americans' waning support for climate change policies and a strong focus on the economy as a priority issue. The administration's preferred approach to addressing climate change, the introduction of a nation and economy wide cap and trade system, was portrayed by opponents as another 'tax on energy'. The economic recession particularly hit those states with traditional energy intensive industries, including many states of the Midwest, who had voted for President Obama in the 2008 elections.

The alternative narrative of ecological modernisation of America's economy – which echoes the approach of a "Green New Deal" as proposed by the Greens in the European Parliament – did not gain traction, although some prominent voices, including newspaper columnist Tom Friedman, did try to make the argument. In his New York Times column from March 11, 2009 on "The Great Disruption" Friedman argues:

"Let's today step out of the normal boundaries of analysis of our economic crisis and ask a radical question: What if the crisis of 2008 represents something much more fundamental than a deep recession? What if it's telling us that the whole growth model we created over the last 50 years is simply unsustainable economically and ecologically and that 2008 was when we hit the wall - when Mother Nature and the market both said: No more."

The administration, which found itself with the back to the wall economically, only reluctantly employed the green economy argument when talking about the recession. Nevertheless, the transition towards a green low carbon economy remains one of the challenges this or future administrations will have to address, independently of concrete legislative approaches like cap and trade.

To a certain extent, the stimulus package of the American Recovery and Reinvestment Act (ARRA) was used to upgrade the nation's decrepit energy infrastructure. New grids to transport renewable energies from the source to the consumer as well as smart grid solutions that organize energy use and distribution more intelligently are the one part of an ecological modernisation strategy that the administration has embraced energetically. The funding dedicated through the consecutive stimulus programs will however not suffice to upgrade the country's complete energy infrastructure. The US electricity grid is highly decentralised. Current investments are not taking place under a nationwide development strategy for alternative energy sources but try to fill existing gaps on

a rather ad hoc basis. Nevertheless, investing in America's energy infrastructure could be one viable strategy to overcome partisan gridlock in the coming two years.

### Increasing Energy Prices, Import Dependency and Energy Security

Trends that shape US energy markets are regularly being projected by the US Energy Information Administration (EIA). The EIA's reference scenario is based on the assumption that current laws and regulations remain generally unchanged throughout the projections. Short term price hikes, like the ones after Hurricane Katrina, hit the oil industry in the Gulf region or when speculative activities drove up prices in 2007-2008, cannot be foreseen on that basis, however long-term trends still indicate that imports of fossil fuels will continue to dominate US energy supply and prices will rise steadily. The double concern about the high import dependency for oil and gas, particularly from crisis prone regions, and rising energy prices or short term price shocks, will continue to drive the domestic energy policy debate within the US.

The nexus of energy security and climate change is debated differently within the US than in the EU. The EU debate is dominated by the 'politics of pipeline' (an import diversification strategy, mainly towards Russia) and a replacement strategy that tries to substitute electricity production from coal and gas through renewable energy and – for some Member States – through nuclear energy. In the US, rising fuel prices and the concern about energy security define the debate. Environmentalists argue for increased fuel economy standards but others support extended domestic energy production, whether from offshore oil and gas fields, from shale gas development or biofuels. In "The Economist" from January 22nd, 2011, Mississippi's Governor Haley Barbour – a leading voice within the Republican Party – was quoted to say:

"Mississippi will have a policy on energy, and that policy is more energy."

One other interesting point is that in the U.S. the energy security concerns are at first glance focused on the transport sector, because they are driven by concern about crude oil imports. But the potential for vehicle electrification allows these concerns to be used by advocates of renewable power and advocates of nuclear power as justification for expanding these components of the U.S. electricity generation portfolio. Which side wins the debate has shifted back and forth.

### Shifting Public Support for Climate Change Legislation

When the new administration took office in early 2009, international attention towards climate change was at a highpoint. The world was gearing up for the UN climate summit in Copenhagen and urgently requesting a more constructive engagement of the US within international negotiations as well as long postponed action at home.

At the same time, public concern in the US for climate change had obviously passed its peak. A CBS News/New York Times poll that was published on the eve of the Copenhagen climate summit found the following:

"Most Americans continue to think global warming is a serious problem, but fewer now view it as a high priority than they did two years ago. And amid the backdrop of a struggling economy, by two to one, Americans say stimulating the economy is more important to them than protecting the environment. 37% see global warming as very serious and something that should be one of the highest priorities for government leaders, down from 52% in 2007. Another 33% admit global warming is a serious problem, but do not think it needs to be a high priority. The percentage who says global warming is not serious – 23% – is three times what it was two years ago."

The poll also found a significant difference in concern about global warming between self identified voters for the Democratic Party (52% say global warming should be a high priority) and much less concerned Republicans (22%). Young people are more concerned about climate change than older voters. When asked the question "What do you think is the most important problem facing the country today?" only one percent quote climate change. Concerns about the economy, the country's finances and unemployment top the list. When being asked to choose between economic and environmental concerns, the public thinks stimulating the economy is more important (61%) than protecting the environment (29%).

Asked to take a more global perspective and about their longer term concerns, climate change takes a more prominent spot. Another recent study, published in August 2010 and co-sponsored by the news agency AP with Stanford University, found the balance between economic and environmental issues significantly shifting towards the environment when asking Americans to take a more global (as opposed to merely domestic) perspective. When probed "What do you think will be the most serious problem facing the world in the future if nothing is done to stop it?" 25% of respondents name the environment or global warming and economic issues are named by only 10%.

What the numbers above demonstrate is that economic concerns dominate Americans' short term



thinking. Climate change is considered to be a long-term challenge that can only be addressed globally. Political leaders have obviously not been able or willing to convey which short term steps have to be taken to alleviate the long-term threat of climate change and why the US as the world's biggest economy has to play a leading role in taking those steps.

