

# Bad COP and Not Much “Hopenhagen”

## General Instructions

Anselm Dannecker,\* Leah Kessler,† Monica Giannone‡

### The Copenhagen COP

#### The Bloody Hand of Claudia

In the dawn of the climate change conference of Copenhagen, Claudia Salerno, a delegate from Venezuela, stood up. With blood running down her hand, she asked "Do you think a sovereign country has to actually cut its hand and draw blood? (...) This hand, which is bleeding now, wants to speak, and it has the same right of any of those which you call a representative group of leaders."<sup>i</sup> Her calls for a point of order had thus far been ignored by the Danish Prime Minister and COP President. In frustration, she had slammed her country's name plate on the conference table and kept doing it until she was bleeding. Salerno's dramatic gesture brought attention to the exasperation and disappointment felt by many delegates about the way the conference had been handled. The COP Presidency, according to Claudia, had not only failed to address the needs and concerns of developing nations, but had ignored their voices altogether.

#### “To Take Note”

The Copenhagen Accord was not adopted in Copenhagen by the Conference of Parties as planned. COP President and Danish Prime Minister Lars Løkke Rasmussen had submitted it for formal adoption during the closing plenary. It was 3am at night and Rasmussen's intention was to pause for one hour so that countries could read the text and adopt it afterwards. For many countries, this was the first time they saw the text in a process where countries are supposed to be the authors of any text.

A group of countries including Venezuela, Bolivia, Cuba, and Nicaragua had prepared to object this unusual procedure. They had officially introduced a text that asked to halt negotiations and pick them up again several months later. The procedural rules dictated that this text—a text introduced by the Parties—would need to be discussed and voted on before the Presidency could introduce its text. When this protocol was not followed, Claudia Salerno made a “point of order,” which immediately should have given her the floor. With his microphone on, Rasmussen responded to someone who was informing him of the intervention, “I’m not giving them a point of order,” and attempted to leave. Many delegates booed loudly and voiced their discontent about this violation of protocol until Rasmussen took his place again. He gave the floor not to Venezuela but to Tuvalu. By refusing to give the floor to whoever had (electronically) raised their hands to

\*Anselm Dannecker, Senior Fellow, Negotiation and Conflict Resolution Collaboratory, (NCRC) Center for Public Leadership (CPL), Harvard Kennedy School.

† Leah Kessler, Research Assistant, NCRC, HKS, Harvard Kennedy School.

‡ Monica Giannone, Director, NCRC, HKS, Harvard Kennedy School.

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make an intervention next and skipping people with opinions that might contradict his own, Rasmussen continued to violate protocol. This made people increasingly angry when they finally got to speak. Rather than taking the intended 1 hour break, hours of plenary discussions ensued. They were often suspended to small groups, or “huddles,” to discuss how to proceed. Some participants had to leave temporarily to try to catch up on sleep. “At that point I was having trouble seeing from exhaustion; I hadn’t been at the hotel for 4 or 5 days,” reports one observer.<sup>ii</sup>

Plenary discussions were heated. The group of countries around Venezuela led the objections, commenting on “untransparent and undemocratic” negotiations.<sup>iii</sup> The Sudanese delegate, at the time the spokesperson for the G77+China, called the text “a suicide note for Africa.”<sup>iv</sup> The 12-hour marathon closing plenary—interrupted with huddles, side negotiations, and last-ditch attempts to salvage the agreement—culminated in delegates merely “taking note” of the Accord (rather than adopting it). This was an attempt to avoid the detrimental signal of an absolute no agreement and to maintain the progress already made on substance. Yet, the legal status of commitments in the text were unclear. A new, irregular procedure was established by which countries, if they wanted to, could express their support of the Accord in the aftermath. The long political discussion about the legal form of the Accord meant that much of the actual technical substance of text still had to be discussed and adopted in plenary. But at this point, many had already left. Many countries (especially representatives from developing nations who had their tickets bought by the secretariat and who had less travel flexibility) decided not to stick around for this part. As one delegate who stayed for the technical negotiations until the very end described: “*They were starting to clean up around us as we were finalizing the negotiation. When we adopted the last point, there were about 30 people left and the entire venue around us had been taken down. It felt so symbolic.*”<sup>v</sup>

Copenhagen was widely perceived as one of the low points in international climate negotiations, and multilateralism in general, both with regards to making progress on the substance and to personal aspirations of negotiators. As a Negotiator from an African country who wishes to remain anonymous put it, “*The COP in Copenhagen is a very dark memory for me*”<sup>vi</sup>—a sentiment repeated by many in attendance. Farhana Yamin, who worked with AOSIS at the time, went further describing a “*diplomatic disaster of epic proportions.*”<sup>vii</sup>

With some distance, many observers and delegates recognize that the COP in Copenhagen planted many seeds for what later became the Paris Agreement. Not only did the Copenhagen Accord set forth the aspirational goal of 2°C, it also established a new ‘bottom-up’ process for recording voluntary mitigation targets rather than the top-down legally binding emissions reductions process set forth by the predecessor regime, the Kyoto Protocol. In finding creative ways to incentivize voluntary emissions reductions outside of a legally binding mechanism, the Accord paved the way to the new system of nationally determined contributions that was finalized with the Paris agreement. In addition, the Copenhagen Accord created a process for mitigation action by both developed and developing countries and it included a target of \$100 billion of climate funding for developing countries by 2020.<sup>viii</sup> Within one year, 140 countries had indicated their support for the agreement.<sup>ix</sup> As one observer summarizes: “*At the time Copenhagen felt like a catastrophic disaster. With hindsight that’s a lazy and wrong interpretation. It triggered a dynamic that ended up in the Paris Agreement. At the time, it felt like a disaster. I had been working 18-hour*

*days for 18 months and we thought we were going to make history. And then you find yourself with the process falling apart. Inevitably, that leads to soul-searching of ‘why did this happen?’”<sup>x</sup>*

## Coming into Copenhagen

### The hope for Copenhagen: The Kyoto Protocol needs a successor regime fit for a changed world

At COP15 in Copenhagen was supposed to mark a shape-shift in the international climate regime and lay out the future of climate governance. The Kyoto Protocol commitment period was coming to an end and was bound to be replaced by a successor regime. The Kyoto Protocol had established legally binding emissions reduction targets; it bound 37 developed countries to reduce their emissions by 5% (relative to 1990 levels) between 2008-2012. It established and institutionalized a key norm in international climate negotiations: the norm of ‘common but differentiated responsibilities’ (CBDR) between developed and developing countries. Developed countries, which were noted in Annex I of the Kyoto Protocol (thus known as Annex 1 parties) should take a lead in emissions reductions given their historical responsibility and were legally obliged to do so. Developing countries (or non-Annex I parties) were encouraged but not obliged to mitigate.

