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The Paris Agreement and its Rulebook in a Problem-Solving Perspective

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Abstract

The aim of this article is to assess and explain the effectiveness of the international climate regime in a problem-solving perspective, with a focus on mitigation. As CO2 emissions have increased by more than 60 per cent since the start of the climate negotiations, effectiveness is exceedingly low. In explaining the performance of the regime, the main focus is on its problem-solving ability, defined as a function of power, leadership, and institutional design. 'Negative' power and a lack of leadership constitute important reasons for low effectiveness. In this broader perspective, the role of institutional design, exemplified by the Paris Agreement and its Rulebook, is fairly modest, and its significance should not be exaggerated. The Agreement and Rulebook score high in terms of ambition, but whether the rules will ever realize those ambitions remains to be seen. Domestic interests and priorities of the most important emitting countries will be decisive in this regard.

Keywords

Paris Agreement; Paris Rulebook; regime effectiveness; institutional design.

1. Introduction

The purpose of this article is wider than the other articles in this special issue, which focus on the Paris Agreement and its Rulebook. Here, an international relations (IR) perspective is applied in analysing the broader international (UN) climate regime, from its initiation up until COP 24. The main focus is on how effective it has been and how this can be explained. This could be done in a number of different ways,[1] but here I use a problem-solving perspective: to what extent has the climate regime been able to contribute to solve the problem it was set up to deal with in the first place. The point of reference is the UNFCCC's main goal to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Thus, the focus of the article is on mitigation.

[1] Oran Young , 'Effectiveness of International Environmental Regimes: Existing Knowledge, Cutting-Edge Themes and Research Strategies', *Proceedings of the National Academy of Sciences* 108 (50): 19853-60.

I argue that the regime's score in terms of problem-solving ability is exceedingly low. Problem-solving ability is conceived to be a function of three variables: power, leadership, and institutional design. Both 'negative' power and a lack of leadership have been important in explaining the regime's low effectiveness. In this broader perspective, the significance of institutional design, exemplified by the Paris Agreement and its Rulebook, should not be exaggerated. However, it does represent a small but important piece of the puzzle in deciding future emissions trajectories.

The article is organized in two main parts. In section 2, the theoretical perspective is briefly presented. In section 3, this perspective is applied in assessing and explaining the regime's performance.

2. Theoretical Perspective: Assessing and Explaining Effectiveness

These are complex methodological questions, discussed in much detail by leading IR scholars[2] and others. I myself have also grappled with this issue in previous publications.[3] Here, a short and simplified version will be presented in order to highlight some of the most important features of this approach and way of thinking.

How can effectiveness or degree of problem-solving be measured; that is, how do we deal with the dependent variable? It is generally agreed in the IR community that it can be measured along three dimensions: output, outcome, and impact. Output is the rules and regulations emanating from the regime. This is the main approach applied by international legal scholars when dealing with the issue of effectiveness.[4] The thinking is that the stricter and more precise the rules and regulations, the more effective the regime can be expected to be. That is, legally binding and ambitious rules and strong compliance measures can, as a point of departure, be expected to render relatively high effectiveness. This measure is fairly straightforward to apply and therefore has a high score on reliability. However, from an IR perspective, the score is not necessarily as high in terms of validity. This is because rules are not always followed. If they are not, the agreement may be more of a paper-tiger than an effective regime.[5] One pertinent example is the LRTAP acid-rain regime where it has been documented that there was massive cheating from many member states in Eastern Europe before the fall of the Iron Curtain.[6] This can easily occur, as figures sent in are usually based on self-reporting,

[2] See for example Arild Underdal, 'Method of Analysis' in Edward Miles et al, *Environmental Regime Effectiveness Confronting Theory with Evidence* (MIT Press, Cambridge Massachusetts), 47-63. 2002. Helmut Breitmeier et.al. *Analyzing International Environmental Regimes: From Case Study to Database*, (Cambridge, MA: MIT Press), 2006.

