

Climatic collapse at The Hague: what happened, why, and where do we go from here?

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The collapse of the climate change negotiations in The Hague in December 2000 will be seen as a dramatic turning point in the global efforts to tackle the biggest of all environmental problems. It may also prove to be an important wake-up call to those responsible for the political procedures employed in such complex talks—not least within the EU. The talks are due to be resumed later in 2001, at which point they could either reinvigorate global action, on the basis of the institutions and commitments developed during the 1990s, or inaugurate a period of stagnation and uncertainty. Which happens will depend upon whether all parties, including the EU, can learn some hard lessons and face some hard truths.

The Sixth Conference of the Parties to the 1992 UN Framework Convention on Climate Change (COP-6) opened at The Hague with great fanfare in November. Attended by almost 10,000 delegates, it was billed as the summit that would put the final touches to the 1997 Kyoto Protocol, thus enabling major countries to start ratifying the agreement. The Protocol, agreed three years earlier at COP-3, has been widely hailed as the greatest achievement of modern environmental diplomacy.¹ At its heart are binding targets for industrialized countries to reduce emissions of greenhouse gases by at least 5.2 per cent by 2008–12, with differentiated country ‘assigned amounts’ ranging from –8 per cent for the EU and –7 per cent for the United States to +10 per cent for Iceland. Other important elements of the Protocol are sophisticated market-based mechanisms designed to lower industrialized countries’ compliance costs, such as emissions trading, Joint Implementation (JI) and the Clean Development Mechanism (CDM), and the inclusion for similar reasons of a limited category of carbon sequestration activities or ‘sinks’. Reflecting the principle of common but differentiated responsibility which requires industrialized countries to take the lead, the Protocol contains no quantitative commitments for developing countries to limit or reduce emissions, but expands somewhat upon their existing commitments under the Convention.

* The views expressed in this article are personal.

¹ See e.g. Michael Grubb with Christiaan Vrolijk and Duncan Brack, *The Kyoto Protocol: a guide and assessment* (London: RIIA/Earthscan; Washington DC: Brookings Institution, 1999), reviewed in this issue.

The failure of the Hague conference to bridge fundamental differences of views among parties on some of these key elements of the Protocol casts doubt on the Protocol's future. Moreover, the adjournment of COP-6 has provided a procedural opportunity for the Protocol's critics from all shades of the political spectrum to unite in the attempt to unravel a regime built as a result of ten years of negotiations. These critics include the dwindling band of scientific sceptics who claim that the scientific evidence base is still too weak to justify international action; the predominantly Northern-based economic and industrial critics who claim that industrialized countries' Kyoto targets are too strong, and that international efforts should focus on a fundamental rewriting of the Protocol to weaken these targets and/or extend them to developing countries; and idealists who believe that targets are too weak to be worthwhile (bearing in mind that the Protocol targets fall short of the 60–80 per cent reduction needed to stabilize greenhouse gas concentrations), and/or should be rewritten according to more directly equitable schemes.

What most critics fail to appreciate is the dynamic, flexible nature of the Kyoto regime. The core of the Protocol is its establishment of a structure of rolling five-year commitments which would enable many competing concerns to be debated and addressed in subsequent commitment periods. The numbers written in for the first period, in the industrialized countries' commitments, are intended as the first major quantified step. Subsequent progress within this framework is likely to be possible only if the structures established in Kyoto, and the first-period commitments that were an intrinsic part of the bargain, survive. The disintegration of the talks in The Hague, the fissures it exposed and the opportunities it offers for opposing critics to unite in destroying the agreement throw into doubt the very significant institutional achievements of the last ten years. Those political sceptics who maintained that the world's political systems were inherently incapable of cooperating to the degree climate change management demands, feel themselves vindicated by events in the Netherlands.²

We argue that the obituaries are ill-considered and flawed. The collapse of the Hague talks was not inevitable, and agreement that gets the Kyoto process back on track is not only desirable but also still possible when the negotiations resume later this year. Optimists in the process seem to assume that this will occur, and cite the example of the Cartagena Protocol on Biosafety, which collapsed in 1999 and reconvened a year later to agree a much better outcome than the one previously on the table.³ Yet complacency itself was one of the causes underlying the failure at The Hague, and the climate change negotiations are far more complex than was biosafety. A better comparison may be with the

² Marvin S. Soros, 'Global climate change and the futility of the Kyoto process', *Global Environmental Politics* 1: 2, 2001. See also David Victor, *The collapse of the Kyoto Protocol* (Princeton, NJ: Council on Foreign Relations/Princeton University Press, 2001), reviewed in this issue; he argues that any Protocol based on binding emission targets was too ambitious, but himself then proposes a mix of targets and emissions trading combined with taxation if the targets are missed.

³ Peter Newell and Ruth Mackenzie, 'The 2000 Cartagena Protocol on biosafety: legal and political dimensions', *Global Environmental Change* 10, 2000, pp. 313–17.

