

# Enormous Challenges, Enormous Rewards

## 10 PRECEPTS FOR U.S. CLIMATE POLICY

Daniel M. Bodansky

*Climate change is a key issue for Europeans and other U.S. allies, and it was discussed at the U.S.–E.U. summit in April. It will come up again at the G8 summit in July. These negotiations, which will lead to a new international framework to succeed the Kyoto Protocol, are currently scheduled to conclude at the December 2009 Conference of the Parties in Copenhagen. In addition, congressional action on climate legislation this year will have major implications for our foreign policy stance. The need for objective analysis of the various foreign policy options and priorities is great.*

*Daniel Bodansky, a professor of international law at the University of Georgia, has prepared a new paper for the U.S. Global Leadership Initiative of RFF's Climate Policy Program. He identifies fundamental precepts that should guide U.S. foreign policy, based on his 15 years of experience in the climate change process as a U.S. negotiator, academic observer, and adviser to international organizations and nongovernmental groups.*

**A** successful U.S. climate change policy promises enormous rewards. But achieving it will be an equally enormous challenge. International cooperation is essential. It will require fundamental changes in the ways that countries produce energy, transport people and products, grow food, and manufacture goods.

Many countries are still reluctant to act, and existing international institutions to organize and enforce cooperation remain weak. Breaking the international logjam on climate change is not going to be easy.

To guide U.S. climate policy as it evolves over the crucial coming months, I propose 10 fundamental precepts.

### 1 Seek Domestic Action First.



That means reversing past practice. When the United States negotiated the Kyoto Protocol in 1997, it lacked any meaningful domestic climate change policy. The unstated assumption was that the in-

ternational agreement would provide the impetus to domestic action—in retrospect, a fundamental miscalculation.

Effective American foreign policy depends on a strong domestic base. That is particularly true for an issue like climate change that is intertwined with virtually every aspect of domestic policy involving energy, transportation, and agriculture.

American leadership is also necessary to persuade developing countries to act. If U.S. domestic legislation were to offer a greater American effort in response to other countries' reciprocal actions, that would give the United States needed leverage in international negotiations.

### 2 Insist on Mitigation Commitments by all the Major Economies.



Perhaps the greatest failing of the Kyoto Protocol is that its emissions targets cover less than a third of global emissions of greenhouse gases. The United States refused to participate, and the Protocol excludes developing countries from any emissions limits. But under a business-as-usual scenario, developing countries would account for 80 percent of the growth in energy-related emissions over the next two decades.

Failure to achieve worldwide coverage of emissions restrictions would also create the potential for what's known as leakage. Activities that create emissions, like many kinds of manufacturing, would have an incentive to migrate from countries with emissions limits to those with none, undermining the effectiveness of commitments anywhere.

To some degree, developing countries have begun to recognize that they will need to take further action to address climate change. China, India, and South Africa have already put forward national plans. Of course, a new world climate agreement cannot reasonably expect developing countries to do as much as the developed. The UN Framework Convention on Climate Change (UNFCCC), the basic

legal instrument in this field, to which nearly every government in the world (including the United States) has agreed, establishes the principle that commitments should be differentiated according to states' responsibilities and capabilities. But that doesn't mean that developing countries are exempt from making any effort at all to constrain their emissions. They can be allowed different types of limits, such as targets indexed to a country's economic growth, or targets with longer timetables.

### **3 Establish a Long-Term Objective for Internal Planning Purposes, Without Seeking Agreement On It.**

For many negotiators, the starting point in developing a climate policy is to set a long-term goal, expressed either as a target concentration of greenhouse gases in the atmosphere or as an overall reduction. The European Union's climate policy, for example, aims to stabilize the global concentration of carbon dioxide at 450 parts per million (ppm), whereas the G-8 in 2008 adopted the goal of a 50 percent reduction in worldwide greenhouse gas emissions by 2050.

A long-term goal can be articulated in either of two ways: internally and informally as part of the policy planning process, or by a binding international agreement. The first makes more sense. The second would probably have higher costs than benefits. An internal goal would help organize and guide decisions. It would also provide a benchmark for success. In contrast, a binding international agreement on a goal, as apparently envisioned by the UNFCCC process, would be problematic. Developing countries resist the concept, fearing that it would limit their economic growth.

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### **4 Pursue a UNFCCC Deal Outside the UNFCCC Negotiating Process.**

Ever since the UN General Assembly decided in 1990 to begin work on the UNFCCC, the negotiations have been a UN process open to all its 192 members. That has provided legitimacy, but at the expense of complicating the negotiations and making agreement more difficult.

In fact, just 25 countries account for more than 80 percent of global greenhouse gas emissions. In developing American foreign policy on climate change, it is important to recognize that the UNFCCC process is bogged down in highly ritualized discussions that involve little real negotiation, and it includes countries with a strong interest in obstructing progress. Although the UNFCCC could play a useful role in exploring options and preparing the ground, it is almost inconceivable that it can produce the key political decisions necessary to move forward. A new climate agreement will require sustained involvement by top political leaders and will need to be negotiated informally before being taken to the UNFCCC's forum for formal adoption.

### **5 Support a Flexible, Multitrack Architecture that Allows a Variety of Mitigation Approaches.**

Kyoto's architecture has proved unduly narrow from a political perspective because it allows only a single type of commitment—that is, an economywide emissions target tied to historical emissions levels. States unwilling to accept a fixed target—because, for example, they fear it would put a straightjacket on their economic growth—are unable to make commitments along other lines.