### The Deepwater Horizon Accident

Since April 2010, efforts to pass energy and climate legislation in Congress were overshadowed by the Deepwater Horizon accident in the Gulf of Mexico. Safety concerns about deep sea oil drilling, an expanding sector of the US energy economy, crowded out more long-term concerns about the impact of greenhouse gases. Expanding domestic oil and gas production both offshore and in other frontier areas as the Arctic or the American West, has been part of a political package proposed by the Obama administration to address climate change and the dependency on foreign energy imports at the same time. It has even been argued that the Deepwater Horizon accident made it impossible for the administration to defend a critical piece of the compromise energy/climate package negotiated with conservative Senators and therefore led to the ultimate failure to gain a majority. A general shift away from offshore oil and gas production was never on the table. Too many jobs in the economically weak Gulf States depend on the energy industry. Although the administration announced a moratorium for new deepwater exploration, support for domestic energy production to replace fossil fuel imports remains another strong priority. The administration ultimately also failed to convey that accidents like in the Gulf are linked to the US economy's strong dependence of fossil fuel and – as a consequence – the expansion of domestic production into ecologically fragile areas.

After it became clear that comprehensive energy and climate legislation would fail in Congress, the administration started discussing more limited measures to increase safety standards for oil and gas exploration. It is unclear today, to which extent the 112th Congress will act on enhanced regulation and safety standards for the oil sector that were proposed by the Obama administration. In any case, Europeans and Americans should share a common interest in setting high regulatory standards for an industry that is investing and accessing resources worldwide. The European Commission has made first proposals in that respect, although the EU has no full authority to regulate that matter at this moment.

Widespread public concern about the side effects of energy exploration could also expand to other sectors like hydro-fracking in shale gas fields or water pollution effects from unconventional oil in tar sands. In the US, as in Europe, local protest movements have emerged around the risks of unconventional oil and gas exploration strategies, mainly around the theme of drinking water pollution. Again, transatlantic cooperation could lead to common safety and environmental standards for a currently largely unregulated industry.

### Remaining Options to Act

Although comprehensive legislation has failed, the administration has stated their intention to implement the President's climate target as well as to further modernize the nation's energy sector through smaller, more incremental measures, as well as through government programs and major investments.

One of the remaining options for the administration to act on climate change is the executive authority to regulate carbon under the Clean Air Act. The Clean Air Act (CAA) was originally passed in 1970 and has been consecutively strengthened. After several states had sued the Bush administration, the US Supreme Court ruled in 2007 that the Environment Protection Agency (EPA) was obligated to assess whether CO<sub>2</sub> and other greenhouse gases constituted a so-called endangerment under the CAA. Such an endangerment finding would put the EPA into a position to establish pollution standards for greenhouse gases and possibly even introduce cap and trade systems for specific sectors of industry, as the electricity sector.

Regulating greenhouse gases under EPA authority however, meets strong resistance from many Members of Congress. It seems therefore likely that Congress would pre-empt various EPA regulations by prohibiting such a step through legislation. Congress could also overturn or rebuff the regulations by voting to disapprove them under the provisions of the Congressional Review Act, a Gingrich-era statute that gives Congress a 60 legislative-day time window to 'disapprove' major regulations.

President Obama, in principle, could veto such legislation but it remains uncertain whether the President wants to get into a fight with Congress on the matter of climate change legislation through the backdoor.

The EPA has already adopted a requirement, which took effect on January 2, 2011, that requires CO<sub>2</sub> and other greenhouse gases to be addressed in Clean Air Act permits when they are issued to new or substantially renovated sources of emissions (industrial facilities). Legally, this means that the permits will require facility owners to incorporate "best available control technology" (known as BACT) to control greenhouse gases, as a condition of receiving a permit under the Clean Air Act to operate the source. BACT is determined individually by the permit writer, following some general guidance from EPA. Permit issuance is generally delegated to the states, which might lead to uneven implementation. Nevertheless, this could have a modest impact on constraining growth in emissions.

The more likely approach that the administration might employ is a strategy of small incremental steps, very much comparable to early greenhouse gas reduction programs from EU Member States that were introduced before the European Commission set up a Union wide carbon trading scheme and a cap on Member States' emissions. The possibilities to learn from European experiences with incremental strategies of that kind will be analysed below.

The EPA has already strengthened fuel economy standards for cars and 'light trucks' (pickups, SUVs and minivans) over the last few years, largely in response to concerns about rising gasoline prices, but also driven (less loudly) by concerns about CO<sub>2</sub>. US car producers' recognition of the long-term need to reduce greenhouse gas emissions played an important role in their acceptance of these standards – equivalent to those promulgated by California in 2004. The car producers initially filed suit against these standards, asserting that it would be impossible for them to meet them. But five years later, they agreed to national standards that largely mimicked the California standards.

Perhaps the greatest impact on CO<sub>2</sub> emissions could come from the promulgation of other EPA regulations regarding air pollutants such as SO<sub>2</sub>, NO<sub>x</sub> and mercury, and Clean Water Act regulations that control cooling water intake at large power plants. Industry analysts have predicted that these regulations could hasten the closure of a substantial share of US plants from the coal-fired generation during this decade by making aging coal-fired generating stations unprofitable to operate.

Although the introduction of a cap and trade system for greenhouse gases nationwide seems unlikely in the near future, statewide systems could continue to grow. Three regional systems exist so far: the Regional Greenhouse Gas Initiative amongst a group of Northeastern States, the Western Climate Initiative which includes California plus a number of other Western states including several Canadian provinces, and the Midwest Greenhouse Gas Reduction Accord, again including one Canadian province next to several US states. California has also initiated an independent system which will likely have a greater impact than any of the regional initiatives described above. Although the ambition level of targets set by the states remains wanting, those initiatives create an environment for carbon markets to grow and possibly be linked with markets outside the US, whether in the EU or in developing countries. The EU sponsored ICAP initiative constitutes one promising approach to link those regional systems to the EU emission trading system (ETS) and will be discussed below.