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stalled Seattle 1999 round of the World Trade Organization negotiations. With the difficulties inherent in the climate problem potentially compounded further by the outcome of the US election, success is far from a foregone conclusion. A repeat collapse of the negotiations at the resumed COP-6, followed by recrimination and confusion, is thus a real possibility. But it can be avoided if those involved take time now to appreciate fully why The Hague talks collapsed and to learn the lessons of that experience, unpalatable as they may be.

Initial post-mortem

On the final night of negotiations, while Jan Pronk, the Dutch Environment Minister presiding over the conference, was still convening a ministerial meeting to forge agreement on the proposals contained in his note of 23 November, the UK Deputy Prime Minister John Prescott left the room to begin bilateral negotiations to strike a deal with the United States.⁴ The President and other parties were well aware that something was being developed behind the scenes, but continued their work in the expectation that whatever was being discussed ‘off-line’ would be brought back to the main ministerial group. This never happened.

Various accounts now exist of why no deal could be presented to the wider group of parties, and indeed of what the EU–US deal actually was. According to the British, the EU Troika, led by the French minister Dominique Voynet, together with other key European ministers, agreed the deal negotiated by Prescott with the United States but then failed to defend it when it was put to the full group of EU ministers. According to European colleagues, the British never had any mandate to forge such a deal and the Troika was lukewarm about its merits but agreed to take it to the full EU group to debate. The full group rejected the compromise as going too far, and for being incomplete and unclear, with some participants complaining of discrepancies between the text and the oral explanation.

While the full EU group was discussing the merits of the deal, and without knowing its contents, developing countries met to take stock of the negotiations under the Nigerian chairmanship of the G-77. The meeting had the air of a post-mortem. The group agreed it would do its best to examine the merits of any joint EU–US deal, should one be agreed; but, given the lateness of the hour, they expressed frustration with the fact that developing countries had been shut out from negotiations and deep disappointment at the bickering and ‘backsliding’ among industrialized countries on their Kyoto and Convention commitments.

On learning that no agreement had in fact been reached between the EU and the United States, President Pronk reluctantly had to close the ministerial negotiations, which had also produced no agreement on issues relating to finance, technology transfer, adaptation and compliance—issues which, it later turned out, were not even included in the subject matter of the UK–US talks.

⁴ For detailed discussion of this note and the timing of the final round of negotiations, see article by Hermann Ott in this issue, ‘Climate change: an important foreign policy issue’, pp. 000–000.

Although a number of EU delegates, including the German minister Jürgen Trittin, attempted to continue negotiations with the United States after the close of the ministerial meeting, it was clear these efforts were not tempting enough for the United States to consider them worth pursuing; and in any case they lacked legitimacy as most ministers from developing countries had already left the building to prepare for the closing plenary session.

European press reports in the days immediately after the end of the meeting focused strongly on trying to piece together what happened in the last few hours of negotiations. The UK press suggested a relatively simple story, spiced up by dramatic pictures of John Prescott storming out of the negotiations blaming the collapse on squabbling European colleagues and the vacillations of the French presidency of the EU.⁵ European colleagues argued that Prescott had made too many concessions to the demands of the United States and other non-EU OECD countries in the broader 'Umbrella Group' on issues such as carbon sinks and supplementarity (see below). The Europeans, backed by many developing countries and environmental NGOs, regarded the Umbrella Group position as an abuse of the carefully circumscribed Protocol provisions on sinks which, if accepted, would simply have had the effect of rewriting the targets agreed three years earlier. The United States and other Umbrella Group countries blamed the unrealistic stance taken by the EU and environmental groups, suggesting that they did not take present-day economic realities and political circumstances into account, and had preferred to play 'gesture politics' rather than taking hard-nosed, pragmatic decisions to protect the climate system.⁶ The United States argued that it could not ratify the Protocol without generous provisions on carbon sinks and that such crediting could be beneficial in its own right, and hinted darkly at the far greater difficulties that negotiators would encounter under a Bush administration (still not certain at the time).

Attempts to resurrect the deal in the immediate aftermath crumbled as a lack of movement, confirmation of the Bush presidency and new problems left the Clinton administration boxed in an impossible position. A hastily convened follow-up meeting in Ottawa attended by EU and Umbrella Group representatives revealed that key elements of the Saturday morning UK-US 'deal' (particularly concerning the role of sinks in the CDM) were understood in radically different ways by the various groups. Moreover, discussions on the mechanisms revealed a range of new problematic issues that had been neglected in the Saturday morning rush. A subsequent summit in Oslo to be attended by the EU and Umbrella Group was called off. As in The Hague, there was no opportunity for developing countries to become involved in shaping the compromises being brokered by the major industrialized powers. By mid-January, the process lay in tatters to await new reflection in the context of the Bush administration. Now that there is time to reflect, what lessons must be drawn?

