

The United States' Position on Kyoto

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Introduction and purpose

Anthropogenic global climate change is one of the most heated international environmental issues. There is a growing scientific consensus that there is a threat of irreversible damage; however, there is no simple solution. The world must choose between short-term economic growth and a duty to future generations. When island nations have sunk and destruction due to violent weather has soared, no one will be favorably credited for creating loopholes that make their emissions legal.

The Kyoto Protocol was written to regulate greenhouse gas emissions on an international level and ultimately to secure a stable future climate. The following is an analysis of this document and related United States legislation. After a brief background on international climate change negotiations it will highlight the current state of relevant policy within the United States. The United States is the largest producer of greenhouse gases in the world and US national policy demonstrates why binding international emissions regulations are necessary.

Although the Kyoto Protocol represents both noble and progressive international efforts, its success is threatened by many discrepancies. The Kyoto Protocol must be ratified and obeyed by all nations in order to be beneficial. However, the Protocol as it is currently written will neither be adequate nor effective in combating anthropogenic global climate change.

Background

The World Meteorological Organization (WMO) and the United Nations Environment Program (UNEP) established the Intergovernmental Panel on Climate Change (IPCC) in 1988. The IPCC was created in response to concerns that anthropogenic greenhouse gas emissions would cause additional warming of the earth's surface. Significant international law relating to air emissions began with the United Nations Framework Convention on Climate Change (UNFCCC). The UNFCCC was declared formally at the UN Conference on Environment and Development held in Rio de Janeiro in 1992. The third convention of the parties (COP-3) was held in December 1997 in Kyoto, Japan. Negotiators included governments, intergovernmental organizations and non-governmental organizations (NGO's) as well as a team of scientific experts.

Negotiating positions at the time of Kyoto were as varied as the countries that were arguing. Japan wanted emissions levels set at 5% below 1990 levels. The EU argued for 15% below 1990 levels by 2010. The US suggested stabilizing emissions at 1990 levels and further reducing afterwards. Australian leaders said that they would not support an international treaty at the cost of economic growth. Seventy-seven developing nations argued that they had a right to the convenience of the industrialized world. The resulting legal document, the Kyoto Protocol¹, was the first proposal for binding legislation to set emissions regulations on developed nations.

The objective of the Kyoto Protocol as given in Article 2 of the document is the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Article 3 of the Protocol outlines the principles upon which it is based. These include the aim to retain intergenerational equity by stabilizing the climate, recognition that continued economic development is essential, and that considerations must be given to developing nations. The precautionary principle is also emphasized in this section.

Article 4 of the Protocol outlines the parties' respective commitments. It requires national greenhouse gas emissions inventories, transfer of technologies, preparation for potential impacts and most importantly national programs and policies to reduce emissions. The Protocol sets a mandate for global emissions to be returned to 5.2% below 1990 levels between 2008 and 2012.

The Kyoto Protocol will come into force when it has been ratified by 55 parties to the UNFCCC that incorporate for a minimum of 55% of the total greenhouse gas emissions for 1990. Unfortunately, the Protocol has only been ratified by one Annex I nation as a consequence of the fact that discrepancies have surfaced over many conditions of the agreement.

First of all, the Protocol sets different reduction timelines for developing and industrialized nations. Section 4.7 reads

...that economic and social development are the first and overriding priorities of the developing Parties.

The Protocol also requires that the richer nations provide the financial resources needed by the developing nations in order to comply. The United States and other developed nations argue that for effective mitigation of climate change, there must be a consistent emissions reduction timeline for all nations. Developed nations are primarily responsible for increased global carbon dioxide levels. However, even if industrialized nations stabilize their emissions while emissions from developing nations are deregulated, the world's carbon dioxide levels will still double.²

Emissions trading, joint implementation and clean development mechanisms are outlined in the Protocol. These allow a means for polluting countries to gain emissions 'credits' through theoretically 'moving' sources, working together and integrating more efficient technologies domestically or overseas. The Protocol also outlines the emissions credits that can be granted for carbon dioxide sequestering systems (sinks). The extent that these sinks should be credited in lieu of actual reduction is another source of argument among parties.

Further discussion of Kyoto continued at COP-4 in Buenos Aires, Argentina(1998), and the declaration of determination was strengthened. The UNFCCC held a technical workshop in April 1999 in Bonn, Germany, to entertain the technological aspects of implementing the Protocol. COP-5 was held in Bonn in November 1999. A two-year deadline was set for the full entry into the Kyoto Protocol; ratification must now occur by 2002.

