

Why did the Kyoto Protocol come into force?

The role of the US, the EU and the Institutions explained through the
neoliberal institutionalism theory

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1. Introduction

"The necessity to combat climate change and to reduce our energy dependency, coupled with the fact that Kyoto is now running out, have concentrated minds,"¹ stated the German chancellor Angela Merkel lately while China's Wen Jiabao set the environmental issue on top of the agenda.² Again, the world draws attention to the topic like 1997, when the Kyoto Conference took place and produced an outstanding agreement over the reduction of greenhouse gas emissions. Nowadays we see, that further measures need to be taken, but still the Kyoto Conference can be seen as the turning point in international environmental politics. For the first time, the states of our world managed to agree upon a legally binding protocol with specific targets and timetables. This paper will try to explain, how and why the protocol became reality and what roles the institutions and the big players, the US and the EU, played within the debate. The neoliberal institutionalism theory will be used to explain why they acted the way they did. In order to do this, the second chapter explains the theory and presents some hypothesis, how the states should have reacted within the debate. To understand the topic in general, the paper explains furthermore the different steps, which laid the ground for the Kyoto Conference in chapter three. Thereon follows a close analysis of the different positions of the US and the EU in order to understand the outcome and the negotiations described in chapter four. The conclusion in chapter 5 connects the findings of chapter three and four with the hypothesis made in chapter one, trying to answer the question, which effects were responsible for the adoption of the Kyoto Protocol. This paper can just be seen as a broad overview without the claim to explain the process in its whole. Its focus is laid on the key actors and the attempt to explain their behavior through the theory.

¹ <http://www.reuters.com/article/environmentNews/idUSL0767548820070307>

² http://www.tagesschau.de/aktuell/meldungen/0,,OID6477766_,00.html

2. Neoliberal institutionalism theory

2.1 Theory

Robert Keohane presents his neoliberal institutionalism theory in his book „International Institutions and State Power“ within the Essay “Neoliberal Institutionalism: A Perspective on World Politics”³. He argues that the central actors in international relations are states; interest groups and international Organizations play a subordinated role.⁴ According to him, the international system consists out of “Anarchy” as a supreme authority is missing.⁵ In contrast to realists who concentrate on relative gains and the potential for conflict, neoliberal institutionalisms focus on absolute gains and the prospects for cooperation.⁶ The anarchy in the international system is decreasing due to rising interdependencies between states and societies. As a consequence, states interests for cooperation increases, which leads to the creation of international institutions that might develop self-dynamics and influence thereby the states as an independent actor.⁷ The central thesis is that international politics is affected by rules and norms, which are implemented in international institutions. Keohane describes institutions as a 'persistent and connected sets of rules (formal or informal) that prescribe behavioral roles, constrain activity, and shape expectations'⁸. Furthermore he differentiates between three types of institutions: The Convention, the International regime and the International organizations. Each step from one type to the other reflects an increase of institutionalization.⁹

2.2 Hypothesis

In order to explain the enforcement of the Kyoto Protocol through the theory, the following Hypothesis have to be tested:

1. States have been the central actors within the debate
2. Interest groups and international Organizations played a subordinated role

³ cf. Keohane, 1989, p. 2

⁴ cf. ebd. p. 8

⁵ cf. ebd. p. 1

⁶ cf. ebd. p. 10

⁷ cf. ebd. p. 6

⁸ ebd. p. 3

⁹ cf. ebd. p. 4

3. States who took part in the negotiating process have had a common interest to stop the global warming process
4. States have had an interest in achieving legally-binding targets and timetables for the reduction of Green House Gases (GHGs)
5. States have had an interest to share the costs and gains out of this process
6. States cooperated as they regarded their gains as absolute rather than as relative
7. States have been taking part in the process even though it might have meant higher costs to deal with as they saw the necessity to cooperate in order to sustain the good reputation on international politics
8. The institutional factor played an important role due to self-dynamics
9. The Kyoto Protocol reflects a higher degree of institutionalization than the UNFCCC

