

in

brief

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Sustainability Impulses from Wuppertal

Writings on the Wall: What the US Elections Mean for International Climate Policy

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Background

On 8 November 2016, Donald Trump was elected to become the 45th President of the United States of America. After his election serious questions need to be asked with respect to the United States' future national and international climate policy. In his campaign, Trump repeatedly expressed his intention to "cancel the Paris Agreement". What is more, Trump's election was accompanied by a victory of the Republican Party in the House and Senate of the US Congress. A vast number of Republicans rejects ambitious climate policies and some even negate the existence of anthropogenic climate change. This in brief addresses the question how effective international climate policy can and should continue. How can the course set with the adoption of the Paris Agreement be continued independent from the developments in the US? This paper sketches possible consequences of the sea change of US climate policy for the international negotiation process and identifies options for a "Trump-resilient" way forward.



1. National US Climate Policy and Potential Consequences of the Election of Donald Trump

After an attempt to introduce comprehensive climate change legislation had failed in 2009, President Obama pursued a climate strategy primarily based on the President's executive powers. US climate policies rest to a large extent on old legislation. One major building block is the *Clean Air Act* originally adopted already in 1963 and substantially revised for the last time in 1990.

Relying on his executive powers, the Obama administration was able to circumvent the congressional gridlock, but the relatively **weak legal status of his measures** together with the strong majority of the Republican Party in Congress will make it relatively easy for President-elect Trump **to roll-back climate policies** at national level.

On the other hand, Trump's stance on energy policy is not very clear yet. During his campaign, Trump promised a renaissance of the US coal industry. The decline of the domestic coal industry, however, is only partially driven by climate policy. Coal simply is **no longer competitive against natural gas** that has become abundantly available due to the "fracking" or shale gas boom. Trump himself also promised to continue support for the US gas industry, which should further cement the competitive advantage of natural gas over coal.

It is also highly questionable whether President Trump could reverse the support for renewable energies. Corresponding tax credits for wind and solar power were agreed with strong bipartisan support in 2015. Moreover, there is **strong interest in continued investments in renewable energies** at the state level, motivated in part by considerations of regional economic development as well as the continuous decrease of costs of wind and solar power.

Also, the Trump administration will not have much influence on state legislation. Many states in the US including California and some states on the East coast have rather progressive legislation. In fact, it may well be the case that **progressive states will expand their climate policy** in the absence of ambitious federal policies, as was the case during the Presidency of George W. Bush. California's Governor Jerry Brown, for example, stated immediately after the election that the assumption of office by Donald Trump would not prevent California from addressing climate change as the existential threat that it is.

Furthermore, President Trump will not be able to reverse **the trend of decreasing prices and technological advancements** made in renewable energy technologies and battery storage. These developments are already today driven by the world markets and have been robust for years. Prices for solar and wind power will continue to decrease and will outcompete both coal and gas also in the United States in the foreseeable future.

Still, a reversal of US energy policy and a return to oil, gas and coal as a matter of priority would certainly **decelerate the decline of energy-related emissions** in the US. As a result, cumulative emissions would grow, and cumulative emissions are what ultimately counts in the global climate system. Moreover, such a roll-back of energy policy would increase *carbon lock-in* in the United States: it would further entrench existing and create new path dependencies that will be difficult to overcome during a later transformation toward a sustainable energy system based on renewable energy. Last but not least, the election of Donald Trump may lead to a deterioration of the working atmosphere for national and international NGOs as well as other civil society organisations.

