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*Chair International Organisation
and Human Rights*

THE ROLE OF THE EUROPEAN UNION IN THE
COP 21

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“We Do Not Inherit The Earth From Our Ancestors, We Borrow It From Our Children”.

Native American Proverb.

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TABLE OF CONTENTS.

| | |
|--|------------|
| ACKNOWLEDGEMENTS..... | ii |
| TABLES AND FIGURES..... | vii |
| INTRODUCTION..... | 1 |
| 1 THE EUROPEAN UNION AND CLIMATE CHANGE POLITICS:..... | 5 |
| 1.1 Climate Change Geopolitics and the EU:..... | 5 |
| 1.1.1 Introduction..... | 5 |
| 1.1.2 The European Union and Multilateralism..... | 6 |
| 1.1.3 The European Union as a Normative Power..... | 6 |
| 1.1.4 The Need for a Decarbonisation of the Economy | 7 |
| 1.1.5 Climate Change and Security Issues..... | 8 |
| 1.1.6 Climate Change As A Chance To Prevail In A Hard Politics World..... | 9 |
| 1.1.7 Climate Politics As A Factor Of Integration | 10 |
| 1.1.8 The Fight Against Climate Change as an Economic Opportunity for the EU..... | 13 |
| 1.1.9 The Fight Against Climate Change as a Factor of Survival for the EU..... | 15 |
| 1.1.10 Conclusions..... | 15 |
| 1.2 The Legal Bases of the EU Commitment to Environment..... | 17 |
| 1.2.1 Constitutionalism and fight against climate change in the EU | 17 |
| 1.2.2 From Energy to Environment..... | 17 |
| 1.2.3 The Codification of the Environment in the European Treaties..... | 19 |
| 1.2.4 Institutions and Competences..... | 23 |
| 1.2.5 Conclusions..... | 26 |
| 1.3 The Limits of the EU Action..... | 28 |
| 1.3.1 Introduction..... | 28 |
| 1.3.2 The Structural Limits of the EU..... | 28 |
| 1.3.3 The Opposition From Eastern European Countries..... | 29 |
| 1.3.4 The Nuclear Interests in the EU..... | 30 |
| 1.3.5 The Difficulties of Adopting Legal Provisions in the EU..... | 31 |
| 1.3.6 The Lack of Investments and the Ineffectiveness of the Leadership by Example.... | 31 |
| 1.3.7 Conclusions..... | 32 |

| | | |
|----------|---|-----------|
| 2 | THE ROAD FROM COPENAGHEN TO PARIS | 34 |
| 2.1 | The Failure of the role of the European Union at the Copenhagen Conference (7-18 December 2009): a crisis of multilateralism in the world outside the EU..... | 34 |
| 2.1.1 | Introduction..... | 34 |
| 2.1.2 | The Divisions Among European Countries Before Copenhagen..... | 35 |
| 2.1.3 | The Lack of a Coherent Position in the EU..... | 36 |
| 2.1.4 | The Preparatory Works in Copenhagen..... | 37 |
| 2.1.5 | A Crisis of the EU Multilateralism..... | 38 |
| 2.1.6 | The Crisis of the Negotiations..... | 38 |
| 2.1.7 | The Outcome of Copenhagen..... | 39 |
| 2.1.8 | Conclusions..... | 41 |
| 2.2 | From Leading to Bridging: the Cancun Conference (29 November – 10 December 2010)..... | 42 |
| 2.2.1 | Recovering from Copenhagen: A Change of Strategy of the EU..... | 42 |
| 2.2.2 | The Cartagena Dialogue..... | 43 |
| 2.2.3 | The EU’s Preparation for Cancun..... | 44 |
| 2.2.4 | A Lesson of Multilateralism from the Mexican Presidency..... | 45 |
| 2.2.5 | The Outcome of Cancun: “a Non-Failure” for the EU..... | 46 |
| 2.2.6 | Assessing the Cancun Conference..... | 47 |
| 2.2.7 | Conclusions..... | 48 |
| 2.3 | The EU Success in Durban: The Need for a Binding Agreement..... | 49 |
| 2.3.1 | Introduction..... | 49 |
| 2.3.2 | Durban: The Way to a Binding Agreement (28 November – 11 December 2011)..... | 49 |
| 2.3.3 | A Change of Circumstances from Copenhagen..... | 50 |
| 2.3.4 | The New Cleavage in Climate Politics Emerging in Durban..... | 51 |
| 2.3.5 | The Context Before the Negotiations..... | 52 |
| 2.3.6 | The Main Issues at Durban..... | 53 |
| 2.3.7 | The Enlargement of the Progressive Coalition and the Resistances..... | 54 |
| 2.3.8 | The Stalemate Between the European Union and India..... | 55 |
| 2.3.9 | The Final Move of the European Union..... | 56 |
| 2.3.10 | Conclusions..... | 58 |
| 3 | THE PARIS AGREEMENT | 59 |
| 3.1 | Shaping the Paris Agreement: From Doha to Warsaw..... | 59 |

| | |
|---|----|
| 3.1.1 Introduction..... | 59 |
| 3.1.2 The Doha Conference and The Second Period of the Kyoto Protocol (26 November – 8 December 2012)..... | 60 |
| 3.1.3 The Issue of the Second Commitment to the Kyoto Protocol..... | 61 |
| 3.1.4 The Warsaw Conference (11-23 November 2013)..... | 62 |
| 3.1.5 The Problem of the INDCs..... | 63 |
| 3.1.6 The Lima Conference (1-12 December 2014)..... | 65 |
| 3.1.7 The INDCs and The Lima Call for Climate Action..... | 66 |
| 3.1.8 The Status of the INDCs and the European Union..... | 67 |
| 3.1.9 The European Union Against the United States..... | 68 |
| 3.1.10 Conclusions..... | 69 |
| 3.2 The Lima-Paris Action Agenda and the Preparatory Works for Paris..... | 71 |
| 3.2.1 Introduction..... | 71 |
| 3.2.2 A Success in Paris: a Likely Existential Threat for the European Union..... | 71 |
| 3.2.3 A Shrinkage of the EU “Credibility Gap”? | 72 |
| 3.2.4 The Lima-Paris Action Agenda..... | 73 |
| 3.2.5 The Beginning of the “Diplomatic Offensive” of the European Union..... | 74 |
| 3.2.6 The Scrutiny by Civil Society for the EU Action..... | 75 |
| 3.2.7 The Submissions of the INDCs and the Role of Precursor of the EU..... | 76 |
| 3.2.8 Assessing the Effectiveness of the European Union’s Move..... | 77 |
| 3.3 The Building of the “High Ambition Coalition” | 79 |
| 3.3.1 The European Union or France? | 79 |
| 3.3.2 The Importance of a Success in Paris for France..... | 80 |
| 3.3.3 The Strengthening of the Coalition by the European Union: The Skhirat Conference and the Relation with the Mediterranean Countries..... | 81 |
| 3.3.4 “Rehearsing” the Paris Conference: the Berlin Conference..... | 82 |
| 3.3.5 The Emerging Role of France..... | 83 |
| 3.3.6 The June 2015 G7 in Germany..... | 84 |
| 3.3.7 The “European” Prevalence Over Canada and Japan and the Change of Attitude of the United States..... | 85 |
| 3.3.8 Towards the “High Ambition Coalition” | 86 |
| 3.3.9 The Last Efforts by the European Union Before December 2015..... | 88 |
| 3.3.10 The Beginning of the Conference (30 November – 12 December 2015)..... | 89 |
| 3.3.11 The Role of the French Presidency..... | 89 |

| | |
|---|------------|
| 3.3.12 The Strategies of the European Union and of France: Inclusiveness, Openness and Transparency..... | 91 |
| 3.4 The Conception of the Paris Agreement: What After? | 92 |
| 3.4.1 Introduction..... | 92 |
| 3.4.2 The Developing Countries Taking the Reins..... | 92 |
| 3.4.3 The Pressure from Civil Society and the Implementation of the Lima-Paris Action Agenda..... | 94 |
| 3.4.4 The Last Resistances to the Final Agreement..... | 95 |
| 3.4.5 Was the Agreement a Success for the European Union? | 96 |
| 3.4.6 The Legal Substance of the Agreement..... | 97 |
| 3.4.7 Conclusions..... | 98 |
| 4 WHAT NEXT AFTER PARIS? POSSIBLE SCENARIOS..... | 100 |
| 4.1 The Future Developments of Climate Change Politics (From the Ratification of the Agreement to the Marrakesh Conference) | 100 |
| 4.1.1 Introduction..... | 100 |
| 4.1.2 The Ratification of the Paris Agreement..... | 100 |
| 4.1.3 The European Union Eclipsed After Paris..... | 102 |
| 4.1.4 The Marrakesh Conference (7-18 November 2016)..... | 102 |
| 4.2 The Implications of the Trump Administration on the Paris Agreement: the “Worst” Scenario for the Agreement..... | 104 |
| 4.2.1 The Marrakesh Conference and the 2016 Presidential Elections: the Trump Presidency and the Paris Agreement..... | 104 |
| 4.1.3 A Possible Withdrawal of the United States from the Paris Agreement..... | 104 |
| 4.1.4 The Concrete US Disengagement from the Paris Pledge..... | 105 |
| 4.3 A More Positive Scenario for the Paris Agreement..... | 107 |
| 4.3.1 The Role of Civil Society in the Implementation of the Paris Agreement..... | 107 |
| 4.3.2 China, the European Union and the Paris Agreement..... | 107 |
| 4.3.3 China as Future Leader in Climate Change Fight? | 108 |
| CONCLUSION..... | 109 |
| BIBLIOGRAPHY..... | 113 |
| SUMMARY..... | 121 |

TABLES AND FIGURES

| | |
|--|------------|
| - COMPARISON BETWEEN KYOTO, COPENHAGEN AND PARIS..... | 99 |
| - IMPLICATIONS OF THE EU IN THE COPS FROM COPENHAGEN TO PARIS..... | 99 |
| - POINTS OF STRENGTH AND OF WEAKENESS OF THE EUROPEAN UNION LEADERSHIP..... | 112 |

INTRODUCTION

The topic of this paper concerns the European Union and the role it played during the December 2015 Conference of the Parties, also called COP 21, or the Paris Conference on climate change.

This topic was sparked by a general interest within the European Union, its institutional structure and its place in the world, and at the same time by the relevance and urgency of the issue of climate change and of the environmental negotiations which are held in order to tackle the problem globally in the long run.

The subject of the COP 21 not only embodies a very current issue, therefore compelling to explore, but also an exceedingly important event in the scope of the fight against climate change as it has marked a major step ahead.

Beyond a general interest within the EU, this paper is driven by the necessity to understand whether, how and why the European Union can play a role on an international stage.

The issue of climate change and the environment have presented in the past a field where the European Union could act in its element and also succeed, but things have arguably transpired differently.

If the Kyoto protocol represented a success, the same thing cannot be claimed of the Copenhagen Conference, where in the need to reach a new agreement, the European Union failed and lost its position as leader in climate change politics.

Before Copenhagen 2009, the European Union exercised proper leadership, but after that everything changed.

The same concept of leadership is open and vague, in this case where the term “leadership” is employed it refers to the ability of proposing a certain project to other parties, and of achieving it through soft means, not through imposition.

During the Paris Conference in December 2015, things went decisively differently than in Copenhagen: a different process, a different outcome and a different environment, to some extent opposite to occurred in Copenhagen, and the European Union has undoubtedly played a part in this event.

Copenhagen was in 2009 and Paris 2015; the conferences were 6 years apart from each other, but what happened over these 6 years in climate change negotiations?

Before answering this question, it is perhaps useful to clarify what is meant by the expression “European Union”, because simply saying European Union is not only far too ambiguous, but can also be misleading.

First of all, “European Union” designates an actor which is a regional economic organisation, and not a single actor nor a single institution.

By the expression “European Union” this paper denotes all the EU institutions and bodies involved within climate change politics, and all the so-called “*acquis communautaire*” which represent the legal and moral background against which the European Union actors involved take action (treaties, legal texts, and political habits).

The European Union was a leader until Copenhagen, but this leadership was subsequently lost, but the outcome was different in 2015, therefore the question which leads this research is whether the European Union has re-found its role as leader in climate change fight following the Paris Conference.

There are several hypotheses which can be formulated related to this research question, but the main one of this paper is whether the European Union still possesses the means to be leader, hence in possession of the economic, political, geopolitical and diplomatic tools to do so, and eventually what kind of leadership it exercises.

From a methodological point of view, this paper tries to examine and explain this phenomenon through a macro-level analysis where the main actors are institutional, with a simultaneously rational choice approach and neo-institutionalist approach.

The data of this paper has been collated through several ways, through the analysis of juridical and political texts and declarations, as well as the collection of the main data from an economic, scientific and statistical perspective.

The structure of this paper is divided into four main parts: the first part focuses on the key concepts of climate change politics and of the European Union's involvement in combatting this phenomenon.

In this case, the rational choice method is applied in order to justify the reasons why this actor engages itself in this process, explaining the opportunities and the limitations of its actions, while simultaneously laying down a legal framework within which the European Union acts.

The main concepts that define this part are multilateralism, invaluable within this research in order to understand some of the reasons behind the European Union action, alongside the concept of normative power.

The second part of the work seeks to both elucidate why the European Union failed during the Copenhagen Conference and consequently lost its status as leader in environmental issues, and at the same time explain how the European Union tries to recover from this failure.

The second part of this work, introduces and develops relevant and new concepts for the research; the most important two are that of lead actor and of bridge-building, which are crucial to understanding how the European Union aimed to re-organise itself after Copenhagen ahead Paris.

The third part of the work focuses on the same Paris Conference with the principal goal of assessing whether the European Union has been able to reach its own objective at the end of the event, therefore examining whether it was able to exercise leadership over the other parties in order to convince them to reach its own final goal.

No main concept is developed within the third section, but all of the previous ones mentioned are involved and operationalised.

The fourth and final part of the work, tries very briefly to hypothesise whether there are currently the conditions to keep the Paris agreement alive, and whether the European Union has only demonstrated leadership at Paris (or not), and if it is moreover a sustainable role for the future.

This paper has a dependent variable which is the outcome of the Paris Conference in December 2015, and an independent variable which is the action taken by the European Union between 2009 and 2015 (and immediately after 2015).

There are additionally a number of intervening variables within this research which must be considered in order to assess if there is a direct relation between the first two variables and therefore not a mere correlation.

To sum up, this paper explores a difficult research question; if the European Union has been able to find its role as leader in the fight against climate change after the 2015 Paris Conference, based on the hypothesis if the European Union still possesses the means to exercise the leadership and what kind of leadership. Through the extensive analysis of COPs from Copenhagen to Paris, with their respective legal and political documents and declarations, among with the analyses of economic, scientific and statistic data, this paper endeavours to unveil an answer to the aforementioned research question.

CHAPTER 1

THE EUROPEAN UNION AND CLIMATE CHANGE POLITICS.

1.1 Climate Change, Geopolitics and the EU.

1.1.1 Introduction:

The European Union has consistently been the main actor in climate change politics, ever bearing different roles but always with a clear awareness of what such responsibilities represent for itself as the main regional organisation worldwide (but what we mean by the expression European Union will be explained in the second paragraph), its internal structure and its position in the world.

Perhaps “climate change” is not the appropriate term to use as it is a broad phenomenon which should be more precisely defined within this context as global warming, hence the change in the environmental and meteorological conditions of Earth over a relatively short period of time due to human activity, as emphasised by the United Nations IPCC (Intergovernmental Panel on Climate change) Fifth Assessment Report in 2014¹.

It is appropriate to state that the European Union has not only been the main actor, but also the leader in climate politics worldwide. This leadership has been exercised successfully in the past but, new geopolitical equilibriums over the last few years have both changed and

¹ IPCC Fifth Assessment Report (AR5) - <https://www.ipcc.ch/report/ar5/>

mutated the same nature of the EU's authority in climate politics, to the point that it is legitimate to raise the question whether or not the European Union can still be considered to be a world leader.

It is this very enquiry which this dissertation poses as the basis of its main research question and this first chapter will focus on the reasons why the European Union tries to lead in this domain and the limits of its own actions, without which it would be more difficult to answer our final question, and therefore in this chapter we will analyse the geopolitical, political and economic reasons underpinning the EU engagement.

1.1.2 The European Union and Multilateralism:

In order to better shed light on the previous point it is necessary to grasp how the EU acts on an international stage, and especially through its main political approach, essential to understanding out how it operates in the scope of climate politics, which is multilateralism.

Climate change is a transboundary issue (which goes beyond the single states action) which must be addressed according to a multilateral approach that the EU has always supported: unlike other important players in the world, such as the United States and China, the EU is not a state and does not hold the political means to cope with these relevant actors².

This concept of multilateralism, upheld by the European Union, is characterised by two main elements, the general principle of conduct and the diffuse reciprocity: the first means that all the actors must be subjected to the same rules and the latter that in a negotiation a part can give to another in exchange for a return of the future in the future³.

Multilateralism is deemed as the most effective instrument the EU possesses for the fact that it is a civil power in a world where the hard power prevails⁴.

1.1.3 The European Union as a Normative Power:

It is in the context of a hard power world that the European Union must face a geopolitical crisis, possibly the worst of its kind since the end of the Second World War.

Before discussing in depth the geopolitical reasons which have pushed the EU to this point, it would be necessary to clarify the concepts of normative and civil power.

² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 3, Sciences Po Les Presses, 2015

³ Telò M, *The Challenge of a Democracy Beyond the State in the European Union*, in Unver Noi A., Toperich S, *Challenges of the European Union and its Neighbors*, Centre for Transatlantic Relations, 2016.

⁴ Spencer Thomas, *COP21: What's in it for Europe?*, Pag. 2, IDDRI, January 2016

As Sebastian Oberthuer hypothesises, the European Union is a civilian power not solely because it has limited means of action (neither military nor economic) but because its main instrument is the one of diplomacy as well as its ability of persuasion⁵.

Related to this category of civilian power to which the EU pertains to, there is the more specific category of Normative power: hence an international actor whose actions, goals and capacity of influence are based on a set of norms and values⁶.

It is important here to stress the fact that this entity must be capable of influencing the other players⁷.

The ability that the EU possesses is the main feature of its kind of leadership, which is a “directional leadership”, based on the persuasion⁸.

From this theory of the European Union as a normative power it is possible to deduce some indicators through its actions in international politics; The first indicator is the aforementioned multilateralism.

Multilateralism is a functional way in which the EU can be influential within a hard power world and alongside with it there is the adhesion to the international law norms, strictly corresponding to the previous concept and to its general principle of conduct⁹.

The concept of the adhesion to international law is linked to the concept of sustainable development of which the EU can be considered as a leader by example (this issue will be discussed in the following chapter) and the principle of precaution¹⁰.

In order to fully comprehend these three key concepts which define the EU as a normative power, we must first identify the EU’s multilateral nature, the reasons why it supports it, as well as the geopolitical context upon which it acts.

1.1.4 The Need For a Decarbonisation of the Economy:

The fight against climate change is a risk a worldwide but it can represent an opportunity for the European Union, for geopolitical, political and economic reasons.

From an economic standpoint it is clear that a decarbonisation of the world economy would benefit the EU for several motives.

⁵ Oberthür S., *The role of the EU in global environmental and climate governance*, Pag. 3, in Telo’ M., *The European Union and Global Governance*, Ashgate, 2009

⁶ Telò M., *Europe: A Civilian Power? European Union, Global Governance, World Order*, 2006

⁷ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm-or interest-driven actor*, Pag. 171, *JCMS Journal of Common Market Studies*, January 2012.

⁸ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

⁹ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm-or interest-driven actor*, pag. 173, *JCMS Journal of Common Market Studies*, January 2012.

¹⁰ *Ibidem*, pag. 170

The first motive is the absence of fossil resources in the member states of the European Union: these countries rely on exports of oil, coal and natural gas, especially from Middle East and Russia.

The most recent data of the European Commission claims that the 53% of the consumption of energy in the EU is imported, costing each day 1 billion euros per day¹¹.

The same data also claims that energy imports amount to 20% of the European Union's total imports, and a further break down of this data reveals that 90% of oil is imported, in addition to 66% of natural gas and 42% of coal¹².

It is clear from these numbers that the energetic policy of the EU depends on fossil fuels imports, an issue which worsened in 2014 with the beginning of the Ukrainian crisis and the souring of the diplomatic relations between the EU and Russia.

With the Ukrainian crisis the need for decarbonisation, a stop on imports dependency and a transition to renewable sources became even more concrete as a future fallout of Euro-Russian relations could have sparked a real necessity of energetic autonomy¹³.

Abandoning fossil fuels would also have also huge security implications: relying on renewable sources instead of fossil fuels, as already mentioned, would end the European political dependency on Russia by weakening Putin's strongest "bargaining power" who can exploit the energetic issue as a means to put pressure, blackmail or threaten at will¹⁴.

1.1.5 Climate Change And Security Issues:

Climate change is also strictly related to the possible (and current) refugee crises: altering the conditions of earth in contiguous regions of the world with Europe could trigger in recent times a "refugees" emergency.

In places such as Northern Africa or the Middle East people could be forced to leave because of the increase of desertification and the consequent shortage of water, or equally because of the worsening of meteorological phenomena¹⁵.

Furthermore, climate change would not only trigger a "climate refugees" crisis, but it could also affect peace in parts of the world where the economy and the territory can be harmed, such as Africa, Asia and Southern America

¹¹ European Commission, Energy, *Imports and secure supplies*, <https://ec.europa.eu/energy/en/topics/imports-and-secure-supplies>

¹² Ibidem

¹³ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 10, 23 May 2016.

¹⁴ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm- or interest-driven actor*, pag. 176, JCMS Journal of Common Market Studies, January 2012

¹⁵ Ibidem, pag. 177

The shortage of water for instance, in the Middle East, could cause conflicts over control of water supplies¹⁶.

A hypothesis has been formulated that the deep drought which occurred in Syria during the period 2007-2010 was one of the cause of the civil war (because of its economic repercussions)¹⁷.

1.1.6 Climate Change As A Chance To Prevail In A Hard Politics World:

Two other considerable facts have altered the geopolitical sphere in the last years and which have increased the need for the EU to take a multilateral approach: the first thing is the change in attitude of the USA under Barack Obama¹⁸.

After the Bush era, and the complete abandon of any environmental policies by the United States (especially after the refusal of the Bush administration to ratify the Kyoto protocol¹⁹) and also following the failure of Copenhagen, the USA decided to commit to a new multilateral strategy based on working with the other partners to find an agreement on the issue of climate change.

This move of the Obama presidency was significant for the EU, implying that if it had not achieved anything, the United States probably would have, and that would have meant a further loss of influence of the European Union at a global level.

The other fact is the growing economic and political importance of China, the first country in the world for share of emissions: China and the United States do not represent the two poles of a bipolar world, because China has no aspirations to establish a political influence, unlike Russia, even if in the last years the role of the first increased with all its economic weight and its geopolitical influence²⁰.

An EU failure in addressing multilaterally the issue of climate change could bring it to be side-lined and lose its normative power to the dual benefit of the USA and China (which has recently shown the will to lead in the climate change fight²¹), which was the exact occurrence during the Copenhagen conference²².

¹⁶ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 2, Nouvelle Ed, Paris, 2015.

¹⁷ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts*, Chapter 4, Nouvelle Ed, Paris, 2015.

¹⁸ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 2, 23 May 2016.

¹⁹ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts*, Chapter 4, Nouvelle Ed, Paris, 2015.

²⁰ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 5, 23 May 2016.

²¹ Geiling N., *China makes it clear they are ready to lead on climate if Donald Trump won't*, ThinkProgress, 17 January 2017

²² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales*, Chapter 7, Sciences Po Les Presses.

Proving a certain leadership before the eyes of the two main world hard powers would denote being an influential player.

To sum up this point, the European Union is not a hard power actor, but a soft power, a normative actor with limited means.

The only way it can play at a global level is to use diplomatic tools, the most effective one being multilateralism, which can be exercised adeptly by the EU in the scope of climate change and environment.

Being able to show competent leadership in such a crucial issue would signify not being marginalised by hard power actors.

This is the international dimension of the EU which must not overshadow the internal dimension, because the European Union is not a federal state and at the same time nor is it an international organisation, but the most advanced existing regional integration project.

As mentioned previously, the recent crises have weakened the European integration, concerning also directly the fields of environment and climate change.

1.1.7 Climate Politics As A Factor Of Integration:

The recent troubles the European Union has been faced with have unleashed a wave of populism and Euroscepticism, threatening the existence of this regional organisation and its developments.

The progress of far-right Eurosceptic parties poses not only a danger to the European integration but also to an effective struggle against climate change, as these movements are sometimes climate change deniers²³.

Remaining an influential player in climate change politics means for the European Union a fight against the political forces which push for a disintegration of the European project.

For example, the main political party which supported the exit of the United Kingdom from the European Union (the most significant event affecting the European integration since the Treaty of Rome), the UKIP (United Kingdom Independence Party) has a climate change denier political platform, which is also the case as with other political Eurosceptic parties such as the Polish Law and Justice party²⁴.

²³ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 9, 23 May 2016.

²⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

Climate change and environmental policy not only embodies a factor of global relevance, but also emerges as a considerable instrument of integration, especially in the recent years of interruption.

But before focusing on the concept of integration, it is vital to highlight another important concept of the European construction, which is the so-called democratic deficit, an accusation that has been made towards the EU since the 1990s²⁵.

The democratic deficit is strictly linked to the notion of input legitimacy, hence the origin of legitimacy in the first place. One way to curb the lack of this it is to strengthen the so-called “output legitimacy”, meaning the goals which are met. Climate change and environmental policies represent an opportunity for this, because reaching relevant and shared results boosts the legitimacy of EU action in spite of the apparent, and sometimes contested, democratic deficit.²⁶

This is linked of course to the aforementioned structural nature of the European Union, which is not a state and consequently does not possess the political means states hold to legitimise their political choices²⁷.

Regardless of Brexit, the European Union has suffered several blows in recent years, the main one being the rejection of the project of the European constitution treaty by the French and Dutch parliaments: this event was a rejection of an attempt to federalise the European Union according to the Spinelli and Hamiltonian model²⁸.

Climate change is a concrete matter, it does not concern institutions or treaties.

The will to lead in this issue indicates that the European Union has abandoned (at least for the time being) the federalist project and has returned to its successful functionalist approach, the so-called Jean Monnet method²⁹.

Functionalism appears to be the only way that the European Union can advance in its integration project, also because in this scope states experience as a shared sovereignty³⁰.

This is to some extent a contradictory aspect; thus far it has been claimed that the European Union supports a multilateral approach to geopolitics, and that the internal structure of the EU reflects this multilateral attitude, at least *de iure*.

²⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

²⁶ Ibidem, Chapter 5

²⁷ Ibidem, Chapter 5

²⁸ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm- or interest-driven actor*, Pag. 177, JCMS Journal of Common Market Studies, January 2012.

²⁹ Ibidem, Pag. 177

³⁰ Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI.

De Facto in the last years after the burst of the financial crisis, because of the asymmetries between states as there have been some with strongest economies (Germany, Netherlands, Scandinavian countries) and others which suffer the most (Spain, Portugal, Greece, Italy, Ireland) the political weight of the former countries have increased, especially within the intergovernmental institutions of the European Union (European Council and Council of Ministers)³¹.

This European attitude towards environment and climate change have been shaped in the years by some states, especially by Germany the Netherlands and Sweden (policymakers in this domain) which have influenced this process through their own internal legislations which have always been the most advanced in the European Union³².

These countries have exercised a certain “leadership by example” as Edoardo Berionni affirms, shaping the European legislation on this issue and consequently conditioning the other member states to adopt it³³.

This process of “mimetic isomorphism” and reciprocal influence between states and the Union itself can be defined as an “Europeanisation” of environmental policy³⁴.

The Europeanisation of this kind of policy is undoubtedly a remarkable factor of integration: before the enlargement to incorporate the Eastern European countries and the growing opposition from these new member states, the environmental policies were highly consensual³⁵ and did not face oppositions, but they were more absorbed or in the worst case transformed or accommodated according to each member state’s own national legislations³⁶.

These discrepancies prove that environmental policy in the EU is shaped and influenced by some main actors and policy makers, but at the same time that this does not necessarily reflect the will of them because of the internal hurdles of the other member states.

This method confirms the multilateral nature of the European Union, despite the facts that some member states can be more influential than others owing to their economic standing³⁷.

