MAINZ PAPERS ON INTERNATIONAL AND EUROPEAN POLITICS

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Lisanne Groen, Vrije Universiteit Brussel (VUB)
Arne Niemann, University of Mainz

Paper No. 1

Institut für Politikwissenschaft

JG|U
JOHANNES GUTENBERG UNIVERSITÄT MAINZ

Mainz Papers on International and European Politics (MPIEP)
ISSN: 2193-6684

Edited by the Chair of International Relations, University of Mainz

Johannes Gutenberg University of Mainz
Department of Political Science
Chair of International Relations

Colonel-Kleinmann-Weg 2
D-55099 Mainz
Phone: +49 (0)6131-39-21051
Fax: +49 (0)6131-39-27109
E-mail: mpiep@uni-mainz.de
http://www.politik.uni-mainz.de/cms/83_ENG_HTML.php

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Groen, Lisanne and Arne Niemann. 2012. The European Union at the Copenhagen Climate Negotiations: A Case of Contested EU Actorness and Effectiveness. *Mainz Papers on International and European Politics*, 2012/01. Mainz: Chair of International Relations, Johannes Gutenberg University.

Lisanne Groen is PhD Candidate at the Vrije Universiteit Brussel (VUB)
lisanne.groen@vub.ac.be

Arne Niemann is Professor of International Politics at the University of Mainz
arne.niemann@uni-mainz.de

The European Union at the Copenhagen Climate Negotiations: A Case of Contested EU Actorness and Effectiveness

Lisanne Groen and Arne Niemann

Abstract

This paper analyses the extent of European Union (EU) actorness and effectiveness at the fifteenth United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP) meeting in Copenhagen in December 2009. For over a decade the European Union has been characterised as a leader in international climate policy-making and as an important actor in international climate change negotiations. The COP15 meeting in Copenhagen has overall brought about disappointing outcomes, especially from the perspective of the European Union. This casts doubts on EU leadership and begs the question of what has happened to EU actorness and effectiveness in this field. In terms of actorness we take Jupille and Caporaso (1998) as a point of departure and then specify a more parsimonious actorness framework that consists of cohesion and autonomy. Effectiveness (i.e. goal attainment) is seen as conceptually separate from actorness. Effectiveness is conceptualised as the result of actorness conditioned by the 'opportunity structure', i.e. the external context (of other actors, events and ideas) that enables or constrains EU actions. We hold that the EU's actorness has been only moderate, especially given somewhat limited preference cohesion. In terms of the opportunity structure in Copenhagen we argue that the high degree of politicisation constrained the EU's ability to negotiate and thus to attain its goals. Another external factor that had a substantial adverse impact on the EU's effectiveness at the Copenhagen negotiations was the strong involvement of other actors with rather different positions, namely the United States (US) and the BASIC countries (Brazil, South Africa, India, and China).

Keywords: European Union (EU), climate change, negotiations, United Nations Framework Convention on Climate Change (UNFCCC), Conference of the Parties (COP), actorness, effectiveness, politicization, United States (US), BASIC countries

Introduction

For over a decade the European Union (EU) has been characterised as a leader in international climate policy-making and as an important actor in international climate change negotiations (Zito 2005; Groenleer and Van Schaik 2007; Oberthür 2009b). The 15th United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP) meeting in Copenhagen in December 2009 has overall brought about disappointing outcomes, especially from the perspective of the European Union. Contrary to EU objectives, no legally binding agreement was reached to succeed the Kyoto Protocol after 2012 and the final Copenhagen Accord contained disappointingly few ambitious targets. This casts doubts on EU actorness and begs the question of what has happened to EU actorness and effectiveness in this field. The main purpose of this paper thus constitutes an examination of the extent of EU actor capability[1] and effectiveness at the Copenhagen Climate Conference.

[1] The terms 'actorness' and 'actor capability' (Sjöstedt 1977) are used interchangeably throughout this paper.

There are additional rationales for analysing the degree of EU actorness – here broadly defined as 'the capacity to behave actively and deliberately in relation to other actors in the international system' (Sjöstedt 1977: 16). Firstly, the concept of actorness has prompted quite a bit of conceptual discussion (Jupille and Caporaso 1998; Ginsberg 1999; Bretherton and Vogler 2006), but remains empirically underexplored. While the actorness of the EU, a special type of regional organisation with a unique organisational structure, has been found as only partially existing in the (few) studies of the 1990s, at the same time the EU's foreign policy procedures and instruments as well as the EU's own claims for constituting an actor on the world scene have further progressed since. Against this background, it seems important to probe EU actorness more thoroughly for a more recent period, and also in more contested/challenging environments. Secondly, approaches like those on civilian and normative power Europe (NPE) are built on the assumption that the EU possesses sufficient actorness. The mostly disappointing empirical findings concerning the EU as a normative power (see introductory paper) raise the question of whether especially the NPE research agenda is not a somewhat premature (and perhaps also misguided) one, and whether it may not be wise to go one step back and talk about EU actorness, as the foundation for the 'what sort of power' debate. This could be seen as all the more necessary since initial studies, as the one by Jupille and Caporaso (1998), were rather skeptical concerning the degree of EU actorness. Thirdly, scholars have begun to connect issues of 'actorness' with those of 'effectiveness' (for earlier works: Ginsberg 1999; Bretherton and Vogler 2006). However, the relationship between the two concepts is often under-specified and systematic empirical analyses of EU effectiveness (commonly understood in terms of goal attainment) are still relatively rare (cf. Laatikainen and Smith 2006). Fourthly, apart from its societal significance, climate change does not only constitute an important aspect for an EU foreign policy expanding in ambition and scope, but has even been regarded as a 'saviour' issue for the EU integration project more generally (Van Schaik and Van Hecke 2008: 6). Therefore, the UNFCCC COP15 negotiations deserve (more) academic attention. Finally, the case is (particularly) interesting to explore because the COP15 negotiations in Copenhagen marked the first time in the history of the UNFCCC COP negotiations that so many heads of state and government were present to take the final decisions at a COP meeting (IISD 2009). This characteristic is hypothesised to have affected the variation of actorness across the case in hand (and in distinction to earlier climate change negotiations).

The 'EU' here denotes the legal entity that has been accepted as a party within the UNFCCC and that has been represented at the negotiations in Copenhagen by the Swedish EU Council Presidency and two EU negotiation teams, consisting of lead negotiators and issue leaders from both the EU Member States and the European Commission, at the negotiator level, and by the Swedish EU Council Presidency and the EU troika[2] at the higher negotiation levels. We proceed as follows: first we specify the conceptual framework. Thereafter, we briefly specify the empirical setting of the Copenhagen summit. In parts three and four, we probe our two categories of actorness (cohesion and autonomy) for the negotiations. Fifth, we assess the relationship between actorness and politicisation. Finally, we analyse the EU's effectiveness at the COP15 meeting.

1. Conceptual Framework[3]

For us actorness is about the EU's 'capacity to act' (Jupille and Caporaso 1998: 214), i.e. the ability to function 'actively and deliberately in relation to other actors in the international sys-

[2] The EU troika in external climate policy consists of the current EU Council Presidency, the European Commission and the incoming EU Council Presidency (Van Schaik 2010: 261).