2. The 1.5- or 2°C-Limit in the Light of a U-turn of US Climate Policy

In their nationally determined contribution (NDC) the United States pledged to reduce greenhouse gas emissions by 26-28 per cent below 2005 levels by 2025. In 2013, US emissions had already decreased by slightly more than 9 per cent. Without any climate policy measures, emissions are currently projected to increase somewhat in the coming years (cf. UNEP DTU, 2016). Even if the Trump administration does not dismantle US climate policy entirely, **a sizeable burden would fall on the global carbon budget**. In a scenario in which US emissions do not increase but stabilize at current levels and domestic climate action is simply postponed for four years, **cumulative emissions would add up to 3-3.4 Gigatonnes CO₂e until 2025**. By comparison, Germany's annual emissions accounted for slightly below one Gigatonne CO₂e in 2013.*

* Own calculation based on UNEP DTU (2016). A linear reduction pathway was assumed between 2013 and 2025.

But what does this mean in terms of global warming? The majority of scenarios considered in the IPCC's most recent assessment report suggest that the 2°C-limit can only be maintained if global emissions peak very soon. The later the global emissions trend is reversed, the more likely it is that substantial "negative emissions" will be required to limit global warming below 2°C. Such negative emissions can be achieved for example through the use of **bioenergy in combination with technologies to capture and sequester carbon** (BECCS). However, both bioenergy use at scale as well as CCS are highly contentious on their own. At least from today's point of view it is questionable whether the combination of the two can actually contribute significantly to attain the 2°C limit, let alone 1.5°C. The prospects of the Trump Presidency therefore pose a serious threat to the global efforts to avoid dangerous climate change.

3. Conditions for a Withdrawal from the Paris Agreement

On principle, the United States can withdraw from the international climate treaty, Article 28 of the Paris Agreement outlines the modalities. However, it clearly states that any Party can only notify its withdrawal three years after the Agreement entered into force for that Party. After the notification it would take another year for the withdrawal to take effect. Ironically, the earliest possible date at which the US could legally withdraw from the Paris Agreement is 4 November 2020, one day after the next regular US presidential election.

A faster way for Trump would be to withdraw **not only from the Paris Agreement but also from the United Nation's Framework Convention on Climate Change** (UNFCCC). According to Article 25.2 of the Convention the United States can declare their withdrawal at any time. The decision would take effect only one year later and would also entail the withdrawal from the Paris Agreement, which is a dependent treaty of the UNFCCC. Whether or not the President can actually withdraw from the UNFCCC without consent from the Senate is, however, disputed. In contrast to the Paris Agreement, the UNFCCC was ratified by the US Senate by an unanimous vote in 1992. This legal distinction is also important for the more distant future. Any successor to Trump could immediately re-ratify the Paris Agreement but not the UNFCCC. **Re-entering the UNFCCC would require a new ratification process** in the US Senate. Given that a 2/3 vote is required for the ratification of international treaties, this process would impose a much greater, potentially insurmountable, barrier and would probably exclude the US from international climate policy under the United Nations for much longer than four years.

It remains to be seen whether or not President-elect Trump will actually keep his campaign promises. If the US actually terminates international cooperation on climate change, other states may stop to cooperate on fields which are considered to be more important by President-elect Trump. Particularly withdrawing from the UN-FCCC that was negotiated and ratified under the Presidency of George H. W. Bush would signify that the US no longer acts in good faith in international negotiations. China, for one, has already strongly discouraged the US from withdrawing from the Paris Agreement.

4. Scenarios for the International Climate Negotiations

Trump could actually damage international climate policy most by not withdrawing from the Paris Agreement and/or using the four years until the withdrawal takes effect **to block progress on the implementation of the Paris Agreement**.

Even more important, though, may be the reaction of China, the EU, and other powerful players to the end of US climate policy as we knew it. There are three conceivable scenarios:

1. **The Paris Agreement falls apart.** If the US actually withdraw from the Paris Agreement, other important countries could follow suit. This would most likely result in the Paris Agreement becoming irrelevant before it had the chance to actually take effect and would most likely end serious multilateral efforts under the auspices of the United Nations.