³¹ Telò M, *The Challenge of a Democracy Beyond the State in the European Union*, in Unver Noi A., Toperich S, *Challenges of the European Union and its Neighbors*, Centre for Transatlantic Relations, 2016.

³² Jordan A., Liefferink D., Fairbrass J., *The Europeanization of national environmental policy: A comparative analysis*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004.

³³ Berionni Berna E., *The European Union’s laboratory for sustainable development in the time of globalization and regionalization*, Pag. 37, LUISS Guido Carli, 2016

³⁴ Berionni Berna E., *L’integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo’ M., *L’integrazione regionale dell’Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell’ Enciclopedia TRECCANI.

³⁵ Ibidem

³⁶ Jordan A., Liefferink D., Fairbrass J., *The Europeanization of national environmental policy: A comparative analysis*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004.

³⁷ Ibidem

It is within the field of the environment that the European integration has developed according to a supranational approach, confirming the thesis that the environmental policy is a functionalist policy, able to elevate the progress of the European Union³⁸.

Based off of the previous explanations it can be hypothesised that climate change and environmental politics could represent an opportunity for the EU to relaunch the Jean Monnet method, go further with the political integration and develop the supranational aspect of the European institutions³⁹.

The European Union is committed to climate change and environmental politics, on the one hand on account of its support for multilateralism worldwide based on its will to remain a relevant player, and on the other hand for internal reasons, as environmental politics has revitalised European integration through both the functionalist method and the reinforcement of supranationalism.

1.1.8 The Fight Against Climate Change as an Economic Opportunity for the EU:

Another important reason underpinning the EU's commitment to the environment, links to both the international sphere and the internal one: it is the EU's role as an economic actor, which is part of what Jurgen Habermas claims to be the "internal foreign policy" of the EU.

The European Union's position as the biggest market in the world⁴⁰, allows it to exercise a "global governance", hence going beyond the European borders and the jurisdiction of the EU legislation to exert its influence in several issues⁴¹.

The status of being the largest world market gives the EU a consistent bargaining appeal to other states such as China and India⁴². The EU can impose a conditional trade establishing certain standards and regulations as André Sapir claims (concerning the environment for instance) which must be complied with in order for access to its market to be granted⁴³.

³⁸ Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI.

³⁹ Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI

⁴⁰ Spencer Thomas, *COP21: What's in it for Europe?*, Pag. 3, IDDRI, January 2016

⁴¹ Lavenex S., & Schimmelfennig F., *EU rules beyond EU borders: theorizing external governance in European politics*, Journal of European Public Policy, 14 August 2009.

⁴² Spencer Thomas, *COP21: What's in it for Europe?*, Pag. 2, IDDRI, January 2016

⁴³ Telò M., *The European Union and Global Governance*, 2008.

The rules established by the European Union are applied indirectly to other parts of the world, and this capacity to influence is part of the normative nature of this organisation: it is for this reason the European Union has been rightly defined as a global regulator⁴⁴.

Its status as the largest market in the world renders the EU an attractive economic subject for countries such as China, those with an enormous economic power, but high levels of emissions, which would need to abide by the market's rules should they wish to be a part of it.

But this is not the only factor which renders tempting the European market to other Extra-European countries: the European Union is one of the world's leaders in technological innovation⁴⁵.

To give an emblematic example, China is the country with the greatest number of rare earth elements such as lithium (essential for the photovoltaic industry), to the point that it can almost be considered as a monopolist of them⁴⁶.

What China lacks however is the technology to exploit these resources, while the European Union possessed the highest number of patents in the field of sustainable energy sources in the years 2007 to 2009⁴⁷.

A breakdown of the data it results that in the top 10 countries holding these patents there were Germany, France, the United Kingdom, Italy and the Netherlands, amounting to the 32% of the world production⁴⁸.

This data moreover corroborates also with the thesis that the European Union is interested to a decarbonisation of the world economy for economic reasons and that it pushes for an environmental and climate change policy in order to achieve this goal, according to a rational choice and, to some extent, realist interpretation.

Furthermore, the European Union can exercise a concrete leadership by example through its share and reduction of emissions and its carbon market, the ETS (Emission Trading Scheme, which will be discussed in the following paragraph).

To give an example: the European Union set itself a goal to reduce by 20% its greenhouse gas emissions from a base year 1990 to 2014, and according to a report of the European Environment Agency (EEA), the reduction has been by 23%⁴⁹.

⁴⁴ Young A.R., *The European Union as a Global Regulator? Context and Comparison*, Journal of European Public Policy: Volume 22, N. 9, 2015.

⁴⁵ Spencer Thomas, *COP21: What's in it for Europe?*, Pag. 3, IDDRI, January 2016

⁴⁶ Simmons L., *Rare-Earth Market: by monopolizing the mining of rare-earth metals, China could dictate the future of high-tech*, Foreign Policy, July 12 2016.

⁴⁷ Spencer Thomas, *COP21: What's in it for Europe?*, Pag. 3, IDDRI, January 2016

⁴⁸ Glachant M., *Greening Global Value Chains: Innovation and the International Diffusion of Technologies and Knowledge*, Annual Green Growth Knowledge Platform (Ggkp) Conference, Paris, 4-5 April 2013.

1.1.9 The Fight Against Climate Change as a Factor of Survival for the EU:

Climate change poses a huge threat to the European Union because its effects can harm deeply some regions, their environments, their economies and their populations.

A rise of temperatures would hit the Mediterranean regions (even because it would be more considerable than in the other regions) increasing the desertification of the soil and therefore harming the crops and the vegetation⁵⁰.

The Northern and Atlantic regions would suffer the sea levels rising and an increase in floods due to an increase of precipitations, while in the alpine regions the glaciers could melt, posing a threat to the biodiversity⁵¹.

Central Europe would be also hit by an increase of heatwaves which can destroy and reduce the forests and the vegetation and therefore the biodiversity⁵².

This overview shows how global warming constitutes for the European Union a very high cost from several points of view, above all economic, but also human because its effects can harm seriously the population.

1.1.10 Conclusions:

The research question of this paper was whether the European Union has re-found its role of leader in the fight against climate change, but before it was necessary to clarify why it aims to be a leader in this domain, and this chapter has explained the current reasons: above all because climate change and environment are an issue of soft global politics, therefore the European Union, which is a civilian and normative power, can act with the adequate means and at the same time it can play a relevant role in a hard politics world.

Other reasons are related to the sectors of energy and security: being leader in the fight against climate change means pave the way for the abandonment of fossil fuels and therefore the end of economic dependency from hostile countries such as Russia or the Gulf Monarchies, and at the same time fighting climate change is also a matter of conflict prevention because it can trigger conflicts and refugee crises on the other shore of the Mediterranean which would affect the European Union itself.

⁴⁹ Climate Change: the EU shows leadership ahead of Paris with 23% emissions cut, European Environment Agency, 19 October 2016 <http://www.eea.europa.eu/media/newsreleases/climate-change-eu-shows-leadership>

⁵⁰ European Environment Agency - *Climate change impacts and adaptation*, 18 February 2015 <https://www.eea.europa.eu/soer-2015/europe/climate-change-impacts-and-adaptation>

⁵¹ Ibidem

⁵² Ibidem

The fight against climate change represents also a factor to relaunch the European integration in this moment, therefore leading worldwide would mean showing the effectiveness of the European project and at the same time pushing for renewable sources would boost the EU economy.

The last reason why the European Union needs to be a leader in climate change is because it would be deeply hit by climate change.

Before analysing the EU leadership in action and therefore how it went lost and eventually re-found after Paris, it is necessary to see previously the reasons behind this leadership: being a stronger and more integrated Union with a stronger voice in the world, autonomous from an economic point of view, and safer from its effects from an internal and external point of view⁵³.

⁵³ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

1.2 The Legal Bases of the EU Commitment to Environment.

1.2.1. Constitutionalism and fight against climate change in the EU:

The commitment of the European Union to the environment is a concept enshrined in the Treaties and it is a cornerstone of the European law which developed over time.

It is acknowledged that the modern notion of constitutionalism is embedded both within the European construction and in the European law, deriving from Locke, Montesquieu, Rousseau, Kant and the American federalists' conception, based on the protection of the freedoms of individuals and their rights⁵⁴.

If the European Union embodies the modern notion of constitutionalism, and if this denotes the protection of the rights of citizens, it is clear that the citizens are not only those of today but also those to come, and that the protection of environment thereby means guaranteeing a sustainable future for new generations⁵⁵.

Tackling climate change means protecting future citizens' rights.

In this sense it can be affirmed that the European Union represents a well-established equilibrium between the free market economy, an advanced form of constitutionalism and sustainable development according to Edoardo Berionni⁵⁶.

1.2.2. From Energy to Environment:

As previously mentioned, the issue of climate change is strictly related to the energetic question, which is the main reason why the European project was born concretely.

The first two European treaties were the Paris treaty of 1951 and the EURATOM treaty of 1958 which respectively established the European Community of Steel and Coal and the European Atomic Energy Community⁵⁷.

The energetic issue was the first catalyst of the European integration, even if it was not a European matter, attested to also by the fact that there is a deep energetic heterogeneity between the several European states⁵⁸ (and given the need for a unanimity vote within the Council of ministers for energetic matters⁵⁹).

⁵⁴ Telò M., *Dallo Stato all'Europa. Idee, politiche e istituzioni*, Carocci editore, 2014

⁵⁵ Berionni Berna E., *Ambiente e costituzionalismo. Il modello europeo di sviluppo sostenibile. Storie di un'incontenibile vocazione alla sconfinatezza*, Pag. 88, Rivista di Studi Politici, 4/2011 - Anno XXIII - Ottobre/Dicembre.

⁵⁶ Ibidem, Pag. 100

⁵⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

⁵⁸ Ibidem, Chapter 5

⁵⁹ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 9, 23 May 2016

The environment, through a spill-over process, became a European matter, but always with a primary focus on energy.

1972 was a key year for the environment: the first United Nations conference on Human Environment took place in Stockholm which established the UN environment programme⁶⁰, and in the same year the then European Council of the European Economic Community met in Paris, becoming the first European meeting concerning the environment⁶¹.

The Paris meeting brought the European Commission to adopt the Environmental Action Programme in 1973, even if this matter was not yet a part of the treaties⁶².

This first move established the Directorate General for the Environment (DG Environment), and in the same year, the Club of Rome published a cornerstone of the environmental literature, the text “Limits to Growth”, where the economic dangers for the environment were stressed and brought in front of the public opinion⁶³.

The following year in 1973 the Kippur War and the oil crisis urged the ECC to elaborate new energetic strategies among with the alarm launched by the Club of Rome.

It is for this reason that in 1974 the European Council adopted a resolution on “a new energy policy strategy for the Community”⁶⁴.

This new strategy had 3 main pillars aimed towards a reduction of oil in order to amortise the effect of the crisis: the first pillar was the reduction of consumption, hence of the supply, the second was an economy more centred around nuclear energy than on fossil fuels, and the third was a reliance on the energetic sources available in the ECC states⁶⁵.

In any case, the issue of the environment became pressing for European Institutions, hence the other reason why the European Council adopted a further strategy based on “energy and environment” in 1975, targeted towards finding the right balance between an efficient energetic policy, and at the same time proper protection of the environment⁶⁶.

These were the first steps taken in the direction of a European environmental policy, even if these measures were not enshrined within the European treaties which legally represent the highest sources of law in the EU and in the then ECC.

⁶⁰ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 1, Sciences Po Les Presses, 2016

⁶¹ Kramer L., *EU Environmental Governance*.

⁶² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

⁶³ *Ibidem*, Chapter 1

⁶⁴ *Ibidem*, Chapter 5

⁶⁵ *Ibidem*, Chapter 5

⁶⁶ *Ibidem*, Chapter 5

Hence this is the reason why the environmental policy in the EU has been defined as an “illegitimate child”, as it was born without any juridical provisions in the European Treaties⁶⁷, and as a result of a spill-over effect from the energy sector⁶⁸.

1.2.3. The Codification of The Environment in the European Treaties:

1986 marked a turning point with the signing of the Single European Act establishing the Single Market with all its rules and regulations⁶⁹.

Title VII of the treaty includes a chapter dedicated to the environment, and Article 130r declares that the ECC has the objectives “to preserve, protect and improve the quality of the environment”⁷⁰.

The same article stresses two other principles: the first one is the prevention principle and the second one is the precept of “the polluters pay”⁷¹.

This last principle is linked to the idea of the pigouvian taxation, hence the taxation of externalities (those with economic behaviours which harm other subjects and which are not “paid” by those who produce them), even if this point has always been a “utopic” measure (e.g. the failed EU carbon tax).⁷²

Regardless of this, the Single European Act represents the first codification of the protection of the environment in European treaties.

An important step ahead in the codification of this matter in European law occurred in 1992 with the Maastricht Treaty. This treaty introduces a general important concept in European law, one of sustainable development⁷³.

Article B in the Common Provisions of Title 1, the treaty of Maastricht, affirms that the European Union strives “to promote economic and social progress which is balanced and sustainable” (Article 2 of the TEU)⁷⁴.

In the previous paragraph, where the normative nature of the European Union has been described, the issue of sustainable development was mentioned as one of the key-norms

⁶⁷ Krämer L., *Thirty years of environmental Governance in the European Union*, in Macrory R., *Reflections on 30 Years of EU Environmental Law, A high Level of Protection*, Europa Law Publishing, 2005

⁶⁸ Calfee C.H., *Europe's “jolly green giant”: environmental policy in the European Union*

⁶⁹ Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI.

⁷⁰ See Article 130r Single European Act.

⁷¹ Ibidem

⁷² Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 6, Nouvelle Ed, Paris, 2015.

⁷³ Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI.

⁷⁴ See Article 2 TEU.

characterising the action of the EU as a normative power at a global level, among with the promotion of multilateralism, respect for international law and the adoption of the precautionary principle⁷⁵.

This paragraph moreover aims to prove how these 4 principles are indissolubly related and thereby essential in order to understand the European Union's commitment to the fight against climate change.

If the Single European Act has introduced the important principle of prevention, the Maastricht Treaty makes a relevant step ahead, and launches a concept which is both complementary to and extensive of the one of prevention, which is the precautionary principle⁷⁶.

Before being a juridical concept, the precautionary principle is an epistemological and scientific concept, based on the fact that in several scientific issues it is not possible to reach a shared and sure explanation, but this does not suggest that the phenomenon is not happening nor that it shall not happen. Based on this assumption, the actions of policymakers must be oriented to the precaution, hence by abstaining from behaviours which could damage in case the phenomenon is real⁷⁷.

This principle must be applied in the case of climate change as this phenomenon is yet to be fully explained, because there are still blurred points on the tangibility of its effects, despite the fact that the academic and scientific world agree with its reality in the face of the frequent climate change scepticism or denial.

This principle has been set out in the Maastricht treaty: the EC treaty affirms in Article 174 that "it shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay"⁷⁸, hence updating and integrating the Article 130r of the European Single Act.

Another important principle launched by the Maastricht treaty is the principle of subsidiarity: this concept relates to the competency of the different levels of administration with regard to environmental issues⁷⁹.

⁷⁵ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm- or interest-driven actor*, pag. 169, JCMS Journal of Common Market Studies, January 2012.

⁷⁶ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

⁷⁷ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm- or interest-driven actor*, pag. 174, JCMS Journal of Common Market Studies, January 2012.

⁷⁸ See Article 174(2) EC Treaty

⁷⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

This principle was previously introduced by the European Single Act, but it had been confined to purely environmental matters. It is only with the Maastricht treaty that it attains the status of a general principle of European law⁸⁰.

To some extent, the introduction of this principle and its application in the issue of environment, ties in with the so-called democratic deficit of the European Union: a decentralisation of functions and powers from the Union to the member states appeared as a way to partially solve the problem of input legitimacy⁸¹.

According to Ralf Dahrendorf, the then member of the European Commission, the principle of subsidiarity needed to replace the other principle defined as the “dogma of the harmonisation”⁸².

Progress has been made over the last years concerning the harmonisation of national policies, thanks to the European Semester with the project “Greening the European Semester”, which provides economic coordination to guarantee sustainability⁸³.

The evolution of the protection of the environment under European law thus far, has been quite slow: it was born from a spill-over process of energetic issues and subsequently became soft-law. It was only with the European Single Act of 1987 that the environment was incorporated into the treaty among with the first principles, prevention and “polluters pay”.

A further important step is taken with Maastricht in 1992, as the concept of sustainable development is finally inserted into the treaty with two important principles, one of precaution and one of subsidiarity.

The codification of the protection of the environment in European treaties progressed in 1997 with Treaty of Amsterdam: the treaty promoted the sustainable development to “Community objective” under the legal aegis of the treaties⁸⁴.

That denotes that the protection of the environment is one of the main principles of the European Union, and Article 6 of the European Community Treaty (now article 11 of the Treaty on the functioning of the European Union) proclaims that “Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting

⁸⁰ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

⁸¹ Ibidem, Chapter 5

⁸² Ibidem, Chapter 5

⁸³ Greening the European Semester – Environment – European Commission
http://ec.europa.eu/environment/integration/green_semester/index_en.htm

⁸⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

sustainable development”⁸⁵. The latter embodies the so called “environmental integration principle”⁸⁶.

This article integrates the concept of sustainable development and the protection of the environment with one of the integration of European policies; the aforementioned Article 3 cites that “For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein”⁸⁷, and point “I” touches on “a policy in the sphere of the environment”⁸⁸.

Following the Treaty of Amsterdam in 1997, the issue of the environment became even more relevant with the Lisbon treaty of 2007; this treaty modified the terminology as shown within Article 194 of the TFEU⁸⁹. The term previously used was “Community’s environment policy” and the treaty altered it to become the “Union’s environment policy”⁹⁰.

Article 3 of the TEU (former Article 2) recites that “The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance”⁹¹ and “In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter”⁹².

Article 21 of TEU reaffirms that the Union shall “help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development”⁹³.

The TFEU under the Title XX, includes a section completely concerning the issue of the environment. Articles 191, 192 and 193⁹⁴, enumerate as the main environmental goals of

⁸⁵ See Article 6 EC Treaty (now Article 11 TFEU)

⁸⁶ Schunz S., *The 2015 Paris Agreement: What it means for the European Union’s Climate Policies*, Pag. 5, CEPOB (College of Europe Policy Brief), January 2016.

⁸⁷ See Article 3 EC Treaty

⁸⁸ See Article 3(1) EC Treaty

⁸⁹ Berionni Berna E., *The European Union’s laboratory for sustainable development in the time of globalization and regionalization*, Pag. 45, Luiss Guido Carli, 2016

⁹⁰ Ibidem, Pag. 47

⁹¹ See Article 3(2) TUE.

⁹² See Article 3(5) TUE.

⁹³ See Article 21(f) TUE.

the EU the preservation, protection and improvement of the quality of the environment; the protection of human health, a proper utilisation of natural resources and, as the most important and innovative point of the article, the endorsement of “promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change”⁹⁵.

The Treaty’s main innovation regarding the functioning of the European Union is that it brings the issue of climate change under the wing of European law and renders it a goal of European environmental law⁹⁶.

It can be affirmed that the environment as a European matter has evolved consistently from the European Single Act (and even before when it was a soft politics matter⁹⁷) into the Lisbon Treaty. Born as an emanation of the European energetic policy and then listed in the European Single act and in the Maastricht and Amsterdam treaties, the environment, with the Lisbon treaty and the amended TFEU became a relevant issue of European policy, to the extent that also climate change fight became an integral part of the European hard law.

If it is important to understand the legal provisions in the European treaties concerning climate change and the environment, it is equally essential to grasp the legal procedures and the competences of these matters among the Union and its member states, as well as among the same EU institutions.

1.2.4. Institutions and Competences:

In environmental and climate change policy the competences are shared, hence they are both under the states and under the European Union⁹⁸, as it is mentioned in the Title XX of the TFEU and even clearly stated within the article of that same treaty⁹⁹.

This matter is also shared within the European Union institutions, and often contested by several institutions: the two main institutions playing a part are the Council of ministers

⁹⁴ Berionni Berna E., *L’integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo’ M., *L’integrazione regionale dell’Unione europea, Mondo e tendenze, Atlante Geopolitico Treccani 2015*, Istituto dell’ Enciclopedia TRECCANI.

⁹⁵ See Article 191(1) TFEU

⁹⁶ Berionni Berna E., *L’integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo’ M., *L’integrazione regionale dell’Unione europea, Mondo e tendenze, Atlante Geopolitico Treccani 2015*, Istituto dell’ Enciclopedia TRECCANI.

⁹⁷ Ibidem

⁹⁸ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, Pag. 5, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

⁹⁹ See Article 4(2-e) TFEU

and the European Commission, the former juridically charged with a more significant role than the latter.¹⁰⁰

The Council's ministers are and always have been the main voice within the domains of both the EU's external policy and climate policy; the Council has a more stratified structure concerning climate and environmental policy as it established a Council working group on International Environmental Issues (WPIEI) - Climate¹⁰¹.

This Council working group additionally includes representatives from both the member states and the Commission and has at its lead the presidency of the Council of the European Union¹⁰².

All the main preparatory work and documents to be used within the negotiations are drafted by this council, as well as the council conclusions which must be adopted by the Environment Council (which decides by consensus)¹⁰³.

This group reflects the shared nature of this competence as it involves all the key actors in finding an EU position for the negotiations, one which is then adopted by the Council's conclusion¹⁰⁴.

In the case of negotiations in the field of a UNFCCC Conference (United Nations Framework Convention on Climate Change), in order to establish a mandate, a third institutional body must take part between the Council Working Group and the Environment Council. This institutional body is known as the COREPER, the Committee of Permanent Representatives, in this case it is the COREPER I which discusses the environment¹⁰⁵.

Moreover, as already touched upon, the Treaty of Amsterdam produced several modifications to the EU's climate and environmental policy as well as to the organisation of its institutions. Indeed after 1999, the Presidency was assisted by the Commission and by the future state to chair the Presidency of the European Council, with the name of EU Troika¹⁰⁶.

This new attitude of the Council of ministers is a result of a 2004 reform under the Irish presidency chaired by Bertie Ahern, and concerning the external policy: the problem

¹⁰⁰ Oberthür S., *The European Union's performance in the international climate change regime*, pag. 6, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁰¹ Schunz S. et al., *The European Union Foreign Policy and Global Climate Change: towards a comprehensive European Climate Policy?*, Pag. 6, Institute for International and European Policy (IIEP), 12, 2009

¹⁰² Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 6, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁰³ Schunz S. et al., *The European Union Foreign Policy and Global Climate Change: towards a comprehensive European Climate Policy?*, Pag. 6, Institute for International and European Policy (IIEP), 12, 2009

¹⁰⁴ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 6, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁰⁵ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, Pag. 7, International Environmental Agreements: Politics, Law and Economics, 11, Springer, 2011

¹⁰⁶ Ibidem, Pag. 6

links to the six months rotation of the Council of ministers which weakened the so-called “institutional memory”, increased the time it took to take action and limited the role of the technical experts¹⁰⁷.

The solution found by the Irish presidency was to shift the influence from the institutional side (the Council working group and of course the presidency) to the “technocratic” side, hence what Sebastian Oberthür calls the “issue leaders”¹⁰⁸.

The European Commission cannot be considered as the most relevant institution in this scope, even if it worked to increase its importance over time and to some extent successfully. While it is true that it always holds the legislative initiative monopoly, its attempt to override the Council regarding the role of external representation and negotiation in environmental policy failed¹⁰⁹.

Nevertheless, the European Commission did take some steps its own and in February 2010, it decided to create a Directorate general of climate action (DG Climate Action)¹¹⁰, obligated to participate in negotiations.

The Lisbon Treaty brought about important innovations in the legal aspects concerning the environment and also introduced the figure of the High Representative of the Union for Foreign affairs and Security Policy with its related European External Action Service (EEAS), rendered the President of the European Council full time and defined the European Union as a single international actor¹¹¹.

This last modification represents an essential turning point for the external policy of the EU, as it bestows the European Union with a legal personality which gives it the power to sign international treaties, as mentioned in Articles 218 and 219 under the Title V of the TFEU¹¹².

These two institutional figures (High representative and EEAS) remained quite marginal at any rate in the negotiation process, and within climate and environmental policies in general, as well as within the European Parliament¹¹³.

¹⁰⁷ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 6, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁰⁸ Ibidem, Pag. 7

¹⁰⁹ Ibidem, Pag. 3

¹¹⁰ Ibidem, Pag. 7

¹¹¹ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, Pag. 16, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010

¹¹² See Article 216 TFEU

¹¹³ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 7, Journal of European Integration, Vol. 33, Iss. 6, 2011

If these are the main institutions involved in climate and environmental politics within the EU, the decision making process is a separate entity as intergovernmentalism tends to prevail on supranationalism.

The legal procedure to approve regulations or directives on the environment, as declared by Article 192 of the TFEU, is subjected to ordinary legislative procedure, better known as co-decision, which involves both the Council of ministers and the European Parliament¹¹⁴.

The TFEU proclaims in Article 192.2 that environmental policies can be subjected to a unanimity vote (instead of the qualified majority) when they involve fiscal reasons, town and country planning, water resources, land use and energy, even if this measure has its limits (to be examined in the next paragraph)¹¹⁵.

The two main legislative measures undertaken by the Commission to operationalise these norms are the Emissions Trading Scheme (already discussed in the first paragraph) and the Effort Sharing Decision.

With regard to the Emission Trading Scheme (ETS), it is the largest world carbon market and it limits the CO₂ emissions in the European Union covering up to 40% of the EU emitting structures¹¹⁶.

The Effort Sharing Decision (revised in 2016) imposes mandatory reduction targets for member states, and covers a period of time from 2013 to 2020 and copes with the emissions not covered by the ETS, hence transport, the construction industry, the agricultural sector and waste¹¹⁷.

1.2.5. Conclusions:

This analysis endeavours to specify three main points: the first is to demonstrate how the environment is a legal matter in the European Union (and to be more specific, within the fight against climate change). The second point aims to illustrate how decisions in this field are taken, while the third point seeks to corroborate and operationalise the four elements which characterise the EU as a normative power, as these elements are enshrined within the treaties.

¹¹⁴ See Article 192 TFEU

¹¹⁵ See Article 192.2 TFEU

¹¹⁶ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 9, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹¹⁷ Oberthür S., *Perspectives on EU implementation of the Paris outcome*, Pag. 16, Institute for European Studies at the Vrije Universiteit Brussel, 25 April 2016

The European Union supports multilateralism and by analogy international law (given its realisation as a Kantian project of perpetual peace¹¹⁸) sustainable development which is a transboundary issue reachable through multilateralism and international law, and last but not least, the precautionary principle.

These four principles are not only moral convictions for the European Union, but also represent juridical principle, a base of action. These principles convey with clarity the European will to tackle climate change in a multilateral way with an international law binding agreement, in order to transpose its own model onto the global stage, exercising its leadership by example.

¹¹⁸ Telò M., *Dallo Stato all'Europa. Idee, politiche e istituzioni*, Carocci editore, 2014

1.3 The Limits of the EU Action.

1.3.1 Introduction:

These previous paragraphs had the task to describe the European Union's actions, from a political and a juridical point of view, with regard to climate and environmental policy, and the reasons behind the need of a leadership in the fight against climate change.

The overall picture which emerges is that of a regional integration with an advanced internal structure, but with serious limits, some structural, linked to its legal configuration, and others of a political nature, both internal and external.

This last chapter relates to the research question because it is important to grasp the limits the EU has as they help to understand when and how the EU leadership can be vulnerable and therefore how it can be lost.

1.3.2. The Structural Limits of the EU:

It is acknowledged that the European Union is not a state but an organisation involving 28 states, each with its own political and economic interests and features: this signifies that unanimity within the Council of ministers is required when according to the treaties within environmental and climate policy¹¹⁹.

The limits of a unanimous vote are that it can weaken the common position of the European Union which could mean adopting an incoherent and sometimes contradictory position between the Union and its member states¹²⁰.

At an international level the distinction between the Union and its member states is quite blurred¹²¹: during negotiations it is the European Union which negotiates on behalf of the member states, but at the same time all 28 member states take part in the negotiations¹²² (as they are all members of the UNCCC and the European Union is the only regional organisation which is a part of the convention¹²³).

