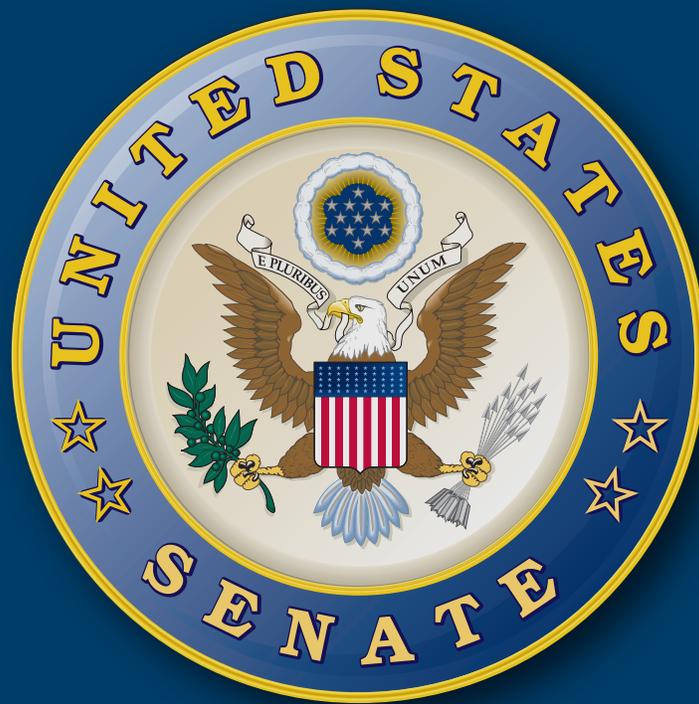


Senate Outlook on United States International Strategy on Climate Change in Paris 2015

A New Report on President Obama's Plan to Bypass Congress
and Transfer American Taxpayer Funds Overseas



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Executive Summary:

On November 30, the United Nations climate change conference convened in Paris. President Obama is supporting an effort to bypass Congress and agree to a climate deal that will give money to developing nations to help them deal with the effects of climate change. Such an agreement will surrender American sovereignty and bind the American people to greenhouse gas reductions that will cost jobs at home. This agreement will be based on American reductions in greenhouse gasses based on Environmental Protection Agency (EPA) power plant regulations that are facing significant legal scrutiny and are opposed by a bipartisan majority in Congress.

Developing nations are anxious to get U.S. taxpayer dollars, which are widely seen as the linchpin of any climate deal. The reality is that these funds are likely to end up lining the pockets of government officials in economically disadvantaged countries.

The Obama administration needs to understand that Congress does not support this pay-to-play promise. Congress should respond by rejecting the president's budget request for these funds and insisting that any deal President Obama signs – whether it is called a “treaty” or an “agreement” – be subject to congressional approval.

Findings:

- **The president is forcing American taxpayers to pay for past economic success through his contributions to the Green Climate Fund.**
- **The president and foreign nations in Paris plan to bypass Congress to reach a climate change deal thus eliminating the voice of the American people who are opposed to his climate change policies.**
- **The president is demonstrating failed leadership as he is making false promises to foreign countries about his capability to meet his greenhouse gas reduction targets.**
- **By undermining American sovereignty and binding the American people to targets and timetables for greenhouse gas reduction targets in Paris, the president is threatening jobs, industries and communities at home.**

The UN Green Climate Slush Fund: Forcing American Taxpayers to Pay for Past Economic Success



Many developing nations believe that developed countries owe them a climate debt because developed nations are responsible for the majority of “carbon pollution” in the atmosphere. This claim is that carbon pollution is causing man-made global warming, and is responsible for sea level rise and extreme weather affecting developing nations today. As a result, developed nations have agreed to put billions of dollars into a Green Climate Fund to help developing nations adapt to the changing climate.

This fund is essentially a giant wealth transfer from developed nations to developing nations.

