

International Climate Policy: Trumping Trump

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Background

On the afternoon of 1 June 2017, US President Donald Trump announced in the White House Rose Garden that he wanted to withdraw from the 2015 Paris Agreement.¹ What does this step by the United States mean for global climate protection? This in brief examines how those countries that are interested in protecting the climate can best come together to successfully carry forward the Paris Agreement and global climate policy.



1. Introduction: The importance of the Paris Agreement

The Paris Agreement was the result of lengthy negotiations following the failure of the 2009 Copenhagen Climate Summit and, to a large extent, takes the special requirements of the US into account – not least in its focus on voluntary agreements by the individual countries (known as Nationally Determined Contributions, NDCs). In Barack Obama's first term as President, the US ended many years of obstruction and, in his second term from 2013, even became a driver of global climate policy.² And so, it is somewhat ironic and tragic that the US is now withdrawing from this agreement.

Might the international community succeed in not just compensating for the American contribution, but also in seizing the momentum that has arisen following the decision by the US? In the end, the World Community might thus even defy Trump through more far-reaching measures.³ The initial reactions of the international community were unequivocal. Clear declarations from former “brake-men” such as China and India that they would adhere to their commitments were of particular note. And the **G20 summit in Hamburg in July 2017** confirmed this assessment. In the unprecedented act of isolating a single country, the remaining “G19” states (i.e. excluding the US) reaffirmed their commitment to the Paris Agreement, stating it as being “irreversible”.⁴

In assessing these reactions, it is to be noted that, with the Paris Agreement, climate policy was presumably granted the highest priority international issues can actually be given. If the announcement of a withdrawal from an international treaty is equated worldwide to moral bankruptcy; if in the final declaration of a G20 summit, 19 states affirm their support for the Paris Agreement in opposition to the US; and if this isolation could potentially even lead to a restructuring of the geopolitical arena, then this is indeed a global issue of the highest priority. In this sense, the withdrawal by the US could in fact have catapulted climate policy into a position its significance merits, because it concerns the basis of our civilisation’s continued existence.

2. The future of national climate protection policy in the US and its importance for global climate protection

Immediately after Donald Trump took office, a new energy plan, the “**America First Energy Plan**”, was published on the White House website. According to this, “harmful and unnecessary” policies, such as Obama’s “Climate Action Plan” would have to be eliminated, the extraction of shale oil and gas using *fracking* embraced and the coal industry revived. Whether the latter is possible, however, is seriously doubted even by companies in the coal industry. Not least because the high level of competition from unconventional natural gas and the sharp fall in prices for renewable energies present major reasons for the decline in coal mining.

Despite this radical turnaround, the fate of the energy transformation in the United States has not yet been sealed, because energy policy in the US is chiefly the responsibility of the individual federal states, and the President has no formal influence on their legislative processes. In many progressive states, there are ambitious climate protection laws and, as was already the case during George W. Bush’s presidency, the policies of the national administration have resulted in a strong counter-reaction from subnational and non-governmental stakeholders.

Immediately after the US President announced the withdrawal, 9 federal states, 125 cities, 900 companies and investors as well as 183 universities published the “**We are still in**” declaration, in which they each confirm their willingness to implement the Paris Agreement even without the national government. Furthermore, 13 governors, both Democratic and Republican, formed a “**US Climate Alliance**”, and ten other governors published individual declarations in support of the Paris Agreement. Moreover, it is highly significant that **China** struck a deal with **California** to increase **cooperation and trade in clean technologies** just a few days after the announcement in the Rose Garden. The agreement was signed by Governor of California Jerry Brown and Chinese President Xi Jinping. This event was absolutely unprecedented, because China had never before entered into direct agreements with subnational authorities.

¹ Assessments of Trump’s statements can be found on the website of the German Federal Ministry for the Environment (BMUB) <http://www.bmub.bund.de/themen/klima-energie/klimaschutz/internationale-klimapolitik/pariser-abkommen/faktencheck/> and that of Germanwatch: <http://germanwatch.org/de/13976>.

² Cf. Obergassel et al. 2015/2016.

³ See Hermwille/Obergassel 2016 for a discussion of the withdrawal procedure and possible scenarios.

⁴ The central statement of the G20 summit can be found at <https://www.g20.org/gipfeldokumente/G20-leaders-declaration.pdf>.

The former Mayor of New York, Michael Bloomberg, announced his intention to officially submit the reductions in emissions projected and quantified by individual initiatives to the United Nations as "**America's Pledge**", thus representing the American contribution to emissions reduction.