¹¹⁹ Oberthür S., *The role of the EU in global environmental and climate governance*, Pag. 10, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009

¹²⁰ Ibidem, Pag. 10

¹²¹ Oberthür S., *Perspectives on EU implementation of the Paris outcome*, Pag. 4, Institute for European Studies at the Vrije Universiteit Brussel, 25 April 2016

¹²² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 3, Sciences Po Les Presses, 2015

¹²³ Oberthür S., *Perspectives on EU implementation of the Paris outcome*, Pag. 2, Institute for European Studies at the Vrije Universiteit Brussel, 25 April 2016

1.3.3. The Opposition from Eastern European Countries.

The internal problems within the European Union concern several blocks of states with different and divergent interests; the 2004 enlargement can be seen as a step which weakens the EU position in climate and environment politics¹²⁴.

The reasons behind this are several: firstly because it was a huge enlargement which considerably increased the number of member states, hence the number of voters within the Council of ministers, rendering it much harder to find a qualified majority¹²⁵.

Another reason related to the enlargement is the same nature of the Eastern European countries: all of them come from a post-communist background (the so called Visegrad group, including Poland, Czech Republic, Slovakia and Hungary among with Bulgaria and Romania)¹²⁶.

These countries still hold economic ties with Russia, a country whose economy depends on energy exports and which influences still the foreign affairs of some Eastern countries. The Ukrainian crisis has moreover demonstrated that Russia can employ its energetic power as a powerful means of pressure and as an efficient geopolitical instrument¹²⁷.

The electric sector of these countries relies on their coal and gas supplies, which signifies independence from Russian exports¹²⁸.

Generally speaking, these countries do not seem keen to commit themselves to a decarbonisation of the economy and a fight against climate change¹²⁹.

The most reluctant member state to adopt these policies is Poland which has repeatedly opposed these schemes, given its dependence on coal (which guarantees its energetic “independence” as coal provides 90% of the country’s electricity and Poland is the first producer and consumer within the European Union¹³⁰), and the opposition has even grown following the 2015 parliamentary elections won by the nationalist and climate change denier party Law and Justice¹³¹.

¹²⁴ Oberthür S., *The role of the EU in global environmental and climate governance*, Pag. 10, in Telo’ M., *The European Union and Global Governance*, Ashgate, 2009.

¹²⁵ Ibidem, Pag. 7

¹²⁶ Ibidem, Pag. 10

¹²⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

¹²⁸ Ibidem, Chapter 10

¹²⁹ Oberthür S., *The role of the EU in global environmental and climate governance*, Pag. 8, in Telo’ M., *The European Union and Global Governance*, Ashgate, 2009.

¹³⁰ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

¹³¹ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 9, 23 May 2016

1.3.4. “Nuclear Interests” in the EU:

A second trend of opposition stems from another sector, the one of civil nuclear power: a decarbonisation of the economy and a shift to renewable sources would also mean a replacement (or at least a weakening) of nuclear energy, which can be considered as an alternative to fossil fuels, because it does not produce greenhouse gas emissions¹³².

Nuclear power represents an alternative to fossil fuels and therefore a more sustainable energy but in a decarbonised world, renewable sources (such as wind or solar) would be more competitive in terms of costs than nuclear energy and therefore would pose an economic “threat” to the nuclear sector.

The interests derive from the main countries relying on nuclear energy in Europe (which was a sector developed in the 1970s in order to reduce the dependence on oil exports), in France and the United Kingdom in particular¹³³.

For France, the nuclear sector not only represents an essential economic sector and the main source of electric energy, but moreover, the fact that it possesses a strong nuclear power has allowed the country to have a lower share of emissions than other European countries¹³⁴.

Observing the path France undertook it can be seen that, in spite of its official commitments, it made very few steps towards a decentralised approach to renewable sources, as the centralised and big centrals remain prevalent, despite the fact that France could be, thanks to its geographical and territorial configurations, one of the most capable countries in Europe of producing renewable sources¹³⁵.

The United Kingdom has consistent interests in nuclear energy as well; it has opposed emissions reduction targets which would cut GHG emissions down by 50% by the year 2030, criticising the imposition of renewable sources to meet these goals instead of allowing flexibility of the means to use other sources such as nuclear energy¹³⁶ (without considering how the economies of parts of England, such as Cumbria, rely on the nuclear sector).

¹³² Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 9, 23 May 2016

¹³³ Ibidem, Pag. 9

¹³⁴ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 1, Nouvelle Ed, Paris, 2015.

¹³⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

¹³⁶ Vaughan A., *UK opposition to new EU green energy targets could risk 'half a million jobs'*, The Guardian, 2 January 2014

1.3.5. The Difficulties of Adopting Legal Provisions in the EU:

As previously mentioned, the European Union is made up of 28 member states and climate policies, and international agreements concerning the environment and climate change cannot be signed and ratified by the European Union institutions in order to enter into force, but must be ratified by the single national parliaments of the member states¹³⁷.

This procedure not only slows down the ratification and implementation of policies and agreements, but it can also put in danger their entry into force, as each member state can reject them (and with the hostile position of the eastern European countries this is indeed a concrete possibility)¹³⁸.

The subsidiarity principle of the European treaties, which can sometimes confer the competence of environmental policies from the Union to member states, presents another limit: the substitution of a harmonisation of policies with subsidiarity has further restricted the action margins of the EU, and yet it has simultaneously allowed for divergences between national policies and disagreements between the EU and its member states (in issues such as the ecotaxes and the Effort sharing decisions)¹³⁹.

1.3.6. The Lack of Investments and the Ineffectiveness of the Leadership by Example:

Another problem confronting the European Union, which is not at all negligible even if it is not a part of its structure, relates to the financial and economic crisis the EU has been experiencing since 2010. The economic crisis has curbed investments in both sustainable development and renewable sources as several member states, due to the implementation of austerity policies, had to use their own finances to cut the budget deficit and cope with their sovereign debts crisis instead of investing them in energetic innovation¹⁴⁰.

Furthermore, the crisis has not only limited the member states actions and investments, but also those of the European Union itself, as its own budget does not possess enough funding from member states in order to invest in this sector¹⁴¹.

Furthermore another constraint stems from a paradox of EU action: as aforementioned, the European Union exerts leadership by example, such as setting goals which it successfully respects, like the reduction of emissions by 23%.

¹³⁷ Oberthür S., *Perspectives on EU implementation of the Paris outcome*, Pag. 5, Institute for European Studies at the Vrije Universiteit Brussel, 25 April 2016

¹³⁸ Ibidem, Pag. 8

¹³⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 3, Sciences Po Les Presses, 2015

¹⁴⁰ Ibidem, Chapter 9

¹⁴¹ Ibidem, Chapter 9

The paradox is that a reduction in emissions weakens its position by giving more bargaining power to the United States and China, which are the first two biggest emissions producers in the world¹⁴².

This act moreover decreases its influence and increases that of the main polluters to the detriment of the EU.

It has also been supposed that this lowest share of emissions of all time was more than merely a virtuous policy, but a result of the economic crisis as well as the general industrial crisis the EU faces¹⁴³.

Despite the fact that the ETS is, from a formal and legal point of view, the world biggest carbon market, it has proven not to be flawless for several reasons, for instance of the problem of the over-allocation of CO₂ allowances which decreased their price¹⁴⁴, the issue of windfall profits for producers deriving from the free allocation¹⁴⁵ and the question of price volatility which renders investments risky¹⁴⁶ and at the same time it has been victim of frauds by some states¹⁴⁷, such as Poland which saw itself implicated in a VAT fraud of a sum between 10 and 20 billions of euros in 2016¹⁴⁸.

1.3.7. Conclusions:

This paragraph aimed to illustrate all the difficulties the European Union faces in its action in climate politics: the first difficulties are inherent to its structure as the environment is a shared competence with a blurred distinction between member states competences and those of the Union.

Moreover, the EU is comprised of 28 member states each with their own differences which can slow down, and sometimes, block any progress made on a European level for the environment and in the fight against climate change.

The national interests sometimes prevail, conflicting with those of the European Union.

¹⁴² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Sciences Po Les Presses, 2015

¹⁴³ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 9, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁴⁴ Spieth W.F., *Reform of EU emissions trading system likely to fail*, Euobserver, 24 March 2015

¹⁴⁵ Comberti C., Grubb M., Laing T., Sato M., *Assessing the effectiveness of the EU Emissions Trading Scheme*, Working Paper N. 126, Centre for Climate Change Economics and Policy, January 2013

¹⁴⁶ Betz R., *What is driving Price Volatility in the EU ETS?*, Centre for Energy & Environmental Markets, University of NSW

¹⁴⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

¹⁴⁸ Robert A., *Multi-billion EU carbon market fraud operated from Poland*, Euractiv, 18 July 2016

The legislative picture of the European Union, a model for other parts of the world through its advanced nature, is deeply flawed and loses its credibility by being ineffective at times.

Furthermore, the present historical time period is extremely unfavourable for the EU, as the economic crisis has limited any concrete action against climate change.

And finally, the EU's position as a green leader with a low share of world GHG emissions does not confer it more bargaining power, but on the contrary, shifts the balance of power in favour of the main polluters.

This chapter has demonstrated that climate change brings risks and opportunities for the EU which put its leadership to the test, and that all of these challenges intertwine themselves with several dichotomies: multilateralism and hard power politics, intergovernmentalism and supranationalism; input legitimacy and output legitimacy, functionalism and federalism.

Choosing which side to take, which elements of these dichotomy to adopt, means choosing which kind of leadership to exercise, as it is in climate change and environmental politics that the EU's political and moral authority can be defined in the world.

THE ROAD FROM COPENAGHEN TO PARIS

2.1 The Failure of the role of the European Union at the Copenhagen Conference (7-18 December 2009): a crisis of multilateralism in the world outside the EU.

2.1.1. Introduction:

As discussed within the first chapter, the European Union held the task to be world leader in environmental and climate politics. The EU has proven its ability in crisis management owing to EU action which led to the adoption of the Kyoto Protocol when the United States withdrew¹⁴⁹.

At the time, the European Union was able to lead the negotiations and reach a binding agreement, in addition to being the first to ratify the Protocol on 31 May 2002, an action then followed by Japan and by Russia which guaranteed the agreement's entry into force, exercising an instrumental leadership¹⁵⁰.

In Kyoto, the European Union was able to speak with a single voice but in Copenhagen it did not, as the former Danish minister for environment, Connie Hedegaard affirmed¹⁵¹.

¹⁴⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 3, Sciences Po Les Presses, 2015

¹⁵⁰ Ibidem, Chapter 3

¹⁵¹ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, Pag. 9, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

The European Union arguably showed true leadership, but this established role of leader was not doomed to remain in the future COPs, and the turning point was the Copenhagen Climate Change Conference of December 2009.

2.1.2. The Divisions among European Countries Before Copenhagen:

As we have seen in the previous chapter, the European Union member states do not have a common position concerning the environment and their stances are at times divergent if not in opposition with each other.

The European Union was convinced and willing to continue exercising its leadership in Copenhagen and therefore decided to implement its own legislation on the reduction of emissions, and in December 2008, the Energy and Climate package was adopted¹⁵² with the targets of 20% of emissions reduction from 1990.

The proposal was rebuffed by the Eastern European countries (Poland was the leading country) and by Italy, which considered this target too high¹⁵³.

Furthermore, the Eastern European Countries, especially Poland and Estonia, opposed the idea of a binding agreement in Copenhagen, unlike the Barroso Commission which was a supporter¹⁵⁴.

Another controversial issue within the European Union before Copenhagen concerned the LULUCF (Land Use, Land-Use Change and Forestry), covered by the Kyoto protocol and coping with emissions deriving from deforestation, and which was opposed by countries such as Austria, Finland (which for instance wanted exemption from some emissions obligations relating to deforestation) and Sweden because of their country's economic dependence on forestry¹⁵⁵.

The Kyoto Protocol's establishment of AAUs (Assigned Amount Units), units of carbon emissions which can be traded from countries which do not use them to other countries who do not possess them, proved to be additionally problematic regarding Eastern European countries¹⁵⁶.

¹⁵² James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 21, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

¹⁵³ Groen L., Nieman A., *The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness*, Pag. 7, *International Relations* 27(3) 308–324, The Author(s) 2013

¹⁵⁴ *Ibidem*, Pag. 7

¹⁵⁵ *Ibidem*, Pag. 7

¹⁵⁶ *Ibidem*, Pag. 7

The Eastern European countries wished to keep hold of them despite the fact that there were several doubts over whether this could be done in the second period of the Kyoto Protocol (commencing in 2012, three years after Copenhagen)¹⁵⁷.

2.1.3 The Lack of a Coherent Position in the EU:

The European Union (now the former leader), came to the conference unprepared and deeply disunited in several issues, one of them the EU carbon tax which had been proposed by French president Sarkozy in December 2009¹⁵⁸.

As mentioned in the first chapter, the issue of Ecotaxes, as well as of carbon tax in the European Union, has always been a factor of division among European member states. Sarkozy's proposition aimed to hit exported Chinese goods (with the motivation that China was one of the main world polluters), but both the president of the Conference Hedegaard and the Swedish presidency of the EU rejected the proposal: the first, affirming that it would cause a trade war with China, and the latter, that it would weaken the position of the European Union in Copenhagen. In addition, the other European partners (with the exception of Germany) did not support such a proposal¹⁵⁹.

Furthermore, both the Commission and the Swedish presidency took part in the negotiation among with the 25 head of governments, with no common position as shown in the first paragraph, a fact which weakened the Commission's autonomy of action and actorness¹⁶⁰.

Poland and Italy remained inflexible on their opposition to the 30% emission reductions and the problem of the AAUs was finally dealt with allowing these countries to use the money from the trade of their AAUs to finance renewable sources in their own countries¹⁶¹.

Moreover, the disagreements also concerned climate finance, and once more, the Eastern European Countries were not keen to mobilise their own resources in order to finance mitigation and adaption in developing countries¹⁶².

¹⁵⁷ Groen L., Nieman A., *The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness*, Pag. 7, International Relations 27(3) 308–324, The Author(s) 2013

¹⁵⁸ *Carbon tariffs resurface in Copenhagen aftermath*, Euractiv, 8 January 2010

¹⁵⁹ Simon F., *French to revive Sarkozy's EU carbon tariff idea*, Euractiv, 18 May 2012

¹⁶⁰ James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 6, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

¹⁶¹ Ibidem, Pag. 21

¹⁶² Ibidem, Pag. 22

2.1.4. The Preparatory Works in Copenhagen:

The Conference of Copenhagen, the COP 15, was for the divided European Union a turning point, because after this event it was clear that the prevalent and leading position exercised in Kyoto by the European Union was no longer possible¹⁶³.

The European Union had all the attributes to carry out negotiations in a proper way: the presidency of the Conference was held by the host country, Denmark, and the president was Connie Hedegaard, the then Danish minister of the environment, and the presidency of the European Union was under Sweden¹⁶⁴.

The Copenhagen conference was convened with the goal of obtaining a binding agreement before 2012, after the Kyoto Protocol and the European Union was willing to include some targets within this agreement, first of all the containment of the rise of temperatures to 2 degrees in relation to pre-industrial levels (a longstanding decision made at the Council of Ministers in 1996)¹⁶⁵ and the emissions reduction target by 30% (from 1990 to 2020) for developed countries¹⁶⁶.

The principle the European Union adhered to was one of “Common but differentiated responsibility”, inserted both in the UNFCCC (Article 3(1) which states that the main polluters in the world are developed countries) and the Kyoto Protocol, which means that efforts must be made by all the parts but with more consistent efforts by those which contribute the most to pollution¹⁶⁷.

In any case, it can be claimed that on one hand the European Union (in this case the Swedish presidency and of the Danish presidency of the COP) was insufficiently prepared for this conference, and on the other that this issue was not still fully developed in December 2009, while public opinion held the expectations that a new binding treaty would be signed like in Copenhagen¹⁶⁸.

¹⁶³ Backstrand K., *The EU's role in climate change negotiations: From leader to 'leadator'*, Pag. 4, Journal of European Public Policy · May 2013

¹⁶⁴ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, Pag. 10, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010

¹⁶⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 5, Sciences Po Les Presses, 2015

¹⁶⁶ James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 17, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

¹⁶⁷ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 1, Nouvelle Ed, Paris, 2015

¹⁶⁸ Interview with Professor Etienne Hannon, 2 December 2016

Moreover, it was already clear from the beginning that a binding agreement was a difficult target to achieve: in October and November 2009, during the preparatory conferences in Bangkok and Barcelona, a lack of will emerged from all of the parties involved¹⁶⁹.

In the APEC (Asian-Pacific Economic Cooperation) conference in November 2009, both China and the United States emphasised the difficulty to reach a binding accord during the COP 15¹⁷⁰.

2.1.5. A Crisis of the EU Action in Copenhagen:

Another pertinent issue was the way the Danish presidency carried out negotiations which had serious repercussions on their overall outcome: one important principle, highly neglected by both the presidency and the European Union, was inclusiveness¹⁷¹.

Being inclusive meant above all including and listening to all parts of the negotiations, even simply giving them the impression of being listened to, but this did not happen, hence the result of the negotiations was compromised¹⁷².

The problem was that the European Union “betrayed” its adhesion to multilateralism in Copenhagen, as the most effective way to act in the international scene: the idea of the European Union was, as also in the past, that of a binding agreement, and its way to achieve it in Copenhagen was to negotiate only with the main world powers, and to reach a final agreement to impose upon developing countries¹⁷³.

This strategy excludes both the general principle of conduct and the diffuse reciprocity characterising a multilateral approach¹⁷⁴.

The problem is that this lack of transparency on part of the European Union came out at last and it made stumble the negotiations¹⁷⁵.

2.1.6. The Crisis of the Negotiations:

Lack of inclusiveness and transparency cannot coexist with the multilateral approach preached by the European Union, and this incompatibility is precisely what emerged during the negotiations in Copenhagen. Leaked documents showed that the Danish presidency had

¹⁶⁹ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, Pag. 16, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

¹⁷⁰ Ibidem, Pag. 16

¹⁷¹ Interview with Professor Etienne Hannon, 2 December 2016

¹⁷² Interview with Professor Etienne Hannon, 2 December 2016

¹⁷³ Ibidem

¹⁷⁴ Telò M., *The Challenge of a Democracy Beyond the State in the European Union*, in Unver Noi A., Toperich S., *Challenges of the European Union and its Neighbors*, Centre for Transatlantic Relations, 2016

¹⁷⁵ Ibidem

already in place an under-the-counter agreement¹⁷⁶ and these leaks created friction between the Northern countries of the world with the developing ones.

The crisis was a crisis of confidence: both the Southern countries and developing countries felt themselves as unheard and therefore excluded from the negotiation process.

This revelation provoked the resignation of the Danish president Connie Hedegaard¹⁷⁷ and the reins were taken by the Danish Prime minister, Lars Lokke Rasmussen, who had negotiated previously only with the leaders of the main countries: the presidents of the United States, Brazil and China, Obama, Lula, Hu Jintao (the then Chinese president), and neglecting those still in development¹⁷⁸.

The European Union especially focused the most on negotiations with the United States, which were quite reluctant and not particularly willing to achieve a binding agreement unlike the European Union, and ignoring the other countries¹⁷⁹.

The final agreement at last was decided by the United States, China, India, Brazil and South Africa, the main polluters, side-lining the EU. However, the problem was that the agreement reached was not accepted by the other associated parts in the negotiations, and as a result, the final agreement of Copenhagen was simply a declaration with no binding legal provision¹⁸⁰.

2.1.7. The Outcome of Copenhagen:

At Copenhagen the failure of the EU action was evident: it was not only unable to influence its extra-European partners, but it was moreover completely side-lined in the final decisions, causing a huge blow to the ambitious targets it had suggested, first of all to the binding nature of the agreement, and secondly to the 30% emissions reduction from 1990 to 2020 for developed countries, refused by states such as the United States and China, who did not wish to commit themselves to this aspiring plan¹⁸¹.

¹⁷⁶ Vidal J., Milmo D., *Copenhagen: Leaked draft deal widens rift between rich and poor nations*, The Guardian, 9 December 2009

¹⁷⁷ Stratton A., Vidal J., *Connie Hedegaard resigns as president of Copenhagen climate summit*, The Guardian, 16 December 2009

¹⁷⁸ Interview with Professor Etienne Hannon, 2 December 2016

¹⁷⁹ Oberthür S., Groen L., *The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1329, Journal of Common Market Studies 2015 Volume 53. Number 6. pp. 1319–1335

¹⁸⁰ Ibidem, Pag. 1329

¹⁸¹ James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 22, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

In spite of these blows the European Union succeeded in laying the foundations for the so called “Green Climate Fund”, even if just agreed in Copenhagen and not implemented (as it will be seen in the next paragraph)¹⁸².

What prevailed for these latter achievements was a *realpolitik* approach, more than a real commitment to climate change¹⁸³.

One concept adopted to explain the EU blow in Copenhagen was the EU’s so-called lack of actorness: it presented itself divided with not a single position, but with divergent stances which became evident during the negotiations¹⁸⁴.

The negotiations were moreover highly politicised, and the main member states, especially the United Kingdom, France and Germany, overshadowed the role of the Barroso commission and of the Swedish presidency¹⁸⁵.

Furthermore, as already affirmed, the quality of actorness in Copenhagen belonged more to the single member states than to the Union, and the single action of every state was not enough to counterbalance or to have a consistent bargaining power with countries such as the United States, China or India¹⁸⁶.

The European Union was myopic in Copenhagen: the EU Swedish presidency could not perceive how geopolitics was changing worldwide, still convinced of its status as an influential player especially within the fight against climate change, but it was wrong because the international context was not the one of Kyoto¹⁸⁷.

The European Union has underestimated the role and influence of new economies which played major roles in Copenhagen that decided on the final agreement¹⁸⁸.

But a consistent part of the faults are to be ascribed to the European Union’s moves: its self-assuredness over its position as leader brought it to disregard the roles of the other partners (especially from developing countries), consequently abandoning its principle of multilateralism which, in this case, was a fatal mistake.

¹⁸² Oberthür S., Groen L., *The Effectiveness Dimension of the EU’s Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1329, Journal of Common Market Studies 2015 Volume 53, Number 6, pp. 1319–1335

¹⁸³ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 11, Sciences Po Les Presses, 2015

¹⁸⁴ James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 25, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

¹⁸⁵ Groen L., Nieman A., *The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness*, Pag. 10, International Relations 27(3) 308–324, The Author(s) 2013

¹⁸⁶ James T., Heidener U., *As Time Goes By: EU Climate Change Actorness from Rio to Copenhagen*, Pag. 24, Bruges Regional Integration & Global Governance Papers, 3/2011, College of Europe

¹⁸⁷ Oberthür S., *The European Union’s performance in the international climate change regime*, Pag. 2, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁸⁸ *Ibidem*, Pag. 11

Furthermore, the European Union, in accordance with the unprepared Danish presidency, carried out these “secret” negotiations undermining the needed transparency of international negotiations, and above all, generating a crisis of confidence between partners which proved to be the final nail in the coffin of the Copenhagen agreement¹⁸⁹.

Another crucial factor that the European Union disregarded was the importance of creating alliances, especially with third countries, and not only negotiating with the most important ones¹⁹⁰.

The EU attitude towards climate change and the environment changed in Copenhagen, according to Sebastian Oberthur, from ambitious (as with Kyoto) to modest, with modest objectives¹⁹¹.

2.1.8. Conclusions:

During this conference the European Union could no longer be considered as world leader in climate change and environmental politics: this role was lost in December 2009 for several reasons, some internal, due to the absence of a single, coherent and strong voice from the Union, able to speak for those of the member states (especially the most reluctant).

Another reason is external, as the accord was essentially made by a small number of countries (the main polluters) which side-lined the European Union and ignored its proposals, such as the one of a binding agreement with a binding emissions reduction target.

The final reason is linked to the first chapter: the European Union succeeded in Kyoto thanks to its multilateral approach, and because it stopped adopting this approach it triggered a crisis of confidence which damaged its credibility, hence its ability of persuasion and its leadership by example.

The European Union did not succeed solely for these reasons, but also because its shares of global emissions were much higher in the period of the Kyoto Protocol negotiations (1997-2002), and this fact conferred it more bargaining power with the other countries.

Furthermore, the European Union in those years was much smaller and hence the process to reach a common position in spite of the divergences between the other states was much easier, and also because the Eastern enlargement was yet to come and these countries were the more adverse to fight climate change, therefore the process was much faster.

¹⁸⁹ Interview with Professor Etienne Hannon, 2 December 2016

¹⁹⁰ Ibidem

¹⁹¹ Oberthür S., Groen L., *The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1329, Journal of Common Market Studies 2015 Volume 53. Number 6. pp. 1319–1335

2.2 From Leading To Bridging: The Cancún Conference (29 November – 10 December 2010).

2.2.1. Recovering from Copenhagen: a Change of Strategy of the EU.

The Copenhagen conference and the deriving failure were a serious blow for the European Union: the saviour of the Kyoto protocol and the most advanced region in the world concerning climate change fight, was side-lined in the negotiations, lost its diplomatic influence and stripped of its moral and political leadership de facto.

The question for the European Union was how to take back its former role of leader and whether it was possible to do so, and if not, which kind of role to have (as deliberated within the research question).

It can be affirmed that the European Union possessed the readiness to realise what happened in Copenhagen and the reasons why it happened: acknowledging that it could no longer lead in a multipolar world was the first step towards a new approach to climate politics¹⁹².

The issue was that, if it is not possible to influence by leading, how can this influence be otherwise exercised? The answer was that if the European Union was not able to be leader it had to be able to bridge, hence to create contacts between other countries in order to achieve a common goal¹⁹³.

This ability to bridge was not new for the European Union: it had already been used, successfully, during the Kyoto negotiations and it is part of its “instrumental leadership”¹⁹⁴.

The only difference is that this instrumental leadership was combined with a certain political leadership, that able to conclude the negotiations after the USA withdrawal bring results and convince other world powers to do so¹⁹⁵.

Furthermore, the geopolitical equilibria shifted the bargaining power from the less polluting countries to the most polluting countries (the United States and China in particular way, called the G2 of the two “carbon titans”¹⁹⁶), and if the European Union underestimated this factor, after Copenhagen it acknowledged¹⁹⁷.

¹⁹² Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 11

¹⁹³ Ibidem, Pag. 11

¹⁹⁴ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, International Environmental Agreements: Politics, Law and Economics, 11, Springer, 2011

¹⁹⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 3, Sciences Po Les Presses, 2015

¹⁹⁶ Backstrand K., *The EU's role in climate change negotiations: From leader to 'leadicator'*, Pag. 5, Journal of European Public Policy · May 2013

¹⁹⁷ Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 11, The International Spectator 46(1):5-13 • March 2011

Additionally following the failure of Copenhagen, the Commission decided to re-organise itself establishing the Climate Action Commissioner and the DG for Climate Action (whose first Commissioner was Connie Hedegaard)¹⁹⁸.

2.2.2. The Cartagena Dialogue:

The first sign of the European Union's recovery appeared in March 2010, four months after Copenhagen, when it supported the establishment of the "Cartagena Dialogue for Progressive Action"¹⁹⁹.

This dialogue was an informal platform for discussion, where developed and developing countries could confront themselves on issues such as the environment and climate change, always within the scope of the UNFCCC²⁰⁰.

In these summits the goal was and is to examine possible common solutions and actions to fight climate change and it contributed to re-establish a more positive climate after the Copenhagen failure²⁰¹.

This group excluded countries such as China, or the United States and was born in the context of the crisis of the so-called G77, hence all the developing countries of the South of the world²⁰²: this group in Copenhagen entered into crisis because of the growing importance of the BASIC countries, such as China, Russia, the United States, Brazil)²⁰³.

The problem faced by the G77 countries was the huge differences among them: some countries are oil producers and exporters (the main example is Saudi Arabia and the other Gulf monarchies); their economies rely on oil, and a decarbonisation of world economy is unfavourably perceived, while on the other hand others are underdeveloped countries which would suffer the most from climate change²⁰⁴.

To some extent after Copenhagen, the European Union has tried to exploit this rift which emerged after the Copenhagen Conference within the G77 group in order to open a dialogue with the progressive countries of the group.

¹⁹⁸ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 7, Journal of European Integration, Vol. 33, Iss. 6, 2011

¹⁹⁹ Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 11, The International Spectator 46(1):5-13 • March 2011

²⁰⁰ Ibidem, Pag. 11

²⁰¹ Singh K., *Cartagena Dialogue Provides Breath Of Fresh Air*, Yale School of Forestry & Environmental Studies, 29 July 2010

²⁰² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

²⁰³ Singh K., *Cartagena Dialogue Provides Breath Of Fresh Air*, Yale School of Forestry & Environmental Studies, 29 July 2010

²⁰⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

The rise of BASIC and the divisions within the G77 group meant that the biggest partners of the latter (China, India, Brazil and South Africa), no longer put up a common front because of divergent interests²⁰⁵: from this “split” the Small Islands Developing Countries (SIDsCs) and the Least Developing Countries (LDCs, the most from sub-Saharan Africa) remained alone to lobby for their own interests²⁰⁶.