Giving billions to developing nations in the name of climate change is a significant misuse of U.S. taxpayer dollars given our nation’s current fiscal debt, aging infrastructure and addressing security threats overseas. Special Envoy for Climate Change at the State Department Todd Stern [even admitted](#) the dire U.S. fiscal situation with regard to providing taxpayer funds to developing nations for climate change, stating on October 22, 2013, that-

“Now the hard reality: no step change in overall levels of public funding from developed countries is likely to come anytime soon. The fiscal reality of the United States and other developed countries is not going to allow it. This is not just a matter of the recent financial crisis; it is structural, based on the huge obligations we face from aging populations and other pressing needs for infrastructure, education, health care and the like. We must and will strive to keep increasing our climate finance, but it is important that all of us see the world as it is.”

Despite these realities, the president [committed](#) U.S. taxpayers to send billions of dollars to developing nations in the name of climate change.

Penalizing Americans for past economic success - In 2014, President Obama made his intention clear to send billions of U.S. taxpayer dollars overseas in the name of climate change. On the White House website promoting the president’s climate change plan, the [website states-](#)

“In 2014, the president announced the U.S.'s intention to contribute \$3 billion to the Green Climate Fund to cut carbon pollution and strengthen developing countries' resilience. This helped increase other countries' contributions, and propel the fund's initial capitalization over \$10 billion.”

The administration's reason for putting U.S. taxpayers “on the hook” for paying \$3 billion dollars is due to America's past history of building our nation and growing our economy using fossil fuels. In a [speech](#) on November 15, 2014, announcing the \$3 billion pledge, the president stated before the University of Queensland (Australia) students and faculty that-

“And you'll recall at the beginning I said the United States and Australia has a lot in common. Well, one of the things we have in common is we produce a lot of carbon. Part of it's this legacy of wide-open spaces and the frontier mentality, and this incredible abundance of resources. And so, historically, we have not been the most energy-efficient of nations, which means we've got to step up.”

U.S. taxpayers could pay even more in Paris - In 2009, then-Secretary of State Hillary Clinton [pledged](#), on behalf of this administration, public and private financing from the U.S. and other countries for a climate fund that would reach \$100 billion a year during the UN Climate Change Conference in Copenhagen.

Although that funding level has not yet been reached, developing states, including China, continue to demand more from U.S. taxpayers beyond the \$3 billion pledge. Su Wei, the Chinese chief climate negotiator, [stated](#) at the 2014 UN Lima Conference that the funding level for the Green Climate Fund was "far from adequate."

Ahmed Sareer, a Maldivian diplomat, stated his frustration with developed nations not pledging more in funding for developing nations during the UN Lima climate change conference. He [stated](#) in a December 12, 2014 *Guardian* article entitled “Lima climate summit extended as poor countries demand more from rich” that -

“There has been a clear commitment of \$100bn a year but how are we really being offered? Even when they make those pledges how do we know how much is going to materialise? There is no point of knowing that behind the wall there is a big source of funds available unless we can reach it.”

In the same [article](#), an Indian diplomat bluntly stated that the funding level being provided by developing nations such as the U.S. was “ridiculously low.” In order to reach a global agreement among the developing nations as well as China and India, it is likely that more U.S. taxpayer funds will need to be given away to developing countries to get them to approve of the deal.

U.S. current economic situation argues against foreign climate funding - The current U.S. debt stands at more than [\\$18 trillion](#). According to the United States Department of Labor in October 2015, there were [7.9 million Americans](#) out of work. This is not including the Americans who have stopped looking for work. Rather than spend billions on climate assistance

to developing nations, the U.S. could be working on other serious domestic issues to address unemployment and get the economy moving forward.

President Obama himself described the significant problems facing our nation's infrastructure, which is vital to the U.S. economy, in a [speech](#) on May 14, 2014, at the Tappan Zee Bridge in New York saying-

“We’ve got ports that aren’t ready for the next generation of cargo ships. We’ve got more than 100,000 bridges that are old enough to qualify for Medicare. We’ve got leaky pipes that lose billions of gallons of drinking water every single day, even as we’ve got a severe drought in much of the West. Nearly half our people don’t have access to transit at all. And I don’t have to tell you what some of our airports look like.”