[3] Steinar Andresen and Elin L. Boasson, 'International climate cooperation: clear recommendations, weak commitments, in Steinar Andresen et al (eds) *International Environmental Agreements An Introduction* pp.49-67. Routledge, 2012, Steinar Andresen, 'Effectiveness', in *Encyclopedia of Global Environmental Governance and Politics*, Philipp Pattberg and Faribor Zelli, eds. (Cheltenham, UK, Edward Elgar): 441-447.

[4] Geir Ulfstein (ed.) in collaboration with Thilo Marauhn and Andreas Zimmermann, *Making Treaties Work Human Rights, Environment and Arms Control* Cambridge 2007.

[5] Marc Levy et al 'The study of international regimes', *European Journal of International Relations* 1 (3):267-330.

[6] Jørgen Wettestad, 'Reducing long-range transport of air-pollution in Europe, in Steinar Andresen et al *International Environmental Agreements An Introduction* pp. 23-38. Routledge 2012.

often with little or no independent verification. This therefore take us to the heart of the special issue: the nature of the reporting that the Rulebook sets up. It should be taken into account that cheating may not be the most relevant issue in this regard, particularly for global regimes; rather, capacity to report correctly may be the greater problem.

The issue of reporting is usually considered the least demanding, and maybe also least important, in terms of effectiveness for legal scholars, compared to, for example, enforcement and compliance mechanisms, which are often more difficult to agree upon, particularly in global regimes. The fact that rules are not always followed, for a variety of reasons, is why IR scholars argue that output can only be considered potential effectiveness, and they add two new dimensions, outcome and impact. Outcome deals with the (possible) link between the rules and regulations of the international regime in question and the behaviour of the relevant target groups on the ground. The key issue to measure is whether they change their behaviour in a way that is prescribed by the regime. So, did a fall in greenhouse gases occur after the adoption of the UNFCCC and can it be attributed to the regime? This last question is most important, but it is often forgotten when policymakers 'brag' that there have been emission reductions in their constituencies. Such reductions may be due to factors unrelated to the regime; for example, energy restructuring to improve energy security or economic recession.

Establishing causality between the regime and behaviour is therefore a question that looms large, as it is usually methodologically very challenging, indicating that it has a higher score on validity but a lower one on reliability. This is even more so when it comes to the impact indicator, which causally establishes a link between the regime and actual problem-solving. A host of other factors often affect the level of problem-solving significantly. To precisely decide what proportion of problem-solving the regime can be assigned is exceedingly demanding, raising complex causality questions.[7]

Turning then to the question of how effectiveness can be explained (the independent variable), this is at least as demanding a task as deciding the international regime's effectiveness. Moreover, there is no consensus in the relevant research community about what the most important explanatory perspectives are, as a number of variables have been introduced.[8] To simplify, there is, however, agreement that both factors directly related to the regime and non-regime factors make a difference to the effectiveness achieved. Among the non-regime factors, the nature of the problem deals essentially with how politically or intellectually malign or benign the issue is. The more negative the score, the lower the effectiveness can be expected to be—and the converse. Empirical research has shown that 'pure' malign or benign problems are rare, and that most fall somewhere in between.[9] It is a well-known fact that the problem of curbing greenhouse gas emissions is exceedingly malign. This perspective will therefore not be further dealt with when explaining the effectiveness of the climate regime.

[7] Oran Young 'Determining Regime Effectiveness: A Commentary to the Oslo-Potsdam Solution', *Global Environmental Politics* 3 (3) : 97-104.
[8] Ron Mitchell, *International Politics and the Environment* (Thousand Oaks, CA: Sage), 2010
[9] Edward Miles et a,. *Environmental Regime Effectiveness: Confronting Theory With Evidence* (Cambridge, MA: MIT Press), 2002.

