

Are Negotiations for the Paris Climate Meeting in 2015 Likely to Succeed?

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In what ways have international negotiations for the Paris climate meeting in 2015 (COP21) advanced from what was agreed under the Copenhagen Accord of 2009 (COP15)? Please give your own assessment of whether any new agreement is likely to succeed.

The road to Paris has shown the breakdown of systemic discourse and policy. International agreements since Copenhagen appreciate that a hybrid and cumulative approach is needed in order to achieve the systemic two degree Celsius goal. In other words, emphasis on the global system has gone beyond the purely physical system. Climate policy has been regionalised and its scope includes clear development goals – not only mitigation, but adaptation and capacity building (UNFCCC 2014). This evolution is demonstrated in a shift away from state-led, systemic regimes toward less centralised agreements that involve hybrid commitments to national targets and various activities for capacity building by states and non-state actors. This December, policymakers and academics alike expect a shift from a focus on the ends to be achieved to the means of reducing emissions (Bodansky and Diringer 2014). This evolution is guided by the idea that: (1) institutions do matter; (2) global politics includes a wide range of non-state actors; and (3) global politics involves perceptions, ideas, knowledge, identities and meanings, not just power and objective interests (Haas 1992; Zürn 1998).

The emerging governance strategy is a pragmatic accommodation to political, diplomatic, and scientific realities, but the underlying anarchic and capitalist structure is incompatible with a legally binding treaty (Hurrell 1994; Newell 2005; Levy and Newell 2002). Nonetheless, COP21 is likely to be relatively effective, at least compared to the previous major climate negotiations and agreements, by bringing global environmental norms and state interests one step closer. Structural truths and debates over legal form, however, should not overshadow the progress that has been made since COP15; the success of COP21 need not be judged on whether or not it is a legally binding treaty.

The shift to an increasingly hybrid and cumulative approach has developed in two general, yet interrelated ways – the top-down vs. bottom-up nature of commitments and FTCB (finance, technology and capacity building). The increasingly bottom-up nature of states' commitments since 2009 is intended to improve the ambition and credibility of countries' commitments and increase the likelihood of an agreement this December. For example, the 2013 Warsaw COP decision called for parties to prepare 'intended nationally determined contributions (INDCs)' to the Paris agreement in early 2015 (UNFCCC 2013). Unlike the COP's previously top-down, prescribed targets, the new idea is that states' commitments will be determined domestically (Green 2014; UNFCCC 2014). The Kyoto Protocol allowed countries freedom in how they implement their commitments (non-legally binding), but the evolution of negotiations indicates that acceptance of targets is based not solely on their design, but on the sequence of their proposal. In other words, the second-stage nature of implementation becomes extraneous, since the primary target was mandated, as opposed to nationally determined. Historically, large emitters like China and India have been reluctant to enter into strongly binding international climate commitments, resulting in persistent asymmetry between developed and developing countries' obligations. This dichotomy is what prevented the US from ratifying the Kyoto Protocol. The evolution of states' behaviour in climate negotiations advises that they are more likely to effectively participate when they are given flexibility in defining the form and nature of their commitments. Considering this, bottom-up, non-legally binding INDCs are likely to facilitate greater participation and ambition from systemically

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significant emitters like the US, China, and India (Green 2014). Inclusion of systemic powers/emitters can create a powerful global discourse of regime cooperation. This strategy also considers the realpolitik quality of environmental politics – efforts are futile unless systemic players cooperate. In light of the Paris 2015, a hybrid commitment in the right order is likely to be proposed – an initial, bottom-up, non-legally binding INDC, followed by a binding obligation on the process and conduct relating to the INDC.

Since it is primarily domestic policies that directly affect the production and reduction of emissions, it follows that focusing states' attention on domestic policy and institutional development through INDCs would likely stimulate long-term effectiveness by increasing international ambition and credibility over time (Bodansky and Diringer 2014). Considering global economic and ecological interdependence, tension between the global North and South is inevitable – 'differentiation and flexibility in national commitments will be the price to pay for a climate agreement' that includes all global actors (Falkner 2014). Finance, technology, and capacity building have developed in order to alleviate this systemic differentiation. This reflects the UNFCCC's cumulative realisation that tackling climate change and engaging developing nations demands development. Specifically, the creation of the GCF, REDD, and discussion on technology mechanisms reveal a clear distinction between long-term development/capacity building and fast mitigation opportunities. The Green Climate Fund was established to facilitate a shift towards low-emission/sustainable development pathways through mitigation and adaptation (COP15 2009; UNFCCC 2009). The US and China remained deadlocked during COP15 up until developed countries committed to collectively mobilising \$100 billion a year by 2020 to this fund (Davenport 2014; UNFCCC 2009). As of April 2015, 33 governments have made a pledge to the GCF, including 8 representing developing countries, amounting to 10.2 billion USD, with the US, Japan, UK, Germany, Sweden, and France as the largest contributors (GCF 2015). Further, COP17 introduced REDD – a financial mechanism with the objective of mitigating climate change through reducing net emissions of greenhouse gases through enhanced forest management in developing countries. It is a mechanism that appreciates the fact that climate change is local in its causes and global in its impact, thereby warranting not only mitigation, but adaptation and capacity building (Shaw et al. 2009). REDD is an innovative mechanism in its ability to increase capacity in developing countries while satisfying market liberals, institutionalists, and social green ideologies (Hiraldo and Tanner 2011). Additional capacity building mechanisms like the UNFCCC Clean Tech Fund remain highly contested and unresolved, but illustrate a clear effort to stimulate development in the global South.