The Cartagena dialogue represented a convergence point for both the isolated European Union and the more progressive developing countries, potentially the most exposed to climate change²⁰⁷.

Moreover this dialogue represents a starting point for its different approach towards climate politics: no longer leading but bridging²⁰⁸.

2.2.3. The EU's Preparation for Cancún:

One of the main problems of the Copenhagen Conference was related to the expectations; both the public opinion and the European Union had falsely high expectations on the outcome, believing that a binding agreement would be achieved (expectations which were deluded)²⁰⁹.

A new conference was convened for 2010 in Cancún, Mexico, the so-called COP16: after the acknowledged failure of the previous one, the parties involved lowered their own targets and expectations²¹⁰.

As mentioned earlier, the European Union lowered its own goals from ambitious to modest²¹¹: this time there was no binding agreement set out in the plans, because time was not ripe as well and it was understood and acknowledged by all the parts, and this can be considered as one of the reasons why more progress has been made in the Cancún Conference than in Copenhagen, one year before²¹².

²⁰⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

²⁰⁶ Singh K., *Cartagena Dialogue Provides Breath Of Fresh Air*, Yale School of Forestry & Environmental Studies, 29 July 2010

²⁰⁷ Ibidem

²⁰⁸ Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 11, The International Spectator 46(1):5-13 • March 2011

²⁰⁹ Interview with Professor Etienne Hannon, 2 December 2016

²¹⁰ Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 5, The International Spectator 46(1):5-13 • March 2011

²¹¹ Oberthür S., Groen L., *The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1329, Journal of Common Market Studies 2015 Volume 53. Number 6. pp. 1319–1335

²¹² Interview with Professor Etienne Hannon, 2 December 2016

The EU's expectations, beyond the term modest, could be defined as realistic and this realism could also render it a more credible partner before the eyes of the others²¹³.

Furthermore, some of the problems the European experienced before and during the Copenhagen conference remained unsolved: divergences between member states on the LULUCF and on the issue of AAUs remained, and the European Union came to Cancún without a single position²¹⁴.

The European Union between Copenhagen and Cancún acted by itself with the other extra-European partners outside the UNFCCC framework: the first meeting was in May, organised by Germany and by the Mexican presidency, to discuss how to tackle climate change²¹⁵.

Other European countries took bilateral actions in those months, especially France and Norway (even if it is not an EU member state, in May Norway financed 1 billion dollars to help Indonesia in reducing high emissions increased by deforestation²¹⁶), which reached accords with countries whose forests suffer climate change, such as Brazil, Indonesia and Congo, in the context of the UN REDD project (Reducing Emissions from Deforestation and Forest Degradation)²¹⁷.

These bilateral actions from the EU member states embody a change of strategy in international climate negotiations: the focus is now on bridging and building coalition and no longer leading.

2.2.4. A Lesson of Multilateralism From The Mexican Presidency:

The predetermined objective for the Cancún conference was, as Professor Oberthur affirms, a “balanced set of decisions”, hence the parts in the negotiations were more oriented towards a political decision, as well as a reinforcement of what it has been achieved in Copenhagen one year before²¹⁸.

²¹³ Fischer S., Leinen J., *Course Corrections for Cancún: The European Union and International Climate Politics*, Friedrich Ebert Stiftung, International Policy Analysis

²¹⁴ Fischer S., Leinen J., *Course Corrections for Cancún: The European Union and International Climate Politics*, Friedrich Ebert Stiftung, International Policy Analysis

²¹⁵ Ibidem

²¹⁶ <https://www.regjeringen.no/en/topics/climate-and-environment/climate/climate-and-forest-initiative/kos-innsikt/-indonesia/id734165/>

²¹⁷ Ibidem

²¹⁸ Oberthur S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 6, The International Spectator 46(1):5-13 • March 2011

The European Union had a lesson on multilateralism and inclusiveness at the Cancún conference delivered by the developing countries, especially by Mexico who held the presidency of the Conference²¹⁹.

The president of the COP16 was the Mexican minister for foreign affairs, Patricia Espinosa and she emphasised that a success in Cancún signified preserving the multilateral approach in climate change negotiations²²⁰.

It looked like a warning to the European Union for the way the Danish presidency and the same European Union carried out the negotiations in Copenhagen.

The approach used by the Mexicans was completely different; they did the contrary of what was done in Copenhagen, carrying out very open negotiations and allowing every delegation to participate within them²²¹.

These well-conducted actions by the Mexican presidency during the negotiations, helped to restore confidence among the parts, and to guarantee the transparency and inclusiveness that had been lacking within Copenhagen which had determined its failure²²².

2.2.5. The Outcome of Cancún: “A Non-Failure” For The EU:

The outcome of the Cancún Conference negotiation is quite blurred, because it is highly difficult to assess whether it has been successful or not.

If the outcome of Cancún is related to the expectations, it can be affirmed that it was a relatively successful conference; no one expected a binding agreement and indeed there was not one set in place, even if no major steps ahead have been made²²³.

The most important result achieved was that the Mexican presidency was able to successfully reestablish the confidence which was lost in Copenhagen and the multilateral approach in climate negotiations, an approach which was preached and applied consistently during the Conference²²⁴.

What it had been achieved in Copenhagen (even if not bindingly) was reinforced during the Cancún Conference: the European Union was successful in granting the

²¹⁹ Interview with Professor Etienne Hannon, 2 December 2016

²²⁰ Ibidem

²²¹ Ibidem

²²² Ibidem

²²³ Ibidem

²²⁴ Ibidem

establishment of the Green Climate Fund in December 2009²²⁵, and in Cancún this disposition was partly implemented²²⁶.

Concretely, this measure aimed to support developing countries (SIDCs and LDCs) with the adaptation measures to fight climate change, and hundreds of billions were allocated each year for it to put in place²²⁷.

Another important step, which represented a successful achievement for the European Union, was that in the Cancún Conference is the objective of the 2 Degrees Celsius was reiterated and this time it was brought under the aegis of the UNFCCC framework, because this document constitutes an UN document where this pledge to keep temperatures below 2 degrees in relation to pre-industrial levels is enshrined²²⁸.

Furthermore, the Cancún accord established also two new processes (always under the UNFCCC framework): for the developed countries the IAR (International Assessment and Review) and for developing countries (the non-annex 1 countries, hence those with no binding target of reduction) the ICA (International Consultations and Analysis)²²⁹ to monitor their progresses in emission reductions and provide support²³⁰.

2.2.6. Assessing the Cancún Conference:

The Cancún Conference of the Parts did not provide a binding agreement like Copenhagen but laid the foundations for further progression to be made in successive conferences of the parties²³¹.

Another issue was addressed during the conference without any results, that of the commitment of the developed countries to the second period of the Kyoto protocol, but none of them decided to sign²³², despite the fact that the European Union showed its willingness to adhere to it²³³.

²²⁵ Oberthür S., Groen L., *The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1331, Journal of Common Market Studies 2015 Volume 53. Number 6. pp. 1319–1335

²²⁶ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 7, Nouvelle Ed, Paris, 2015

²²⁷ Ibidem, Chapter 7

²²⁸ Ibidem, Chapter 9

²²⁹ Backstrand K., *The EU's role in climate change negotiations: From leader to 'leadiator'*, Pag. 5, Journal of European Public Policy · May 2013

²³⁰ OECD, IEA Publish Paper on IAR and ICA under Cancún Agreements - <http://sdg.iisd.org/news/oecd-iea-publish-paper-on-iar-and-ica-under-Cancún-agreements/>

²³¹ Willis A., *Cancún climate deal restores faith in UN process*, Euobserver, 12 December 2010

²³² Ibidem

²³³ Fischer S., Leinen J., *Course Corrections for Cancún: The European Union and International Climate Politics*, Friedrich Ebert Stiftung, International Policy Analysis

The Cancún Conference did not represent a major step ahead from that of Copenhagen, it has been defined more as a “Copenhagen plus”, as the goals which had been reached were merely reiterated²³⁴.

However, the establishment and participation of the European Union within the Cartagena Dialogue for progressive action must not be underestimated: it showed that the European Union was on the way to recovery from the Copenhagen blow and that it was trying, to some extent, to re-establish a certain leadership (in this case among the 30 countries which participated in the Dialogue).

A factor which must not be underestimated, (especially for what will be seen in the next paragraph), is that the European Union understood the importance to build bridges and establish alliances in this scope if it really wants to succeed²³⁵.

2.2.7. Conclusions:

The outcome of Copenhagen represented a huge blow for the European Union’s climate diplomacy, and for its leadership: its position was relegated from leader to a mere passive actor.

Regardless, the European Union was able to reflect on its own position in the period spanning from Copenhagen to Cancún with readiness and awareness, and drew as a conclusion that its role in international climate policy had to be reshaped and reformulated in order to carry out constructive and influential action.

This role could no longer be the one of leader, but it was necessary to be a ‘bridge builder’ and form coalitions with common interests.

The European Union once again returned to the route of multilateralism, as can be seen in the Cartagena Dialogue for Progressive Action.

In Cancún, thanks to lower expectations and a proper course of action taken by the Mexican presidency, the Copenhagen objectives were reiterated and some steps ahead (even if minimal) were made, and crucially, confidence between partners was restored.

Cancún represented for the European Union a way to rethink and adapt its role, and from Cancún the future action of the European Union in climate policy begins, because in the future Conference of the parties, its actions are based on the Cancún Conference.

Surely the European Union was no longer a leader, but something different than that.

²³⁴ Backstrand K., *The EU's role in climate change negotiations: From leader to 'leadicator'*, Pag. 14, Journal of European Public Policy · May 2013

²³⁵ Ibidem, Pag. 14

2.3 The EU Success In Durban: The Need For A Binding Agreement.

2.3.1 Introduction:

The Cancún conference did not represent a major step in climate change negotiations, as it was more of a confirmation of the objectives reached at the failed 2009 Copenhagen Conference²³⁶.

Nonetheless, Cancún was not at all a complete blow; the negotiations were carried out by the Mexican presidency with a certain adeptness and it was vital in restoring a confident and multilateral climate between the partners²³⁷.

Regarding the role played by the European Union, the Cancún Conference and the period of December 2009, when the Copenhagen Conference was held, to December 2010 when that of Cancún was, the European Union mulled over its position and readapted its function accordingly²³⁸.

The new role of the European Union was no longer that of leader but of coalition and bridge builder, the only way to exercise and recover its leadership, but previously it is necessary to explain the environment within the European Union acted during the Durban Conference.

This “transformation” was even more evident and effective during the negotiations which followed Cancún in 2011, carried out in Durban in South Africa.

2.3.2 Durban: The Way to A Binding Agreement (28 November – 11 December 2011):

The 2011 United Nations Climate Change Conference (COP17) followed that of Cancún of 2010 and was a moment in climate change negotiations where a new direction was taken after Copenhagen and whose outcome was pertinent.

If we want to anticipate what the Conference agreed in 2011, it could be affirmed that the main outcome of the Durban Conference was a roadmap to reach a binding agreement (as it was affirmed in the so called “Durban Formula” “a protocol, another legal instrument, or an agreed outcome with legal force”²³⁹, even if this issue remained quite open²⁴⁰) to apply to

²³⁶ Backstrand K., *The EU's role in climate change negotiations: From leader to 'leadator'*, Pag. 14, Journal of European Public Policy · May 2013

²³⁷ Interview with Professor Etienne Hannon, 2 December 2016

²³⁸ Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 10, The International Spectator 46(1):5-13 • March 2011

²³⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁴⁰ Ibidem, Chapter 7

all the parts of the negotiations (hence multilaterally, according to the general principle of conduct mentioned in the first chapter), by 2015 and with the implementation from 2020²⁴¹.

It is also undoubtable that this significant achievement could never have been reached without the commitment and the part played during the negotiations in Durban by the European Union²⁴².

As Professor Etienne Hannon affirms, the 2015 Paris Conference started long before December 2015, because both its beginning and its foundations can be found in Durban, and the work which has been done²⁴³, and of course the path to Paris 2015 was officially a part of the Durban agenda²⁴⁴.

If the previous statement is a fact, Professor Sebastian Oberthür hypothesises that the new role the European Union acquired during the Durban Conference was neither that of leader nor of mediator, but something entirely different and new²⁴⁵.

The term which Professor Oberthür uses is “leadiator”, a neologism made up of the terms leader and mediator²⁴⁶.

But does the European Union really possess this new role and is it truly an effective position? These two hypotheses can be grounded in reality through an analysis of the way the European Union acted in Durban and in Paris, 2015, and of course the results which have been achieved²⁴⁷.

To answer the research question, it is worth bearing in mind this hypothesis of the role of leadiator and trying to detect whether this role is indeed effective and functional.

2.3.3. A Change of Circumstances from Copenhagen:

When the Copenhagen Conference was held, as already mentioned, time was not ripe for a binding agreement and expectations were too high, especially from the European Union²⁴⁸.

In 2011 circumstances changed considerably: if in Copenhagen there was no pressure to a legal document, in Durban time was riper and there was a real backing for this kind of

²⁴¹ Oberthür S., Groen L., *The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework*, Pag. 1331, Journal of Common Market Studies 2015 Volume 53. Number 6. pp. 1319–1335

²⁴² Ibidem, Pag. 1331

²⁴³ Interview with Professor Etienne Hannon, 2 December 2016

²⁴⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁴⁵ Interview with Professor Sebastian Oberthür, 16 November 2016

²⁴⁶ Ibidem

²⁴⁷ Ibidem

²⁴⁸ Interview with Professor Etienne Hannon, 2 December 2016

instrument, therefore there were the conditions to discuss and set a timetable²⁴⁹, which in this case looked at 2020²⁵⁰.

The support for a binding juridical instrument has always been of the European Union, but in the Durban Conference it was possible to extend this support and include also other parts²⁵¹.

The European Union showed the ability to establish coalitions, therefore exercising its role of leadiator: this ability was not new but was previously “experimented” during the Cartagena Dialogue for a Progressive Action²⁵², when after Cancún, the European Union started building bridges with developing countries in climate change issues.

The Cartagena Dialogue was the embryo of the coalition which will be formed in Durban between the European Union and other countries: a thing which should be highlighted is that after Copenhagen, the international cleavage in climate change politics was no longer the same.

The European Union started being the centrepiece of the progressive coalition (role which will be maintained and exercised during the Paris Conference in December 2015) after Copenhagen and during Cancún, and it is this context that the Durban Conference started in November 2011.

2.3.4 The New Cleavage in Climate Politics Emerging in Durban:

Previously the rift was between the North and the South, between developed and developing countries, but after Copenhagen and Cancún, the split was between progressive countries and more resilient ones, two transversal groups as they embody states from different areas of the world²⁵³.

The article “Politics of Climate Change. Equity and Justice in the global climate change debate” by Bangladeshi scientist, Saleemul Huq, explains that this former division between developed (Annex 1 Countries) and developing (Non Annex 1 Countries) countries no longer exists, but there is more of a tripartition between BASIC, developed and developing countries²⁵⁴.

²⁴⁹ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 3, 23 May 2016

²⁵⁰ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁵¹ Ibidem, Chapter 7

²⁵² Oberthür S., *Global Climate Governance after Cancún: Options for EU Leadership*, Pag. 11, The International Spectator 46(1):5-13 • March 2011

²⁵³ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

²⁵⁴ Ibidem, Chapter 6

The Indian environmental activist, Sunita Narain, considers that the divide is, on the contrary, between emergent economies (BASIC countries) and developing and poor countries. Both Huq and herself however also believe that in BASIC countries economic inequalities are at critical levels where the rich minority are the biggest polluters in comparison to the population which live in a state of destitution²⁵⁵.

Even if the BASIC countries are among the biggest polluters worldwide the concentration of emissions is in the hands of a small portion (and as Huq affirms in the urban classes) of the population and therefore mitigation measures could harm the economic sectors these populations rely on²⁵⁶.

This opinion has been formulated also by the French Economist Thomas Piketty who states in an article that the inequalities in many countries, especially the developing, is linked to their high share of emissions as the richest part of the population is responsible for this even if it is just a smallest part of the entire population²⁵⁷

It is in this increased multipolarity that the European Union could act upon during the Durban Conference²⁵⁸.

2.3.5. The Context Before the Negotiations:

The Durban Conference commenced with a certain lack of good will by the parts, as all of them seemed more willing to keep up with the status quo in climate negotiations over making genuine progress.

The rift among the developed countries (the so-called G77 countries) and China remained, especially between those most economically important such as India and the Gulf monarchies and the smallest ones²⁵⁹.

A common position of these countries was their commitment to the Kyoto protocol, but for a specific reason, that the Protocol highlighted the so-called principle of historical responsibility²⁶⁰.

This principle emphasises the role countries have played in the past in contributing to current climate and environmental situations, and this denotes giving them a part of the

²⁵⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

²⁵⁶ Ibidem, Chapter 6

²⁵⁷ Piketty T., *Émissions de CO₂ : comment financer l'adaptation de manière équitable ?*, 5 November 2015

²⁵⁸ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 7, 23 May 2016

²⁵⁹ Ibidem, Pag. 7

²⁶⁰ Oberthür S., *The European Union's performance in the international climate change regime*, Pag. 12, Journal of European Integration, Vol. 33, Iss. 6, 2011

burden sharing (regardless of their current efforts or their current shares of emissions worldwide), and among these countries the most consistent parts are developed states²⁶¹.

The concept has always been supported by China, as well as by India and Brazil (especially during the negotiations of the Kyoto Protocol in 1997) in order to partly reduce their responsibility²⁶².

If it is true that there is an overall support for the historical responsibility by G77 countries and China, it is also true that their concern for climate change is high as it can affect them directly through the rising sea levels for instance, which poses a threat to small islands²⁶³.

The optimal solution for these countries would have been a new international agreement based on the Kyoto model which would also include the United States which had withdrawn from it by not ratifying it, but this idea was opposed by other G77 (especially India and Brazil) countries and by China because none of them believed it would be possible and that the United States would agree²⁶⁴.

There were several divisions before Cancún, but this time the European Union was able to play a part, and exploiting these divisions and not permit the “G2” (China and the United States) to decide like in Copenhagen as it will be illustrated in this paragraph.

Furthermore, the European Union was moving in a difficult terrain due to the general context of economic crisis (which invested in 2010 several EU countries) could have slowed down the negotiations, for instance concerning climate finance and the commitment of other countries²⁶⁵.

2.3.6. The Main Issues at Durban:

When the Durban Conference began the European Union was prepared unlike in Copenhagen and Cancún: the European Union climate commissioner was still Connie Hedegaard who this time played a role which contributed considerably to the success of the European action²⁶⁶.

²⁶¹ Clark D., *Which nations are most responsible for climate change?*, The Guardian, 21 April 2011

²⁶² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 2, Sciences Po Les Presses, 2015

²⁶³ Ibidem, Chapter 2

²⁶⁴ Ibidem, Chapter 7

²⁶⁵ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 9, Nouvelle Ed, Paris, 2015, 2015

²⁶⁶ Ibidem, Chapter 9

The parts of the negotiations had two main issues to resolve: the first was the nature of the agreement, and the second was the question of the commitment to the second period of the Kyoto Protocol²⁶⁷.

The second period of the Kyoto Protocol would have commenced in 2013 and had the goal to create a connection between the first period of the protocol and a new agreement which would enter into force in 2020 (the kind of agreement negotiated in Durban)²⁶⁸. Few countries were keen to enter this second period.

The European Union had the intention to set a timetable for 2015 which included a binding agreement, and at the same time it intended to enter the second period of the Kyoto protocol and to bring other countries alongside it²⁶⁹.

The European Union in this circumstance appeared to have returned to its multilateral approach, successful in Kyoto, and at the same time to have effectively exercised its new role of leadiator with third countries²⁷⁰.

As previously discussed, the Durban formula consisted of a future binding agreement and the European Union supported this formula and succeeded in bringing in its own sides in addition to the other countries of the Cartagena Dialogue, Least Developed Countries (LDCS) and the Small Island Developing States (SIDS)²⁷¹.

2.3.7. The Enlargement of the Progressive Coalition and the Resistances:

This core foundation of a progressive alliance between the European Union and developing countries attracted support from other countries, in particular Brazil and South Africa²⁷².

That reason why these two countries came in support of the European Union Durban Formula was above all a strategic move: they hoped for a full implementation of the 100 billion decided in Copenhagen and reiterated in Cancún for the adaptation²⁷³.

Moreover Brazil and South Africa hoped not only for the full implementation of the Green Climate Fund, but they pushed also for technological transfers²⁷⁴.

²⁶⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁶⁸ Kyoto 2nd commitment period (2013–20), European Commission, Climate Action - https://ec.europa.eu/clima/policies/strategies/progress/kyoto_2_en

²⁶⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁷⁰ Interview with Professor Sebastian Oberthür, 16 November 2016

²⁷¹ Oberthür S., Bodle R., *Legal Form and Nature of the Paris Outcome*, Pag. 44, climate law 6 (2016) 40-57

²⁷² Ibidem, Pag. 5

²⁷³ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁷⁴ Ibidem, Chapter 7

This Brazilian and South African move was a multilateral strategy based on the concept of diffuse reciprocity: they supported the binding agreement in return of the 100 billion.

Furthermore, it should not be forgotten that South Africa held the presidency of the Durban Conference and managed all preparatory works and it was also the main representative of Africa and to some extent had to represent the requests of other African states which were in favour of the Durban Formula²⁷⁵.

The question of the two biggest polluters persisted, the G2 United States and China, which remained unenthusiastic towards a binding agreement, if in an even more isolated position, unlike in Copenhagen when their position succeeded as they made a bloc also with Brazil and South Africa which in Durban decided to deploy themselves with the European Union and the other developing countries²⁷⁶.

The United States and China at last were obligated to surrender, and came, even if reluctantly, in support of the Durban Formula²⁷⁷.

All the BASIC (China, Brazil, and South Africa with the only exception of India) and the United States nevertheless remained quite ambiguous on their commitment to a binding agreement²⁷⁸.

The most resistant country was India: the reason was that India saw the restrictions to its emissions as a hindrance to its economic development²⁷⁹.

2.3.8. The Stalemate Between the European Union and India:

The rigid and intransigent position of India put it in friction with the other developing countries, especially with the small islands which accused India of carrying out an economic development which would fatally harm the countries more exposed to the threat of climate change²⁸⁰.

The representative of the state of Grenada affirmed explicitly against the Indian position “While they develop, we die; and why should we accept this?”²⁸¹.

²⁷⁵ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁷⁶ Oberthür S., Bodle R., *Legal Form and Nature of the Paris Outcome*, Pag. 44, climate law 6 (2016) 40-57

²⁷⁷ Ibidem

²⁷⁸ Vidal J., Harvey F., *India dampens Europe's hopes of a new climate change agreement*, The Guardian, 6 December 2011

²⁷⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁸⁰ Ibidem, Chapter 7

²⁸¹ *Durban and everything that matters*, The Economist, 12 December 2011

The intransigence of India was a reason for the stalemate on the issue of the legality of the future agreement.

The European Union decided to engage itself in a political “battle” with India in Durban, led by the commissioner Hedegaard²⁸²: the Indian negotiations were carried out by minister of environment, Jayanthi Natarajan, who maintained the unyielding Indian position.

The Indian minister declared “I am asked to sign a blank cheque and to put the quality of life of 1.2 billion Indians in danger, without even knowing what's in the roadmap. And I wonder if this is not an agenda that moves the weight of actions on those who cannot be held responsible for global warming”²⁸³.

India's concern over the lack of clarity on the future nature of the agreement²⁸⁴ manifested blatantly through the minister's words. Yet in contrast lay India's attachment to the Kyoto Protocol and its principle to historical responsibility.

Hedegaard and Jayanthi clashed on the nature of the final outcome as India wanted a legal outcome and not a protocol or another juridical instrument, and furthermore, pressed for developed countries to join the second period of the Kyoto protocol and implement the agreed Green Climate Fund of Copenhagen and Cancún²⁸⁵.

India like China and the other countries of G77 supported the Kyoto protocol and was quite critical of Canada, Japan and Russia which withdrew from it in the same year in 2011, hence failing in their obligations as developed countries²⁸⁶.

The final compromise between the European Union and India was reached owing to the mediation of the Brazilian representative, Luiz Alberto Figueiredo²⁸⁷: the Durban formula was extended to “protocol, another legal instrument or an agreed outcome with legal force”²⁸⁸.

2.3.9. The Final Move of The European Union:

As illustrated, the path to a compromise for a binding agreement for 2015 was serpentine.

²⁸² Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁸³ Goswami U.A., Jayanthi Natarajan opposes global pact to cut greenhouse gas emissions at Durban, The Economic Times, 12 December 2011

²⁸⁴ Bodansky D., *The Paris Climate Change Agreement: A New Hope?*, Pag. 12, American Journal of International Law (2016)

²⁸⁵ Vidal J., Harvey F., *India dampens Europe's hopes of a new climate change agreement*, The Guardian, 6 December 2011

²⁸⁶ Ibidem

²⁸⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁸⁸ Vidal J., Harvey F., *Climate deal salvaged after marathon talks in Durban*, The Guardian, 11 December 2011

The European Union, the lead actor, was successful in granting a basic progressive coalition with developing and insular countries and this coalition was attractive, managing to also subsume BASIC countries (China, Brazil and South Africa) and the United States, despite the fact that all these countries upheld an ambiguous position on the terms of the so called Durban formula.

India put a brake on the negotiations concerning the nature of the formula and due to a general “hostility” towards developed countries (fed by the withdrawal of Canada, Japan and Russia from the Kyoto protocol in the same year).

The European Union and India reached a compromise on the Durban formula but the most surprising move on the European Union’s part was that it was the first to agree to enter the second commitment of the Kyoto Protocol²⁸⁹.

The European Union was followed by the other two European partners: Norway and Switzerland, and also by New Zealand, entering into the second period of the Kyoto Protocol²⁹⁰.

This move was a crucial step for the European Union and for its new role: above all it was an act which attests the multilateral nature of the European Union and the fact that it has learnt from the mistakes of Copenhagen, because it pushed for the Durban formula and in return it pledged to commit itself to the second period of the Kyoto protocol, once again according to the concept of diffuse reciprocity²⁹¹.

By doing this the European Union reinforced the confidence atmosphere already restored in Cancún, and showed to be a leader by example, especially for developing countries and for the BASIC countries, because they were the most attached to the Kyoto protocol.

This compromise boosted the image of the European Union as a credible partner in climate negotiation.

The result was called “Durban Platform for Enhanced Action” and represented the base for the 2015 conference in Paris, set to achieve what was agreed in Durban²⁹².

In order to maintain the Durban momentum, the Platform founded the ADP (Ad Hoc Working Group on the Durban Platform) to keep the cooperation and the coordination between the countries before the 2015 Conference²⁹³.

²⁸⁹ Vidal J., Harvey F, *Climate deal salvaged after marathon talks in Durban*, The Guardian, 11 December 2011

²⁹⁰ Bodansky D., *The Paris Climate Change Agreement: A New Hope?*, *American Journal of International Law* (2016)

²⁹¹ Telò M, *The Challenge of a Democracy Beyond the State in the European Union*, in Unver Noi A., Toperich S, *Challenges of the European Union and its Neighbors*, Centre for Transatlantic Relations, 2016

²⁹² Bodansky D., *The Paris Climate Change Agreement: A New Hope?*, Pag. 7, *American Journal of International Law* (2016)

2.3.10. Conclusions:

The Durban Conference was a key moment in the road to the Paris agreement: the so-called Durban formula aimed for a binding document, even if its nature was yet to be agreed.

However, it must be emphasised that the COP 17 was a not a linear and consensual process, but more a conflictual negotiation: it is maybe in 2011 that the new divisions in climate politics emerged.

There was no more a rift between developed and developing countries, but more between progressive and resistant countries, and for the first time the European Union manifested as leader, or better yet, a mediator.

Starting with the Cartagena Dialogue for a progressive action, the European Union recovered from Copenhagen and formed a core group of progressive countries and this coalition was the key of the success in Durban, because it was able to also attract other countries, among which were the BASIC and the United States, in spite of the clash with India.

Through an effective multilateral approach, the European Union reached the deal of a legal binding document for the 2015 Conference, and in return it entered the second period of the Kyoto Protocol, as per the wishes of India and other developing countries.

