

OIES Monthly Comment

December 2000

Climate at The Hague: What Happened, Why, and What Now? By Benito Müller

On Saturday 25 November Dutch Environment Minister Jan Pronk, President of the UN climate change conference at The Hague, suspended proceedings after a days extension until May of next year. What did happen in these final days of this conference for which expectations were so high? According to the following-day editions of America's most influential dailies:

'The crunch came Saturday because of the varying interpretations by the Americans and some Western Europeans of the Kyoto Protocol. The United States insists that it and other nations should be able to earn credits toward emission-reduction targets because of existing or future forests and farmland, which soak up carbon dioxide and offset some emissions from factory smokestacks, cars and other sources. Many Europeans see that as rewarding a country for doing nothing and insist on deep reductions in the burning of fossil fuels. U.S. representatives originally wanted to credit America's woodlands with sponging up 310 million tons of carbon yearly. Faced with international and environmental opposition, they slashed that figure to 125 million tons.' *Los Angeles Times*

'With the conference lurching toward disaster, Britain's deputy prime minister, John Prescott, stepped forward late Friday with a compromise plan that called on the United States to restrict its use of the emissions-trading scheme and carbon sinks formula. U.S. and British sources said the proposal had been hatched in a lengthy telephone discussion between President Clinton and British Prime Minister Tony Blair. After huddling all night, a small group of U.S. and European delegates reached a tentative deal. The United States agreed to make a bigger effort in domestic reductions and to reduce carbon credits from its forests and farmlands that could be subtracted from its emissions quota to no more than 75 million tons, about one-fourth the level it was originally seeking. ... But when the compromise was presented to the 15 EU countries for final approval, Germany and Denmark said the agreement was intolerable.' *Washington Post*

The blame for the suspension of The Hague, according to this narrative, falls squarely on Green intransigence within the European camp. But are things really as simple as that? Maybe not. Consider the statement by the head of the US delegation, Frank Loy, reported in the same edition of the Washington Post: 'Nations can only negotiate abroad what they believe they can ratify at home, ... The United States is not in the business of signing up to agreements it knows it cannot fulfil. We don't make promises we can't keep.' In his inimitable way, Loy has summed up two of the key questions bedeviling the current international climate change regime:

1. Could the US actually meet the target it signed up to in the Kyoto Protocol?
2. What are the chances of the US Senate ratifying it?

As so often, the answer to the first of these questions has to be both 'yes' and 'no,' depending on the chosen interpretation of the relevant targets listed in Annex B of the Protocol. The reason for this is creative ambiguity in the wording of the relevant Articles of the Protocol. Article 3.1, for one, requires that Parties to 'ensure that their aggregate anthropogenic carbon dioxide equivalent *emissions* of the greenhouse gases ... do not exceed their ... their *quantified emission limitation and reduction commitments* inscribed in Annex B'[emphasis added] which, not unreasonably, might be read as referring to nothing more than greenhouse gases emitted into the atmosphere. Yet Article 3.3 demands that the measure for compliance are 'the *net* changes in greenhouse gas emissions by sources *and removals by sinks* resulting from direct human-induced land-use change and forestry activities.' Moreover, while the same Article limits sinks to 'afforestation, reforestation and deforestation since 1990,' Article 3.4 explicitly envisages the inclusion of 'additional human-induced activities related to ... removals by sinks in the agricultural soils and the land-use change and forestry categories' - albeit, strictly speaking, only after the Protocol has come into force!

This apparent leeway between narrower and very wide conceptions of a 'sink' can make a significant difference as to whether the Kyoto targets can and will be met. Depending on what is to be counted as a greenhouse gas absorbing sink, some countries might well be able to meet their Kyoto commitments without any action whatsoever. Indeed, the interpretation proposed by the US at The Hague - which went far beyond the limited Article 3.3 conception - was seen by many as an attempt of trying to win the game by simply shifting the goal posts. 'So what?' one might ask. Nature does not care how net emission levels are kept below the required cap, as long as they are. Again, things unfortunately are not quite as simple as that.

- Net emissions, as compliance measure, are dependent of the type of sources and sinks taken into consideration, and widening the concept of a sink is likely to increase the greenhouse gas concentration under compliance relative to what would be the case under a narrower conception.
- More importantly, the use of the relatively short-term storage mechanisms available in land-use and forestry management to 'sponge up' fossil carbon which was out of circulation for million of years does nothing to prevent an addition of the total carbon present in the climate relevant cycles of emission and absorption. As a means to stabilising atmospheric carbon concentrations it is about as effective as bottling the water from a leak in the captain's cabin for storage in the ship's hull: the cabin will remain dry, but only in the short run.

In other words, there are valid reasons why one might wish to resist introducing a wide conception of sinks into the climate regime. But why did the US delegation feel the need to propose precisely this sort of wide interpretation in the first place? While there may have been a realisation that, given current emission levels, the US will need some additional 'flexibility' in order to be able to comply with its target, I do not believe that this was main the motive, in particular in view of the very large concession offers made during the final stages of the conference. After all, as Frank Loy himself pointed out, no one would offer a concession which would leave them unable to comply. The key reason, I submit, was one of domestic US policy, namely to return with a text which might mollify a Senate which has hitherto proven to be an implacable foe of the Kyoto Protocol - which brings us to question number two: what are the chances of Senate ratification?

While it is certainly true that a text which would mean inevitable non-compliance would not be ratified, the converse is not necessarily the case. There is no guarantee whatsoever that the Senate would ratify a treaty even if it were convinced that the US could comply. Obviously, chances for ratification might improve if the text would *de facto* release the US from any obligation to take action, but even then there is no guarantee. The fact is that, left to its own devices and the influence of certain lobbying groups, the Senate is very unlikely to change its stance towards anything labelled 'Kyoto.' This is why future US delegations to climate change negotiations will need domestic help vis-à-vis Congress (through grassroots pressures or any other means) to be able to constructively participate in the negotiations - in particular since the Kyoto Protocol is, and always was meant to be, only the first step on the long road to stabilising the global climate at an acceptable level.

This, of course, will take some time. The near-term aim must be for the key players to co-operate by leaving aside for later consideration issues - such as the EU proposal on capping emission trade - which are primarily contentious because of implications for the potential on US ratification, in order to put together a text for the May meeting which can be ratified by sufficiently many parties for the Protocol to come into force by 2002. Such a text must satisfy three necessary conditions: (i) it must be sufficiently specified for the CDM to begin generating early credits; (ii) it must neither nullify the already limited environmental effectiveness of the Protocol, nor jeopardises the environmental integrity of the entire regime (by building in unsustainable 'loopholes' which will have to be carried over into post-Kyoto agreements under the Convention), and last but by no means least; (iii) it has to resolve the issues of funding and adverse effects, technology transfer and adaptation under the convention.

This Comment is based on 'The Hague Climate Conference: Impressions of the North American Press Coverage' by Benito Müller (available on request form the author at mueller@ermine.ox.ac.uk).