⁵ See 'Prescott is humiliated on climate', *Sunday Telegraph*, 26 Nov. 2000.

⁶ See 'Europe's air of self-righteousness', William Reilly (former US Head of Delegation and ex-EPA Chief), *Financial Times*, 19 Dec. 2000.

Some important lessons

High stakes no guarantee of success

The first lesson to be drawn is that strengthened scientific evidence and heightened public concern do not guarantee negotiating success. Indeed, in some circumstances they may make agreement more difficult to reach. In the run-up to The Hague, the preliminary conclusions of the Third Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) were widely leaked: they indicated that the climate change problem might be even worse than previously feared, as the IPCC had raised its estimate of the range of temperature change that might result if emissions were to proceed unchecked.⁷ Nature, too, visited its own preludes on the Hague summit, most notably with rains that swamped much of Europe with unprecedented floods in extreme weather patterns that were for the first time unequivocally linked by most of the news media to climate change. The IPCC's work and extreme weather events certainly helped to raise climate change to a position of high political salience in the run-up to The Hague, at least in Europe, prompting French Prime Minister Chirac to decide at short notice to speak at the opening of the ministerial segment.

Yet the net effect of this prominence was arguably counterproductive. Raised European expectations and increased public concern, especially in the absence of more in-depth understanding of the political situation and constraints of other countries, further widened the gulf between the European and US positions. The subsequent official acceptance of the IPCC conclusions, as well as the media coverage of the Hague failure, may help to increase the pressure to resume talks. But whether the heightened concern leads to agreement, or simply hardens the division between the European greens and the Bush administration, will depend in part upon whether the former can accept that a weak deal which nevertheless maintains momentum and establishes the basic incentives and institutions needed to underpin stronger action in subsequent commitment periods, is better than nothing.

If the political stakes and public expectations were raised too high in Europe, the opposite was the case for developing countries. Lack of widespread knowledge about the devastating impacts climate change will bring for developing countries illustrates, and in turn reinforces, the low priority still accorded to climate issues by developing country policy-makers and publics alike. Apart from a few countries, such as small islands, whose very existence is threatened by climate change, too many developing countries came to The Hague ill-equipped to deal with the range of political and technical issues raised by the conference agenda. In the majority of cases, only a handful of people in a given country understand the national implications of climate change, and fewer still have the ability to track the process of international negotiations. This is understandable, given their limited financial and human resources. But it also means

⁷ These were presented to COP-6 by Robert Watson, chair of the IPCC, in his presentation on 13 Nov. 2000. For the text of the IPCC's reports see www.ipcc.ch.

that all too often developing country diplomats come to major conferences such as that at The Hague, articulating national positions recycled from years ago, or else limit themselves to making politically unrealistic demands for additional financial resources and technology transfer. This is not an effective form of participation. If the climate regime is to function effectively in the long term, more strenuous efforts must be made to engage a broader section of developing country policy-makers and their public, and to deepen their input into the development of the climate regime.

The run-up to the resumed session of COP-6 provides an ideal opportunity for developed and developing country parties, and other organizations, to undertake public education efforts to redress the 'climate change information gap'. It is a low-profile and unglamorous task, that has perhaps received insufficient high-level attention relative to the intensity and excitement of engaging in the complexities of the Protocol itself. To avoid simply widening divisions further, however, such a task would also need to encompass better understanding of the political difficulties facing some industrialized countries in implementing climate targets—a task that also needs to be matched by better educating the US public in particular about the realities facing developing countries.

Too much, too late

A second lesson is simply that the sheer complexity of the climate change issue is beginning to strain the capacity of the intergovernmental negotiation process to its limits. Notwithstanding the simple characterization presented in the news media, the Hague conference was faced with a hugely complex agenda spanning new institutions for multilateral finance and technology, the operation of the unprecedented Kyoto mechanisms for international emissions crediting and trading, a range of compliance issues, carbon sinks, adaptation to climate change, commitments to minimize potential adverse consequences of mitigation, especially for oil exporting countries, and much more. Negotiations on this wide range of issues had been developed slowly in the three years since Kyoto, with a 'plan of action' adopted in 1998 (at COP-4 in Buenos Aires) that set a vast, interlinked negotiating agenda with a common COP-6 deadline for all issues.

With hindsight, perhaps one of the flaws of the approach taken at Buenos Aires was that the negotiating 'package' just became too large for the delegates at The Hague to deliver all at once. A step-wise approach would have been more difficult to agree in Buenos Aires, but might have produced a more manageable agenda for The Hague. Because of the vast array of issue linkages created at Buenos Aires, negotiations between COP-4 and COP-6 developed extensive negotiating texts on a very large number of issues—amounting to several hundred pages in all—none of which could be completed by the time the Hague conference ended. Reluctant to have 'their' issues 'left behind', all parties were complicit in backloading the COP-6 agenda—an understandable

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tendency in negotiations characterized by mistrust and hostility, but one which surely must be checked in the future.

