

United States:

A Credible Climate Action Plan, but Political Uncertainty



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The United States goes to the UNFCCC meetings in Paris in a good position to accomplish its goals for international cooperation: to reach a pragmatic international agreement that puts in place a framework to contain global warming to no more than 2 degrees Celsius, and which includes action from all countries while also providing flexibility that would allow implementation to reflect national circumstances. This goal was set by U.S. negotiators after the 2009 upheaval in climate governance at Copenhagen and builds on progress at the 2011 climate meetings in Durban. The United States recognized throughout this process that any climate framework would require legal force to be acceptable to other countries, yet also avoid an unworkable climate treaty that would never be approved by the U.S. Congress. To garner political acceptance in the United States, the agreement would have to be applicable to all countries, not just developed ones. The upcoming Paris agreement, and other fora like the Major Economies Forum and bilateral discussions, should incentivize the ambitious actions from all major emitters reflected in their Intended Nationally Determined Contributions (INDC). The agreement also needs to provide a mechanism to ratchet up ambition over time, taking advantage of changes in technology and reductions in costs.

In turn, to be acceptable to emerging and developing countries, the United States would need to make its best effort on its own INDC—President Obama’s Climate Action Plan—which would need to be ambitious yet still credible given the country’s political realities. And the United States would need to contribute to other key elements of the agreement, in particular by providing financial support to help meet the financing pledge of \$100 billion to help emerging and developing countries meet their own INDCs, including meeting the challenge of building resilience to a changing climate among the most vulnerable countries and communities. The United States and other donors have made strong efforts to show they are on track to meet the \$100 billion pledge, but will still need to deliver on post-2020 finance. This is becoming more contentious, with the G-77 seeking new pledges for this period.

These elements are all moving in the right direction going into the UNFCCC conference in Paris. But risks remain: to reaching a consensus in Paris, and more critically, to reaching the 2 C upper limit on warming.

The United States is playing its part

Two years ago, the United States presented its Climate Action Plan, announcing its intentions to reduce greenhouse gas emissions 26-28 percent below 2005 levels by 2025. Because new climate legislation from Congress is not feasible given the current politically divided government, the Action Plan uses existing federal laws along with state action to implement policy in more than 60 areas. The most controversial part of the Action Plan is the Clean Power Plan, which aims to limit carbon pollution from power plants. But the Action Plan also focuses on important policies and programs to accelerate investment in renewable energy, upgrade the electricity grid, support energy efficiency and increased fuel economy standards for heavy-duty vehicles, and reduce emissions from hydrofluorocarbons (HFCs) and methane, among others. It also focuses on actions to protect American communities from the impact of climate change, and aims to position the United States to lead.

A review on the plan's second anniversary outlined notable progress in the steps being taken to limit carbon pollution from power plants. Final rules for the plan were issued in August and published in the Federal Registry in October. They include: issuance of fuel economy standards for heavy-duty vehicles; new energy efficiency standards for appliances in January 2015; and actions to reduce methane and HFCs, with final rules issued by the Environmental Protection Agency (EPA) offering acceptable alternatives to HFCs for refrigeration and air conditioning while prohibiting uses of HFC-134a in applications where more climate friendly alternatives are available. Progress on preparing the United States for the impacts of climate change include Climate Change Adaptation Plans prepared by 38 federal agencies that outlined how they are addressing climate change issues that impact their missions as well a number of steps, like issuance of a Climate Resilience Toolkit, that build capacity.

An important part of the Climate Action Plan going into Paris is to build momentum through bilateral discussions with other major economies. Such bilateral talks will allow countries to build support for their own domestic programs by increasingly showing others that they are not "going it alone." These diplomatic efforts have also been used to build consensus on key issues ahead of the UNFCCC talks in Paris. The historic joint United States-China announcements provided a platform for the two countries to present their intentions in parallel: The U.S. Climate Action Plan was announced along with China's announcement of its intention to peak carbon emissions by 2030, with best efforts to peak earlier. The China announcement included its aim to increase its share of non-fossil energy consumption to 20 percent by 2030. In September 2015, during his visit to the United States, President Xi Jinping further announced that China would implement a national cap-and-trade program, providing further leverage on other countries to take similar action. These announcements, along with INDCs