Beyond cap and trade, many states have introduced individual climate change programs with the support for renewable energies being a popular feature all over the place. However, current support schemes for renewable energy technologies constitute a patchwork. Thirty states so far have a renewable electricity or portfolio standard but Europe's preferred approach of electricity feed-in tariffs has not yet found its way over the Atlantic.

Market access and support programs for renewable energy technologies remain definitely one of the areas where Europe has been able to build a competitive industry and where the US could learn and build on that experience.

The American Recovery and Reinvestment Act (ARRA), a stimulus program that was set up early in President Obama's administration to respond to the economic crisis and create jobs, includes more than 90 billion USD dedicated to clean energy investments, including upgrades to the electricity grid, energy efficiency improvements of buildings and research for advanced energy technologies including new batteries and electric vehicles. A consecutive stimulus package that was passed together with a tax compromise package at the end of 2010 includes relatively little investments into clean energy and many investments may constitute one-off effects as no new efficiency standards or economic incentives for better energy use have been set. Nevertheless, government investment programs will be one of the main ways in which the administration can continue to further clean energy technology even in absence of comprehensive energy and climate legislation.

Last but not least, some of the political coalitions that moved the climate issue up on the agenda in the last years of the Bush administration still hold. "The US Climate Action partnership (USCAP)", a group of businesses and environmental organizations encouraging the federal government to enact legislation for significant reduction in greenhouse gases, still holds although the coalition's initial support for cap and trade legislation went nowhere. The prospects for USCAP's future influence are unclear, though this group contains a number of major companies that can be expected to remain advocates for policies that support carbon reduction. Another important ally for progressive climate action has emerged within religious groups where the "Evangelical Climate Initiative" has called

"to pass and implement national legislation requiring sufficient economy-wide reductions in carbon-dioxide emissions through cost-effective market based mechanisms such as a cap and trade program."

# INTERNATIONAL CLIMATE CHANGE COOPERATION AFTER CANCUN

After President Obama was elected end of 2008, hopes were high for a US re-engagement within the international climate process. At the same time, the European Union clearly hoped that a new era of transatlantic climate cooperation would begin and that European approaches, most prominently the EU's ETS, would meet stronger interest from US policymakers.

The US strategy, as seen from outside, could be summarized as follows: Domestic US climate ambitions would be re-launched through a domestic target and a nationwide cap and trade system underpinning that target. Having a national target and the support of Congress for implementing legislation would create the conditions for the US President to negotiate a global agreement and ask for the necessary concessions from international partners – most importantly emerging economies like China and India – to alleviate competitiveness fears from US business. Offset mechanisms within the cap and trade system would create flexibility for US companies to achieve those targets and add incentives to invest in developing countries as well as in tropical forest protection. The auctioning revenues from the cap and trade system would create the financial space to ratch up financial aid and thereby gain support from poor developing countries for such an agreement.

This political strategy has obviously become obsolete with the demise of comprehensive energy and climate legislation in the US Congress and the parallel slowdown of UN climate negotiations after the failure of the Copenhagen summit to produce agreement. Copenhagen produced some wins though that could, if played right, bear fruit in the medium future. For the first time, the US and all other major emitters of greenhouse gases worldwide put reduction numbers on the table that are now being listed in an annex to the non-binding Copenhagen Accord. Copenhagen also saw a package of fast start finance pledges and an aspirational goal to ratch up international funding for climate change measures to 100 billion dollars annually until 2020. The latter target bears particular significance for transatlantic dialogue on that matter as it was announced by US Secretary of State Clinton. More progress was made on a range of sectoral matters and has since been deepened by the following climate summit in Cancun, December 2010.

Let's start with the question: What is the significance of the Cancun climate summit for transatlantic relations?

## The Cancun Outcome

Despite limited room for manoeuvre as a result of the failure to pass climate change legislation at home, the US delegation in Cancun negotiated constructively and even achieved its goal to agree with China and others on the question of measuring, reporting and verification rules (MRV) for developing countries. Both Europe and the US have a profound interest in strong and transparent rules for MRV and were able to negotiate as a team with their counterparts in the developing world. Cancun also achieved progress on a number of sectoral issues such as technology cooperation, a framework for adaptation in developing countries and the protection of tropical forests (reduced emissions from deforestation and degradation; REDD).

Both the US and Europe did contribute to a number of leadership initiatives outside the UN process to prepare the ground for success on those issues. The US continued to sponsor the Major Economies Forum (MEF) which turned out to be a useful venue to discuss technology cooperation with emerging economies. Norway and France introduced a partnership initiative on REDD+ which has been able to co-ordinate significant bilateral and multilateral funding flows for tropical forest protection under one framework. Germany, together with South Africa, sponsored a leadership initiative to develop rules and build capacity for MRV with complemented US efforts to come to an agreement with China. Spain, Costa Rica and the US sponsored a partnership initiative on adaptation which has so far been unable though to mobilize significant funds for capacity building and adaptation projects in the most vulnerable countries.

### Filling the Gaps: Level of Ambition, Legal Character, Financing

The most difficult questions though, that the international climate policy process has to address, such as raising the level of ambition of existing reduction goals, the question on how to raise the necessary funds for international climate solidarity and the legal form of a future agreement, were postponed in Cancun. Those are exactly the questions that will be most difficult for the US to address.

