

RESULTS OF THE UN CLIMATE SUMMIT IN MONTREAL

THE COMMUNITY OF STATES AGREES UPON CONCRETE
NEGOTIATION PATHWAY FOR CLIMATE PROTECTION
AFTER 2012



Imprint

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Contents

| | | |
|----------|--|-----------|
| 1 | Introduction | 4 |
| 2 | I-nnovation: the post-2012 negotiation process begins..... | 4 |
| 2.1 | Negotiations for post-2012 commitments of the industrialised Kyoto Protocol signatories | 4 |
| 2.2 | The door is open to get the emerging countries on the Decarbonisation Track... 5 | |
| 2.3 | The beginning of a dialogue about long-term cooperative actions to address climate change under the Convention on Climate Change | 5 |
| 2.4 | Reduction of deforestation in developing countries | 6 |
| 3 | I-mplementation..... | 7 |
| 4 | I-mprovement..... | 8 |
| 4.1 | Clean Development Mechanism..... | 8 |
| 4.2 | Adaptation Fund | 10 |
| 4.3 | Settling the statistical basis for the inclusion of air traffic – failed again..... | 10 |
| 5 | Annex | 12 |
| | Annex 1: "Thousands March in Montreal to Urge Climate Action" | 12 |
| | Annex 2: Decision -/CMP.1. Consideration of commitments for subsequent periods... .. | 13 |
| | Annex 3: Article "Climate Solutions: One world, or none" by K.C. Golden | 14 |
| | Annex 4: Decision -/CMP.1. Procedures and mechanisms relating to compliance under the Kyoto Protocol. - XV. Consequences applied by the Enforcement Branch | 15 |

1 Introduction

The UN Climate Summit (COP11/MOP1) that took place in Montreal from 28 November to 9 December 2005 was the first one after the entry into force of the Kyoto Protocol, and the first one on North American soil. The Canadian hosts had excellently organised the conference by intensive travel diplomacy and had also supported the civil society in significantly increasing awareness in the Canadian population with regard to global climate change. This certainly became most apparent during the demonstration on Saturday 3 December 2005. The organisers counted 20 to 30,000 demonstrators (the police counted 6,000) who on two different routes marched to the conference centre in the freezing cold (see annex 1).

The Climate Summit had three key issues that the Canadian government had subsumed with three “I’s”: Implementation, Improvement and Innovation. The essential results of the Climate Summit can be grouped according to these three keywords.¹

2 Innovation: the post-2012 negotiation process begins

The great challenge of the conference was to set the course for serious negotiations for the period after 2012 (the “post-2012 time”). The breakthrough which had been hoped for was achieved in four closely connected areas that are being discussed in the following four sections.

2.1 Negotiations for post-2012 commitments of the industrialised Kyoto Protocol signatories

First of all, the Kyoto states agreed on beginning the negotiations that are to determine the post-2012 commitments for industrialised countries. They agreed on presenting the results on time², so that no gap will arise after 2012. This means that, at the latest in 2008 or 2009, a result has to be presented, so that the second commitment period can begin in 2012.

They determined that by 15 March 2006 the nations will have to present their views, in which they have to present the first proposals for the post-2012 commitments. The new ad hoc working group which was established for this purpose will start work in May 2006 during the round of negotiations in Bonn (SBSTA 24).

¹ The original wording of the official decisions can be found under http://unfccc.int/meetings/cop_11/items/3394.php.

Digests of some of the important decisions can also be found in the annex to this paper.

² see the relevant COP/MOP 1 decision in annex 2

2.2 The door is open to get the emerging countries on the Decarbonisation Track

Secondly, negotiations have been started about assessing the adequacy of the Kyoto protocol. Unlike the suggestions made by the Canadian chairmen, negotiations about article 9 of the Kyoto Protocol have been facilitated. During these negotiations, the EU and other Kyoto signatories, including important emerging countries, have the possibility to submit constructive and innovative proposals on how the Kyoto Protocol might be developed, so that important threshold countries will take over commitments beyond 2012 in a relevant but (towards industrialised countries) graded way. This track of negotiations might develop into a decarbonisation track³: without absolute reduction targets, but with a clear commitment for emerging countries to choose less carbon intensive tracks for their development. By September 2006, proposals on this subject are to be submitted.