[3] For a comprehensive review of the literature with regard to conceptual approaches to the EU's international role and a general introduction to the concept of actorness, see the introductory article to the Special Issue.

tem' (Sjöstedt 1977: 16). Similar to Jupille and Caporaso (1998) as well as Thomas (2010), we reject the understanding that actorness equals influence/effectiveness. Instead, we suggest that actorness may enable influence, without entailing the latter. Our point of departure is the approach stipulated by Jupille and Caporaso (1998) who consider the EU a hybrid and ambiguous international entity, in a constant state of development. They acknowledge the different degrees of actorness over time, issue and negotiation partner, making their framework suitable for application to different cases. Their critique on previous contributions to the actorness debate is that these lack clear criteria for determining the status of the EU as an actor. Jupille and Caporaso, therefore, devise four criteria for ascertaining actorness, for which they also partly stipulate indicators. The criteria are not absolute, suggesting that actorness is a matter of degree. The four criteria are recognition, authority, cohesion and autonomy. These criteria each comprise a number of sub-criteria, as a result of which their model not only contains substantial duplication and overlap between criteria (Huigens and Niemann 2011), but also becomes rather complex and cumbersome. Therefore, we have reformulated the framework in a more parsimonious fashion. Recognition can be omitted from the account since it is not a necessary element of actorness, with entities such as Hamas and Hezbollah clearly constituting international actors even though they are hardly recognised internationally (Thomas 2010: 4).[4] Similarly authority does not constitute a necessary component of actorness. Even modest degrees of authority may go hand in hand with substantial degrees of actorness (Groenleer and van Schaik 2007). In addition, the most important aspects of authority, i.e. decision rules, are very largely contained in procedural-tactical cohesion (see below). A more parsimonious, but equally conclusive/meaningful, account of actorness thus concentrates on 'cohesion' and 'autonomy', the two elements that are also most reflected in Sjöstedt's definition of actorness. An entity, here the EU, can only 'behave actively' and move forward when it is able to aggregate preferences and agree on common positions/policies (cohesion), which is also a precondition for behaving 'deliberately'. The latter is also contingent on the (EU) agent(s) providing a substantial input to the process of formulating common policy goals (autonomy).

Cohesion: Drawing on, but to some extent deviating from, Jupille and Caporaso (1998) we distinguish between three dimensions of cohesion: (1) Preference cohesion: to what extent do the EU Member States share common basic preferences and goals for the COP15 meeting? (2) Procedural-tactical cohesion: i.e. the EU's ability to overcome diverging preferences and solve disagreements. This entails the existence of established procedures and instruments within the EU's negotiating infrastructure – or tactical instruments, such as issue linkage and side payments – for overcoming conflict or deadlocks. (3) Output cohesion: does the EU as a whole succeed in formulating common policies and positions, regardless of substantive and procedural agreement? (Thus output cohesion can largely be viewed as the result of preference cohesion mitigated/balanced by procedural-tactical cohesion.) And do the various EU actors comply with the policy that has been agreed?

Autonomy: Here one can distinguish between different elements. First, to speak in principal-agent terms, the width of EU (agent) decision-making latitude is to be investigated, in terms of the EU (agents') ability to influence policy goals, i.e. to have a genuine EU (agent) input (vis-à-vis Member State principals) in the decision-making process. Second, EU agents' discretion – i.e. the degree of freedom of action for the agent to accomplish objectives that were set by (Member State) principals (Hawkins *et al.* 2006: 6) – needs to be assessed.

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[4] According to Jupille and Caporaso (1998: 215) recognition should be seen as a minimum criterion that leads to the presence of an actor in international politics, because it is registered on "the analytical radar". In our case, the EU has been granted full UNFCCC membership, as a Regional Economic Integration Organisation (REIO), and the EU has been accepted as a full negotiating partner since the very beginning of the UNFCCC. In many ways 'recognition' is not ignored in our analysis. It features in the 'opportunity structure' (see below). The extent of external EU recognition will determine to what extent the EU's capacity to act is accepted by others.

From actorness to effectiveness

To make any meaningful claims concerning the EU's performance in international negotiations we have to go beyond actorness and consider the EU's effectiveness. Effectiveness is here understood as goal-attainment (Young 1994). While actorness deals more with the internal (EU) dimension – i.e. the ability to act, something that is created inside the EU, the input side – effectiveness rather entails the external/outside dimension, i.e. the output side (does EU action have an impact on outcomes?). Through the latter, the ability to act (actorness) is translated into concrete outward-directed actions. In some respect, effectiveness thus builds on actorness: there needs to be a certain capacity to behave actively and deliberately in order to enable the EU to act effectively.[5] Whether actorness translates into effectiveness first and foremost depends on the 'opportunity structure', the external context of events and ideas that enables or constrains EU action (Bretherton and Vogler 2006: 24). For example, does the overall constellation of actors (and their objectives) and the degree of politicisation at the meeting strengthen or weaken the EU's pursuit of its goals? Closely related, in terms of effectiveness it also matters whether the EU has devised a strategy that takes the external environment into account.

2. The Empirical Setting

The Conference of the Parties (COP) is the highest decision-making body of the UNFCCC in which all parties to the convention are represented. The COP15 meeting was the climax of two years of negotiations under the Bali Roadmap, which was adopted in December 2007 at COP13 to enhance international cooperation on climate change for the long-term. At Copenhagen a global follow-up agreement of the Kyoto Protocol after 2012 had to be closed (IISD 2009).

The European Union is recognised as a party, alongside its 27 Member States, within the UNFCCC, where it participates as a Regional Economic Integration Organisation (REIO). This construction of representation was established because both the European Union and its Member States have competences on issues presented within the UNFCCC, leading to so-called mixed agreements (Lacasta *et al.* 2002: 360; Van Schaik 2010: 260-261). The EU Member States and the EU decide on their respective obligations together, because it is not possible for them to exercise their rights concurrently (Bretherton and Vogler 2006; UNFCCC 1992: Art. 22.2). As a REIO the EU does not have separate voting rights in the UNFCCC. On issues of exclusive EU competence it exercises its right to vote with the number of votes equal to the number of its Member States. The EU cannot exercise its right to vote if any of its Member States exercises this right, and vice versa (UNFCCC 1992: Art. 18). Hence, the EU possesses formal membership of the UNFCCC and thus recognition at the COP meetings, which means that the EU has had an entry ticket to the Copenhagen negotiations.

Within the UNFCCC COP meetings the main EU spokesperson is the Council Presidency, held by an EU Member State, which rotates every six months. Next to the EU, its Member States are present as parties to the negotiations (Lacasta *et al.*. 2002: 361). In the most important bilateral negotiations and smaller negotiating sessions the EU is represented by the EU troika. Since the Amsterdam Treaty, the EU troika has consisted of the current EU Council Presidency, the upcoming Presidency and the European Commission (Oberthür 2009a: 13). During the Copenhagen negotiations Sweden held the EU Council Presidency and the upcoming Presidency was Spain.

In 2004 the system of 'issue leaders' and 'lead negotiators' was introduced (Oberthür and Roche Kelly 2008: 38). On behalf of the EU Presidency lead negotiators from EU Member States

[5] As pointed out in the literature (Meunier 2000), a certain lack of (procedural) cohesion can also lead to greater negotiating power. This is possible if a certain opportunity structure (e.g. 'conservative' cases) and EU strategy (taking this opportunity structure into account) enable this.

(other than the state which holds the Presidency) and from the Commission are appointed to take over the lead from the Presidency in the international negotiations in various negotiating groups at the negotiator level, in order to reduce the workload of the Presidency (Oberthür 2009a: 14) and in cooperation with the issue leaders the lead negotiators prepare the common EU negotiating position for the international negotiations (Oberthür and Roche Kelly 2008: 38). During the COP15 negotiations there were two lead negotiators, because negotiations were held on two separate tracks. The first negotiation track in Copenhagen concerned the negotiations in the *Ad Hoc* Working Group on Long-term Cooperative Action under the Convention (LCA) and the second negotiation track concerned the negotiations in the *Ad Hoc* Working Group on further commitments for Annex I parties under the Kyoto Protocol (KP).

The negotiations in Copenhagen took place at different levels. They began at the negotiator level where the EU negotiation teams on the LCA track and the KP track, consisting of lead negotiators and issue leaders, negotiated the text of the Copenhagen Accord with other parties. The second stage of the negotiations was the ministerial level, during which the environment ministers from the UNFCCC parties met. However, the ministers did not have a clear role at Copenhagen. Normally the environment ministers take the final decisions at COP meetings. However, in Copenhagen much of the effort to conclude a final agreement was left to the heads of state and government because the negotiations at the lower level did not progress as well as they should have (IISD 2009).