The current level of ambition US President Obama has set, which is to reduce US greenhouse gas emissions by 17% until 2020 based on 2005 levels, is barely adequate compared with similar pledges from the EU and many other OECD countries. US emissions have significantly increased since 1990 which is commonly referred to as the base year of the UN climate process. Compared to 1990 levels, the current 17% commitment based on 2005 would shrink to meagre 4%. Although the EU might go along with the rationale that the US cannot catch up after years of inaction under the Clinton and Bush administrations, major developing countries like China or India will be more difficult to convince. It seems therefore even more important that the US pledge is being backed up by concrete legislative measures and programs and that the administration commits to deeper cuts beyond 2020 even in absence of a nationwide cap and trade system for the time being. The EU, on the other hand, could make US climate negotiators' lives easier by building as much flexibility in the international climate regime and the emerging system of carbon markets as possible.

Secondly, the US will continue to have difficulties to commit to a ratifiable legally binding international regime. If Europeans should be brought to accept the constitutional constraints the US faces, it becomes even more important to underpin US reduction pledges by concrete and measurable provisions of implementation.

Lastly, everyone expects the US to contribute its fair share to international climate solidarity, namely to new funds created under the UN climate treaty that will help poor countries with their energy transition, forest protection and climate change adaptation. At the Copenhagen climate summit, the US committed to contribute its fair share to a 30 billion USD fast start financing package for the years of 2010-12 as well as to a longer term climate financing architecture that will move considerable amounts of funding for forest protection, climate change adaptation and climate friendly technologies into developing countries. However, prospects in US Congress to dedicate significant new amounts of funding to a problem, which many conservative US policy makers do not believe exists, will remain challenging. Some innovative ideas to engage US society for climate financing through the private sector and carbon markets are discussed below.

### Does the Transatlantic Climate Alliance Hold?

Germany's Chancellor Merkel has rightly stated the case for a new "climate world order". Yet Europe's place in this new world order seems far from being guaranteed. After the failure of the Copenhagen climate conference to make substantive progress towards a comprehensive and binding global climate treaty, the European Union's preferred approach of operating multilaterally through the United Nation's system has come under intense pressure.

Frank Loy, who was the lead US climate negotiator from 1998 to 2001, has declared in an op-ed article published by the New York Times on December 24, 2009:

"Future climate cooperation should be driven by whatever coalitions are best suited to the task. The geometry will differ depending on the specific challenge .... (...) groups, like the G20 should become the focal points for efforts to actually reduce emissions."

In the same vein of thinking Richard Haass, President of the US Council on Foreign Relations has stated in the Financial Times of January 5, 2010:

"Multilateralism in the 21st century is, like the century itself, likely to be more fluid and, at times, messy than what we are used to."

In the emerging multi-polar world of climate governance, Europe lacks the veto power of China and the US. Instead it must try to reconcile a 'messy world' with the EU's vision of 'effective multilateralism'. While the UN process fails to deliver, it is not yet clear how likeminded countries can carry negotiations forward. For European leaders there will be no easy solution. There will, however, be the need to upgrade the EU's existing toolset of green diplomacy step by step. The European External Action Service (EEAS), a diplomatic body being set up after the Lisbon treaty – the EU's new 'constitution' – has entered into force, provides a unique opportunity to increase analytical capacity and to design the right instruments and institutions for that purpose.

Within international climate diplomacy, the US and Europe have historically alternated between cooperation and competition. The nature of the game is that the US, Europe and other OECD economies share a range of interests within the climate talks, most importantly towards rapidly developing emerging economies. OECD economies share an interest to see their own cuts in emissions complemented by mitigation measures within emerging economies. Both the US and Europe have argued successfully for transparent rules for measuring,



verifying and reporting those steps. Financial aid to emerging economies and developing countries should be tied to performance standards. For all those reasons it makes sense that the US and Europe compare notes and align their negotiating strategies towards the developing world to a certain extent.

On the other hand, both Washington and Brussels have tried to build separate alliances with third parties, with other OECD economies like Japan, Canada or Australia, or with emerging economies. Those alliances have formed around concrete cooperation schemes on technology transfer and tropical forest protection. Though they have also been partly about political alliance building to dominate the discourse within the international climate talks.

Combining cooperation and competition to maximize political room for manoeuvre, while seeking individual political benefit with that space at the same time, constitutes a proven and successful strategy. Harvard economist Adam Brandenburger and his Yale colleague Barry Nalebuff described this combined strategy as “co-opetition” write:

“What’s the manual for co-opetition? It’s not Leadership Secrets of Attila the Hun. Nor is it Leadership Secrets of St. Francis of Assisi. You can compete without having to kill the opposition. If fighting to the death destroys the pie, there’ll be nothing left to capture – that’s lose-lose. By the same token, you can co-operate without having to ignore your self-interest. After all, it isn’t smart to create a pie you can’t capture – that’s lose-win.”

On the other hand, more and more voices within Europe ask whether the EU has aligned its interests too closely with the US and has received too little back in return.

At the Copenhagen climate summit the EU found itself sidelined at the negotiations on the highest political level. Punching far below its weight, the EU was at the end cut out from the political deal making between the US and key emerging economies led by China. The dual leadership of Commission and Council Presidency, in conjunction with ambitious national leaders in the negotiation trenches and important positions still to be defined in the course of negotiations led to diluted leadership and a crowding out of the Europeans from central decision making processes and alliance building with developing countries. As a result the EU underestimated the power factor in forging compromises not only with the newly formed BASIC group (China, India, Brazil and South Africa), but also with the United States. Leading by example – notably by offering additional emission reductions and financial incentives – turned out to be an indispensable but not sufficient condition for success.

For the Union, this negative outcome must be of paramount concern, far beyond the arena of climate change. Climate change has ceased to be merely an environmental issue. Economic growth, energy security and environmental sustainability are the three interconnected issues at the core of complex interdependence and power relations. Decisions taken in the multilateral climate process decide on the very future of global governance structures. They will also contribute to define the relations with the EU’s key strategic partners including the US, Russia, China or India. If the EU is to become a stronger global actor it needs to engage at this strategic level.