2.3 The beginning of a dialogue about long-term cooperative actions to address climate change under the Convention on Climate Change

For the second time, after the Climate Summit in Bonn (COP 6b), where the other industrialised countries showed the courage to agree to Kyoto even without the USA, the US delegation has miscalculated. They had firmly reckoned that the EU and Japan would not have the courage to begin a process of negotiations for the time beyond 2012 without the USA if necessary. And they intended – in the face of the suspected lack of progress during the conference – to take the Asia Pacific Initiative out of their pocket at the end as a toothless but apparently better alternative. However, everything turned out differently. The EU and Japan had the courage to make a progress; China, India and Japan, as Kyoto signatories, refused the idea of building up the Asia Pacific Initiative as an alternative to Kyoto. And then there was the pressure exerted by US mayors, senators and finally even Bill Clinton which made the US media wake up.⁴ In the end, it was the USA that shifted its opinion and got involved in a process at the level of convention.

The previous day, US chief negotiator Harlan Watson had walked out of the negotiating room in protest, saying he would never be able to sign this paper. Referring to the negotiation process he said: "If it walks like a duck, looks like a duck, and quacks like a duck, then it's a duck". Then he left the room with a hearty laugh. Not the process however, but Harlan Watson turned out to be the lame duck. The next day he had – probably because EU, Japan and important emerging countries did not sway⁵ and because of the US media's pressure – new instructions and agreed to the paper with few editorial changes.

³ For an explanation of the tracks see position paper "EU public consultation on future commitments post 2012 on climate change: a statement by CAN Europe"
http://www.climnet.org/pubs/102004CANE_%20EUpost2012.doc

⁴ The article "Climate Solutions: One world, or none" by K.C. Golden gives a nice description of the two Americas during the conference in Montreal – see annex 3

⁵ It was remarkable that the German Chancellor Merkel explicitly supported the German Environment Minister Gabriel not to give way to the US pressure. "She is my backbone", Gabriel said pleased after having spoken to her on the telephone.

And Harlon Watson had to live with a new nickname (“Duck“ Watson) and the fact that, wherever he arrived, NGO representatives held toy ducks out towards him.

Beyond this fooling, a process has been established in which the USA can prepare their return to international climate protection efforts – especially when they will eventually have a government that handles this question rationally. Also voluntary commitments by the emerging and developing countries can be negotiated in this context. Brazil and other developing countries, for example, put the suggestion up for discussion that they intend to increase their efforts for limiting greenhouse gas emissions voluntarily. From a certain point, however, they would expect compensation for the additional measures. In the Wall Street Journal of 12 December 2005 the US’s chief negotiator is quoted as interested in this idea: “Harlan Watson, the US's chief climate negotiator, called the idea of voluntary moves by developing countries ‘an encouraging sign.’ Whether it will affect the US position, he said, depends on ‘how it plays out.’”

In the course of this dialogue, negotiations about the further development of the Framework Convention on Climate Change, the 5-year programme of work on adaptation to climate change, the further development of the market mechanisms or the usage of the technological potential are possible.

Views on this process are to be submitted by 15 April. There are going to be up to four workshops on this subject during the next four years.

2.4 Reduction of deforestation in developing countries

The progressive deforestation is a huge problem, not only, but also with regard to climate policy. An important process of negotiations has been started on how the international community might give incentives to slow down deforestation (particularly in developing countries).

For these negotiations the framework until COP 13 (the Climate Change Conference in 2007) has been sketched out. At best, an effective instrument against rapid deforestation of rainforests might be created by this. (At worst, a lot of hot heat could get into the climate regime, for example, if an unrealistic business as usual path underlies as reference.) It was interesting to see that important rainforest states stood up for such an instrument.