2. The Paris Agreement continues as a largely ineffective instrument.

The adoption of the Paris Agreement was made possible partly by leaving a number of detailed questions to be dealt with at later sessions. This pertains for example to the transparency mechanism. The Agreement does not formulate legally binding obligations for Parties to actually achieve their nationally determined contributions. Instead, Parties are to be disciplined through said transparency mechanism by a ‘**naming and shaming**’ approach. Under President Obama, the United States had been a promoter of robust transparency rules. Without this leadership, rules, modalities and procedures of the transparency mechanisms may well be watered down to the extent that it becomes difficult to adequately track progress and to hold accountable those countries that do not implement their NDCs effectively.

The implementation of the Paris Agreement could also be held back by a lack of financial means. Donald Trump announced that he would immediately halt any transfers of climate finance. Under President Obama, the US had pledged to contribute USD 3 billion to the *Green Climate Fund*. 500 Million have already been transferred and another 450 million are already budgeted for and chances are that these can be transferred before Donald Trump assumes office. The remainder of the sum, however, will most likely not be paid. Industrialized countries have collectively pledged USD 10.3 billion to the *Green Climate Fund* as means to support the implementation of the Paris Agreement in developing countries. Without the contribution of the US, the Fund would face a **serious capitalization deficit**. In fact, the same issue applies to all other international financial institutions such as the World Bank or the Inter-American Development Bank.

3. **Some countries advance cooperation “now more than ever”.** The US withdrawing from the Paris Agreement may create some new perspectives for international climate policy. The Paris Agreement and its legal character was tailored to the special circumstances in the United States. It does not create legally binding obligations for countries’ to actually achieve their pledges. This feature allowed President Obama to ratify the Agreement by executive order and without the advice and consent of the Senate. If the US now withdraw from the Paris Agreement, there may be room to strengthen its degree of legal compulsion. A group of ambitious countries could drive the implementation of the Paris Agreement and push for strong transparency and compliance mechanisms. In this scenario, countries would intensify their domestic efforts and increase their financial contributions in order to compensate at least part of the deficit caused by the prospective retreat of the United States.

There is currently no indication that the first scenario will come to pass. Not one country has declared that is going to follow the United States. To the contrary, even traditionally recalcitrant countries such as China and Japan have already announced that they will **stay true to the Agreement**. Australia and others ratified the Agreement in the days after the US election. The resolve to carry on is also reflected in the so-called Marrakech Action Proclamation (MAP) that all countries adopted at the recent Marrakech climate conference. In the MAP, Parties restate their commitment to the Paris Agreement and its goals and “*signal a shift towards a new era of implementation and action on climate and sustainable development*”. However, Scenario 3 probably also does not have a very high likelihood of playing out, although Germany and France have challenged the EU to make up for the “loss” of the United States.

The most likely future is therefore that a variant of scenario 2 becomes reality. The Paris Agreement will most likely prevail because at its core it **protects and supports the national interests** of its member states. The climate protection contributions are determined nationally and therefore reflect national interests. And increasing numbers of countries are realizing that reducing fossil fuel use and transforming their economies is actually in their interest. In particular developing countries are moving more and more aggressively on curbing fossil fuel use to reduce the intolerable levels of local air pollution and position themselves for future technology markets.

5. Options for Dealing with the United States

If a sufficient number of Parties musters the political will to move ahead without or even against the US, they have a number of options at their disposal, depending on whether or not the US decides to obstruct progress or not. The Paris Agreement could be amended by a three-fourth vote of the Parties. However, the rules of procedure of the UNFCCC to date do not allow for majority voting. For that reason it is practically impossible to procedurally advance a draft decision to the point at which the mentioned decision making rule could actually apply. As long as the United States are a Party to the Paris Agreement they could therefore block any amendment from the outset.