This problem was exacerbated by complacency. Kyoto itself had seemed an impossible enterprise only months before, but an agreement was achieved—even if the process there was ultimately one of ‘negotiation by exhaustion’. Perhaps one of the results of the Kyoto process is that it has become commonplace to assume that issues will be resolved under the pressure of the final deadline, and that only then will countries actually be willing to make the compromises necessary for agreement.

Of course, all parties build some degree of ‘room for manoeuvre’ into their negotiating positions, in the expectation that each will have to give and take at some stage. What was unusual about The Hague was the extent to which initial national positions hardened and became more extreme as the summit got nearer. This tendency was exhibited by all sides. For example, as the negotiations proceeded, the Umbrella Group presented ever more elaborate justifications for a pure ‘seller liability’ regime for emissions trading. This had the effect of entrenching other parties in their initial positions, as well as stifling efforts by the chairman of the mechanisms group to orientate negotiations towards a genuine exploration of second preferences, i.e. compromise options. Developing countries were equally culpable. G-77 demands that no fewer than a dozen separate international funds of one kind or another be established at The Hague may have provided a convenient, unifying focus for the Group. But outmoded ideological posturing, and some fairly unrealistic demands for additional financial and technological resources, did little to advance negotiations on these critical issues.

Instead of fostering cooperation, these instances helped to create an atmosphere of intransigence. Together with the idea that issues must be resolved as a package, extremist attitudes led during the previous three years to the continual backloading of issues on to the COP-6 agenda. Nothing was too trivial to be deferred to COP-6. It became a psychological belief that those who delayed the most, and held on to their initial positions till the last, would gain most in the final crunch. It was a classically immature attitude to negotiations that was inherently unstable: the more the process managed to scrape through to agreement, the more such brinkmanship would have been seen as justified by the individual participants, even if it produced a shambolic set of last-minute compromises.

From the frying pan to the fire

Despite the vast agenda at The Hague, it is arguable that the negotiations could still have succeeded had the final process itself been organized differently. As usual, the developing countries had few opportunities to consult among themselves until they arrived the weekend before the meeting opened. It is clear, however, that this precious opportunity to prioritize and set realistic expectations among this most diverse of political groups was not used as

productively as it might have been. Much time was spent second-guessing what procedures President Pronk would choose to rely upon for consultations. And it is certainly true that the earlier than usual arrival of ministers upset the normal pattern of negotiation and the expectations built round that. During the first week there was slow progress on the extensive texts as negotiators engaged in internal debates within their respective groups, and hung back from making concessions until their political masters arrived. Ministers then had to face massive texts with much still left open, and for the first few days some were effectively in the position of chairing bureaucratic negotiations on the texts rather than engaging directly in deal-making themselves.

In fact, by the end of these group sessions delegates were only too relieved to hear that Jan Pronk was prepared to table an alternative, condensed text. This text, tabled only on the evening of the final Thursday, stunned many delegates. Pronk had completely abandoned the legal texts upon which they had been working for over two years in favour of twelve pages of bullet points of proposed political agreement. It was unclear what the status of the document would be, or whether something in this form would be sufficient for ratification, annexed to the Protocol itself. It was an approach familiar in European Council meetings, but baffling to those used to UN negotiations; some found the jettisoning of the usual procedure—and all the text they had developed and were familiar with—confusing and insulting.

Perhaps in an effort to placate startled and affronted delegates, Pronk emphasized that this was not a ‘take-it-or-leave-it’ text, and invited delegates to get some sleep and then start preparing a list of proposed amendments. Unfortunately this gesture caused yet more confusion, as no one knew how to comment on a presidential compromise text in a few hours without resorting to national positions. The net result was that the main groups spent the final official day of negotiations preparing written amendments to try to drag the new text back to their preferred positions—the exact opposite of what they should have been doing by this stage. Real negotiations barely started until the midnight on Friday, with everyone already exhausted, sensing disaster, but still willing to believe the President had a ‘Plan B’ up his sleeve. He didn’t. What then followed is history.

An obvious lesson for future COPs is that Presidents must exercise more caution in abandoning tried and trusted UN procedures which limit ministerial input to the vital task of providing strategic input on specific issues of utmost importance to their national interests, and to making the final trade-off once the bureaucratic negotiations have defined and pared down the options. The new-style ‘ministerial negotiating groups’ got the climate process nowhere in The Hague. The approach adopted here was arguably back-to-front: years of work on detailed legal texts were abandoned at the last minute when it became clear that ministers could not work with it, giving way to a mad scramble to agree core political highlights. Ministerial guidance should have come much earlier in the process, particularly as there were so many interlinkages, and proposals from

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the President for simplifying the texts, based on such guidance, were needed much earlier.