All the member states of the Convention on Climate Change have the possibility to provide to the UNFCCC, by 31 March 2006, their submissions on scientific, technical and methodological questions. They are also to inform about their ideas on political starting points and positive incentives, as well as about proposals on the further development of the process. During the 24th meeting of SBSTA (May 2006), the submissions are going to be discussed.

The results of a workshop that is going to take place on this basis will be presented in November 2006, within the context of SBSTA25 at COP12 (Climate Summit 2006 – probably in Nairobi). One year later, the preliminary negotiation results of SBSTA27 will be presented to COP13 (Climate Summit 2007) for further negotiations and decisions.

Assessment:

The central goal of the Climate Summit in Montreal has been achieved: the beginning of formal post-2012 negotiations. It is particularly remarkable that the participants succeeded in starting such processes at all the levels that are linked to each other. Together with the 5-year programme of work for adaptation that has been agreed on last year, all the processes have now been started that might make it possible to draw the necessary conclusions until 2008/9. (Actually it would be appropriate and necessary to reach a conclusion until 2008.) The Climate Summit 2008, however, is practically taking place at the same time as the US elections. These and the first signals of the new government, however, will in any case influence the willingness of many industrialised and emerging countries concerning the seriousness of their commitments. Because of this, a creative solution will be needed, for example a supplementary climate summit in late spring 2009, in order to be able to take the signals of the new US government into consideration for the determination of the goals – there will not be more than first signals at that point in time.

The governments as well as the NGOs will have to think about the question if the conclusions drawn now should lead to a concrete mandate with a clear timetable during the next climate summit; or if the conclusions drawn now are sufficient as a quasi-mandate. As a reminder: The 1995 mandate of Berlin was the beginning of the negotiations that lead to the Kyoto Protocol in 1997.

3 Implementation

After the entry into force of the Kyoto Protocol on 16 February 2005, the UN Climate Summit in Montreal had to adopt the rulebook of the Kyoto Protocol, the so-called Marrakech Accords. With success – nobody intended to re-discuss the rulebook; it was adopted by all Kyoto states. What is to be mentioned in the same breath, is the agreement on the mechanism for the Kyoto commitments which takes effect where a party is not meeting their commitments. The mechanism is a combination of incentive and penalty for those nations which do not achieve the adopted goals of reduction and restriction of the Kyoto Protocol, or which are on the road to failure.

A body for the performance review has been established (Compliance Committee), and the members for its two departments have been elected. The Compliance Committee consists, on the one hand, of a Facilitative Branch which aims at providing advice and assistance to parties, as well as "early warning" of cases where a party is in danger of not complying with its commitments; and on the other hand of an Enforcement Branch, which has the power to impose sanctions.⁶ Members of the second branch are among others the German expert on international law, Sebastian Oberthür (who is teaching in Brussels) and the Conference President, who lead the Climate Summit in Kyoto in 1997 to success, the Argentinean Raul Estrada-Oyuela.

⁶ The passage to the consequences can be found in its original wording in the relevant COP/MOP1 resolution (see annex 4)

Not meeting the commitments can have the following consequences:

- The country must develop a compliance action plan
- The goal will be tightened up in the next commitment period by 1.3 as much as the failed amount (it is therefore directly financially relevant)
- The country (and its companies) will be barred from participating in international emissions trading

By having taken this decision, the COP/MOP (which is the part of the conference where only parties having ratified the Kyoto Protocol have the right to vote and those having blockaded the protocol, like the USA and Australia, only have the right to observe) has validated the full so-called “non-compliance mechanism”. The main blocker Saudi Arabia cunningly suggested - without success - to do so in an official amendment to the Kyoto Protocol. This would have meant that the amendment would have had to pass another process of ratification by all states, which probably would have taken several years and probably would have met constitutional doubts in Japan. Instead, the mechanism has been put into force for this (first) commitment period of the Kyoto Protocol by the decision taken by the COP/MOP. With that, it is binding under international law, even if the commitment character would be stronger by ratification. The suggestion of an amendment to the Kyoto Protocol will be examined. If at all, it will only be an option for future commitment periods.

