

# **Sino-US Climate Discord and Cooperation under the UNFCCC:**

## **A comparison of COP 15 and COP 21**

Name: Tina Pedersen

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Supervisor: Fuzuo Wu

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## Introduction:

Climate change has been a much-discussed topic for many years, with effects being felt by every country. The roots for climate changes are dated back to the industrial revolution that started in the 18<sup>th</sup> Century, but also in the on-going human activity. Both production and population have evolved and grown since the 18<sup>th</sup> century, along with the amount of greenhouse gasses being produced. The effects have hit some countries harder than others as their climate has become almost impossible to habituate either through droughts, floods or rising temperatures. As emission of greenhouse gasses (GHG) grows and the resources run out, the importance of working together to find a solution to the climate changes grows.

The need for collaboration on the issue of climate change was acknowledged as early as 1992 with the establishment of the United Nations Framework Convention to Climate Change (UNFCCC) which committed the members to reduce their GHG emissions upon ratification in an attempt to combat climate change, where currently 197 countries have ratified the convention<sup>1</sup>. However, by 1995, the convention had realized that the provision for emissions reduction was too low and greater measures had to be taken, which brought the birth of the Kyoto Protocol in 1997 with the first commitment period from 2008-2012.<sup>2</sup> The Kyoto Protocol has been the most significant attempt to combat climate changes as its ratification made the reduction of six GHG legally binding for the thirty-nine developed countries. The developed countries were thus legally bound to reduce their GHG emissions by 5 per cent of 1990 levels. Furthermore, a number of developing countries also ratified the treaty, however, due to their then low contribution to the climate change they were not legally bound to uphold their commitments to emission reductions. In the end, USA decided not to ratify the treaty and later Canada chose to withdraw as well, the agreement thus only covered the producers of 60 per cent of global GHG emissions.<sup>3</sup> The countries producing the other 40 per cent of global GHG emissions were not legally bound to reduce their emission, this category included countries such as China and USA, also known as the world biggest GHG emitters. The need for collaboration on combating climate change is therefore still present, now more than ever as the global GHG emissions have continued to rise since the implementation of the Kyoto Protocol. However, when the time came for finding a replacement for the Kyoto Protocol at the 15<sup>th</sup>

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<sup>1</sup> UNFCCC, "Background on the UNFCCC: The international response to climate change," *United Nations Framework Convention for Climate Change*, [http://unfccc.int/essential\\_background/items/6031.php](http://unfccc.int/essential_background/items/6031.php)

<sup>2</sup> UNFCCC, "Kyoto Protocol", *United Nations Framework Convention to Climate Change* [http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)

<sup>3</sup> Houser, Trevor. *Copenhagen, the accord and the way forward* (No. PB10-5) Washington, DC, Petersons Institute for International Economics (2010): 2

Conference of the Parties (COP) in Copenhagen in 2009, no agreements were made, despite a high pressure from civil society and the world. The lack of a new agreement resulted in a second commitment period of the Kyoto Protocol from 2013-2020 where amendments were added in at the COP in Doha, 2012.<sup>4</sup> A new agreement would be made until the Conference in Paris 2015. This brings us to the main issue of this project as the world have long acknowledged the need to reduce GHG and combat climate change, yet the countries have been unable to agree on the actions that should be taken, at least until they formed an agreement last year. The Problem formulation is thus:

Why did the international climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) fail to reach a climate change agreement in the Cop 15 held in Copenhagen in 2009 but succeed in reaching an agreement at the COP 21 held in Paris in 2015? And what role did the United States and China play in the international climate change negotiations?

In order to obtain a significant reduction in GHG, the agreement would need to include the biggest greenhouse gas emitters such as USA and China who have previously not been legally bound to reduce their emission. The main focus will, therefore, be on the behaviour of USA and China as they represent the two largest emitters in the world, however more importantly they also epitomize the different sides of the main discussion of guilt and responsibility of climate change, where the argument either state that an agreement should include commitments from all major economies, including developing countries like China. The other side states that the developed countries hold a historical responsibility for climate change as it is a result of the industrial revolution and their development which also has made the developed countries more equip to deal with climate change as they constitute mainly the richest countries. The agreement of a new climate change protocol is therefore to a large extent determined by the actions and cooperation of China and USA, where any agreement without the biggest GHG emitters will fail like the Kyoto Protocol in preventing the catastrophic effect of climate change.

## Literature Review

The issue of climate change and Global Environmental Governance has received much attention with many focusing on climate change negotiations providing different explanations and

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<sup>4</sup> UNFCCC, "Kyoto Protocol" United Nations Framework Convention to Climate Change.  
[http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)

interpretations of actors and the underlying issues. For instance, according to Maximilian Terhalle and Joanne Depledge, the climate change negotiations should be viewed in light of broader great-power politics and order transition, where the basic structure of the climate change negotiations are being challenged and fought over, which is causing the deadlocks and slow progress in reaching an agreement. The systemic order thus needs to be redefined before progress can be made in climate change negotiations and other global issues.<sup>5</sup> In a somewhat similar line, Sir Anthony Brenton applies the concept of “Great Powers” to climate change negotiations and identifies three antagonistic power groups; the EU, the US and other developed countries, and China, India and Brazil, each group pushing in different directions. Climate change negotiations should, therefore, focus on cooperation between the three Great Powers.<sup>6</sup> Fengshi Wu and Yuan Xu can be seen to almost expand on this by applying an inter-governmental and trans-societal approach to the relationship between the US and China. Wu and Xu establish that much progress has been made on the trans-societal linkages in the last 15 years, whereas inter-governmentally the two countries have not yet been able to build up mutual trust and security, which affects the environmental cooperation needed for progress.<sup>7</sup> Others such as David Belis, Paul Joffe, Bart Kerremans and Ye Qi have focused on the relationship between China, the US and the EU within the climate change negotiations and how they potentially shape “multiple bilateralisms”. They identify a redefinition of power relations that have set the world on a course towards a decentralized, yet more inclusive approach to climate change.<sup>8</sup> Fuzuo Wu on the other hand, focuses on the cooperation between China and India within the climate change negotiations, which have provided them with a greater ability to withstand the pressure from the EU and the US, along with a greater role in shaping the future climate change regime.<sup>9</sup> In another article, Wu examines the actions of China in the climate change negotiations, and establishes that China has maintained its principle of no commitment to emission reduction while being able to compromise to maintain its alliance with the G-77 and

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<sup>5</sup> Maximilian Terhalle and Joanna Depledge, “Great-power politics, order transition, and climate governance: insights from international relations theory” *Climate Policy* 13, no. 5 (2013): 572-588, DOI: 10.1080/14693062.2013.818849

<sup>6</sup> Sir Anthony Brenton, “‘Great Powers’ in Climate Politics”, *Climate Policy* 13, no. 5 (2013): 541-546, DOI 10.1080/14693062.2013.774632

<sup>7</sup> Fengshi Wu and Yuan Xu, “Sino-American Environmental Relations: The Potential of trans-societal linkages”, *Issues and studies* 49, no. 3 (September, 2013): 73-110

<sup>8</sup> David Belis, Paul Joffe, Bart Kerremans and Ye Qi, “China, the United States and the European Union: Multiple bilateralism and prospect for a new climate change diplomacy”, *Carbon and Climate Law Review* 9(3) (2015): 203-218

<sup>9</sup> Fuzuo Wu, “Sino-Indian Climate Cooperation: Implication for the international climate change regime”, *Journal of Contemporary China* 21(77), (September, 2012): 827-843

obtain as many benefits as possible from the developed countries, especially the US.<sup>10</sup> On the other hand, Peter Christoff argues that the actions of China and US are constrained by their domestic institutions, which prevents them from reaching agreements.<sup>11</sup> And Finally, Steve Vanderheiden established the necessity of a leadership in the climate change negotiations, a role he preferably sees the US take but does not exclude that China could do it as well.<sup>12</sup> The explanations and research focus have centred on the major players (the US, China, the EU and India) in climate change negotiations, analysing their actions, relationships and power struggles, where the area of interest have to a large extent been focused on the failures of the Conference in Copenhagen in producing a new agreement and setting out possibilities for a future agreement. However, an agreement has now been reached, which makes it interesting to build on the existing research and provide new insights by exploring the ways Sino-US relations have influenced the climate change negotiations at COP21. My research will, therefore, apply some of the perspectives set out in the existing research of examining the actions and relationship between actors within the climate change relations to establish not only how discord have occurred in 2009, but also cooperation in 2015, thus bringing the research up to current events.

## Method

This research project will seek to analyze the negotiations of the Copenhagen Conference in 2009 and the Paris Conference in 2015, along with the stances taken by China and the US. The empirical data for the negotiation are found in the information provided by the UNFCCC surrounding the COPs, complemented by some statements made by the American and Chinese Presidents and the Chinese prime minister. The main source of information is the first-hand sources found in UNFCCC's own database; Earth Negotiation Bulletin's United Nations Framework Convention on Climate Change (<http://www.iisd.ca/enb/vol12/>) where the International Institute for Sustainable Development (IISD) provides reporting services that "provide accurate, neutral, high quality analysis that informs decision making about multilateral environmental negotiations"<sup>13</sup> and gives a detailed account of each day at the conference, thus allowing a great insight to the day-to-

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<sup>10</sup> Fuzuo Wu, "China's Pragmatic Tactics in International Climate Change Negotiations: Reserving principles with compromise", *Asian Survey* 53, no. 4 (July/August, 2013): 778-800

<sup>11</sup> Peter Christoff, "Cold Climate in Copenhagen: China and the United States at COP15", *Environmental Politics*, 19(4) (2010) 637-656, DOI: 10.1080/09644016.2010.489718

<sup>12</sup> Steve Vanderheiden, "Coaxing Climate Policy Leadership", *Ethics and International Affairs* 26, no. 4 (2012): 463-479

<sup>13</sup> IISD, "Our Mission" *International Institute for Sustainable Development at* <http://www.iisd.org/about/about-iisd>. IISD own description of their reporting services.

day negotiations. The advantage of first-hand information provided directly by the COPs is its ability to highlight the agreements and disagreements of the countries, which is at the heart of this project, through the decisions and actions taken by the countries throughout the days at each COP. This provides a great insight into the negotiations and what roles China and USA took in them. The statements of heads and governments are another first-hand source where the leaders highlight their expectations for the negotiations and its outcome which allow for interests and crucial issues to be pinpointed. To pinpoint the interests of USA and China will allow for a greater understanding of the sides, along with providing insight to their respective stances and possible why discord ensues. The statements thus provide a great source for information on the stances taken by the US and China in the climate changes negotiations, along with why negotiations failed or succeeded. Finally, Scholarly work will be used to provide a broader and useful context for the countries' actions as countries might be motivated by domestic issues or international relations to act a certain way. However, when dealing with scholarly work, it is good to maintain a critical approach where subjective and qualitative data are being questioned and sources are being checked. One way of checking the quality of the articles and authors are by examining the sources used, asking; are the articles peer-reviewed, did the author use interviews or is it based on personal opinions?

Building on the empirical data, the analysis will centre on the actions of China and the USA, examining their respective stances and interest, as well as, their alliances. China is part of the BASIC-coalition with Brazil, South Africa, India and the greater alliances of most developing countries, the G-77/China group, while the US takes part in the Umbrella groups representing most major developed countries outside the EU. The analysis will establish the main issue of the Conferences by examining their respective outcomes: the Copenhagen Accord and the Paris Agreement, before the countries are examined at turn in order to achieve a more in-depth analysis of their stances and actions. This will make it possible to assess in what ways the negotiations are driven by neo-realist concerns or applying a neo-liberal institutional approach in the discussion section of the analysis. This will provide answers to the problem formulation by clarifying the ways the countries' motivation for negotiations may have changed from COP15 to COP21 and how cooperation was made possible. The last section will summarize the conclusions made throughout the paper and provide a clear answer to the problem formulation.

## Delimitation

The primary focus of the project is on the actions of China and USA that are the two biggest emitters in the world, which give them a lot of influence in international negotiation and puts them at the centre of any international relations analysis of climate change. Furthermore, they represent the leaders of respectively the developing and developed countries, which may highlight the central conflicts of the COPs. Especially, the case of China is of interest as they have increased their national focus on the environment and sustainability and might, therefore, be experiencing a higher domestic pressure to obtain significant environmental agreements. On the other hand, USA has been reluctant to commit to agreements, unless it has a clear commitment from all, especially the major economies.

The interest of the project is limited to COP15 and COP21 as they were both expected to establish an agreement that would replace the Kyoto treaty, where COP15 failed, causing it to be seen as the greatest breakdown of climate change negotiation, while COP21 succeed. COP15 is thus interesting as the starting point of the analysis since former negotiations did not showcase similar failings or importance. The two selected COPs illustrate the most significant negotiations in the history of COPs, one being significant for its failings and the other for its success. The in-between COPs have been excluded from the analysis since many of them were more about implementing a temporary solution by re-using the Kyoto Protocol and agreeing on low goals and establishing a new roadmap to a new agreement. The negotiations from COP16-20 were arguably focused on achieving progress that would restore a trust in the COPs legitimacy as a place for environmental negotiations among the countries. Many of the major issues were thus postponed to the future, with progress on smaller and easily agreed upon issues being made, which makes it debatable to what extent the in-between COPs negotiations will illustrate the countries primary interests. Whereas the COP 15 and COP21 will highlight the primary interests of both sides, since all major issues have been postponed to later, which forces the final negotiations to deal with the areas of most disagreement, thus highlighting the two competing sides in the negotiations.



## Theory

This project is going to apply the theories of realism and liberalism to provide explanations to why the Conference in Copenhagen did not yield an agreement while the Conference in Paris did. The two theories may be compared to two sides of the same coin, where the theory of realism is the strongest branch within international relations and is useful to understand power politics in international negotiations where the international system may be seen as either anarchic or hierarchical with selfless and power-hungry states. While on the other hand, the theory of liberalism is interested in morality and values, seeing the international system as a community with states driven by ideals. Taken together the two theories may, therefore, establish a full picture of the states' behaviour and actions. The use of international relations theories thus provides a valuable insight into the interaction between states in international negotiations by offering insight into why state acts a certain way, in what ways the states are willing to compromise or collaborate against their own interest, and most importantly why countries in some case are able to agree on outcomes and in other cases will continue to disagree.