The US had not ratified the Kyoto Protocol because of the legally binding components in the agreement and the inclusion of emission target reductions for developed countries set from above. As a result of Kyoto’s top-down approach to climate change mitigation, Russia also held out and Australia stalled ratification for ten years, while countries who had ratified the Protocol, like Canada, failed to comply with their obligations. Big emitters like India and China were exempt from emission reduction requirements due to their status as developing countries.

By 2009, the year of the Copenhagen COP, the world had changed. Some of the largest emitters at this point were developing countries and there was a growing scientific understanding that they would need to dramatically speed up their economic transitions to low carbon ones. And that they would need support to do so. Moreover, post-Kyoto negotiations were marked by a shift in the way in which countries organized.<sup>xi</sup> New coalitions emerged and organized themselves. As climate change policy became increasingly important and prominent, countries developed an increasing awareness of their specific interests with respect to climate change action and a growing desire to participate actively in the negotiations. This led to a process of organizing oneself in groups of shared priorities that could amplify voices. The number of important concerns increased as a consequence. Many had high hopes that the COP15 in Copenhagen would deliver a more holistic successor regime to Kyoto that would govern emissions beyond the 14% that the Kyoto Protocol covered in the end.<sup>xii</sup>

### The Bali Roadmap to define a successor regime for Kyoto

After The Bali Roadmap was the process agreed on by parties at the 2007 COP13 in Bali to define a comprehensive framework for the post-2012 Kyoto Protocol successor regime; it was the process by which several fundamental questions about a successor regime ought to be addressed: <sup>xiii</sup>

- Should emissions reductions under a new framework be legally binding or voluntary?
- Who should reduce emissions? What would be the targets and timelines?
- Would the new regime follow the approach of the Kyoto Protocol to mandate general emissions reductions? Should reductions be defined by each country rather than imposed? Or should the new regime target specific sources of emissions such as deforestation or transport?
- Would there be technology transfer and financial assistance to developing countries? If so, what type of technology and how much should be provided? By when? Who should pay for it?
- Would a transfer of technology and/or financial assistance to developing countries be conditional on the receiving countries reducing the emissions?
- How should compliance, or more broadly, emissions be measured and reported? How often should this take place?
- How should actions to mitigate climate change by reducing emissions and actions to help countries adapt to climate change be balanced?
- Should there be a completely new agreement? Or should it be an extension of the Kyoto Protocol? Or should it be an amendment to the UN Framework Convention on Climate Change?

A formal process was set up to develop specific answers to these questions: 1) the “Ad Hoc Working Group on Long-term Cooperative Action” (AWG-LCA) was created; and 2) the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) was continued.<sup>xiv</sup> In simple terms: the AWG-KP focused on how, whether, and by how much developed nations should reduce emissions. The AWG-LCA meanwhile focused on broader aspirations of climate negotiations, including adaptation to climate change, technological exchange, and other aspects of a long-term successor regime. These AWG bodies served as the intermediary governing institutions that would negotiate text until COP15 in Copenhagen, where delegates were intended come to an agreement for a new institutional regime that would embody answers to key questions. As such, Copenhagen was supposed to mark the culmination of this two-year roadmap.

Despite COP15 approaching rapidly, the chairs of the two AWGs were facing difficulties in facilitating compromise text. The 2008 negotiations at COP14 in Poznan took place against the backdrop of the Global Financial Crisis: Obama had just been elected President of the United States, yet the U.S. was still represented by the Bush administration. Negotiators ended up achieving no major breakthroughs. Some progress was later made on technology and adaptation but the issues of finance and mitigation—in particular, emission reduction goals, differentiation, and individual mitigation efforts and reporting—saw little progress.<sup>xv</sup> Developed countries were trying to loosen the strict bifurcation of countries into those that *had* to act (Annex I) and those that

*could* act (non-Annex II). The United States continued to be critical of a legally binding agreement. Most developing countries, on the other hand, insisted on ambitious legally binding action by developed countries whilst insisting on the clear institutionalized differences between Annex I and non-Annex I parties. In addition, they demanded technological and financial support from developed countries for adapting to climate change. The efforts of the working groups ultimately led to very long and unwieldy draft texts that would be “*difficult to use as the basis for focused and intense negotiations in Copenhagen.*”<sup>xvi</sup>

As COP15 in Copenhagen neared, new problems materialized. During negotiations in the run-up to COP15, the G77 expressed suspicion about the Danish hosts not being neutral;<sup>xvii</sup> and a group of African Countries blocked negotiations due to concerns of developed countries back-tracking from their Kyoto Protocol commitments.<sup>xviii</sup> A few weeks before COP, the Danish Prime Minister, concerned about the feasibility of a legally binding agreement floated the idea of a ‘politically binding agreement.’<sup>xix</sup> The goal would have been a political compromise agreement which would be translated into a legal form in later negotiations.<sup>xx</sup> Pursuing a politically binding agreement rather than a legally binding one, however, broke an earlier promise Denmark had made to Brazil and other developing nations when Denmark had lobbied to host COP15—a responsibility originally assigned to Brazil.<sup>xxi</sup> While the G77+China opposed the idea noting that it departs from the Bali Roadmap, China and Saudi Arabia were less opposed.<sup>xxii</sup>

Nonetheless, public expectations at the time remained optimistic and the broader context for agreement seemed promising. After 8 years of the Bush administration, which had not ratified the Kyoto Protocol, the situation in the U.S. changed.<sup>xxiii</sup> President Barack Obama who had committed to climate change action had been elected with a majority in Congress and the Senate. The EU had made an offer to reduce emissions by 20% and signaled that it was willing to raise this ambition if others were to do the same.<sup>xxiv</sup> As Pete Betts, a negotiator for the United Kingdom describes: “*Many saw the opportunity for a new agreement that looked like Kyoto: a legally binding treaty, with stringent accountability provisions and ambitious and deep emissions reduction commitments for all (with the richest doing more but all contributing). (...) we raised global expectations that it was going to happen.*”<sup>xxv</sup>

The immediate run-up to COP witnessed positive momentum. Most developed countries published concrete proposals on how they would reduce emissions; important developing countries, including South Africa, China, Brazil and India, joined and made substantive pledges themselves.<sup>xxvi</sup> There was unprecedented public interest in the negotiations, with more than 40,000 people—from government, NGOs, media, and other organizations—applying for accreditation.<sup>xxvii</sup> More than 100 state leaders were expected to attend the high-level meetings that were scheduled to take place during the second week of COP. They were bound to come in and “seal the deal,” after the technical negotiations had concluded.