The EU's overarching goal at the COP15 meeting has been to make as much progress as possible towards a full treaty to succeed the Kyoto Protocol in 2013 and to reach an ambitious and comprehensive political agreement in Copenhagen which shapes the full contours of the final outcome of the negotiating process and provides the guidance needed to elaborate it into a legal text by specifying a process for doing so (European Commission 2009). In terms of its role the EU aimed to take the lead at COP15 to achieve maximum progress. Before Copenhagen the EU made the first step with the adoption of its unilateral binding target to cut greenhouse gas emissions by 20% from 1990 levels in 2020 and it urged others to increase their ambitions in Copenhagen to similar levels (Barroso 2009a).

In parts three and four, the criteria of actorness – cohesion and autonomy – will be analysed.

3. Cohesion

We have separated cohesion into three different types: (1) preference cohesion, (2) procedural-tactical cohesion, and (3) output cohesion, wherein the latter can largely be viewed as the result of preference cohesion mitigated/balanced by procedural-tactical cohesion.

Preference cohesion

To determine the degree of preference cohesion we primarily assessed to what extent the various EU actors (especially Member States) shared similar goals with regard to the issues to be negotiated at Copenhagen. Member governments managed to put on paper an EU negotiating mandate for the COP15 meeting negotiations in which the main basic goals of the EU for every issue of the negotiation agenda in Copenhagen were outlined (Council 2009a). The primary goal for the COP15 meeting on which all EU Member States and the European Commission agreed was that the EU had to take on a leadership role in Copenhagen and that an ambitious agreement had to be reached on how to proceed after 2012 when the first period of the Kyoto Protocol was to end (Interview with UK delegate by telephone, 10 May 2010; Interview with Dutch delegate, The Hague, 12 May 2010; see also Council 2009b and 2009d). The major drivers of this agreement within the EU seem to be the normative aspirations of the EU in its external climate policy – such as multilateralism, sustainable development and the precautionary

principle – which unite the 27 EU Member States (Van Schaik and Schunz forthcoming). Other reasons for agreement within the EU on the primary goal for the COP15 meeting are the fact that the European public is truly concerned about climate change and that international climate change leadership has become a saviour issue for the European integration project itself (Van Schaik and Van Hecke 2008: 5-6). Thus it seems that there was a quite considerable agreement on the pursuit of an ambitious external climate policy, which positively contributed to the degree of preference cohesion of the EU at the COP15 meeting.

However, there remained several important issues on the Copenhagen agenda where the preferences and goals of the 27 EU Member States were rather diverse. Examples include the 'hot air' issue, land use, land use change and forestry (LULUCF), and the financial contributions for developing countries, which will be discussed more thoroughly below. Concerning these issues the text of the mandate was formulated in such a way that it masked differences of opinion, which meant that the mandate in essence contained no EU position on these issues at all. There were more deeply rooted underlying disagreements between the EU Member States that prevented the EU from reaching a high degree of preference cohesion.

To start with, there was underlying disagreement among the EU Member States on the question of whether the EU should commit itself to a CO_2-emission reduction goal of 30% compared to 1990 levels by 2020 and under which conditions it should do so (Interview with Dutch delegate, The Hague, 12 May 2010; Algemeen Nederlands Persbureau, 9 December 2009). The mandate specifies that the EU should do so when "other developed countries commit themselves to comparable emission reductions and [...] developing countries contribute adequately according to their responsibilities and respective capabilities" (Council 2009a: 5). The decision to set a conditional reduction goal of 30% had already been taken in 2007 (Council 2007: 12), but this goal nevertheless remained controversial among the EU Member States, with Italy and Poland openly speaking out against the decision. Other EU Member States, such as Bulgaria, Estonia, Hungary, Latvia, Lithuania, Romania and Slovakia, quietly supported their protest (Interview by telephone with UK delegate, 10 May 2010; New York Times, 6 December 2009; The Times, 17 October 2008). With almost every European Council meeting, the issue was again put on the table. Poland and Italy pushed for the deletion of the 30% conditional reduction goal while the UK and France, on the other hand, defended it (Interview with Dutch delegate, The Hague, 12 May 2010; NRC Handelsblad, 11 December 2009). The mandate failed to specify exact conditions to be fulfilled in order for the EU to commit to a 30% CO_2 reduction. In the absence of prior agreement between the EU Member States, agreement on the exact EU reduction goal had to be reached during the negotiations in Copenhagen.

Secondly, some Member States had rather specific (i.e. incompatible) preferences on land use, land use change and forestry (LULUCF) (Council 2009a: 13-14). LULUCF is the agreement that covers forestry for the developed countries that have pledged to reduce their emissions under the Kyoto Protocol (International Herald Tribune, 19 December 2009). Because a few EU Member States, namely Finland, Austria and Sweden, have a large timber industry and wanted to protect this industry in their own country, the Environment Council of Ministers was unable to adopt a specific position on accounting rules for forestry in developed countries (Interview with CAN Europe representative, Brussels, 4 May 2010; Greenpeace 2009; New York Times, 19 December 2009). As a result, the EU negotiating mandate has laid out no concrete position on LULUCF (Council 2009a: 13-14).

Thirdly, the EU Member States disagreed as to what should be done with the unused Assigned Amount Units (AAU's), also known as 'hot air', in the second period of the Kyoto Protocol after 2012.[6] The unused AAUs are one of the 'environmental loopholes' in the Kyoto Protocol. Because of the collapse of their heavy industries in the 1990's, precipitated by the fall of communism, the CO_2-emissions of the Eastern European EU Member States had fallen significantly. As a result, these Member States retained surplus AAUs. The question debated in the EU was

[6] 1 AAU equals 1 metric tonne of CO_2.

whether the Eastern European Member States should be allowed to carry over these units into the second period of the Kyoto Protocol. As no agreement could be reached on this issue, the mandate stated only that "the EU will further consider options in view of discussions with other Parties" (Council 2009a: 15). During the summit a group of seven Eastern European countries was fighting for the AAUs to be retained, releasing a statement that any deal "should keep the door open for allowing the full transfer of the surplus represented by the AAUs to the post-2012 framework" (Guardian Unlimited, 16 December 2009). 'Progressive' EU Member States like the UK, the Netherlands, Denmark and Sweden were against such a transfer of unused AAUs to a second period of the Kyoto Protocol after 2012 (Interview with Dutch delegate, The Hague, 12 May 2010).

Fourthly, there was substantial disagreement among Member States concerning the financial contribution for developing counties for adaptation and mitigation measures. Because of the financial crisis, many EU Member States, most notably the Eastern European Member States, were reluctant to donate (Guardian Unlimited, 11 December 2009). On the other hand, 'progressive' Member States like the Netherlands, the UK, Germany, France, Denmark and Sweden were ready to put concrete amounts of money on the table (Interview with Dutch delegate, The Hague, 12 May 2010). The mandate stated that "the EU is prepared to take on its fair share, in the framework of a global and comprehensive Copenhagen agreement which entails appropriate and adequate contributions by Parties" (Council 2009a: 19), but no concrete amounts were mentioned. An agreement on finance for developing countries was closed only at the very last moment, when the COP15 negotiations had already started (NRC Handelsblad, 11 December 2009).

The above findings are indicative of a significant number of issues in the EU mandate before the Copenhagen negotiations on which no concrete agreement was reached within the EU. Many EU Member States appeared unwilling to sacrifice their own interests in order to agree on concrete (ambitious) EU proposals for the Copenhagen negotiations. Overall, the degree of preference cohesion between the 27 EU Member States evidenced in the EU mandate for the COP15 meeting is relatively low. It seems that only a few EU Member States, such as France, the UK and perhaps the Netherlands and Denmark, firmly supported a progressive EU position until the very end of the negotiations. Italy and Poland openly blocked progress inside the EU on the formulation of a common EU negotiating position before and during the COP15 meeting, mainly on the issues of finance and CO_2-emission reduction. Many other countries shared their stance, though not openly, such as Estonia, Latvia, Lithuania, Romania, Bulgaria and also Austria (Interview by telephone with UK delegate, 10 May 2010; NRC Handelsblad, 11 December 2009; The Times, 17 October 2008).