In the Durban emerges the embryo of what the action in Paris will be: the European Union acknowledged that in order to be a leader (in this case a mediator) multilateralism and coalition building were essential, and therefore trying to reshape its own role and to see whether it still possessed the means to lead in the COP 21.

With this condition the road to Paris unfolded.

²⁹³ Bodansky D., *The Paris Climate Change Agreement: A New Hope?*, Pag. 8, American Journal of International Law (2016)

CHAPTER 3

THE PARIS AGREEMENT

3.1 Shaping the Paris Agreement: From Doha to Warsaw.

3.1.1 Introduction:

The previous chapter was tasked with explaining the European Union's parabola trajectory from the pre-Copenhagen conference until the post-Durban conference.

Before 2009, the EU could be proud of being the world leader in climate politics, but during Copenhagen it realised that this old role was no longer possible because geopolitical equilibria had changed following the Kyoto agreement.

Therefore, the European Union decided to reinvent its own role and stop trying to be a leader in the strict sense of the word and, in Cancún and Durban, started to adopt a new approach based on lower expectations (and ambitions) with a more multilateral attitude and a capable coalition-building strategy with developing countries.

The European Union proved itself as a leadiator²⁹⁴, and to be able to lay the foundations of a binding agreement to be signed by 2015 (which has always been the EU goal in climate politics) and set a timetable until December 2015, when the COP 21 was due to be held in Paris.

²⁹⁴ Interview with Professor Sebastian Oberthür, 16 November 2016

The Timetable was set to arrive to December 2015 in Paris, when finally this new binding agreement agreed in the “Durban Formula” would have been signed and applied to all the parts and implemented in 2020.

In spite of these good intentions, the way was long and convoluted, paved with a number of hurdles. This chapter will focus before on the context of the negotiations ahead Paris and then it will go in depth to the role of the European Union.

3.1.2 The Doha Conference and The Second Period Of The Kyoto Protocol (26 November – 8 December 2012):

The last chapter concluded with the final “agreement” reached in Durban, the product of a long and difficult negotiation between the European Union and the extremely reluctant India which, like the other G77 countries, was attached to the Kyoto Protocol²⁹⁵.

The only way to guarantee the Indian support of the timetable set for 2015 was to reach a compromise with India, which did not only affect the Durban Formula, but the European pledged to join the second commitment of the Kyoto Protocol²⁹⁶.

This decision had to be implemented during the 2012 Conference of the Parties in Doha, Qatar, the COP 18.

The Conference represented a standstill to the path to the Conference of Paris in 2015 for several reasons: the first reason was the place, Doha.

Qatar is a state member of the G77 and at the same time it is a gulf monarchy whose economy relies on fossil fuels. It is plausible to think that a decarbonisation of the economy in these areas of the world is not seen with enthusiasm, if not explicitly blocked or boycotted²⁹⁷.

Moreover after Durban, a group of countries, the so called LMCD group (Like Minded Group of Developing Countries) started uniting together as they are oil and coal producers and exporters²⁹⁸

Furthermore, the decision to hold the COP 18 in Qatar was seen with mistrust by the other G77 countries, the ones more affected by climate change and allied with the European Union in the progressive coalition.

In their eyes it seemed contradictory to hold a conference on climate in a oil producer and exporter country, and this of course affected the credibility of the event²⁹⁹.

²⁹⁵ Vidal J., Harvey F., *India dampens Europe's hopes of a new climate change agreement*, The Guardian, 6 December 2011

²⁹⁶ Ibidem

²⁹⁷ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 7, Sciences Po Les Presses, 2015

²⁹⁸ Harvey F., *As the Warsaw climate talks end, the hard work is just beginning*, The Guardian, 25 November 2013

It can be affirmed that the Doha Conference was a second order COP in comparison with the previous ones, also defined a “conference for nothing” because no major progress has been achieved³⁰⁰.

3.1.3 The Issue of The Second Commitment to the Kyoto Protocol:

The Doha Conference was supposed to discuss the so-called Doha amendment³⁰¹, which was the amendment that member states of the Protocol were obligated to sign in order to commit themselves to the second period of the Kyoto protocol.

This move was needed to create a bridge between the end of the first commitment of the Kyoto Protocol the 31st December 2012, and the new agreement to be signed in December 2015 and implemented in 2020³⁰².

The main need for this move was that without the second commitment of the Kyoto protocol there would have been a juridical hole within the climate agreements: the only thing which remained was just the voluntary pledges made in Copenhagen which did not have at all any legal value³⁰³.

The situation in Doha was more difficult than foreseen: in Durban the European Union was the first actor to commit itself to the second period of the Kyoto Protocol, followed by New Zealand, Norway and Switzerland.

The problem was that the European Union was once again alone: the most developed countries had no intention of entering this period³⁰⁴.

Moreover, New Zealand, one of the first countries to pledge to join the second part of the agreement among the European Union, withdrew at last joining other countries which did the same thing, for instance Russia and Japan³⁰⁵).

The European Union was the main country of the Western World to lead the way to this engagement, with Australia, Iceland, Norway, Switzerland and Liechtenstein³⁰⁶.

Other European countries outside the European Union and the European Economic Space (Belarus and Ukraine) pledged to sign the Doha amendment, even if it was not done during the Conference³⁰⁷.

²⁹⁹ Harvey F., *As the Warsaw climate talks end, the hard work is just beginning*, The Guardian, 25 November 2013

³⁰⁰ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts*, Chapter 9, Nouvelle Ed, Paris, 2015

³⁰¹ Submission By Latvia And The European Commission On Behalf Of The European Union And Its Member States - http://www4.unfccc.int/submissions/Lists/OSPSubmissionUpload/39_111_130723611366500236-LV-02-26-EU%20SubmissionCBannual.pdf

³⁰² Dohelle M., *The Paris Agreement: Historic Breakthrough or High Stakes Experiment?*, Pag. 2

³⁰³ Ibidem, Pag. 2

³⁰⁴ Ibidem, Pag. 2

³⁰⁵ Ibidem, Pag. 2

³⁰⁶ Ibidem, Pag. 2

Developing countries were keener to sign it and in fact, China and Mexico were among them (but India for instance did not ratify it despite the fact it had pressed the other parts to do the contrary in Durban).

It can be claimed that during the Doha Conference on climate did not bring progresses to the negotiation, but it was more of a formality to guarantee that no legal hole would be left in those years³⁰⁸.

But from the Doha Conference it can be affirmed that the European Union came out in an even stronger position.

The ratification of the amendment by it would have taken more time than the other signers, because of the internal legal *iter* in the European institutions, the only western region in the world which took firstly the initiative and made a concrete step ahead was the European Union (and Europe in general, considering also the European Economic Area (EEA) and Switzerland).

The idea of a progressive alliance between European Union and developing countries was reiterated in Doha, and now that this juridical hole was filled for the next 7 years (until 2020), it was possible to focus on 2015 and the Paris conference.

3.1.4 The Warsaw Conference (11-23 November 2013):

If the Doha Conference was supposed to fill a legal gap, the preparatory works for the Paris Conference of 2015 effectively began 2 years earlier in 2013, during the COP 19 held in Warsaw, Poland.

Exactly as with Doha, the choice of the place was not exempted from criticism; Poland was not only a country with an economy strongly relying on fossil fuels and coal (as seen in the first chapter)³⁰⁹.

Furthermore, as already mentioned Poland has always been in general very resilient to reduce emissions³¹⁰ and has often slowed down and, to some extent, boycotted the efforts made by the European Union in this sense.

The choice of Warsaw as city where to hold this Conference of the parts sparked the anger of the environmentalist organisations such as Greenpeace, which defined it as a “summit of coal”³¹¹.

³⁰⁷ Dohelle M., *The Paris Agreement: Historic Breakthrough or High Stakes Experiment?*, Pag. 2, 2016

³⁰⁸ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts*, Chapter 9, Nouvelle Ed, Paris, 2015

³⁰⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

³¹⁰ Ibidem, Chapter 10

Having hosted for two consecutive years the COP in two countries such as Qatar and Poland, several questions were also raised on the seriousness of these summits³¹².

The European Commission and Poland clashed during the Conference because it was clear that the Polish presidency was trying to boycott intentionally the negotiations in order to restart the discussions about several issues with the hope that some countries would change their minds³¹³.

In spite of this controversial beginning, during the Warsaw Conference it was possible to make progress concerning the issue of climate finance as it established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, a finance mechanism to support the developing countries in adaptation and mitigation measures³¹⁴.

But the most significant issue which was addressed by the Warsaw conference was the so-called INDC (Intended Nationally Determined Contributions)³¹⁵.

3.1.5 The Problem of the INDCs:

This concept was expressly established in the field of the UNFCCC for the 2015 Paris Conference. Each state is asked to publicly provide the shares of emissions they are to reduce prior to 2015.

The problem revolving around INDCs concerned the juridical nature of these “contributions”; at the beginning the intention was to have obligatory commitments, therefore binding, and not just pledges³¹⁶ but there were pressures against this.

Not all the states were keen to commit themselves to binding emissions reduction targets, even if self-imposed, and in the Warsaw conference the most opposed was the United States which pushed for a change in name from commitment to contributions (therefore the title would not have been Intended Nationally Determined Commitments but simply contributions)³¹⁷.

³¹¹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

³¹² Harvey F., *As the Warsaw climate talks end, the hard work is just beginning*, The Guardian, 25 November 2013

³¹³ Ibidem

³¹⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

³¹⁵ Submission By Latvia And The European Commission On Behalf Of The European Union And Its Member States - http://www4.unfccc.int/submissions/Lists/OSPSubmissionUpload/39_111_130723611366500236-LV-02-26-EU%20SubmissionCBannual.pdf

³¹⁶ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 14, American Journal of International Law, 17 May 2016

³¹⁷ Ibidem, Pag. 14

The USA's request was also shared by other countries such as China and India, who felt that their own sovereignty was threatened, and therefore the binding nature of the INDCs was only internal in each state³¹⁸.

It was decided that the INDCs had to be communicated to the UNFCCC by “the first quarter of the 2015” in order to guarantee the principles of “clarity, transparency and understanding”³¹⁹.

The truth was that this decision did not meet at all the prefixed parameters of clarity, transparency and understanding the parts imposed to themselves for several reasons, above all because of the vagueness of these measures³²⁰.

The main reason why a certain vagueness was kept was because all the states were aware that the final goal of the 2015 agreement was a mitigation of commitments from all the parts, from both developed and developing countries, and the latter wanted to have a clearer vision of what these “commitments” would signify for their nations³²¹.

The developing countries, through exploiting the differences between themselves and the other countries (specified within the UNFCCC convention at Article 4), obtained their goal³²².

This strategy was used by the LMCD countries which tried to weaken the Durban platform in order to preserve a distinction between developed and developing countries³²³.

Of course this decision represented a blow for the European Union who would have preferred a different system which would have encompassed all the parts without a division between developed and developing countries³²⁴.

At the end of the Warsaw Conference, developing countries imposed a sharp distinction between their own group and the developed countries, another reason thus why the word “commitment” disappeared in favour of the softer term “contribution”³²⁵.

³¹⁸ Schunz S., *The 2015 Paris Agreement: What it means for the European Union's Climate Policies*, Pag. 2, CEPOB (College of Europe Policy Brief), January 2016

³¹⁹ Submission By Latvia And The European Commission On Behalf Of The European Union And Its Member States - http://www4.unfccc.int/submissions/Lists/OSPSubmissionUpload/39_111_130723611366500236-LV-02-26-EU%20SubmissionCBannual.pdf

³²⁰ Spencer T., 2B continued... The outcomes of the Warsaw Climate Conference and implications for Paris 2015, POLICY BRIEFS N°15/2013. IDDRI, 2013. 2 P.

³²¹ Ibidem

³²² See Article 4 UNFCCC Convention

³²³ Harvey F., *As the Warsaw climate talks end, the hard work is just beginning*, The Guardian, 25 November 2013

³²⁴ Spencer T., 2B continued... The outcomes of the Warsaw Climate Conference and implications for Paris 2015, POLICY BRIEFS N°15/2013. IDDRI, 2013. 2 P.

³²⁵ Ibidem

The legal nature of these initiatives was not clear and remained unclear after Warsaw until Paris. It was to be decided during the 2015 negotiations and so conserved its openness to discussion³²⁶.

This formula favoured the countries less willing to tackle climate change as it gave them a bigger margin of manoeuvre. It was a fresh blow for the progressive coalition before 2015: this would have weakened or jeopardised the future nature of the 2015 agreement, as the risk of a repeat of Copenhagen was very real.

3.1.6 The Lima Conference (1-12 December 2014):

During the controversial Warsaw Conference of 2013, no main progress was made (exactly as with Doha), with the exception of the establishment of the INDCs, hence the states' contributions, and not commitments, to emissions reduction to submit in 2015 before the Paris Conference.

Owing to the opposition of certain countries, marshalled by the United States, the juridical status of the INDCs remained open and blurred until the conference. It was crucial to clarify this point before the 2015 Conference in Paris, because the possible and plausible risk, as already mentioned, was to jeopardise the binding nature of the agreement.

The new conference was to be held in Lima, Peru, therefore a G77 country, unlike Qatar and Poland, which were considered as two opponents to the fight against climate change.

Before the Conference, in November 2014, the United States and China, the two main world polluters, decided to state their own "contributions" in a joint declaration³²⁷.

The United States pledged a drop in emissions from 26% to 28% by 2025³²⁸, while China was to limit its emissions by 2030 or earlier and to increase the use of renewable sources by 20% by 2030³²⁹.

Although the declaration was welcomed by environmental organisations and appeared as a promising beginning for the Lima Conference and a sign of good will, unfortunately expectations did not match up to reality³³⁰.

³²⁶ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 14, American Journal of International Law, 17 May 2016

³²⁷ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 6, Nouvelle Ed, Paris, 2015

³²⁸ Ibidem, Chapter 6

³²⁹ Taylor L., Branigan T., *US and China strike deal on carbon cuts in push for global climate change pact*, The Guardian, 12 November 2014

³³⁰ Ibidem

Unlike the precedent countries, Peru was a part of the “progressive alliance” with the European Union and the other countries (mostly from the G77 group), and its presidency was eager to take a strong position against climate change and therefore lead the negotiations effectively.

Furthermore, Peru was one of the main victims of climate change, as it is the country with the highest number of tropical glaciers endangered by global warming over the last years³³¹.

The final outcome of the Lima Conference on climate change was to elaborate a final draft of the future 2015 Paris agreement³³², but its first task was to clarify the controversial nature of the INDCs.

3.1.7 The INDCs and The Lima Call for Climate Action:

The Lima Conference reiterated the decision taken during the Warsaw Conference on the need to submit the INDCs by the first quarter of 2015 to guarantee (even if this guaranty was merely in writing as there were no facts to substantiate it at all) the principles of clarity, transparency and understanding³³³.

For this conference it was foreseen that the INDCs of the countries had to be reviewed and submitted; this process was brought about by the so called “Lima Call for Climate Action”³³⁴.

It aimed to obtain detailed INDCs from the states, hence information on the methodology used to calculate their own contributions, the period of time they wished to apply it and of course the sectors these contributions were to cover³³⁵.

The process of review and assessment faced immediately the first oppositions, from the LMCD countries, the same which sought to weaken the efforts made in Durban³³⁶.

³³¹ Collyns D, *Lima climate talks: EU and US at odds over legally binding emissions targets*, The Guardian, 2 December 2014

³³² Ibidem

³³³ Submission By Latvia And The European Commission On Behalf Of The European Union And Its Member States - http://www4.unfccc.int/submissions/Lists/OSPSubmissionUpload/39_111_130723611366500236-LV-02-26-EU%20SubmissionCBannual.pdf

³³⁴ Cléménçon R., *The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?*, Pag. 6, Journal of Environment & Development 2016, Vol. 25(1) 3–24

³³⁵ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 20, American Journal of International Law, 17 May 2016

³³⁶ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 8, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

The reason why these countries opposed was because, according to them, it would have breached their own sovereignty. Moreover, they claimed to represent in this decision all the developing countries³³⁷.

3.1.8 The Status of the INDCs and the European Union:

The European Union came quite prepared for the Lima conference with a highly ambitious and very detailed plan already set in place: the INDC of the European Union was already approved in October 2014 by the Head of the European governments, in line with the previously approved EU 2030 climate and energy framework³³⁸, 2 months before the official beginning of the Lima conference in December.

According to the Environmental Council, these contributions were a way to “operationalise” the principle of common but differentiated responsibility³³⁹.

The INDC of the European Union foresaw a drop in GHG emission of 40% from 1990 as a base-year to 2030, to be achieved by both the European Union and its other member states, with an additional 27% binding share of renewable sources and a non binding and an optional 27% more of energy efficiency improvements³⁴⁰.

Connie Hedegaard commented on the result by saying: “We have sent a strong signal to other big economies and all other countries: we have done our homework, now we urge you to follow Europe’s example”³⁴¹. In her words, there was a confident message that this time the leadership by example could be exercised more effectively by the European Union.

The European Union undoubtedly thus far demonstrated its ability of carrying out similar commitments, even if having the same kind of commitment also from its member states with a different matter.

The decision was not easy because of the divergent positions within the European Union and its member states, which have always characterised its decision process in this scope, often slowing down its progression.

In order to gain support from the reluctant Poland and Portugal, concessions were made to guarantee more flexibility in reduction targets (for emissions deriving from the

³³⁷ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 33, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

³³⁸ Environment Council approves the EU's intended nationally determined contribution to the new global climate agreement https://ec.europa.eu/clima/news/articles/news_2015030601_en

³³⁹ Berionni Berna E., *The European Union’s laboratory for sustainable development in the time of globalization and regionalization*, Pag. 136, LUISS Guido Carli, 2016

³⁴⁰ Neslen A., *EU leaders agree to cut greenhouse gas emissions by 40% by 2030*, The Guardian, 24 October 2014

³⁴¹ Ibidem

transport system in the case of Portugal) and also the United Kingdom pushed for more energetic flexibility³⁴².

All the gases which were supposed to be reduced under the INDC, agreed by the European Union, were the ones not covered under the Montreal Convention on Substances that Deplete the Ozone Layer of 1989 (as it has been applied as internal law in the European Union since 1994)³⁴³.

The commitment would have started on 1st January 2021 until 2030, immediately after the agreement entered into force³⁴⁴.

3.1.9 The European Union Against the United States:

In Warsaw, it can be argued that the United States impeded the road to a fully binding agreement, but in Lima the European Union was not willing to let others to jeopardise the achievements of Durban.

As Elina Bardram, who was the Head of the EU representation in Lima, affirmed: “The EU is of the mind that legally binding mitigation targets are the only way to provide the necessary long-term signal, the necessary confidence to the investors... and provide credibility in the low carbon transition worldwide,”³⁴⁵.

This time round, the European Union stated clearly and unequivocally that it was ready to take the reins of the negotiations in Paris in order to achieve this essential goal and it was firm on this position prior to Lima, showing no possibility of compromise with the other states on this specific issue³⁴⁶.

The United States, on the contrary, supported a “buffet option”, hence a more flexible outcome with some binding elements but with more discretionary power to the single states to decide how much they wish to reduce. The European Union saw this option in an unfavourable light, as it could potentially jeopardise both the outcome of the 2 degrees and the same legal binding nature of the final document³⁴⁷.

³⁴² Neslen A., *EU leaders agree to cut greenhouse gas emissions by 40% by 2030*, The Guardian, 24 October 2014

³⁴³ Ibidem

³⁴⁴ Ibidem

³⁴⁵ Collyns D., *Lima climate talks: EU and US at odds over legally binding emissions targets*, The Guardian, 2 December 2014

³⁴⁶ Neslen A., *UN climate change deal must have legally binding targets, says EU*, the Guardian, 27 November 2014

³⁴⁷ Collyns D., *Lima climate talks: EU and US at odds over legally binding emissions targets*, The Guardian, 2 December 2014

In other words, the approach of the United States was the one of a deregulation of climate politics, as affirmed by Asad Rehman of Friends of the Earth, in an interview for *The Guardian*³⁴⁸.

The European Union was an isolated case in the Western World during the Lima Conference: the United States were openly against action, while Canada and Australia always appeared “sceptical” towards this issue³⁴⁹.

During the interview, Rehman pronounced that the European Union was obliged to spend its “political capital” on tackling these attitudes during the Lima negotiations³⁵⁰.

3.1.10 Conclusions:

The negotiations for the Paris agreement officially commenced in the Warsaw Conference and continued the following year in Lima, and to some extent represented a tough testbed for the recovering European Union.

Progress had been made up until Durban, and the European Union was an essential player in establishing the progressive coalition which gave rise to the decision of a binding agreement (according to the Durban Formula). In the following three Conferences of the parties however, several brakes were placed upon EU action.

Its intention to pave the way of a second commitment to the Kyoto protocol was a failure, because in spite of its efforts, very few countries followed its example and this decision taken in Doha remained a pure juridical formality to create a bridge between the first period and the future agreement of 2020.

In Warsaw the perspective to put in jeopardy also the future agreement emerged thanks to the opposition by countries such as the United States to the so called Intended National Determined Contributions, whose status remained vague and open (as previously the idea to render them “commitments” was dropped).

Prior to the 2015 Conference, the European Union felt that the Durban achievements were at risk.

In Lima the INDCs were submitted according to the Lima Call for Climate Action, even if this review was obstructed by several countries, especially by the LMCDs, hence the countries more hostile towards the fight against climate change.

³⁴⁸ Collyns D, *Lima climate talks: EU and US at odds over legally binding emissions targets*, *The Guardian*, 2 December 2014

³⁴⁹ *Ibidem*

³⁵⁰ *Ibidem*

The European Union tried to use its leadership by example in Lima by revealing its own INDC, with an ambitious target, but at the same time it proved to be hereafter determined of preventing other countries from jeopardising the result.

3.2 The Lima-Paris Action Agenda and the Preparatory Works for Paris.

3.2.1 Introduction:

The Conferences of the Parties in Doha, Warsaw and Lima held in 2012, 2013 and 2014, did not represent at all easy political challenges for the European Union.

As a matter of fact, there was not only a quite unfavourable environment for the Union (particularly as these COPs were held in hostile countries to climate change action), but also a growing opposition from the delegations of the other state members of the convention which seemed ready to withdraw without any problem their previous “commitment” to a global and joint action against climate change.

Furthermore, the 2014 Lima Conference once again reiterated the so-called and longstanding principle of the “common but differentiated responsibilities” between developed and developing countries, hence highlighting the different nature of the contributions made by the parts³⁵¹.

In any case, the European Union did not come out weaker from these three consecutive years which followed the partial success in Durban. On the contrary, under a growing pressure from civil society, it had no intention of abandoning its goals this time, unlike in Copenhagen³⁵².

3.2.2 A Success in Paris: A Likely Existential Threat for the European Union:

Following December 2014, after the delegations had left Lima, less than a month remained for the European Union, and for its allies of the progressive coalition, to properly and effectively organise the work for the December 2015 COP 21 in Paris, considered as the last chance to take action.

Over the course of this relatively few months (precisely 11 months), it can be affirmed that the European Union was consistently risking its own reputation in various aspects.

Firstly, it put into peril its reputation among the state “members” of its own progressive coalition, over whom it was the “self-declared” leader, also for the fact that all these states relied on its action as it was the main and most influential bloc in the coalition, the only one able to counter-balance the weight of the other main countries which could have obstructed the path to a binding agreement.

³⁵¹ Barbière C, Climate negotiations reveal new alliances in the Global South, Euractiv, 29 January 2015

³⁵² Neslen A., *UN climate change deal must have legally binding targets*, says EU, the Guardian, 27 November 2014

Secondly, the European Union was risking in general its own role in front of all the world: as highlighted by the first chapter, in the COP 21 the European Union was required to demonstrate its aptitude of being a world power among other states such as China and the United States, despite its own political limits deriving from the fact that it is not a state itself³⁵³.

As it has been claimed, the only way for the European Union to do this was through its soft power means³⁵⁴.

Failing in the Paris Conference would have been the last nail in the coffin for the European Union's foreign policy and as well as its world role.

Furthermore, all of this would have also raised serious questions on the genuine effectiveness of the European Union as an international player and on its actorness (like in Copenhagen³⁵⁵), especially after the entering into force of the Lisbon treaty which established a juridical personality for it³⁵⁶.

The Lisbon Treaty did not bring any substantial changes to the European Union's external policy after Copenhagen, according to Sebastian Oberthür, but it would have been a loss to its image³⁵⁷.

The first chapter has hypothesised climate politics as a factor of integration for the European Union through a functionalist way, and a discredit of it in the international field would have also triggered criticism of the last achievements in European integration.

3.2.3 A Shrinkage of the EU "Credibility Gap"?:

Professor Sebastian Oberthür describes a "credibility gap" concerning EU action in climate change politics; success in the 2015 Paris Conference would have surely meant to narrow this gap for the EU and therefore boost its international credibility, while conversely, a failure in Paris would have meant the exactly opposite, therefore to enlarge it considerably³⁵⁸.

But at the same time, another feasible hypothesis which could overturn everything that has been established thus far must not be neglected: the presidency of the Conference in 2015 was held by France (a state which had its own interests to guarantee a success), and it should be verified whether the outcome of the Paris Conference depended more on the European

³⁵³ Van Schaik, Louise G., *Explaining EU activism and impact in Global Climate Politics: is the Union a norm- or interest-driven actor*, Pag. 173, JCMS Journal of Common Market Studies, January 2012

³⁵⁴ Ibidem

³⁵⁵ Groen L., Nieman A., *The European Union at the Copenhagen climate negotiations: A case of contested EU actorness and effectiveness*, Pag. 2, International Relations 27(3) 308–324, The Author(s) 2013

³⁵⁶ See Article 216 TFEU

³⁵⁷ Interview with Professor Sebastian Oberthür, 16 November 2016

³⁵⁸ Oberthür S., *The role of the EU in global environmental and climate governance*, Pag. 5, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009

Union's action and diplomacy or on that of France and its management of the presidency, as purported by Professor Edwin Zaccai³⁵⁹.

This is a fully legitimate point to raise, for if the answer is that France, instead of the European Union, was the main player in Paris, it is plausible to hypothesise that this has weakened the position of the European Union, and that single member states are capable of acting more effectively³⁶⁰.

3.2.4 The Lima-Paris Action Agenda:

The Lima Conference officially ended on 12th December 2014, leaving the European Union and the other states of the progressive coalition not at all reassured, because too many points had been thrown into discussion again by the other delegations, from the nature of the INDC to the levels of emissions that needed to be reduced.

The Peruvian Presidency could not claim to be satisfied of the outcome, especially due to the aforementioned reasons of the previous paragraph linked to environmental conditions, and also because Peru was a member of the progressive alliance and therefore hoped for a more ambitious and clearer result.

There was an absolute and vital need to keep the progressive coalition alive and working in the 2015 Paris Conference, in addition to strengthening the unity between Europe and the other developing countries.

For this reason, the 13th December 2014, the day after the end of the COP 20, the Peruvian presidency with the future French presidency, and the UNFCCC Secretariat proclaimed the "Lima-Paris Action Agenda" declaration³⁶¹.

This ambitious programme represented the idea of coalition-building which the European Union had successfully adopted in Cancún after Copenhagen, but was now extended to also incorporate non-state actors.

The main objective of this initiative was to enlarge the progressive coalition to include different actors, not only states, but also businesses, cities, local administrations and civil society, and it looked to Paris in December 2015 to be fully implemented in order to keep momentum during the negotiations³⁶², but that could also mean a loss of importance for the European Union, because its role would shift to other actors.

³⁵⁹ Interview with Professor Edwin Zaccai, 19 September 2016

³⁶⁰ Interview with Professor Edwin Zaccai, 19 September 2016

³⁶¹ Lima-Paris Action Agenda <http://newsroom.unfccc.int/lpaa/>

³⁶² Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 38, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

To some extent it could be asserted that this initiative was a form of guarantee established by the European Union and the progressive coalition in the case that the Paris outcome would not be the one desired.

If the single states would not take any action against climate change, perhaps the intermediary corps in society and in the institutions, such as private businesses and local administrations, would.

3.2.5 The Beginning of the “Diplomatic Offensive” of the European Union:

The preparatory works for the December 2015 Paris Conference, started very early, immediately after the Lima Conference in January.

The strategy adopted by the European Union did not change from the previous Conferences of the parties: it was absolutely necessary for it to strengthen the progressive coalition before Paris, and if possible, to enlarge it to other states.