## Good start, little progress

At the beginning of the conference, Danish Prime Minister Lars Lokke Rasmussen noted the unprecedented political will to reach an agreement to deliver “hope for a better future.”<sup>xxviii</sup> The Mayor of Copenhagen called on delegates to turn Copenhagen into “Hopenhagen.”<sup>xxix</sup> Connie

Hedegaard, the Minister of Environment of Denmark and COP President for the UN Climate Change Conference, echoed the uniqueness of this moment in time and encouraged delegates to capitalize on the wave of determination to tackle climate change. She urged parties to “mark this meeting in history” and “get it done,” warning that “if we miss this chance, it may take years to get the next one.”<sup>xxx</sup> Many delegates had similarly high hopes. As one UK delegate put it, “*We thought we were going to make history.*”<sup>xxxi</sup>

## Not much Hopenhagen after all

Beyond producing Problems materialized quickly as COP15 was plagued with logistical oversights: Whilst more than 40,000 people had registered, the conference venue only held 15,000. As the media at the time reported: “Each day thousands of people are forced to wait in lines, some for up to seven hours, to receive credentials to enter the proceedings.”<sup>xxxii</sup> As Christiana Figueres remembers, “in December Copenhagen is rather cold, as you can imagine, and most of us waited in long lines for at least three to four to five hours outside of the negotiating campus to be let in. I actually know that the minister of China waited five hours in that freezing cold before he was let in ... Maybe this didn't put negotiators in the best mood when they finally got let into the campus?”<sup>xxxiii</sup>

On day two of the conference, a Danish compromise text for a final agreement was leaked to the press, in what came to be known as ‘Climategate.’ This compromise text was drafted in a secret meeting that the Danish Presidency convened between twenty to thirty countries about a week before the opening of the summit, in an attempt to bypass and streamline UN processes. Danish Prime Minister Rasmussen reportedly “disdained” the process and found it highly inefficient.<sup>xxxiv</sup> The Guardian broke the news about what became infamously known as “the Danish Text,” publishing an article entitled, “Copenhagen: Leaked draft deal widens rift between rich and poor nations.” It reads:<sup>xxxv</sup>

“Climate talks are in disarray barely days into the summit, putting at risk international unity to fight global warming. (...)”

Lumumba Di-Aping, the Sudanese chairman of the group of 132 developing countries known as G77 plus China, spelt out exactly why the poor countries he represents were so incensed. “The text robs developing countries of their just and equitable and fair share of the atmospheric space. It tries to treat rich and poor countries as equal,” said the diplomat.

The text is a draft proposal for the final political agreement that should be signed by national leaders including Barack Obama and Gordon Brown at the end of the Copenhagen summit on 18 December. It was prepared in secret by a group of individuals known as “the circle of commitment” but understood to include the US and Denmark.

Five hours later, the UN's top climate diplomat had responded. Yvo de Boer said: “This was an informal paper ahead of the conference given to a number of people for the purposes of consultations. The only formal texts in the UN process are the ones tabled by the chairs of this Copenhagen conference at the behest of the parties [involved].”

But the representatives of developing nations felt betrayed by the intent of the proposals in the draft.

"This text destroys both the UN convention on climate change and the Kyoto protocol. This is aimed at producing a new treaty, a new legal initiative that throws away the basis of [differing] obligations between the poorest and most wealthy nations in the world," said Di-Aping. (...)

What the west had failed to grasp, he said, was the very deep hurt that had been growing steadily since the climate negotiations were effectively taken over by heads of state and were conducted outside the UN, the only forum in which poor countries feel they are equally represented. (...)

The text is now likely to be withdrawn because of its reception by China, India and many other developing countries. It suggests that rich countries are desperate for world leaders to have a text to work from when they arrive next week.

Few numbers are included in the text, because these would be filled in later after negotiation by world leaders.

However, it does seek to hold global temperature rises to 2C, the safe limit according to scientists, and it mentions the sum of \$10bn a year in aid to help poor countries cope with climate change, starting in 2012.

Last night the G77 reaction was seen by some developed world analysts as an exaggerated but fundamentally correct response to the way that the US, the UK and other rich countries have sought to negotiate.

Development NGOs were particularly scathing in their criticism.

Antonio Hill, climate policy adviser for Oxfam International, said: "This is only a draft, but it highlights the risk that when the big countries come together, the small ones get hurt."

A spokesman for Cafod, a development charity with close links to some of the poorest countries in the world, said: "This draft document reveals the backstage machinations of a biased host who, instead of acting as nonpartisan broker, is taking sides with the developed countries.

"The document should not even exist. There is a UN legal process which is the official negotiating text. The Danish text disrespects the solid, steady approach of the UN process." (...)

Di-Aping said that the G77 remained committed to the talks. "We will not walk out of the talks at this late hour, because we will not allow the failure of Copenhagen. But we will not sign an inequitable deal; we will not accept a deal that condemns 80% of the world population to further suffering and injustice."

Throughout the following days, the press recorded various outcries by anonymous negotiators. Delegates went to the press to call the Text "a very dangerous document for developing countries" that proposes "a fundamental reworking of the UN balance of obligations" and is "superimposed without discussion on the talks."<sup>xxxvi</sup> Others commented: "It is being done in secret. Clearly the intention is to get Obama and the leaders of other rich countries to muscle it through when they arrive next week. It effectively is the end of the UN process."<sup>xxxvii</sup>

Developing countries not only expressed their deep displeasure to the press, but also tried to use formal mechanisms to prevent the introduction of this text within the ongoing COP negotiations.