Procedural-tactical cohesion

The relatively low degree of preference cohesion could have potentially been compensated by procedural-tactical cohesion, i.e. the EU's ability to overcome diverging preferences and solve disagreements. The latter, however, was significantly constricted by the unanimity rule. This became obvious already during the formulation of the negotiating mandate. Even though deliberations at EU level are numerous and recurrent (cf. Wallace 1990) – stretching from Council expert groups on various issues (adaptation, finance, technology transfer, etc.) to the Council Working Party on International Environment Issues and via the Working Party on the Environment to the Council of Environment Ministers – these potentially advantageous (procedural) aspects of the EU negotiating infrastructure could not decisively compensate for the substantial divergence of preferences. Detrimental in that respect has been the unanimity requirement, which "often drove us, given the differences between Member States, towards the lowest common denominator in the EU negotiating mandate", which was the case for commitments made in the mandate about the issues of CO_2 emission reductions from forestry and about technology

support (Interview with UK delegate by telephone, 10 May 2010).[7] For some other issues on the Copenhagen negotiating agenda, such as climate finance to developing countries and the issue of 'hot air', no concrete common EU position could be formulated on time because the 27 EU Member States were unable to reach sufficient agreement, despite a substantial number of meetings beforehand (Interview with Council Secretariat representative, Brussels, 3 May 2010). This to some extent paralysed EU negotiators and reduced their ability to act at Copenhagen (Interview by telephone, 10 May 2010).

The Swedish Presidency, the EU troika and the lead negotiators and issue leaders had the competence to act on behalf of the EU during the Copenhagen negotiations, but were obliged to operate within the constraints of the EU negotiating mandate. Hence, the delegation of authority to the EU representatives in the negotiations extends only as far as (the limits of) what the EU Member States have agreed upon in the mandate. For the EU to display a high degree of actorness at the negotiations, the EU mandate must be flexible (quickly adaptable according to the changing circumstances of the negotiations) and it needs to contain concrete points on which offers can be made to other negotiating parties to secure their agreement and thus allow the EU influence on the outcome of the negotiations. EU negotiators were not permitted to deviate from the mandate before the 27 EU Member States had unanimously approved of changes. "After a mandate has been fixed it is difficult to deviate from it because of the unanimity rule" (Interview with Council Secretariat representative, Brussels, 3 May 2010). The unanimity requirement therefore substantially constrained the flexibility of the mandate at the COP15 meeting. And this adversely affected the EU's ability to (inter)act at Copenhagen.

Just before the start of the COP15 negotiations in Copenhagen, it was clear to everyone that the CO_2 emission reduction targets of the US and China were considerably less ambitious than those of the EU.[8] The EU's strategy for the COP15 negotiations, laid down in the EU mandate, was to convince the other major parties to adopt the same ambitious goals as the EU. However, the sheer distance between the positions of the US and China and that of the EU made this an unrealistic aim (Interview with Dutch delegate, The Hague, 12 May 2010; Interview with UK delegate by telephone, 10 May 2010; Der Spiegel online International 5 May 2010). The EU Member States could have agreed to adjust the strategy in the EU mandate to ensure that the EU would be taken seriously by the US and China as a negotiating partner and would preserve some influence over the outcome of the negotiating process. However, no unanimous agreement on the adjustment of the mandate could be reached within the EU at Copenhagen.

During the Copenhagen conference daily EU coordination meetings – and even more than one coordination meeting a day towards the end – took place at all negotiation levels (among the Council expert groups, the issue leaders and lead negotiators, the EU troika, etc.), during which the EU negotiating mandate could be adjusted collectively by the 27 EU Member States as necessary. During these meetings, the EU Member States sought to overcome differences of opinion by formulating solutions by consensus, enabling the EU to speak with one voice at the negotiations and thereby to increase its degree of actorness. Even though the daily EU coordination meetings were "important for the Presidency to get continuous support by the Member States and definitely increased the notion of a union" (Interview by telephone with Swedish EU Council Presidency delegate, 3 May 2010), they were less fruitful in terms of concrete results. Owing to a lack of preference cohesion and the unanimity requirement, Member States could only agree to slightly adjust the negotiating mandate on a limited number

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[7] Technology support concerns the transfer of technology from developed countries to developing countries to help them mitigate and adapt to climate change.

[8] The US target was to cut greenhouse gas emissions by 17% by 2020 from 2005 levels and the Chinese target was to reduce the amount of carbon dioxide emitted per unit of economic output by 40 to 45% by 2020 compared to 2005 levels, which would not even decrease the total amount of emissions in 2020 compared to 2005, while the EU aimed for a cut of greenhouse gas emissions by 20 to 30% by 2020 from 1990 levels (New York Times, 26 November 2009).

of occasions.[9] They were unable to agree upon significant alterations, which hampered the ability of the EU negotiators to act and interact with the other major players.

Procedural-tactical cohesion, however, worked to some extent on the level of package-deals and issue linkage. The latter tactics for overcoming disagreement was used, for instance, concerning the unused AAUs. Poland and other Eastern European EU Member States were prepared to give up their unused AAUs provided they got something in return. In the end it was agreed that they could spend the money of their unused AAUs on clean energy projects in their country (Interview with Dutch delegate, The Hague, 12 May 2010). Similarly, rather than definitively abandoning the conditional 30% CO_2 reduction goal when some of the 27 EU Member States (mainly Italy and Poland) resisted, it seems that ways of "effort-sharing" among the EU Member States were found in the Council of Ministers, which should be understood as internal mediation between differences of interest on sub-items, to keep up the 30% conditional reduction goal as an overarching EU goal (Van Schaik and Schunz forthcoming; Interview with Dutch delegate, The Hague, 12 May 2010). These findings indicate that a certain degree of tactical cohesion was achieved.

Output cohesion

Output cohesion is the agreement among the involved parties on the output, in terms of policies and their compliance therewith, regardless of the substantive and procedural agreement. The extent of EU output cohesion will be assessed especially with regard to the final stages of the negotiations, when the Copenhagen Accord was closed. We argue that the disagreement among the EU Member States on a considerable number of the goals included in the EU mandate at the start of the COP15 meeting had not disappeared by the time that the Copenhagen Accord was agreed upon.

A first example of this ongoing disagreement at the end of the negotiations is that shortly after the adoption of the accord, France, the UK, the Swedish Presidency and the Commission made clear that they were disappointed about the non-legally binding outcome of the negotiations, while Italy, Poland and other Eastern European Member States indicated that they were quite happy with this less ambitious outcome (Barroso 2009b; Interview with Dutch delegate, The Hague, 12 May 2010; Interview with EP delegate by telephone, 12 May 2010). Second, there was the ongoing intra-EU disagreement at the end of the negotiations concerning the EU's CO_2 reduction target. No concrete targets for 2020 were included in the Accord. Reduction targets had to be sent to the UNFCCC secretariat by the Annex-I parties by 31 January 2010 and implemented according to the Accord (UNFCCC 2009). The EU sent the CO_2 reduction goal of "20% to 30%" by 2020 compared to 1990 levels to the UNFCCC secretariat (UNFCCC 2010b: 5). Thus, the EU refused to specify whether it would aim for a 20% or a 30% reduction. In order that all EU Member States could agree, it did not make clear which exact target it would implement (Interview with Dutch delegate, The Hague, 12 May 2010). Third, the disagreement within the EU on concrete means to reduce emissions from deforestation was still not resolved by the end of the negotiations, because the EU Member States Finland, Austria and Sweden continued to protect their national timber industries. In May 2010, these internal problems were still present (Interview with Dutch delegate, The Hague, 12 May 2010). The fourth and final example of the low degree of EU cohesion at the end of the COP15 negotiations involves the issue of climate finance. The Copenhagen Accord states that USD 30 billion is required from developed countries as fast-start finance for the period 2010-2012, and USD 100 billion each year by 2020 by developed countries for adaptation and mitigation in developing countries (UNFCCC 2009: 6-7). By the end of the negotiations the EU had not yet proposed how much it would contribute to the long term finance of USD 100 billion from 2020 onwards owing to per-

[9] The EU succeeded in adjusting the mandate when it had to explain more clearly to third parties what its exact plans were with the Kyoto Protocol after 2012 (Interview with Dutch delegate, The Hague, 12 May 2010).

sisting disagreement on the question of how this burden should be shared between individual Member States and whether payments had to be recorded (CAN Europe 2009).

