

## **Undergraduate Program in Central European Studies**

CERGE-EI and the School of Humanities at Charles University

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## **Environmental Policy in the Central European Context**

Time: Wednesday 5pm

Location: Coffee Heaven, Můstek

**Professor: Jana Krajcova (JK), email: [jana.krajcova@cerge-ei.cz](mailto:jana.krajcova@cerge-ei.cz)**

**Guest Professor: Andreas Ortmann (AO), email: [aortmann@yahoo.com](mailto:aortmann@yahoo.com)**

**See also: <http://home.cerge-ei.cz/richmanova/TeachingUPCES.html>**

**(and <http://home.cerge-ei.cz/ortmann/UpcesCourse/UpcesCourse.html> for Spring 2009 course)**

### **11 Environmental Policy in the world context – History and current problems**

**Kramer – Development of environmental policies in the United States and Europe: Convergence or Divergence? EUI Working Papers 2002/33**

#### **I. Different points of departure**

- active protection of environment started in 1960's in both Europe and USA (but many measures existed even before: water management, nature protection, town and country planning, waste management)
- starting in 60s more organized deliberate and planned measures giving rise to the "environmental policy" (both US and Europe)

#### **US**

- existing measures on the individual states level
- growing public concern for the environment
- gradual federalization
- since the end of 1960s a number of strong, extremely detailed and prescriptive legislative measures have been adopted, which together with federal executive institution have formed the backbone of the US environmental policy
  - ⇒ 1965-67 federal air pollution legislation, in 1970 considerably reinforced by the Clean Air Act Amendments

- ⇒ 1972 the Federal Water Pollution Control Act Amendments federalized and sharpened water management
- ⇒ 1970 the Environmental Protection Agency (EPA) - regulatory and enforcing functions
- ⇒ Congress: product and process legislation (the Interstate Commerce Cause)  
power to levy taxes and charges, introduce subsidies
- ⇒ federal government owning about 1/3 of the land in the US – nature conservation measures without serious interference with property rights

## Europe

- EU not a nation but a supranational joint-venture of nation-states
- member states with different perceptions and objectives
- environmental concerns developed at the level of member states => different subjects, variable intensity, consequences and reactions from national legislatures
- sovereignty => all sort of difficulties that slowed the integration and making of the common environmental standards
- The EC treaty (1958) did not contain any explicit reference to environment; not until the Single European Act of 1987.
  - the treaty is not a constitution, the basic competences vested in member states
  - there is no European Congress, the environmental legislation is adopted jointly by the Council of Ministers and by the European Parliament (directly elected members)  
=> member states have a decisive influence on which environmental matters they want to have dealt with on national and on kind of “federal” level.
  - EU does not own land, member states do not own significant amounts of land either
  - EU has no power to levy environmental taxes
  - EU has practically no income of its own, it receives 1.27% (?) of the national income of member states => limited resources for economic or fiscal incentives or subsidies
- PLUS: political, economic, social, cultural and environmental differences among the member states; absence of European media, of European public opinion and of European-wide common interest

**Since mid 70s US and EU:** written communication to promote cooperation in environmental matters

- mainly focused on matters that concerned potential trade conflicts;
- intensive technical cooperation regarding chemical and air pollution with some good results;

## **Since 80s**

## US

Strong centralization since 70s criticized by supporters of state-level policies, economists and regulated businesses

- ⇒ deregulation started at early 80s
- ⇒ regulatory responsibilities of EPA narrowed, greater responsibility to individual states

2 factors influencing US environmental policy

- ⇒ Reagan’s Executive Order 12291 required EPA and other federal regulatory agencies to adopt most economically efficient or cost-effective alternatives;
- ⇒ No special department for environmental matters existed -> the State Department and the Department of Commerce represented US at international environmental negotiations

after mid 80s US - divergence of views between Executive and Congress on basic questions paralyzing legislative measures and prevented innovation

## EU

EC Treaty amendment in mid 80s – general consensus about the need for comprehensive EC environmental policy

- ⇒ EU environmental legislation was negotiated by the environmental departments
- ⇒ Environmental Dept. of EC (early 70s) -> environmental matters kept outside the direct influence of members' foreign or trade policy
- ⇒ on international level, EU had no general competence to act (represented by Environmental directorate general of EC and by environmental departments of member states) -> sometimes difficult to find common position
- ⇒ at many international conventions it was difficult for EU to uphold at least some position
- ⇒ e.g. US wanted to allow EU accession to global environmental conventions only under the following conditions:
  1. EU would make a precise statement on the Community competence in the subject-matter dealt with by convention in question (difficult for EU as the Treaty is not a constitution and the repartition of competences between EU and member states is not static)
  2. majority of member states would ratify the convention
- ⇒ lack of clearly defined competences sometimes stood in way of international agreement (e.g. amendment on CITES Convention on trade in endangered species to allow EUs accession – not ratified by US and many other -> EU cannot adhere to that convention and was formally barred from speaking with one voice at CITES conferences)
- ⇒ at some conventions EU was involved and occasionally it made a declaration about competence