Countries such as Brazil, China, India and Sudan noted that the COP host should only be allowed to introduce a text if the Parties to the Convention called on the Presidency to do so.<sup>xxxviii</sup> Other countries completely objected to the idea of a text being produced by the hosts. They insisted that only text produced within the formal process of the Bali Roadmap, that is in the two formal AWGs, should be reported to the high-level segment of the COP during the second week when state leaders would join for the Summit.<sup>xxxix</sup>

In reaction to the Danish Text that was perceived as an imposed solution by developed countries with a strong bias for the US and developed nations, many negotiating groups and ad hoc coalitions began working on alternative texts, some of which were also leaked to the press.<sup>xl</sup> The BASIC countries (Brazil, South Africa, India, and China), for instance, introduced their own draft agreement, which maintained a strict distinction between developed and developing countries (Annex I and non-Annex I parties, respectively). Their proposal foresaw a binding collective emission reduction by developed countries of 40% by 2020 combined with an increase in financial obligations, whilst developing countries *could* (but didn't have to) introduce nationally appropriate mitigation actions.<sup>xli</sup>

Amidst the chaos, little progress was made in the technical negotiation tracks throughout the entire first week. The procedural hurdles on what text should be allowed to be presented kept stalling procedural functions and, thus, opportunities to make progress on the substantive negotiations. Countries that were offended by the lack of transparency decided to implacably stick to the rules, thus, disabling the Danish Presidency to go beyond any formal functions and procedures.<sup>xlii</sup> For instance, developing countries blocked several requests for closed-door meetings, including a mandate proposed by the Danish Presidency to form a “Friends of the Chair” meeting to address the stalemate. In addition, suspicion between parties at the negotiating tables led to them doubling down on their demands. In meetings that ought to espouse compromise and creativity, representatives from all groups kept repeating their positions. Countries were “stuck in silos within their own coalitions” and unable to make this clear to the Danish Presidency, exacerbating debates regarding the process of COP rather than the substance of the agenda items.<sup>xliii</sup>

The negotiating text that was supposed to crystallize choices and narrow down options so an agreement could be finalized in the second week got longer rather than shorter. As the second week neared, this text that the heads of state were arriving at was several hundred pages long with thousands of brackets—brackets are used to showcase different versions of text and indicate non-agreement between countries.

After six days of frustrating negotiations, and one day before the welcoming ceremony for the high-level segment where heads of state would arrive, the African Group and LDCs led what was characterized by some observers a “walk-out.”<sup>xliv</sup> In protest, they requested a suspension of negotiations on all issues, apart from further emission reductions by developed countries.<sup>xlv</sup> This “walkout” in turn angered developed country negotiators: “We have come here to negotiate in good faith and listen to developing country concerns – and all they do is block any progress for procedural reasons.”<sup>xlvi</sup>



Delegations were not the only ones concerned. Many parties spent up to nine hours queuing to enter the venue, only to be turned away as the high-level segment was about to start. During Connie Hedegaard's briefing to civil society members, one NGO representative complained: "How can we keep up the pressure when we do not know what is going on and are not even allowed near the building where these crucial negotiations are taking place?"<sup>xlvii</sup> To the dismay of many NGOs, the Danish Presidency decided to limit the accreditations for non-delegates to 1,000 accreditations on the day before heads of state arrives and to 90 for the day of their arrival.<sup>xlviii</sup> More than 20,000 non-delegates had originally registered.

Hours before heads of state arrived, it was still unclear how negotiations would proceed. Proposals to for smaller high-level settings to make progress continued to be met with concerns by those who insisted that everyone should be in the room as important decisions are taken.<sup>xlix</sup> But unbeknown, though suspected, by many at the time, such small group discussions had already been going on for several days. in a room whose location was kept secret.<sup>i</sup> These small-room negotiations had brought mainly Heads of Delegation, from various important countries, including the EU, the US, Brazil, India, China, South Africa, several small islands states, and others.<sup>ii</sup> At some point, most of the Heads of Delegation had been joined or replaced by their ministers who were trying to find some room for agreement that they could present to their respective heads of state.

## Week 2 – the high-level segment

As heads of state finally arrived for the high level of the negotiations to "seal the deal," there was little agreed upon text that seemed ready to be sealed.

COP President Hedegaard resigned at the beginning of the high-level segment and handed over the presidency to Danish Prime Minister Lars Rasmussen. Officially, this step of replacing the President by the Prime Minister was taken to signal a more appropriate level given that heads of state were about to arrive. Observers, however, suspect that the exchange was the result of disagreements on how to best chair the meetings,<sup>iii</sup> or even speak of a coup d'état by the Prime Minister on Connie Hedegaard.<sup>liii</sup> A delegate present at the time noted that this sudden switch led to additional nervousness in a process that was already perceived as chaotic.<sup>liiv</sup> While Hedegaard was well-regarded in the field, Rasmussen had only been in office for about six months and had little to no experience in multilateral settings.<sup>lv</sup>

In the opening of the high-level segment the new COP Presidency announced that it would table two texts for decision "based substantially on the two texts forwarded by the AWGs."<sup>lvi</sup> Reportedly this was met by an "explosion of protest." Without even seeing the text, parties rejected the tabling of it (even though reportedly it was a "good balance and a realistic scenario."<sup>lvii</sup>) Many understood the wording of "based substantially" as a wordsmith attempt to table a version of the 'Danish Text' that had been developed in behind-closed-doors negotiations. One delegate at the time noted: *"Those writing the 'Danish Text' are not adequately familiar with the process. (...) You cannot just assume that you understand these enormously complex issues and come up with something from out of the blue. You should listen and take advice from those who know how this process works."*<sup>lviii</sup> Others were more direct: "it was too late. Nobody trusted the Danes anymore."<sup>lix</sup>

The continual disagreement over the Presidency's proposed approaches led to delays that cost the Danish Presidency precious time.<sup>lx</sup> An entire day was spent with informal negotiations about how to proceed with regards to what texts to negotiate. Finally, parties agreed that only the texts by the two AWGs would be used for further discussion, not the Danish Text. Many blamed this "waste of time" on the Danish presidency;<sup>lxi</sup> others were concerned that relying on texts from the working groups might simply be impractical: *"The texts from the AWG-LCA and AWG-KP are too complicated and full of brackets – Ministers and Heads of State cannot negotiate based on them. Tabling a compromise text would have been a way out. The current situation effectively means that high-level negotiations will need to start from scratch."*<sup>lxii</sup>