Among the international regime's specific features, its problem-solving ability deals with the fact that some international regimes are equipped with stronger political and institutional properties than others, making them more likely to achieve higher effectiveness than those with weak properties. A number of variables can be considered relevant in this approach. One way is to regard 'regime strength' as a function of three variables: power, leadership, and institutional design.[10] An international regime with powerful state actors working for a strong regime, and also exerting leadership, within a setting of strong and sophisticated institutional design has a better chance of achieving an effective regime compared to the opposite situation, where the most powerful actors behave as laggards, with little or no leadership and weak institutions.

While it is the nature of the problem that most powerfully explains the effectiveness of the climate regime, this feature tends to be rather stable and difficult to manipulate or change. The problem-solving ability is more relevant and interesting for researchers as well as policymakers as it can be more easily changed or manipulated. As this is also more relevant for this special issue on the Paris Agreement and Rulebook, in particular the question of institutional design, I will focus on this perspective only in explaining effectiveness.

3. Assessing and Explaining Effectiveness of the Evolving Climate Regime

3.1. A Very Low Effectiveness Score

The rules and regulations (outputs) that have emerged from the negotiations at various key crossroads will not be dealt with here. The most relevant approaches, institutions, and rules adopted will instead be discussed primarily under the significance of the institutional design in explaining what has been achieved in terms of mitigation and emission reductions.

In contrast to many international environmental regimes, it is fairly straightforward to decide the problem-solving effectiveness of the international climate regime. This is because CO2 emissions today are more than 60 per cent higher than they were in 1990 when the negotiations were initiated.[11] Considering the goal of the UNFCCC when it was adopted in 1992 and the efforts of myriad participants of various kinds to address the problem over a period of some thirty years, it is tempting to conclude that this has been a complete failure in terms of problem-solving, for the problem is much more severe today than it was at the start of the international process.

However, there is a need to cast the net wider. Using a counterfactual argument, what would have happened in the absence of the UN climate regime? Although impossible to measure precisely, there is hardly any doubt that the current sorry state of affairs would have been worse had it not been for the UN climate regime. Consider the significant role played by the IPCC. There has been an impressive progress in science, knowledge, and communication through the IPCC. Climate change was unknown to most people

[10] See note 3, Andresen and Boasson.
[11] http://edgar.jrc.ec.europa.eu/overview.php?v=booklet2018 (Table A.1 CO2 emissions per country and group.

around 1990. Now the general public, particularly in the OECD region but also in key actors like China, assisted by media coverage, have a much better knowledge of the dangers of climate change.[12] This is an important prerequisite for action on the ground.

Leading experts on international climate negotiations has pointed out that while the science is advancing rapidly, politics lags behind, creating a widening discrepancy between the two processes.[13] However, the climate regime has spurred real political action, action that would not have happened in its absence. Why then do emissions continue to increase? I will now attempt to answer this question.

3.2. The Problem-Solving Ability of the Regime: Power and Leadership

At the outset it is necessary to state that a simplified picture is painted below of this long and complex process, so experts might think that important nuances are missing. My focus is primarily on the role of some key states and the European Union. That may be criticized for representing an overly state-centric perspective. The reason for it is that states have been by far the most important players in the process. Yes, many non-state actors have been active and important. As already noted, this is particularly true of scientists involved with the IPCC. However, their influence has been modest, as they give advice on the necessity to reduce emissions, while emissions continue to increase. The adoption of ambitious goals in the Paris Agreement may be interpreted as an increase in scientific influence, but the NDCs to date indicate that this is mainly lip-service. The environmental community has been both vocal and very active in the process. However, it has had little influence if we compare what they call for with what policymakers and negotiators are doing. Expert NGOs, however, did have had a significant influence on more technical issues, such as compliance rules and emission trading.[14] Industry and business have been more important in defining national interests. Overall, they have tended to be opposed to a forceful climate policy, but recently the picture is more nuanced as a result of the rise of the renewables industry, as well as the weight being placed on the significance of being 'green'.