Among the realist theories, this project will focus on the theories of neorealism where the focus is on the systemic theory provided by Kenneth Waltz on the structure of international negotiations and the constraints placed on management of global issues such as climate change. This will provide an understanding of some of the constraints present at the international negotiations and the roles played by the World biggest emitters; USA and China. While among the liberalism theories the focus will be on neoliberal institutionalism that sets out how institutions might help cooperation to occur even in a situation where such cooperation might be against their interest. Neoliberal institutionalism will thus provide a picture of why agreements may be formed despite consistent disagreements.

### Neorealism – Kenneth N. Waltz

The neorealist theory springs from the ideas of realism, where the three fundamental assumptions of realism are: (1) states are the main focus and key units of action; (2) states are primarily interested in power, either as a goal in itself or as a way to obtain other ends; (3) States are, by and large, rational actors, thus their behaviours should be understandable through rational terms.<sup>14</sup> However, instead of following in the classical theorists Hans J, Morgenthau and Thucydides footsteps of a state-level approach, Kenneth N. Waltz elaborates on some of the

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<sup>14</sup> Robert O. Keohane, "Realism, Neorealism and the Study of World Politics", in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986): 7.

shortcomings of a state-centric theory and formulates a systems theory of international politics in *Theory of International Politics* (1979). According to Waltz, the state-centric theory has difficulties accounting for different outcomes to similar situations, whereas a systems theory will focus on the forces at play at the international level that make different units act similarly. As he explains:

System theories, whether political or economic, are theories that explain how the organization of a realm acts as a constraining and disposing force on the interacting units within it... From them, we can infer some things about the expected behaviour and fate of the units: namely, how they will have to compete with and adjust to one another if they are to survive and flourish.<sup>15</sup>

The systems theory of Waltz thus provides insight to the constraints placed on states at the international level, which are the level of the UNFCCC and the focus of this project.

International politics has been called “politics in the absence of government”, which is fitting as the ordering principles of international political systems are decentralized and anarchic, with all units being equal to each other. There are thus no units that command over the others and no units are required to obey.<sup>16</sup> But, how can a structure be defined when the ordering principle is anarchic indicating a lack of order and organization. Defining the structure and how it politically affects the outcome is hard, since systems do not act on its own or affect actions directly. According to Waltz, the structure of political systems functions as a selector that will either reward or punish states’ behaviour, thus making outcomes not solely conditional on intentions and behaviour. There are two ways that structure affects the actions of the agents and agencies indirectly: either through socialization or competition among the actors. Socialization is at its simplest form illustrated by the interaction of two agents where: “A influences B. B, made different by A’s influence, influences A.”<sup>17</sup> The two agents influence each other; and furthermore, they are influenced by the situation their interaction has created, as Waltz explains:

Stimulus and response are part of the story. But also the two of them act together in a game, which – no less because they have “devised” it - motivates and shapes their behaviour. Each playing a game, *and* they are playing the game together. They react to each other and to the tensions their interactions produce.<sup>18</sup>

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<sup>15</sup> Kenneth N. Waltz, “Reductionist and Systemic Theories”, in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986):60

<sup>16</sup> Waltz, “Political Structures” in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986): 81.

<sup>17</sup> Waltz, “Reductionist and Systemic Theories” :63

<sup>18</sup> *ibid* :64

One common way socialization affects the agents are through groups, not that an individual stops being themselves in the presence of a group, but they also become something else, where the individual is controlled by the group's opinion. Heroes and leaders arise in the group and their ideas emulated. The more capable units are thus able to exert greater influence on the system than the weaker units. The groups bring conformity to its norms either by praising behaviour that conforms to the norms or ostracizing individuals that differ from it. Socialization thus reduces variation in agents' behaviour despite great differences between the individuals. The persistent characteristics of the group's behaviour emerge as a result of both its members' qualities and the characteristics of the society that emerged from their interactions. The structure thereby limits and moulds the agents' behaviour through socialization.<sup>19</sup>

The second way of a structure affecting agents is through competition. Within social sectors, socialization emerges within segments of the sector, while competition arises among the segments. Competition like socialization reduces variations by encouraging the production of similar behaviour and attributes. An order is formed by competition, where units adjust their relations through autonomous decisions and actions. The consequences of units' behaviours determine their actions, where in a competitive system the "rationality" of the successful units are rewarded and reproduced by the other competitors. "Rationality" in this case refers to simply being better than the others either through intelligence, skill, hard work or just dumb luck; in all cases the unit has successfully produced a wanted product or service more attractively than the others. The competitors are now left with two options: emulate the successful units or "fall by the wayside", since their uncompetitive ways will reduce their demands and their profits, leading in the end to bankruptcy. The successful/surviving units will, therefore, end up being similar, with patterns of similar organization, modes of production, marketing strategies and designs. The units are through competition directed towards the socially most acceptable and successful practices. The competition has thus reduced the variations in outcome, despite the presence of different inputs. The selection of actions results in a space where "Order may prevail without an orderer; adjustments may be made without an adjuster; tasks may be allocated without an allocator".<sup>20</sup> There is thus no leader or institute that controls the space; it is merely being regulated by the system. Waltz states that:

Structures emerge from the coexistence of states. No state intends to participate in the formation of a structure by which it and others will be constrained. International-political

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<sup>19</sup> Waltz, "Reductionist and Systemic Theories" :65

<sup>20</sup> *ibid* : 67

systems, like economic markets, are individualist in origin, spontaneously generated, and unintended. In both systems, structures are formed by the coaction of their units. Whether those units live, prosper, or die depends on their own efforts. Both systems are formed and maintained on a principle of self-help that applies to the units.<sup>21</sup>

The political structure occurs not as a goal in itself to bring order, but as a spontaneous by-product of the units' interaction. The units should be seen as individualistic and assumed to seek to ensure their survival. The assumption of the units desire to survive helps to formulate the theory, yet it does not exclude that states are motivated by different interests, ranging from a desire to conquer the world or to be left alone. This leads us to the second part of the political structures: The character of the units.

The character of units is defined by the functions performed by differentiated units. However, since the international political system is anarchic the units do not perform differentiated functions but are defined as being like units.<sup>22</sup> The character of the units may therefore not provide a possible source for structural changes in an international political system, but are merely useful when looking at hierarchical structures where functions of units are differentiated. Despite this part's inability to provide structural change, it is still of interest to define the units of the political structure, since their interactions produce the structure. The states are, due to the anarchic system, considered to be like units, meaning that each state is a sovereign state, where sovereignty is defined as:

To say that a state is sovereign means that it decides for itself how it will cope with its internal and external problems, including whether or not to seek assistance from others and in doing so to limit its freedom by making commitments to them. States develop their own strategies, chart their own courses, make their own decisions about how to meet whatever needs they experience and whatever desire they develop.<sup>23</sup>

Each state in the political system is therefore seen as a sovereign political entity that seeks to maintain its interests. It is important to make a distinction between the functions and capability of states, where each state have implemented, to a large extent, similar functions such as governments, a judicial branch and military. The tasks states faces are similar, whereas the ways they are performed may vary according to their capabilities. The simplest and purest definition of states thus makes it possible to conceive of states as being "like units". However, to say that all states have an

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<sup>21</sup> Waltz, "Political Structures": 85

<sup>22</sup> *ibid*: 87

<sup>23</sup> *ibid*: 90-91

equal influence in the political system would be misleading. It is, therefore, important to look at the capabilities of states, which is the third and last part of the political structure.

The international political system being anarchic constituted by like units, the structure of the political system is thus primarily determined by the units' capabilities to perform similar tasks. This marks a long-standing tradition in international politics of focusing on the greater powers of a political system, where students will distinguish between international political systems according to the numbers of great powers present in the system. A change in the distribution of capabilities across the system's units will cause a change in structure and thereby a change in the expectation of the units' behaviour and the outcome of interactions. However, examination of capabilities of units provides two problems. The first problem is that capabilities tell something about the units, which would counteract Waltz's instructions of leaving units attributes out of structural definitions. However, this part of the structural definition is only concerned with capability, not with other characteristics such as ideology, the form of government or peacefulness. Waltz explains the distinction of capabilities as a system-wide concept:

Power is estimated by comparing the capabilities of a number of units. Although capabilities are attributes of units, the distribution of capabilities across units is not. The distribution of capabilities is not a unit attribute, but rather a system-wide concept.<sup>24</sup>

The structural variations should, therefore, be seen as the result, not of changes to the characteristics of units, but occurs due to distinctions made among units according to their capabilities. The second problem is that relations in the form of interaction between units are excluded. Yet, relations in the form of groupings of states might help to define the state's place in the system. It might in this part be tempting to consider states' relations and define the structure according to alliances, however, it should be remembered that structural definitions are concerned with the organization of a realm, not the conflicts and accommodation that might occur between units. As Waltz explains:

Parts of a government may draw together or pull apart, may oppose each other or cooperate in greater or lesser degree. These are the relations that form and dissolve within a system rather than structural alterations that mark a change from one system to another.<sup>25</sup>

A multipolar political system with three or more great powers, despite the powers being divided into two alliances, is structurally different from a bipolar system, where no third party is able to match the two great powers within the system. The international political systems are thus defined

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<sup>24</sup> Waltz, "Political Structures": 93

<sup>25</sup> *ibid*: 93

by counting states, which are distinguished according to their capabilities. The third part of the structural definition thus excludes any attributes of units or the relations that exist between units; the focus is merely on the type of order that exist among the units and the distribution of capabilities within the system.<sup>26</sup>

The previous section has defined the essential part of Waltz' system theory and have illustrated the different ways structural changes may occur. The following section will provide an account of the consequences the structural constraints may have on managing international problems such as the four P's: pollution, poverty, population and proliferation<sup>27</sup>. The combating of climate change falls into this category as it constitutes a problem that needs the collaboration of all states to achieve an effective plan.

The management of global problems is, according to Waltz, a victim to the "tyranny of small decisions", where people act in their own interest when making "small" decisions that in the end produces "large" decisions that go against the interest of the people.<sup>28</sup> "The tyranny of small decisions" is explained by Alfred E. Kahn as:

If one hundred consumers choose option  $x$ , and this causes the market to make decisions  $X$  (where  $X$  equals  $100x$ ), it is not necessarily true that those same consumers would have voted for that outcome if that large decisions had ever been presented for their explicit consideration.<sup>29</sup>

This provides a structural problem, wherein a domestic society, the individual behaviour would be constrained by a central agency that works in the interest of the greater social good; at the international level, such a central agency has not yet been established. The global problems are thus still dependent on national policies to be solved, yet the structure of self-help often prevents states from acting according to the greater good. The international management of global problems is thus dependent on what states deem acceptable means to deal with global problems, which, due to the self-help structure, will fall short of what all concerned might agree on is necessary.<sup>30</sup> As stated by Waltz: "A strong sense of peril and doom may lead to clear definition of the ends that must be

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<sup>26</sup> Waltz, "Political Structures": 94

<sup>27</sup> Kenneth N. Waltz, *Theory of International Politics* (Long Grove: Waveland Press inc., 1979): 139

<sup>28</sup> *ibid*: 108

<sup>29</sup> Alfred E. Kahn "The Tyranny of Small Decisions: Market failures, imperfections, and the limits of econometrics." In Bruce M. Russett (ed.), *Economic Theories of International Relations*. (Chicago: Markham, 1968): 523, quoted in Kenneth N. Waltz, *Theory of International Politics* (Long Grove: Waveland Press inc., 1979): 108

<sup>30</sup> John Gerard Ruggie, "Continuity and Transformation in the World Polity" in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986): 139

achieved. Their achievement is not thereby made possible...Necessities do not create possibilities”<sup>31</sup>. The problem arises of relative gains vs absolute gains. However, the aspect of absolute gains is hard to obtain in an anarchic realm for two reasons: one, it is hard to convince states to commit to a costly practice such as cleaning industrial waste. Especially, if the state suspects that other states will not follow suit, but continue to dump their waste in the river for the collective to pay for the cleaning. The relative gains of higher financial profits by not cleaning industrial waste are thus easier to obtain than the absolute gains of clean water.<sup>32</sup> The fear of unequal distribution of gains prevents the cooperation between states since any increased gain to the other part can be used against them. The states in a self-help system are thus prone to ask “who will gain more?” rather than “Will both of us gain?”.<sup>33</sup> Furthermore, absolute gains are only meaningful if everyone joins in since the flood will continue to be polluted even when only two or three companies dump waste into it, making it even harder to achieve.

Second, is a fear of states freeriding on the collective goods – a good that once provided can be enjoyed by all, such as, at the national level, public parks, fire departments and a police force. The states may, therefore, hold back and wait for other states to take on the financial burden of combating climate change.<sup>34</sup> This was one of USA’s major points of concern following the Kyoto Protocol as the developing countries were not legally bound to their targets of emission reductions, thus making it possible to free ride on the developed countries’ efforts and do little themselves. One way to increase absolute gains and break with the “tyranny of small decisions” is to establish a central agency that would work for the greater good. An agency that would protect and control the states in the system through means obtained from those state. However, as the managerial power becomes greater so do the states’ incentive to try and control the central agency, thus resulting more in power-balancing than the establishment of an authority in international affairs. The possibility of establishing a central agency becomes higher as fewer great powers reside within the system.<sup>35</sup>

Waltz reasons that:

The greater the relative size of a unit the more it identifies its own interest with the interest of the system. This is made clear by considering the extreme case. If units grow in size as they compete, finally one of them will supplant the others. If one unit swallows the system, the distinction between the unit’s and the system’s interest disappears. Short of this extreme,

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<sup>31</sup> Waltz, *Theory of International Politics*: 109

<sup>32</sup> *ibid*: 196

<sup>33</sup> *ibid*: 105

<sup>34</sup> *ibid*: 196

<sup>35</sup> Ruggie, “Continuity and Transformation in the World Polity”: 139

in any realm populated by units that are functionally similar but of different capability, those of greatest capability take on special responsibilities.<sup>36</sup>

The states with the highest capabilities will seek to work towards the greater good as it often aligns itself with their own interests, whereas a large group of great power will seldom work towards the greater good since they are focused on maintaining their own interest. Thus, “In self-help systems, as we know, competing parties consider relative gains more important than absolute ones. Absolute gains become more important as competition lessens”<sup>37</sup>. However, when dealing with management of global problems one should not forget the weaker states, as the greater states can afford to fail and continue trying with little losses, whereas flawed policies and untimely moves can have fatal consequences for weak states. The weak states are thus forced to be more careful in international affairs as they may bear the greatest consequences when policies fail or are inadequate. Agreements may, therefore, be rejected by the weaker state when the consequences are too high.<sup>38</sup> The minimum of actions should, therefore, be seen as set by the weaker state in international negotiations, thus securing the survival of all, not just the most powerful.