3. From the UNFCCC to Kyoto

3.1 The UNFCCC

The most important steps towards a coordinated process to stop the global warming were taken by 165 states at the conference of Rio de Janeiro in 1992 when they agreed upon the United Nations Framework Convention on Climate Change (UNFCCC) and signed it within one year.¹⁰ The UNFCCC became legally binding the 21st of March 1994. “The ultimate objective of this convention (...) (is the) stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interferences with the climate system.”¹¹ To reach this aim the Convention asks all *Annex 1*¹² states to reduce their GHG concentration by the year of 2000 at the level of 1990. It is important to mention, that the Convention cannot be seen as a legally binding document to demand the reduction by the *Annex 1* states. On top of the institutions, created for and by the UNFCCC, stands the secretariat followed by the Conference of Parties (COP), which holds annual

¹⁰ cf. Oberthür & Ott, 2000 p. 63

¹¹ UNFCCC P. 4

¹² The convention differentiates between two *annexes* of states. *Annex 1* states are 24 OECD countries plus the EC and 12 Central and Eastern European states with economies in transition. cf. UNFCCC P. 23

sessions in order to enforce the process of stopping the global warming.¹³ Although the Convention had no legally binding targets for countries to reduce their emissions of GHG, it provided a starting point for a developing process towards such rules as it had an implemented “ratched effect” through the implemented provisions.¹⁴

3.2 COP 1

The first COP took place in Berlin from the 28th of March until the 7th of April 1995. The International Panel on Climate Change (IPCC), a body of the UN and the World Meteorological Organization (WMO), did not manage to come up with its Second Assessment Report so that the COP 1 lacked new scientific data. After heated discussions, about whether to change the UNFCCC or to adopt a new, more advanced protocol, the COP adopted the Berlin Mandate which “acknowledged that current commitments where inadequate to achieve the Convention’s objective”.¹⁵ It demanded the parties to adopt a protocol or another legal instrument to strengthen the commitments of the *Annex 1* countries. The COP installed an Ad-Hoc Group on the Berlin Mandate (AGBM) to negotiate proposals for such a document. The AGBM started its work in August 1995 and held three sessions up to COP 2.¹⁶

3.3 COP 2

The second COP, held in Geneva from the 8th to the 19th of July of 1996, produced the “Geneva Ministerial Declaration”. The IPCC’s Second Assessment Report had been finalized and indicated that the climate change would lead to global warming between 1 and 3,5°C over the next century. For the first time the US supported a legally binding document with specific targets and timetables, which had a remarkable impact on the negotiating process. Even though the Declaration had not been an official document of the COP due to the Veto of Russia, Australia and the OPEC countries, it marked a turning point within the negotiations.¹⁷

¹³ cf. Brauch, 1996, p.134

¹⁴ cf. Schröder, 2001, p. 24

¹⁵ ebd. p. 60;

¹⁶ cf. Breidenich, Magraw, Rowley & Rubin, 1998, p. 318

¹⁷ cf. Brauch, 1996, pp. 86

4. Actors Analysis

4.1 The United States

As mentioned in chapter 3, the UNFCCC is a remarkable document as it was the first one to address the climate change issue, but still rather weak regarding legally-binding commitments and reduction aims. This was mainly caused by the strict US position under the George Bush administration, as the White House rejected any binding targets and timetables to reduce the CO₂ emissions, as they feared the costs for their economy. With the election of Bill Clinton in 1993, the US position changed slightly. The Clinton administration agreed upon the reduction of GHGs by 2000 on the level of 1990 but was not willing to debate the time following. Nevertheless, this change allowed talking about measures, which would go beyond the ones of the UNFCCC.¹⁸ In 1994, the Republicans won back both Houses of Congress with the effect that the Clinton administration was confronted with a rather unfriendly climate in Congress towards environmental issues. At COP 1 the US still denied its support for legally binding targets and timetables. Nevertheless, as shown in 3.2, the Berlin Mandate can be seen as the groundwork for such a document.¹⁹ Even though the Clinton administration had to struggle with strong opposition from the economy and politics, they won the presidential re-election with the climate issue on top of their agenda. In 1997, Clinton set up the *White House Climate Change Task Force* and started the *White House Initiative on Climate Change* to work out a new position on the issue together with the American public. The campaign was quite successful in the public.²⁰ But the opponents reacted as well and invested 13 Million Dollars in a media-campaign, which criticized the scientific findings, and presented a rather dark view of the costs the US economy would have to deal with if the US position towards a legally binding document changed.²¹ Anyhow, the US changed their policy at COP 2 (see 3.3) and agreed to negotiate about realistic legally binding targets and timetables at COP 3. As a direct response, the US Senate adopted the Byrd-Hagel-Resolution, which made the congressional ratification of such a protocol conditional upon simultaneous binding commitments for developing countries.²² As a