**(1978)** Montreal Protocol negotiations (concerning the restrictions of production)

- ⇒ EC managed to find common language for its members and even obtained a clause which allowed joint implementation of the obligations under the protocol
- ⇒ the first negotiations on the international level at which EU and US confronted each other on environmental matters,
- ⇒ the negotiating position of EU member states greatly improved under EU without having their national interests neglected => encouragement to continue “speaking with one voice”

**(1987)** The Single European Act

- ⇒ laid down objectives and principles of environmental policies based on objectives and policies agreed upon by member states
- ⇒ gave EU a mandate to contribute to search for environmental solutions and clarified that EU had the competence to act internationally, aside from or jointly with members
- ⇒ obligation to find and promote high level of environmental protection – EU did not try to subordinate environmental interests to commercial or economic interests
- ⇒ EU environmental legislation covered more areas, became more coherent and gave political and legal framework to environmental measures in member states – alignment of national environmental policies

**After the Single European Act**

- re-evaluation of the objectives of Environmental policy,

- attempts to integrate environmental requirements into other policy areas (transport, energy, regional policy, agriculture and industry),
- attempts to align national environmental policies,
- growing attention to climate change issues
- import of some tools from US (environmental impact assessment, access to information, management systems), some tools rejected (e.g, EPA-like enforcement agency)

US seen as trying to subordinate environmental questions to economy/trade issues and to avoid any substantive environmental provisions at all

⇒ e.g. **Kyoto protocol**

- US considered it flawed b/c
  - only obligations for industrialized not developing countries to reduce GHG emissions (as a long-term problem, also developing countries should be involved)
  - it did not expressly enable industrialized countries to comply with reduction commitments by investing in reduction technologies in developing countries, i.e. in ways that would not require emission reductions at home
- EU saw it as a prolongation of the commitments accepted under the Climate Change Convention
- still not ratified by the US

MAIN DIVERGENCIES	
EU	USA
<ul style="list-style-type: none"> <li>- represented on int negotiations by environmental depts. of member states and by the EC's directorate for environmental affairs</li> <li>- same importance to trade issues, environmental and social concerns</li> <li>- multilateral solutions that are globally acceptable, not necessarily best economic interest of EU</li> <li>- Nation states accept regulatory role of EU and global solutions it brings.</li> <li>- do not rely on market too much</li> </ul>	<ul style="list-style-type: none"> <li>- delegations represented by State Dept. or the Dept. of Commerce (not env. depts.)</li> <li>- more emphasis on economic aspects of free trade than to environmental protection</li> <li>- believe in market solution,</li> <li>- more interests of the US industry rather than of global environment</li> <li>- only commitments that bring economic advantage;</li> <li>- no compliance mechanisms and control procedures that might impinge on national sovereignty</li> </ul>

CAUSES OF DIVERGENCIES	
EU	USA
<ul style="list-style-type: none"> <li>- stronger commitment to social and also environmental concerns,</li> <li>- history of governments interfering in social (and environmental) area</li> <li>- EU env. measures seen as harmonizing rather than centralizing</li> <li>- other than "economic" approaches – biology, geology, geography, philosophy, religion, social science...; cost-benefit and risk assessment not scientifically sound as economists failed to develop generally acceptable standards for measuring environmental harms</li> <li>- polls suggest care for environment, "greens" keep appearing in political life even in governments</li> <li>- environmental challenge seen worth investing as a new stimulus for innovation</li> </ul>	<ul style="list-style-type: none"> <li>- many businesses would "philosophically" oppose to regulation and find it illegitimate</li> <li>- environmental policy viewed as centralizing policy – criticism by conservative circles</li> <li>- cost-benefit and risk analysis viewed as scientific approach</li> <li>- Congress (no need of cost-benefit analysis) vs. EPA (economic principles applied to regulatory measures)</li> </ul>



## The essentials in Copenhagen

**Rather than getting every small detail of a new global climate treaty done in Copenhagen, UN climate chief Yvo de Boer hopes the conference will reach agreements on four political essentials.**

Michael von Bülow 16/03/2009 10:30

The UN climate conference in Copenhagen in December this year may not yield a new global climate treaty with every minor detail in place. But hopefully it will close with agreements on four political essentials, thereby creating a clarity the world – not least the financially struck business world – needs.