Nevertheless, the U-turn of the Trump administration on climate and energy policy and the consequent return to the prioritisation of coal, oil and gas will slow down the reduction of energy-related greenhouse gas emissions. Such an energy policy will also further consolidate the so-called **carbon lock-in** effect: existing and newly emerging path dependencies would make the subsequent conversion to a renewable energy system more difficult. Furthermore, the impact of the new US policy extends beyond US borders: it may result in other countries also slackening their efforts or at least not increasing them further. But despite all of this, one thing is of paramount importance: a departure from previous energy policy will not stop further price reductions and technological developments in the field of renewable energies, energy efficiency and storage technologies.

What impact will these changes in the US have on global warming? Most of the scenarios considered in the last **report by the Intergovernmental Panel on Climate Change (IPCC)** assume that the **2°C limit** will only be achieved by implementing a very quick turnaround regarding global emissions. Therefore, the end of US climate protection policy does indeed pose a threat to compliance with the 2°C not to speak of the 1.5°C limit. According to the Climate Action Tracker calculations, the national measures to be implemented after Donald Trump's election will, however, not result in an increase but rather a stabilisation of the current US emissions owing to the developments outlined above.⁵ In light of the US share of around one-sixth of global greenhouse gas emissions, this is also inadequate and worrying. However, the **Nationally Determined Contributions (NDCs) under the Paris Agreement** would have required improvement even without the withdrawal of the United States. The next round of negotiations from 2018 will thus provide an opportunity not only to offset the loss of the US but also to more than compensate for this.

3. Strategies for climate policy despite Trump

For the future of the international process, a lot depends on how much energy the President himself and his administration are prepared to invest in this subject. After refusing to ratify the Kyoto Protocol, George Bush Jr initiated several international agreements that were in part expressly conceived as competing arrangements, such as the Asia Pacific Partnership Agreement (APP). How China, the EU and other major countries respond to the end of American climate policy to date will, however, still be more decisive for the future of the negotiation process.

In the months and years ahead, one of the main tasks for the countries interested in climate protection will be to form a **strong alliance in order to isolate the United States**. Politically, the greatest responsibility lies with the EU as the only power with the resources and influence necessary to fill the vacuum – especially in the financial sphere. Only the EU has the economic weight to ensure that intelligent rules prevent stringent climate policy from failing in the face of competition concerns, especially if the clear collaboration seen to date with the People's Republic of China continues.

The G20 summit in Hamburg on 7/8 July 2017 was the acid test at the highest level. In the run-up the summit host, Germany, announced that climate policy would take a prominent position on the summit agenda, and climate policy was indeed the last and most difficult point to be addressed. Remarkably, the US was isolated in the joint declaration by the remaining 19 countries, as was also successfully done at the recent meeting of the G7 Environment Ministers.

⁵ See Action by China and India slows emissions growth, President Trump's policies likely to cause US emissions to flatten. http://climateactiontracker.org/assets/publications/briefing_papers/CAT_2017-05-15_Briefing_India-China-USA.pdf.

In addition to this, agreement was also reached by the **G20** on a detailed „**Climate and Energy Action Plan**“ – a strong indication of the strength and resilience of the Paris Agreement. During the negotiations, however, President Trump did ensure the inclusion of a clear indication of his future course in the declaration, namely that the US wants to discontinue the contribution to climate protection it promised in Paris with immediate effect. The announcement to work closely with other countries in order to make more efficient use of fossil fuels can also be seen as an indication that the US wants to develop alternative forums to the climate regime.

In addition to the **G7** and **G20** processes and a large number of established international institutions, there are essentially **two levels available for the further development of the global climate agenda**, which are discussed separately in the following. On the one hand, there are the activities within the context of the **global climate regime**, i.e. the Framework Convention on Climate Change and the subsequent Kyoto Protocol and Paris Agreement. If a large-scale policy of obstruction by the US and other stakeholders should lead to problems, **climate protection can, however, be further promoted outside of these agreements.**

Strategies within the climate regime

First of all, all members of an international treaty must act in compliance with the rules. Under international law, Article 18 of the Vienna Convention on the Law of Treaties even stipulates that the object and purpose of the treaty may not be defeated. As long as the US is party to the Paris Agreement, it must abide by the rules stipulated. As US membership in the Framework Convention on Climate Change is not being terminated, this will continue to apply even after the effective date of its withdrawal from the Paris Agreement, i.e. after 4 November 2020.

However, a contracting state can neither be forced to contribute towards a positive further development nor be stopped from blocking it. Because Saudi Arabia and other countries have blocked the adoption of majority decisions in the rules of procedure since 1994, the US has every opportunity to obstruct policy on the basis of the prevailing consensus principle. Since the Paris Agreement leaves many important details open, it essentially comes down to further contractual arrangements. In particular, the adoption of rules for the so-called **‘transparency framework’** is urgently required. As there is no real compliance procedure for monitoring fulfilment of the treaty, a process of **naming and shaming** is supposed to encourage the states to turn their words into deeds.⁶ In the event that it takes an obstructive approach, the US could block this process or the adoption of a procedure.