In managing plenary proceedings, Danish Prime Minister and COP President Rasmussen, did not always follow protocol. For instance, usually the Presidency would call on people by the order in which they had requested to make motions; though exceptions are possible in limited circumstances. For example, when a negotiator from an African country would request to make a motion followed by the spokesperson of the African Group of Negotiators, the Presidency could flip the order to have the voice that speaks for an entire group come in first. But COP President Rasmussen used much more discretion in giving delegates the floor. He began skipping people from delegations—a decision that was made, according to observers, "clearly" because he did not want to give the floor to critical voices that would counter his priorities.<sup>lxiii</sup> Rasmussen reportedly came off to attendees as unfriendly and rude.<sup>lxiv</sup> As one delegate describes: "People were getting angrier and angrier."<sup>lxv</sup> Other observers were more direct: *"95% of the plenary is boilerplate procedural stuff. In the audience you had many seasoned climate negotiators who really know all of the details of how to negotiate the agenda and they were starting to take the PM apart. High level people like ministers show up for the plenary are excited for a while. But after some time they feel the insanity of the process and want to leave. And the Prime Minister couldn't leave and on top of that he had to lead that entire circus. When people called him out on violating procedural rules, he just didn't know what to do. I was watching it through closed fingers. Having a PM chair this meeting was absolutely insane."*<sup>lxvi</sup>

For example, at one point delegates from Costa Rica and Bolivia tried to exercise a "point of order," a large-scale intervention that is used very rarely to stop the meeting entirely. Lars Rasmussen ignored their points of order. To many, it seemed as though the Prime Minister was either ignorant of or choosing to dismiss well-established procedural norms. Delegates afforded Rasmussen "no indulgence" for his lack of knowledge regarding UN procedures, as he seemingly neglected to acquaint himself with the rules. In another instance, Rasmussen called for a vote at a time when he couldn't have. It was met with a resounding rejection by delegates, with many countries publicly asking the President to at least learn the procedures.<sup>lxvii</sup> A decision was made to replace the Prime Minister as the chair. Rasmussen stayed as the COP President but a highly experienced, fairly mid-ranking official took over to chairing the plenary meetings.<sup>lxviii</sup>

The presence of heads of state for these proceedings seemed to derail the negotiations further, rather than help them proceed. As one negotiator describes: *"When heads of states are around it diverts so many resources from a delegation. When a head of state is around the lead ministers are with them to brief them. Many officials and negotiators are with the ministers. If you are a small delegation basically your entire delegation is consumed with making sure the head of state is*

happy.”<sup>lxxix</sup> Others highlighted how the presence of heads of state just led to discontent by the negotiators themselves: “*Everyone was really just embarrassed in front of their own government. The heads of state thought they would come in to declare a victory and shake hands. And instead, nothing had been agreed on and they were supposed to negotiate. But no one really knew how.*”<sup>lxxx</sup>

### Salvaging the deal: working with a smaller group

On the fourth day of the high-level meetings, the Danish Presidency again turned to small room negotiations in an attempt to salvage the deal and met with a group of 26 developed and developing countries on the fourth day of the high-level meetings to strike an agreement.<sup>lxxxi</sup> The secretive small room negotiations that had been going for several days, first at the technical and then at the ministerial level became the new venue for getting to an agreement. China, India and the G77, represented by Sudan, objected a draft agreement that came out of this room.<sup>lxxxii</sup> One day after this failed attempt, on the penultimate day of the conference, 29 heads of state—with the exception of China which was represented through foreign minister Xi—were meeting in that small room and presented with another revised text by the Danish presidency.<sup>lxxxiii</sup> At various stages throughout these final deliberations, foreign minister Xi had to leave the room and check in with the Chinese President on whether certain proposals are acceptable. The remaining ca. 85 heads of the state were not allowed to join and not informed of the location of the room. “*You would see people like Hugo Chavez wander around the halls not knowing what to do and where negotiations were taking place.*”<sup>lxxxiv</sup> Many delegates report such stories: “*I was relatively junior in the delegation. I’m talking to the person next to me who was from Tanzania. I discovered after five minutes that I was talking to the president of Tanzania.*”<sup>lxxxv</sup>

Several hours of tense negotiations in the small room ensued, which watered down the proposal to produce a three-page document that tried to rescue a bare-bones agreement. Simultaneously, in the plenary, countries that weren’t allowed in that room began introducing procedural blocks noting that the package would be introduced in the wrong way. Heads of government in the plenary were giving speeches rejecting the process of negotiations proceeding behind closed doors, not knowing anything about the substance of the text, and in fact, whether there was a text at all. Complaints about the Danish Presidency giving access to information to only a select few only mounted.<sup>lxxxvi</sup> One delegate reported that increasingly people would state things such as “*whatever comes out of that room, we won’t accept it.*”<sup>lxxxvii</sup>

At some point, China requested a recess to discuss with South Africa, Brazil, and India, in a separate room. US President Obama, in his words, “accidentally” entered that room. He refused to leave despite the request of BASIC countries, insisting that they come up with an agreement. The EU was not asked to join and as observers report, for them “*it slowly sank in that they weren’t going to be part of the group that comes up with the final text.*”<sup>lxxxviii</sup> The same held true for some other countries who had been in the small negotiation group but were locked out of this new small circle. The US and BASICs came up with a further diluted compromise text and informed the Danish Presidency of their agreement. US President Obama announced to the press that there is an agreement just before he left COP15 due to an impending snowstorm. This outraged many. “We are at the United Nations and everyone has to agree before you can report that agreement has been reached”<sup>lxxxix</sup> noted one observer from a small developing country. Draft versions of the

final text were leaked; several delegates learned about its existence and contents through the media.<sup>lxxx</sup> Others saw the text for the first time when it was introduced at the final plenary by the Danish Presidency.<sup>lxxxi</sup>