The 6th Convention of the Parties (COP-6) took place in the Hague in November 2000. The meeting was suspended unsuccessfully. The disagreements centered on ambiguity within the treaty. Under the current Protocol, the definition of a sink is limited to forests or revegetation sites that are planted after 1990. The European Union argued for limited sink credit, instead advocating for directly decreasing emissions.⁴ Australia, Japan and the United States sought to maximize the emissions credits that could be gained using sinks. The US proposed gaining credit for a third of the carbon dioxide sequestered by vegetation and standard agricultural practices.⁵ Instead of decreasing emissions, these countries advocate other alternatives. Arguments also surfaced regarding the participation of developing nations.

United States Policy

Encompassing only 5 percent of the world's population, the United States produces approximately 25% of all greenhouse gases.⁶ Despite the fact that energy consumption in the United States is increasing slowly, it is still much greater than any other nation with a similar standard of living.⁷ It is for this reason that US support of the Kyoto Protocol is essential for the treaty to effectively meet its goals.

Mixed messages from the US in regard to its position on the treaty are not a new phenomenon. On 25 July 1997, the senate voted 95-0 to approve *Senate Resolution 98*. *Senate Resolution 98* does not allow the U.S. to ratify any emissions reduction agreement that does not include developing nations. Furthermore, the resolution requires that any such agreement must cause no serious harm to the national economy. Kyoto does not meet *Senate Resolution 98*, and will not be ratified by congress in its current form.

The 2000 presidential race saw contrary positions regarding the Protocol between major parties. In the democratic party both Bradley and Gore supported ratification of the Kyoto treaty. Bradley insisted that the Protocol should be ratified 'as an important first step' to 'show leadership.' Furthermore he was quoted: 'It's time to start actually taking tons [of greenhouse gases] out of the atmosphere.'⁸

On the other hand, there was no republican support for the treaty.⁹ Most candidates publicly stated that they would oppose ratification. Furthermore, none of the republicans outlined alternative solutions. On 13 March 2001, President Bush announced to the world that he would not be seeking support from congress to regulate carbon dioxide emissions. The U.S. administration's actions indicate that republican leaders are not ready to integrate national economics with international environmental issues. The central argument presented by the United States against the Protocol is the omission of developing nations in binding emissions reductions.

In a recent letter to senators explaining the administrations position on the protocol Bush stated,

the protocol exempts 80% of the world including major population centers such as India and China... As you know, I oppose the Kyoto Protocol...I support a comprehensive and balanced national energy balance that takes into account the importance of improving air quality... the government should impose on power plants mandatory emissions reductions for carbon dioxide, which is not a "pollutant" under the clean air act.¹⁰

Carbon dioxide is not a pollutant listed under the United States *Clean Air Act 1990*; therefore, there are no emissions regulations. Both carbon monoxide and particulate matter (PM-10) are listed as criteria pollutants¹¹, but not carbon dioxide. Bush claims that carbon dioxide must be added as a criteria pollutant and once that action has been taken, emissions levels will be regulated. The *Clean Air Act 1990* gives the EPA the right to regulate air-borne substances that are deemed harmful to human health.¹² Carbon dioxide has the potential to have detrimental effects on the planet as a whole via global climate change, yet carbon dioxide remains unlisted.¹³

In recent press interviews Bush has expressed intent on curbing national greenhouse gas emissions via methods other than Kyoto; however, Bush's actions speak louder than his declarations of intent. In April 2001 Bush proposed cutting the Department of Energy's (DOE) renewable energy program by 37%. The budget, recently submitted to Congress, proposes to cut funding for renewable energy and efficiency research programs by over \$200 million; including \$49.8 million cut from solar research and \$19 million cut from wind power research. Furthermore, funding for industry conservation programs would be cut by \$61 million.¹⁴ As an indication of congressional concern regarding the executive's handling of this global issue, the Senate recently, 6 April 2001, passed an amendment to the budget that restored \$4.5 billion in funds for climate change programs.