¹⁸ cf. ebd. pp. 138

¹⁹ cf. Schröder, 2001, pp. 35

²⁰ cf. Oberthür & Ott, 2000, pp. 105

²¹ cf. Oberthür & Ott, 2000, p. 107

²² cf. Byrd-Hagel Resolution

consequence, the White House had to adjust its position which made it much more difficult to reach an agreement as this demand was unacceptable for the developing countries. For COP 3 the US position contained three major elements: First, they proposed, as a binding target, the reduction of six GHGs at the level of 1990 by 2008-2012 and further reductions thereafter. Second, due to the Beard-Hagel-Resolution, they demanded the participation of the developing countries. The last key element was their proposal for establishing an emissions trading system. The overall aim was to reach as much implementation flexibility within the protocol as possible.²³

4.2 The European Union

The European Union can be seen as the most ambitious actor in the climate change process as it began to set the topic on their agenda as early as 1990 at the Dublin Summit. The European Council called for “early adoption of targets and strategies for limiting emissions of GHGs”.²⁴ After COP1 in 1995, the EU created a special *Ad Hoc Group on Climate Change* to coordinate policies and measures (PAMs) within the EU. The European Commission demanded a mandate from the EU member states for the international negotiations but the member states did not want to give up their sovereignty on this issue. As a result, the state, which held the presidency of the EU council, was responsible to set the agenda and guide the process. With Ireland and Italy in 1996 the process did not move on.²⁵ This changed when the Netherlands took over the presidency in 1997. As the US changed their position in 1997 as described and the EU member states realized that they “might be able to achieve a stabilization of their GHG emissions by the year 2000”²⁶ the process made a step forward. In June 1997 the EU member states agreed upon the aim of a reduction of 7,5%. Furthermore, the EU Commission increased their budget for financing alternative energies and worked out strategies about how to reach a global agreement, a legally binding protocol. For the upcoming COP 3, the EU adopted the following position: By 2010 the emissions of GHGs should be reduced by 15% beneath the level of 1990, a rather high target in order to have room for concessions. The EU demanded the

²³ cf. Breidenich, Magraw, Rowley & Rubin, 1998, p. 323

²⁴ cf. Schröder, 2001, p. 28

²⁵ cf. Oberthür & Ott, 2000, p. 102

²⁶ cf. Schröder, 2001, p. 31

implementation of their “*Bubble-System*” which would allow differentiation of the rates for the EU states if they together would still reach the overall reduction aim, but denied the concept for non EU Members. In contrast to the US position, it clearly opposed new commitments for developing countries. Furthermore, the EU could see its reduction targets just as binding, if other industrial countries agreed upon them as well so that the EU member states economies would not have to suffer under unfair conditions towards other states’ economies. Another key object to the EU was the implementation of a set of binding common and coordinated policies and measures.

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5 The Kyoto Conference (COP 3)

5.1 Circumstances and influences on the negotiating process

Even though there had been several informal meetings prior to the conference, it was still unclear where the process would go and what the outcome would be as the interests and positions still differed a lot. The conference itself took place in Kyoto from December 1st to December 11th 1997. The day before the COP 3 started, the eighth session of the AGBM was held to get an overview about the state of negotiations. The COP 3 was divided into two parts: During the first week, all parties should work upon a solution, which should be agreed on at the following three days by meetings at ministerial level.²⁸ The conference was attended by 2200 delegates who came from 158 member states to the UNFCCC and seven monitoring states, by 4000 observers from NGOs and IGOs and by about 3700 people from the media.²⁹ Alongside the discussions within the COP, the Conference of the Whole (COW) with its chair Raúl Estrada became the most important body to discuss and work upon the protocol. Estrada proposed a protocol based on the negotiations prior to the conference as the negotiating basis. In order to deal with the different and complex issues, the COW created several official and unofficial working groups. Additionally, the different coalitions held sessions to coordinate their strategies.³⁰ In this