Let us return to the process before the start of the formal climate negotiations. It has been pointed out that the Toronto Conference on the Atmosphere was a key instigator of the process of negotiations.[15] It was not a government conference. It was made up of activist scientists and environmentalists, as well as a few key decision-makers, such as Norwegian Prime Minister Brundtland. The main message from that event was crucially significant for the approach taken in the UN process. First, participants claimed that the problem was created by the North, and it should therefore be solved by the North. Second, they championed the idea of a top-down target-and-timetable approach. These two elements have been at the core of the negotiations until the adoption of the Paris

[12] See note 3, Andresen and Boasson 2012.
[13] Todd Stern and David Victor, 'Brookings Intersection Podcast: Priorities for climate change action after COP 24 (Brookings Institution, Washington DC), 2018.
[14] Lars Gulbrandsen and Steinar Andresen, 'NGO Influence in the Implementation of the Kyoto Protocol: Flexibility' Mechanisms and Sinks', *Global Environmental Politics* Volume 4 Number 4 2004: 54-76.
[15] Steinar Andresen and Shardul Agrawala, 'Leaders, pushers and laggards in the making of the climate regime', *Global Environmental Change* 12 (1).41-51, 2002.

Agreement. Those mainly non-government actors proved to be very important in framing the issue. .

I turn now to the two concepts of power and leadership. I define power simply as the ability of the key actors to shape the outcome of the negotiations in their preferred ways. Leadership is more complex and may appear in various shapes. Four types of leadership have been identified: power-based, intellectual, instrumental, and leadership by example.[16] I will not go into much detail in discussing how these various types play out in this process. It is important to remember, however, that the concept of leadership is relational; to qualify as a leader you have to generate followers. This aspect is often forgotten when the virtue of leadership is discussed. Also, in order to differentiate leadership from ordinary negotiation behaviour in securing the national interest, some notion of a 'common good' is usually included in the leadership concept.

How has power by key actors played out in this process? The most powerful actor in terms of shaping the outcome all the way through to the Paris Agreement has been the United States. The EU was also influential for a long time, but its influence has been reduced more recently, while the power and influence of China has increased significantly, particularly over the last decade. For a long time, the main conflict was between the two main players, the United States and the EU, where the EU wanted high ambition and a top down-approach and the United States less ambition and a bottom-up approach. As a compromise between the two approaches, Japan suggested a 'pledge and review' approach (for Annex I parties), but this was scorned by many 'progressive' forces as too weak an approach. At the 1992 Rio Summit, the United States generally got its way while the influence of the EU for various reasons was limited.[17] Because no legally binding target was adopted, the UNFCCC was regarded as disappointing by many observers. The divide between the OECD states and developing countries in terms of commitments was laid down in the Convention.

Overall the Kyoto Protocol was a genuine compromise between the main actors, but again the United States was also the most influential actor in the making of the Kyoto Protocol, not least regarding the adoption of the flexibility mechanisms.[18] The EU and other 'progressive' actors were against the flexibility mechanisms as, it was argued, they reduced the environmental integrity of the Protocol.

The process from Rio to Kyoto had been quite swift, not least because the EU and the United States in this period agreed on the top-down approach. However, the process stalled between 2001 and 2009, not least because of the blocking role of the United States and the increasing North-South divide. Expectations were high with the election of the Obama administration, but these vanished with the adoption of the Copenhagen

[16] Oran Young 'Political leadership and regime formation: on the development of institutions in international society'. *International Organization* 45 (3): 281-309, 1991, Arild Underdal Leadership theory: Rediscovering the art of management, in W. Zartman (ed.) *International multilateral negotiations: Approaches to the management of complexity* pp. 178-197 San Francisco, CA: Jossey Bay Publishers, 1994.
[17] Daniel Bodansky, 'The United Nations Framework Convention on Climate Change: A Commentary, *The Yale Journal of International Law* Vol.18 (2):451-558, 1993.
[18] Michael Grubb et al . *The Kyoto Protocol: a guide and an assessment* London, Royal Institute of International Affairs, 1999.