Bending the process

Another effect of the brinkmanship noted above is that it creates pressure to dispense with rules of procedure designed to safeguard the transparency and legitimacy of international decision-making processes. More and more frequently in the climate change regime, basic procedural rules, such as those concerning translation of documents into UN languages or deadlines for advance circulation, are being dispensed with as they are seen to be standing in the way of the negotiations. The content and dissemination of Pronk's compromise proposals illustrate clearly just how much 'procedural abuse' negotiators have come to take for granted as being necessary to achieve 'results'. The document was made available to delegates barely twenty-four hours before the conference was officially supposed to end. This gave little time for delegates to respond, particularly those from smaller delegations or non-English speakers. Additionally, the President's note contained at least two extremely interesting but completely novel ideas with complex international ramifications that had not been discussed by the parties in public on even one single occasion during the previous three years.⁸

The fact that the President needed to inject new ideas, and possible areas of compromise, at such a late stage may have been as a result of the lack of high-level preparations in some governments. For the two years since the Buenos Aires conference, in many countries the political instruction had been to keep to a fixed national position. The negotiators made little attempt to inform their ministers—or the latter reserved too little of their precious time—about important technicalities and options for compromise. Too many of the formal negotiating sessions were spent reiterating and re-explaining the merits of national positions, in the mistaken belief that repetition might change minds. The same time could have been spent, and in the run-up to the resumed COP-6 should be spent, on exploring ways of accommodating and connecting various national positions, thus obviating the need for at least some of the last-minute surprises.

A related lesson that can be learnt from The Hague is the importance of setting clear expectations for how the process of political guidance should feed into the negotiating process. The specialists and bureaucrats leading negotiations during the first week of talks at The Hague lacked either the political mandate or the experience to resolve many of these issues. Politicians, on the other hand, arrived in the second week to face a bewildering agenda. Fundamentally, the issues on the table at The Hague were too political for the technocrats to

⁸ In Box A, the president suggests auctioning of assigned amounts. A suggestion is also made that a 'climate resource committee' be established to give advice on financing and mainstreaming.

resolve, and too technical for the politicians to understand. Even when, by the end of the final night, most of the negotiating texts had been jettisoned in order to focus on barely a couple of pages of bullet points on core US–EU issues, Mme Voynet admitted that she was by then too exhausted to understand the issues and explain them properly to the full EU group of ministers.

If the resumed COP-6 is to succeed, the bureaucrats need to have more authority to make compromises on technical issues, and the politicians need to invest more time in advance in understanding the technicalities. More importantly, the process for marrying the political advice given by ministers with the technical decisions that need to be adopted by the COP must be clear at the outset.

Established UN procedures are slow and painful, and certainly in the history of the climate change negotiations they have been deliberately used by ‘laggard’ countries to prevent effective international policy-making on climate issues. Although many were critical of the way in which certain aspects of the Kyoto Protocol and of the Buenos Aires Action Plan were effectively settled behind closed doors, most parties would agree that dispensing with transparency is at times an undesirable but absolute necessity for securing an end result. But collective decision-making is the only guarantee that the difficult political, economic and social choices made by today’s policy-makers will be understood, respected and implemented by tomorrow’s voters. It is a question of balance, and of bringing deals negotiated by small groups back to wider scrutiny before they are finalized and confirmed. The irony is that President Pronk's attempts to maintain transparency throughout most of the process may have contributed to the final debacle, in which established procedures were completely abandoned in the desperate attempt to get some agreement in the final two days.

Shortly before going to press, the date of the resume COP-6 was confirmed as late July, with an indication that ministers would be attending the first week rather than at the end. The implication may be that ministers will try to reach agreement on the core political issues working from President Pronk's paper, and then hand the decisions back to the officials to incorporate into the legal texts to be completed in the second week. One danger of such a strategy is that lack of a clear deadline for the end of the real negotiations could lead to the biggest issues never being resolved in the ministerial segment. Another danger is that opponents could have a second shot at preventing a conclusion, by unpicking a political deal along the seams of any ambiguities and so preventing agreement on the legal details. It is a gamble, based on the belief that the technicalities can be separated from the high political issues; but given where The Hague has left us, it is not clear that there are any practical alternatives. Whether it succeeds will hinge in large measure upon whether the EU and the United States can first resolve some fundamental differences of perception, and related core issues that demonstrate the interwoven nature of technical and political concerns. To some of these we now turn.