Assessment

Within the framework of international law, this is a relatively drastic and innovative mechanism for not meeting commitments (even if we would have wished it to be even more drastic), which up to now cannot be found like that in other environmental regimes. However, it needs to be supplemented by national and regional mechanisms of sanctions, like it has e.g. been put into effect by the EU emissions trading scheme.

4 I-improvement

Some of the already existing mechanisms will be improved. This work programme especially referred to two areas, the Clean Development Mechanism (CDM) and the Adaptation Fund. The attempt to reach an agreement on the methodology to collect the emissions data on (international) air traffic failed.

4.1 *Clean Development Mechanism*

The discussion on the further development of the clean development mechanism (which offers industrialised countries, or companies from there, the possibility to carry out climate protection projects in developing countries and to get credits from these reductions for their own commitments in the industrialised countries) had the following results.

What is central at short notice for the further development of the clean development mechanism is the fact that the parties in Montreal succeeded in providing further funding and staff for the CDM Executive Board. For this committee is the eye of the needle for the recognition of CDM project activities.

The Executive Board has invited the parties to submit new proposals on how the supplementarity of CDM project activities might be proved (it is about the proof that this project would not have been possible without the CDM). In addition to this, proposals to improve the existing, but not binding “additionality tools” are to be submitted. The committee will examine the proposals during its twenty-fourth meeting and – if possible – approve them, and it will report on them during the next climate summit (COP/MOP2).

By 31 May 2006, the parties can submit their views on systemic or systematic barriers to the equitable distribution of CDM projects, as well as proposals on options to address these barriers. The Executive Board will also report on this issue during COP/MOP2 (Climate Summit 2006).

The recently carried out retreat from the Executive Board’s approval of methods for calculating emission reductions for small-scale projects that propose the switch from non-renewable to renewable biomass has caused considerable agitation. The climate summit, strictly speaking the Kyoto states, welcomed that the Executive Board made a public call for submitting alternative methods for these calculations. The Kyoto states additionally asked the Executive Board as a priority (probably on the basis of the submitted proposals) to submit a simplified method for these calculations.⁷

Within the framework of the CDM, a considerably big loophole has been closed. There was the risk that the CDM could cause an incentive to establish new production facilities for HCFC-22, in which the highly effective greenhouse gas HFC-23 will be destroyed. This destruction is quite intended. If it is, however, carried out in new HCFC-22 facilities, the risk remains that it might be profitable to convert to a great extent – with an additional considerable greenhouse potential - the capacities that were additionally built especially for this purpose from HFC-23 into HCFC-22. The Conference of the Parties acknowledged this risk that had already been described by NGOs for a long time, “that the distribution of emission certificates for HCF-23 in new HCFC-22 facilities might lead to a higher production of HCFC-22 and/or HCF-23 than without the CDM”, and put a stop to this.

They also decided that they will start to examine the question whether carbon dioxide capture and storage (CCS) should be considered as project activities within the framework of the CDM. The parties are invited to provide submissions on this by 13 February 2006. Issues relating to project boundaries, leakage and permanence will be taken into account with it.

⁷ The relevant COP/MOP1 decision in its original wording: “29. *Welcomes* the public call launched by the Executive Board for ‘alternative methods for calculating emission reductions for small-scale project activities that propose the switch from nonrenewable to renewable biomass’; 30. *Requests* the Board to develop, as a priority, a simplified methodology ‘for calculating emission reductions for small-scale project activities that propose the switch from non-renewable to renewable biomass’” (source: Decision -/CMP.1 - Further guidance relating to the clean development mechanism)

The parties were also invited to submit proposals on the conception and the content of the agreed CCS workshop in May 2006. On this basis, the Executive Board is expected to develop proposals. The COP/MOP2 will then give relevant instructions to the Executive Board during the next climate change conference.