To sum up the neorealist perspective, the international political system is to a large extent guided by a system of self-help, due to the absence of a central authority to secure the social welfare of all. The focus of negotiations is thus on relative gains instead of absolute gains as they are easier to obtain. The international political system should, therefore, be seen as in constant conflict, where all units are seeking to fulfil their own interests. However, as the greater powers achieve greater capabilities their self-interest becomes aligned with the greater good of society and thus absolute gains. The political system with few great powers will, therefore, have less difficulty forming agreements in accordance with the greater good and their interest as leaders become willing to take on more responsibility since they also obtain a greater gain. The states with the highest capability thus set the scene for negotiations.

### **Neoliberal Institutionalism – Robert O. Keohane**

According to Robert O. Keohane, to understand world politics one must focus on both decentralization as explained by Waltz, and institutionalization. The theories of neorealism and neoliberal institutionalism can be seen as very compatible as they share three basic assumptions: the primary actors in world politics are states, states can be analyzed as rational actors and finally,

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<sup>36</sup> Waltz, *Theory of International Politics*: 198

<sup>37</sup> *ibid*: 195

<sup>38</sup> *ibid*: 194-195



states are broadly self-interested.<sup>39</sup> Keohane even goes so far as to state that neoliberalism institutionalism subsumes neorealism and expects it to explain state behaviour when mutual interests are low and relative gains high, yet fails to include institutional variations. However under conditions of high mutual interest and low relative gains, the theories of neoliberalism will provide better predictions than neorealism.<sup>40</sup> The two theories are thus highly supplementary as neorealism is well equipped to explain cases of discord, while neoliberalism institutionalism can be seen to explain cases of cooperation.

The main thesis of neoliberal institutionalism is that “variations in the institutionalization of world politics exert significant impacts on the behaviour of governments”. Cooperation and discord can therefore only be understood in the context of the institutions, which are defined as “persistent and connected sets of rules (formal or informal) that prescribe behavioural roles, constrain activity, and shape expectations”. The institutions thus help to understand the meanings and importance of states’ actions. It should be noted that states are not controlled by the institutions, but depend to a significant degree on a prevailing institutional agreement to achieve cooperation.<sup>41</sup> In order to understand the functions the institutions hold in increasing cooperation, it is useful to look at Coase theorem and the political market failures in the international political system. The political market failures are partly due to the existence of externalities, which means that “actors do not bear the full costs, or receive the full benefits, of their own actions.”<sup>42</sup> However, Ronald Coase disputed that externalities alone were the cause for lack of cooperation, he argued that under certain conditions actors would negotiate optimal solutions that were not founded on legal liability. To illustrate his point, Coase used the example of a polluting paint factory, whose pollution would be carried by the wind into the laundry of an old-fashioned laundry factory causing damages for more than \$20.000. The same amount is needed to enclose the laundry factory’s yard and being able to dry the clothes inside away from the pollution. The best course of action for the laundry factory would then be to enclose the yard. However, it only cost the paint factory \$10.000 to eliminate the pollution, an action that would be more beneficial to the social welfare. Yet without bargaining or the presence of a central government, the paint factory would have no incentive to reduce pollution. The lack of

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<sup>39</sup> Robert O. Keohane, “Institutional Theory in International Relations” in Michael Brecher and Frank P. Harvey (eds) *Realism and Institutionalism in International Studies*, (Ann Arbor, The University of Michigan Press: 2002): 154-155

<sup>40</sup> *ibid*: 15-16

<sup>41</sup> Robert O. Keohane, *International Institutions and State Power: Essays in international relations theory*, (Boulder, Westview Press: 1989): 2-3

<sup>42</sup> Robert O. Keohane, *After Hegemony: Cooperation and discord in world political economy*, (Princeton, Princeton University Press: 2005): 85

legal recourse thus makes it impossible for the laundry factory to make the paint factory pay. This is where Coase argues that even if the paint factory had a right to pollute, the laundry factory could pay the paint factory between \$10.000 and \$20.000 to reduce the emission. In such a case, both sides would benefit from the agreement, the paint factory would have gained financially and the laundry factory would have reduced the pollution. According to the Coase theorem, the “...problems of collective action could easily be overcome in international politics through bargaining and mutual adjustment...” Furthermore, one could conclude that discord is “... the result of fundamental conflicts of interest rather than problems of coordination”. Coase identified three crucial conditions for his predictions of the Coase theorem to hold: “a legal framework establishing liability for actions”, “perfect information” and “zero transaction cost”, none of which are met in international politics.<sup>43</sup> However, when the Coase theorem is inverted, it becomes possible to analyze international institutions as a response to the lack of cooperation due to: problems of property rights, uncertainty and transaction costs. In a system of self-help, the international institutions should thus be seen to enhance the possibility of mutually beneficial agreements. The following will look at each of the three problems and how the institutions function to solve them.

The legal liability achieved by international institutions should not be considered as solid as the legal liability that exists within states since states highly value their autonomy, it would usually be impossible for an institution to exercise authority over states. The main significance of international institutions comes thus not from formal legal status, but from international regimes acting as “quasi-agreement”, a non-legally enforceable contract that help organize the relationships of states in mutually beneficial ways.<sup>44</sup> International institution can take on the form of formal intergovernmental or cross-national nongovernmental organizations that seek to establish bureaucratic organization with set rules and specific assignments to both individuals and groups; International regimes that constitute negotiated order for specific issues; and finally conventions that are more like informal institutions prescribing rules and understandings shaping the expectation of states’ interaction.<sup>45</sup> The international institutions thus provide practices and rules that states adhere to, not because they are the best, but because others conform to them as well. As Keohane explains

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<sup>43</sup> Keohane, *After Hegemony*: 86-87

<sup>44</sup> *ibid*: 88-89

<sup>45</sup> Keohane, *International Institutions and State Power*: 3-4

...they [international institutions] are designed not to implement centralized enforcement of agreements, but rather to establish stable mutual expectations about others' patterns of behaviour and to develop working relationships that will allow the parties to adapt their practices to new situations. Contracts, conventions, and quasi-agreements provide information and generate patterns of transaction costs: costs of renegeing on commitments are increased, and the costs of operating within these frameworks are reduced.<sup>46</sup>

The incentive provided by the international institutions are thus not legally binding, but comes in the form of rules that may be changed, bent or on occasion be broken. The regimes, conventions or contracts are therefore often weak and fragile and are often subject to negotiations and renegotiations. Yet, the costs of working within the institutions are less costly than working outside them, which brings us to transaction costs

International regimes alter the transaction costs, where certain agreements are forbidden. Such is the case with discriminatory trade arrangement except under specific conditions under GATT. However, due to the lack of a centralized authority, the states could implement such agreements, yet such action would be costly as they lack legitimacy. Under GATT rules, retaliation for such agreements is justified. Because the retaliation is set at the level of rules and principles, any action that goes against the agreements would be deemed a violation against GATT and have implications for all issues covered by GATT. The transaction cost of illegitimate actions under international regimes is thus increased while the transaction cost of legitimate actions is reduced, which increases the incentive to adhere to the principle of the international institution.<sup>47</sup> As already mentioned the international institutions reduce the transaction cost of agreements by providing a forum for meetings and rules for negotiations, which makes negotiations easily obtainable. Furthermore, international regimes encourage economies of scale, since additional issues within the regime are cheaper to resolve within the regime than outside it. Dense policy areas thus gain from the establishment of international institutions, in some case the institution may even provide "increasing returns to scale" where each additional issue can be included at a cheaper cost than the previous, which in turn will create more extensive international regimes.<sup>48</sup> Due to the economies of scale, specific agreements can be seen as "nested" within international regimes. An agreement made between USA, EU and Japan in the Multilateral Trade Negotiations are thus affected by the rules set out by GATT, which in turn is nested within other arrangements such as monetary relations, energy, foreign investment and so on. The international regimes thus form a giant web of relations

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<sup>46</sup> Keohane, *After Hegemony*: 89

<sup>47</sup> *ibid*: 89-90

<sup>48</sup> *ibid*: 90

and agreement between states. The interlinking of international institutions provides another transaction costs.

The Nesting patterns of international regimes affect transaction costs by making it easier or more difficult to link particular issues and to arrange side-payments, giving someone something on one issue in return for her help on another. Clustering of issues under a regime facilitates side-payments among these issues: more potential *quids* are available for the *quo*.<sup>49</sup>

The international regimes thus increase the potential for side-payments and clustering of issues. However, linkages and side-payments are only easily obtained concerning issues under the same regimes, whereas linkages across different regimes are difficult to obtain due to the different styles of international organizations. GATT, IMF and the IEA all subscribe to different organization styles and have different memberships, which would make linkages of policies difficult to achieve.<sup>50</sup> The international regimes are valuable in terms of creating linkages and reducing transaction costs of agreements, but also to provide incentives to uphold agreements since illegitimate actions under the regimes can be costly, not just in terms of that one issue, but also to the surrounding agreements within the same regime.

In terms of political market failures, the third function of international institutions is the most important of them all, which is to provide a flow of information to reduce uncertainty between the actors.<sup>51</sup> The informational function of institutions seeks to deal with the problem of “quality uncertainty” that arises among actors. George A. Akerlof used the term to describe the “market for lemons” (lemons refer to used cars that seem to be in good conditions, but will break down shortly after purchase), where buyers worry about being deceived or cheated by the sales-man. Similar situations exist in world politics and international negotiations in which uncertainty would prevent actors from achieving mutually beneficial agreements. International institutions encourage cooperation by providing a flow of information that reduces uncertainty. Three sources of uncertainty are asymmetrical information, moral hazard and irresponsibility.<sup>52</sup> Asymmetrical information goes to the heart of Akerlof’s example of “quality uncertainty” where there is a “systematically biased pattern of information”, where the sales-man knows more than the buyer and both actors are aware of this. In world politics, the actors are therefore aware that the other side may

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<sup>49</sup> Keohane, *After Hegemony*: 91

<sup>50</sup> *ibid*: 92

<sup>51</sup> *ibid*: 92

<sup>52</sup> *ibid*: 93

hold a greater knowledge that would make it possible to engage in deception and double-cross. The problem of asymmetrical information is only present when dishonesty is possible. The “quality uncertainty” is thus more concerned with whether actors will give accurate information about their resources and more importantly their future position. A state’s reputation thus becomes important in world politics for achieving cooperation as it tells something about whether or not the state is going to comply with the agreement or ignore its commitments. International institutions provide ways to assess states’ reputation as explained by Keohane:

International regimes help governments to assess others’ reputation by providing standards of behaviour against which performance can be measured, by linking these standards to specific issues and providing forums, often through international organizations, in which these evaluations can be made.<sup>53</sup>

The international regimes thus provide the means to measure other states’ commitment to agreements, whether past or present. The international organization may act both as a mediator and provide unbiased information that is distributed more or less equally to all members. The international institutions can, therefore, be seen to make cooperation more likely by improving the level of available information.<sup>54</sup> The ability to monitor states’ behaviours also increases the compliance with states’ commitments as violations may tarnish their reputation. A bad reputation will reduce the state’s ability to make an agreement as the state cannot be trusted to adhere to the institutions rules and principles. World politics can in this regard be compared to primitive societies without centralized authorities, where rules and social norm dictate the appropriate actions. The rules and norms limit conflict as ambiguity is reduced. Any violations of these rules would thus give one a reputation of having a bad character. The focus of world politics and primitive societies are not with the past, but with the future, as in what the actors are likely to do. A bad reputation would, therefore, make many actors refrain from forming agreements.<sup>55</sup>

The functions of institutions can thus be summed up to provide: a flow of information and an opportunity to negotiate, monitoring states’ compliances with commitments and “prevailing expectations about the solidity of international agreements”.<sup>56</sup> Each aspect provides states with a greater incentive to cooperate, form agreements and maintain its commitments despite them going

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<sup>53</sup> Keohane, *After Hegemony*: 94

<sup>54</sup> *ibid*: 94-95

<sup>55</sup> *ibid*: 106

<sup>56</sup> Keohane, *International Institutions and State Power*: 2-3

against self-interest. The institutions, therefore, help obtain mutually beneficial cooperation that would otherwise be impossible to obtain in a system of self-help.

## Analysis

The analysis section will seek to analyse the negotiations of the Copenhagen Conference and the Paris Conference with an interest on the stances taken by the US and China. The analysis will first define the core issue of each Conference by presenting the Conferences and their outcome, before turning the attention to first China's stance and role in the negotiations followed by an analysis of the US's stance and role. At the end, the analysis will be discussed applying the theories of neo-realism and neo-liberal institutionalism in an attempt to provide some answers to the research question and assess the roles played by China and the US. However, before turning towards the analysis, a brief introduction of the development of climate change negotiations will provide some background to the two stances found in climate change negotiations, represented by the two countries; China and the US.