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Sinking in the EU–US impasse

The lack of frank, open discussions may have contributed to the US–EU stand-off that finally brought the negotiations to the point of collapse. This reflected many of the attitudinal problems noted above, which lead to lack of sufficient understanding of the situation facing other countries, even in the core US–EU relationship. US CO₂ emissions by 2000 were about 13 per cent above 1990 levels. The US population and economy are still growing rapidly and there is enormous inertia in US energy infrastructure and the political machinery; energy legislation can be held up for years in congressional processes. Consequently it is likely that US CO₂ emissions by the end of the first Kyoto period will be 10–20 per cent above 1990 levels (equivalent to 5–15 per cent for the multi-gas basket), *even assuming a strong commitment to action on climate change*. Achieving anything near the lower figure would itself imply a fundamental change in the direction of US energy evolution and would have huge climatic benefits in the longer term. Even so, to comply with its Kyoto ‘assigned amount’ of –7 per cent, the United States would still need to get over 200 million tonnes of carbon a year (200MtC/yr) of ‘emission credits’ through the Kyoto mechanisms, and sinks. Otherwise the United States simply cannot ratify and comply with the first period commitments in the Protocol, whether or not it would like to in principle. European—and worldwide—frustration at US energy profligacy blinded them to this harsh reality. Positions were based on the hope that somehow the United States could be forced by international pressure to deliver something that is politically impossible on the timescale remaining, given the nature of the US system.

On 1 August 2000 the United States tabled its proposal that countries should get credits for carbon absorption (‘sinks’) from all managed lands, under the ‘catch all’ land-use Article 3.4 of the Protocol. The submission observed that almost all lands in the United States are ‘managed’ in one form or another, and estimated that total US absorption might be in the region of 300MtC/yr. Full crediting under Article 3.4 would thus almost eliminate at a stroke most of the US requirement to reduce emissions, and would have been contrary to the agreed principle in the Protocol that sinks should be credited only for specific additional activities undertaken since 1990. The proposal thus raised howls of outrage in the EU and from the majority of developing countries, as a result of which the EU and G-77 adopted a position of opposing all sinks under Article 3.4.

However, unlike the majority of developing countries which seemed willing, at least in principle, to discuss the idea of including Article 3.4 activities for certain limited categories, particularly if it meant bringing the United States on board, the EU seemed to become obsessed with the sinks issue, seeing it simply as a backdoor way of rewriting the Kyoto targets. Not until the last week of the Hague conference did the EU appear even to consider any possible avenues of compromise. After the collapse, a leading US negotiator professed to have been completely baffled that the Europeans, so eager to protect forests and good land management as the epitome of good environmental practice a decade earlier,

had refused to acknowledge any of the possible benefits of incentives towards good carbon sink management.

The story was similar on a more long-running area of US–EU confrontation. The Protocol states that use of the Kyoto mechanisms should be ‘supplemental’ to domestic action, and during 1999 the EU proposed that this principle should be embodied in the form of a ‘concrete ceiling’ on the percentage of a country’s obligation that could be met internationally. The United States remained adamantly opposed to this, but over the whole of the next year neither it nor the EU seriously considered alternative ways of addressing the core objective of promoting adequate domestic action. Sensing the dangers of a stalemate on this issue, in the last week of The Hague talks developing countries submitted their own proposals on supplementarity in an attempt to help the president broker a compromise. Their formulation contained elements of the EU’s quantified approach but allowed greater flexibility in terms of how and when compliance with this limitation might be demonstrated.

But only in the last few days was there any movement towards compromise on either of these core US–EU issues. On both, the failure seemed mutual. Many EU members had known for a year that the EU’s proposal on supplementarity was completely unacceptable and probably unworkable; but the façade was doggedly maintained, and discussion of alternatives was stifled in the EU’s internal processes. Conversely, the blunt nature of the US proposal on sinks could hardly have been better calculated to inflame the Europeans. The final night of The Hague talks approached a deal on ‘supplementarity’ that both the EU and the United States probably could have lived with; but the sinks issue was a more fundamental deal-breaker.

Given that the question of sinks is part of the ‘fundamental architecture’ of the Kyoto regime, and given also that the issue of how and when to include sinks affects developing countries every bit as much as it does the EU and Umbrella Group, it is clear that ‘behind the scenes’ deals of the kind being brokered by a few individuals in the last days of The Hague are unlikely to gain broader acceptance. The issue of inclusion of sinks in the CDM—which deeply divides developing countries—must be handled in a particularly sensitive procedural manner. Finally, for all the technical work done by the IPCC in its Special Report on Land Use, Land-Use Change and Forestry, it is significant how little use was made of it in the final rounds of negotiations.⁹ The size of the caps that certain parties put forward, not to mention the implications of including such huge amounts of uncertain sources under the Protocol’s emerging reporting and compliance procedures, simply did not feature in the final negotiations, which came down to pure ‘horsetrading’. This suggests a fundamental rethink of the role of scientific advice, in particular that from the IPCC, to ensure that the considerable expertise available actually informs the

⁹ IPCC, *Special Report on Land Use, Land-Use Change and Forestry*, eds Robert T. Watson, Ian Noble, Bert Bolin, N. H. Ravindranath, David J. Verardo and David J. Dokken (Cambridge: Cambridge University Press, 2000).

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details of negotiations where relevant—as opposed to providing warring sides with the technical ammunition they need to buttress their original positions.