While the Sectoral as well as the Policy CDM have not yet been allowed, go-ahead has been given for the Programmatic CDM. This means that a programme which intends to generate a certain kind of projects can be considered as a CDM project activity, even if it is not yet clear at this point who applies for participation within the framework of such a programme. Because of this decision, the Sectoral and the Policy CDM are not permitted in the first commitment period only. It rather became apparent that those two instruments will play a significant role in the issue of how industrialised countries can support project activities in emerging countries within the framework of agreed commitments.

4.2 Adaptation Fund

In addition to this, the adaptation fund shall be further developed in the framework of the Kyoto Protocol. For the further development of both areas negotiation packages have been agreed. Proposals on specific political measures, programme priorities and eligibility criteria for the adaptation fund are to be submitted by 13 February 2006. The same deadline was set for proposals on how the adaptation fund will be managed.

4.3 Settling the statistical basis for the inclusion of air traffic – failed again

The attempt to make progress with the most rapidly growing climate problem, i.e. air traffic, failed again. The hope remains that the EU will have presented, by the next climate summit, the draft of a bill for the inclusion of air traffic in the EU emissions trading scheme⁸ and that it will then appear as a driver for the inclusion of the international air (and sea) traffic in a successor protocol of Kyoto with the corresponding reduction commitments. This time, after years of delaying tactics by some states, the settling of the statistical basis on the assessment of air traffic had to be dealt with again. And it failed again. A co-ordinated text had been presented which had been supported by almost all Kyoto states. But when it got serious in the committee, Saudi Arabia and Kuwait suddenly intended to put the whole text into question and refused their approval. Also China and Algeria asked at least for a postponement of this question. The chief negotiator of the relevant negotiating group (SBSTA) accepted – in the face of a lack of approval – this recommendation.

⁸ The European Council of 15/16 Dec 2005 welcomed the commission's intension "to present a bill provided with an estimation of the consequences until the end of 2006".

The EU and some other states had actually prepared this question quite well. If two conditions had been fulfilled, the chief negotiator could have got the issue through, due to the lack of good faith of the Saudi and the Kuwaiti. On the one hand, the guarantee that China supported this course would have been required. China had agreed to a previous version of the paper and had afterwards been displeased about some minor changes. On the other hand, it would have been necessary that the date of the vote had not been put directly before the ministerial segment, where angry Saudis would have tried everything to block it. Because of this overall constellation, the hope remains that these negotiations might however get further during the next round of negotiations.

Assessment

After years of standstill, the Climate Summit in Montreal already brought the second positive progress in the year 2005, after the entry into force of the Kyoto Protocol. The whole Kyoto rulebook, including the compliance mechanism, has been implemented. And: the necessary negotiation processes have been started. With that, the Climate Summit of Montreal has totally fulfilled the expectations that had been put on it.

These results can rightly be judged with very different tenor from different perspectives. On the one hand, the conference has, in the face of the actual situation in terms of world politics, almost reached the optimum of the now possible. On the other hand, the year 2005 – record year for weather catastrophes, the warmest or second warmest year of the last 1000 years, the year with the highest increase of greenhouse gas (absolute, i.e. in tons of CO₂) – has shown more than clearly that a considerable acceleration of the political and economical measures is required in order to reduce the greenhouse gases and to adapt to climate change. Climate change comes quickly, policy reacts slowly. Judging by the necessities, considerably more international climate policy is overdue. From Germanwatch's point of view, many negotiators deserve praise that they led the climate change conference to success. But on the other hand, it is decisively up to civil society to produce the necessary pressure, so that considerably more progress can be enabled quickly. It would be appropriate to link these two perspectives constructively to each other.