To some extent, what the European Union was in a race against time to ensure that it would not be the only bloc in Paris to defend the Durban formula and a binding agreement.

In January 2015, the European Union established 3000 diplomatic missions engaging 90,000 diplomats to carry out discussions in other countries concerning the issue of the 2015 COP 21³⁶³.

The goal of these missions was to strengthen existing alliances the European Union already had and to keep pressure on other countries, especially regarding their INDCs (to be submitted in the first quarter of the 2015) in order to obtain more ambitious contributions to keep emissions low³⁶⁴.

In an interview with *The Guardian*, the Danish Foreign Minister, Martin Lidegaard, clearly declared that the EU “has enormous soft power and we must use that to push for an ambitious agenda in Paris”³⁶⁵.

His words explicitly indicated that the European Union needed to show its leadership in a different way than in Copenhagen, hence through soft power means. Therefore through diplomatic missions, conditionality and other strategies which were a part of the 3000 missions started in January 2015.

The European Union also intended to enlarge the progressive coalition to other potentially exposed countries, and its first target after the Lima Conference was the AILAC (Independent Association of Latin America and the Caribbean), among which there was also

³⁶³ Council of the European Union - <http://data.consilium.europa.eu/doc/document/ST-5853-2016-INIT/en/pdf>

³⁶⁴ Nelsen A., *EU to launch diplomatic offensive ahead of Paris climate talks*, *The Guardian*, 20 January 2015

³⁶⁵ *Ibidem*

Peru (the former president), and other countries affected by climate change, such as the Caribbean islands³⁶⁶.

We have seen how the negotiations of the Paris agreement have been carried out by the European Union through a bottom-up approach, hence by negotiating previously bilateral positions with single states or group of states³⁶⁷.

3.2.6 The Scrutiny by Civil Society for the EU Action:

In this crucial moment in climate politics, immediately after the Lima and 10 months before the beginning of the COP 21, the European Union was under scrutiny by civil society for its own action.

Environmentalist NGOs, such as Greenpeace and Friends of the Earth, have always monitored the activities of the European Union in climate and environmental politics in the past, always praising its high environmental standards.

The latter, Friends of the Earth, had urged the European Union in Lima to confront the deregulatory tendencies of the United States and the “indifference” of other western countries such as Canada and Australia³⁶⁸.

This time Friends of the Earth further pushed the European Union to undertake a more effective stance on climate finance.

The approach adopted by the European Union was more oriented to allocate private finances from businesses to support mitigation and adaption and vulnerable countries³⁶⁹.

According to the NGO, the European Union needed to mobilise also public funds in order to sustain these countries and not only rely on the private ones, which were considered as insufficient³⁷⁰.

Another motivation added by Asad Rehman of Friends of the Earth, was that it was also in the diplomatic interests of the European Union ahead of Paris to allocate public funds for these countries.

The reason why this would boost its position was because mere private finances would have made the other countries believe that these actions were carried out solely in the interests of the European Union’s private sector³⁷¹.

³⁶⁶ Collyns D, *Lima climate talks: EU and US at odds over legally binding emissions targets*, The Guardian, 2 December 2014

³⁶⁷ Robert A., *Europe losing influence in climate negotiations*, Euractiv, 26 January 2015

³⁶⁸ Ibidem

³⁶⁹ Nelsen A., *EU to launch diplomatic offensive ahead of Paris climate talks*, The Guardian, 20 January 2015

³⁷⁰ Ibidem

³⁷¹ Nelsen A., *EU to launch diplomatic offensive ahead of Paris climate talks*, The Guardian, 20 January 2015

3.2.7 The Submissions of the INDCs and the Role of Precursor of the EU:

The timetable for the submission of the so-called INDC was established during the Warsaw Conference³⁷²: the European Union arrived in Lima with a detailed plan and with an ambitious target of 40% emissions reduction³⁷³.

The aim of such an early move was to display the very much needed leadership ahead of Paris, and to thereby persuade other countries to follow suit.

The status of the INDCs had already been downgraded to mere “contributions” and the atmosphere after Lima was not at its highest point.

Several nations withdrew from their own pledges, initially by refusing to enter the second commitment of the Kyoto Protocol, and then by attempting to weaken the binding nature of the Paris agreement, an accord which the European Union had intentioned to be intransigent, under a growing pressure from the coalition and from the civil society.

With the Lima Call for Climate Action, the submission of the INDCs could begin³⁷⁴ and on February 2015, the submission of the INDCs was opened by an European state, but not an EU member: Switzerland.

It submitted an even more ambitious plan than the one of the European Union, pledging to cut emissions by 50% by 2030 with a base-year of 1990³⁷⁵.

It can be affirmed that Switzerland behaved very consistently in this scope, being also one of the few Western signers of the second commitment of the Kyoto Protocol.

The 6th March was a key date for the European Union as the Environmental Council approved its INDC, being the first main economic bloc in the world to do so, especially before the United States and China³⁷⁶.

The presidency of the European Union was held by Latvia in March 2015, which (the Latvian Presidency) managed the submission of the plan, the second actor after Switzerland to do so³⁷⁷.

The move of the European Union was followed by Norway which with the EU and Switzerland were the three first actors to submit them³⁷⁸.

³⁷² Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 26, American Journal of International Law, 17 May 2016

³⁷³ Neslen A., *EU leaders agree to cut greenhouse gas emissions by 40% by 2030*, The Guardian, 24 October 2014

³⁷⁴ Cléménçon R., *The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?*, Pag. 5, Journal of Environment & Development 2016, Vol. 25(1) 3–24

³⁷⁵ King E., *Switzerland becomes first country to submit Paris climate deal pledge*, The Guardian, 27 February 2015

³⁷⁶ Environment Council approves the EU's intended nationally determined contribution to the new global climate agreement - https://ec.europa.eu/clima/news/articles/news_2015030601_en

³⁷⁷ INDCs as communicated by Parties -

<http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

Surprisingly, the European Union was able to drive other countries to do the same, and after Mexico (which has always been a country engaged in the fight against climate change as seen in Cancún) was the United States, which was the fifth country to submit in the same month of March its INDC³⁷⁹.

The European Union used its 3000 diplomatic missions established in January to try to spur other countries to submit their own INDCs, as well as to have more ambitious and progressive contributions³⁸⁰.

3.2.8 Assessing the Effectiveness of the European Union's Move:

This paragraph deserves to be concluded with a short analysis of how the European Union acted immediately after the Lima Conference, in the first months of 2015.

As previously stated, the European Union was in a race against time with the need to maintain a united progressive coalition and to enlarge it.

The Lima-Paris Action Agenda was the starting point: the idea was one of a coalition which could go beyond single states and also include elements of the civil society and local and regional administrations.

This ambitious plan was yet to be implemented in January 2015 as its goal was to boost the momentum of the Paris Conference in December.

At any rate, the European Union presented a high degree of actorness and initiative when it decided to set those 3000 diplomatic missions in January 2015, aiming to “breathe down the necks of the other countries” so that they kept the pledges regarding their own INDCs, and were additionally able to push for even more ambitious INDCs.

The strategy was bottom-up, hence consisting of bilateral talks and missions with third countries, hence the European Union moved outside the scope of the progressive coalition, yet with the goal of keeping its role as leadiator for the Paris conference.

The European Union not only put diplomatic pressure on other states, but also set an example by submitting its own INDC in March following Switzerland, the first among the main economic actors in the world to do so.

Immediately after this submission, other states such as the United States, Mexico, Russia and Canada (these last two countries abandoned the Kyoto protocol and have now re-engaged themselves) followed it and in June 2015 also China submitted its own INDC (China

³⁷⁸ INDCs as communicated by Parties -

<http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

³⁷⁹ Ibidem

³⁸⁰ Nelsen A., *EU to launch diplomatic offensive ahead of Paris climate talks*, The Guardian, 20 January 2015

after 2012 changed attitude towards climate change with the administration of Xi Jinping, more determined than its predecessor Hu Jintao in the fight against climate change.

Had the EU strategy of diplomatic pressure and leadership by example worked? It may have been just a coincidental correlation, but after these measures were undertaken, other countries submitted their own INDCs, including the two main polluters, the United States and China.

3.3 The Building of the “High Ambition Coalition” and the Role Played by the EU.

3.3.1 The European Union or France?:

The final aim of this paper is to assess whether, during and after the 2015 Paris Conference on climate change (COP21), the European Union has been really able to re-found its previous role as leader in climate politics, and to see which kind of leadership it eventually acquired.

The main point in principle is to understand whether the outcome of the 2015 Paris Conference was a result of the diplomatic action carried out by the European Union in the months prior to December 2015, or if it was down to the capable work conducted by the French presidency during the negotiations started in November of the same year, as hypothesised by professor Zaccai³⁸¹.

This point is worth being raised, because the French presidency is a sort of “intervenient variable” in this research whose outcome is the independent variable.

So far a correlation has been highlighted by the actions of the European Union and how it brought other countries to follow its own path, but the same thing could not be affirmed concerning the product of the negotiations.

If France and its presidency played the main role during the negotiations, it would consequently mean that the triumphant outcome of the Paris Conference cannot be ascribed to the European Union.

Another hypothesis which could be equally formulated is whether the European Union and the French presidency played a joint role during the negotiation process.

The European Union was more active in the previous months ahead of Paris, especially for the coalition-building process and the latter one during the same Conference, trying to push all the parts towards a binding agreement.

As seen throughout the previous Conferences of the parties, presidencies can be extremely relevant and influence everything during negotiations.

Qatar and Poland, two reluctant countries in the fight against climate change for “realist” reasons, slew the negotiation process when they held the conferences, and on the contrary, Mexico and Peru, two very progressive countries on this front, effectively managed their own conferences.

This paragraph therefore endeavours to assess whether the result of the Paris Conference was a true “European” achievement, or if single states can act more effectively,

³⁸¹ Interview with Professor Edwin Zaccai, 19 September 2016

consequently meaning that the previous leadership of the European Union was lost in 2009 when it failed in Copenhagen.

3.3.2 The Importance of a Success in Paris for France:

The 2015 Paris Conference represented an important event for France for several reasons, both internal and external.

The first reason was that the conference was held in France, therefore it was in the country's every interest to adeptly organise the negotiations for the benefit of France's international image³⁸².

The second reason was more related to factors of internal French politics: the Paris Conference was perceived as the last chance for François Hollande's presidency to "redeem" its previous unpopular years, singled by the economic crisis, terrorism and political scandals in France. The conference thus presented a way to leave a "positive" stamp of the 5 years of Hollande and his government³⁸³.

The 2015 Paris Conference was most likely one of the most "important" moments of the Hollande presidency, of a president who, during the 2012 presidential elections campaign, pledged to reduce France's dependence on nuclear energy and increase the country's reliance on renewable sources³⁸⁴.

A further reason for such a commitment, was that France was "terrified" by the fact that the outcome of the 2009 Copenhagen Conference could be repeated in 2015, because this would not only have harshly damaged the reputation of France worldwide, but would also have incurred deeper implications³⁸⁵.

Warding off a possible "Copenhagen 2.0" was not only deliberated by France, but also by the European Union and the other parts of the negotiations; failing in Paris would have brought about a block of the negotiations in climate change for years, and of course, no one could afford a similar outcome³⁸⁶.

Both the European Union and France were highly motivated for the Paris Conference, even if for different reasons. The first, hoped for success in order to boost its credibility as an international actor and as a soft power, and of course as a means to pave the way for a sustainable future among with the other countries of the progressive coalition. Meanwhile

³⁸² Interview with Professor Etienne Hannon, 2 December 2016

³⁸³ Ibidem

³⁸⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 10, Sciences Po Les Presses, 2015

³⁸⁵ Interview with Professor Etienne Hannon, 2 December 2016

³⁸⁶ Ibidem

France, the second, was also interested in success for the same reasons of the European Union, even if purely internal, additionally motivated by domestic politics.

3.3.3 The Strengthening of the Coalition by the European Union: the Skhirat Conference and the relation with the Mediterranean Countries:

As already recounted, the European Union made several efforts to push the other countries to submit their own INDCs and, if possible, to render them even more ambitious³⁸⁷.

Immediately after the submission of its own INDC, the work was yet to be concluded as there was the need to assure that the countries of the progressive coalition followed the same path in order to gain momentum ahead of Paris.

The European Union intended to fulfil its purpose, a mission already initiated in January after Lima when its diplomatic action had begun, and in this case its actorness was relevant and efficient.

The European Commission engaged itself consistently ahead of Paris, transforming the European Union in a dual corpse with the Council. Miguel Arias Cañete, the successor of Connie Hedegaard in 2014 of EU Commissioner for Climate Action and Energy, emerged forth as the predominant voice.

Two months after the submission of its own INDC, the European Union decided to organise a May conference in accordance with the other Mediterranean Countries in the city of Skhirat, Morocco.

This event strived to reinforce and boost international cooperation in the fight against climate change among the Mediterranean countries, from both Southern Europe and Northern Africa³⁸⁸.

The European Union already had links with the countries of the other shore of the Mediterranean Sea, being parts of the Union for the Mediterranean (UfM), an organisation composed of 43 member states, most of them more interested and worried than others about climate change and in finding measures of mitigation, because of the risk of desertification in their own territories³⁸⁹.

³⁸⁷ Nelsen A., *EU to launch diplomatic offensive ahead of Paris climate talks*, The Guardian, 20 January 2015

³⁸⁸ European Commission – Climate Action, *Engaging with our Mediterranean partner countries ahead of new global climate deal* https://ec.europa.eu/clima/news/articles/news_2015050702_en

³⁸⁹ Ibidem

The decision to hold this event in Morocco was not a haphazard choice, as in that month it was already established that the COP 22 in 2016 would be held in Marrakesh, in October of the same year³⁹⁰.

Commissioner Cañete represented the European Union during this event whose goal was to push the Northern African countries to submit their own contributions as soon as possible.

One month after the event the first country to do so was Morocco, which submitted in June its own INDC³⁹¹.

To some extent, the European Union was trying to strengthen its own relations with Morocco regarding climate politics in view of the 2016 Marrakesh Conference, as it had done with Peru after Lima in order to guarantee that the 2016 presidency was on the same wavelength.

3.3.4 “Rehearsing” the Paris Conference: the Berlin Conference:

Prior to the December 2015 Conference, the European Union and the other members of the Conference decided to gather for a 2 days meeting (outside the framework of the UNFCCC) in Berlin on 17th May³⁹².

The Conference was at the outset considered to be just an informal meeting, but in actual fact the delegations of states from Africa, Asia, Latin America and Pacific Islands also decided to join it.

Mary Robinson, the Special Envoy for Climate Change of the General Secretary of the UN, and Christiana Figueres, the Executive Secretary of the United Nations Framework Convention on Climate Change, additionally participated within the meeting³⁹³.

This event was organised within a framework already set by the German government of Angela Merkel in 2010, called the Petersberg Climate Dialogue (the one organised in May 2015 was the sixth meeting³⁹⁴), which was tasked with preparing the December 2015 Paris Conference³⁹⁵.

The event did not concern the European Union directly as the two main players were France and Germany, respectively the Minister of Foreign Affairs and future President of the

³⁹⁰ European Commission – Climate Action, *Engaging with our Mediterranean partner countries ahead of new global climate deal* https://ec.europa.eu/clima/news/articles/news_2015050702_en

³⁹¹ INDCs as communicated by Parties -

<http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

³⁹² European Commission – Climate Action, *Building political momentum towards a strong global climate deal* https://ec.europa.eu/clima/news/articles/news_2015051501_en

³⁹³ Ibidem

³⁹⁴ *Petersberg Climate Dialogue VI, "Reaching for the Paris outcome"*, Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, <http://www.bmub.bund.de/en/topics/climate-energy/climate/international-climate-policy/petersberg-climate-dialogue/petersberg-climate-dialogue/>

³⁹⁵ *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

Conference, Laurent Fabius, and the German Minister of the Environment, Barbara Hendricks³⁹⁶.

In May, and to be more precise on the 17th May, the day the event commenced the number of countries which had already submitted their own INDCs was quite low (under 40).

This of course presented a concern for the European Union, because it posed a risk of jeopardising the agreement³⁹⁷.

For this reason Fabius put pressure on countries which had not yet submitted their INDCS during the event, urging all the parts to have done this before the 30th October 2015³⁹⁸.

Fabius also declared during the event that an agreement, as decided in Durban, must absolutely be reached in Paris, highlighting the fact that this was the last possibility to take action and employing a poignant image to support his words: “We must commit ourselves very resolutely because there isn’t an alternative solution, for the simple reason that there isn’t an alternative planet,”³⁹⁹.

3.3.5 The Emerging Role of France:

The French action in the COP 21 indisputably began long before November 2015, and it was in Berlin during the May Conference, where Fabius was possibly the main actor of the event; it was the French Minister of Foreign Affairs himself who established a schedule of the other meetings to be held before Paris at the conference⁴⁰⁰.

Another significant aspect of the Berlin meeting was the fact that Fabius took meticulous care over the language to be used, as the possibility of a “Copenhagen 2.0” haunted the French presidency who ensured that all was organised to avoid a similar outcome⁴⁰¹.

From the very beginning of the negotiation process, in May 2015, Laurent Fabius’ vision for the conference, especially in order to secure the future of the French presidency, was to keep an inclusive, open and multilateral atmosphere among the parts, unlike in Copenhagen⁴⁰².

It is for this reason that in Berlin the French Minister declared that the outcome, whether successful or not, “depends on us all”, emphasising the importance of the efforts

³⁹⁶ *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

³⁹⁷ INDCs as communicated by Parties -

<http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

³⁹⁸ *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

³⁹⁹ Ibidem

⁴⁰⁰ *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

⁴⁰¹ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁰² *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

made by all the parts, not only by developed countries in terms of decision-making, but also by developing countries in terms of burden-sharing and effort⁴⁰³.

Both the European Union and France started their own actions ahead of the Paris Conference jointly with a main concern, the one of the INDCs of the other states: both of them tried to put as much as pressure as possible on the other partners in order to maintain their own pledges.

Furthermore, France desired to imitate what the Mexican presidency had done in 2010 in Cancún, hence to preserve an open and inclusive climate between the partners in order to avoid a crisis of confidence.

3.3.6 The June 2015 G7 in Germany:

The negotiations for the Paris agreement occurred in both “institutional” and “non-institutional” frameworks, the first ones within the UNFCCC and the latter ones not, such as the Berlin Conference, outside of it.

Among with France, also Germany equally played an important role within the negotiation process ahead of the December 2015 Paris Conference, as it has always been a green leader in the European Union⁴⁰⁴, as illustrated by the establishment of the Petersberg Climate Dialogue in 2010, whose meetings took place punctually every year.

Furthermore, Germany was the country the most interested in a decarbonisation of the economy within the European Union, because of its development of the renewable energy sector after the closure of the nuclear plants⁴⁰⁵.

In June 2015, the G7 was held in Germany, in the Bavarian locality of Schloss Elmau: under the personal pressure and engagement of chancellor Angela Merkel, the leaders of the G7 concluded the meeting by committing themselves to a complete eradication of fossil fuels by the end of the century⁴⁰⁶.

The need to achieving a binding agreement in the Paris Conference was also reiterated, one which respected the standards determined in Durban, limited the increase in

⁴⁰³ *Climate talks can't fail as there is no alternative planet, says French minister*, The Guardian, 18 May 2015

⁴⁰⁴ Jordan A., Liefferink D., Fairbrass J., *The Europeanization of national environmental policy: A comparative analysis*, in Barry J., Europe, Globalization and Sustainable Development, Routledge Research, 2004

⁴⁰⁵ Stefanini S., *Merkel convinces Canada and Japan on CO2*, Politico, 8 June 2015

⁴⁰⁶ Connolly K., *G7 leaders agree to phase out fossil fuel use by end of century*, The Guardian, 8 June 2015

temperatures to 2 degrees⁴⁰⁷ and committed countries to 70% a reduction in emissions from 2010 to 2050⁴⁰⁸.

This target was also judged as insufficiently ambitious by other countries, such as the Least Developed Countries (LDCs) and the AOSIS (Alliance of the small island states, also them members of the G77 group⁴⁰⁹) countries, which pushed for a 70-90% GHG emissions drop from 2010 to 2050⁴¹⁰.

The meeting moreover restated the efforts and pledges by developed and industrialised countries concerning the climate finance, pledging 100 billions each year by 2020 for developing countries for mitigation and adaptation measures, from both private and public funds⁴¹¹, even if this commitment was deemed to be “vague”⁴¹².

The G7 instilled a certain “dose of confidence” within the European civil society (and of course within environmental NGOs), which welcomed the final declaration made by the G7 leaders, encoded in a text called “Think Ahead, Act Together”, which emphasised the decarbonisation of the world economy and the need of a binding agreement during the Paris Conference⁴¹³.

3.3.7 The “European” Prevalence over Canada and Japan and the Change of Attitude of the United States:

The personal role of chancellor Angela Merkel in the G7 was highly praised by environmental groups and NGOs, because the issue of climate change was in danger of being during the meeting, and it was thanks to her efforts that it was brought forth as the main issue of the forum⁴¹⁴.

Germany gained support for the G7 final declaration, astonishingly also that of Canada and Japan, the most “skeptical” and reluctant countries in the fight against climate change

⁴⁰⁷ Connolly K., *G7 leaders agree to phase out fossil fuel use by end of century*, The Guardian, 8 June 2015

⁴⁰⁸ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 18, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁰⁹ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses, 2015

⁴¹⁰ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 18, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴¹¹ Connolly K., *G7 leaders agree to phase out fossil fuel use by end of century*, The Guardian, 8 June 2015

⁴¹² Cléménçon R., *The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?*, Pag. 8, Journal of Environment & Development 2016, Vol. 25(1) 3–24

⁴¹³ Connolly K., *G7 leaders agree to phase out fossil fuel use by end of century*, The Guardian, 8 June 2015

⁴¹⁴ Ibidem

(which had abandoned the Kyoto Protocol in 2011). That Germany had won their favour was perceived as a success⁴¹⁵.

Canada had already submitted its own INDC ahead of the G7 in Germany (even if it was rather lacking in ambition, as it foresaw a mere 30% drop in GHG emissions from 2005 to 2030⁴¹⁶), but Japan submitted its own after the event in July. Japan seemed to want to boycott Merkel's plan to include climate as the main issue of the agenda for energetic reasons, as after the Fukushima incident in March 2011, Japanese electricity highly depended on fossil fuel exports⁴¹⁷.

The same applied to Canada which wanted to exclude emissions reduction from the meeting for energetic reasons too, but did not find support from the United States which were more inclined, among with the European Union, to support Germany⁴¹⁸.

According to Lutz Weischer of the NGO Germanwatch, the "German victory" in G7 was due to the fact that Japan was isolated in its opposition at last, because Canada ultimately aligned itself with the United States⁴¹⁹.

During the G7 the United States' change of attitude at the end the Obama administration which, also after Copenhagen, had displayed a lack of true intent to fight climate change on several occasions became clear. In June 2015, it was essential that the alliance between the European Union and the United States to also co-opt Canada and Japan.

3.3.8 Towards the "High Ambition Coalition":

After summer 2015, the months were truly numbered before the December Conference in Paris, and there was the urgent need for the European Union and the states of the so-called progressive coalition to show unity during the event, and furthermore to push for even more ambitious targets.

In August, Germany and Brazil made a joint declaration on the future Paris Agreement, hoping to bring the third largest polluter within the Coalition⁴²⁰.

In September 2015, the European Union decided to strengthen its relation with the AOSIS countries, starting with a diplomatic mission carried out by commissioner Cañete with the Pacific Islands⁴²¹

⁴¹⁵ Connolly K., *G7 leaders agree to phase out fossil fuel use by end of century*, The Guardian, 8 June 2015

⁴¹⁶ Stefanini S., *Merkel convinces Canada and Japan on CO2*, Politico, 8 June 2015

⁴¹⁷ Ibidem

⁴¹⁸ Ibidem

⁴¹⁹ Ibidem

⁴²⁰ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 5, 23 May 2016

⁴²¹ European Commission – Energy, *EU signs sustainable energy declarations with Pacific Islands*
<https://ec.europa.eu/energy/en/news/eu-signs-sustainable-energy-declarations-pacific-islands>

This was a key step to Paris for several reasons: first of all because this group of countries was highly affected by climate change; their own existence was under threat by rising sea-levels⁴²².

Hence why, they were very concerned with climate finance on adaptation measures.⁴²³

The second reason was that the AOSIS countries were even more ambitious than the European Union concerning the future Paris agreement, its legal nature and its own targets: already in Durban these countries supported a protocol as a juridical document with stricter enforcement rules, unlike the European Union which pushed for an alternative juridical document⁴²⁴.

These countries were not only more ambitious on the legal form of the agreement, but moreover they considered the target of 2 degrees as insufficiently low, as in their eyes it was essential to contain the limit of the increase in temperatures to 1.5 degrees⁴²⁵.

Furthermore, the number of AOSIS countries was quite high, amounting to a fifth of all country members at the Conference, and this conferred them substantial bargaining power, despite the fact that their shares of emissions were considerably low⁴²⁶.

On 28th September 2015, these countries officially joined the European Union. Their involvement represented a step ahead, because it reinforced the position of the progressive coalition (the European Union and the Marshall Islands played an important role in, as Professor Oberthur affirms, “reviving the Durban Coalition” in view of the Paris Conference⁴²⁷) for the future negotiation and also increased the targets.

This move was followed by the Latin American countries which joined the European Union in November 2015 before the beginning of the Conference, with the exception of Brazil which remained hesitant unlike the other South American states which were always more progressive.

⁴²² Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 9, Nouvelle Ed, Paris, 2015

⁴²³ Ibidem, Chapter 9

⁴²⁴ Aykut S.C.; Dahan A. *Gouverner le Climat: 20 ans de négociations internationales* (Kindle Version), Chapter 6, Sciences Po Les Presses

⁴²⁵ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 14, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴²⁶ Gemenne F., *Géopolitique du climat: négociations, stratégies, impacts* (Kindle Version), Chapter 9, Nouvelle Ed, Paris, 2015

⁴²⁷ Oberthur S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 4, 23 May 2016

3.3.9 The Last Efforts by the European Union before December 2015:

The achievements before the Paris Conference were a result of an exceedingly stratified action which involved the bilateral efforts made by both the European Union and its member states (especially by France and Germany⁴²⁸), in both formal and informal forums.

As it has already been claimed, the Paris agreement was a bottom-up accord, whose form depends on several bilateral “agreements”, achieved owing to the action of bridging by the European Union⁴²⁹.

The EU-Morocco relation worked to extend its influence through the latter to the other African countries as in Durban, and with the alliance of the group of AOSIS countries, in addition to the other Latin American countries, the Paris Coalition was taking proper form.

Furthermore, the G7 has, to some extent, “neutralised” the risk of Canada and Japan of trying to block the agreement or to abandon their own pledges, as they did for the second commitment of the Kyoto protocol.

The United States remained ambiguous even if during the G7 it appeared as though the Obama administration had changed its attitude and was more open to cooperating with the European Union for the final agreement.

In October 2015, the European Union and Morocco organised a meeting in the city of Rabat (the country where the COP 22 would take place in one year’s time), already planned in June, in order to take stock of the situation of the INDCs⁴³⁰.

The situation of the INDCs was encouraging at that point as 146 countries, making up 90% of the world emissions, had already submitted their own INDCs, inspiring confidence that the Paris agreement would be reached successfully⁴³¹.

In spite of all the enthusiasm, the substance of the INDCs was inadequate.

The problem was that the INDC submitted risked not only exceeding the 2 degrees, but also expanding the rise in temperatures to 3 degrees, even if it had been specified during the forum in Rabat that the INDCs could be modified in order to achieve the goal of 2 degrees⁴³².

⁴²⁸ Interview with Professor Sebastian Oberthür, 16 November 2016

⁴²⁹ Robert A., *Europe losing influence in climate negotiations*, Euractiv, 26 January 2015

⁴³⁰ European Commission – Climate Action, *Global climate effort put to the test at international forum ahead of Paris Climate Summit* https://ec.europa.eu/clima/news/articles/news_2015100801_en

⁴³¹ Ibidem

⁴³² Nelsen A., 150 countries pledge to curb carbon emissions, The Guardian, 13 October 2015

3.3.10 The Beginning of the Conference (30 November – 12 December 2015):

Initially COP21 was not signed by action on part of the European Union or of any other main country, but by the most vulnerable countries which made clear from day one their intention of limiting the rise in temperatures to 1.5 degrees instead of the target 2 degrees⁴³³.