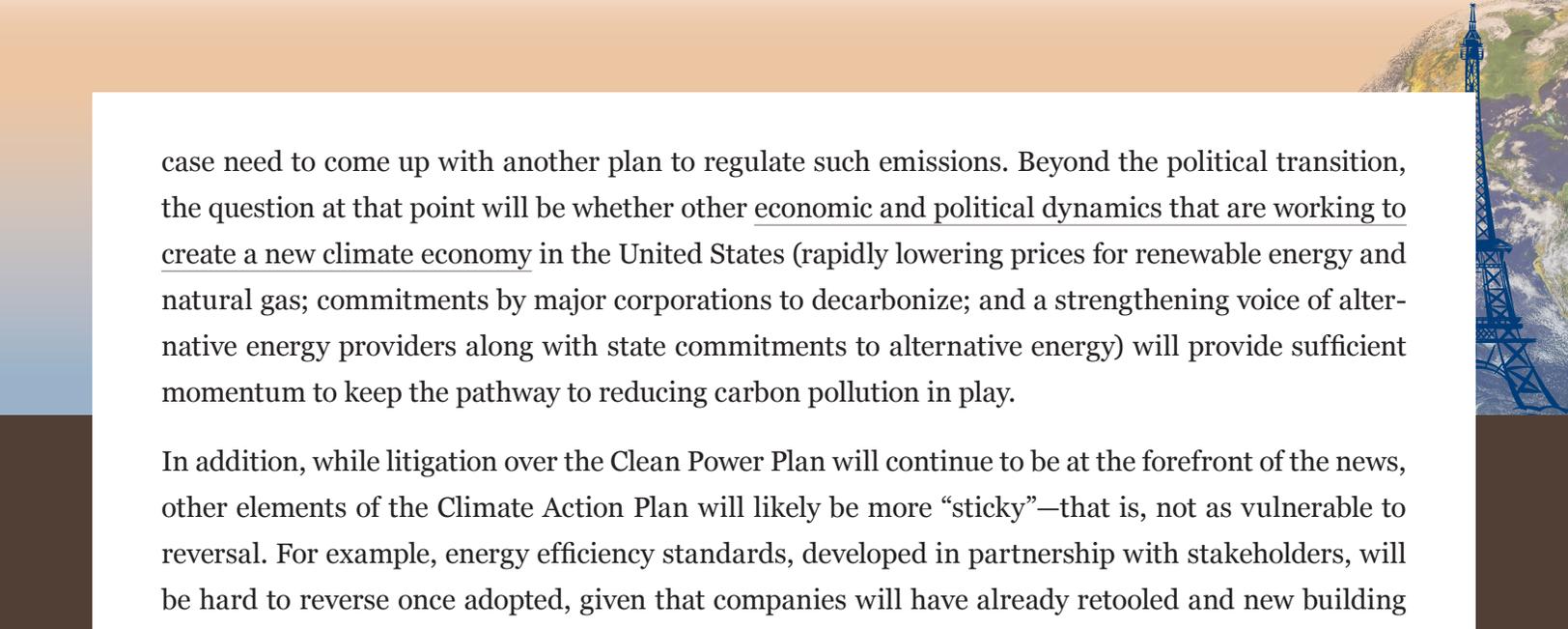
from other emerging economies like Mexico and India, bolster the Obama administration's ability to build support for the actions it is taking domestically by providing assurances that it is acting in concert with others.

While U.S. contributions going into Paris are considerable, questions and risks remain. Questions around the political durability of the U.S. Climate Action Plan will color the negotiations. And more critically, concerns remain around the sufficiency of the INDCs to put the world on the path of limiting warming to 2 C. The Climate Action Plan will be vulnerable to this concern as reaching this goal will take stronger action than currently feasible to meet the projected pathway after 2025.

Delegates at the COP21 in Paris will be concerned about the risk of policy reversal given the political climate in the United States, with concerns heightened as the U.S. enters the 2016 presidential campaign season. As Congress is unwilling to enact major climate legislation, the Action Plan relies on actions that can be taken based on existing executive authority under existing laws, such as that which is provided by the Clean Air Act. These are not, as sometimes assumed by international observers, "stroke of the pen" actions by the president that can easily be reversed, but instead are subject to the highly structured regulatory rule-making processes that entail development of proposals, reviews, stakeholder consultations, legal reviews and, of course, the possibility of legal challenges. Other actions are extensions of existing programs or build on innovations happening at the state and local levels where popular support is more secure.