Harnessing the emissions gap

The prospective gap between the Kyoto ‘assigned amounts’ and the politically achievable emission reductions, principally (but not exclusively) in the United States and some other Umbrella Group countries, drove their demands for extensive sink allowances, and is at the core of claims by sceptics that the Kyoto agreement is fundamentally unworkable.¹⁰ If the resumed COP-6 is to succeed, these realities must be faced; but we suggest that they can be viewed in a more constructive light. The Kyoto-assigned amounts are the engine for the whole system, and it is the likely gap between them and domestic emissions that drives all the mechanisms in the Protocol, by providing the demand for credits. While adequate domestic action is crucial, if there were no gap at all there would be no use for JI or the CDM, for example. What matters is that governance of the mechanisms ensures that their use is legitimate and constructive and does not become simply a loophole for avoiding any significant domestic action.

The Hague did signal some avenues that have yet to be properly explored. One intractable issue has been that of potentially large-scale transfers of assigned amounts from the economies in transition that, because of their surplus assigned amounts, could be wholly unrelated to domestic action. One of the more positive developments in COP-6 was a greater willingness by many in the Russian delegation to engage in constructive discussion of how to ensure that revenues from such emissions trading would be used for environmentally legitimate (and domestically effective) purposes.¹¹ The newly formed group of central European countries, CEC-11, also heralded possibilities for improving the discourse on governance of the trading and JI mechanisms. Related ideas could be brought to bear more imaginatively on the issue of sinks. One example may be where at least some of the carbon stored is destined for ultimate use as a biomass energy fuel, thus contributing in the longer term to displacing fossil fuels while also increasing interim carbon uptake.¹²

The difficulty at COP-6 was that the Umbrella Group sought flexibility primarily as a way of reducing the requirement for emissions abatement—that is, as a means of cost reduction with little reference to the longer-term goals—while much of the European political discourse simply equated all flexibilities with environmental weakness. This clash of interpretation inhibited more constructive and flexible discussion of the options.

¹⁰ See e.g. Henry D. Jacoby and David M. Reiner, ‘Getting climate policy on track after The Hague’, in this issue, pp. 000–00.

¹¹ See conference address by the Head of the Russian delegation (The Hague, 21 Nov. 2000) which stated that: ‘For reaching maximum effect on reduction of GHG emissions, with regard to approval of the... simultaneous introduction of mechanisms of flexibilities the Russian Federation is ready to consider a possibility of target use of funds, obtained from application of these mechanisms, for further reduction of GHG emissions’.

¹² M. Grubb, B. Schlamadinger, C. Azar and A. Bauen, *Climate policy*, forthcoming.

Reflections on EU governance

The standoff on the very question of flexibility, and the inability to bridge these and other aspects of the US–EU divide, reflect in part a failure of European governance. The climate change negotiations—where the subject matter involves intrinsically complex issues that span various levels of competence between the EU and its member states—have highlighted crippling shortcomings in EU internal processes for such negotiations. It is obvious and often stated that the need to reach agreement on detailed points among 15 member states makes for a cumbersome negotiating entity. It contrasts with other groups in which countries seek common broad positions (often dominated by a few powerful members) but then speak individually. In the final dramatic night at Kyoto, it is well known that EU ministers were still locked in internal consultations while the plenary was in session: Chairman Estrada gavelled through the critical text on the CDM while EU ministers were still trying to establish a common position in another room. At The Hague, EU ministers were still debating amendments they wished to propose to the President's text after amendments from all the other groups, even the much larger and underresourced G-77, had been circulated and the final night's negotiations had begun. Many of the other failures, too, had their precursors in the Kyoto negotiations, in which the United States had completely dominated the design of the final agreement. The collapse of The Hague highlighted all the intrinsic weaknesses of the EU as a negotiating entity on such complex issues of mixed competence, and demonstrated that many of the lessons that it should have learnt from Kyoto have yet to be taken to heart.

Fundamentally, the EU acts as a negotiating bloc/group not as a team. For example, The Hague exposed once again the inability of the EU to prepare agreed compromises and fallback positions. As in military affairs, there is constant fear of leaks: discussion of fallback options is suppressed for fear that it will undermine the established negotiating position, as with 'concrete ceilings' and sinks. Positions are hard to establish, and consequently hard to change; they often become totems to particular member states, who lose sight of the overall objective. Furthermore, the EU spends so much time negotiating with itself, and secondarily focusing on its position *vis-à-vis* the United States, that very little investment is made with respect to other countries. Mme Voynet, in her final remarks to the plenary at The Hague, tried to highlight the positive: 'I discovered many things in this conference. I discovered other groups in this process. For the first time I found myself engaged in in-depth discussion with other Parties. It is not enough to meet just once a year...we need to build up relationships with other Parties.' One may wonder what on earth she had been doing for the previous two years. The answer, of course, is that she and most other senior EU ministers had spent most of their energy arguing with each other about the finer points of a negotiating position that took little or no account of the realities in the rest of the world.