The wish for clarity is expressed by Yvo de Boer, executive secretary of the United Nations Framework Convention on Climate Change (UNFCCC), in an interview with Environment & Energy Publishing (E&E). According to Yvo de Boer, the four essentials calling for an international agreement in Copenhagen are:

1. How much are the industrialized countries willing to reduce their emissions of greenhouse gases?
2. How much are major developing countries such as China and India willing to do to limit the growth of their emissions?
3. How is the help needed by developing countries to engage in reducing their emissions and adapting to the impacts of climate change going to be financed?
4. How is that money going to be managed?

"If Copenhagen can deliver on those four points I'd be happy," says Yvo de Boer.

He sees a need to get something signed and agreed in Copenhagen, but he thinks it will be very difficult to get every final, small detail of a whole new treaty done. The new climate treaty will be replacing the Kyoto Protocol which was adopted in Kyoto, Japan, in December 1997 and entered into force on 16 February 2005.

The Kyoto Protocol which sets binding targets for the reduction of greenhouse gas emissions has been signed and ratified by 184 parties of the UN Climate Convention. One notable exception is the United States, and Yvo de Boer is "really happy" to see the US back in the international climate change process and that the US is also engaging domestically in the process.

"My big lesson from the Kyoto era is that it's really important that the government delegation that represents the United States is in close touch with the Senate, with the elected officials on what's acceptable and what's not," says de Boer, and he adds:

"I think that a major shortcoming of Kyoto was that the official delegation came back with a treaty they knew was never going to make it through the Senate. And this time I have the feeling that the communication is much stronger, that the Senate Foreign Relations Committee, through John Kerry, is really expressing strongly what they feel needs to be done in Copenhagen."

Yvo de Boer thinks the Kyoto Protocol was rejected by the US for mainly two reasons. Firstly, because it did not involve action on the part of major developing countries. Secondly, because it was felt by the Bush administration that Kyoto would be harmful to the US economy. Copenhagen will be a whole different scenario, and de Boer feels confident that President Barack Obama can successfully engage China and India and convince them to sign the next treaty.

"I think that Secretary of State Clinton's visit to Beijing was a really important and encouraging step to get us moving on that road," says Yvo de Boer.

Asked about the global recession, de Boer thinks it will certainly have an impact on the negotiations in Copenhagen.

"You see already that investments in renewable energy projects are going down, partly because of the oil price going down and partly because of the economic activity going down," he says. But even though greenhouse gas emissions are expected to slow down as a result of shrinking industrial activities, de Boer does not believe it will lessen the pressure on countries to act and sign a new treaty.

"I get the impression talking to business people that they still want clarity from Copenhagen. If you're making investments now, for example in the energy sector, in power plants that are going to be around for the next 30 to 50 years, you can't really afford to keep waiting and waiting and waiting for governments to say where they're going to go on this issue."

## **UN: Historic climate talks must deliver**

**The Copenhagen climate negotiations beginning Monday must yield an ambitious, sweeping agreement to capitalize on pledges by countries to fight global warming, UN climate chief Yvo de Boer said on Sunday.**

Michael von Bülow *06/12/2009 22:15*

A day before two weeks of climate talks in the Danish capital formally begin, the UN climate chief on Sunday said time was up to agree on the framework of a tougher climate deal after troubled negotiations have deepened a rift between rich and poor nations.

"I believe that negotiators now have the clearest signal ever from world leaders to draft a solid set of proposals to implement rapid action," Yvo de Boer told reporters, according to Reuters.

"Never in the 17 years of climate change negotiations have so many different nations made so many firm pledges together. Almost every day countries announce new targets or plans of action to cut emissions," he said.

In recent weeks, China, India, Indonesia and other countries have announced commitments to reduce emissions, raising hopes of success in Copenhagen.

South Africa on Sunday became the latest country to announce an emissions target. It said over the next 10 years it would reduce emissions by 34 percent from "business as usual," the level they would reach under ordinary circumstances, AP reports. By 2025 that figure would peak at 42 percent, effectively leveling off and thereafter begin to decline.

Japan said on Sunday it would stick with its target to cut emissions by 25 percent from 1990 levels by 2020, although the pledge depends on all major emitters, including China and the United States, being ambitious.