5 Annex

Annex 1: "Thousands March in Montreal to Urge Climate Action"

Thousands March in Montreal to Urge Climate Action

By REUTERS

Published: December 3, 2005

Filed at 5:10 p.m. ET

MONTREAL (Reuters) - Thousands of environmentalists, some banging drums or dressed as polar bears, marched in Montreal on Saturday to urge the United States and other nations at a U.N. climate conference to do more to curb global warming. "Time is running out," banners proclaimed in a carnival-like rally in freezing temperatures through central Montreal, where many protesters accused the White House of blocking progress on climate change and threatening the world's future.

"We will move the world ahead. We will not wait for (U.S. President) George W. Bush," Elizabeth May of the Sierra Club environmental group told the crowd, estimated at about 6,000 people. "Together we can save the climate. Together we will stop fossil fuels from destroying our future," she said outside the Montreal conference center, where 189 nations are meeting from November 28-December 9 to find ways to halt climate change.

Delegates are discussing the shape of the next phase of the U.N.'s Kyoto Protocol climate pact, but discussions are being hampered between those who back emission reduction targets and outsiders, such as Washington, which are opposed to caps.

Organizers said similar marches were held in 30 cities from Sydney to London to urge governments to lower emissions of heat-trapping gases from burning fossil fuels in factories, power plants and cars.

In Montreal, one man walked on stilts disguised as the grim reaper, while others wore panda or polar bear costumes. "The ice is melting, we're suffering the most, we can't get food," said Gordon Shepherd, a Scottish activist dressed as a polar bear.

Canadian Foreign Minister Pierre Pettigrew and Environment Minister Stephane Dion took part in the march. Some protesters booed the ministers, accusing them of doing too little, but the harshest criticisms were for Bush.

"Wake up USA!," one banner read. "George, you're not alone on this planet!" another said.

In 2001, Bush pulled out of the U.N.'s Kyoto Protocol, which binds about 40 industrial nations to cut emissions of greenhouse gases by 5 percent below 1990 levels by 2008-2012.

Annex 2: Decision -/CMP.1. Consideration of commitments for subsequent periods...

(Advance unedited version)

Decision -/CMP.1

Consideration of commitments for subsequent periods for Parties included in Annex I to the Convention under Article 3, paragraph 9, of the Kyoto Protocol

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, at its first session,

Guided by Articles 2 and 3 of the Convention,

Pursuant to Article 3, paragraph 9, of the Kyoto Protocol,

1. *Decides* to initiate a process to consider further commitments for Parties included in Annex I for the period beyond 2012 in accordance with Article 3, paragraph 9, of the Protocol;
2. *Decides further* that the process shall begin without delay and shall be conducted in an open-ended ad hoc working group of Parties to the Kyoto Protocol, hereby established, which will report to each session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol on the status of this process;
3. *Agrees* that the group shall aim to complete its work and have its results adopted by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol as early as possible and in time to ensure that there is no gap between the first and second commitment periods;
4. *Agrees further* that this group will meet for the first time in conjunction with the twenty-fourth sessions of the subsidiary bodies (May 2006) and that subsequent meetings will be scheduled, as necessary, by the group;
5. *Invites* Parties to submit to the secretariat, by 15 March 2006, their views regarding Article 3, paragraph 9, of the Kyoto Protocol, to be compiled and made available to the group prior to its first meeting.

Annex 3: Article "Climate Solutions: One world, or none" by K.C. Golden

Climate Solutions: One world, or none

By K.C. Golden, Policy Director, Climate Solutions

The Cascade snowpack was on the negotiating table at the UN Conference on Climate Change in Montreal last week. Glaciers were at stake. Water availability hung in the balance. The frequency of forest fires; salmon and hydropower on the Columbia; agriculture in Eastern Washington -- it was all on the line.