In addition, in terms of compliance with agreed EU policy, there were occasions during the actual negotiations in Copenhagen where the EU mandate was not fully respected by individual EU Member States. Sweden's effort to alter the EU position on forestry during the negotiations to protect its own national forestry industry is a case in point (Greenpeace 2009). Furthermore, when the negotiations shifted to the level of heads of state and government, even the daily coordination meetings between them did not allow to keep ranks closed inside the EU, and could not prevent the EU from openly falling apart at the final stage of the negotiations, when political pressure was high. At this final stage the heads of state/government of France, the UK and Germany took over the lead from the Swedish Council Presidency representative, Prime Minister Fredrik Reinfeldt, and from Commission President Barroso to pursue an ambitious outcome of the negotiations and left the other less ambitious EU Member States behind (Interview with Council Secretariat representative, Brussels, 3 May 2010; Interview with Dutch delegate, The Hague, 12 May 2010; Interview with UK delegate by telephone, 10 May 2010; NRC Handelsblad, 11 December 2009). Overall, the above analysis indicates that the moderate procedural-tactical cohesion could not overcome the insufficient degree of preference cohesion, as a result of which overall cohesion was rather modest.

4. Autonomy

This section examines the extent of EU autonomy at the Copenhagen negotiations. It should be noted that the EU does not negotiate independently from its Member States. Article 22.2 of the UNFCCC states that it is not possible for the Member States and the EU as a Regional Economic Integration Organisation (REIO) to exercise their rights concurrently. The Member States and the Commission, under the leadership of the Swedish Presidency (and the selected issue leaders and lead negotiators) negotiate on the basis of the EU negotiating mandate (Oberthür 2009a: 15). First, we will analyse the EU impact on the definition of policy goals (vis-a-vis member state principals). Second, we will examine the discretion granted to the EU, i.e. the EU's room for manoeuvre for acting on/out the goals that had been agreed prior.

The EU's ability to define policy goals

In principal-agent terms, 'autonomy' can be defined as the range of action available to the agent, including the ability to set policy goals (Hawkins *et al.* 2006: 8). Hence, here, the width of EU (agent) decision-making latitude is to be investigated, in terms of the EU's (agent) ability to influence policy goals, i.e. to have a genuine EU (agent) input (*vis-à-vis* Member State principals) in the decision-making process. In this case, we look at the input of the Commission and the Council Presidency in the process of formulating the EU negotiating mandate for the COP15 meeting.

The EU negotiating mandate for the COP15 meeting is recorded in the Council Conclusions of the Environment Council and in the Presidency Conclusions of the European Council. The Commission has been able to provide input to these Conclusions by means of its Communications in which it presents its positions and suggestions to the Council (Van Schaik 2010: 262). Ambitious climate change and energy plans proposed by the Commission to transform Europe into a low carbon economy were adopted in the Spring European Council of 2007. These plans became the framework on which the negotiating mandate for Copenhagen was mainly built and include the unilateral commitment to cut greenhouse gas emissions by 20% of 1990 levels by 2020 (Interview with Dutch delegate, The Hague, 12 May 2010). The commitments made by the European leaders in the Spring Council of 2007 were implemented by a package of binding legislation, based on a proposal from the Commission in January 2008 (European Commission

2010). The Commission's proposal was highly sophisticated, backed up by an impact assessment of around 200 pages, and the Member States were not given the time to familiarise themselves with the content. In this way, the Commission succeeded in getting its proposal through the negotiations with the Member States by making use of its information advantage (Haug and Jordan 2009). In January 2009, the Commission launched a proposal for a global agreement to replace the Kyoto Protocol (Euractiv, 29 January 2009). Many elements of this Communication were adopted in March 2009 in the Council Conclusions of the Spring European Council (Council of the European Union 2009d).

The Swedish EU Council Presidency was able to provide a genuine EU input in the decision-making process, firstly, by means of its agenda-making authority. During the six months that it was in office, the Swedish Presidency decided which items had to be put on the EU agenda. Furthermore, the Presidency decides which agenda items will be prioritised (Tallberg 2006; Niemann and Mak 2010: 729). The Swedish Presidency decided that addressing climate change (including reaching a global agreement to tackle climate change in Copenhagen in December) would be one of its two main priorities (Europa-nu, 9 June 2009). In order to reach a global agreement in Copenhagen, the Presidency pushed for a strong and ambitious EU negotiating mandate for the negotiations, which came about on 30 October 2009. When agreement on the mandate was reached, Swedish Prime Minister Fredrik Reinfeldt said: "We have lived up to the Swedish Presidency's slogan: taking on the challenge." (Europa-nu, 30 October 2009) At the end of November, the Presidency decided to hold an extra Environment Council meeting in order to strengthen EU cooperation at the summit, so that the EU would be optimally prepared for the Copenhagen negotiating process. In this way, the Presidency pushed the EU towards an ambitious negotiating stance. During the COP15 meeting the Swedish Presidency also decided, in cooperation with the Commission, which issues were put on the agenda of the daily coordination meetings in Copenhagen (Interview with Swedish EU Council Presidency representative by telephone, 3 May 2010).

Secondly, the Swedish EU Council Presidency team was able to influence the formulation of the EU negotiating mandate for COP15 via the large amount of bilateral meetings that it had with all EU Member States before the meeting in Copenhagen. According to a Swedish EU Council Presidency representative (3 May 2010):

> "We, the Council Presidency, had a very large amount of bilateral meetings ahead of COP15. We visited every single EU Member State ahead of COP15 to discuss difficult issues. Closer to COP15 we held additional bilateral meetings because especially the Eastern European countries had difficulties to come to an agreement. In the end we [the Swedish Presidency team] were the ones who took the decisions on the design of the compromise concerning the difficult issues on the EU agenda for COP15, like finance. We got useful information from the Danish chair of the COP meeting in the process leading up to the meeting, which meant that we were very well informed."

This is part of the Presidency's mediating function. By mediating between opposing parties a way forward can be found (Wallace 1985; Niemann and Mak 2010: 729). Because of mediation by the Swedish Presidency the Eastern European countries could finally be included in an EU agreement on climate finance. Bilaterals have also been held with third countries. Shortly before the Copenhagen summit both an EU-Brazil summit (6 October 2009) and an EU-USA summit (3 November 2009) were held, during which the forthcoming Copenhagen summit was discussed and these third parties were urged by the Presidency to come up with ambitious negotiating stances. Overall, these findings indicate that EU agents, from the Commission and the Swedish Council Presidency, had a significant input in the decision-making process within the EU in preparation of the COP15 meeting, in terms of the principal-agent definition of autonomy.

Discretion

We now assess EU agent discretion during the negotiations at the actual COP meeting. In principal-agent terms 'discretion' is defined as "a grant of authority that specifies the principal's goals but not the specific actions the agent must take to accomplish those objectives" (Hawkins *et al.* 2006: 6). At the COP15 meeting, the EU negotiating mandate was accompanied by instructions for the EU negotiators formulated in the form of headlines. These instructions should be seen as a loosely formulated "strategic guide". The instructions did not specify in detail how the goals of the mandate were to be accomplished, but gave the EU negotiators in principle some leeway to accomplish these goals with their own preferred behaviour during the negotiations (Interview with Dutch delegate, The Hague, 12 May 2010). These headlines can to some extent be compared to what is called 'discretion' in principal-agent terms. In that sense, the EU representatives had some freedom to negotiate. These instructions in the form of headlines are a change from the past when the instructions used to be much more detailed and strict and the EU representatives had less freedom to act on their own at the negotiations: "During earlier COP meetings, a few years ago, EU representatives had to act in accordance with highly detailed instructions, which specified their desired behaviour at the negotiations almost from minute to minute. Whenever the negotiations took a different direction than expected beforehand, these tight instructions had to be adjusted internally, which meant that a lot of time at COP meetings could not be used to reach out to third countries" (Interview with Dutch delegate, The Hague, 12 May 2010).