Rather than spend billions of U.S. taxpayer dollars on climate assistance, it would make more sense to spend funds on addressing the very problems the president has spelled out.

Bypassing Congress: Eliminating the Voice of the American People



In Paris, the administration is planning to commit the United States to an international agreement that will dramatically impact the American economy while bypassing the United States Congress and the American people. Congress has not authorized the negotiations or agreed to support any agreement that comes from the Paris negotiations. The administration has expressed no need or intention to bring the deal before Congress. Any deal with the international community to lower global and U.S. emissions must come before the United States Senate for advice and consent in order to be legally binding and last longer than this administration.

The Obama administration has shown a repeated pattern of circumventing the approval of Congress and the American people on important issues facing our nation. President Obama declared that the Iran nuclear agreement was a [non-binding arrangement](#). Since the administration knew it couldn't get the Iran nuclear deal through Congress as a [treaty](#), the administration chose to pursue a non-binding agreement because it did not require congressional approval.

Now, President Obama's administration is calling the international climate agreement a "[politically binding](#)" deal instead of a treaty in order to avoid the constitutional requirement of advice and consent of the United States Senate. The United States Constitution grants the American people a say in these important agreements through their elected representatives and that right must be protected.

Eroding the United States Constitution's system of checks and balances – President Obama is attempting to cede the legislative powers of the Congress to a group of foreign diplomats attending an international conference. The framers of the Constitution established a process of making important agreements the law of the land that balances the powers of the legislative branch, executive branch and judicial branch. The Constitution requires the president to obtain the [advice and consent](#) of the Senate prior to a treaty becoming the law of our nation. In order to ratify a treaty, the Senate must approve a resolution of ratification by a two-thirds vote.

Just like the Kyoto Protocol and the United Nations Framework Convention on Climate Change (UNFCCC), any agreement that commits our nation to targets or timetables must go through the process established by the founders of our Constitution. During the Senate consideration of the UNFCCC, officials in the George H.W. Bush administration committed that any future agreement containing specific greenhouse gas emission targets and timetable would need to take the form of a treaty and be submitted to the Senate for advice and consent to ratification. In 1992, an administration official [explained](#)-

“Question. Will protocols to the convention be submitted to the Senate for its advice and consent?...”

Answer. With respect to protocols, given that a protocol could be adopted on any number of subjects, treatment of any given protocol would depend on its subject matter. However, we would expect that any protocol would be submitted to the Senate for its advice and consent...

Question. Would a protocol containing targets and timetables be submitted to the Senate?

Answer. If such a protocol were negotiated and adopted, and the United States wished to become a party, we would expect such a protocol to be submitted to the Senate.

Question. Will amendments to the convention be submitted to the Senate for its advice and consent?

Answer. We would expect amendments to be submitted to the Senate. However, should there be an amendment which we did not believe would require Senate advice and consent, we would consult with the Senate prior such a determination.”

A new agreement that contains specific targets or timetables for greenhouse gas emission reductions would impose new obligations on nations. Such an agreement would be required to take the form of a treaty, which must be ratified by the president with the advice and consent of the Senate. In 1992, the Senate Committee on Foreign Relations addressed this issue in its committee [report](#) on the UNFCCC stating-

“The committee notes that a decision by the Conference of the Parties to adopt targets and timetables would have to be submitted to the Senate for its advice and consent before the United States could deposit its instruments of ratification for such an agreement. The committee notes further that a decision by the executive branch to reinterpret the Convention to apply legally binding targets and timetables for reducing emissions of greenhouse gases to the United States would alter the ‘shared understanding’ of the Convention between the Senate and the executive branch and would therefore require the Senate’s advice and consent.”