The closing stages of the UN conference will be attended by 105 world leaders who will try to seal a deal after years of bitter debates over how to divide up the burden of emissions curbs and who should pay. (Photo: Scanpix/Reuters)

## **192 nations at UN climate conference in Copenhagen**

**The largest and most important UN climate change conference in history opened Monday, with diplomats from 192 nations warned that this could be the best, last chance for a deal to protect the world from calamitous global warming.**

AP/Nanet Poulsen 07/12/2009 12:05

The conference, the climax of two years of contentious negotiations, convened in an upbeat mood after a series of promises by rich and emerging economies to curb their greenhouse gases, but with major issues yet to be resolved.

Conference president Connie Hedegaard said the key to an agreement is finding a way to raise and channel public and private financing to poor countries for years to come to help them fight the effects of climate change.

Hedegaard — Denmark's former climate minister — said if governments miss their chance at the Copenhagen summit, a better opportunity may never come.

"This is our chance. If we miss it, it could take years before we got a new and better one. If ever," she said in prepared remarks.

Denmark's prime minister said 110 heads of state and government will attend the final days of the two-week conference. President Barack Obama's decision to attend the end of the conference, not the middle, was taken as a signal that an agreement was getting closer.

At stake is a deal that aims to wean the world away from fossil fuels and other pollutants to greener sources of energy, and to transfer hundreds of billions of dollars from rich to poor countries every year over decades to help them adapt to climate change.

Scientists say without such an agreement, the Earth will face the consequences of ever-rising temperatures, leading to the extinction of plant and animal species, the flooding of coastal cities — about half of humanity lives within 100 miles (160 kilometers) of a coastline — more extreme weather events, drought and the spread of diseases.

Negotiations have dragged on for two years, only recently showing signs of breakthroughs with new commitments from The United States, China and India to control greenhouse gas emissions.

The first week of the conference will be focused on refining a complex text of a draft treaty. But major decisions will await the arrival next week of environment ministers and the heads of state in the final days of the conference, which is due to end Dec. 18.

## Hope for deal at conference

### **"A deal is within our reach," the Danish Prime Minister said on Monday – the first day of the UN climate change conference.**

Marianne Bom 07/12/2009 16:25

The UN climate change conference opened Monday in an atmosphere of hope for a deal in Copenhagen within the next two weeks.

"A deal is within our reach," the Danish Prime Minister Lars Løkke Rasmussen said in his opening speech, stressing that the talks will have to overcome deep distrust between rich and poor nations on how to share the burden of curbing emissions.

The presence of more than a hundred world leaders meant "an opportunity the world cannot afford to miss," Lars Løkke Rasmussen said.

At a press briefing, the President of the UN climate change conference, Connie Hedegaard, said that "the deadline is working," referring to the fact that both developed and developing countries had been presenting emission reduction targets ahead of the conference.

Asked if there is enough time to reach a deal in Copenhagen, Connie Hedegaard said that you never feel you have sufficient time for a task that has to be done, but "within the time we have, we must solve the task".

Besides commitments to cut emissions, a major aspect of the negotiations is financing of mitigation and adaptation to climate change in developing countries. At the press briefing UN's top climate negotiator Yvo de Boer said that the talks are about the amount of money needed from the developed countries. Yet another important issue is "how do we allocate the still limited resources," according to him.

On the 17th and 18th of December, 110 heads of states and governments will come to Copenhagen in an attempt to seal a political global climate deal. If a deal is agreed, the UN will aim at transforming it into a legally binding text to replace the Kyoto Protocol as its regulations of emissions expires in 2012. (Photo: Keld Navntoft/Scanpix)

### **Godby & Shogren, *Caveat emptor (buyer beware) Kyoto – Comparing buyer and seller liability in carbon emission trading***

- Kyoto Protocol requires that leading industrialized countries reduce their GHG emissions by an average of 5 percent below 1990 levels by 2008-12.
- ET allows regulated emitters to buy emission reduction efforts from other emitters
- The effectiveness of global trading depends on the rules of enforcement and sanctions for nations that shirk on their emission commitments.
- Domestic trading programs in the United States and elsewhere have relied on strong enforcement and sanctioning frameworks to ensure market compliance but that can not be relied on automatically in international contexts (see Phase 2 notified voluntary restrictions within the EU ETS)
- The Kyoto Treaty ignores enforcement (although it really is the main challenge)
- The critical issue: Who should be held responsible for overselling permits beyond quotas – the seller or the buyer country?
  - Weak under-compliance penalties and ineffective monitoring methods create the incentive for selling nations to oversell permits (and shirk on their emission reduction commitments)
  - An advantage of seller liability: there is only one price because for the buyer it does not matter where the license to pollute comes from.
  - An advantage of buyer liability: buyers would have an incentive to ensure emission compliance through various means (including reputational enforcement, collaterals of various kinds, etc.) Inevitably that would mean that we now talk about different prices because various risk factors would play a role in the determination of the price. (On the positive side, monitoring and enforcement costs could be dramatically reduced.) "The working hypothesis is that buyer liability leads to greater climate protection, as markets form to capture the gains from trade and reputations work to police market behavior." (p. 49)
- The authors test experimentally the comparative advantages of three liability rules: seller, buyer, and buyer and refund (seller non-performance inflicts sanctions on buyers only, while sellers forfeit any permit revenues, say by way of escrow accounts.)