Accord, which most observers saw as the low-point in the history of climate diplomacy. The Accord was adopted behind closed doors by the United States and a handful of emerging economies, with the EU not even invited in. Most numerical goals were removed from the text, China was blamed for lacking ambition, and the United States with Obama at the helm won with the adoption of a bottom-up approach, generally regarded by 'progressive' actors as very weak and pragmatic.

After Copenhagen, the EU worked hard for a follow-up to the top-down Kyoto Protocol, but did not succeed, not least because of the increasing demands of many Annex I parties that emerging economies had to take on real commitments. This setting paved the way for the adoption of the Paris Agreement. The 2014 bilateral agreement between the United States and China facilitated adoption of the Agreement.[19] With the United States more or less out of the picture after Paris, increasing internal strife in the EU, and a cautious role played by China, a power vacuum emerged. This may be one reason for the slow progress between COP 21 and COP 24.

The above gives an overview of the most significant players in the process and how they have influenced it. There is little doubt in my mind that the very strong influence of the United States from the start is one reason for the rather weak climate regime, as the United States has been a 'laggard' for most of this period, with low ambition, weak or no federal climate policy, and strong internal strife.[20] The alliance with China made for a de facto veto power in Paris, considering their combined political and economic strength and their high share of greenhouse gas emissions. This illustrates the key role of power in explaining the process, but has there been any leadership?

The leadership concept is popular, and all policymakers want to stand forth as leaders. The concept is also overused in academic analysis, contributing to its dilution.[21] In the way the leadership concept is used here, it has actually been in short supply, as traditional negotiating behaviour toward securing national interests has dominated. The role of the group of activists in the pre-regime phase may qualify as leadership, in the sense that it generated followers and spurred the start of the UN negotiations. At the time it also made sense to single out the responsibility of the rich countries, an approach that was also accepted by the negotiators. But there was no leadership exerted in the making of the UNFCCC, only traditional bargaining. This seems to be different in the making of the Kyoto Protocol, as it is widely believed that the sixteen hours of Vice President Al Gore being present during the last section of the negotiations contributed to a softening of the US negotiating position on the targets, thereby enabling an agreement. It seems to qualify as individual instrumental leadership.[22] However, this interpretation is not necessarily correct, as it has been argued that due to the Byrd-Hagel resolution adopted in the US Senate, Gore was aware that the Protocol would never be accepted in

[19] Daniel Bodansky, 'Reflections on the Paris Conference', *Opinio Juris* Retrieved from http://opiniojuris.org, 12-15, 2015. Steinar Andresen et al. 'The Paris Agreement: Consequences for the EU and Carbon Markets?', *Politics and Governance* Vol 4 (3):188-196.
[20] Jon B. Skjærseth et.al 'Explaining growing climate policy differences between the EU and the US, *Global Environmental Politics* Vol.13 (4):61-80.
[21] Tora Skodvin and Steinar Andresen, 'Leadership revisited' *Global Environmental Politics* Vol. 6 (3): 13-28.
[22] See note 15.

the US Senate. Therefore, it is argued, Gore's stance was more for the purpose of boosting his own environmental image than an instance of true leadership.[23]

Another incident concerning the Kyoto Protocol illustrates that what can be seen as undermining the environmental integrity of an agreement at one point in time, can be seen as leadership at another. As I noted, the United States was criticized, not the least by the EU, on the flexibility mechanisms. However, while the former never adopted an ETS, the latter changed its position and was the first actor to adopt one. Now, many saw this as leadership by example. Analysts have also labeled the EU more generally as being a leader by example for its comparatively ambitious climate policy.[24] The EU is no doubt the most ambitious actor among the heavyweights, but because it has not generated any followers (of significance), it hardly has a claim to leadership.