²⁷ cf. Schröder, 2001, p. 33

²⁸ cf. Oberthür & Ott, 2000, p. 119

²⁹ cf. ebd., p. 115

³⁰ cf. Oberthür & Ott, 2000, p. 119

atmosphere the NGOs became a quite important factor for the delegates to inform themselves at the daily NGOs press conferences over scientific knowledge as well as about how the debates in other circles were going on.³¹ The interplay between the NGOs and the media became an important factor since the NGOs could influence the public opinion through the media, which transported the general opinion back to the delegates. Furthermore, the modern information technology with direct access to the internet, mobile phones at hand and the media right next at place had a great impact on the negotiating process. The NGOs were able to directly talk to and influence their contacts in the delegations within the debate even though they had no official position.³² Two important key factors for the Kyoto Protocol can be seen in the “Estrada-Factor” and the fact that the delegates were finally exhausted of debating so that their willingness for compromises arose. The “Estrada-Factor” alludes to the style he guided the debate. The problem had been that the UNFCCC and thereby the COP and the COW had no rules of internal procedure so that every decision had to be unanimously. Due to this, it had been nearly impossible to find a compromise which could be voted on. To avoid this problem, Estrada invented the “ruling by gravel”-method. When he thought that the compromise was good and an overwhelming majority was in favor, he overruled objections of states by ignoring them. The countries had the chance to question the competence of the chair, but no one dared to do this. With this method, he finally managed to find an agreement on the protocol, which was adopted by the COP 3 unanimously in the morning hours of the 12th of December.³³

5.2 The Outcome: The Kyoto Protocol

One of the highly debated key issues had been the question about the target figures for the *Annex 1* states. As mentioned above, the EU had quite high targets whereas the US and Japan proposed low ones. The EU’s position to reach equal targets for all countries was nearly impossible. Estrada finally managed to find a compromise in proposing 8 % for the EU, 7% for the US and 6 % for Japan below the level of 1990. This compromise, agreed upon by the US delegation after Al Gore had told them to show more flexibility, made it possible for the EU to accept a differentiated approach

³¹ cf. Carpenter, 2001, pp. 314

³² cf. Oberthür & Ott, 2000, pp. 121

³³ cf. ebd., pp. 123

for all other countries.³⁴ Regarding the timetable issue, the US argued for a timeframe of five years (from 2008-2012) to reach the targets which was ultimately accepted by the EU that had planned the timeframe to be a single year and earlier than 2012.³⁵ Also, in the question which gases to put “into the basket”, the US-favored six gas proposal was adopted whereas the EU had argued for the major three gases. A success achieved the EU in the discussion about sinks. States with large land areas demanded to receive credit for naturally occurring absorption. The COW decided that they would allow “only increases in GHG removal by sinks due to afforestation, reforestation and deforestation activities since 1990 to be added to a party’s amount of GHG reductions in the first commitment period.”³⁶ The EU tried to implement a set of Policies and Measures (PAM) into the protocol, which should be used by the parties, but in the end the position of the US and Japan to make these PAMs rather a proposal than a demand was adopted.³⁷ Against strong interventions from the US and Japan, the EU won acceptance for their “*Bubble-System*” (see 4.2). Other states used this agreement to extract concessions from the Europeans on other issues. The question about Joint Implementation Measures (JIs), which are meant to invest rather in other states to gain GHG reduction credits than in its own, was crucial to the developing countries as they feared that *Annex 1* countries would have the possibility to escape their primary responsibility. Nevertheless the JI concept was adopted with the limit to enforce JI measures just within other *Annex 1* states.³⁸ The same parties found itself discussing about whether to implement an emission trading system or not. The developing countries feared that the *Annex 1* states would be able to buy themselves out of their duty to reduce the GHG emissions within their own countries. Japan and the EU wanted to provide measures to avoid the US to be able to buy themselves completely out of their obligations at all. Therefore the EU proposed rules and guidelines to be worked out before the emission trading would be possible to ensure that a ceiling for the emissions trading could be implemented. A comparable mechanism to the JI, but now between developing and developed countries, was implemented through the Clean Development Mechanism (CDM), which had been strongly opposed by the EU. But as the EU’s internal decision process took longer than the debate over the CDMs