In addition, while amendments would not need to be ratified by all Parties to enter into force, **they would be applicable only to those that did ratify**. Nonetheless, despite these limitations a number of options are feasible:

- **Further incorporate non-state actors.** In recent years there has been a groundswell of transnational climate initiatives and climate action by sub-national entities and non-state actors of all sorts. The Paris Agreement explicitly acknowledges the role of these actors. However, to date there are hardly any avenues for such actors to engage in the inter-governmental process. The Paris Agreement could be amended, for example, to enable progressive US states to bypass the federal government and engage directly with the international community, contribute their part to the Paris Agreement and cooperate directly with other (nation) states. If the United States under President Trump decide to just ignore and not actively sabotage the international process, such an amendment might even be agreed upon with the US, since it would not have any direct consequences for the federal level.
- **Development of trade measures.** If the United States actually withdraw from the Paris Agreement or even the Convention, even more drastic measures may be thought of. As it currently stands, the Paris Agreement does not contain any provisions to deal with non-Parties. In principle, though, it could be amended to create such provisions. The Montreal Protocol on Substances that Deplete the Ozone Layer provides a precedent: it prohibits trade of ozone depleting substances with countries that are not Parties to the Protocol.

For climate change so-called carbon border tax adjustments have been discussed. *Carbon border tax adjustments* are tariffs that reflect the embedded emissions of goods and services imported from countries with lesser or no climate policies in place. To date, there has not been much appetite for such trade measures both because they would have adverse effects on global trade in general and because they would also harm the country that imposes them. Nevertheless, Nicolas Sarkozy, former President of France, suggested such trade measures. Germany and the European Commission immediately expressed their disagreement. This position could change, though, if Donald Trump realizes another of his campaign promises: to cancel international trade agreements and to protect US industries by imposing tariffs on imports inter alia from China and Mexico. If Trump himself incites a trade war and conflicts escalate in other policy fields, carbon border tax adjustments may become a viable political option.

- **A club of frontrunner countries.** If effective climate protection proves to be impossible to organize under the Paris Agreement, more ambitious countries could establish a parallel forum on their own, in which they could cooperate on more advanced climate action. If the US actively blocks the international negotiations under the UNFCCC or countries in response to shifted US priorities only manage to agree on the lowest common denominator, such an alliance of ambitious countries could provide a last resort to advance serious collaboration to combat climate change.

6. Conclusions

The Paris Agreement was a diplomatic breakthrough. Now, only one year later, the election of Donald Trump looms large over the international climate negotiations. Domestically, Trump will not be able to halt the transformation of the energy sector for very long; political and technological developments are just too advanced. Internationally, the United States have been leader in recent years and the Paris Agreement was shaped to a large extent by US positions. Whether or not they will formally withdraw from the Agreement or even the Convention remains to be seen. **Almost certainly, though, they will cease to be a progressive leader.** They could even become an obstructionist in the worst case. All things considered, it may become impossible to attain the 2°C-limit.

A lot depends on the reaction of other states. All efforts should be made to keep the United States from withdrawing from the Paris Agreement. Other heads of state and government should make climate change a top priority and demand that the United States deliver on their commitments. As Germany takes over the Presidency of the G20 process in 2017, **the German government is in an ideal situation to take a leading role.**

If, however, the United States is adamant about its withdrawal or even obstruct any progress on the implementation of the Paris Agreement, a number of options exist to deal with the situation. **Collaboration with sub-national authorities and non-state actors** in the United States should be increased. If possible, they should be incorporated in the UNFCCC process more directly. If effective climate action proves to be impossible within the framework set by the Paris Agreement, an alliance of frontrunner countries should move ahead and **cooperate in a newly established forum** in parallel to the UNFCCC. To compensate potential competitiveness constraints of such a “minilateral” approach, carbon border tax adjustments could be taken into account.

The first reactions to the election of Donald Trump indicates that there is an increasing understanding of climate change as a transformation challenge that transcends a mere environmental problem. The Paris Agreement provides a promising framework to manage this transformation constructively. Losing the United States as a progressive partner does not change the nature of the challenge. **While the challenge becomes greater if the United States do not reduce their emissions as pledged,** they will ultimately be left on the wayside and give away their lead on technological and economic development.

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