The United States has also been called a leader in the making of the Paris Agreement.[25] As already noted, the United States was very influential in this process, and President Obama took a personal interest in the issue. On closer look, however, it appears more a case of clever bargaining for securing national interest than leadership. The institutional architecture of the Paris Agreement is a blueprint of the long-favoured US approach. Moreover, the United States was able to weaken the legal nature of the agreement, to avoid the need for Senate ratification.[26] The Trump administration's negative stance has reduced both US influence and credibility, thereby contributing to a significant lowering of the political and institutional energy needed to move the process forward.[27]

Thus while the malign nature of the problem is most important in explaining the lack of effectiveness of the climate regime, this is compounded by the strong influence of 'negative' power as well as a lack of leadership. What is the significance of institutional design in this broader picture?

3.4. Institutional Design: The Paris Agreement and its Rulebook

The effectiveness of a regime may be enhanced if it is designed in such a way that it will contribute to emission reductions compared to a business-as-usual scenario. Let us first look briefly at the development of institutional design within the UN climate regime to evaluate the Paris Agreement and Rulebook in a broader perspective. Looking back, maybe the most important part of the UNFCCC was not the absence of a binding goal but the fact that it launched a process to attain a deeper understanding of the nature of the problem through gathering relevant information and developing review procedures. However, this applied primarily to Annex I parties, a small subset of all actors, albeit including most of the main emitters at the time.

[23] Jon Hovi et.al. 'Why the United States did not become a party to the Kyoto Protocol, German, Norwegian and US perspectives', *European Journal of International Relations* (Sage Science Press, 18 (1): 129-150.
[24] Sebastian Oberthur and C.R.Kelly, 'EU leadership in international climate policy: Achievements and challenges'. *International Spectator* 43: 35-50, 2008.
[25] C.F. Parker and C. Karlsson, 'The UN climate change negotiations and the role of the United States: Assessing American leadership from Copenhagen to Paris', *Environmental Politics* 27 (3):519-540.
[26] See note 19, Andresen et al.
[27] See note 13.

In terms of stringency and specificity, the Kyoto Protocol represented a significant step forward, thereby contributing to *potentially* higher effectiveness of the climate regime. The Protocol was legally binding, top-down, with specific goals and a fairly strong compliance mechanism.[28] The flexibility mechanisms were innovative, and the provisions for quota-trading contributed to spur the establishment of trading in the EU and elsewhere. The CDM itself may have contributed to some technological innovation. Thus, these mechanisms, as well as the binding targets, probably contributed to emission reductions in Annex I parties. However, the Kyoto Protocol bolstered the bifurcation, and at least with the benefit of hindsight, this was a major weakness of the Protocol.[29] Thus, despite having an advanced institutional set-up, emissions grew stronger after the adoption of the Protocol, as the bulk of the increase in emissions began to come from the South. The United States' exit, the world's largest emitter at the time, contributed to further weaken the practical significance of the Protocol.

The main achievement of the Paris Agreement is that the increasingly irrelevant bifurcation was removed, as all members are obliged to submit NDCs. The bottom-up approach is the *main* element of the Agreement. In short, the states are free to decide their goals, actions, and contributions—a major victory, and precondition, for the Global South and the United States, who would otherwise not have accepted the Paris Agreement. However, it is also a pledge-and-review approach by means of certain top-down elements, illustrated most clearly by Global Stocktake.[30]

It was a diplomatic victory to get universal support for the Paris Agreement. The aims laid down in the Agreement are also impressive. However, as Decision 1/CP.21 itself concedes, there is a huge discrepancy between those aims and the first NDCs. Note also that one cannot automatically expect all pledges to be delivered, as this process was very swift and it is an open question how well grounded the commitments are. In short, based on ambition, the environmental integrity of the Agreement is high, but based on expected action, it is exceedingly low.

Another major weakness of the Paris Agreement is its vagueness, illustrated by the fact that it was endorsed by all major parties with strongly different preferences and interests. That is, the Agreement can be interpreted in fundamentally different ways.[31] The fact that it came into force so quickly, in contrast to the Kyoto Protocol, indicates that it does not infringe much on key national interests. This may be due to the fact that it is not very demanding in terms of hard-law commitments, but rather works through political peer pressure and possible 'shaming and blaming' of parties not living up to their commitments. The effectiveness of this soft approach remains to be seen.