As the negotiations in Montreal proved, stabilizing the climate requires a comprehensive global campaign for both clean energy and poverty reduction. One of the reasons the U.S. federal government says it won't sign the Kyoto Protocol is because the plan does not initially require emission reductions from developing countries. But the have-nots are understandably more focused on escaping poverty than reducing emissions.

So the global climate agreement creates an ingenious chain of interdependence between climate solutions and economic security. First, the rich nations reduce their emissions, using a market-based system that creates incentives for new, clean technology. They can also make investments that promote clean development in poor nations -- and use the resulting emission reductions as credit toward their own goals. As clean technologies and sustainable prosperity spread, developing countries will be able to adopt their own emission reduction targets. But they won't have to stay poor to do it.

It's a brilliant system, but everybody has to play or it won't work. If the developed nations don't cut emissions and invest in new technologies, the developing countries won't have the tools for sustainable economic growth. And if developing countries don't ultimately cut emissions too, political support in the developed world will fizzle.

In Montreal, the official delegation from the U.S. broke this fragile chain. On behalf of the richest nation -- where 4% of the people produce 24% of the problem -- our federal government actually walked out in the late hours of the negotiations.

Yet despite the odds, the community of nations was able to forge a new link with the real America -- a constructive, engaged, responsible America that wants to be part of the solution. This America was represented by committed citizens -- mayors and legislators; businesses and civic groups; scientists and religious leaders. Bill Stallworth, a City Councilman from Biloxi Mississippi, was there -- nobody wanted to argue about climate science with a guy whose town just got eaten by Katrina. He was all about solutions.

Seattle Mayor Greg Nickels was one of the most effective ambassadors for this forward-looking America. He led a contingent of Mayors representing 195 U.S. cities that pledged to meet the goals of the international treaty. He spoke for a growing bi-partisan majority in the U.S. that wants solutions now.

Local leaders came to Montreal to show that many parts of the U.S. are already hard at work building our clean energy economy and reducing emissions. They showed the face of an America that values innovation and collaboration, an America that is working toward a more secure future with less dependence on fossil fuels. This America stood in stark contrast to the can't-do posture of our federal government.

State officials came too, representing states that rank among the world's largest economies. They described how much of the U.S., led by California, is requiring automakers to reduce global warming pollution from new cars. Northeast states discussed their innovative new market system for reducing carbon dioxide from power plants.

These forward-looking states are concerned that if the U.S. doesn't adopt a responsible climate policy, we may become the General Motors of nations -- inefficient, outdated, and uncompetitive -- while other nations reap the rewards of investment in solutions. Led by a bi-partisan coalition of Governors, they have decided not to wait for federal action.

State and local leaders were persuasive in Montreal in part because they are on the front lines of climate impacts. When the snow doesn't fall or the storm surge hits, they feel the pain and pay the costs. But the real power of their message was in their actions. They are implementing practical climate solutions, and those solutions are helping them build healthier, more livable, more prosperous communities. They are saving energy and money, tackling traffic, cutting waste, and reducing their dependence on fossil fuels. They are positioning for success in a low-carbon, clean energy future.

It's difficult to overstate how frustrated and discouraged the rest of the world is by our federal government's appalling unwillingness to cooperate in the global effort. And yet, buoyed by the commitment of our nation's local climate leaders, the community of nations resolved to move forward.

The real story from Montreal isn't that our federal government stiffed the world -- that's old news. The inspiring truth is that while our federal negotiators walked out, a new America walked in for the world to see: states, cities, businesses and citizens from all over the United States who are committed to this urgent campaign for solutions.

Annex 4: Decision -/CMP.1. Procedures and mechanisms relating to compliance under the Kyoto Protocol. - XV. Consequences applied by the Enforcement Branch

(Advance unedited version)

Decision -/CMP.1

Procedures and mechanisms relating to compliance under the Kyoto Protocol

[...]