However, the amount of leeway that EU agents could have possibly enjoyed in pursuit of the goals of the mandate – because of the loosely formulated instructions – does not seem to have increased their degree of independence at the negotiations in practice. This can be attributed to one factor in particular: in view of the controversies concerning issues – such as 'hot air', land use, land use change and forestry (LULUCF), and the financial contribution for developing countries – that were left rather unspecified in the mandate (cf. sub-section on preference cohesion supra), the scope for (independent) EU action by the EU representatives on these issues was rather limited. These issues were politically salient and EU negotiators could not afford to go ahead independently, without more specific agreement of the EU Member governments. This clearly diminished the ability of the EU to act at Copenhagen. For example, on the issue of climate finance to developing countries, most EU negotiators would have liked to put an ambitious financial EU offer on the table at the start of the negotiations. However, due to the disagreement among the EU Member governments about the question whether they would be willing to provide substantial financial contributions to the developing world for adaptation measures, this idea proved to be unfeasible (Gazeta Wyborcza, 30 October 2009). Hence, overall EU discretion was rather limited during the Copenhagen negotiations.

5. Actorness and politicisation

All in all, the overall amount of EU actorness at the Copenhagen negotiations seems to have been modest/moderate. Our analysis suggests that the main factor accounting for this outcome is the divergence of preferences among the EU Member States. This lack of preference cohesion in turn diminished the leeway for EU agents to accomplish pre-determined objectives (discretion), especially in light of the salience of the issues at stake.

The divergence of preferences among the EU Member States seems to have been "stimulated" (and aggravated) by an underlying external factor, namely the high degree of political salience of the COP15 negotiations, in comparison to earlier COP meetings. In Copenhagen, a new agreement to follow up the Kyoto Protocol had to be concluded. The summit marked the culmination of negotiations under the Bali Road Map, concluded in 2007, and was attended by an unprecedented number of media, non-governmental organisations and political leaders. Because final decisions about the agenda points of the Copenhagen negotiations, like climate

finance and concrete CO_2 reduction goals, would have a big impact on the domestic situation in the EU Member States, the COP15 negotiating agenda aroused a high degree of political debate inside many EU countries. As a result, EU Member States were not willing to amend their national preferences on a large number of agenda points. Consequently, the EU's degree of cohesion and thus its ability to act at Copenhagen diminished significantly.

According to a Commission delegate, the political pressure put on the EU before and during the Copenhagen conference was very high. The EU stood fully in the spotlight of the public opinion, stronger than ever before at a COP meeting. The EU was challenged from various sides to adjust its position, both in more ambitious and in less ambitious directions. This can clearly be observed in the debate on the EU's CO_2 reduction goal (20 or 30%?), which resulted in a political chess game at the level of the heads of state and government and finance ministers (Interview with European Commission delegate, Brussels, 14 April 2011). [10] That political debate inside the EU Member States effectively diminished the degree of EU cohesion can be further substantiated. Already in 2008, important differences of opinion among EU Member State leaders concerning climate change ambitions came to the forefront, caused by the pressure exerted on many governments by domestic industrial lobby groups after the Commission proposed its ambitious energy and climate package. This seems to have been the case most prominently in Italy and Poland (two countries with still significant mining industries that also rely heavily on coal as an energy source), but also in other EU Member States like Finland (a country with a large paper industry that wanted to be granted exceptions in terms of greenhouse gas emission reduction related to deforestation and forest degradation) and Germany (a country with a large manufacturing and industrial sector). This pressure was increased by the upcoming economic crisis (Parker and Karlsson 2010). It has been reported that Silvio Berlusconi, the Italian Prime Minister, told French President Nicolas Sarkozy during the Autumn 2008 European Council in Brussels that the agreed emission reduction targets "would crucify Italian industry: our businesses are in absolutely no position at the moment to absorb the costs of the regulations that have been proposed." And Donald Tusk, the Polish Prime Minister, heatedly suggested that "we don't say to the French that they have to close down their nuclear power industry and build windmills, and nobody can tell us the equivalent." (The Times, 17 October 2008; BBC News 2008) Poland's energy industry is mostly based on coal. Besides obvious worries of the coal industry, the Polish people are worried about the impact of ambitious greenhouse gas emission reduction targets on the Polish economy and fear among others a drastic price rise of energy for households (EU 27 Watch 2009: 256). The Finnish finance minister was quoted in Finnish media saying that the prime minister would not leave the European Council until he got free allocations of CO_2 emission rights under the EU Emissions Trading Scheme (ETS) for the Finnish paper and pulp industry (Corporate Europe Observatory 2009). German leader Angela Merkel criticised the Commission's plan for the restrictions that it would put on car manufacturers and together with Poland she tried to push back the 2013 start date for selling emission permits for the manufacturing and industrial sectors in the EU Member States under the Emissions Trading Scheme (BBC News 2008; Parker and Karlsson 2010).

Throughout 2009, the EU continued to struggle "internally over each nation's carbon quotas, assistance to developing countries and fidelity to the emissions reductions agreed to in 1997 under the Kyoto Protocol". In that context, Poland and Estonia, two countries that rely heavily on coal for electricity, "have been bickering with the European Commission over the amount of carbon dioxide the two countries should be allowed to emit" (New York Times, 6 December 2009). Disagreement among EU Member States, with Britain, Denmark and the Netherlands among those supporting very substantial emission cuts, and Italy and Poland leading the front against such steps "created the potential for an embarrassing public dispute among EU nations

[10] For example, environmental nongovernmental organisations like Greenpeace, Climate Action Network (CAN) Europe and the World Wildlife Fund (WWF) put pressure on the EU to move from a 20 to a 30% CO_2 emission reduction goal, while business lobby groups like the European Chemicals Industry Council (CEFIC) and the European Round Table of Industrialists (ERT) lobbied against an EU move from a 20 to a 30% CO_2 emission reduction target.

right when the bloc most hopes to assert its leadership" (International Herald Tribune, 2 December 2009).

In addition, the high degree of politicisation of the negotiations also directly diminished the degree of EU agent discretion. The EU Member State principals were the ones who took the decisions at the high level segment, the final stage of the negotiations, because of the high issue salience of the items on the COP15 meeting agenda. They thus controlled the EU agents – the Commission and the Council Presidency –, which meant that these EU agents were not granted the authority to have a significant input on the final outcome of the negotiations. The EU troika ought to have spoken on behalf of the EU in bilateral and informal negotiating settings at Copenhagen. Commission President Barroso was present at the final negotiation level to represent the EU together with the Swedish Prime Minister Reinfeldt (representing the Swedish Council Presidency). However, during informal negotiations between a select group of around 25 UNFCCC parties on 18 December 2009, the leaders of Germany, France and the United Kingdom took the lead in the negotiations with third parties, to the detriment of Barroso and Reinfeldt who became marginalised (Der Spiegel online International, 5 May 2010). The fact that so many heads of state and government were present in Copenhagen during the second week of the negotiations to take the final decisions – because of the high salience of the negotiations – resulted in chaos. Only a few people knew what was really going on in the informal negotiations among a select group of heads of state and government. It was an unprecedented and unanticipated situation that this small group of leaders started negotiations in parallel with the formal plenary negotiations during a COP meeting. Under these circumstances it was not possible for the Commission or the Council Presidency to say to the European heads of state and government that they are not allowed to speak and should let the Council Presidency and the Commission do the talking (Interview with European Commission delegate, Brussels, 14 April 2011). These circumstances diminished the EU's degree of actor capability in terms of EU agent discretion.

6. EU effectiveness at Copenhagen

The degree of EU effectiveness at Copenhagen is measured in terms of EU goal attainment (Young 1994). Whether actorness translates into effectiveness first and foremost depends on the 'opportunity structure', the external context of events and ideas that enables or constrains EU action. This entails the conduciveness of the overall constellation of actors and their goals (and also whether the EU has devised a strategy that takes the external environment into account). The main EU goal for Copenhagen was to play a leadership role at the conference in order to make as much progress as possible towards a full and ambitious treaty to succeed the Kyoto Protocol in 2013 (European Commission 2009). While the EU instigated initiatives before the start of the Copenhagen negotiations by which it tried to lead by example, such as being the first one to present a concrete emission reduction target for 2020 (Council 2007), it was unable to play a leadership role at the actual negotiations in Copenhagen by convincing other major parties to agree with an ambitious accord. As Commission President Barroso (2009b) stated at the end of the Copenhagen conference: "Quite simply, our level of ambition has not been matched, especially as there was not an agreement on the need to have a legally binding agreement." How can this be? The answer can largely be found in the external context of the negotiations at Copenhagen.