## International Climate Change Negotiations – a brief introduction

The international Climate Change negotiations can be divided into three phases according to their three specific goals: The UNFCCC, The Kyoto Protocol and Post-Kyoto<sup>57</sup>, where the Paris Agreement is the culmination of the third phase. The first phase constitutes the negotiation, adoption, and the start-up of the UNFCCC stretching from 1990-1995.<sup>58</sup> The UNFCCC was adopted in 1992 and sets out the legal framework for stabilizing the concentrations of GHGs in the Ozone with the purpose of avoiding “dangerous anthropogenic interference with the climate system” and came into force on 21<sup>st</sup> of March, 1994.<sup>59</sup> The Convention established the principle of “Common But Differentiated Responsibilities”, often shortened to CBDR, which stipulated that Annex I parties to the Convention should take the lead in emission mitigation since they had a historical responsibility for the high levels of GHG found in the atmosphere, meanwhile non-Annex I parties would focus on sustainable development.<sup>60</sup>

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<sup>57</sup> Wu. “China’s Pragmatic Tactics in International Climate Change Negotiations”: 780

<sup>58</sup> Daniel Bodansky, “The Paris Climate Change Agreement: A new hope?” *American Journal of International Law* 110 (2016): 5

<sup>59</sup> IISD, “summary of COP 21”, *Earth Negotiations Bulletin* 12(663), 15<sup>th</sup> December, 2015: 2  
<http://www.iisd.ca/climate/cop21/enb/>

<sup>60</sup> Wu. “China’s Pragmatic Tactics in International Climate Change Negotiations”: 781

The second phase spans from the initiation of the Kyoto Protocol negotiations until its implementation, thus covering the years 1995-2004.<sup>61</sup> The Kyoto Protocol was adopted in December 1997 at COP 3 in Kyoto, Japan. The protocol committed Annex I Parties, which constituted the industrialized countries and the countries in transition to a market economy at the time, to reduce their overall emissions of six GHGs by an average of 5 per cent below 1990 levels in the first commitment period covering 2008-2012.<sup>62</sup> The Protocol sets out a legally-binding commitment for the Annex I parties, whereas non-Annex I were free from obligations of emission reduction. The Principle of CBDR was thereby institutionalized by the Kyoto Protocol.

The third phase of climate change negotiations started in 2005, following the implementation of the Kyoto Protocol, with the focus on a successor to the first commitment period of the Kyoto Protocol. The Parties established negotiations to follow two tracks, with one considering a second commitment period with an amendment to the Kyoto Protocol and the other focused on a “long-term cooperative action” under the UNFCCC, with the prospect of negotiations in both tracks concluding at the Copenhagen Conference in 2009. The Conference in Copenhagen had initially been set to end the third phase of the Climate Change Negotiations with the establishment of a new agreement, however, failed to do so. Without a new agreement, the parties managed at the Durban Conference in 2011 to come up with the solution to establish a second commitment period under the Kyoto Protocol that would last until 2020 where a new agreement with “legal force” would take over.<sup>63</sup> Such an agreement was set to be reached at the Paris Conference in 2015, which the parties succeed in doing. The success of the Paris Conference in establishing the Paris agreement thus marks the end of the third phase, with its implementation in 2020 and possible the future for a new phase in Climate Change Negotiations.

Within the climate change negotiations, two differing stances persist. On the one hand, the developing countries that fall within the non-Annex parties’ category have long maintained that the developed countries should take the lead in combating climate change due to their historical responsibility for its high levels and their higher per capita emission levels. On the other hand, the developed countries, with the US at the beginning of climate change negotiations and the rest of the developed countries following in current negotiations, have called for developing countries to play an active role in reducing emissions, where especially emerging economies such as China, India,

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<sup>61</sup> Bodansky, “The Paris Climate Change Agreement”: 5

<sup>62</sup> IISD, “summary of COP 21”, *Earth Negotiations Bulletin* 12(663), 15<sup>th</sup> December, 2015: 2

<sup>63</sup> Bodansky, “The Paris Climate Change Agreement”: 5-6

and Brazil should take an equal position to the developed countries in terms of committing to binding emission reductions. However, developing countries have maintained that their top priority is development and poverty eradication, which would make them more resistant to the effects of climate change.<sup>64</sup> At the heart of the climate change negotiations is thus a disagreement over the division of responsibilities set out in the principle of CBDR and its implementation in the Kyoto Protocol, with Annex I parties being legally bound to emission reductions and non-Annex parties being free of such obligations.

### **COP 15 – Copenhagen 2009**

The Copenhagen climate change Conference took place from 7<sup>th</sup> December until the 19<sup>th</sup> December 2009 and was the 15<sup>th</sup> session of the Conference of the Parties. The Negotiations took place at the Bella Centre in Copenhagen, with more than 40,000 people representing governmental organizations (including 115 heads of states), religious organization, media, and the UN agencies wanting to participate.<sup>65</sup> The conference had filled many with hopes of an agreement, which caused the conference to earn the nickname Hopenhagen. However, the negotiations that were divided into working-level negotiations the first week and ministers in the second, with heads of states arriving in the last days, had been filled with issues of lack of transparency and trust.

The Copenhagen Accord was the result of serious negotiations on the final day of the Conference, where a smaller group of twenty-eight parties met, with representatives from the groups: developed countries (Japan, Canada, Australia, The US, Russia and several European states), large developing countries (China, India, Brazil, Mexico and the South Africa), along with representative from vulnerable country groups: Alliance of Small Island States (Grenada and the Maldives), Least Developed Countries (Lesotho and Bangladesh) and finally Africa (Algeria and Ethiopia). All parties were represented at the heads-of-state level, except for the BASIC countries. The negotiations had produced agreement on fundamental issues; however, on certain issues, the BASIC's representatives did not have sufficient authority to make deals. President Obama, therefore, found the leaders of the BASIC countries later in the evening and established the final deal in a separate session with Chinese Premier Wen, Indian Prime Minister Singh, Brazilian

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<sup>64</sup> Wu. "China's Pragmatic Tactics in International Climate Change Negotiations": 782

<sup>65</sup> IISD, "Summary of the Copenhagen Climate Change Conference: 7-19 December 2009", *Earth Negotiations Bulletin* 12(459), 22<sup>nd</sup> December, 2015: 1



President Lula, and South African President Zuma.<sup>66</sup> The final Copenhagen Accord was thus the result of negotiations in the small group of the US and the BASIC coalition.

Later in the evening, when the Danish Prime Minister Lars Løkke Rasmussen presented the Accord for adoption, the process was deemed “untransparent and undemocratic” by small developing countries such as Venezuela, Bolivia, Cuba and Nicaragua who rejected the agreement.<sup>67</sup> Tuvalu and Sudan also criticized the agreement as not doing enough; Sudan even compared the effects of the Accord to the Holocaust, which was deemed inappropriate by many countries and caused many to defend the Accord.<sup>68</sup> Despite going into the morning hours of Saturday, the six countries continued to oppose the Accord, thus preventing the consensus needed to adopt the agreement under UNFCCC. In the end, the Conference decided to “take note” of the agreement, which establishes an unprecedented procedure under the UNFCCC where countries can register their support for the Accord, along with submitting their emission reduction targets by 31<sup>st</sup> January.<sup>69</sup> The Accord is thus not a legally-binding document, but merely a political agreement. However, the procedure of “taking note” is in many ways similar to adopting the agreement, since countries endorsing the agreement are written at the top of the Accord; yet, the Countries opposing the Copenhagen Accord are provided with an ability to distance themselves from the agreement.<sup>70</sup> The countries that support the Accord might therefore not be legally bound to adopt its content, but are politically committed to doing so.

### **The Copenhagen Accord**

The Copenhagen Accord is about two-and-a-half pages long with two tables for emission reduction targets attached as an appendix. The Accord contains merely 12 articles that deal with the main issues of mitigation, transparency and finance and leaves many details to be established later.

The Accord sets the goal of maintaining the increase in global temperatures below 2 degrees Celsius “through deep cuts in global emissions”<sup>71</sup>, however with a need for an assessment in 2015 that might push for only a 1.5 degrees Celsius increase<sup>72</sup>. On mitigation, The Annex I parties

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<sup>66</sup> Houser, “The Copenhagen, the Accord, and the Way Forward”: 10

<sup>67</sup> IISD, “Summary of the Copenhagen Climate Change Conference”: 28

<sup>68</sup> Houser, “The Copenhagen, the Accord, and the Way Forward”: 10

<sup>69</sup> IISD, “Summary of the Copenhagen Climate Change Conference”: 28

<sup>70</sup> David Doniger, “The Copenhagen Accord: A big step forward” *NRDC Climate Center* 21 (2009)

<sup>71</sup> Copenhagen Accord, para. 2

<sup>72</sup> *ibid*, para. 12

commit to taking on quantified economy-wide emissions targets for 2020<sup>73</sup>, meanwhile, non-Annex I parties are to implement mitigation actions, where “Least developed countries and small island developing States may undertake actions voluntarily and on the basis of support”.<sup>74</sup> In both categories, the Accord establishes a bottom-up approach where the countries are called on to submit their targets and actions to the UNFCCC’s secretariat by 31<sup>st</sup> January 2010. The Accord thus takes a step away from the Kyoto Protocol’s top-down approach of setting the targets, but also the differentiation set out in the Kyoto Protocol is weakened, with non-Annex I parties having to take on mitigation actions. The “firewall” present in the Kyoto Protocol is starting to break down. The Accord thus provides the first step to include the developing countries in the fight against climate change.

Transparency had been a key issue in negotiations, where the BASIC countries had opposed international review as it would remove the differentiation between Annex I and non-Annex I parties set out in the Kyoto Protocol.<sup>75</sup> On the other side, the US, along with other developed countries had insisted on measurement, reporting and some form of international review.<sup>76</sup> The Accord stipulated that mitigation actions from both developed and developing countries are to undergo international scrutiny. The developed countries are to be evaluated in accordance with the guidelines set out in the Kyoto Protocol which consists of annual international expert reviews of GHG emissions inventories and reports on national actions, along with an in-country expert visit.<sup>77</sup> Whereas, the developing countries are to adhere to less scrutiny, with biennial reports on national mitigation actions, along with domestic measurement, reporting and verification, which will provide the basis for “international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected”<sup>78</sup>. However, in cases of mitigation actions supported internationally through technology, finance or capacity building, the actions are to undergo international measurement, reporting and verification. This differentiation between nationally and internationally financed mitigation actions provides the BASIC countries with a loop-hole to avoid strict international review and merely be subjected to international consultations and analysis that

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<sup>73</sup> Copenhagen Accord, para. 4

<sup>74</sup> *ibid*, para. 5

<sup>75</sup> Houser, “The Copenhagen, the Accord, and the Way Forward”: 13

<sup>76</sup> Daniel Bodansky, “The Copenhagen Climate Change Conference: A post-mortem” *The American Journal of International Law* 104 (2010): 236

<sup>77</sup> Houser, “The Copenhagen, the Accord, and the Way Forward”: 13

<sup>78</sup> Copenhagen Accord, para. 5

are to respect their sovereignty. The BASIC countries thereby secure that the UNFCCC are unable to set their respective emission targets for them and maintains the review's role of being advisory.

In terms of finance, the Accord commits developed countries to two pledges of funding; Firstly, \$30 billion for the period 2010-2012 that shall be divided between adaptation and mitigation actions. The financial support for adaptation is to go primarily to "the most vulnerable developing countries, such as the least developed countries, small island developing states and Africa". Secondly, contingent on the developing countries commitment to mitigation actions and transparency, a goal of mobilizing \$100 billion dollars a year by 2020 that will address the developing countries' needs.<sup>79</sup> The Accord furthermore mentions a Copenhagen Green Climate Fund that is to be established as a financial mechanism to the Convention.<sup>80</sup> However, the Accord fails to set out the details and functions of the fund.

In sum, the Copenhagen Accord produced commitments from both developed and developing countries, albeit not legally binding; established a transparency framework with a differing stringency of measurement, reporting and verification, but included all parties; and finally set out the financial commitment of developed countries to provide funding for developing countries adaptation and mitigation actions. The Accord is thus taking the first step away from the Kyoto Protocol and towards an agreement that is not mainly related to developed countries, but might apply to all parties.

## China

A major issue for China at the Copenhagen Conference was the maintenance of the CBDR-principle. As stated by President Hu Jintao at the UN Climate Summit in September 2009:

Fulfilling our respective responsibilities should be at the core of our efforts. The principle of Common But Differentiated Responsibility embodies the consensus of the international cooperation on the right track. Second, achieving mutual benefit... Developed countries should support developing countries; not only is this their responsibility but it serves their long-term interest"<sup>81</sup>

According to the CBDR-principle and China, the developed countries should take the lead in emission mitigation due to their historical responsibility in the high GHG levels, along with

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<sup>79</sup> Copenhagen Accord, para. 8

<sup>80</sup> *ibid*, para. 10

<sup>81</sup> Hu Jintao, *President Hu Jintao's Speech on climate change, The New York Times* (23th September, 2009) available at <http://www.nytimes.com/2009/09/23/world/asia/23hu.text.html> quoted in Peter Christoff. "Cold Climate in Copenhagen: China and the United States at COP15", *Environmental Politics*, 19(4) (2010): 647

providing the developing countries with financial and technological support to help them mitigate emission and adapt to climate change.<sup>82</sup> This position is supported by both of China's alliances, the G-77/China and BASIC countries, in the climate change negotiations. The G-77/China group consist of more than 130 developing countries focused on abstract burden sharing and maintaining the "rights to development and to financial assistance from the Global North"<sup>83</sup> and even stated at the Copenhagen conference that "the focus of the group's mandate is on Annex I party responsibilities".<sup>84</sup> This alliance is the most important one as it provides China with the bargaining power of the majority of the developing countries, constituting one side of the negotiations. Together with the other developing countries, China is able to balance the power of the developed countries and take a stance that would be untenable if China stood alone; especially, since China at that time had taken over the US's position as the largest GHG emitter. On the other hand, The BASIC countries (Brazil, South Africa, India and China, all part of the G-77) were concerned with preventing commitment requirements sought by developed countries. This alliance is not as strong and has seen the countries take different positions on certain issues in the climate change negotiations.<sup>85</sup> However, the alliance does provide the countries with a greater power to resist the requirements and obtain compromises that maintain their respective sovereignties, such as in the case of transparency under the Copenhagen Accord as mentioned in the previous section.