Even if the US administration were not to actively work against clear transparency rules, this would still pose one of the greatest political challenges. After all, under Barack Obama, the US was a major driver of strict transparency rules. Without it performing this function, this equilibrium in the negotiations could be lost. In the worst-case scenario, the transparency framework could end up being an instrument that is not worthy of the name due to weak implementation rules. This would make it much more difficult or even impossible to monitor actual progress and hold countries that do not effectively pursue their own climate protection targets to account.

If an **alliance of countries ambitious to further develop the Agreement** were to be established, it may face a refusal to cooperate on the part of the US at an early stage. This would be harmless, as long as there is no active resistance – silence is seen as consensus. In the case of an obstruction, the perseverance of a progressive alliance would have to be proven early on. In order to make “coalitions of pioneers” possible, it would be a good idea to seek changes to the procedures and institutions at an early stage.

⁶ Cf. Obergassel et al. 2015/2016.

The following building blocks of a strategy may be useful in this context:

- **Sanctioning destructive behaviour.** If the US takes an actively destructive stance, the other states should isolate it as much as possible. This could, for example, be done by refusing to allow the US to chair committees and working groups. In addition to this, the members of the *Umbrella Group*, which includes the US, could withdraw their cooperation.⁷ Following the announcement by the US of its refusal to pay two billion dollars to the Green Climate Fund, its membership on the board of the fund could also be called into question.
- **Initiative to strengthen the structure of the Paris Agreement.** Lying at the heart of the Paris Agreement, in addition to the promised voluntary contributions, are the transparency framework, i.e. the review of what the states are actually doing, and the call for these contributions to be increased every five years. The states are currently called upon to submit new or increased contributions by 2020. A coalition of the ambitious states should therefore push for the establishment of a strong *transparency and compliance mechanism* and intensify their own climate protection ambitions in order to at least partially compensate for the withdrawal of the US. The ambitious states should also use the momentum of the current outrage regarding the US President's withdrawal and strive to have the 1994 draft rules of procedure adopted, as these include the option of majority decisions.
- **Initiative for climate financing.** The *Green Climate Fund* is the main financing instrument of international climate policy. Donald Trump announced that all financial contributions from the United States would stop. Since former President Obama already paid USD 1 billion of the USD 3 billion promised by 2020, USD 2 billion remains outstanding. Because of this, a declaration by as many countries as possible to offset these funds insofar as possible would be important and essential for the formation and cohesion of an ambitious alliance. In this context, collaboration with the *Vulnerable 20 Group*, a group of finance ministers from vulnerable countries⁸ that cooperate closely, would be helpful.
- **Greater involvement of subnational and non-governmental stakeholders.** In the last few years, there have been a growing number of initiatives by cities, regions, enterprises and civil society stakeholders who want to advance climate protection. The climate regime could be strengthened through greater involvement of such stakeholders. The Paris Agreement explicitly recognises the role of transnational initiatives and climate protection measures by entities. However, there have been hardly any opportunities to date for such stakeholders to join in the diplomatic process. Through an initiative designed to supplement the Paris Agreement, the progressive US federal states could thus be allowed to get involved, to make a contribution to the Paris Agreement and to cooperate with other (nation) states.

⁷ The members of the Umbrella Group other than the USA are Australia, Canada, Japan, Kazakhstan, New Zealand, Norway, Russia and Ukraine.

⁸ <http://www.v-20.org/>

Strategies outside the climate regime

The international treaties and agreements of the climate regime, namely the **Framework Convention on Climate Change**, the **Kyoto Protocol** and the **Paris Agreement**, are not conclusive regulations that would prevent other diplomatic or legal activities. As long as the obligations arising from these treaties are not affected and new activities are not contrary to the spirit and purpose of these treaties, they are permitted. A great number of climate-protection measures are taken in forums outside of "climate policy", for example by the multilateral development banks and food or air traffic organisations. Within these forums, climate protection can and should be prioritised by progressive states, also and in particular as a counterpoint to US efforts to impede climate protection. In recent years, there have also been a number of parallel activities in the narrower field of climate policy, for example the foundation of the "**Climate Vulnerable Forum**" involving almost fifty countries that will be particularly affected by the threat of climate change.⁹

Several possibilities for coordinated action may be considered:

- **A pioneer club of ambitious states and subnational stakeholders.** In the event of the US (and some of its allies) preventing the further development of the Paris Agreement, the ambitious states could create a separate, parallel forum. Such a "*Multi-Speed Climate Policy*"¹⁰ has not really been an option to date with regard to the Paris Agreement. However, if the US does in fact actively obstruct the process or if the international community is only prepared to agree on minimal compromises in response to the US's new priorities, a pioneer alliance of ambitious states would be the only option remaining for serious international cooperation in the field of climate protection. Such a *decarbonisation club* could link ambitious goals with binding obligations on a contractual basis and decide upon cooperation on the basis of law and equity.
- **Supplementary agreements on climate protection for specific sectors.** In view of a possible US policy of obstructionism within the Paris Agreement, the formation of pioneer alliances for specific issues could be useful, for example regarding adaptation or the sustainable use of biomass. A pioneer alliance for *carbon pricing* mechanisms could advance the application of climate-related taxes or emissions trading systems, neither of which can be agreed on a global level in the foreseeable future and thus require a coalition of pioneers.¹¹ Actively shaping structural change in the countries and regions that depend heavily on the production and the use of fossil energy sources is also a matter of urgency. If controlled changes to these economic structures are delayed, sooner or later this will lead to a structural break, which will presumably be much more painful.
- **Development of trade measures.** If the US does actually prevent any progress within the context of the Paris Agreement, even more drastic measures are possible. In a new treaty, for example, *rules for dealing with states not party to the treaty* could be agreed. An example of this is the Montreal Protocol on Substances that Deplete the Ozone Layer, which prohibits trade in ozone-depleting substances with countries that are not party to the Protocol. In the past, so-called *carbon border tax adjustments* were discussed in relation to climate protection, i.e. import duties that were to reflect the carbon footprint of imported goods. So far, there has been little political support for such measures, which have instead been seen as harmful to world trade. This attitude could change, however, if Trump were to terminate international trade agreements as promised in his election campaign and adopt protective tariffs to support domestic industry. If the new US President were to engage in a trade war and if conflicts were to escalate in other political fields, approaches to border tax adjustments for the purposes of climate protection would, at the very least, no longer be entirely unthinkable.

6. Conclusion

US President Trump's announcement of his withdrawal from the Paris Agreement represents a massive step backwards in international climate diplomacy. In a bizarre turn of events, this happened just as the global community provided a still-inadequate but nevertheless universally accepted framework for the fight against ecological crises by adopting the Climate Agreement in 2015 and the **Sustainable Development Goals for 2030**. The refusal by the United States to support an ecologically and socially just world could cause the global consensus to fall apart – but this does not have to happen. To avoid this situation, however, significant political, economic and financial efforts will be required from all ambitious states.

In order to achieve this, certain myths will have to be dispelled. Firstly, the **mistaken assumption that, without the United States, no effective climate protection is possible**, which would mean that its involvement is a make-or-break issue. This conviction has shaped global climate diplomacy decisively over the past 25 years – and slowed it down. Of course, at some point the US will also have to contribute to reducing greenhouse gas emissions to zero. But anyone who makes participation by the US (or China) a prerequisite for all others is robbing themselves of any possible success. Any country aiming to make progress must be prepared to make the first move itself, regardless of whether or not everyone else joins in.

Irrespective of climate protection, this is generally advantageous for the pioneer countries when the additional **benefits often associated with climate protection measures are taken into account**. **Improved air quality, reduced energy import dependency and additional employment incentives** are just three examples. Furthermore, potential pioneer alliances are now facing very different circumstances than they did just a few years ago. The strategies of relevance to climate protection, especially the development of renewable energies, have now become competitive due to massive cost reductions over the last few years – thus, **there is much that speaks in favour of pursuing a climate protection-oriented path even for purely economic reasons**. The US President, on the other hand, could be doing the US a disservice. By relying on energy supply structures that are no longer competitive, he is depriving his country of incentives for technological innovation and thus of significant opportunities on the growing global climate protection markets.

Secondly, the myth that action can only be taken in consensus within the context of the UN has to be dispelled. International law recognises a broad range of decision-making procedures, from unanimity to consensus, from two-thirds or three-quarters majorities to decisions with simple majorities. The most successful example of a majority-based decision process is the Montreal Protocol on Substances that Deplete the Ozone Layer, where a two-thirds majority is sufficient to change the treaty and make these changes binding for all the parties, including those who do not agree. In the context of international law, where there is a will there is a way. If individual states, especially the members of the European Union and the most vulnerable countries, are really serious about this, then they will fight for the option of majority decisions.

The American President's irrational policies have made it clear that the future of humanity cannot be allowed to depend on a single country. Therefore, it is high time for alliances of reason to be formed. In any case, **the Nationally Determined Contributions promised to date ought to be increased**. Without the US, a further gap has now been created, for which other states will have to – and absolutely can – compensate with improved policies. In this sense, Donald Trump may be the ignorant and unwilling tool of history who involuntarily ensures that the world will now address climate protection in earnest.

⁹ <http://www.thecvf.org/>

¹⁰ Cf. Ott 2016.

¹¹ For example, proposals in the 2016 Carbon Pricing Leadership Coalition founded in Marrakech in the Report of the High Level Commission on Carbon Prices: <https://www.carbonpricingleadership.org>. See also Kraemer et al. (2017).

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