### Stepwise Engagement or a Holding Space for the US?

The US will always remain a difficult partner for UN-led efforts to address climate change or other comparable global challenges. The constitutional requirement for ratification of international treaties in the Senate create a higher threshold for participation in any legal regime, especially when it comes to ideologically controversial issues, than in most other countries. The negotiating space for any US government is therefore limited because Senate ratification always rules in the back of the head of any US diplomat. If the US therefore does not prove ready or willing to sign – and submit for ratification – a legally binding agreement on climate change, the following political alternatives could present themselves to the European Union and other international partners.

Firstly, the level of ambition could be lowered and a non-binding pledge and review system would replace the notion of a legally binding international agreement. Under that scenario the Kyoto Protocol could or could not continue to exist for a limited group of industrial nations, including the EU. The US, and others like Canada, Russia and Japan, together with the vast majority of developing countries could join a loose accord on non-binding pledges that would be reviewed on a regular basis without legal consequences in the case of non-compliance. Step by step such an agreement could be strengthened and gain a more formal and eventually legally binding character. Such an incremental approach would be typical for the UN process and, so to speak, represent the ‘business as usual’ scenario.

Secondly, the majority of countries could go ahead without US participation and create a legally binding agreement, including the Kyoto framework but extended to major developing country emitters. The EU seems ready to accept such a framework with the US in a holding space until at some point – or never – domestic conditions for ratification exist. A non-binding US pledge could find its place within such a framework under the condition that this pledge would be backed up by credible domestic action and supported through a real US contribution to international climate financing. The US government would have to accept the rest of the world from going it

alone and refrain from undermining such an effort as the Bush administration attempted when the ratification process for the Kyoto Protocol was under way. Obviously, other major emitters, like China, India and other emerging economies, would have to go along with such an approach and gain trust in the willingness of the US to do their part outside of the UN framework. Establishing rules for a global carbon market, technology transfer and else would require supplementary agreements with the US and possibly other parties that would opt out of such a majority regime.

# WHICH WAY FORWARD FOR TRANSATLANTIC COOPERATION?

Considering the changed political realities within the United States, how can transatlantic energy and climate change cooperation advance in the coming years? It is important to acknowledge, that the de facto influence of Europeans on the domestic policy making process in the US remains limited. Americans do not necessarily look to Europe when making up their mind about where to go on energy and climate change. On the other hand, policy dialogue sponsored by the European Commission and some active Member states like the UK and Germany, have helped to transport a number of innovative ideas from Europe to the US – and sometimes vice versa. Many European practices, starting with urban and regional planning, transport, energy and finally Europe's experience with its carbon market, have inspired similar activities on the level of US municipalities and states.

National climate change legislation has lagged behind in the US although individual states have experimented with innovative regulatory approaches. US research and technology development remain a source of innovation and US industry has started to invest in new energy technologies even in absence of a comprehensive legal framework on a national scale. Some regulatory ideas, like the concept of cap and trade, were originally developed in the US to regulate sulphur dioxide emissions before they were successfully transferred into the European context.

Europe remains the most important trading partner of the US but growth is taking place in relation to emerging economies in Latin America and Asia. Nevertheless, Europe and the US remain closely tied to each other both politically and economically.

Although trade between the US and Asia has recently surpassed trade volume between the US and Europe, a recent study on the transatlantic economy by the Centre for Transatlantic Relations concludes:

"Despite the recession, the United States and Europe remain each other's most important foreign commercial markets. No other commercial artery in the world is as integrated and used as the transatlantic economy. We estimate that the transatlantic economy continues to generate close to \$4.28 trillion in total commercial sales a year and employs up to 14 million workers in mutually "on-shored" jobs on both sides of the Atlantic."

Economic integration should also provide the basis for increased cooperation on regulatory standards and technology development.

Political cooperation between the US and the EU is taking place in multiple fora, both bilateral and multilateral. Beyond regular EU-US consultations, energy and climate change are increasingly being discussed within the G8 and G20, as well as within the UN climate talks.

The European External Action Service's submission to the European Council of December 16-17, 2010 elaborates:

"Our relationship with the US is unlike any other. (...) But the nature of the partnership is changing – and rightly so. (...) It was evident at the last EU-US Summit that the US is interested in the post-Lisbon EU because of the opportunities it offers for cooperation in new areas (...). The EU-US relationship has to go global if it is to remain relevant and effective."

Economics, security and addressing global challenges like climate change are the common objectives the EU's External Action Service identifies for future transatlantic cooperation. The document, which still has to be debated with the Member States, makes clear that those objectives can only be achieved if the transatlantic partners co-operate effectively with each other but also with third parties, most importantly with the rising powers of the developing world.

## Exchanging Best Practices

European countries started to address climate change in the early 1990s when the European Community presented

its first greenhouse gas stabilization target at the Rio Earth Summit in 1992. Since then, the EU's target has advanced step by step and numerous legislative and regulatory measures as well as market mechanisms were introduced both on the Community and Member State level. Europe therefore remains a source of technological solutions and standards as well as of advanced regulatory approaches. Most prominently, Europe has pioneered the first regional cap and trade system for greenhouse gas emissions.

#### *International Carbon Action Partnership*

On October 29, 2007, leaders of more than 15 governments met in Lisbon, Portugal to launch the establishment of the International Carbon Action Partnership (ICAP). ICAP is made up of countries and regions that have implemented or are actively pursuing the implementation of carbon markets through mandatory cap and trade systems. The partnership provides a forum to share experiences and knowledge. Sharing and evaluating best practices will help ICAP members determine the extent, to which their respective programs can be supported by, and or benefit from the ICAP process.

Although ICAP invites membership from all over the globe, a core political rationale of the initiative has been to stimulate the creation of regional – and consecutively national – carbon markets in the US. In principle ICAP could become the crystallization point of a global network of regional carbon markets, thereby establishing a common price and unified standards. Now that China starts experimenting with carbon markets, ICAP is getting into EU-China cooperation. For market actors from the US, such a system could provide priceless learning opportunities and down the road valuable markets – and another incentive for introducing a national carbon market within the US as fast as possible.