The Clean Power Plan, the lightning rod of the Climate Action Plan, is already subject to legal challenges. Twenty-four states and a coal company filed separate legal challenges on October 23, the day that the plan's regulations were published in the Federal Register. Recent analyses of the likely outcome of the legal challenges note that that the Clean Power Plan is in a good position to withstand them. The EPA has an extensive record of success in defending Clean Air Act rules and has clear authority to regulate carbon pollution from the power sector. The final regulations were carefully written to ensure that they rest on a solid legal and technical foundation, eliminating some provisions in the draft regulations that might have been vulnerable to challenge. At the same time, many states are already implementing policies that will allow them to meet the plan's goals. One analysis concluded that 31 states are already on track to be more than halfway toward meeting their 2022 Clean Power Plan benchmarks, with 21 set to surpass it. Twenty states are already on track to be more than halfway toward meeting their 2030 Clean Power Plan target, with 16 set to surpass their 2030 Clean Power Plan targets.

Of course, litigation aside, if the Republican party takes control of the White House in 2016 and maintains power in Congress, the Clean Power Plan would likely be revoked. Even then, the Supreme Court decision in *Massachusetts vs. the Environmental Protection Agency* that affirmed that the administration is required to regulate CO₂ emissions would stand, so a new administration would in any



case need to come up with another plan to regulate such emissions. Beyond the political transition, the question at that point will be whether other economic and political dynamics that are working to create a new climate economy in the United States (rapidly lowering prices for renewable energy and natural gas; commitments by major corporations to decarbonize; and a strengthening voice of alternative energy providers along with state commitments to alternative energy) will provide sufficient momentum to keep the pathway to reducing carbon pollution in play.

In addition, while litigation over the Clean Power Plan will continue to be at the forefront of the news, other elements of the Climate Action Plan will likely be more “sticky”—that is, not as vulnerable to reversal. For example, energy efficiency standards, developed in partnership with stakeholders, will be hard to reverse once adopted, given that companies will have already retooled and new building standards will have been applied.

Another concern relates to whether the U.S. Climate Action Plan targets are likely to be met and whether the plan is sufficient. Assuming that the elements in the plan are vigorously pursued, the targets set for 2025 are achievable. However, to keep the U.S. (and indeed all players) on a trajectory that limits warming to 2 C will require considerable effort. For the United States, that will likely mean putting into place a national policy to put a price on carbon, such as a carbon tax, and investing in innovation. A World Resource Institute analysis concluded that with a national carbon price and additional greenhouse gas-cutting measures across the economy, the United States can reduce its emissions 40-42 percent below 2005 levels in 2030, and 50-53 percent in 2040.

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The United States strategy in Paris is to push for a review process of all INDC plans to help ratchet up effort and ambition, not just in the United States but also across all countries. Reviews every five years could put countries on a virtuous circle, allowing for more aggressive targets and actions to take advantage of rapidly evolving technological advances. This is a bet on the power of technological change to possibly lower costs, as well as on an increasing political acceptance for climate action.

Beyond Paris

After Paris, the challenge will be to maintain momentum and speed of action. President Obama has made climate action a priority, and we can expect that he and his administration will pursue the elements in the plan vigorously. This will include defending the Clean Power Plan and implementing the other elements in the plan as quickly as possible—especially those that are easier to implement and likely to endure beyond the current administration.

More broadly, while there may be reversals or changes at the federal level depending on the outcome of the 2016 elections, the elements for a more supportive climate change policy may be developing. Unfortunately, the impacts of a changing climate—droughts, floods, fires, and more powerful hurricanes—are more visible and dramatic. On the other hand, there remains a large partisan divide with conservatives remaining skeptical about the reality and causes of a changing climate, and democrats and independents expressing concern over the effects of a warming climate. Yet despite this divide, a majority of Americans are willing to take policy action. Seventy-four percent support regulating CO₂ as a pollutant and 64 percent support setting strict limits on existing coal-fired power plants.

President Obama has positioned the climate change issue as a moral one, and this was reinforced by the visit of Pope Francis to the United States in September. Business leaders outside of the fossil fuel industry are taking action. Action and innovation at the state and local levels will likely continue even without strong federal support. Leadership—at all levels of government, business, and civil society—will be needed need to navigate the political transition, with the pledges made to maintain warming at no more than 2 C firmly in the line of sight.