Maneuvering and scheming to avoid Congress and the American people - As a way to avoid congressional advice and consent, the Obama administration claims that certain agreements do not rise to the level of a treaty. Secretary Kerry explained how the administration makes these decisions when he was asked at a Congressional hearing why the Iran nuclear deal was not considered a treaty. He [stated](#)-

“Well Congressman, I spent quite a few years ago trying to get a lot of treaties through the United States Senate. And frankly, it’s become physically impossible. That’s why. Because you can’t pass a treaty anymore...And I sat there leading the charge on the Disabilities Treaty which fell to, basically, ideology, and politics. So I think that’s the reason why.”

It is clear that the administration is using the same strategy on this agreement. At the climate change conference in Bonn, Germany, in June 2015, the French Foreign Minister Laurent Fabius explained that the Paris Protocol needed to be drafted in a way to avoid the approval of Congress. He [said](#)-

“We must find a formula which is valuable for everybody and valuable for the U.S. without going to the Congress.”

He also said-

“(W)e know the politics in the U.S. Whether we like it or not, if it comes to the Congress, they will refuse.”

Setting a dangerous precedent for future agreements - The Obama administration’s efforts to evade Congress sets a dangerous precedent for future agreements. During testimony before the Senate Committee on Environment and Public Works on July 8, 2015, Professor Jeremy Rabkin discussed the impact on future international agreements as a result of the administration’s attempt to cobble together authorities while bypassing Congress. He [testified](#)-

“Under the claim of extending a small number of specialized or exceptional precedents, it would establish a new precedent in which the general way we make international agreements would be fundamentally changed – not simply at the margin or on the edges of policy but on the largest and most complex international agreements we undertake.”

False Promises and Failed Leadership: The President's Plan Won't Work



In November 2014, President Obama [pledged](#) to reduce U.S. net greenhouse gases by 26 percent to 28 percent by 2025, based on the 2005 level. On March 31, 2015, President Obama [submitted](#) an Intended Nationally Determined Contribution (INDC) to the United Nations Framework Convention on Climate Change (UNFCCC) committing to a specific U.S. reduction. Upon review of the administration's INDC, a significant gap has emerged demonstrating that President Obama is unable to achieve his commitment.

The administration should not be making pledges and commitments to the international community that it is unable to keep. President Obama's false promises and failed leadership diminish the standing of the United States in the international community.

President Obama cannot meet his climate commitment - The administration [claims](#) that it will reach its INDC reductions and targets through current U.S. law without any action from Congress. White House Senior Advisor Brian Deese made this point during a White House press briefing on the U.S. INDC by stating-

“The structure is grounded in an assessment of the potential to reduce emissions through our obligation under existing laws — these are laws that have already been passed by Congress and therefore no new legislation is necessary to realize the reductions we propose.”

During a Senate Environment and Public Works committee hearing on July 8, 2015, experts [testified](#) that even under the best of circumstances it was unclear how the president could make good on his specific commitments to reduce greenhouse gas emissions. Former chief climate counsel of the Sierra Club, David Bookbinder, testified at the hearing about how the numbers do not add up, [explaining](#) in his written testimony that-

“Regrettably, the measures listed in the INDC do not appear to get us there; in fact, using what I believe are very generous assumptions, the U.S. will be at least 29% (and probably more) short of the 2025 goal.”

He also [testified](#) that-

“This is arithmetic, it is nothing but arithmetic. The INDC submission lists a series of regulatory measures and says we can get 26 percent from below 2005 by 2025. All I did was take a look at each of those measures, take the maximum amount of emissions reductions from each of those measures as described by the EPA or by the Department of Energy or to the best of my ability and my partners’ ability... We all say that these listed measures get us between 68,70,75 percent of what we need, depending on how you treat those numbers.”

Jeff Holmstead, former head of the U.S. Environmental Protection Agency (EPA) Office of Air and Radiation, also raised concerns about the ability to get to President Obama’s pledge. He [stated](#)-

“Despite requests from various outside observers, including a researcher from the Congressional Research Service, the Administration has refused to provide anything to disclose how it intends to meet its commitment –or even to show that a 26% reduction is plausible under existing law.”