First of all, the overall actor constellation was very unsuitable for the attainment of EU objectives. This can be ascertained by analysing the positions (and preferences) of the other key negotiations parties at Copenhagen, the United States and the BASIC countries (Brazil, South Africa, India and China). Unfortunately for the EU, the stances and objectives of the US and the BASIC countries were considerably less ambitious than those of the EU. Compared to the EU's unilateral CO_2 reduction target of at least 20% by 1990 levels in 2020, the US and BASIC country reduction targets were a lot more modest. The US target was to cut greenhouse gas

emissions by 17% by 2020 from 2005 levels and the Chinese target (China can be considered as the leader of the BASIC country group) was to reduce the amount of carbon dioxide emitted per unit of economic output by 40 to 45% by 2020 compared to 2005 levels, which would not even decrease the total amount of emissions in 2020 compared to 2005 (New York Times, 26 November 2009). Also detrimental in terms of the overall actor constellation, in late November, just before the start of the conference, the BASIC countries decided to act jointly against the developed nations at the COP15 meeting (Dasgupta 2009). During a closed door meeting in Beijing they drafted an accord that became the basis for the final Copenhagen Accord. They also decided to jointly walk out of the meeting if the developed countries would try to move them to go beyond their limits, for example by asking them to compromise their developmental performances. This initiative was led by the Chinese government (Schall-Emden 2009).

Under the Obama administration, the United States were expected to pursue an ambitious stance at Copenhagen. However, on 15 November 2009, at the end of the Asia-Pacific Economic Cooperation (APEC) forum, the group of attending leaders, including both US President Obama and Chinese President Hu Jintao, decided to drop the target to halve greenhouse gas emissions by 2050, which they had outlined in an earlier draft. They also agreed to consider the Copenhagen negotiations as a "staging post" rather than an end point in the search for a global climate deal (BBC News 2009). The CO_2 reduction target presented by the US about ten days later, just before the start of the Copenhagen negotiations, confirmed the rather modest negotiating position of the US.

The unsuitable actor constellation can, to a considerable degree, be explained by the high level of politicisation/political pressure. This (external) factor – surrounding the Copenhagen summit, where a new agreement to follow up the Kyoto Protocol had to be concluded, and which was attended by an unprecedented number of media, non-governmental organisations and political leaders – did not only have an effect on the EU. Obviously, the high degree of politicisation also affected third parties.

The new US government for example – that reengaged in the negotiations at Copenhagen after their withdrawal from the COP negotiations in 2001 – was more predisposed to a far-reaching deal than the former one. US President Barack Obama would have liked to agree on an ambitious climate agreement (Council on Foreign Relations 2009). However, for such a step he needed agreement by both chambers of Congress, which has the right to advice and consent on treaty making. A two-thirds majority in the Senate is required to ratify a treaty. In addition, a treaty that has been ratified still requires passage of enabling legislation in both the Senate and the House of Representatives to specify how the objectives and requirements of the treaty are to be fulfilled in terms of domestic policy. As a consequence of these rules the US will only take leadership and ratify international agreements "when domestic policy is settled on the issue in question" (Bang and Schreurs 2011: 247), which was not the case with the issues on the Copenhagen negotiating agenda. According to Bang and Schreurs (2011: 244-245):

> Basically since 1994, a majority of senators and representatives have opposed introducing federal climate policy requiring mandatory emission reductions. [...] In addition there is also a regional divide that has become more cemented in U.S. climate politics over time. Politicians from states with a large coal, oil, manufacturing, and/or agricultural industry, regardless of Party affiliation, have been inclined to vote against climate legislation because they see it as a threat to their state's economy and jobs.

In June 2009, the House of Representatives passed a bill proposing a 17% cut in greenhouse gas emissions from 2005 levels by 2020, introduced by Representatives Henry Waxman and Edward Markey (Bang and Schreurs 2011: 245). However, the effort stalled in the Senate. Oil, coal and manufacturing lobbies have been spending millions to frame the proposed bill as measures that will fuel unemployment and increase home heating bills (Guardian Unlimited, 17 November 2009). Such domestic constraints on a considerably politicised issue prevented countries, such

as the US, from moving away from (substantially) amending their positions at Copenhagen and really search for a compromise in the direction of the EU's ambitious stance. Overall, it can be assumed that the high stakes at play at the Copenhagen summit made it less feasible that the negotiations would result in a highly ambitious agreement among the parties involved.

The EU's goals seem to have been too ambitious to be reconcilable with the interests of the United States and the BASIC countries. The latter could not be convinced by the normative arguments of the EU to shift their positions. The negotiating strategy adopted by the EU did not sufficiently take into account the fact that the US and the BASIC countries had adopted rather conservative negotiating positions (Van Schaik and Schunz forthcoming). There was no plan B included in the EU negotiating strategy, which could have allowed the EU to react to the negotiating realities and stay closely involved in the process of arriving at some sort of compromise agreement. On top of that, owing to a lack of preference cohesion and the unanimity requirement within the EU, the EU Member States were unable to agree upon significant alterations of the EU negotiating mandate that could have enabled them to interact in a more flexible and tactical manner with the US and the BASIC countries during the negotiations, in order to try to move them away from their conservative positions. Thus, it seems that because of its modest degree of actorness the EU was not optimally prepared to face the challenging external context at COP15 in order to arrive at an ambitious outcome of the negotiations. As a result, the US and the BASIC countries sidelined the EU during the negotiations at the final stage, among the heads of state and government. German chancellor Merkel, French president Sarkozy and Spanish Prime Minister Zapatero had to wait until head of state and government leaders Wen (China), Singh (India), Lula (Brazil) and Zuma (South Africa) had finished their conversation before being allowed to contribute at the final negotiations (NRC Handelsblad, 21 December 2009). The US and the BASIC countries mainly concluded the Copenhagen Accord together on the final evening of the conference, without the EU (Van Schaik and Schunz forthcoming; Curtin 2010):

> The Indians had reserved a room one floor down, where Prime Minister Singh met with his counterparts, Brazilian President Lula da Silva and South Africa President Jacob Zuma. Wen Jiabao was also there. Shortly before 7 p.m., US President Obama burst into the cosy little meeting of rising economic powers. At that meeting, everything that was important to the Europeans was removed from the draft agreement, particularly the concrete emissions reduction targets. Later on, the Europeans – like the other diplomats from all the other powerless countries, who had been left to wait in the plenary chamber – had no choice but to rubberstamp the meagre result (Der Spiegel online International, 5 May 2010).

As has been reported, "the Swedish leader hinted that the Europeans had been caught badly off guard. Mr. Reinfeldt said he had gotten his first signals that a deal had been struck while still engrossed in meetings. "We had very tough negotiations two and a half hours after I read on my mobile telephone that we were already done", he said (International Herald Tribune, 21 December 2009). Thus, the effectiveness of the EU at the Copenhagen negotiations was low. The EU did not attain its goal of playing a leadership role at the conference to make as much progress as possible towards a full and ambitious treaty to succeed the Kyoto Protocol in 2013.

Conclusions

Overall, our findings indicate that the degree of EU actorness at the UNFCCC COP15 meeting in Copenhagen was moderate at best.