This request was made by the 44 countries of the AOSIS group, fearing the possible effects on climate change on their own countries, led by their own leader, the Minister For Energy of Maldives, Thoriq Ibrahim, who had already led the group in the alliance with the European Union in September 2015⁴³⁴.

This group was not alone in this claim, as in the Paris Conference, as it was also supported by the Climate Vulnerable Forum, an organisation of countries (which includes also the AOSIS countries) affected by climate change and which pushed for a 1,5 degrees cap⁴³⁵.

This alliance between AOSIS countries and the Climate Vulnerable Forum made up the overwhelming majority of the Conference's parties: 106 out of 195 countries⁴³⁶.

3.3.11 The Role of the French Presidency:

The beginning of this paragraph elucidated France's motives to secure a successful outcome of the Paris conference in addition to how the role it played could undermine the European Union's position.

A "Copenhagen 2.0" was an inconceivable outcome, according to the French presidency: as Fabius stated during the Berlin conference, failure was not an option within the Paris Conference.

In November 2015, France took an important step with China. As of 2012, under the presidency of Xi Jinping, China theoretically changed its stance towards climate change even if in practice it remained quite ambiguous.

On 2nd November 2015, 3 weeks before the official start of the Conference in Paris, during President François Hollande's state visit in China, these two countries issued a joint declaration on the future Paris agreement⁴³⁷.

⁴³³ Harvey F., Vidal J., *Paris climate talks: vulnerable countries demand 1.5C warming limit*, The Guardian, 30 November 2015

⁴³⁴ Ibidem

⁴³⁵ Ibidem

⁴³⁶ Ibidem

⁴³⁷ Oberthür S., *Where to go from Paris? The European Union in climate geopolitics*, Pag. 4, 23 May 2016

Both Hollande and Xi Jinping stressed the need for the establishment of a reviewing mechanism every 5 years in order to assess whether the states' commitment has been respected⁴³⁸.

Both leaders further emphasised the necessity of the Paris agreement to be binding and not a mere declaration⁴³⁹.

The Conference began on 30th November 2015, with an ambitious claim by the most vulnerable countries, asking for a cap of 1.5 degrees of increase in temperatures. The proposal was considered by the French presidency and left open to discussion⁴⁴⁰.

The French strategy predominately consisted of listening to everyone, every state, especially the smallest ones, without making them feel side-lined in any form⁴⁴¹.

Furthermore, over the previous months France had organised the Conference from a “structural” point of view, preparing a very large team, investing huge resources and also investing resources from a human standpoint into all the bilateral efforts made in the previous months ahead of the Paris Conference in December (from the Berlin Conference, to the joint declaration with China)⁴⁴².

Fabius was assisted in his role by his representative in the talks, Laurence Tubiana and by the Minister Of Ecology, Sustainable Development And Energy, Segolène Royale⁴⁴³.

The latter in the negotiations contributed to create a multilateral, open, inclusive, and to some extent, “supportive” climate, emphasising the need to support the most vulnerable countries within the adaptation measures⁴⁴⁴.

Segolène Royale preached this thesis long before the beginning of the COP 21 in order to favour the bilateral talks ahead of Paris between the European Union, and its member states and the developing countries⁴⁴⁵.

⁴³⁸ Phillips T., *China and France say Paris climate pact should have five-year reviews*, The Guardian, 2 November 2015

⁴³⁹ Ibidem

⁴⁴⁰ Harvey F., Vidal J., *Paris climate talks: vulnerable countries demand 1.5C warming limit*, The Guardian, 30 November 2015

⁴⁴¹ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁴² Ibidem

⁴⁴³ Goldenberg S., Harvey F., *The key players at the Paris climate summit*, The Guardian, 7 December 2015

⁴⁴⁴ Ibidem

⁴⁴⁵ Harvey F., *Poor nations waiting for a deal on climate, says French minister*, The Guardian, 29 May 2015

3.3.12 The Strategies of the European Union and of France: Inclusiveness, Openness and Transparency:

The European Union took part in the negotiations in Paris, exactly as had done in the past, effectively represented by both the EU presidency of Luxembourg and by the European Commission, under the figure of Cañete⁴⁴⁶.

The role of the Commission was, at least from a juridical point of view, quite controversial because it unclear whether the representation in Paris had to be held by the Council of Ministers or the same Commission.

Nonetheless, this legal ambiguity did not compromise the fact that in Paris, despite the fact that the European Union was not more united than how it was before, both the Council and the Commission, among with the panel of experts which worked in the negotiation process, spoke with a single voice and kept an equilibrium between themselves⁴⁴⁷.

There was no competition between the European Union and France during the Conference; they both worked jointly⁴⁴⁸.

The French presidency did not behave like the Danish one; there was no pre-decided text, concealed from the other parties, as inclusiveness and transparency were key concepts within the French strategy⁴⁴⁹.

It could be asserted that the European Union, to some extent, “designated” the French presidency to exercise its own role of bridging and of acting as “mediator” during the Paris negotiations.

The text of the agreement evolved on the basis of the continuous discussions and re-negotiations (stimulated by the French presidency) on the points where a convergence between the parts was hard to achieve⁴⁵⁰, according to the method of the “indaba” used by the South African presidency in Durban⁴⁵¹.

This method consisted of allowing every part to express their own points and positions openly during the negotiations, as well as track their own red lines and offer solutions on how to fix possible divergences⁴⁵².

Being open and inclusive and of course listening to everyone through bilateral discussions, was a part of this broadly multilateral and bottom-up approach shared by both the

⁴⁴⁶ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁴⁷ Ibidem

⁴⁴⁸ Ibidem

⁴⁴⁹ Ibidem

⁴⁵⁰ Doelle M., *The Paris Agreement: Historic Breakthrough or High Stakes Experiment?*, Pag. 5

⁴⁵¹ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework*

Convention on Climate Change, Pag. 11, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁵² Ibidem, Pag. 11

European Union and France, and implemented by the presidency during the negotiation process⁴⁵³.

France aspired to achieve the best possible agreement, and it was therefore necessary to engage with the opposite parts⁴⁵⁴, reflecting the intransigent position of the European Union. At the same time the French presidency negotiated according to the principle of “diffuse reciprocity”, hence playing on the possible trade-offs between the parts⁴⁵⁵.

The role exercised by France was undoubtedly an autonomous one during the negotiations in Paris, possessing to some extent its own strategy, but it is likewise clear that the input was given by the European Union, as France adopted its negotiation strategy during the Conference, the same used in the previous months to establish the progressive coalition.

It cannot be claimed that France eclipsed the role of the European Union, nor that its contribution was even more important; the presidency played a complementary role which operationalised the one of the European Union and rendered it more effective.

⁴⁵³ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 9, American Journal of International Law, 17 May 2016

⁴⁵⁴ Brun A., *Conference Diplomacy: The Making of the Paris Agreement, Politics and Governance* (ISSN: 2183-2463) 2016, Pag. 120, Volume 4, Issue 3, Pages 115-123 doi: 10.17645/pag.v4i3.649, 19 April 2016

⁴⁵⁵ Dimitrov R.S., *The Paris Agreement on Climate Change: Behind Closed Doors*, Pag. 6, in Global Environmental Politics 16(1):1-11 • July 2016

3.4 The Conception of the Paris Agreement: What After?

3.4.1 Introduction:

The Paris Conference itself, from its beginning, the 30th November 2015, was not a smooth process, but all the divergences and contrasts that emerged were an object of discussion.

The European Union contributed in its role as lead actor in creating a coalition which lasted until November 2015, which was evermore united during the same event, also because of the commitment of the other members, especially the most vulnerable countries which spoke with a loud voice, one perhaps even more forceful than that of the European Union.

The European Union was not absent nor eclipsed in Paris, but its own input was exercised by France which contributed to create a very multilateral, open, transparent and inclusive atmosphere which consistently benefited the progressive coalition.

3.4.2 The Developing Countries Taking the Reins:

The most vulnerable countries, as already recounted, were the most vocal parties of the Conference with the ambitious and unconditional claim of constraining the rise in temperatures to 1.5 degrees, criticising the objective of 2 degrees as insufficient, also because the INDCs did not go towards this direction.

The strengthening of the coalition in Paris was facilitated by Tony De Brum, Minister of Foreign Affairs of the Marshall Islands, a country vulnerable to climate change, but very prepared during the Paris negotiations to combat it⁴⁵⁶.

On 8th December 2015, De Brum officially announced the birth of the so-called “High Ambition Coalition”, which took a concrete form during the negotiations, after years and months of work conducted by the European Union (a work which started with the Cartagena Dialogue for Climate Action and evolved until December 2015)⁴⁵⁷.

The Coalition was made up of the overwhelming majority of the parts: it consisted of 79 countries from Africa, the Caribbean and the Pacific islands, the member states of the European Union, in addition to the United States⁴⁵⁸.

⁴⁵⁶ Brun A., *Conference Diplomacy: The Making of the Paris Agreement, Politics and Governance* (ISSN: 2183-2463) 2016, Pag. 6, Volume 4, Issue 3, Pages 115-123 doi: 10.17645/pag.v4i3.649, 19 April 2016

⁴⁵⁷ Harvey F., Mathiesen K., *Climate coalition breaks cover in Paris to push for binding and ambitious deal*, The Guardian, 8 December 2015

⁴⁵⁸ Ibidem

The High Ambition Coalition stemmed from a French impulse over the period of the July 2015 meeting in Paris, during a ministerial conference organised by Fabius where the key points of the COP 21 were addressed⁴⁵⁹.

The meeting was purely informal at the beginning, also branded as “the informal ministerial gathering”, but it subsequently institutionalised itself and became the “High Ambition Coalition”⁴⁶⁰.

The High Ambition Coalition for the main part sought to attain a legally binding agreement and a 5-year review mechanism: the bargaining power of this new group was immense as it was a very influential political bloc before the still reluctant China and India⁴⁶¹.

The Coalition was an alliance between developing and developed countries which pushed for the same goals, but China and India remained two countries that were still far from joining the coalition, especially because India opposed both the 5-year review mechanism, as well as lowering the limit from 2 degrees to 1.5⁴⁶².

3.4.3 Pressure from Civil Society and the Implementation of the Lima-Paris Action

Agenda:

The Peruvian and French presidencies worked together after the Lima Conference and, as already mentioned, established the so-called Lima-Paris Action Agenda, a programme aiming to extend the cooperation against climate change to include non-state actors.

This programme had to be implemented during the Conference in order to gain momentum for the event and put pressure on the parties. India undertook a key role in this initiative by jointly founding the International Solar Alliance in November 2015 by Indian Prime Minister, Narendra Modi, and France, in order to favour the use of solar energy in developing countries (an alliance involving more than 120 states)⁴⁶³.

⁴⁵⁹ Harvey F., Mathiesen K., *Climate coalition breaks cover in Paris to push for binding and ambitious deal*, The Guardian, 8 December 2015

⁴⁶⁰ European Commission – Press database, *Historic climate deal in Paris: speech by Commissioner Miguel Arias Cañete at the press conference on the results of COP21 climate conference in Paris*
http://europa.eu/rapid/press-release_SPEECH-15-6320_en.htm

⁴⁶¹ Harvey F., Mathiesen K., *Climate coalition breaks cover in Paris to push for binding and ambitious deal*, The Guardian, 8 December 2015

⁴⁶² Ibidem

⁴⁶³ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 41, American Journal of International Law, 17 May 2016

More directly from civil society, Bill Gates founded the Breakthrough Energy Coalition, an initiative to promote sustainable technologies with consistent private funds⁴⁶⁴, also deriving from Mark Zuckerberg and Jeff Bezos⁴⁶⁵.

The mayors from 450 cities created the “Compact of Mayors” in December 2014 before Lima (launched by the mayors of Rio de Janeiro, Paris and Seoul; Eduardo Praes, Anne Hidalgo and Park Won-Soon), another initiative within the framework of the Lima-Paris Action Agenda, aimed to advocate the support of big cities around the world for the implementation of the Paris Agreement⁴⁶⁶.

Finally, the NAZCA (Non-State Actor Zone for Climate Action) was established with regards to the commitments from cities, private businesses and other organisations⁴⁶⁷.

Even as a non-institutional actor, civil society was a key player in the Paris Conference, instrumental in putting pressure on the parts and involving itself more concretely in the fight against climate change⁴⁶⁸.

3.4.4 The Last Resistances to the Final Agreement:

The final agreement ran the risk of being jeopardised as the bloc of the most resilient countries, comprising of India, China and Brazil, still opposed in face of the High Ambition Coalition.

The United States put aside all reservations definitively at last, and joined the High Ambition Coalition, in addition to Brazil, which was an isolated country in Latin America, and the French presidency played the card of its isolation⁴⁶⁹.

The Brazil move represented a key moment in the last days of the negotiations because it broke through China and India’s dissent, the only remaining BASIC countries opposing the agreement⁴⁷⁰.

India and China finally gave in when isolated and abandoned by Brazil. The countries converged on 12th December, the last day of the Conference, on both the matter of a binding

⁴⁶⁴ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 38, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁶⁵ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 40, American Journal of International Law, 17 May 2016

⁴⁶⁶ Ibidem

⁴⁶⁷ Ibidem

⁴⁶⁸ Ibidem

⁴⁶⁹ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 50, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁷⁰ *Brazil backs ‘high ambition coalition’ to break Paris deadlock*, *Climate Home*, 11 December 2015
<http://www.climatechangenews.com/2015/12/11/brazil-backs-high-ambition-coalition-to-break-paris-deadlock/>

agreement, the limit of a rise in temperatures of 1.5 degrees instead of 2, and on the five-year review.

3.4.5 Was the Agreement a Success for the European Union?:

The aim of this paper was to assess whether the European Union, after the failure at the Copenhagen Conference and its consequent loss of political influence, was able to re-found its role of leadership.

It has been affirmed that it was not possible to return as the same leader it had been previously, but its new role required to be reshaped, that of “leadicator”: the ability to build bridges.

The High Ambition Coalition was a result of the effort made not solely by the European Union, but also owing to the developing countries which pushed determinedly for a serious and ambitious agreement in Paris.

France did not eclipse the European Union, but the two worked together with no competition and with the latter trying to operationalise the notion of multilateralism: the two concepts of general principle of conduct and of diffuse reciprocity were highly emphasised.

There are several reasons why the Paris agreement could be perceived as a success in the climate change negotiations: above all because the result was a binding agreement and not a mere declaration like in Copenhagen⁴⁷¹.

Another reason is that the agreement must apply to all the countries and not only to the developed ones, also bearing in mind the fact that 188 out of 195 countries submitted their own INDCs by March 2016, covering 95% of world emissions and this agreement has the same obligations for every country also keeping into consideration the principle of common but differentiated responsibilities⁴⁷².

Furthermore, the 5-year review mechanism of the contributions guaranteed more “transparency and accountability” using the same words of D. Bodansky⁴⁷³.

The Paris agreement was not decided in haste, unlike Copenhagen; the world was not yet ready enough for the latter, and Paris took years to be negotiated, as the discussions started de facto with Cancún⁴⁷⁴.

The main world powers held a very different attitude since Copenhagen, and they acted more constructively in Paris, especially China and the United States. Moreover, the Con-

⁴⁷¹ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 3, American Journal of International Law, 17 May 2016

⁴⁷² Ibidem, Pag. 4

⁴⁷³ Ibidem, Pag. 2

⁴⁷⁴ Ibidem, Pag. 45

ference did not start with the misguided high expectations as in Copenhagen; the main issues were addressed more realistically⁴⁷⁵.

The atmosphere of the Conference was extremely favourable and this factor played an important role in facilitating the negotiations, as well as the change in attitudes of the other countries and the pressure, scrutiny and involvement of civil society.

The European Union played an important part, but was not the only factor which determined the Paris outcome.

3.4.6 The Legal Substance of the Agreement:

From a formal standpoint, the agreement can be considered to be successful, but the legal content should also be analysed to assess whether or not this success was artificial.

The European Union has pushed for a binding agreement and has reiterated this position in Paris, but is the Paris agreement a binding agreement according to what the EU desired?

The optimal option would have been to secure a protocol, but this option was set aside because it would have put the agreement concerning its ratification by the United States into jeopardy, as it would have had to be ratified by the US Senate and therefore run the risk of being rejected⁴⁷⁶.

The agreement was lacking of quantitative binding targets on emissions reductions, hence taking a more qualitative and therefore ambiguous approach. This was a sort of defeat for the European Union, which had instead hoped for quantitative objectives, as well as to include regulations regarding emissions from aviation and navigation⁴⁷⁷.

Another point which considerably weakens the binding nature of the agreement is the lack of enforcement mechanisms to render the members of the Agreement accountable for their own actions and any violations of the accord⁴⁷⁸.

The agreement was nevertheless binding with regard to the 5-year review mechanism, as all countries are obliged to share their own progress⁴⁷⁹.

⁴⁷⁵ Bodansky D., *The Paris Climate Change Agreement: a New Hope*, Pag. 46, American Journal of International Law, 17 May 2016

⁴⁷⁶ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 12, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁷⁷ Dimitrov R.S., *The Paris Agreement on Climate Change: Behind Closed Doors*, Pag. 5, in Global Environmental Politics 16(1):1-11 • July 2016

⁴⁷⁸ Oberthür S., *Legal Form and Nature of the Paris Outcome*, Pag. 55, climate law 6 (2016) 40-57

⁴⁷⁹ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 10, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

3.4.7 Conclusions:

To assess whether the Paris agreement was a success and a triumph on part of the European Union, is not an easy question to answer. The European Union effectively carried out its role as leadiator; its active bridge-building and leadership by example through its multilateral approach were key to the establishment of the High Ambition Coalition, but the more favourable environment, the attitude of the other parts, the commitment of developing countries in Paris and the function of civil society were by no means negligible factors.

The Paris Agreement was supposed to be binding, however the lack of mandatory quantitative targets and enforcement mechanisms rendered it much weaker, although the mandatory reviews and the growing scrutiny by civil society strengthened the transparency and accountability of the parties, encouraging all the signers to fulfil their pledges, thereby rendering the agreement effective.

Tables

| COMPARISON BETWEEN KYOTO, COPENHAGEN AND PARIS | | | |
|---|---|--|---|
| | Kyoto Conference | Copenhagen Conference | Paris Conference |
| Involved Countries | European Union, Russia, Japan, Canada, Australia | United States, China, Brazil, India, South Africa | European Union, Developing countries, United States, China, India |
| Document | Protocol | Accord (Political Declaration) | Binding Agreement |
| European Union | Role of Leader | No role | Role of Leadiator |
| Cleavage North-South | Clear distinction between North and South (Annex B and non-Annex B countries) | Marked and conflictual distinction between North and South | No More distinction between North and South |

| | IMPLICATIONS OF THE EU IN THE COPS FROM COPENHAGEN TO PARIS |
|-------------------|---|
| Copenhagen | Failure to impose a binding agreement and trigger of a confidence crisis. |
| Cancún | No main role but deepening of the relations EU-developing countries of the Cartagena Dialogue. |
| Durban | Decision of the Durban Formula which foresaw a binding document in Paris. |
| Doha | Trigger of the adhesion to the Second Commitment of the Kyoto Protocol. |
| Warsaw | Blow for the European Union on the legal nature of the INDCs. |
| Lima | Establishment of the Lima-Paris Action Agenda and of the Lima Call for Climate Action and trigger of the submission of the INDCs. |
| Paris | Binding agreement with binding review mechanisms and with the limit of 1,5 degrees of rise of temperatures |

WHAT NEXT AFTER PARIS? POSSIBLE SCENARIOS

4.1 The Future Developments of Climate Change Politics (From the Ratification of the Agreement to the Marrakesh Conference).

4.1.1 Introduction:

The aim of this paper is to analyse objectively the role of the European Union at the COP 21 and whether this event has reshaped the role of the European Union after the Copenhagen Conference, and whether this has conferred it a new kind of leadership or the status of mediator.

In order to assess whether the role of the European Union has been truly effective, it is necessary to explore the possible scenarios of how the agreement could develop in the near future, because this could reinforce the thesis on whether the agreement has been a success or not.

This last chapter does not aim to be a perspective analysis, but to conclude the research investigating into whether the agreement was a solid achievement, and therefore whether or not the European Union has reached its goal.

4.1.2 The Ratification of the Paris Agreement:

Unlike the other signers of the Paris Agreement, the European Union had its own procedure to do so, because of the fact that the agreement was considered as a mixed matter between member states and the Union, signifying that ratification was obligatory by both the Union and the states.

This process not only takes more time⁴⁸⁰ but it can also be risky within the European Union because of the internal resistances, especially from the Polish government; Poland presented the main obstacle for the European Union after the COP 21, because it put pressure on the European Union for permission to continue using coal plants⁴⁸¹.

Furthermore, with regard to the Effort Sharing Decisions with the objective of 30% emissions reduction (emissions not covered by the European Trading Scheme⁴⁸²), every member states, Poland included, aspired to minimise their own contributions⁴⁸³.

The system of implementation of the Paris Agreement by the European Union has been also an object of controversy by the other states, as the Emissions Trading Scheme covers sectors such as the aviation, therefore it would interfere also in the other states' policy on aviation concerning the national airlines⁴⁸⁴.

The Council ministers of Environment of the European Union gathered at the end of September 2016 to ratify the Paris agreement, and on 4th October 2016, the European parliament voted for the ratification of the agreement⁴⁸⁵.

So that it could enter into force internationally, the Paris Agreement required a minimum of 55 signers covering 55% of the global emissions; the agreement would come into effect a month after having reached this threshold⁴⁸⁶.

At the time of the European Union's ratification on 4th October, no member states had previously ratified the agreement⁴⁸⁷, unlike China and the United States which had ratified the Paris Agreement on 3rd September⁴⁸⁸.

Moreover, there is a period of time between the formal ratification by a party and the official entrance into force of the agreement. For the European Union, the agreement entered into force on 4th November, as was the case with the United States and China⁴⁸⁹.

⁴⁸⁰ Oberthür S., *Perspectives on EU implementation of the Paris outcome*, Pag. 8, Institute for European Studies at the Vrije Universiteit Brussel, 25 April 2016

⁴⁸¹ Mathiesen K., King E., *Poland threatens EU plan to ratify UN climate deal*, Climate Home, 27 September 2016

⁴⁸² European Commissions - *Factsheet on the Commission's proposal on binding greenhouse gas emission reductions for Member States (2021-2030)* - http://europa.eu/rapid/press-release_MEMO-16-2499_en.htm

⁴⁸³ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁸⁴ Ibidem

⁴⁸⁵ Nelsen A., *EU gives green light to ratifying Paris climate deal*, The Guardian, 30 September 2016

⁴⁸⁶ Oberthür S., *Legal Form and Nature of the Paris Outcome*, Pag. 46, climate law 6 (2016) 40-57

⁴⁸⁷ Paris Agreement - Status of Ratification - http://unfccc.int/paris_agreement/items/9444.php

⁴⁸⁸ Ibidem

⁴⁸⁹ Ibidem.

4.1.3 The European Union Eclipsed After Paris:

The European Union failed to ratify the Paris Agreement before the United States and China, the two main world polluters, which undertook this joint action on the same day, the 3rd September. This action eclipsed the European Union, the main actor with France during the Conference⁴⁹⁰.

The European Union was able to assure the agreement in Paris during the negotiations, but it did not show enough readiness to ratify and implement it (as well as the member states)⁴⁹¹, whilst China and the United States, covering 38% of world emissions, did, initiating the beginning of the ratifications by the other parts, as before them only 24 states had ratified, covering just 1% of the world emissions⁴⁹².

For the month of November, the new Conference of the parties (COP 22) was projected in Marrakesh, Morocco, and the European Union and the French presidency carried out a comprehensive work with Morocco ahead of Paris in order to guarantee the continuity of the negotiations and to keep the momentum of COP 21.

The COP 22 began on 7th November, and by that day the Paris Agreement had already come into effect (3 days before the conference). However, the European Union failed to arrive in November 2016 in Marrakesh with the ratification of the agreement by the other member states with the exception of France, Germany, Hungary, Poland and Slovakia, which ratified by the beginning of COP 22⁴⁹³.

This position did not bestow too much strength upon the European Union, because it proved how its internal structure was not able to guarantee a rapid and harmonious ratification and implementation of the agreement between the Union and its member states.

4.1.4 The Marrakesh Conference (7-18 November 2016):

The Marrakesh Conference (COP 22) was the first important step following the Paris Conference as it was the first COP held after December 2015, as well as the first meeting of the parties of the Paris Agreement, called CMA1⁴⁹⁴.

Unlike at Paris, the European Union did not play a relevant role in the Conference, especially because it did not arrive in Marrakesh with a strong position. It appeared disunited by the internal divisions between member states, by the low number of ratifications from

⁴⁹⁰ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁹¹ Ibidem

⁴⁹² Phillips T., Harvey F., Yuhua A., *Breakthrough as US and China agree to ratify Paris climate deal*, The Guardian, 3 September 2016

⁴⁹³ Paris Agreement - Status of Ratification - http://unfccc.int/paris_agreement/items/9444.php

⁴⁹⁴ United Nations Framework Convention on Climate Change - *Marrakech Climate Change Conference - November 2016* - http://unfccc.int/meetings/marrakech_nov_2016/meeting/9567.php

them, and because that despite the fact it had been leadiator in the COP 21, it was not able to ratify the agreement before other parties, especially before China and the United States, which seemed more committed to the implementation of the Paris Agreement⁴⁹⁵.

In other words, the European Union was once again side-lined during the Marrakesh Conference in November, even if it was not to the extent of Copenhagen, when a similar thing endangered the entire outcome⁴⁹⁶.

COP 22 in essence did not achieve major outcomes, and did not look promising for a future implementation of the Paris Agreement. It was a Conference more focused on African issues and the impact of climate change⁴⁹⁷, and the European Union failed to play a relevant role during the event.

⁴⁹⁵ Interview with Professor Etienne Hannon, 2 December 2016

⁴⁹⁶ Ibidem

⁴⁹⁷ Hicks C., *COP22 host Morocco launches action plan to fight devastating climate change*, The Guardian, 7 November 2016

4.2 The Implications of the Trump Administration on the Paris Agreement: the “Worst” Scenario for the Agreement.

4.2.1 The Marrakesh Conference and The 2016 Presidential Elections: The Trump Presidency and the Paris Agreement:

In order to better understand the context of the Marrakesh Conference, the event should be framed within the context of the 2016 US presidential elections.

As already mentioned in the previous chapter, Barack Obama used his presidential powers to ratify the Paris Agreement to avoid having to pass it through the ratification of the Senate, which, while in possession of a Republican majority, could have rejected it⁴⁹⁸.

Obama intended to ratify the agreement before the November elections, hence why the United States were among the first to do so.

The risk of the election of Donald Trump as President of the United States put the existence of the agreement into peril because of his scepticism of climate change; the Republican candidate openly denounced climate change as a Chinese invention to render their manufacturing more competitive⁴⁹⁹.

The election of Donald Trump took place during the event in Marrakesh and could be one of the reasons why the COP 22 did not secure any major achievements, because it was thought that any initiatives that could have been agreed between the parties (United States included), the future presidency could have potentially scrapped them⁵⁰⁰.

This intervenient variable in the Marrakesh Conference can to some extent “absolve” the European Union from accusations of having been side-lined and not having played a role in COP 22, as the presidential elections came as a shock, because they could have effectively reversed all the efforts made from Cancún to Paris.

4.1.3 A Possible Withdrawal of the United States From the Paris Agreement:

A withdrawal from the Paris Agreement is legally possible and is included within the same agreement: it states that “At any time after three years from the date on which this

⁴⁹⁸ Obergassel, W., Arens, C., Hermwille, L., Kreibich, N., Mersmann, F., Ott, H.E. and Wang-Helmreich, H. (2016) *Phoenix from the Ashes — An Analysis of the Paris Agreement to the United Nations Framework Convention on Climate Change*, Pag. 9, Wuppertal: Wuppertal Institute for Climate, Environment and Energy

⁴⁹⁹ Milman O., *Donald Trump would be world's only national leader to reject climate science*, The Guardian, 12 July 2016

⁵⁰⁰ Nelsen A., *Climate summit chief pleads with Trump not to ditch Paris treaty*, The Guardian, 18 November 2016

Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary”⁵⁰¹.

This was the choice the new USA administration opted to take, even if there were also alternative methods, such as withdrawing from the 1992 Convention which would take one year, and therefore disengage the United States from every commitment⁵⁰².

The same Agreement affirms: “Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Agreement”⁵⁰³.

What the United States will do cannot be neglected because they are the second main world polluter, and their actions can undoubtedly provoke a reaction from the other parties of the Convention.