Considering the vague nature of the Paris Agreement, has the Rulebook been able to clarify its ambiguities? This is a question primarily for legal scholars, and the other

[28] See note 24.
[29] Steinar Andresen, 'The Climate Regime: A Few Achievements but Many Challenges, *Climate Law* 4 (2014): 21-29.
[30] See Zahar, this volume.
[31] See note 19, Andresen, et al.

articles in this special issue provide detailed analysis of various aspects of the Rulebook. Below I briefly discuss some key elements, to illustrate the significance of these design features in the broader picture presented here, based primarily on the analysis given by *Earth Negotiations Bulletin* and some of my own interpretations.[32]

Progress was very limited at COP 24 for much of the conference, so it was by no means evident that there would be agreement on a Rulebook. As with many of the previous 'milestone COPs', this contributed to low expectations. The fact that an agreement was finally reached could therefore be presented as a victory, irrespective of substantive output. The most difficult issue was that of differentiation in mitigation efforts between the North and South. At COP 24, the majority view prevailed, of creating a common set of elements that all should apply in their NDCs. The demand from some developing countries that the binary approach should continue was finally buried, at least in principle. However, developed and developing countries can differentiate by applying different types of targets, such as absolute emission-reduction targets and relative emission-intensity targets, respectively. This makes the key issue of *comparison* of efforts and actions very difficult, particularly as these different approaches apply for some of the major (emerging economy) emitters.

The main mission of the Global Stocktake is to consider collective progress. As a point of departure, this makes sense, as what matters most is the overall progress. However, this approach masks differences between states. Some may perform excellently while others may be laggards, not living up to their commitments. The collective approach may thereby be a disincentive for individual action, as progressive action may be nullified by inaction by others. It is vital, then, that a collective approach is supplemented with an individual approach, and it has been argued that the present rules make this possible.[33] It remains to be seen how this will work out in practice. Another weakness of the Stocktake is that non-state actors will play only a modest role.[34]

Together with the Global Stocktake, the transparency provision is regarded as the main mechanism to seek increasing ambition, and all parties are to deliver transparency reports every second year. However, the first report is not due until 2024. The Stocktake delivers its results at the end of 2023, thereby seemingly diminishing its value, as it will have less information to review. Flexibility regarding scope, frequency, and level of detail for developing countries is also allowed. This was necessary to reach agreement, but it may reduce the value of these mechanisms, particularly if the emerging economies with significant emissions avail themselves of this right. From a problem-solving perspective it matters less that added flexibility is provided to the LDCs and SIDS, for their contribution to emissions is very modest.

Parties were not able to come to agreement on the future role of the market in the institutional structure of the Rulebook, with the issue postponed to COP 25. However, this will have little or no effect on existing emission-trading systems. There has been some diffusion and learning among the various existing ETS approaches, but their key

[32] Earth Negotiations Bulletin Vol.12 No.747, 1-34.
[33] See Zahar, this volume,
[34] See note 32.

design features reflect domestic considerations and they are not driven by the UN regime; as for a global market, it appears to be a distant dream.[35]

Some progress and clarification, however, was attained regarding the compliance mechanism.[36] The fact that a implementation and compliance committee has been set up at an early stage is in itself important, as this is often a neglected issue in many MEAs. Given the broad global participation, it also makes sense that a facilitative approach has been chosen. Importantly, the Article 15 Committee is now empowered to initiate of its own accord consideration of non-compliance.