Climate negotiations since Copenhagen recognise that while climate change is a fundamentally global challenge, the political will to wrestle it has to begin primarily within the domestic realm (Keleman and Vogel 2010; Andresen and Agrawala 2002). FTCB illustrates that a holistic means is required to engage the global South and to attain the systemic two degree Celsius goal. However, the global structure underlying these advances precludes fully coordinated global action. States cannot be entirely greened – the global structure limits the political coalitions and institutional forms that are expected to deliver legally binding environmental protection.

The turn toward a hybrid and cumulative approach is promising, but will not be adopted as a legally binding treaty in Paris. A hybrid and cumulative approach is a practical accommodation to political, diplomatic, and scientific realities, but a legally binding climate agreement must not only capture all the political will that can be collected at its launch, it must also impart confidence that all are contributing their fair share. While the evolutions in approach are intended to reconcile transatlantic differences, they effectively magnify them due to the wicked nature of climate change – it 'defies resolution because of the enormous interdependencies, uncertainties, circularities, and conflicting stakeholders implicated by any effort to develop a solution' (Levin et al. 2012; Lazarus 2009). At the end of the day, there is no global law-making institution that has the jurisdictional reach and legal authority to match the scope of the problem at hand (Lazarus 2009).

Differentiation is the reality of a capitalist world system; power politics and UNFCCC history indicates that differentiation will persist, to some extent. Developed and developing countries struggle to agree on what each respective financial contribution, legal commitments, and nationally determined targets should be (UNFCCC 2013). The degree to which hybrid elements apply to all parties or only some is still a mystery. COP history shows that such matters cannot be resolved in one meeting this December, or even at multiple. Technology and capacity building are surely promising arenas for on-the-ground change, but they are contingent on massive capital flows. It is a matter of deep conjecture whether the US' led bloc will make continuous billion dollar commitments to the GCF. The US has

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presently pledged 3 billion USD, but there is no reason to believe that this will be an uninterrupted flow (GCF 2015). Private sector motives and national interests will always hinder genuine technology transfer and capacity building because developed countries are reluctant to transfer technology that puts them at a competitive advantage or to invest in the lengthy process of capacity building. The UNFCCC provides no real incentives for doing so. The issue of climate change as a future threat continues to be a central veto at any angle of domestic and international consensus. The GCF's annual hundred billion dollar outlay would satisfy developing countries and adoption of Loss and Damage can create a pragmatic mechanism to disperse these funds to developing countries; however, developed countries' immediate loss of funds from these actions has been a major barrier to harmony throughout decades of climate change discussions. Interrelated political constraints and medium-term fiscal challenges simply disqualify the prospects of a legally binding treaty. A successful treaty need not be legally binding, however.

In theory, a binding agreement would generate more ambitious commitments from states if their foremost concern were of the non-compliance of others. At the same time, states are also less likely to be ambitious in their commitments where an agreement is legally binding. This logic applies to China, India, and other key developing economies that are responsible for an increasing share of global emissions. Considering the present US political climate, it would be nearly impossible for the US to participate since ratification of a treaty requires the Senate's two-thirds consent (The Economist 2014). Paul Bledsoe, a climate change official working for the Obama administration, stated: 'If you want a deal that includes all the major emitters, including the US, you cannot realistically pursue a legally binding treaty...' (Davenport 2014). Considering the systemic significance of the US, China, and India in climate agreements, a strongly legally binding agreement would, on balance, greatly discourage ambition and participation overall (Green 2014). The increase in credibility due to internationally legally binding commitments is modest when compared to the substantial costs of lower overall international participation (Falkner 2014; Green 2014). The hybrid form of commitments and the cumulative nature of the approach is pragmatic, legal, and political magic.

COP21 will look less and less like one big treaty, but rather, an increase in knowledge regimes and non-state actors against the framework of an international treaty. The common concern going forward is whether this increase in forums and initiatives leads to an overly fragmented regime, or whether it is possible to establish productive linkages and an effective distribution of effort delivering a more coordinated and effective global response (Keohane and Victor 2011). The underlying idea is that a hybrid, cumulative strategy for global cooperation will build on much needed ambition and credibility, therefore strengthening cooperation over time (Falkner 2003; Barrett 2003). COP Negotiations are a vicious cycle – just as COP15 signified the need for a new approach, COP21 will reveal yet another space in which environmental norms and a multitude of state and non-state interests can better align. Industrialisation and globalisation have heightened systemic interdependence among actors while parallel and latent climate change has exposed the urgency for systemic collaboration. A close alignment of global environmental norms and state interests allow the former processes to go hand in hand while simultaneously controlling the latter. The hybrid and cumulative approach in the lead up to Paris appears to be the most promising mechanism for global political cooperation since COP15. Though it is a hopeful endeavor, it does not negate the inconvenient fact that measuring the success of a COP negotiation cannot be done overnight.

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