Despite congressional disapproval of Kyoto, i.e. *Senate Resolution 98*, legislation responsive to global warming is currently in congress.¹⁵ In April 2000 two such bills were introduced in the Senate: *Energy and Climate Policy Act 1999*(S.882) and *Climate Change Energy Policy Response Act 1999*(S.1776). S.882 is a proposition to spend \$2 billion dollars over the next 10 years via the DOE to develop low-emission technologies. S.1776 is a motion to establish an office of climate change in the DOE; however, this would essentially duplicate the US Global Change Research Program (USGCRP).¹⁶

Carbon Sequestration Bill (S.765) was presented on 24 April 2001. It would provide a tax credit of \$2.50 per ton for carbon sequestration projects outside of the U.S. *Senate Bill 64*, which was referred to the House in January 2000, calls for reductions in the emissions of various gases and requires state agencies to cooperate in the reduction of greenhouse gases. As of April 2001, this bill had not passed the House.

Similar bills are currently being pushed in the House. The *Credit for Voluntary Early Actions Act* (HR.2520) gives the President authority to grant emissions credits to companies that voluntarily reduce emissions. On 4 April 2001 a resolution (HR.117) was introduced in direct

support of Kyoto principles but not the Protocol itself. It urges the Bush administration to develop, promote, and implement policies to reduce emissions of fossil fuel generated CO₂ with the goal of achieving stabilization of greenhouse gas emissions in the United States at 1990 levels by 2010.¹⁷

The *Clean Smokes Stacks Act 2001* proposes an amendment to the *Clean Air Act 1990* to reduce emissions from electric power plants to 1990 levels by 1 Jan 2007.¹⁸ Unfortunately, the majority of both proposed and enacted legislation within the United States is aimed at crediting volunteer initiatives not at mandating emissions reductions.

At the state level there are a variety of positions toward climate change issues. These positions range from demands for immediate federal action to insisting that the national government avert any commitments under Kyoto.¹⁹ Almost half of the states have passed legislation similar to House Bill 4761 in South Carolina. The bill states that

...the President of the United States is not to sign the Kyoto Protocol or to submit the same for ratification to the US Senate unless the Protocol is amended or otherwise revised consistent with US Senate Resolution 98.

Other states have passed blocking legislation that prohibits the regulation of emissions prior to ratification of the Kyoto Protocol. For example in Utah, the *State Joint Resolution 9* prohibit(s) Utah state agencies from implementing any strategies to reduce greenhouse gases unless the US ratifies the protocol to, or other agreement regarding the Framework Convention on Climate Change.²⁰

On the other hand, states have also passed very pro-active legislation. Hawaii has legislation that supports reduced emissions and sequestration of greenhouse gases. The state of Rhode Island recently passed *House Bill 6899*, which encourages property owners to maintain woodlands for sufficient time so as to maximize atmospheric carbon conversion to biomass.²¹

The California EPA requests a voluntary report of emissions from California businesses. The sources are then provided with methods for reduction. Washington's Senate passed *Senate Bill 5121* which establishes a carbon storage program through forest protection and replanting. Oregon passed *House Bill 3283* in 1997, which requires new utilities to emit 17% less than the most energy efficient plants available. Oregon's mandatory reductions save approximately 194,500 million metric tons of carbon per year.²² Aside from Oregon's successes, state legislation rewards volunteer initiatives but does not mandate or receive actual reductions.

The US Environmental Protection Agency (EPA) is caught in the middle of a Republican administration and a concerned population. EPA head Christine Todd Whitman was quoted by the Environmental News Network saying 'the US is prepared to work with its allies on global warming but considers emissions cuts under the Kyoto Protocol the wrong way to do it.' She claims that the president wants to be 'proactive,' but does not support Kyoto.²³

On the other hand, the EPA has been criticized for paying no heed to the *Knollenburg Amendment*. The *Knollenburg Amendment*, which applies to the EPA's federal budget, prohibits government agencies from spending money to promote the protocol before it has been ratified by congress. The EPA supports voluntary greenhouse gas abatement programs.²⁴ Similar programs exist in Canada and Australia.

The citizens of the United States are concerned about the threat of climate change despite governmental action. The Sustainable Energy Coalition conducted a poll on US citizens in October 2000. The results were as follows: 55% believe immediate action should be taken to curb climate change and 90% support renewable energy and efficient technologies.²⁵ According to a survey conducted in April 2001, only one third of US citizens approve of Bush's environmental policies. The majority said that the president's priorities are opposite their own and that they believe the current administration is on the side of the energy corporations.²⁶ Exxon/Mobil, Chevron, Texaco, Conoco, and Phillips Petroleum all support Bush's rejection of the Kyoto Protocol.²⁷ There are some serious discrepancies between the current government actions and the popular opinion.