#### *Learning from Europe's National Climate Protection Programs*

Before the EU began to develop a framework and common targets for the Community, several Member States already started out developing national climate change programs. Some innovative approaches that go beyond individual technological approaches and best practices and constitute nationwide efforts to frame the climate issue are being discussed below. The purpose is to show that alternative approaches exist to comprehensively address climate change – and that there is a world beyond cap and trade. What civil society actors and Member State's diplomatic missions in the US should do is to talk more consistently about those experiences and challenge their US counterparts to explore which parts of those experiences could be transferable to the US domestic context.

##### A) Germany's CO<sub>2</sub> Reduction Program

In the early 1990s, Germany's government set its first climate change target. Former Chancellor Helmut Kohl announced at the Rio Earth Summit that Germany would reduce its CO<sub>2</sub> emissions by 25% until 2005 based on 1990 levels. Although the target was not fully met (German emissions were 21% below 1990 levels in 2005) and a large part of reductions happened as a consequence of economic restructuring in the Eastern part of the country, the achievements were still real.

As a consequence of that politically set target, the "Interministerial Working Group on CO<sub>2</sub> Reduction" was set up, challenging all government agencies to come up with their own contribution. A first program which was set up in the early 1990s included about 30 measures covering areas such as energy standards, renewable energies, building, transport or agriculture. Germany's government was strongly criticized at the time for setting an aspirational target only without being able to prove how individual measures would quantitatively contribute.

Nevertheless, the interministerial process of the CO<sub>2</sub> reduction program defined climate change as a cross-cutting issue, led to stronger policy integration and to a record of smaller or bigger cuts into Germany's CO<sub>2</sub> budget. Today's "integrated energy and climate change program" which backs up Germany's current target to reduce greenhouse gas emissions by 40% based on 1990 levels, builds on the experience from previous programs in the 1990s but has the added advantage of finding itself within the overall framework of a European target and cap and trade system.

Even more importantly though, a number of activities that were first discussed in the early 1990s, including innovative feed-in tariffs for renewable energies and large scale investment programs in heat insulation of turn of early 20th century building stock, were scaled up later and led to significant contributions to national overall greenhouse gas reductions.

##### B) France's Grenelle Environnement

The "Grenelle Environnement"<sup>1</sup> a nation wide environmental round table launched in 2006, was the effort of France's current conservative government to develop a sustainability strategy around the central challenge of climate change that would find the broad acceptance of all societal actors. The aim of the Grenelle, instigated by the President of France, Nicolas Sarkozy, has been to define the key points of government policy on ecological and sustainable development issues for a five year period. For the first time, the Round Table brought all the civilian

<sup>1</sup> All background documents under [www.legrenelle-environnement.fr](http://www.legrenelle-environnement.fr)



and public service representatives together, thus forming 5 colleges : the state, unions, employers, NGOs and local authorities. For three months, working groups met to propose concrete action to be implemented at the national, European and international level. In a following step, these proposals were opened up to debate by a range of public groups. By the end of 2007, around 30 operational committees met to define guidelines and objectives for operational programmes.

Now, towards the end of President Sarkozy's term in office, most targets have been set but many implementing measures, including a new tax on energy, are still stuck in the legislative process. Nevertheless, the Grenelle Environnement has been a unique participatory approach for France to include citizens in defining policy priorities that merits close attention in other countries, too.

### C) The UK's Climate Change Act

The Climate Change Act 2008<sup>2</sup>, which is describes itself as

"an Act to set a target for the year 2050 for the reduction of targeted greenhouse gas emissions; to provide for a system of carbon budgeting; to establish a Committee on Climate Change; to confer powers to establish trading schemes for the purpose of limiting greenhouse gas emissions or encouraging activities that reduce such emissions or remove greenhouse gas from the atmosphere; to make provision about adaptation to climate change; to confer powers to make schemes for providing financial incentives to produce less domestic waste and to recycle more of what is produced; to make provision about the collection of household waste; to confer powers to make provision about charging for single use carrier bags; to amend the provisions of the Energy Act 2004 about renewable transport fuel obligations; to make provision about carbon emissions reduction targets; to make other provision about climate change; and for connected purposes."

makes the UK the first country in the world to have a legally binding long-term framework to cut carbon emissions. It also creates a framework for building the UK's ability to adapt to climate change.

As "The Guardian" wrote on its editorial page on October 29, 2008:

"A revolution in slow motion, the climate change bill has been two years in the making. In 2006 Friends of the Earth began a campaign, which was picked up first by the Conservatives and soon after by the government, for a law committing Britain to a sharp cut in greenhouse gas emissions. (...) With the law comes a new reality. Parliament has set demanding targets and deserves congratulation for that. But it has barely begun the task of finding a way to meet them. (...) If the law works as it should, governments will have no option other than to get it under way today. It should be a straitjacket, binding departments into policies they would not otherwise follow: no new third runway at Heathrow, and no new coal power station at Kingsnorth. But the shame of busting five-yearly carbon budgets may turn out to be much smaller than the political pain caused by enforcing emissions reductions."

As the article already points out, the proof of the pudding will lie in implementing legislation over the course of time as well as in steering investment decisions for Britain's energy and transport future into the right direction. What the Climate Change Act nevertheless supplies is a direction and a clear framework and reporting requirements that will bind the government beyond the backs and forths of political tides.