The Danish Presidency proceeded to propose the text to the plenary where a 12-hour marathon session ensued.<sup>lxxxii</sup> A group of developing countries led by Venezuela, Bolivia, Cuba and Nicaragua renounced the Accord in objection to an “untransparent and undemocratic” process.<sup>lxxxiii</sup> Most countries, including all developed countries as well as spokespersons for AOSIS, LDCs, and the African Group, urged for the formal adoption of the Copenhagen Accord.<sup>lxxxiv</sup> Meanwhile, other delegates were trying to come up with ideas in a plenary that was in complete disarray with negotiators falling asleep at their desks. As one observer from the EU commission team remembers, “the Swedish delegate was virtually unconscious. We had to push the button using his hand to take the floor.”<sup>lxxxv</sup> In one small group huddle with the United Nations Secretary General, someone proposed the idea of “taking note” of the agreement. While this suggestion provoked immediate alarm—as “taking note” would be a non-legally binding measure signaling a lack of progress and disappoint many—the idea was quickly agreed upon. The session culminated in countries “taking note” of the agreement. However, many of the other agenda items still had to be dealt with. The procedural delays and conflicts had pushed back the closing plenary from Friday to Saturday.<sup>lxxxvi</sup> Most delegations did not stick around and left the venue. Numerous heads of state who had already made travel plans for Friday and were unable to stay for the final deliberations.<sup>lxxxvii</sup>

## A second story: the Pete-Betts group

Whilst everyone left the COP15 exhausted, a small group of negotiators report that they were able to find some contingent optimism in what had happened: “*I was almost clinically depressed after Copenhagen, as were many of my colleagues. But a few weeks after, I saw a silver lining. What happened in that small room felt different from other negotiations. There was some hope that such discussions can help us move forward.*”<sup>lxxxviii</sup>

When US President Obama had left the small negotiation room to join the BASIC countries, Pete Betts, the lead negotiator for the UK decided to take action himself and convened a group of negotiators from both developing and developed countries. Reportedly, Pete was deeply unhappy with the fact that “hard line” countries such as those of the BASIC group treated developed countries as one block—they did not sufficiently differentiate between “*those like the EU which were delivering on their commitments and those who were not*”<sup>lxxxix</sup>—and that the process had not allowed for a more nuanced discussion that would highlight shared objectives across apparent divides. To Pete, there was insufficient scope within the Copenhagen process to work with and identify common ground amongst such countries.<sup>xc</sup> For instance, the G77+China contained a number of subgroupings, such as the Least Developed Countries (LDCs), a cluster of Latin America countries including Colombia, Costa Rica and Chile, as well as some African countries, which appeared to have a much closer position to EU countries than they had with other G77 countries.<sup>xi</sup> They all wanted an ambitious, legally binding agreement.

In addition, the Copenhagen chaos had put the prospect of cooperation across blocks more fundamentally into question. Throughout what should have been an inherently multilateral process, a small group of large countries had effectively taken control of crafting an agreement. This created a perceived danger that the UN process would lose its relevance as the key decision making-forum. Pete was reportedly deeply concerned about this prospect. He was deeply convinced that only a process that includes the voices of the most vulnerable and gives them a platform to maintain pressure would generate climate agreements that go beyond a 'lowest common denominator.'<sup>xcii</sup> So *"as Pete always does, he did a lot of soul-searching and asked himself: How can we rescue this? That's why he decided to take action. (...) Pete's approach was always to look outwards rather than inwards. (...) In moments when most people would look to discuss within their delegations, Pete would always take the opposite approach and check in with his developing country counterparts."*<sup>xciii</sup>

Pete Betts took action and together with Robert Owen Jones, the Head of the Australian delegation, decided to convene a group of negotiators with more "middle ground" positions across the "North-South" divide. They would identify a subgroup of countries who, while positionally opposed on many issues, seemed to have some compatible interests that they hadn't been able to expand on due to the process breakdown of COP15 and their limited time working together.

Pete could rely on his strong reputation with developing country negotiators. Andrea Guerrero Garcia, a Colombian delegate, describes him as much more open, direct, and without the political bravado of many other negotiators at his level; and as someone with a healthy disregard for the typical protocols and formality of negotiating across hierarchies.<sup>xciv</sup> *"There was little reason for him to talk to me. I was a technical negotiator, not a head of delegation. But he would talk to whoever it made sense to talk to. He was in the trenches until 2am or 3am when other people at his level had gone to their hotels. He would look disheveled, tie on the side and a stained shirt because he didn't have the time to change. But he was there and he listened."*<sup>xcv</sup> Pete's interventions would usually be very straight to point, lacking the type of political rhetoric that characterized many plenary speeches.<sup>xcvi</sup> And even in formal plenary settings, when speaking on the behalf of the UK, he would regularly make jokes at his own dispense.<sup>xcvii</sup> Pete's demeanor earned him respect across divides. Claudia Salerno, the Venezuelan negotiator, who does not hide her forceful disapproval of the British Prime Minister or the British negotiators at Copenhagen, explicitly excludes Pete from her assessment, noting: "I consider Pete one of the best negotiators and human beings in the history of climate negotiations. I adore him with all of my heart."<sup>xcviii</sup>

Another key feature people describe to Pete is his genuine concern about the climate. *"Many negotiators care about the red lines of their country first and then about the climate. Pete deeply, very deeply cared about the climate and would fight for solutions in advance of ambitious action."*<sup>xcix</sup> Pete's deep conviction about "the right thing to do" also had downsides. When he was deeply convinced of a certain point of view, he could become loud and passionate and would not hold back with voicing his views. Some people were not fans of his strong-minded and ardent approach, to say the least.<sup>c</sup>

Pete and Robert would start to contact people with whom they had strong relationships and professional negotiating experience, or who in their view held “ambitious but reasonable positions.”<sup>ci</sup> They looked to bring in individuals with integrity and a genuine intrinsic desire to effectively combat climate change. One of the first negotiators they reached out to was Andrea Guerrero Garcia. Andrea remembers Pete and Robert inviting her to a meeting room of the Australian delegation. “It didn’t hurt that they had cots [foldable beds] and coffee because at that point I had trouble seeing from exhaustion,” Andrea remembers.<sup>cii</sup> Andrea, in turn, helped recruit others. They were looking to find representatives of countries who had expressed 1) ambition for a legally binding agreement; 2) wanted no firewall between developed and developing countries; and 3) who wanted big emitters to reduce emissions. Another developing country member of that small room who was contacted by Andrea reports: “Andrea was crucial in the process of reaching out to us. I remember Andrea [and Pete] saying [something along the lines of], ‘we need a different space to create common ground.’”<sup>ciii</sup> In this ad-hoc way this small group started to add a few more people with common interests, including, but not limited to, delegates from the Marshall Islands, Costa Rica, and Chile. *“What united us is that we were all frustrated about it falling apart and we wanted to do things in some other way. So, we asked ourselves: If we were writing this, what would we write?”*<sup>civ</sup> Andrea Guerrero Garcia remembers.