The U.S. Chamber of Commerce [found](#) that the president’s INDC contains a 45 percent gap in achieving its commitment. It explained-

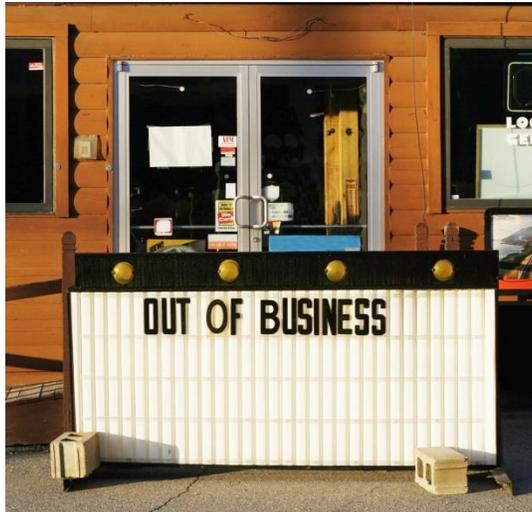
“Not only is this goal completely unrealistic, jeopardizing our energy advantage with potentially ruinous consequences for the economy and employment. The administration also has failed to tally how the programs mention, however briefly, in its INDC will achieve it. And little wonder, because once you crunch the numbers, it’s clear they don’t add up, leaving nearly one-third of the president’s total goal unexplained.”

“Even with these fairly generous estimates, these measures, which include some programs that haven’t even been announced yet, would fall about 800 MMTCO₂, or 45%, short of the president’s goal.”

Not legally binding on the next U.S. president, the United States, or the international community - With President Obama’s term ending in January 2017, the certainty about any commitment made by the United States in Paris will be very short term, as it can be terminated by the next president of the United States. A non-binding agreement completed without the approval of Congress and the American people does not provide any barrier for a future U.S. president to simply walk away from the agreement.

The same holds true for the other countries signing on to a non-binding, political agreement in Paris. If the agreement is deemed a non-binding political commitment, there is nothing requiring these countries to follow through on their financial or environmental commitments. They are under no legal requirements to follow through with their promises. In addition, there would be no enforcement measure to compel the United States or any other country to keep their commitments.

Undermining American Sovereignty: Threats to American Jobs, Industries and Communities



If President Obama agrees to a deal to limit U.S. emissions, it could lead to the creation of other international entities, such as an international climate court. These entities could be used by the international community to hold American businesses and communities accountable from how they heat their homes to what American products can be exported without penalty.

The American economy was built on affordable, reliable energy and many sectors of the U.S. economy emit large amounts of carbon that would now all be under threat. According to the [Environmental Protection Agency \(EPA\)](#), these sectors include the agricultural, energy, transportation, commercial and residential industries.

Subjecting the U.S. economy to foreign authority – The administration has not addressed the threat that a Paris climate accord could cause to the American economy by potentially relinquishing authority to international entities and tribunals.

Professor Jeremy Rabkin [testified](#) on July 8, 2015, before the Senate Environment and Public Works Committee that any agreement reached in Paris would not simply be a bilateral agreement, or a “gentlemen’s agreement,” such as the Atlantic Charter agreement between President Roosevelt and Prime Minister Winston Churchill. Instead, he states that such an agreement in Paris would likely include much more, including-

“(R)egularly scheduled public conferences of the nations subscribing to this agreement, along with various international administrative organs, established in the treaty, perhaps even a new, specialized international tribunal.”