The importance of the CBDR-principle and continuing the track set out in the Kyoto Protocol was evident throughout the Copenhagen Conference. According to the *Earth Negotiations Bulletin*, in the opening statements of the Conference on 7<sup>th</sup> December, speaking on the behalf of G-77/China, Sudan

... emphasized the need for the agreed outcome under the AWG-LCA to ensure full implementation of developed country commitments under the Convention and rejected attempts to merge developed country commitments under the Protocol with similar actions for developing.<sup>86</sup>

The sentiment was made clearer on the 10<sup>th</sup> December when developing countries stated that their agreement to any outcome of the Conference would dependent on the continuation of the Kyoto

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<sup>82</sup> Fuzuo, "China's Pragmatic Tactics in International Climate Change Negotiations": 782

<sup>83</sup> Hochstetler and Milkoreit, "Responsibilities in Transition": 209

<sup>84</sup> IISD, "Copenhagen Highlights: Wednesday, 9 December 2009", *Earth Negotiations Bulletin* 12(451), 10<sup>th</sup> December, 2009: 3

<sup>85</sup> Fuzuo, "China's Pragmatic Tactics in International Climate Change Negotiations": 793-794

<sup>86</sup> IISD, "Copenhagen Highlights: Monday, 7 December 2009", *Earth Negotiations Bulletin* 12(449), 8<sup>th</sup> December, 2009:

Protocol.<sup>87</sup> Brazil speaking for the G-77/China, repeated this stance on 12<sup>th</sup> December, “He said a structure reflecting the continuation of the Kyoto Protocol is of “critical importance” to the G-77/China and “essential” for the outcome in Copenhagen”.<sup>88</sup> Any agreement at the Conference would thus have to include a legally-binding commitment from developed countries to continue emission mitigation and voluntary actions from the developing countries. However, suspecting that the developed countries were trying to “kill” the Kyoto Protocol, China along with G-77/China, the African Group and LCDs requested to suspend all negotiations except for the negotiating group dealing with Annex I parties emission reductions.<sup>89</sup> The negotiations had thereby reached a stalemate that would not be loosened until US secretary of State Hillary Clinton announced a commitment to mobilize \$100 billion a year by 2020.<sup>90</sup>

The strong position taken by China in the negotiations is best understood in terms of relative gains. Under the Kyoto Protocol, only the developed countries are legally bound to reduce emission, meanwhile, no obligations are put on the developing countries, which make it possible for China to prioritize development and growth over emission reductions. China is thus free to act according to its own interests and free-ride on the fight against climate change. On the other hand, Trevor Houser states two reasons that committing to emission reduction targets would be costly; first, the sector on energy and climate policies are not as straightforward as for example trade where the effects of a tariff are easily measured. The effectiveness of energy and climate policies is thus insecure and hard to predict, which may force China to act against its own interest in certain cases in order to achieve its emission reduction targets. Secondly, any agreement would presumably involve a review of adequacy, which could be used to force China to take on more ambitious targets if the developed countries are unable to reach the goal of below 2 degrees Celsius on its own.<sup>91</sup> China and the other developing countries can, therefore, be seen to gain little, but potentially lose a lot from agreeing to legally-binding commitments, especially since little had been offered in return. At least that was the case until the US pledged to mobilize \$100 billion a year, which gave the G-77/China group something to gain from a potential agreement or, more importantly, something to lose if cooperation

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<sup>87</sup> IISD, “Copenhagen Highlights: Thursday, 10 December 2009”, *Earth Negotiations Bulletin* 12(452), 11<sup>th</sup> December, 2009: 1

<sup>88</sup> IISD, “Copenhagen Highlights: Saturday, 12 December 2009”, *Earth Negotiations Bulletin* 12(454), 14<sup>th</sup> December, 2009: 1

<sup>89</sup> IISD, “Copenhagen Highlights: Monday, 14 December 2009”, *Earth Negotiations Bulletin* 12(455), 15<sup>th</sup> December, 2009: 2

<sup>90</sup> IISD, “Copenhagen Highlights: Thursday, 17 December 2009”, *Earth Negotiations Bulletin* 12(458), 18<sup>th</sup> December, 2009: 4

<sup>91</sup> Houser, “The Copenhagen, the Accord, and the Way Forward”: 7

failed.<sup>92</sup> A re-commitment by the US to the Convention would have been a greater gain and fulfilled another important goal by the Chinese, who prior to the conference had called on the US to commit to reducing their emission to at least 25-40 per cent of their 1990 level by 2020. Yet, that goal was out of reach at this Conference, where the US's targets had amounted to around 4 per cent below 1990 levels, falling way short of the demand made by China.<sup>93</sup> However, the American pledge of funding had come at the condition that the conference produces a "strong accord in which all major economies stand behind meaningful mitigation actions and provide full transparency as to their implementation".<sup>94</sup> The US was thereby seeking to commit the emerging economies to undergo international review. However, the second reason provided by Houser above also explains the BASIC countries reluctance to international review under MRV. The Copenhagen Accord instead made the compromise of international consultation and analysis in cases of domestically supported actions, where "national sovereignty is respected".<sup>95</sup> China and the other BASIC countries were thereby able to protect their autonomy as long as they finance their mitigation actions on their own and prevent a submission to international rule, meanwhile securing a promise from developed countries to provide additional funding for the developing. The BASIC countries were able to gain a lot for its alliance, without compromising on its position to avoid commitment requirements.

China had at the Copenhagen Conference taken a hard stance and had been obstructive to the point where negotiations had broken down. The Chinese Primer Minister Wen has been quoted to say before the Conference: "Whatever might happen in Copenhagen, China will not change its action plan".<sup>96</sup> China should, therefore, be seen to have no intention and little to gain from reaching an agreement other than the continuation of the principles set out in the Kyoto Protocol, especially with the US bringing little to offer in the negotiations. However, in the end, China together with the rest of the BASIC countries did compromise for the good of the G-77/China alliances. Even though the compromise had loop-holes to secure their autonomy as long as they refrained from international support, it still, perhaps unintentionally, provided the first step away from the differentiation set out in the Kyoto Protocol.

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<sup>92</sup> Houser, "The Copenhagen, the Accord, and the Way Forward": 10

<sup>93</sup> Fuzuo, "China's Pragmatic Tactics in International Climate Change Negotiations": 798-799

<sup>94</sup> Hillary Clinton, remarks at the UNFCCC, Copenhagen (17<sup>th</sup> December, 2009), quoted in Trevor Houser, *Copenhagen, the accord and the way forward* (No. PB10-5) Washington, DC, Petersons Institute for International Economics, (2010): 10

<sup>95</sup> Copenhagen Accord, para. 5

<sup>96</sup> Christoff. "Cold Climate in Copenhagen": 649

## USA

At the Copenhagen Conference, the focus of the US was on an agreement that would remove the “firewall” set up by the Kyoto Protocol and had actions taken by all major economies. As American President Obama states:

We also cannot allow the old divisions that have characterized the climate debate for so many years to block our progress. Yes, the developed nations that caused much of the damage to our climate over the last century still have a responsibility to lead... But those rapidly-growing developing nations that will produce nearly all the growth in global carbon emissions in the decades ahead must do their part as well...they will need to commit to strong measures at home and agree to stand behind those commitments just as the developed nations must stand behind their own. We cannot meet this challenge unless all the largest emitters of greenhouse gas pollution act together. There is no way.<sup>97</sup>

The US accepts its responsibility in climate change, but also identifies the emerging economies as the major emission producers in the future, which is why they should commit to actions on the same grounds as the developed countries. To combat climate change, an agreement must, therefore, incorporate actions taken by all the largest emitters of GHG, especially China. In the statement made by President Obama on the final day of the Copenhagen Conference, he identifies three issues the Copenhagen Accord should address<sup>98</sup>: One, mitigation, all major economies should put forward decisive national actions to reduce their emissions, as many have done. Two, transparency, there needs to be some form of review, which “need not be intrusive, or infringe upon sovereignty”, to make the agreement credible and secure that commitments are being met. As Obama explains; “For without such accountability, any agreement would be empty words on a page”. The US thereby takes an institutional stance that calls for some measure to secure the parties’ compliance with their commitments. Third, Financing is necessary to help the developing countries adapt to climate change, especially the least-developed and most vulnerable countries. Finally, each of these issues is to be implemented in accordance with the principle of CBDR and respective capabilities (CBDR-RC). Interestingly, the US includes the phrase “and respective capabilities”, something the developing countries have excluded, which supports the US’s call for action by all major economies as all countries capable of mitigation actions should take them. The two ways of referring to the CBDR principle illustrates to differing interpretations of the convention, which is supported by the different stances taken by China and the US on burden sharing; where China sees the burden as

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<sup>97</sup> Barack H. Obama, Obama’s Speech on Climate Change at the United Nations, *New York Times* (22<sup>nd</sup> September, 2009) available at: [http://www.nytimes.com/2009/09/23/us-politics/23obama.text.html?\\_r=0](http://www.nytimes.com/2009/09/23/us-politics/23obama.text.html?_r=0)

<sup>98</sup> Barack H. Obama, Obama’s speech to the Copenhagen climate summit, *The Guardian* (18<sup>th</sup> December, 2009) available at: <http://www.theguardian.com/environment/2009/dec/18/obama-speech-copenhagen-climate-summit>

falling entirely on the developed countries shoulders, the US calls for major economies to lift together. The US is thus interested in a system where countries are able to transition into more responsibilities as they become richer and more capable of mitigation actions.<sup>99</sup>

The American stance is supported by the Umbrella Group consisting of Japan, the US, Switzerland, Canada, Australia, Norway and New Zealand, who under the Copenhagen Conference called for an agreement that was legally binding for all major economies to realize a 50 per cent reduction in global emissions by 2050, along with highlighting the need for mobilizing \$120 billion for vulnerable and least developed countries.<sup>100</sup> Along with an emphasis on the importance of MRV (Measurement, Reporting and Verification) that is the foundation of review set out in the Accord.<sup>101</sup> The Umbrella Group thus takes a similar stance as the US, calling for commitments by all major economies, a need for transparency in the form of MRV and finance for the groups most affected by climate change. However, the Umbrella Group is furthermore interested in reaching an agreement that binds the US to the same commitments as the rest of the developed countries set out in the Kyoto Protocol.<sup>102</sup> The Umbrella Group will therefore to a large extent support the American stance, but will also be seen to align itself with the other developed or developing countries in calling for stronger commitments by the US.

There are two reasons for the US's reluctance to legally-binding commitments under the UNFCCC: Firstly, domestically, the US needs a majority vote in the Senate consisting of 67 votes to pass any legally-binding agreement, which the Obama administration have been unable to achieve. The US is thus unable to ratify the Kyoto Protocol or any new legally-binding agreements without commitments from China (and possibly India), due to the 1997 Byrd-Hagel resolution that managed to prevent the ratification of the Kyoto Protocol as it was perceived as "a threat to US economic competitiveness and jobs".<sup>103</sup> The American political institutions prevent the US from committing to a legally-binding agreement, even if the American President is willing to take on such obligations. The US's domestic institutions can in this case be seen as constraining the US's capabilities in the climate change negotiations and prevent it from taking a greater role in the negotiations, along with creating a lack of confidence in the American commitments as the parties

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<sup>99</sup> Houser, "The Copenhagen, the Accord, and the Way Forward": 6

<sup>100</sup> IISD, "Copenhagen Highlights: Wednesday, 16 December 2009", *Earth Negotiations Bulletin* 12(457), 17<sup>th</sup> December, 2009: 2

<sup>101</sup> IISD, "Copenhagen Highlights: Monday, 7 December 2009", *Earth Negotiations Bulletin* 12(449), 8<sup>th</sup> December, 2009: 2

<sup>102</sup> Houser, "The Copenhagen, the Accord, and the Way Forward": 7

<sup>103</sup> Christoff. "Cold Climate in Copenhagen": 650



are reminded of the US's failure to ratify the Kyoto Protocol and take on the commitments of the developed countries. Secondly, from a relative gains' perspective, the lack of legally-binding commitments puts the US in a similar situation to the Chinese who are able to domestically determine what mitigation actions to take and not have them interfere with their economic development. The lack of commitments makes it possible for the US to set their own mitigation targets and not have them internationally determined. Commitments to legally-binding targets, without similar constraints on China, would, therefore, put the US in a disadvantaged position against major economic competitors.<sup>104</sup>

Mitigation by all countries and transparency was mentioned above as two important issues. The extension of commitments to include the developing countries would provide a relative gain to the US and the rest of the developed countries since it would reduce the developed countries' burden of combating climate change alone. This would allow for the developed countries to take less costly measures to reach the goal of a global temperature increase below 2 degrees Celsius as all parties are taking actions to achieve it, instead of merely a part of them. On the other hand, the implementation of MRV would allow the US to follow the actions being made by the other major economies and secure the US that its competitors are taking on similar measures to combat climate change.<sup>105</sup> However, MRV would also allow for a sharing of information that could build trust between the parties in the future. As President Obama stated the MRV was not to be intrusive but provide the Accord with credibility.<sup>106</sup> The relative gains from the MRV are thus little but has a higher significance in an institutionalist perspective. The inclusion of MRV in the Accord should therefore rather be seen as a step forward for the institutional approach in climate change negotiations than a relative gain for the US. Then again, the pledge of additional funding for the developing countries given in exchange for the MRV came at a low cost for the US as the burden of providing the funds are put on all developed countries, not just the US.<sup>107</sup> The US on its own can, therefore, be seen to have had little to nothing to offer in the negotiations.

The US sought at the Copenhagen Conference to commit all of the major economies to mitigation actions and MRV; however, the US was not able to make any progress in the negotiations until they made a promise of additional funding in the form of \$100 billion a year by

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<sup>104</sup> Christoff. "Cold Climate in Copenhagen": 651

<sup>105</sup> *ibid*: 651

<sup>106</sup> Obama, Obama's speech to the Copenhagen climate summit.

<sup>107</sup> Copenhagen Accord, para. 8

2020 contingent on MRV was made. Funding was the only bargaining chip the US had since any commitment legally-binding or higher targets would be impossible to achieve domestically. The US thus had very little to bargain with, yet were able to establish some form for MRV.

## COP 21 – Paris 2015

The Paris Climate Change Conference took place from 29<sup>th</sup> November until 13<sup>th</sup> December 2015 and was the 21<sup>st</sup> session of the Conference of the Parties. The negotiations included 36.000 participants, almost 23,100 government officials, 9,400 representatives from UN bodies and agencies, intergovernmental organizations and civil society organizations, along with 3,700 members of the media. A leaders' event took place on the 30<sup>th</sup> November gathering 150 Heads of State and Government.<sup>108</sup> The goal was to reach an agreement on “a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all parties”, as set out by the Conference in Durban that would replace the second period of the Kyoto Protocol ending 2020. The Conference achieved that goal with the adaptation of the Paris Agreement.