Time frames for review and revision of guidelines are also set up as a means to increase ambition over time. Increased ambition runs through the Paris Agreement and its Rulebook as a red thread. According to the UN Secretary-General, the priorities are now: "ambition, ambition, ambition and ambition".[37] However, it is less obvious that the Rulebook delivers on this point. No progress was agreed to in relation to the so-called Talanoa Dialogue. There was a diminished focus on the Global Climate Action Agenda, and there was no significant breakthrough in terms of increasing 2020 NDC ambition. Much attention was given to the opposition of the United States and a few of its key allies in 'welcoming' the IPCC Special Report on 1.5°C. However, this was more about rhetoric and ideology than realities. The fact that the large majority of states endorsed that report says little or nothing about what they will actually be willing and able to contribute towards reaching that goal. The NDCs offer little hope in that regard.

The Rulebook is able to clarify some of the ambiguities of the Paris Agreement, but it is an open question whether it will be able to deliver in terms of increasing the problem-solving effectiveness of the regime. One challenge is the time dimension. Note that it took twenty-six years to get a truly global reporting, transparency, and review system in place for the world at large. Moreover, the deadlines noted in the Rulebook for the various processes are already located the next decade. There is no time to continue along this 'snail-pace' track envisioned in the Rulebook if the target fleshed out by the IPCC Special Report is to be reached.

Recall also that the Rulebook is essentially about process. It appears that the negotiators envision a causal link between these procedures and the key concept of ambition. It is the first time this concept is used in the institutional set-up of the climate regime.[38] It replaces the previous target-and-timetable approach laid down in the 1992 Convention and the Kyoto Protocol. Target and timetable were effectively 'killed' by China at the 2009 COP, stripping the Copenhagen Accord of all its numerical targets but the 2°C goal.[39] In this sense, the Paris Agreement is also a direct follow-up of the Accord, adding the concept of ambition. The concept of ambition is more positively value-laden than the target-and-timetable approach. It indicates a willingness for forceful action to

[35] Jørgen Wettestad and Lars Gulbrandsen, *The Evolution of Carbon Markets, Design and Diffusion*, (Routledge, London and New York).
[36] See Voigt et al, this volume.
[37] See note 32.
[38] See Zahar, this volume.
[39] See note 3, Andresen and Boasson,

reach an ambitious goal. The Paris Agreement and Rulebook say that the NDCs are to increase ambition over time, but there is no guarantee that this will happen.

The climate regime is by no means the most important driver in terms of changing emission trajectories. This is decided primarily by national priorities and preferences related to economic and energy policies as well as population growth. Basic national interests will hardly change fundamentally through the magic word of ambition in the Paris Agreement and Rulebook. A silver bullet regarding emission trajectories is technology, and the climate regime may offer some positive opportunities here through its arena function. The UN climate regime represents an important arena for coordination and cooperation, and the Rulebook is a guide, a facilitator, and creates transparency. Whether this will enhance effectiveness remains to be seen.

4. Conclusion

Considering that the main purpose of establishing MEAs is to solve, or at least reduce, the problem that led to their establishment, the climate MEA is a depressing sight. Nevertheless, applying the counterfactual argument, the problem would have been even more severe in the absence of the regime. The main reason for the lack of problem-solving is the 'malign' nature of the problem, compounded by a lack of leadership and a strong and 'negative' power politics. Within this broader perspective, institutional design of the various regime components has limited significance, but it can make a positive difference. This was the case with the Kyoto Protocol, although the positive effects of some of its features were more than offset by the narrow geographical scope of the Protocol—its major institutional deficiency.

By comparison, the Paris Agreement and Rulebook represent an important step forward, as all states have NDCs. The many exceptions adopted, however, may reduce its value somewhat, especially as it also applies to emerging economies. Aims are very high, but so far there is a huge discrepancy between aims and planned action—the pledged NDCs. Increased ambition is expected over time, but whether the soft political peer-pressure approach will be able to deliver on this remains to be seen. The more basic drivers, such as economic and population growth, will probably continue to be more important for future emission trajectories than the Paris Agreement and Rulebook. They may, however, play a role in stimulating necessary technological innovation, and the UN process will continue to serve an important arena function for necessary global cooperation and coordination.