Throughout the debate emissions from the United States have continued to grow. With respect to a classical economic system where natural resources are considered infinite, a volunteer initiative does not work. According to Dan Lashof, a senior scientist of the US Natural Resources Defense Council, "10 years of voluntary action has not reduced emissions in the US. In fact, emissions have increased by 15% since 1990 and are continuing to increase."²⁸ Despite pro-active legislation and other incentives, growing emissions levels in the United States indicate that isolated volunteer initiatives will not provide a solution. The government must make emissions reductions mandatory on a national level and be held responsible for national reductions internationally.

International Positions

The US is backed by Canada in its demands for credit for innovative ways of manipulating the carbon cycle. Canadian Environment Minister, David Anderson, was quoted

Why are we accepting European imposed and European-proposed limitations, which from a European point of view may keep their industry more competitive with American industry and ours, but from our [Canada and US] point of view simply doesn't deal with the climate change problem?²⁹

As of April 10, 2001 the EU declared that it was determined to ratify the treaty regardless of US support. Iran, Russia and China have all informed European environment ministers that they will continue with the treaty without US support. Anderson announced that Canada would stay with the Kyoto; however, 'with an economy linked to the US the way we achieve our Kyoto goal will certainly take into account the approach taken by the US.'³⁰

The United States has promised other environmental ministers that they will be attending COP-7 in Bonn this summer. They have also pledged to come with a cabinet review of policies in hand. There has been a task force set up with Vice President Dick Cheney and seven other cabinet members. The group hopes to devise an alternate strategy in advance of Bonn. However, any alternate strategy that is not a binding regulation cannot hope to replace the Kyoto Protocol.

Conclusions

Greenhouse gas emissions must be reduced in order to prevent anthropogenic climate change. According to the Union of Concerned Scientists the levels of carbon dioxide in the atmosphere are higher than they have been in the last 160,000 years.³¹ For every 3.8 liters of petrol burned, 10 kilos of carbon dioxide are released.³² The only way to stop emitting these gases is to stop burning fossil fuels. In order to stabilize global greenhouse totals, emissions reductions must be mandated and enforced worldwide.

There can be no separation of responsibility to effectively solve this international problem. Relying on voluntary action of some parties and mandating action from others does not provide an adequate incentive for the necessary emissions reductions. Without binding emissions controls placed on both industrializing and developed nations, the Kyoto Protocol will be ineffective regardless of ratification. The Kyoto Protocol will not be ratified by the United States as it currently stands. An agreement reached without the major polluters, such as the United States, will be inadequate. The upcoming negotiations in Bonn must yield a revised Protocol that mandates and realizes complete international cooperation. Unless this occurs, global climate change negotiation at both national and international levels could quickly become a decade of wasted energy.

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- 8 Robinson Shaw, 'Presidential candidates sweat over global warming' Sustainable Energy Coalition, 4 January 2000, <http://www.enn.com/enn-features-archive/2000/01/01042000/candidates_8028.asp> Cited 28 April 2001 Copy on file with author
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- 10 'From Text of a Letter The President to Senators Hagel, Helms, Craig, and Roberts'(2001) Cited 28 April 2001 <<http://www.whitehouse.gov/news/releases/2001/03/20010314.html>> Copy on file with author
- 11 *Clean Air Act 1990* lists 189 hazardous air pollutants which are chosen by congress on the basis of potential health and environmental hazard The EPA is then required by law to regulate these pollutants
- 12 Ibid, Section 103
- 13 Proposed *Clean Smokes Stacks Act 2001* amends *Clean Air Act 1990* 42 U S C 7401 et seq
- 14 Jennifer Lee, 'Proposed Bush Budget Cuts Renewables and Energy Efficiency Programs' <<http://www.weathervane.rff.org/features/feature117.htm>> Cited 28 April 2001 Copy on file with author
- 15 Updated information on US legislation can be found through the Thomas system provided by the US Library of Congress at <<http://thomas.loc.gov>>
- 16 USGCRP researches natural variability and anthropogenic influences on the planet's climate Their recommendations influence national policy Relevant research includes carbon cycle science For more information see <http://www.usgcrp.gov/>
- 17 As of 5 April 2001 HR 117 had 41 cosponsors
- 18 *Clean Smokes Stacks Act 2001* was referred to House subcommittee 16 April 2001
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- 22 <<http://www.yosemite.epa.gov/globalwarmmg/>> Cited 15 May 2001 Copy on file with author
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