- Sneak preview: They find that “buyer liability under relatively weak international enforcement leads to the worst possible outcome – less climate protection at greater costs.” (p. 49) This result is robust to various robustness checks.

**The experimental details:**

- Stylized Kyoto emission market double auction experiment in which liability rules are the treatment
- Each session with eight participants who
  - were told that they represented a firm producing and selling a product at an announced market price, with production costs varying and being private information.
  - were to choose a production level each period (which would materialize somewhat randomly)
  - were expected to produce only when they held a permit to do so (but that “it was possible to produce without a permit – but each faced a fixed and known probability of being monitored individually to determine if they held enough permits to cover their production. If found to have produced without enough permits to cover production, individual subjects faced a fixed fine for every unit produced in excess of their permit inventory.” (pp. 51 – 53)
  - Each session used all three treatments (but in different orders; see Table 3.1. on page 52)
- A total of 12 sessions, for a total of 96 participants
- Each session took about 2.5 – 3 hours to complete.
- Individual earnings ranged from \$27 to \$73, with a mean payment of \$45.70
- Session procedure:

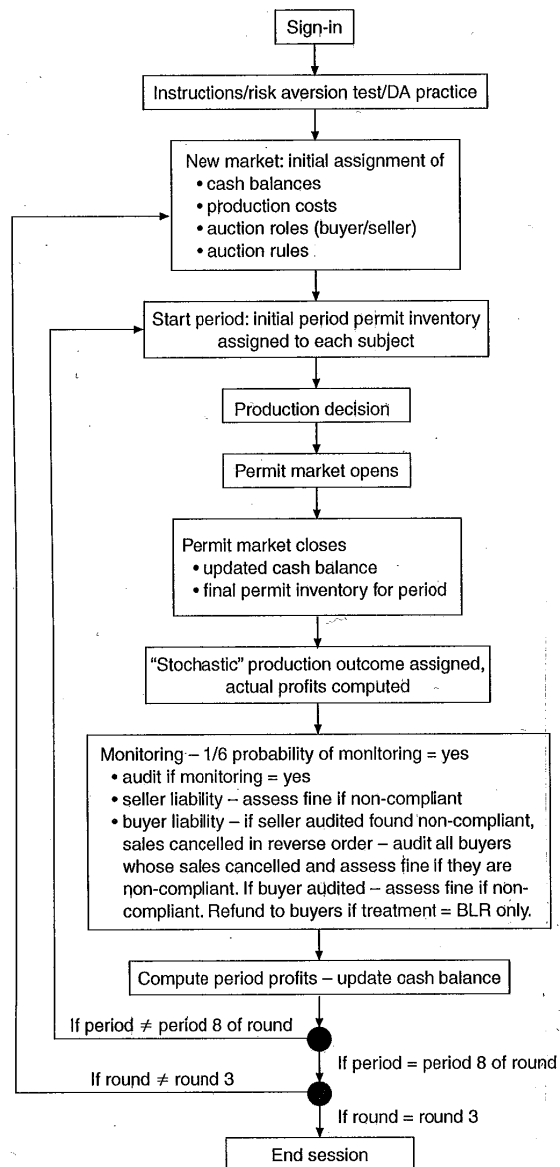


Figure 3.1 Session procedure.

- Results (somewhat surprising and contradicting intuition, especially as regards the BLR treatment):
  - “Promoting a *caveat emptor* liability rule backfired in our experiment on both economic and environmental criteria. Holding the subjects that represented high-emission buyer nations responsible for climate shirking rather than holding the relatively poorer low emission seller nation subjects responsible resulted in average emission levels exceeding those observed under seller liability by nearly 34 to 40 percent. The imposition of an escrow-like refund system did not alter this result; and neither did the introduction of tighter enforcement or conditions that could create stronger seller reputations. Our findings support the notion that buyer liability in global emission trading might lead to less climate protection at greater cost.” (pp. 73-74)