### *Exchanges with Regions and Municipalities*

During the times of the Bush administration when a de facto moratorium on transatlantic climate policy cooperation existed, several European governments set out to strengthen decentralized 'grassroots' dialogue with climate policy makers below the level of the US Federal Government, including state governments, municipalities, the scientific community, businesses and NGOs. One of the most prominent initiatives of that kind that still exists is the "Transatlantic Climate Bridge" run by the German Embassy in Washington DC. The UK Embassy has run a similar program that has now been scaled down by the new UK government. As important as transatlantic state-to-state cooperation has been, new transatlantic dialogue initiatives should focus on involving the other strategic actors on the national level in the US into a strategic transatlantic climate change dialogue. Much of the energy and climate discourse within the US still remains rather insular and exclusively oriented towards the political arithmetics of the US legislative system.

People-to-people exchanges, municipal and state partnerships are also an area where philanthropic foundations and civil society organisations can play a prominent role. Many foundations, both from Europe and the US, already provide support for the exchange of environmental practitioners. More of these exchanges are necessary to show that climate-friendly solutions, whether in urban planning, sustainable transport or the creation of a friendly business environment for green energy start ups, are already happening.

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2008/27/introduction>

### Building on Transatlantic Institutions

Considering the overall importance of the relationship, transatlantic institutions still remain weak. None of them puts energy and climate cooperation into the centre of its mission.

The main body of transatlantic cooperation, the North Atlantic Treaty Organization (NATO) remains only marginally involved with energy and climate cooperation. NATO has obviously started thinking about the challenge of climate security but will have to leave the challenges of climate mitigation, adaptation and clean technology development to other institutions that are better fit to the task.

The EU-US Transatlantic Economic Council (TEC), a political body to oversee and accelerate government-to-government cooperation with the aim of advancing economic integration between the EU and the US could develop into a forum to discuss climate, energy and technology cooperation. At the EU-US Summit on April 30, 2007, EU Commission President Barroso, German Chancellor Merkel (then holding the EU Presidency) and US President Bush signed the "Framework for Advancing Transatlantic Economic Integration between the United States of America and the European Union". Since then, concrete cooperation activities are only advancing slowly and focus on trade, investment and intellectual property rights. Other important stakeholders like labor and environmental interest groups and consumer organisations are not formally involved. Nevertheless, the TEC holds the potential to harmonize the regulatory environment in the transatlantic economic space, hopefully with a view to advance clean energy and innovation as opposed to deregulate environmental standards.

The regular EU-US summit meetings have addressed climate change and energy security on a regular basis but have not yet developed into a functional co-ordinating body between both political entities. The EU still fails to speak with one voice at those meetings and therefore is not been taken seriously by the US side yet.

Transatlantic policy dialogue on energy and climate change is therefore taking place in multiple non-formalized settings, either within multilateral bodies where EU and US officials co-ordinate bilaterally, in bilateral meetings below the official level of EU-US summits and obviously within consultations many Members States hold with the EU. The latter, at least as they concern matters of relevance to the EU as a whole, should become better integrated within a Union wide strategic framework. This is where the new European External Action Service could play a useful structuring role.

### Co-operating in Shaping Global Energy and Climate Governance

The most important role the US and Europe can play together is to support emerging economies and developing countries in their transition towards a sustainable energy future and green economic development. The context in which this support will take place will necessarily be broader than the current negotiations within the UN Framework Convention on Climate Change (UNFCCC). Although climate change should remain one defining issue of future development strategies, energy policy cooperation and economic development transcend the narrow agenda of the climate regime. Policy cooperation will also have to move beyond the slowly moving negotiations within the UNFCCC framework and make use of all existing and possibly new institutions and formats in which the transatlantic partners co-operate with emerging economies and developing countries.

One note of caution: within international institutions, as well as on the global market place, the US and the EU act as partners as well as competitors. The US has long started to re-orient its foreign policy as well as instruments of economic cooperation to other emerging economies, most notably in Asia. The EU is currently undertaking a review of its relationships with strategic partners like China, India, South Africa or Russia that will most likely lead to a stronger emphasis on cooperation.

Since the Gleneagles G8 Summit in 2005, the EU has tried to use the G8 format to nudge the US towards both acceptance of basic climate science and a common approach to addressing the problem per se. The G8 did always try to address climate change in conjunction with the matter of energy security. Now that the G8 are on the way out and slowly being replaced by the more inclusive format of the G20, energy and climate change should make the transition into that new format of global economic decision making.

The G20 format, originally born as a co-ordinating body of finance ministers from the world's 20 most important economies, has gained new prominence since the beginning of the financial and economic crisis. With the ascendance of the G20, the G8 which mainly comprised a 'Western club' and excluded emerging economies from the developing world has taken over the G8's role in economic policy co-ordination. The G8 however had recently developed into a 'directoire' of broader policy co-ordination, addressing a wide range of issues from security policy and terrorism to energy and climate change.

The big question therefore is whether and when the G20 will take on the full range of tasks of the previous G8. Considering the vast differences in economic weight and governance between current G20 countries, the transatlantic partners should argue for a stepwise approach. Initial efforts to put the G20 in charge of climate diplomacy and thereby complementing the UN process failed because both the US and China resisted such a rapid and ambitious expansion of the G20's mandate.

As a first step, the G20 should continue to set the terms for a global system of climate finance. Such a system should be built on a portfolio of institutions, including the World Bank and the regional development banks in which Europeans and the US still have an important stake. Existing institutions should however be made more

inclusive, democratic and transparent. It is also in the critical interest of both transatlantic partners to encourage other G20 countries to contribute financially to those institutions and their objectives.

Secondly, the G20 could play an important role in setting the terms for a green economy worldwide. A big opportunity was missed when most G20 nations set up major stimulus packages to counter the economic crisis. The G20 should have given some guidance to use the stimulus funding for clean energy investments and critical energy infrastructure. However, at the point in time when national stimulus programs were set up in a rush, the group was not ready for such qualitative co-ordination. The upcoming UN summit to celebrate Rio+20 in 2012 could however be the right moment to publicly commit to such a shift of the development paradigm.