³⁴ cf. Schröder, 2001, pp. 79

³⁵ cf. Article 3, Kyoto Protocol, p.3

³⁶ Breidenich, Magraw, Rowley & Rubin, 1998, p.322

³⁷ cf. Schröder, 2001, p. 83

³⁸ cf. Breidenich, Magraw, Rowley & Rubin, 1998, p. 323

within the COW, the mechanism was implemented.³⁹ The last highly debated point considered the participation of developing countries. New Zealand proposed, together with the EU, the US and Japan a proposal to “start a process towards commitments from non-Annex 1 countries to limit emission growth – not reduce emissions – starting in 2014”.⁴⁰ But as more than 30 developing countries heavily opposed this proposal Estrada finally ruled to strike out the article at all.

Two outcomes were quite surprising: The implementation of the CDM and the exclusion of any measures regarding the developing countries. The first issue was a key one to the EU which did not manage to state their objection in time and were overruled by Estrada, the later was an important issue to the US bearing the Beard-Hagel-Resolution in mind, but as the US did not find any supporters for their demand the paragraph had been struck out.⁴¹

6. Conclusion

In order to explain the process of negotiations and the enforcement of the Kyoto Protocol, the hypothesis made in chapter 2.2 have to be tested. The first three hypotheses can be answered with a clear yes, as only states were actively involved in the negotiating process and interest groups played an important role, but still could just try to influence the debate through states who cooperated with them rather than being directly involved. Another good example can be seen in the influence of the Byrd-Hagel Resolution, enforced by special interest groups within the US, which had been a key issue in the US negotiating position. Nevertheless, in the end the US agreed upon the Protocol even though it did not imply the inclusion of the developing countries. Furthermore every state saw the necessity to react to counter the global warming by 1997. The fourth, whether states have an interest in achieving legally-binding targets and timetables, has to be specialized and divided into two parts: The specialization lies in the fact that the targets were finally just binding to the *Annex 1* countries. The two parts consist of the countries that favored legally binding targets right from the beginning, as we have seen in chapter 4.2, the EU did and others that were in favor of volunteer restrictions like the US due to economical interests. The

³⁹ cf. Schröder, 2001, p. 86

⁴⁰ ebd., p. 88

⁴¹ cf. ebd., p. 93

interest to share the costs and gains show the same line of conflict, as the developing countries were interested in the gains whereas they did not want to accept costs. Nevertheless, the hypothesis can be applied for the *Annex 1* countries, as they wanted to reach a common and global share of costs. Especially the EU's position clearly underlines this assumption. Thereby the sixth hypothesis can be agreed upon as the states concerned their absolute gains as more important than their relative gains which would have meant the inclusion of all countries. The hypothesis that states may cooperate in order to enhance their reputation in international politics can be agreed upon as well, though it is not that obviously applicable for the EU or the US as for others like Japan. Japan offered to host the conference as they hoped to gain support for their effort to reach a seat in the Security Council in return. Indeed, the institutional factor did play an important role. According to the theory, the institutional rules should have been a key factor. But surprisingly, Estrada disobeyed the rules to a certain extent (see 5.1). Nevertheless, his new adopted way of ruling had been accepted as the new rule and shows thereby that the institution itself became a self-acting part within the debate. Furthermore the theory can be applied to the process in general, as the UNFCCC had an implemented "ratched-effect" (see 3.1), which enforced the process by institutional means. This can be seen as a validation to the last hypothesis as well, as the UNFCCC is a Convention while the Protocol can be seen as a regime. The convention has no binding targets and measures to control the commitments of the member states while the regime does. Therefore the regime shows a higher degree of institutionalization.

To conclude, one can say that the Kyoto Protocol was enforced because the states saw the necessity to act, due to some kind of pressure by numerous interest groups. Especially the willingness of the EU and the US to make compromises had a great importance as well as the given institutions itself as they provided the arena to find these compromises and forced them to agree upon like the chair of the COW, Raúl Estrada.

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(9.03.2007)

Declaration:

I hereby ensure that I have written this paper by myself and without the help of others and did not use any other means than declared. I especially confirm that I marked all literal and analogous citations to the best of my knowledge.

Bonn, 10.3.07

Place, Date



Signature