After the election of Trump, the first reactions against a possible withdrawal from the Paris Agreement sounded within the European Union.

In France during the primary elections for the presidential candidate of the Republicans, Nicolas Sarkozy responded with the idea of the EU carbon tax, this time applied to US goods in the case that Trump would abandon the Paris Agreement⁵⁰⁴.

4.1.4 The Concrete US Disengagement from the Paris Pledge:

Despite the fact that 3 years were required before legally withdrawing from the agreement, the absence of enforcement mechanisms and of sanctions made it possible for the United States to disregard its own INDC.

One of the first moves of the Trump administration was to name Rex Tillerson as Secretary of State. Tillerson was CEO of the oil company EXXONMobil, and apparently in favour of conserving the Paris Agreement and also of imposing a carbon tax, but his connections with the oil industry raised doubts on the authenticity of his commitment, also owing to the fact that he had accepted to serve under a climate change sceptic administration⁵⁰⁵.

Furthermore, the Trump administration is committed to scrapping the Obama legislation on the environment, the same legislation adopted to implement the American

⁵⁰¹ See Article 28(1) of the Paris Agreement

⁵⁰² *Trump seeking quickest way to quit Paris climate agreement, says report*, The Guardian, 13 November 2016

⁵⁰³ See Article 28(3) of the Paris Agreement

⁵⁰⁴ Kentish B., *Nicolas Sarkozy promises to hit America with a carbon tax if Donald Trump rips up landmark Paris climate deal*, The Independent, 15 November 2016

⁵⁰⁵ McKibben B., *Rex Tillerson is big oil personified. The damage he can do is immense*, The Guardian, 11 January 2017

INDC, the so-called “Clean Power Plan”⁵⁰⁶, Trump consequently pledged to end the alleged “war on coal”, reinstating the mass use of coal as a fossil fuel⁵⁰⁷.

One of the most controversial and opposed measures adopted by the Trump administration however, was the authorisation of the construction of the Keystone XL and Dakota Access pipelines, two projects which had been banned under the Obama administration⁵⁰⁸.

All these measures taken so far by the new US administration represent a concrete disengagement from the Paris Agreement, seeing as how these actions would indisputably fail to meet the commitments of the United States’ INDC, but this disengagement represents also an opportunity for the European Union as it could occupy the hole left by the United States.

⁵⁰⁶ Smith D., *Trump moves to dismantle Obama's climate legacy with executive order*, The Guardian, 28 March 2017

⁵⁰⁷ Volcovici V., Groom N., Disavino S., *Donald Trump declares end to 'war on coal', US energy giants ignore him*, The Independent, 5 April 2017

⁵⁰⁸ McCarthy T., *How Keystone XL and Dakota Access went from opposition to resurrection*, The Guardian, 24 January 2017

4.3 A More Positive Scenario for the Paris Agreement.

4.3.1 The Role of Civil Society in the Implementation of the Paris Agreement:

As already discussed within the first chapter, civil society has played a very important role in the background of COP 21, especially within the framework of the Lima-Paris Action Agenda and in the field of climate finance.

It is a corroborated thesis of Professor Etienne Hannon that the Trump presidency and the possible actions of governments in general which could harm the Paris Agreement, are counterbalanced by the actions of civil society, especially by the role played by businesses⁵⁰⁹.

While governments can scrap legislations which protect the environment or which set rules on the private sector, most businesses nowadays have already started to decarbonise themselves, therefore abandoning fossil fuels of their own accord and adopting clean energy sources⁵¹⁰.

The agreement represents also an opportunity to develop private businesses in the sector of renewable sources⁵¹¹.

Whatever the US administration decides to do with the Paris Agreement, the effects could be contained by this spontaneous decarbonisation of part of the private sector, which might entail that the damages could be less serious.

4.3.2 China, the European Union and the Paris Agreement:

It is an opinion of Professor Mario Telò, that in this time of transformation in the transatlantic relations between the European Union and China, and in this consequent crisis of global multilateralism after the election of Trump, the European Union should not chase the United States in their own territory, but exploit this situation to compose new relations with other countries, especially with China⁵¹².

A closer relationship between the European Union and China could present a catalyst to the Paris Agreement in addition to the reason for its survival: both of them share the belief that the agreement must be kept and implemented⁵¹³.

⁵⁰⁹ Interview with Professor Etienne Hannon, 2 December 2016

⁵¹⁰ Ibidem

⁵¹¹ Geiling N., China makes it clear they are ready to lead on climate if Donald Trump won't, ThinkProgress, 17 January 2017

⁵¹² Conference *Les dimensions politico-institutionnelles du changement géopolitique et les conséquences pour l'Union européenne*, Mario Telò, 21 March 2017, Palais des Académies, Bruxelles

⁵¹³ Geiling N., China makes it clear they are ready to lead on climate if Donald Trump won't, ThinkProgress, 17 January 2017

For China the Paris, the Agreement represents an asset from an economic perspective, as it is the first producer and exporter of renewable energy in the world, and having a decarbonised world economy would boost the trade in this sector for China⁵¹⁴.

4.3.3 China as Future Leader in Climate Change Fight?:

As stated at the start of this chapter, the aim of this paper is not to make predictions on the future, but it may be worth concluding this last part with an open question, as the research question has predominantly focused on whether the European Union has re-found its leadership in the issue of climate change after Paris, as circumstances have indeed changed drastically from December 2015.

The European Union assured the agreement in Paris, but the geopolitical context, especially after Trump's election, risks jeopardising all these efforts, and as seen in Marrakesh, the European Union did not perform as it had in Paris. The ratification of the Agreement moreover revealed that the EU does not possess the means to influence the entire geopolitical context alone.

This fact was already acknowledged because this is the ratio essendi of the High Ambition Coalition, but what if it is time for the European Union to abdicate its role in favour of China, or to work jointly?

Both China and the European Union have resolute intentions, but China has proven to have what the European Union does not possess: the economic and political tools to achieve this. Could China therefore be the potential saviour of the Paris Agreement?

Only time will tell.

⁵¹⁴ Slezak M., *China cementing global dominance of renewable energy and technology*, The Guardian, 6 January 2017

CONCLUSION

As already mentioned within the introduction of this paper, the research question was whether the European Union was able to re-found its role as leader in the fight against climate change after the Paris Conference.

This kind of research question was not an easy starting point, nor does it possess a simple, and maybe single answer: the constraints of this work are considerable and are all related to the extent that the main concepts can be operationalised.

Beyond a quantitative fashion, all the concepts can be analysed and operationalised in a qualitative one.

The concept of leadership has different and several dimensions which cannot be assessed in an empirical and mathematical way, to the degree that it is impossible to criticise.

What it was possible to do was to link the goal of the European Union and then to try to see whether the actions of the latter were a cause of this goal (and if without, the goal would have been possible to achieve).

Furthermore, the operationalisation of what the final goal embodies can be a difficult and problematic task; this paper has many a time demonstrated the EU's intent of obtaining a binding agreement at the Paris Conference.

The binding agreement was the target, the parameter to assessing whether the main actor of this paper was capable of exercising a new leadership, hence the goal needs to be measured against the actions of the European Union.

All of this generates the necessity of isolating the other intervenient variables which risk “contaminating” the research and raises the question on the concrete link between the European Union’s actions and the real results.

The same results can be moreover an object of criticism for several reasons, therefore branding it as a “success” is highly debatable.

The notion of the Paris Agreement as binding is contested because there are no sanctions mechanisms to penalise states which do not comply with their own commitments, and the only binding parts concern the 5-year review mechanism.

Some parts of this work can also be subject to criticism under the accusation of there being more correlations between facts than cause and effect, more post hoc than propter hoc.

In response to this criticism, it can be noted that the absence of empirical data to define a clear relation between cause and effect renders a straight-forward and unequivocal explanation impossible.

Nonetheless, both inductive and deductive thinking are unhelpful, and an abductive reasoning is more appropriate, hence logically choosing the most plausible explanation to the phenomenon.

Despite the methodological limits of this work, adopting a chronological and diachronic preparation has been very useful in further elucidating this paper. In order to understand the European Union’s loss of leadership, the Kyoto and Copenhagen conferences have been put in comparison with their respective results, the actions of the European Union and their relevance in that specific circumstance.

From this basis it was possible to state that Copenhagen was a failure for it and from it, through analysing the role the EU played in future conferences, the achievements and the way it managed to build the High Ambition Coalition.

In this case, there is a robust evidence of how the European Union contributed to it in its organisation and its preparation; it is enough to consider all the events and conferences organised by the European Union, especially ahead Paris, and which were the base for the Paris High Ambition Coalition.

In regard to the initial hypothesis, it can be affirmed that the European Union does not possess the means to exercise the leadership it had before Copenhagen, because if it had possessed them, there would not have been the need to act as a bridge-builder.

For the second part of the hypothesis, as far as the Paris Conference is concerned, the European Union is a leadiator and not a leader.

Another limitation of the work is that the answer to the research question is not fully exhaustive and is merely limited to the period of time taken into consideration, and therefore consists of possible reflections on how long all of this can last.

The fourth chapter ventures to provide two lines of reflection: the first is that the agreement cannot be defined a failure because there are parties committed to defending and implementing it, (therefore it is a success for the European Union). At the same time however, the EU's role as leadiator could be born in Cancún, developed between 2010 and 2015, fully exercised in Paris, and then gradually extinguished.

Although the fourth chapter has already clarified this point and this might not be the moment to further dwell on it, but perhaps the end of this paper could be a paradox; the European Union reshapes its leadership up until Paris, reaches a relative success and then slowly fades into the background.

This final perspective hypothesis formulated in the last chapter appears rather “tragic” in the literary sense of the word, but it remains a plausible perspective.

There are several lines of thought triggered by this paper, all worthy of further exploration such as why the European Union is committed to fight against climate change in general, why the European Union was a leader in the Kyoto Conference, why the Copenhagen conference was a failure, and how the Mexican presidency in Cancún was able to rebuild confidence between the parties.

A future work could focus on the role of China if, as plausible, it will become the new leader in the fight against climate change, or on how the international community has reacted to the climate change-sceptical Trump presidency.

Of course to conduct similar research it is necessary to do it *a posteriori*, but in some years these are possible topics which could spark the interest of several scholars of this issue and to some extent they will be able to complete and provide better explanations of this paper.

The nature of this kind of work obliges abstaining from any value judgement, but not from expressing our own conclusions.

In this case I can state, without being too optimistic, that the leadership of the European Union was lost in Copenhagen, but at the same time from Cancún to Paris it showed to possess the means of being a leadiator (and to some extent also a leader within the same coalition) and of constructing these coalitions which at last reached goals such as capping the rise of temperatures to 1.5 degrees and the review mechanism.

These key elements of the Paris Agreements should not be taken for granted because, as illustrated by the third chapter, they were an object of “struggle”, a struggle won by the European Union and the High Ambition Coalition.

Furthermore, the deriving transparency brings the implementation of the agreement under political scrutiny from both the civil society and on an international level.

The European Union has shown enterprise and intransigence from Copenhagen to Paris, not willing to give up, and even if it was not the only actor to push for this, the miracle of Paris, where an agreement like this one was reached in the last hours before the end (a failure would have blocked the negotiations for years, as claimed by Professor Hannon). Its success at Paris is ascribable to joint action on a international, national and subnational level, as well as owing to civil society and businesses, an action whose input was given by the same European Union.

| POINTS OF STRENGTH AND OF WEAKENESS OF THE EUROPEAN UNION | |
|--|------------------------|
| LEADERSHIP | |
| Strength | Weakeness |
| Coalition building strategy | Low share of emissions |
| Leadership by Example | Internal divisions |
| Multilateral attitude in the negotiations | Not being a state |
| Openness and inclusiveness | Implementation times |

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SUMMARY

The fight against climate change has been a crucial issue for the European Union for years and for several reasons.

In the past The European Union has always exercised a role of leader in this issue worldwide: any way things changed in time and it is no longer clear where the European Union is still a leader, because after the 2009 Copenhagen Conference this role went lost and in the years it mutated.

The final outcome of the Paris Conference was very different from the one of Copenhagen therefore it is a legitimate to wonder whether the European Union has re-found its role of leader and eventually what kind of leader and which means it possesses to exercise this role.

As it is acknowledged, the European Union is not a state and therefore it does not possess the means a states have and for this reason it has to find different ways to prevail in a hard power world.

Climate change politics is the most effective way the European Union can have its voice heard worldwide: the best instrument it possesses is the so called multilateralism, therefore the political approach where decisions are taken according to the general principle of conduct and of diffuse reciprocity.

Through multilateralism the European Union can exercise its role of normative and civil power which means being an international actor which does not possess military or political instruments to prevail, but diplomatic and normative means.

In this way the European Union can exercise a normative leadership, spreading in the field of climate politics the principles of sustainability, precaution, multilateralism and international law, and being able to prevail in a world dominated by the United States and China which seem to be reengaged in the climate change politics and therefore posing the threat of stripping the EU of its role of leader.

From a concrete point of view the fight against climate change represents an economic, political and geopolitical opportunity for the European Union.

Geopolitically and economically a decarbonisation of the European Union would be an advantage because it would reduce the energetic dependency from Russia and Middle eastern oil exports.

Furthermore, the fight against climate change is also related to security issues as climate change can increase the problems in the neighbour countries to the EU, especially in the other shore of the Mediterranean, triggering a climate refugee crisis which the EU could not be able to manage.

From a point of view of internal politics, the climate politics represents a way to relaunch the European integration project: this is a concrete matter and the integration can be built on these bases following the functionalist method and at the same time, succeeding worldwide in this, would reinforce the EU legitimacy (an output legitimacy) and tackle the democratic deficit it is accused of.

Economically the European Union would benefit from the decarbonisation of the world economy because it is the first holder of renewable energies patents and therefore its economy would be boosted.

Lastly, climate change poses also a human threat to Europe in general as it could affect it through more desertification, floods and other meteorological conditions which would harm the safety and health of citizens.

All these reasons are framed in a complex legal framework deriving from the idea that protection of the environment means protection of the rights of future generations: the environment is a result of a spill-over effect as the European Union was born on “energetic” bases (ECSC and EURATOM).

The issue of environment has been a soft matter until the 1986 Single European Act which enshrined it in the EU hard law, and consequently by the Maastricht, Amsterdam and Lisbon Treaties, which codified the principles of sustainable development, precaution and subsidiarity.

From the point of view of the competences, environment appears to be a mixed matter which has been shaped by both the most virtuous European states and the same EU (Europeanisation of climate politics) and at the EU level the main institutions remains the Council of Ministers and the Commission, with an increasing role of the latter over the years.

This political and legal framework has also its own limits anyway: above all the European Union has a long decision making process on it which involves the unanimity of its member states which can slow down or boycott environmental politics (in particular eastern European states such as Poland which still rely on coal).

Moreover, a development of renewable sources is seen as a threat to the nuclear energy (which is considered an alternative energy to fossil fuels too) by some countries, especially by France and the United Kingdom.

The European Union has suffered also from the 2010 financial crisis and the austerity policies have reduced the funds to allocate for investments which are needed in the long term to fulfil a full decarbonisation of the economy.

Also its legal framework has shown to be flawed as some measures have been ineffective, especially the Emission Trading Scheme which has not fixed the main problems deriving from its establishment, such as the price volatility, windfall profits deriving from free allocation and over-allocation of CO₂ allowances.

If this is the theoretical description of the EU climate change and environmental politics and policy, from a practical point of view the EU leadership has been proven to be weak after the Copenhagen Conference.

In Copenhagen the European Union still had the idea to be the world leader in climate change fight, ignoring the shift of power which occurred after Kyoto.

In Kyoto the European Union acted more comfortably because it was a smaller union, emerging powers were less influential and the USA withdrew leaving a gap to fill: these conditions represented the success of the Kyoto Protocol, which was saved by the EU which took the reins the negotiations.

In Copenhagen things were different: emerging powers such as India, China and Brazil were more relevant and the United States also played a role.

The European Union (which arrived in Copenhagen extremely divided on several key-issues), especially the Swedish presidency of the Council and the Danish presidency of the COP intended to impose an agreement already negotiated only with the main world powers to the other developing countries: this move triggered a confidence crisis which jeopardised

completely the Conference and the final document was a mere political declaration decided without the European Union.

The shock of Copenhagen represented for the European Union an opportunity to reflect on its own role and its own mistakes: the main conclusion was that it was no longer possible to be the only leader in climate change politics and a binding agreement was not a ripe issue in 2009.

Anyway, the Copenhagen Conference represented two partial and symbolic achievements for the European Union: the first one was to bring to the attention of the other parties the issue of the rise of temperatures to limit to 2 degrees as a goal to set for a future agreement, and the second one the Green Climate Fund, therefore the climate finance to allocate (the number was 100 billion) to support in adaptation measures the most vulnerable countries.

The first move of the European Union after the Copenhagen Conference was to engage itself in the Cartagena Dialogue for a Progressive Action, an international forum which involved the same EU and the developing countries, especially those most vulnerable to climate change.

From this forum the idea of establishing a coalition emerged as very relevant for the European Union in order to fulfil its purposes in environmental and climate change politics, therefore being no longer a leader but a leadiator (which is a neologism created by the terms leader and mediator by Professor Sebastian Oberthür).

Following Copenhagen, in 2010 the COP was held in Cancún, Mexico and it was an event with very low expectations but which had a relevant impact because the Mexican Presidency contributed to re-establish an atmosphere of confidence between the parties involved, confidence which went lost in Copenhagen, and it was also decided to implement the political decision taken in Copenhagen to allocate 100 billion for climate finance and for adaptation measures.

In Cancún the foundations for the following COP were laid, the Durban Conference: this time the situation was more difficult than in Cancún.

The atmosphere was very conflictual and a new cleavage in climate change politics emerged, the one between the progressive countries and the more resilient (the previous cleavage was between the Annex I and Non Annex I countries, as written in the Kyoto Protocol).

The main problem of the developing countries such as India, China and Brazil was linked to the high level of economic inequalities: the fact that they are biggest polluters is

ascribed to a lowest share of their population, the richest one, and therefore any measure imposed to curb emissions would hit the majority of the population which does not contribute to them.

In Durban the main issue was to decide which kind of document to produce during the COP to be held in 2015 in Paris, and on this there were several contrasts: the European Union pressed for a juridical binding document, whilst the most developing countries wanted to reiterate a protocol, on the model of the one of Kyoto.

India opposed this so called “Durban Formula” despite the fact that it had the support from the United States and the other BASIC countries: the clash between the European Union and India was resolved with an enlargement of the Durban Formula which included also juridical instruments than the one wished by the EU and its allies.

To obtain this the European Union opened for the entrance to the second commitment of the Kyoto Protocol: the aim of this initiative was on one hand to give something back to India in return for the compromise of the Durban Formula, and on the other to assure that between 2013 (end of the first commitment of the Kyoto Protocol) and 2020 (year of the entrance into force of the Paris Agreement) there was no juridical vacuum.

The main result of the Durban Conference, which can be ascribed to the European Union, was the fact that the necessity to adopt a binding agreement in Paris was decided by the parties.

The negotiation process after Durban had a setback: in 2012 the COP was held in Doha, Qatar and this decision was perceived by environmental groups as a contradictory and provocative with the aims of these events as Qatar was a very resilient country and oil producer and exporter.

The Doha Conference produced the so-called Doha amendment which paved the way for the entrance into force of the second commitment of the Kyoto protocol: this was not a successful step as very few countries entered this commitment, among which India was absent, which was the country pushing for it in exchange to its support for the Durban Formula.

Also in 2013 the negotiations slew down: the COP 19 was held in Warsaw and Poland, as well as Qatar, is a country relying on fossil fuels and also this affected the seriousness of the aim for the 2015.

The main issue of the Warsaw Conference concerned the INDC: at the beginning this stands for Intended National Determined Commitments.

The INDC is a document which every part of the UNFCCC had to submit before Paris stating how many emissions they intend to cut by a certain period of time.

This formula looked like binding to some countries, especially the emerging ones and the USA which saw a threat to their own sovereignty.

This issue was addressed during the COP 20 in Lima Peru: this time the atmosphere was more favourable as Peru was a country of the EU progressive coalition, but the risk to put in jeopardy the agreement for 2015 remained very high.

The most resilient countries (China, India and Brazil), led this time by the United States, pushed for a modification of them and the name changed from commitment to contribution, which weakened its compulsoriness.

Anyway before Lima both the United States and China, the first world polluters published their own INDCs, and the same thing the European Union did, showing a very ambitious plan.

The submission and review of the INDCs was opened in Lima under the name of “Lima Call for Climate Action) but they remained vague and not at all transparent, therefore for the European Union the goal of the 2 degrees’ limit of temperature rise, which was foreseen for the Paris Agreement, did not have to be taken for granted.

The Lima Conference ended with this risky ambiguity and vagueness and with a concrete possibility that the Paris Conference would end up like that of Copenhagen, therefore a mere political declaration.

This perspective was dangerous: first of all because a failure of the Paris Conference would have blocked the negotiations for years, and secondly because the European Union would have shown to be extremely ineffective in the fight against climate change and therefore to be no more neither a leader nor a leadiator.

At the end of Lima less than one year remained to assure that Paris would be a success: the first initiative was established by the Peruvian Presidency and by the future French Presidency, called Lima-Paris Action Agenda, to be implemented during the Conference to keep the momentum.

In January 2015 the European Union established more than 3000 diplomatic missions to keep pressure on the other states and to push for more ambitious INDCs with a bottom-up approach made up by several bilateral “agreements” with other parts in order to enlarge the progressive coalition for Paris.

Among with these first moves the European Union was the main world actor and part of the Convention to submit its own INDC which triggered the submission of those of all the other countries which did it by the first quarter of the 2015 as it had been set.

The European Union during the Skhirat Conference decided also to strengthen its own relations with Morocco which was the country which would hold the presidency in the COP 22 and also the main country of Northern Africa with a degree of influence to its neighbours, all threatened by climate change: this first summit before Paris was aimed to guarantee continuity between Lima-Paris and Marrakesh in 2016.

After the Skhirat Conference the EU, on the initiative of France and Germany and under the framework of the Petersberg Climate Dialogue (A German-established forum), organised a new conference in Berlin with the aim to keep pressure on the states which did not submit yet their own INDCs.

An important turning point after the Berlin Conference was the G7 held in Germany: during this event Germany and the European Union achieved the goal to bring on their own sides the most resilient countries; the United States were definitively on their side and Canada and Japan isolated at last accepted to join the other members of the summit in the final declaration (the name of the text was “Think Ahead, Act Together”) which committed the G7 to achieve an ambitious agreement in Paris 2015.

The G7 signed the change of aptitude of the United States from their passive resilience in Copenhagen and it was considered a victory for the German leadership of the European Union.

The European Union came out even stronger from the G7 and after having assured the support of the United States, Canada and Japan, the next aim was to strengthen also the progressive coalition which in Paris will take the official denomination of “High Ambition Coalition”.

The European Union strengthened its relations with the AOSIS countries (the small islands and the other countries threatened by sea levels rises) which were even more ambitious than the European Union concerning the final goal as they considered the 2 degrees limit insufficient and pushed for a limit of 1,5 degrees and furthermore they were extremely concerned with the climate finance and adaptation.

This coalition was joined also by Latin American countries with the exception of the more resilient Brazil.

The last event where the parties took a stock of the situation of the INDCs was the Rabat Conference, the last one before the beginning of the COP 21 in November, organised

by the European Union where it was acknowledged that the 2 degrees limit was hard to achieve with the current INDCs.

With this uncertainty the COP 21 began and its beginning was signed by an increased role of the most affected countries by climate change, gathered in the Climate Vulnerable Forum which amounts to 106 over 195 of the parties of the convention, therefore with a huge bargaining power.

Their main request was the limit of temperature rise to 1,5 degrees instead of the 2 degrees.

These countries were those ignored in Copenhagen and which this time, in coalition with the European Union, are intentioned to make their voice heard.

Unlike Copenhagen the French presidency managed very differently the event: the presidency, led by the French Minister for Foreign Affairs Laurent Fabius, played the card of openness and inclusiveness, giving a voice to all the parties and listening to all of them, also bilaterally.

Furthermore, the text of the agreement was not static but it evolved during the Conference on the basis of the discussions.

For France a success in Paris represented not only a political success but an important heritage of the unpopular Hollande presidency, and the effective role played did not eclipse the one of the European Union as the two, through the EU Climate Commissioner Cañete, worked together and the latter “delegated” its own role to the first as it had better mean to exercise it in that circumstance.

The High Ambition Coalition was born officially in this context, gathering 79 countries from Africa, Caribbean and Pacific Islands, the European Union and the United States, with China and India still outside and with the latter opposing both the 1,5 degrees limit and the 5 years review mechanism of the contributions.

The Conference took place whilst the Lima-Paris Action Agenda was implemented with an involvement of big cities which committed to the implementation of the Paris Agreement (Compact of Mayors), the establishment of the International Solar Alliance by India and two other projects involving business, the Breakthrough Energy Coalition (with the aim to invest in clean technologies) and the NAZCA (Non-State Actor Zone for Climate Action).

The involvement of civil society in the Conference was aimed to guarantee that an eventual failure of the COP 21 could be counterbalanced by an action of non-state actors such as local authorities and businesses.

The pressure of the High Ambition Coalition isolated the 3 most resilient countries, Brazil, China and India: the first joined the Coalition as it was isolated by all the other South American states, and the latter two joined it the last day of the negotiations, both agreeing on the 1,5 degrees limit and the 5 years review mechanism.

From a legal point of view the agreement was flawed: it did not have any binding reduction targets and no sanction mechanism as well as no enforcement mechanism, but the 5 years review mechanism of the contributions was a binding part of the treaty which guarantees that every states present its own results every 5 years.

This point guarantees the transparency and accountability of each party and politically it puts all of them under scrutiny of civil society.

After Paris anyway the European Union came out with several issues to solve: above all the Agreement had to be ratified by the Union and all its member states (and this process takes time) and the opposition of some of them such as Poland can put in jeopardy its ratification.

The United States and China ratified the agreement one month before the European Union and in order to enter into force it must be ratified by the 55% of the parties covering the 55% of the global emissions.

The new Conference of the Parties in Marrakesh started in November 2016 and the European Union came with a weaker position as it had not been able to be the first to ratify the agreement and also because a very limited number of its member states had done it before the beginning of COP 22.

In Marrakesh the European Union was marginalised again and no main progress was done after Paris.

Furthermore, the main event following the COP 21 was the election of Donald Trump as President of the United States with his climate change sceptic platform: President Obama had ratified the agreement through his presidential powers before the presidential elections in order to avoid the risk of a rejection by a Republican administration.

The sudden election of Trump slowed down the works in Marrakesh because of the serious risk of an US withdrawal which can occur after three years from the entrance into force or simply by withdrawing from the 1992 Convention.

Anyway the new US administration represented a disengagement *de facto* from the Paris Agreement as the new Secretary of State was the former EXXONMobil CEO Rex Tillerson, and the Obama's Clean Power Plan was scrapped, the two pipelines Dakota and Keystone XL were authorised and the intention of a return to the use of coal was declared.

These measures announced by the United States can be counterbalanced by the action of the US civil society as several American businesses are already decarbonising themselves by adopting renewable sources and abandoning fossil fuels.

If the United States is stepping back, China is claiming a major role in the fight against climate change also because it is the first producer of renewable sources worldwide.

The European Union can seize the moment as this loss of importance of the United States can signify a more important role for itself which can be achieved by strengthening its ties with China in this issue.

The Paris Agreement is undoubtedly flawed from a legal point of view because of the absence of enforcement mechanisms, but anyway it has represented the main step ahead in climate politics since the Kyoto protocol and the binding 5 years' review mechanism represents a way to guarantee its implementation, and the 1,5 degrees' limit also represents an ambitious goal, enshrined in the Agreement.

This output has been achieved through the inputs given by the European Union which, with the support of the actors of the High Ambition Coalition, was able to exercise its role of leadiator.

This research has been merely qualitative than quantitative and also from a conceptual point of view clarifying the concepts of leadership and success of the Paris Agreement has not been easy and often correlations have been used more than clear cause-effect relations, through an abductive reasoning, therefore in absence of a clear and precise explanation, the most plausible one has been chosen.

These limits anyway do not overshadow that in the conclusion it can be solidly affirmed that the outcome of Paris was a successful outcome and that this outcome has been achieved through the essential output of the European Union, no longer a leader like before Copenhagen but a leadiator able to achieve its goal with others.