As the group got together, the question that guided their meeting as chaos was erupting around them was: “If we had to make the decisions right now, without the politics, what would we do? We asked ourselves quite simply: what makes sense?” The norm which guided the following conversations was complete transparency. During the conversations—that lasted for hours over the last two or three days of COP 15—negotiators went issue by issue and tried to find out what a middle ground could be. These discussions were held in small groups (of about 3-6 people at any time) that were mostly focused on mitigation, a politically important topic that year. People came and went, but Andrea, Pete, Robert, and a couple of others were almost always present. Andrea Guerrero Garcia reports that the conversations in that informal room felt much more honest: *“We would ask ‘is your position on this issue really that tough?’ And then you’d get an answer that would tell you things such as ‘Oh, this is really a matter of money or capacity.’ This would come from people who I’d have mostly heard in plenary settings giving statements like, ‘This is absolutely impossible for us; we will never be able to accept that’ and so forth. The tone in that room was really different.”*<sup>cv</sup>

For example, this small group began discussing the frequency of reporting greenhouse gas emissions, a contentious issue on which no agreement had been found. Several developing countries had insisted on a reporting frequency of six years; while developed countries had insisted on a frequency of three years, and other countries had insisted on not reporting at all. In this room, one delegate would ask very directly why another country’s position was so immovable. The answer detailed a lack of financial and technical capacities to set up structured vehicles for measuring greenhouse gas emissions frequently. Many developing countries in the room, predominantly small islands developing nations, elaborated on such challenges. Developed country counterparts noted their primary concern as the integrity of the climate change regime, which at its heart required an assessment mechanism of how much countries measurably contribute to climate change. To their surprise, developing countries largely agreed, which



opened a discussion of how to combine shorter reporting horizons with exemptions for small countries, as well as technical and financial transfer towards those who needed it. This came after two weeks of entrenched, sometimes harshly worded debates, which had singularly focused on reporting frequency.

Looking back, Andrea remembers that they made immense progress on several issues in this short time together. The group had ambitions to test out agreement texts with other countries, but the procedural blockage at the top was so extensive that the technical processes had been stopped. There simply was no time for them to get their proposals into actual agreement texts.

While the conversations in this room certainly came too late to salvage the substance of the Copenhagen Accord, a process of learning had begun. As people heard about what was driving apart respective positions, they found that each country had its own challenges and limitations (informational, political, financial, social, etc.), which up until this point, had been lost in regurgitated statements repeatedly put forth by each country. This experience paved the way for an extremely influential group—one predicated on fostering an open exchange of information and a pursuit of real multilateralism—that would form<sup>cvii</sup> in the aftermath of Copenhagen: The Cartagena Dialogue.

There is another substantive change that observers suspect to be the outcome of the Copenhagen COP: Nameplates are no longer made from aluminum and are affixed to the desks.

## Endnotes

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<sup>ii</sup> Interview with Andrea Guerrero Garcia.

<sup>iii</sup> iisd Reporting Service, "COP 15 FINAL," Earth Negotiations Bulletin 12, no. 459 (December 22, 2009): 28, <http://enb.iisd.org/download/pdf/enb12459e.pdf>.

<sup>iv</sup> iisd Reporting Service, 28.

<sup>v</sup> Anonymous interview participant.

<sup>vi</sup> Anonymous interview participant.

<sup>vii</sup> Farhana Yamin, "The High Ambition Coalition," in *Negotiating the Paris Agreement*, ed. Henrik Jepsen et al., 1st ed. (Cambridge University Press, 2021), 220, <https://doi.org/10.1017/9781108886246.012>.

<sup>viii</sup> Pamela Chasek, "The Paris Negotiations: Background and Context," in *Negotiating the Paris Agreement*, ed. Henrik Jepsen et al., 1st ed. (Cambridge University Press, 2021), 29, <https://doi.org/10.1017/9781108886246.003>.

<sup>ix</sup> Chasek, 30.

<sup>x</sup> Interview with Kaveh Guilanpour.

<sup>xi</sup> See Farhana Yamin and Joanna Depledge, *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures*, 1st ed. (Cambridge University Press, 2004), 34, <https://doi.org/10.1017/CBO9780511494659>, for an overview.

<sup>xii</sup> James K. Sebenius et al., "Christiana Figueres and the Collaborative Approach to Negotiating Climate Action," Program on Negotiation Teaching Materials and Publications, Great Negotiator Case Study Series, 2022.

<sup>xiii</sup> This overview is taken from Chasek, "The Paris Negotiations," 26–27.

<sup>xiv</sup> The AWG-LCA was mandated to develop actions including "advancing development goals in a sustainable way, addressing action on adaptation, realizing the full potential of technologies, and realizing the full potential of market-based options; the AWG-KP was "focused on mitigation potentials and ranges of emission reductions, possible means to achieve mitigation objectives, and consideration of further commitments by Annex I parties." (Chasek, 25.)

<sup>xv</sup> Thomas M. Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," in *The New Economic Diplomacy: Decision-Making and Negotiation in International Economic Relations*, ed. Nicholas Bayne and Stephen Woolcock, 3rd ed., rev. updated, Global Finance Series (Farnham, Surrey; Burlington, VT: Ashgate, 2011), 312–15.

<sup>xvi</sup> Christensen, 314.

<sup>xvii</sup> Christensen, 313.

<sup>xviii</sup> Christensen, 315.

<sup>xix</sup> Christensen, 314.