Lastly, at some point, the G20 will have to take over the role of general policy co-ordination on the big themes of global change – with energy and climate policy at the centre of that agenda – from the G8.

Membership of the G20 largely overlaps with the “Major Economies Forum on Energy and Climate Change (MEF)”, an initiative of 17 major greenhouse gas emitters initiated by the US and including the Europeans and major emerging economies. The MEF was launched in March 2009. The forum is intended “to facilitate a candid dialogue among major developed and developing economies, help generate the leadership (...) and advance the exploration of concrete initiatives and joint ventures that increase the supply of clean energy while cutting greenhouse gas emissions.”<sup>3</sup>

If the G20 remains to act slowly on addressing climate change, the MEF could develop into one possible forum where the US and the EU discuss climate change and energy cooperation with the developing world.

In a similar vein, the Petersberg Climate Conference, which the German and Mexican governments hosted in April 2010, initiated a number of voluntary partnership on climate change to which both the US and European countries have started to contribute. The Petersberg conference chose three issues where interests between the EU and US align relatively well and that are less controversial than critical questions like carbon markets or absolute emission cuts. Those initiatives cover the protection of tropical forests (REDD+ partnership), climate change adaptation on new rules for measuring, reporting and verifying (MRV) emission cuts in developed and developing countries. Rules for MRV are one of the issue areas where the EU and the US have defined a common interest to have strict and transparent standards towards their partners in the developing world, most notably emerging economies like China.

### Climate Finance as a Common Challenge

Last but not least, the EU and the US will have to engage together, within the framework of the UN and beyond, to provide necessary financing for the transition towards low carbon development in emerging economies as well as for tropical forest protection and climate change adaptation in the poorest countries of the world. This point should be highlighted because policy makers in donor countries will always be mindful that their partners and economic competitors shoulder an equal part of that burden. Most notably, the EU always compares their contribution to international institutions and funds with the contribution the US makes. Both sides should therefore make sure that the burden is in fact shouldered and that the burden is shared.

Although private investments in clean energy infrastructure worldwide must increase in importance, initial public funding for building capacity and governance, as well as for the incremental costs of more climate friendly technologies will remain important. Funding the transition towards green economic development in emerging economies and developing countries, as has been pledged at the Copenhagen climate conference, will remain a main challenge for the traditional donor countries of the OECD of which Europe and the US remain by far the largest. Both sides should remind themselves of their obligations, set common priorities and co-ordinate closely. Both transatlantic partners will also play a critical role in shaping the new international institutions through which future climate financing will flow.

In times of tight public budgets, all donor countries have a revenue problem – although the US more so than most Europeans. With the revenue produced by the EU’s emission trading system, the EU has generated a long-term mechanism to provide public funding for climate investments both at home and internationally. Another model of climate funding has been offered by Norway which dedicates significant parts of its oil and gas revenues for the protection of forests in tropical countries. Thirdly, official development assistance of the OECD is being shifted away from traditional challenges to climate-friendly development. The US so far has failed to enact a domestic cap and trade system. Re-shifting funding within the US development agency USAID and other US agencies that support foreign investment such as the Millennium Challenge Corporation, the Overseas Private Investment Corporation and the Export-Import Bank towards climate change priorities will be a necessary although quantitatively not a sufficient step.

Public climate change funds should stimulate and leverage private investment, most importantly in areas like technology transfer where private investors already have strong incentives to engage within developing economies. Tropical forest protection also offers itself for private investments through tradable carbon credits or

<sup>3</sup> <http://www.majoreconomiesforum.org/>

carbon offsets. After the cap and trade system in the US, which foresaw such a forest carbon offset mechanism, has failed to materialize, the European Union should consider whether the EU ETS – for the foreseeable future the world's biggest carbon market – could not be opened step by step to take up a certain amount of forest carbon credits. Similar interest exists within some of the regional markets under development in the US, most notably in California and other participants in the Governor's Climate Forum that have already signed co-operative agreements with counterparts in tropical forest countries like Brazil.

Right now the EU foresees to study the inclusion of forest carbon credits within the EU ETS only after the year 2020 when the third phase of the EU ETS comes to an end. In the context of the currently debated upgrade of the EU's target from 20 to 30%, a small margin for forest carbon credits could be introduced at an earlier state, possibly step by step. Such a stepwise approach would also guarantee that remaining technical issues about the quality of emission credits from forests and land use could be studied and clarified. A small forest carbon window could also prevent negative impacts on the overall carbon price within the EU ETS in case forest carbon credits prove to be much cheaper than those from industrial installations.

Including forest carbon and land use into the EU ETS would pick up on a key design feature of Waxman/Markey's cap and trade bill (which passed in the US House of Representatives before a similar bill failed to receive a vote in the full Senate) and is an important reason why many parliamentarians from rural and forest states supported climate legislation in the first place.

Another innovative way to boost climate investment from the US could be to set up funding structures that enable private investors to participate. One concrete example is the World Bank's Forest Carbon Partnership Facility (FCPF) that already allows private investors and NGOs to participate financially. One international NGO, "The Nature Conservancy", has already invested in the FCPF. Negotiations with the first business investors are underway.

The Global Fund to Fight Aids Tuberculosis and Malaria (Global Fund) offers another promising example. Although situated outside the UN system, the Global Fund is the largest multilateral funder of public health programs in developing countries and the replenishment outcomes will have direct bearing on many countries' ability to achieve the health Millennium Development Goals by 2015. The fund is regularly being replenished from donor countries, the private sector and non-governmental donors. Interestingly, many private donors – like the Bill and Melinda Gates Foundation, the United Methodist Church or the United Nations Foundation – come from the US, thereby indicating the potential for private philanthropy and business engagement from the US supplementing the sometimes limited willingness of the US government to dedicate funding to global causes.

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Transatlantic Solutions for a Low Carbon Economy