Climatic collapse at The Hague

As argued in a recent book,¹³ to cope with such negotiations the EU needs to focus more upon establishing a common identity and strategy, and less upon trying to agree detailed negotiating positions on everything. On the more detailed issues there has to be greater clarity of responsibilities between individual member states acting in their own capacities and the European Commission, to avoid the gridlock prevalent in the EU's current negotiating approach. On the big strategic issues, however, a collective—and broad-based—sense of purpose and strategy must be defined and respected. EU states have been too inclined to pursue their own avenues. At COP-6 the French pursued compromises with developing countries that never had EU backing, while the UK pursued its traditional 'special relationship'; neither, it appeared, had the clear authority of the EU. Ultimately it was bound to end in tears.

Finding answers to the EU's negotiating dilemmas is not easy. In the Montreal Protocol, the Basle Convention and the WTO, clear negotiating mandates are formulated by the European Commission, which then reports back and systematically asks the EU group of ministers for approval, generally after defining the common line with the Troika. Authorities are clear. However, because climate change is such a pervasive issue, member states have been far more reluctant to yield such authority. Nevertheless, it is not clear that any credible alternative is on offer. For the Commission to assume such a role on climate change, however, it would need to act sensitively as a representative of member states, with reduced scope for developing its own positions.

Furthermore, the EU national delegations to the climate change talks are headed by environment ministers (unlike in the United States or Japan, where delegations are headed by the State Department and foreign ministry respectively), and they have not always acted with a collective national and EU responsibility. At The Hague, some ministers rejected certain possible compromises with the cry that 'our environmental groups would crucify us'; but it is governments, overall, that must decide whether the fundamental need is to reach agreement that can sustain the Kyoto process, or is to satisfy ministers' environmental consciences and their green political constituencies. EU tenacity to maintain the environmental integrity of the Protocol, and determination not to be browbeaten by the United States and Umbrella Group countries, as had happened at Kyoto, was laudable. But if action with a constructive global effect is to be achieved, there must be a better understanding of the internal difficulties these other countries face, and of how to accommodate them and influence them without abandoning core principles and global concerns.

The EU will face many challenges in the difficult days ahead, and the negotiations that resume later this year are likely to test European environmental governance even more severely. In terms of domestic European politics, the failure of climate negotiations can always be—and after The Hague was—

¹³ Joyeeta Gupta and Michael Grubb, eds, *Climate change and European leadership: a role for Europe?* (Dordrecht: Kluwer, 2000).

handled by recourse to the tried and tested remedy of blaming the Americans. In the resumed COP-6 negotiations, the US position may make such a course all the more easy and appealing to the Europeans. This may save some European political skins; but it will not save the planet.

With the scientific case becoming ever more compelling, almost all parties accept the need for an agreement and accept the Protocol as the best way forward. However, President Bush's reiteration of a campaign statement that he 'opposes the Kyoto Protocol because it exempts 80 per cent of the world' highlights the possibility that the US will renounce the Treaty—even if this misrepresents the Protocol. In signing and ratifying the Framework Convention, his father accepted the principle that industrialized countries must lead emissions control before expecting more action in developing countries. Should Bush junior renounce this, Kyoto could be crushed in the resulting confrontation, since the developing countries will certainly not reverse their united stance on this principle. To preclude such an outcome, the best way forward would be for the EU to stand firm behind that principle and unite with others, including the developing countries, to make it plain that discussions on quantified developing-country commitments cannot take place until industrialized countries have demonstrated effective leadership. This could be most clearly established by bringing Kyoto into force, which is achievable without the US. This might create the conditions for a compromise that could bring the US in later, with recognition that developing countries will be more engaged over time, since it is debatable that the US in practice would wish to be excluded from the global effort, including opportunities such as the Kyoto mechanisms. It would not be the first time that the EU has developed broader alliances in the face of US attempts to retreat from its basic moral and political obligations; in a lesser form it happened at the launch of the Kyoto negotiations themselves.

Our analysis has pointed to the immense negotiating complexities, but also to numerous lessons that can be drawn from the collapse of the Hague talks. The shock may be sufficient for many of these to be taken to heart. Procedures can be re-examined and improved. The agenda for resumed negotiations can be simplified, new ideas can be injected, and more serious preparation and a greater willingness to explore compromise options earlier could enable gulfs to be bridged. A resumed COP-6 also offers opportunities for more constructive input from other parties. Developing countries will reflect more deeply upon the consequences of failing to reach agreement; and the new chair of the G-77, Iran, may be in a better position to broker internal G-77 positions and compromises. Russia will realize more strongly its interest in having the Protocol agreed, and may build upon its initiatives at The Hague. The EU may take the opportunity to revise some of its procedures and positions. And the Bush administration, should it decide to engage seriously, will be better placed to deliver whatever compromises it is willing to make. The obituaries are certainly premature; if lessons are learnt, they may never be needed.