XV. Consequences applied by the Enforcement Branch

1. Where the enforcement branch has determined that a Party is not in compliance with Article 5, paragraph 1 or paragraph 2, or Article 7, paragraph 1 or paragraph 4, of the Protocol, it shall apply the following consequences, taking into account the cause, type, degree and frequency of the non-compliance of that Party:

(a) Declaration of non-compliance; and

(b) Development of a plan in accordance with paragraphs 2 and 3 below.

2. The Party not in compliance under paragraph 1 above, shall, within three months after the determination of non-compliance, or such longer period that the enforcement branch considers appropriate, submit to the enforcement branch for review and assessment a plan that includes:

(a) An analysis of the causes of non-compliance of the Party;

(b) Measures that the Party intends to implement in order to remedy the non-compliance;

and

(c) A timetable for implementing such measures within a time frame not exceeding twelve months which enables the assessment of progress in the implementation.

3. The Party not in compliance under paragraph 1 above shall submit to the enforcement branch progress reports on the implementation of the plan on a regular basis.

4. Where the enforcement branch has determined that a Party included in Annex I does not meet one or more of the eligibility requirements under Articles 6, 12 and 17 of the Protocol, it shall suspend the eligibility of that Party in accordance with relevant provisions under those articles. At the request of the Party concerned, eligibility may be reinstated in accordance with the procedure in section X, paragraph 2.

5. Where the enforcement branch has determined that the emissions of a Party have exceeded its assigned amount, calculated pursuant to its quantified emission limitation or reduction commitment inscribed in Annex B to the Protocol and in accordance with the provisions of Article 3 of the Protocol as well as the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Protocol, taking into account emission reduction units, certified emission reductions, assigned amount units and removal units the Party has acquired in accordance with section XIII, it shall declare that that Party is not in compliance with its commitments under Article 3, paragraph 1, of the Protocol, and shall apply the following consequences:

(a) Deduction from the Party's assigned amount for the second commitment period of a number of tonnes equal to 1.3 times the amount in tonnes of excess emissions;

(b) Development of a compliance action plan in accordance with paragraphs 6 and 7 below;

and

(c) Suspension of the eligibility to make transfers under Article 17 of the Protocol until the Party is reinstated in accordance with section X, paragraph 3 or paragraph 4.

6. The Party not in compliance under paragraph 5 above shall, within three months after the determination of non-compliance or, where the circumstances of an individual case so warrant, such longer period that the enforcement branch considers appropriate, submit to the enforcement branch for review and assessment a compliance action plan that includes:

(a) An analysis of the causes of the non-compliance of the Party;

(b) Action that the Party intends to implement in order to meet its quantified emission limitation or reduction commitment in the subsequent commitment period, giving priority to domestic policies and measures; and

(c) A timetable for implementing such action, which enables the assessment of annual progress in the implementation, within a time frame that does not exceed three years or up to the end of the subsequent commitment period, whichever occurs sooner. At the request of the Party, the enforcement branch may, where the circumstances of an individual case so warrant, extend the time for implementing such action for a period which shall not exceed the maximum period of three years mentioned above.

7. The Party not in compliance under paragraph 5 above shall submit to the enforcement branch a progress report on the implementation of the compliance action plan on an annual basis.

8. For subsequent commitment periods, the rate referred to in paragraph 5 (a) above shall be determined by an amendment. [...]

Germanwatch

We are an independent, non-profit and non-governmental North-South Initiative. Since 1991, we have been active on the German, European and international level concerning issues such as trade, environment and North-South relations. Complex problems require innovative solutions. Germanwatch prepares the ground for necessary policy changes in the North which preserve the interests of people in the South. On a regular basis, we present significant information to decision-makers and supporters. Most of the funding for Germanwatch comes from donations, membership fees and project grants.

Our central goals are:

- Effective and fair instruments as well as economic incentives for climate protection
- Ecologically and socially sound investments
- Compliance of multinational companies with social and ecological standards
- Fair world trade and fair chances for developing countries by cutting back dumping and subsidies in world trade.

You can also help to achieve these goals and become a member of Germanwatch or support us with your donation:

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