In terms of *cohesion*, there has been little indication of any substantial degree of EU cohesion at the COP15 meeting. Whilst the shared goal of an ambitious external climate policy contributed to some extent to the EU's preference cohesion, there have been more deeply

rooted underlying disagreements between the EU Member States, grounded in conflicting national interests, which prevented the EU from reaching a high degree of preference cohesion. No concrete agreement could be reached in the negotiating mandate on issues such as the CO_2-emission reduction goal, climate finance, 'hot air', as well as land use, land use change and forestry (LULUCF). As a result, EU negotiators were not able to advance deals with other parties on these issues, which clearly impaired the ability of the EU to act at the negotiations. Even though there is some evidence of a certain degree of tactical cohesion (through issue linkages) at the COP15, this could not make up for the lack of preference cohesion between the EU Member States. Also the degree of procedural cohesion that existed, especially through the daily EU coordination meetings, could not compensate for the lacking preference cohesion. Consequently, overall output cohesion was also low. Because of the lack of cohesion, the Member States only managed to slightly adjust the EU negotiating mandate on some occasions, which hampered the ability of the EU negotiators to interact with the other major players. The low output cohesion can be further confirmed through the persisting disagreements during (and beyond) the Copenhagen negotiations on issues like the CO_2 reduction target, forestry and climate finance.

As for *autonomy*, first, it seems that EU agents, from the Commission and the Swedish Council Presidency, had a significant input in the decision-making process within the EU in preparation of the COP15 meeting. As for discretion, the amount of leeway that EU agents could have possibly enjoyed in pursuit of the goals of the mandate during the negotiations – because of the loosely formulated instructions – does not seem to have increased their degree of independence at the negotiations in practice. Because these issues were politically salient EU negotiators could not afford to go ahead independently, without more specific agreement of the EU Member government principals.

In view of the above analysis, it appears that cohesion (and here especially preference cohesion) has been particularly responsible for the only modest/moderate overall degree of actorness in this case. This lack of (preference) cohesion, especially in light of the salience of the issues at stake, in turn diminished the leeway of EU agents allowed by their Member State principals to accomplish pre-determined objectives (discretion) during the negotiations.

Our findings differ from earlier ones of Groenleer and van Schaik (2007), who argued that the EU showed a relatively *high* degree of actorness at the negotiations in the UNFCCC regarding the implementation of the Kyoto Protocol. However, their finding that the considerable congruence of EU Member State preferences in the Kyoto case led to a high degree of EU actorness seems to correspond with our finding that a *lack* of preference cohesion has been particularly responsible for the rather modest overall degree of actorness in the COP15 case. Thus, we agree on the key importance of preference cohesion as an explanatory variable for determining the degree of EU actorness. In addition, we argue that a high degree of politicisation (as witnessed in our case) seems to have stimulated the EU Member State principals to defend national interests, which in turn diminished EU preference cohesion and thus the EU's ability to act.[11] The attendance of the Copenhagen negotiations by an unprecedented number of heads of state and government in the second week, among which a select group started informal negotiations in parallel with the formal plenary negotiations, also diminished the EU's actor capability, namely in terms of EU agent discretion.

Our framework – where in short actorness conditioned by the opportunity structure adds up to effectiveness – should be more generally applicable for assessing the EU's role in (and impact on) international politics and thus be transferable to other cases. Staying with international climate politics and the negotiations concerning the implementation of the Kyoto Protocol, it seems that here a high degree of actorness accompanied by a favourable opportunity structure (given the prevailing actor constellation at the time) can explain the significant impact the EU

[11] It is important to note that international climate change negotiations are likely to remain highly politicised in the future.

has had on the outcome (cf. Groenleer and van Schaik 2007).

EU effectiveness at the Copenhagen negotiations, measured in terms of goal attainment, was low. The EU did not attain its goal of playing a leadership role at the conference to make as much progress as possible towards a full and ambitious treaty to succeed the Kyoto Protocol in 2013. The main reasons for this low degree of EU effectiveness can be found in the external context of the negotiations at Copenhagen. The overall actor constellation was very unsuitable for the attainment of EU objectives, with the US and the BASIC countries having considerably less ambitious negotiating stances. In addition, it can be assumed that the high stakes at play at the Copenhagen summit made it less feasible that the negotiations would result in a highly ambitious agreement among the parties involved. The negotiating strategy adopted by the EU for the summit did not sufficiently take these external factors into account. Furthermore, owing to a lack of preference cohesion and the unanimity requirement (procedural cohesion) within the EU – factors that determined the EU's (low degree of) actorness –, the EU Member States were unable to agree upon significant alterations of the EU negotiating mandate that possibly could have enabled them to interact in a more flexible and tactical manner with the US and the BASIC countries during the negotiations, in order to try to move them away from their conservative positions. Thus, it seems that because of its modest actorness at Copenhagen the EU was not optimally prepared to face the challenging external context to arrive at an ambitious outcome. As a result, the EU was sidelined at the final stage of the negotiations, at which the decisions were taken by the US and the BASIC countries.

The entry into force of the Treaty of Lisbon in December 2009, which did not really affect the EU during the Copenhagen negotiations yet, will result in changes in the EU's external climate policy system. Most notable in that respect are the following three aspects: first, with the Treaty of Lisbon the European Parliament has obtained the power to veto future international agreements, including climate agreements (Official Journal 2007: 97). The European Parliament may use this power to demand a more prominent position in the EU's external climate policy. Given Parliament's generally strong pro-environmental stance this change is likely to strengthen the 'progressive' stance within EU climate change policy. Another important question is what impact this enhanced role of the EP will have on the influence that the EU will have on external climate change policy in international negotiations. On the one hand, the involvement of the EP could further contribute to a politicisation of EU climate change policy and (thus) threaten to hamper policy-making processes within the EU. On the other hand, the European Parliament could be conveniently used as a bargaining chip in two- or three-level games (cf. Putnam 1988). The EU could strengthen its bargaining position in international negotiations by referring to the requirement of EP consent, as practised by US negotiators with regard to Congress.

Second, changes have been made to the legal basis for EU activities in international environmental agreements. With the entry into force of the Treaty of Lisbon the article now states that EU policy on the environment shall contribute to, among others, 'promoting measures at international level to deal with regional or worldwide environmental problems, *and in particular climate change* [emphasis added]' (Official Journal 2007: 87). This means that the Treaty, for the first time ever, has created a specific formal EU competence for the adoption of legislative acts in the area of climate change. This formal legal competence is accompanied by qualified majority voting (QMV) in the Council of Ministers. A new system of QMV, where Member States also vote according to their population, will enter into force in November 2014 and will still be subject, until 2017, to being blocked by recourse to the voting rules of the Treaty of Nice.[12] The future will have to show what this change will bring about in practice. More elements of QMV will enhance the EU's flexibility at international negotiations, which has been found wanting at the Copenhagen conference, and reduce the chance of lowest common denominator positions. Since climate change negotiations usually constitute 'reformist' cases for the EU – i.e. cases where the EU Member States' median preferences are further away from the status quo

[12] See Article 9C(5) TEU (Official Journal 2007: 18) and Articles 3 & 4 of the Protocol on transitional provisions (Official Journal 2007: 160-161).

than those of its negotiating partners (cf. Meunier 2000) – the possibility to go beyond lowest common denominator positions will increase the likelihood that negotiation outcomes develop into a more favourable direction for the European Union.

Third, the Treaty of Lisbon has created the new post of a High Representative of the Union for Foreign Affairs and Security Policy, in which the roles of High Representative for Foreign and Security Policy and Commissioner for External Affairs have been merged (Official Journal 2007: 21). In addition to this change, another institutional innovation was carried through, namely the introduction of the post of the President of the European Council.[13] At the COP15 meeting in Copenhagen the Swedish EU Council Presidency was still the main spokesperson for the EU during the negotiations. However, at the COP16 meeting in Cancún in December 2010 the Commission (and not the High Representative or the European Council President) was the main EU representative during the high-level segment of the negotiations at both formal and informal meetings (IEEP 2011). Whether a further enhancement of the role of the Commission at the UNFCCC negotiations at the expense of the Council Presidency will be accepted by the Member States and whether there will be a role for the High Representative and the European Council President at future COP meetings has to be seen. Future research should, among other things, analyse the extent to which the provisions of the Lisbon Treaty will have actually impacted on the EU's actorness and effectiveness in external climate change policy-making. Furthermore, additional case studies employing the framework specified here would shed further light on the robustness of the model.

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[13] See Article 9B TEU (Official Journal 2007: 17).

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