- xx Christensen, 314.
- xxi Hayley Walker and Katja Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators? Trust in Chairs of Global Climate Negotiations," *International Studies Quarterly* 64, no. 2 (June 1, 2020): 440–52, <https://doi.org/10.1093/isq/sqaa018>.
- xxii Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 314.
- xxiii Pete Chasek, "The Paris Negotiations," 29; Pete Betts, "The EU's Role in the Paris Agreement," in *Negotiating the Paris Agreement*, ed. Henrik Jepsen et al., 1st ed. (Cambridge University Press, 2021), 115, <https://doi.org/10.1017/9781108886246.007>, 115.
- xxiv Betts, "The EU's Role in the Paris Agreement," 115.
- xxv Betts, 115.
- xxvi Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 313.
- xxvii iisd Reporting Service, "COP 15 FINAL," 1.
- xxviii iisd Reporting Service, 3.
- xxix iisd Reporting Service, 3.
- xxx Quoted in iisd Reporting Service, 3.
- xxxi Interview with Kaveh Guilanpour.
- xxxii "Crowded COP15 | Greenbiz," accessed January 31, 2023, <https://www.greenbiz.com/article/crowded-cop15>.
- xxxiii Program on Negotiation Great Negotiator Award Public Session (Cambridge, MA, 2022), <https://www.pon.harvard.edu/events/christiana-figueres-great-negotiator/>.
- xxxiv Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 446.
- xxxv John Vidal and Dan Milmo, "Copenhagen: Leaked Draft Deal Widens Rift between Rich and Poor Nations," *The Guardian*, December 9, 2009, sec. Environment, <https://www.theguardian.com/environment/2009/dec/09/copenhagen-summit-danish-text-leak>.
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- xxxvii Quoted in Vidal.
- xxxviii Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 315.
- xxxix Christensen, 315.
- xl iisd Reporting Service, "COP 15 FINAL," 28.
- xli Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 315.
- xlii Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 448.
- xliii Pete Betts, unpublished manuscript.
- xliv iisd Reporting Service, "COP 15 FINAL," 28.
- xlvi iisd Reporting Service, 28.
- xlvii Cited in iisd Reporting Service, 28.
- xlviii "Feeling the Heat, and the Cold, at Copenhagen," *SWI swissinfo.ch*, December 16, 2009, <https://www.swissinfo.ch/eng/feeling-the-heat--and-the-cold--at-copenhagen/7909700>.
- xlxi iisd Reporting Service, "COP 15 FINAL," 28.
- l Interview with Andrea Guerrero Garcia.
- li The full list is unknown.
- lii Anonymous interview participant.
- liii Anonymous interview participant.
- liv Anonymous interview participant.
- lv Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 446.
- lvi iisd Reporting Service, "COP 15 FINAL," 28.
- lvii Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 448; Kai Monheim, *How Effective Negotiation Management Promotes Multilateral Cooperation: The Power of Process in Climate, Trade, and Biosafety Negotiations* (London New York: Routledge, 2015), 39, <https://doi.org/10.4324/9781315757070>.
- lviii Cited in iisd Reporting Service, "COP 15 FINAL."
- lix Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 448.
- lx Walker and Biedenkopf, 449.
- lxi iisd Reporting Service, "COP 15 FINAL," 28.
- lxii Cited in iisd Reporting Service, 28.
- lxiii Anonymous interview participant.
- lxiv Walker and Biedenkopf, "Why Do Only Some Chairs Act as Successful Mediators?," 446.
- lxv Interview with Andrea Guerrero Garcia.
- lxvi Anonymous interview participant.
- lxvii Program on Negotiation Great Negotiator Award Public Session.
- lxviii "Delegates' perceptions of the Danish Presidency's process and substance expertise were overwhelmingly low: 95 percent of Monheim's (2015, 68) respondents perceived the Danish Presidency to have low ability to manage the negotiations." Walker, 446.
- lxix Interview with Kaveh Guilanpour.
- lxx Interview with Andrea Guerrero Garcia.
- lxxi Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 315.
- lxxii Christensen, Christensen, 315.
- lxxiii Christensen, 315.
- lxxiv Interview with Andrea Guerrero Garcia.
- lxxv Interview with Kaveh Guilanpour.
- lxxvi Tosi Mpanu-Mpanu, "The Staircase of Paris," in *Negotiating the Paris Agreement*, ed. Henrik Jepsen et al., 1st ed. (Cambridge University Press, 2021), 183–84, <https://doi.org/10.1017/9781108886246.010>.
- lxxvii Anonymous interview participant.
- lxxviii Anonymous interview participant.

- <sup>lxxix</sup> iisd Reporting Service, "COP 15 FINAL."
- <sup>lxxx</sup> Chasek, "The Paris Negotiations," 29.
- <sup>lxxxi</sup> Yamin, "The High Ambition Coalition," 220.
- <sup>lxxxii</sup> Christensen, "Governments and Climate Change: The United Nations' Negotiating Process," 316.
- <sup>lxxxiii</sup> iisd Reporting Service, "COP 15 FINAL," 29.
- <sup>lxxxiv</sup> iisd Reporting Service, 28–29.
- <sup>lxxxv</sup> Interview with Kaveh Guilanpour.
- <sup>lxxxvi</sup> Walker, 449.
- <sup>lxxxvii</sup> Walker, 449.
- <sup>lxxxviii</sup> Interview with Andrea Guerrero Garcia.
- <sup>lxxxix</sup> Betts, "The EU's Role in the Paris Agreement," 120.
- <sup>xc</sup> Betts, 120.
- <sup>xci</sup> Betts, 120.
- <sup>xcii</sup> Interview with Kaveh Guilanpour.
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- <sup>xciv</sup> Interview with Andrea Guerrero Garcia.
- <sup>xcv</sup> Interview with Andrea Guerrero Garcia.
- <sup>xcvi</sup> Interview with Andrea Guerrero Garcia.
- <sup>xcvii</sup> Interview with Andrea Guerrero Garcia.
- <sup>xcviii</sup> Interview with Claudia Salerno.
- <sup>xcix</sup> Interview with Andrea Guerrero Garcia.
- <sup>c</sup> Interview with Andrea Guerrero Garcia.
- <sup>ci</sup> Interview with Andrea Guerrero Garcia.
- <sup>cii</sup> Interview with Andrea Guerrero Garcia.
- <sup>ciii</sup> Anonymous interview participant.
- <sup>civ</sup> Interview with Andrea Guerrero Garcia.
- <sup>cv</sup> Interview with Andrea Guerrero Garcia.
- <sup>cvi</sup> Betts, "The EU's Role in the Paris Agreement," 121.

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