## The Paris Agreement

The Paris Agreement was heralded as the “world’s greatest diplomatic success”, however the countries’ intended nationally determined contributions (INDC) provided before the conference did not limit the temperature rise to more than 2.7 degrees, falling short of the agreement’s goal of keeping the rise below 2 degrees Celsius above pre-industrial levels and is even further from the ambitious aim of below 1.5 degrees Celsius stipulated in Article 2.1, which are needed to significantly reduce the impact of climate change.<sup>109</sup> The Paris agreement constitutes 16 preamble clauses and 29 operative clauses. The Agreement is attached to a COP decision that formally adopts the agreement and establishes the agreements technical and practical foundation. The operative provisions set out by the Paris agreement cover the issues of mitigation, adaptation, finance, technology transfer, capacity-building, and transparency of action and support.

The agreement establishes a five-year cycle centered on the parties’ nationally determined contributions (NDC), where each NDC are to be more ambitious than the last. Midway through the cycle, a global stocktake “will inform collective efforts on mitigation, adaptation and support” occurring every five-year from 2023. The Paris agreement has thereby implemented a hybrid

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<sup>108</sup> IISD, “summary of COP 21”, *Earth Negotiations Bulletin* 12(663), 15<sup>th</sup> December, 2015: 1  
<http://www.iisd.ca/climate/cop21/enb/>

<sup>109</sup> Daniel Bodansky, “The Paris Climate Change Agreement: A new hope?” *American Journal of International Law* 110 (2016): 2-3

architecture that uses a bottom-up system of voluntary state contribution and review and a top-down rules-based system establishing transparency and compliance.<sup>110</sup> The NDC representing the new bottom-up approach differs from the emission targets set out by the Kyoto Protocol in four ways: 1. NDCs are nationally determined, instead of internationally negotiated. 2. NDCs are not legally binding targets. 3. The NDCs are submitted to the secretariat for public registry instead of as an addition to the agreement. 4. NDCs are required by all countries not just the developed countries such as under the Kyoto Protocol.<sup>111</sup> The UNFCCC thus moved away from the top-down approach of the Kyoto Protocol, a move that has been underway since the Conference in Copenhagen, 2009. As Annalisa Savaresi states:

The Paris Agreement builds on and institutionalises the bottom-up architecture emerged after the Copenhagen debacle, endowing it with measures for the review and the ratcheting-up of ambition.<sup>112</sup>

The global stocktake constitutes the ratchet-up mechanism that provides the agreement with durability, flexibility and makes sure that contributions reflect the evolution of scientific knowledge<sup>113</sup>. The Conference in Paris did not make a deal that reached the goal of the agreement; yet, it has implemented the institutions that could make it possible to reach them in the future.

Another area that deserves mentioning is the aspect of differentiation set out in the agreement. The UNFCCC had from the start established a firewall that prescribed additional obligations on the developed countries according to the CBDR principle. The Kyoto Protocol had adhered to that principle and made emission targets legally binding for only developed/Annex 1 countries. However, the Paris agreement is legally binding towards all parties of the convention, as stipulated by Article 4.2: “Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve”. The Paris agreement has moved away from the provisions set out in the Kyoto Protocol of differentiating between Annex countries and non-annex countries, where only the former were legally bound to commitments. Furthermore, there are no references to Annex or non-Annex countries, thus making an end to the stringent differentiation set out by the Kyoto Protocol. The agreement instead applies a more flexible version of the CBDR-RC that was first used in a US-China Joint statement in November, 2014, who added

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<sup>110</sup> IISD, “summary of COP 21”: 43

<sup>111</sup> Bodansky, “The Paris Climate Change Agreement”: 23

<sup>112</sup> Savaresi, “The Paris Agreement: A new beginning?”: 22

<sup>113</sup> *ibid*: 21

the phrase “in the light of different national circumstances”, along with a more specified approach of defining the principle of CBDR-RC differently in different elements. The Paris agreement thus incorporates a more flexible differentiation that will make it possible to distinguish emerging economies such as China and India from the developing countries.<sup>114</sup>

The Durban platform had given the Conference the task of negotiating a “protocol, another legal instrument, or an agreed outcome with legal force”, where the third option had been intentionally vague since India wanted to keep the issue of legal form open. The Paris agreement should be seen as “a protocol in everything but its name”. As Annalisa Savaresi explains,

In International law the term protocol is typically used, *inter alia*, to refer to treaties adopted to achieve the objective of a framework or umbrella convention.<sup>115</sup>

The Paris agreement makes many references to UNFCCC, where notable Article 2.1 emphasizes the agreement's role “in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty”. Furthermore, the agreement refers to the UNFCCC institutions such as its secretariat, subsidiary bodies, the Financial Mechanism of the Convention. Not to mention, Article 20.1 that states: “This Agreement shall be open for signature and subject to ratification, acceptance or approval by states and regional economic integration organizations that are Parties to the Convention”. The Paris agreement is thus only applicable to Parties to the Convention. There can, therefore, exist no doubt that the Paris agreement is a treaty within the definition set out by international law. However, in the final phases of negotiations, states concerned with the legal form of the agreement worked toward removing the legal obligation of certain provisions, which has caused a differentiation of the legal form of the agreement and the legal character of certain provisions.<sup>116</sup> The obligations of states are thus subject to the interpretation of the individual provisions, where some provisions stipulate obligation with the use of “shall”, while others express recommendations through the less stringent “should” or “encourage”. Finally, the agreement may even express expectations by the use of “will”, “are to” and “may”.<sup>117</sup> In the end, the agreement provides the parties with plenty of leeway on what actions to take against climate change. As stated in the Earth Negotiations Bulletin: “The communication of

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<sup>114</sup> Bodansky, “The Paris Climate Change Agreement”: 17-18

<sup>115</sup> Savaresi, “The Paris Agreement: A new beginning?": 20

<sup>116</sup> Bodansky, “The Paris Climate Change Agreement”: 11-12

<sup>117</sup> *ibid*: 13

NDCs is legally-binding, but their content and targets are not”.<sup>118</sup> The COP 21 can, therefore, be seen to pursue a Goldilocks solution that is neither too strong, which would scare off key actors, nor too weak, which would make it ineffective.<sup>119</sup>

## China

As stated in the China section under COP 15, China has been a strong supporter of the differentiation of responsibility envisioned by the convention through the principle of CBDR and implemented under the Kyoto Protocol, calling for the developed countries to take the lead, while the developing countries are given room to fully develop. China had thus been able to prevent committing to emission reductions. However, leading up to the Conference in Paris, China’s stance had started to change.

The change in China’s position is best illustrated in the US-China Joint Announcement on Climate Change issued in November 2014, with a reaffirmation of the commitments in another US-China joint announcement made in September 2015. The announcement is considered to have significantly changed the international climate change negotiations as China and the US, the two biggest emitters, have finally been able to work together.<sup>120</sup> Besides from a commitment to work together towards achieving an ambitious agreement at the Conference in Paris, there are two things that signal a change in China’s stance in the 2014 announcement. Firstly, an announcement of a pledge to achieve a peak in CO<sub>2</sub> emissions around 2030 and to increase its share of non-fossil fuels in primary energy consumption to around 20 per cent by 2030.<sup>121</sup> This is the first time that China has committed to cap its overall emission, which solves the much-contended issue in the Climate Change negotiations that China should adopt commitments to hard, absolute emission reductions and provided Paris with a brighter prospect to succeed and a hope that other major economies would make similar pledges.<sup>122</sup> Brazil and South Africa from the BASIC coalition had already started to move towards an acceptability of mitigation obligations during the Conference in Durban, where Brazil and South Africa had argued: “that being a developing country does not mean that you

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<sup>118</sup> IISD, “summary of COP 21”: 43

<sup>119</sup> Daniel Bodansky, “The Paris Climate Change Agreement: A new hope?” *American Journal of International Law* 110 (2016): 2

<sup>120</sup> David Belis, Paul Joffe, Bart Kerremans and Ye Qi (2015). “China, the United States and the European Union: Multiple bilateralism and prospects for a new climate change diplomacy”, *Carbon and Climate Law Review* 9(3) 203-218: 205.

<sup>121</sup> White House, “U.S.-China Joint Announcement on Climate Change” (Washington D.C.: White House, November 12, 2014) available at: <https://www.whitehouse.gov/the-press-office/2014/11/11/us-china-joint-announcement-climate-change>

<sup>122</sup> Zhongxiang Zhang, “China’s Role in Climate Change Negotiations: Perspectives for COP21” 2015: 11-12

have no responsibilities”.<sup>123</sup> The announcement of the pledge, which was later incorporated into China’s INDC in 2015, should, therefore, be seen as China taking a step outside the developing countries trenches and acknowledging its responsibilities.

Another step in this direction was made at the second Joint announcement in 2015, where China announced that it would commit 20 billion RMB for setting up the China South-South Climate Cooperation Fund that will support developing countries to combat climate change.<sup>124</sup> However, China has moved in this direction ever since the Conference in Copenhagen, where despite the BASIC’s position that the developed countries should provide climate financial assistance for developing countries, China and Brazil after the Conference stated that they could pay for their own domestic mitigation and adaptation. Furthermore, China promised 32 million dollars along with technical assistance at the Rio 20+ meeting, which followed an announcement stating that “China is a major developing country which is ready to live up to its responsibilities”.<sup>125</sup> China has thus been moving in this direction for some time, gradually taking on more responsibilities.

The second aspect of the announcement was the use of the added phrase “in light of different national circumstances” to the CBDR-RC principle, which had been used as a compromise in the following Conference in Lima and is now incorporated into several of the Paris agreement’s provisions and its preamble.<sup>126</sup> As mentioned under the section on the Paris Agreement, this phrase has a significant impact on the division of responsibility set out by the Convention and maintained by the Kyoto Protocol, by providing UNFCCC with a more flexible version of the principle of CBDR-RC. The phrase makes it possible to move away from the arguably out-dated division of developing and developed countries listed under the Kyoto Protocol, where countries such as Singapore and Qatar are still listed as developing countries despite having become some of the richest in the world.<sup>127</sup> Furthermore, and more relevant, the division had allowed the greatest emitter in the world, China, to refrain from mitigation obligations. China has thereby accepted a move away from the stringent division of responsibilities that would allow it to free-ride and has

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<sup>123</sup> Kathryn Hochstetler and Manjana Milkoreit, “Responsibilities in Transition: Emerging powers in the climate change negotiations” *Global Governance* 21 (2015) 205-226: 217-218

<sup>124</sup> White House, “U.S.-China Joint Presidential Statement on Climate Change” (Washington D.C.: White House, September 25, 2015) available at: <https://www.whitehouse.gov/the-press-office/2015/09/25/us-china-joint-presidential-statement-climate-change>

<sup>125</sup> Hochstetler and Milkoreit, “Responsibilities in Transition”: 218-219

<sup>126</sup> Bodansky, “The Paris Climate Change Agreement”: 17

<sup>127</sup> *ibid*: 15

laid the first bricks towards building a global framework that is able to fully incorporate China, India and Brazil in a third category constituting emerging economies.

The change in stance is also seen in President Xi Jinping's statement at the statements by heads of state and Government on the first Monday of the Paris Conference, where according to the *Earth Negotiations Bulletin* Jinping stressed that the agreement should:

Follow the principles and focus on the full implementation of the UNFCCC; create institutional arrangements that compel concerted efforts; respect differences in countries' economic structures and capacities; and not deny the legitimate needs of developing countries to improve living standards and develop economically.<sup>128</sup>

The focus of Jinping's speech has more to do with respect of sovereignty and developing countries needs than calling for the developed countries to take the lead in emission reduction or provide financial and technological support for the developing countries. However, according to *Earth Negotiations Bulletin*, under the Joint COP/CMP plenary, when China represented the BASIC coalition, China stated "that the Paris agreement should be in line with CBDR and respective capabilities. On the pre-2020 period, he stressed that developed countries must meet their commitments and define a clear roadmap to achieving the US\$ 100 billion goal."<sup>129</sup> Under BASIC, China thus still maintains the old priorities of the division of responsibilities set out by the Kyoto Protocol, without the added phrase from its joint announcement with the US. The stance of the BASIC alliance appears to be unchanged, however, as mentioned in the above, the countries within the alliance do not always agree. As Kathryn Hochstetler and Manjana Milkoreit explains:

In both principles and their calculations of cost and benefits of climate action, they oscillate between categorizing themselves as developing countries with a historical and current right to focus on development and recognizing that their development success has potentially begun to place them in another category of state with different obligations. So far, they are managing this tension with considerably more action at home to reduce emissions than they are willing to commit internationally to do.<sup>130</sup>

This is supported by China's action concerning financial support. During the US-China Joint Presidential Statement in 2015, China agreed to the phrase "by other countries willing to do so" and as mentioned above pledged to provide financial assistance, but during the Paris negotiations, China along with India were against the use of the phrase<sup>131</sup>. The countries on their own might seek to

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<sup>128</sup> IISD, "Paris Highlights: Monday, 30 November 2015", *Earth Negotiations Bulletin* 12(663), 1<sup>st</sup> December, 2015: 3

<sup>129</sup> IISD, "Paris Highlights: Tuesday, 1<sup>st</sup> December 2015", *Earth Negotiations Bulletin* 12(663), 2<sup>nd</sup> December, 2015: 3

<sup>130</sup> Hochstetler and Milkoreit, "Responsibilities in Transition": 220

<sup>131</sup> IISD, "Paris Highlights: Thursday, 3<sup>rd</sup> December 2015", *Earth Negotiations Bulletin* 12(663), 4<sup>th</sup> December, 2015: 1

obtain more responsibilities while the BASIC coalition seeks to maintain their historical rights to development until they are ready to commit to them internationally. The BASIC alliances could, therefore, be seen as a safety net that protects the emerging economies within it from taking on more than they are ready to handle. Their actions should furthermore be seen as maintaining the rights of CBDR, rights to financial support and technology transfers to developing countries according to the G-77/China's position, a position that has moved little from the Copenhagen Conference.<sup>132</sup> The perspective of the BASIC coalition on the G-77/China has changed from seeing themselves as a distinct group from G-77/China seeking its cooperation to highlighting their status as developing countries and part of the G-77/China group as stated in their seventeenth Joint Statement in 2013: "Ministers reiterated that the BASIC countries, as part of the Group of 77 and China, will continue to strengthen the unity and the voice of developing countries in the UNFCCC..."<sup>133</sup> China along with the other BASIC countries are making sure that the developing countries are being heard and their rights are being secured.