Rabkin is not alone in this assessment. Chris Horner with the Competitive Enterprise Institute wrote a [column](#) in the *Washington Times* on March 8, 2015, titled “The Coming Climate Court: The proposed Paris agreement is another reach for global power.” In it, he highlights a key

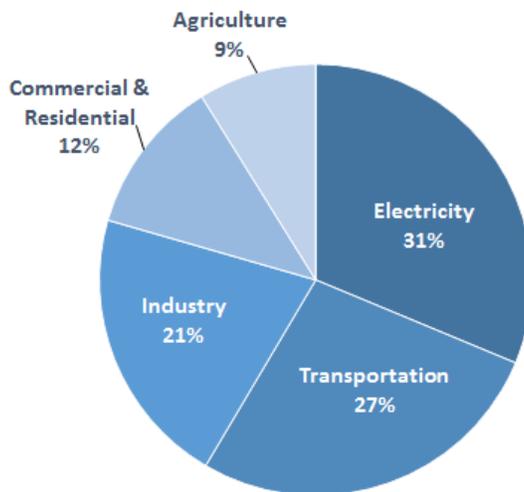
proposal included in the text of the negotiating document that will be debated and considered as part of the Paris conference. He states-

*“This text agreed to for negotiation by the federal government includes a remarkable proposal. Buried deep inside, it proposes an ‘**International Climate Justice Tribunal** in order to oversee, control and sanction the fulfilment [sic] of and compliance with the obligations of Annex I and Annex II Parties under this agreement and the [1992 UNFCCC climate treaty].’ Translated, this means that even if the Obama administration refuses to call the Paris agreement a treaty, as it already telegraphed its position: A new climate court would hold us to its terms — even the terms of a prior, ‘voluntary’ agreement.”*

American jobs under threat – The impact that a climate court or international climate tribunal could have on the U.S. economy would be profound. Rabkin alluded to the sweeping economic impacts this agreement might have when he [stated](#)-

“And the Paris Protocol will not just deal with troops stationed abroad or recognition of foreign governments – the traditional stuff of diplomacy – but with major aspects of energy production and transportation within the United States, engaging some of the most intrusive federal regulatory programs at home.”

According to the EPA, the top sectors of the U.S. economy in terms of greenhouse emissions (in 2013) are as follows:



The EPA has proposed - and the signers of the Kyoto Protocol have already adopted - climate restrictions on energy and car companies that burn fossil fuel. However, the international community has already adopted restrictions on other sources of emissions that may be on the table in Paris. For example, the European Union has gone after the airline industry with restrictions, and is intent on pushing the international community, including the U.S., to abide by such restrictions in the future. The European Union Commission website [states](#)-

“Aviation is one of the fastest-growing sources of greenhouse gas emissions. The European Union is taking action to reduce aviation emissions in Europe and working with the international community to develop measures with global reach.”

The question remains how many jobs could be lost in the aviation industry in the U.S. if it's subjected to an international climate tribunal and they imposed taxes on our exports? How would an international climate court treat U.S. ranchers who produce and export beef, especially when the U.N.'s then-top climate official, Dr. Rajendra Pachauri, [stated](#) in 2008-

“The UN Food and Agriculture Organization (FAO) has estimated that direct emissions from meat production account for about 18% of the world's total greenhouse gas emissions. So I want to highlight the fact that among options for mitigating climate change, changing diets is something one should consider.”

All U.S. industries and workers should be wary of how they would fare under such a Paris accord if this administration gives up American sovereignty to foreign diplomats.

Conclusion:

President Obama very much wants a climate agreement, and is willing to pay dearly to get it. Other countries know this, and will gladly vote for any deal that agrees to transfer money to them.

Congress has never authorized funding for the Green Climate Fund. While the executive branch and Congress both play an important role in the foreign policy of our nation, Congress ultimately holds the power of the purse.

President Obama and his negotiators in Paris need to be forthcoming with their counterparts representing developing nations about the views of [members of Congress](#). They should provide these nations with the full picture of where a co-equal U.S. branch of government stands on these issues.

The Obama administration also needs to be forthcoming about the unrealistic emissions targets they have proposed – and the legal challenges these regulations will face.

Congress should not allow any deal that undermines U.S. sovereignty or commits American taxpayer dollars to go to the Green Climate Fund until any international climate agreement is submitted to the Senate for its constitutional advice and consent.