The actions of China can be seen to have pushed forward the Climate Change negotiations as two major issues are being dealt with: the lack of commitment from China on emission reductions and the differentiation of responsibilities. The phrase produced in cooperation with the US has provided the negotiation with a compromise to the latter that might allow the division of responsibilities according to capabilities to evolve in the future. China has shown a will to compromise and a commitment to combat climate change, while still maintaining the developing countries rights.

## USA

The American President Barack H. Obama recognized the urgency for actions against climate change in his statement made during Statements by Heads of States and Government as he stated: "We are the first generation to feel the climate change and the last generation that can do something about it", which he followed with a recognition of the US's historical responsibility in creating the problem, which was followed by "we embrace our responsibility to do something about it."<sup>134</sup> The US thus shows a will to move forward in the negotiations and take on its share of the burden. However, as Nauru's President Baron Waqa called for countries to wary about being "complacent" in their rhetoric, some observers recalled a similarly "initial delight" for President

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<sup>132</sup> Zhang, "China's Role in Climate Change Negotiations": 12-13

<sup>133</sup> BASIC Joint Statement 17, quoted in Kathryn Hochstetler and Manjana Milkoreit, "Responsibilities in Transition: Emerging powers in the climate change negotiations" *Global Governance* 21 (2015) 205-226: 220

<sup>134</sup> Barack H. Obama, "Statements of Heads of States and Governments", UNFCCC's COP 21, 30<sup>th</sup> November 2015.



Obama's speech at the Conference in Copenhagen, 2009.<sup>135</sup> The question thus arises, how the US has changed since the 2009 Conference, especially after its demand for China's commitments to emission mitigation have been achieved.

One difference is that the US is now seeking a financial commitment by China and other emerging economies. The US had along with eleven other developed countries announced their financial pledges at the beginning of the Paris Conference, thus illustrating the US's embrace of their responsibilities. However, during the negotiations, the US's, along with EU and New Zealand acknowledged their financial obligation and called for "others in a position to do so should contribute"<sup>136</sup>. The developed countries are thus seeking to expand the donor pool for finance, where the emerging economies or other countries able to should help with the financial burden. This might be a call for help to reach the goal as much as an attempt to expand the financial responsibility to the emerging economies. The climate finance pledged in the Copenhagen Accord had according to an OECD report only been able to gather \$62 billion in 2014<sup>137</sup>, thus still falling well short of the \$100 billion dollar pledge. However, the US along with other developed countries were able to exclude references to the Copenhagen pledge in the Paris Agreement and has only a mentioning of a quantitative finance goal in paragraph 54 of the Paris COP decision, where the goal was extended through 2025.<sup>138</sup> Furthermore, the Parties of the Paris Agreement are set to establish a new quantitative goal prior to 2025, which might not be limited to developed countries.<sup>139</sup> The issue of where the finance should come from has thus been left open to future negotiations.

One issue that received much of the US attention was the legal characters of the Paris Agreement. The interest in the matter is highly related to the US domestic treaty approval process, as Bodansky states "the U.S. Constitution provides that "treaties" require the advice and consent of two-thirds of the Senate". However, most international agreements are not adopted as treaties, but as "executive agreements", with most cases being approved by the Congress, yet, in some cases the president has acted alone. In the case of the Paris Agreement, not unlike the Copenhagen Accord, it seems impossible to achieve either a Senate or Congressional approval, thus forcing the US delegation at the Paris Conference to refrain from issues that call for legislative approval; new

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<sup>135</sup> IISD, "Paris Highlights: Tuesday, 1<sup>st</sup> December 2015", *Earth Negotiations Bulletin* 12(663), 2<sup>nd</sup> December, 2015: 4

<sup>136</sup> IISD, "Paris Highlights: Thursday, 3<sup>rd</sup> December 2015", *Earth Negotiations Bulletin* 12(663), 4<sup>th</sup> December, 2015: 1

<sup>137</sup> Bodansky, "The Paris Climate Change Agreement": 31

<sup>138</sup> *ibid*: 32

<sup>139</sup> UNFCCC, The Paris COP decision, paragraph 54.

financial commitments or legally-binding emission targets.<sup>140</sup> The change of a “should” to a “shall” in the provision to NDCs would have made the US unable to adopt the Paris Agreement, a mistake that had occurred in the final draft of the agreement on the final Saturday afternoon, but had been caught and corrected before the final text.<sup>141</sup> The US actions are thus still restricted by its domestic system of check and balances, which arguably prevents the US from taking a strong leadership role in the Climate Change negotiations, since a strong leader should not have to circumvent its domestic political institutions, in this case, the Senate and Congress, but have the homeland’s full support. Furthermore, the relative gains of no legally-binding commitments as seen in the COP15 section on the USA are to some extent still valid as the US are still able to prioritize economic development over climate change. However, with the expansion of the institutional framework with a “global stocktake” the US will experience a growing pressure from the other parties to take on more ambitious mitigation goals.

The American position in Climate Change negotiations can be seen to have changed very little, which can also be said about the stance of the Umbrella Group, who according to the *Earth Negotiations Bulletin*: “Stressed developed countries’ continued assurance to continue to lead in the context of a universal agreement in which all parties do their best”. The US and the Umbrella Group are still trying to expand the responsibilities in the fight against climate change to include the developing countries, especially the countries capable of doing more such as the BASIC coalition of emerging economies and remove possible freeriding.

## Discussion

The outcome of the Copenhagen Conference and the Paris Conferences are very different and can almost be described as night and day. The negotiations almost broke down completely in Copenhagen, while in Paris the parties were able to form an agreement. This section will apply the theories of neo-realism and institutionalism to discuss why the Copenhagen Conference failed and why the Paris Conference succeeded? As neo-realism best describes discord, it will primarily be used to explain the Copenhagen Conference in terms of relative gains, yet provide some insight to the Paris Conference. On the other hand, institutionalism will primarily focus on the Paris Conference’s success as it provides an explanation for cooperation. The final section will discuss the roles of the US and China in the political structure of climate change negotiations to estimate their developments.

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<sup>140</sup> Bodansky, “The Paris Climate Change Agreement”: 13

<sup>141</sup> *ibid*: 9

The Copenhagen Conference can almost be seen as a prime example of the self-help system and “the tyranny of small decisions” described by Kenneth Waltz with little relative gain for either the developed or the developing countries by making a new deal. China and the developing countries had with the Kyoto Protocol achieved a deal that would allow them to free-ride on mitigation of climate change and prioritize economic development; meanwhile, the developed countries (except for the US and Canada) were subjected to legally-binding emission reduction targets that put them in an economically disadvantaged position. Any step away from the differentiation set out in the Kyoto Protocol would therefore only provide a less beneficial deal for China, since it would infringe on China’s ability to free-ride. China, therefore, took a hard stance at Copenhagen, especially since the US and the developed countries had little to offer in return. On the other hand, the US stood in a similar position of losing its ability to set its own emission reduction targets and potentially free-ride as well, since the US had not ratified the Kyoto Protocol and were therefore not under legally-binding commitments to combat climate change. For the US, any agreement that continued the differentiation of responsibilities set out in the Kyoto Protocol would put the US in a disadvantaged position against its competitors, the emerging economies. The agreement would, according to the US, at least have to include all major economies, which would level the playing field and prevent the US from taking a disadvantaged position. The possibility of the Copenhagen Conference to succeed is thus unlikely from a neo-realist perspective. However, the parties were able to achieve some compromises in the final negotiations resulting in the Copenhagen Accord. These were small compromises that would not constitute a new commitment period to follow the Kyoto Protocol, thus, the Copenhagen Conference failed to reach its goal of providing a new protocol. Each side was able to commit to actions with little cost, China agreed to non-intrusive international analysis and consultation on mitigations actions while the US made a pledge for additional funding provided by the developed countries. In return, China received additional financial support for the developing countries that were not as economically strong as China and the US achieved some transparency of the developing countries’ actions, which ensures that the developing countries are doing their part and not just freeriding.

The Copenhagen Accord was rejected by the small vulnerable countries such as Tuvalu and Sudan that will be greatly affected by climate change. According to them, the Copenhagen Accord was too weak and was less than what was needed to keep everyone alive. As Waltz states, the weak states will show if the agreement does enough since their survival depends on it. The compromises

made by China and the US were thus not enough to save the weak states. They would have to make greater compromises before any agreement can be accepted by the weak states.

The Copenhagen Conference truly was an example of self-interest in the form of “who would gain?” rather than countries working together towards a common goal. The self-interest of China caused it to suspend the negotiations until the US offered a commitment to raise additional funds; meanwhile, the US was focused on China’s ability to free-ride and remained in an advantageous position to develop economically. The focuses were thus not on the absolute gains of securing the survival of the weak states or prevent the disastrous effects of climate change in the future, which will only be possible if the world can stay below at least a 2 degrees Celsius increase. The situation of climate change had not been dire enough to make it a priority for the big emitters, China and the US, which would have caused them to take greater actions and not stall the negotiations by literally suspending them or have little to nothing to offer.

The situation was somewhat different at the Paris Conference, where Obama mentions in his speech that he personally had seen the effects of climate change in Alaska, where the rising seas levels have already taken cities.<sup>142</sup> The effects of climate change have, at the time of the Paris Conference, started to be seen and felt in the US. However, being a big country as it is, there might still go a long time before the American population may feel the effects of climate change and call for actions to be made, which is needed for the Senate and Congress to support further climate actions and for the US to take on a greater role in climate negotiations. The US thus took a similar stance as in Copenhagen, seeking to expand the responsibilities of the developed countries onto the major economies, which will secure an equal footing between the US and its economic competitors. China, on the other hand, has gradually taken steps away from the differentiation of the Kyoto Protocol and taken on more responsibilities, while its alliances still seek to maintain the preferential division in their favour; the relative gains of no new agreement have thereby been significantly reduced. Furthermore, China has started to focus domestically on energy saving and pollution reductions, which has been incorporated into the CCP’s 11<sup>th</sup> and 12<sup>th</sup> five-year-plans. New initiatives are even taken in energy conservation and low-carbon city developments.<sup>143</sup> The relative gains of an effective climate agreement have thus greatly increased as it provides a more preferential marked for new initiatives in renewable energies. The theory of relative gains does,

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<sup>142</sup> Obama, “Statements of Heads of States and Governments”

<sup>143</sup> Zhang, “China’s Role in Climate Change Negotiations”: 6

therefore, provide some insight to the change in the Chinese stance on climate change at the Paris Conference.

The theory of institutionalism may best be applied to the Paris Conference; however, its effects might best be illustrated by comparing the two Conferences in terms of trust and transparency. The Copenhagen Conference had a high rate of distrust among the parties, with a suspicion among the developing countries that the developed countries would sneak their way out of commitments by halting the negotiations on a continuation of the Kyoto Protocol. The breakdown of the negotiations in Copenhagen can in many ways be seen as related to a lack of trust between the parties that made them unwilling to cooperate. Yet, the US took the first step to reducing this distrust by establishing MRV that would allow states to monitor each other's compliances with their commitment, which is identified as one of the institutions' main functions to establishing trust and cooperation. The US thus managed to lay some foundational work for the UNFCCC institution that gradually has been expanded on to allow cooperation to occur at the Paris Conference.

The implementation of the MRV can be seen as at the centre of institutionalism, since it provides a credible flow of information with a third party in the form of an expert group that will assess the report and compliances of each country. The possibility of providing false information or the existence of an "uncertainty of quality" has thereby been reduced. One example of "uncertainty of quality" can be found in the information provided by China, as the different levels of governments have been known to embellish on numbers to satisfy the central government and gain promotions. The MRV reduces this uncertainty and provides all parties to the Convention with trust-worthy information. The MRV, furthermore, makes it easier to assess each other's' actions, which provide the parties with another reason to comply with their commitments, since non-compliance would cause a bad reputation that would place them at a disadvantaged position in future negotiations since they cannot be trusted to uphold their commitments. The Copenhagen Conference may not have been successful in producing an agreement, but it was able to lay the groundwork for transparency in negotiations and future agreements.

The Paris Conference has elaborated on transparency by implementing its own institutional organizations for compliance with the implementation of a "global stocktake" that will oversee the parties' actions and assess the collective progress. The "global stocktake" thus provides an opportunity to assess who are doing their part and who should seek to do more to reach the

collective goal of preferable remaining below 1.5 degrees Celsius increase. Furthermore, the Paris Agreement calls for an implementation and compliance mechanism that should be expert-based and facilitative, along with transparent, non-adversarial and non-punitive.<sup>144</sup> The agreement has thus called for the establishment of a mechanism that will secure compliance by all parties, which most significantly has allowed the Conference in Paris to circumvent the issue of whether or not the commitments should be legally-binding, a much contending issue. Instead of legally-binding commitments, the parties are submitted to peer and public pressure that will push them to uphold their commitments and might be just as effective.<sup>145</sup> The expansion of the transparency framework of climate change actions has had a clear influence on the possibility of cooperation since it now allows all parties to make commitments without being legally bound which makes it possible to include both China and the US, who do not need the Senate's or Congress' approval on non-legally-binding agreements as long as it does not include new financial commitments<sup>146</sup>. The inclusion of China and the US are essential for any agreement as they constitute the two largest emitters of GHG, both sides have thus called for stronger commitments from each other, but have been reluctant to provide them as such commitments would have placed them in a disadvantaged position to the other. By applying peer pressure, the issue is turned away from a question of disadvantaged positions, since the rules may now be changed, bent or on occasion be broken. The parties are thus provided with some leeway to act in their own interest if circumstances calls for is.

A better flow of information can cause a spill-over of cooperation, with parties taking up bilateral cooperation on mitigating climate change outside the UNFCCC's forum. Such cooperation was seen in the US-China joint statements, where the 2014 announcement stated an advancement of cooperation on areas such as Joint Clean Energy Research and Development, Reduction of HFC (highly potent GHG) and Carbon Capture, Utilization and Storage Demonstrations.<sup>147</sup> The expansion of cooperation expands the trust between the parties as relationships are being formed, forming a giant web of cooperation between different issues in the same regime that makes it easier for side-payments where agreement on one issue can cause agreement on another which makes it easier to establish non-beneficial deals. As explained in the theory section on institutionalism, such a web provides the parties with greater incentives to comply with agreements, since non-compliance may untangle the giant net of cooperation which would be quite costly for any party.

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<sup>144</sup> Paris Agreement, art. 15

<sup>145</sup> Bodansky, "The Paris Climate Change Agreement": 33

<sup>146</sup> Bodansky, "The Paris Climate Change Agreement": 13

<sup>147</sup> White House, "U.S.-China Joint Announcement on Climate Change"

The Paris Conference can be seen to have succeeded in providing the parties with strong incentives to comply with their commitment, built on better information flow between countries with parties announcing their mitigation targets well in advance of negotiations and enhanced cooperation on climate actions. The expansion of the transparency framework has arguably played a significant role in the success of the Paris Conference as it provides the parties with a security of each other's compliances and has a dependence on peer pressure instead of legally-binding commitments. The change in the form of commitments has allowed for some leeway on commitments which has been necessary to achieve commitments from the US and China.

According to Waltz's political structure, the actors gain powers according to their capabilities. However, the US might in most global issues take a leader position, yet in terms of climate change, their capabilities are hampered by the American Senate and Congress, forcing the US to take a less significant role in climate change negotiations. Because of domestic restrictions, the US was perceived as "grandstanding from a position of relative weakness" in Copenhagen.<sup>148</sup> The US will, therefore, need the support of the homeland to achieve a greater role and influence in climate change negotiations and be able to show its full capabilities, unless it is able to remove the legally-binding aspect of the agreement. However, a move away from legally-binding commitments will not secure the US a complete freedom to act as the Senate and Congress will reject agreements that are deemed to go against the economic interest of the US. Yet, any rejection of agreement now would severely damage the US's reputation and be costly, since there would be a strong peer pressure from the rest of the world for the US to ratify the agreement. On the other hand, China has increased in will and ability to take on more responsibility from the Copenhagen Conference to Paris Conference, which has shown China's increasing capabilities in mitigating climate change and has caused China to gain a greater influence in the negotiations, which makes China capable of pursuing its own interests outside the alliances. China has thus been able to gain in influence since the Copenhagen Conference, while the US has remained the same.

## Conclusion

This research project has from the start set out to answer the question of why the international climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) failed to reach a climate change agreement at the Copenhagen

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<sup>148</sup> Christoff. "Cold Climate in Copenhagen": 649

Conference in 2009, but succeed in reaching an agreement at the COP 21 held in Paris in 2015? And furthermore, what role the United States and China have played in the international climate change negotiations? The theories of neo-realism and neo-liberal institutionalism was applied to the negotiations of the two outcomes of the Conferences; the Copenhagen Accord and the Paris Agreement, the focus was especially on the stances and actions of the US and China in order to determine their significant roles in the international climate change negotiations. The theories have been useful as they complement each other well in providing explanations for respectively discord and cooperation. The neo-realist stand sees the world system as an anarchic self-help system where countries are more concerned with self-interest and relative gains than the absolute gain of saving the world. On the other hand, the neo-liberal institutionalism is interested in transparency and flow of information that will establish security of the parties' commitments and make cooperation possible even when it might go against the countries self-interest to do so. The two theories together thus covers the full spectrum of negotiations.

The failure of the Copenhagen Conference is the result of a lack of relative gains on both the US and China's sides. They were both in an advantageous position of not being legally bound to commitments, where the US had concerns about being put in a disadvantaged position by being legally bound without China being in a similar situation, China had concerns about losing it autonomy. The US attempted to apply a neo-liberal institutional approach by obtaining transparency of the agreement with the MRV, however, such attempts were perceived by China as ways of gaining influence over the major economies and potentially force them into stronger actions and not as a way to make the agreements more credible. The Copenhagen Accord were thus only able to make small compromises, which were unacceptable for the weak states standing to lose the most if proper actions were not taken.

The steps towards MRV has laid the ground works for an institutionalism approach at the Paris conference as the parties were able to monitor each other's compliances with their commitment and were able to assess their credibility in agreements that would allow for trust and cooperation to occur. The Paris Agreement also elaborates on the institutional framework of the Convention by seeking to establish a compliance mechanism that will be expert-based and facilitative in securing the compliance of all parties. The adoption of transparency measures in Paris has made it possible for climate change negotiations to circumvent the much-discussed issue of whether an agreement should be legally binding or not, since measures are taken to secure their



compliances in a non-legally-binding way. Without legally-binding commitments, the US and China have become more inclined to take on greater actions towards mitigating climate change, since they are not strictly committed, but are provided with some leeway as rules can be bent or changed if they should infringe on their ability to develop or maintain peace domestically. Furthermore, China has been able to develop greater capabilities and a stronger position in the climate negotiations making it possible for China to exert greater influence in the negotiations. China has in its last two five-year-plans ascribed an increasing importance to renewable energies and has sought to build and expand on this sector. The interests of China have thus been aligned with the interest of the Convention in securing a strong climate agreement that for China would make the markets for renewable energies more profitable. China now stands to gain from making an agreement, unlike the situation in Copenhagen where cooperation went against China's interests by establishing legally binding commitments to mitigation actions that would potentially infringe on China's ability to develop economically.

The US and China can be seen to have played a big role in the discord or cooperation in the climate change negotiations. During the Copenhagen Conference, they were reluctant to cooperate or provide strong sacrifices, which caused the weak compromises that were made in the Copenhagen Accord, a direct result of final negotiations between the US and the BASIC countries. While on the road towards the Paris Conference, the US and China were able to make a compromise on the differentiation of responsibilities that were to be incorporated into the agreement and would provide emerging economies with responsibilities according to their capabilities. This shows a willingness by China to compromise and work towards an agreement. China has thus changed its stance from taking a hard and obstructive position in Copenhagen to taking a softer position of being willing to take on more responsibilities at the Paris Conference. On the other hand, the US's position has remained the same, with domestic constraints that restrict its capabilities forcing it to take a weak position in negotiations. However, the US should be seen to have had a great influence in the climate change negotiations by striving to obtain MRV in Copenhagen.

## Bibliography

- BASIC Joint Statement 17, quoted in Kathryn Hochstetler and Manjana Milkoreit, "Responsibilities in Transition: Emerging powers in the climate change negotiations" *Global Governance* 21 (2015) 205-226: 220
- Belis, David. Paul Joffe, Bart Kerremans and Ye Qi, "China, the United States and the European Union: Multiple bilateralism and prospect for a new climate change diplomacy", *Carbon and Climate Law Review* 9(3) (2015): 203-218
- Daniel Bodansky, "The Copenhagen Climate Change Conference: A post-mortem" *The American Journal of International Law* 104 (2010): 230-240
- Bodansky, Daniel. "The Paris Climate Change Agreement: A new hope?" *American Journal of International Law* 110 (2016)
- Brenton, Sir Anthony, "'Great Powers' in Climate Politics", *Climate Policy* 13, no. 5 (2013): 541-546, DOI 10.1080/14693062.2013.774632
- Christoff, Peter. "Cold Climate in Copenhagen: China and the United States at COP15", *Environmental Politics*, 19(4) (2010) 637-656, DOI: 10.1080/09644016.2010.489718
- Clinton, Hillary. remarks at the UNFCCC, Copenhagen (17<sup>th</sup> December, 2009), quoted in Trevor Houser, *Copenhagen, the accord and the way forward* (No. PB10-5) Washington, DC, Petersons Institute for International Economics, (2010): 10
- Doniger, David. "The Copenhagen Accord: A big step forward" *NRDC Climate Center* 21 (2009)
- Hochstetler, Kathryn and Manjana Milkoreit, "Responsibilities in Transition: Emerging powers in the climate change negotiations" *Global Governance* 21 (2015) 205-226
- Houser, Trevor. *Copenhagen, the accord and the way forward* (No. PB10-5) Washington, DC, Petersons Institute for International Economics, (2010)
- Obama, Barack H. Obama's Speech on Climate Change at the United Nations, *New York Times* (September 22, 2009) available at: [http://www.nytimes.com/2009/09/23/us-politics/23obama.text.html?\\_r=0](http://www.nytimes.com/2009/09/23/us-politics/23obama.text.html?_r=0)
- Obama, Barack H. Obama's speech to the Copenhagen climate summit, *The Guardian* (18<sup>th</sup> December, 2009) available at: <http://www.theguardian.com/environment/2009/dec/18/obama-speech-copenhagen-climate-summit>
- Obama, Barack H. "Statements of Heads of States and Governments", UNFCCC's COP 21, 30<sup>th</sup> November 2015. Available at <http://unfccc6.meta-fusion.com/cop21/events/2015-11-30-12-00-conference-of-the-parties-twenty-first-session-conference-of-the-parties-serving-as-the>

meeting-of-the-parties-to-the-kyoto-protocol-eleventh-session/his-excellency-mr-barack-h-obama-president-of-united-states-of-america

Jintao, Hu *President Hu Jintao's Speech on climate change, The New York Times* (23th September, 2009) available at <http://www.nytimes.com/2009/09/23/world/asia/23hu.text.html> quoted in Peter Christoff. "Cold Climate in Copenhagen: China and the United States at COP15", *Environmental Politics*, 19(4) (2010): 647

Kahn, Alfred E. "The Tyranny of Small Decisions: Market failures, imperfections, and the limits of econometrics." In Bruce M. Russett (ed.), *Economic Theories of International Relations*. (Chicago: Markham, 1968): 523, quoted in Kenneth N. Waltz, *Theory of International Politics* (Long Grove: Waveland Press inc., 1979): 108

Keohane, Robert O. *After Hegemony: Cooperation and discord in world political economy*, (Princeton, Princeton University Press: 2005)

Keohane, Robert O. "Institutional Theory in International Relations" in Michael Brecher and Frank P. Harvey (eds) *Realism and Institutionalism in International Studies*, (Ann Arbor, The University of Michigan Press: 2002)

Keohane, Robert O. *International Institutions and State Power: Essays in international relations theory*, (Boulder, Westview Press: 1989)

Keohane, Robert O. "Realism, Neorealism and the Study of World Politics", in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986)

Ruggie, John Gerard "Continuity and Transformation in the World Polity" in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986)

Terhalle, Maximilian and Joanna Depledge, "Great-power politics, order transition, and climate governance: insights from international relations theory" *Climate Policy* 13, no. 5 (2013): 572-588, DOI: 10.1080/14693062.2013.818849

Waltz, Kenneth N. "Political Structures" in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986)

Waltz, Kenneth N. "Reductionist and Systemic Theories", in *Neorealism and Its Critics*, ed. Robert O. Keohane (New York: Columbia University Press, 1986)

Waltz, Kenneth N. *Theory of International Politics* (Long Grove: Waveland Press inc., 1979)

Wu, Fengshi and Yuan Xu, "Sino-American Environmental Relations: The Potential of trans-societal linkages", *Issues and studies* 49, no. 3 (September, 2013): 73-110

Wu, Fuzuo. "China's Pragmatic Tactics in International Climate Change Negotiations: Reserving principles with compromise", *Asian Survey* 53, no. 4 (July/August, 2013): 778-800

Wu, Fuzuo. "Sino-Indian Climate Cooperation: Implication for the international climate change regime", *Journal of Contemporary China* 21(77), (September, 2012): 827-843

White House, "U.S.-China Joint Announcement on Climate Change" (Washington D.C.: White House, November 12, 2014) available at: <https://www.whitehouse.gov/the-press-office/2014/11/11/us-china-joint-announcement-climate-change>

White House, "U.S.-China Joint Presidential Statement on Climate Change" (Washington D.C.: White House, September 25, 2015) available at: <https://www.whitehouse.gov/the-press-office/2015/09/25/us-china-joint-presidential-statement-climate-change>

Zhang, Zhongxiang. "China's Role in Climate Change Negotiations: Perspectives for COP21" Berlin, Germany, Friedrich-Ebert-Stiftung, (November, 2015)

UNFCCC, *The Paris COP decision and agreement*, available at [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)

UNFCCC, *The Copenhagen Accord*, available at: <http://unfccc.int/resource/docs/2009/cop15/eng/107.pdf>

#### *Electronic sources*

IISD, "Our Mission" *International Institute for Sustainable Development* at <http://www.iisd.org/about/about-iisd>.

IISD, "Copenhagen Highlights: Monday, 7 December 2009", *Earth Negotiations Bulletin* 12(449), 8<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Wednesday, 9 December 2009", *Earth Negotiations Bulletin* 12(451), 10<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Thursday, 10 December 2009", *Earth Negotiations Bulletin* 12(452), 11<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Saturday, 12 December 2009", *Earth Negotiations Bulletin* 12(454), 14<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Monday, 14 December 2009", *Earth Negotiations Bulletin* 12(455), 15<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Wednesday, 16 December 2009", *Earth Negotiations Bulletin* 12(457), 17<sup>th</sup> December, 2009

IISD, "Copenhagen Highlights: Thursday, 17 December 2009", *Earth Negotiations Bulletin* 12(458), 18<sup>th</sup> December, 2009

IISD, "Paris Highlights: Monday, 30 November 2015", *Earth Negotiations Bulletin* 12(653), 1<sup>st</sup> December, 2015, available at <http://www.iisd.ca/climate/cop21/enb/>

IISD, "Paris Highlights: Tuesday, 1<sup>st</sup> December 2015", *Earth Negotiations Bulletin* 12(654), 2<sup>nd</sup> December, 2015, available at <http://www.iisd.ca/climate/cop21/enb/>

IISD, "Paris Highlights: Thursday, 3<sup>st</sup> December 2015", *Earth Negotiations Bulletin* 12(656), 4<sup>th</sup> December, 2015, available at <http://www.iisd.ca/climate/cop21/enb/>

IISD, "Summary of the Copenhagen Climate Change Conference: 7-19 December 2009", *Earth Negotiations Bulletin* 12(459), 22<sup>nd</sup> December, 2015, available at <http://www.iisd.ca/enb/vol12/#2009-COP-15-CMP-5>

IISD, "summary of COP 21", *Earth Negotiations Bulletin* 12(663), 15<sup>th</sup> December, 2015, available at <http://www.iisd.ca/climate/cop21/enb/>

UNFCCC "Background on the UNFCCC: The international response to climate change," *United Nations Framework Convention for Climate Change*, [http://unfccc.int/essential\\_background/items/6031.php](http://unfccc.int/essential_background/items/6031.php)

UNFCCC "Kyoto Protocol", *United Nations Framework Convention for Climate Change* [http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php).