The United States should seek a middle ground by supporting a multitrack approach, under which all major economies would agree to undertake commitments, but they need not all assume the same type of commitment. In addition to fixed Kyoto-style targets, the agreement might offer a wide variety of different tracks. One might be emissions targets tied to variables like a nation's gross domestic product. They could include safety valves that relax the target if the costs of compliance exceed a certain expectation. Instead of adopting emissions targets, countries could commit themselves to adopt specific policies such as carbon taxes, domestic cap-and-trade systems, efficiency standards, sustainable forestry laws, removal of energy subsidies, or funding for technology R&D.

If the United States were to decide on a target reduction of, say, 20 billion tons of carbon globally from 2010 to 2020, it could then develop a portfolio of foreign policy measures to achieve that goal.



**Pursue a Legally Binding Agreement, but Seek Congressional Buy-In First and Be Open to Nonbinding Approaches.**

A nonbinding agreement suffers from several significant disadvantages. It would reflect a diminished level of commitment, in turn sowing doubt about compliance. But legally binding agreements have liabilities of their own. In the United States, a treaty requires the approval of two-thirds of the Senate. That raises the real possibility that even a good treaty might fail to be ratified by the United States.

On balance, the United States should support a legally binding agreement to reduce emissions. But it should seek an agreement requiring approval through congressional action—that is, a majority in each house of Congress—rather than a treaty requiring two-thirds of the Senate. And it should seek as much buy-in from Congress as possible, perhaps through some type of fast-track authority like that used for trade agreements.



**Explore Opportunities for Progress Outside the UNFCCC.**

A tremendous variety of activities contribute to global warming, and there are many ways outside the UNFCCC negotiations to respond to the challenge. For example, the Montreal Protocol to protect the Earth's ozone layer governs the production of a class of chemicals that are also powerful contributors to warming. The parties to the Montreal Protocol decided last year to accelerate the phase-out of these chemicals and, by some estimates, their action will have a substantially bigger impact on the climate than the Kyoto Protocol's first commitment period, 2008 through 2012.

If the United States were to decide on a target reduction of, say, 20 billion tons of carbon globally from 2010 to 2020, it could then develop a portfolio of foreign policy measures to achieve that goal. It could include measures under the UNFCCC process, under the Mon-

treil Protocol, by the International Maritime Organization to address black carbon from ships, and by the International Civil Aviation Organization on aircraft emissions.

There will be opportunities for international cooperation on the development of the technologies needed to restrain or, conceivably, offset global warming. Geoengineering—the term refers to a variety of techniques to control warming either by reducing incoming solar radiation or removing carbon dioxide from the atmosphere—raises understandable concern about the potential for unintended consequences. But given the magnitude of the risks posed by global warming and the difficulties of reducing emissions, geoengineering could ultimately prove necessary, particularly as a means of buying time.



**Vigorously Support Adaptation Efforts.**

Adaptation measures include planning exercises to develop risk-reduction strategies, capacity-building efforts, and financial assistance for adaptation projects. Several arguments support increased assistance by the United States. It is the right thing to do morally, given its historical contribution to global warming. It would garner good-will among developing countries and facilitate discussions of

mitigation. And it would reduce the risk that poor, vulnerable countries might collapse in the face of climate change, producing environmental refugees and regional insecurity. The United States should, in particular, develop a comprehensive strategy to address the adaptation needs of developing countries.

## 9 Use Financial Support as an Incentive for Action and Commitment from Developing Countries.

Although the climate change regime has prompted the creation of a number of funds to help developing countries, the total has been small, in the low billions of dollars, relative to the threat. The United States and other developed countries could reduce emissions at much lower cost by financing projects in developing countries rather than at home.

The Kyoto Protocol's Clean Development Mechanism (CDM) seeks to encourage emissions reductions by granting credits on a project-by-project basis. But its effectiveness has been limited by the high transaction costs of documenting reductions. The United States should support expanding the CDM to allow crediting reductions on a sectoral basis or as a result of general policies, such as energy efficiency standards. Credit should also be given for reductions in emissions from deforestation and degradation.

Although the Kyoto Protocol's compliance system is generally considered one of the strongest to date in international environmental law, it depends on the assumption that countries will feel sufficient international and domestic pressure to meet their targets.

## 10 Keep Trade Measures on the Table to Promote Participation and Compliance.

Given the public goods character of climate change mitigation, countries have a significant incentive to seek a free ride on the efforts of others. Although the Kyoto Protocol's compliance system is generally considered one of the strongest to date in international environmental law, it depends on the assumption that countries will feel sufficient international and domestic pressure to meet their targets. Whether that assumption is correct remains an open question.

Trade-based approaches constitute a credible and effective tool to encourage countries to join the regime and to promote compliance with it. Levying a fee on imports from countries that fail to comply, based on the carbon dioxide emitted to produce the goods, would protect domestic firms from unfair competition.

Even raising the threat of trade measures is not without risk. It could create a contentious negotiating dynamic and help legitimize the possible use of trade measures against the United States. But given the stakes involved in climate change policy and the lack of strong alternatives to promote participation and compliance, the advantages of having the trade option on the table outweigh those risks.

These ten precepts do not address all the questions confronting policymakers. But they provide a firm base from which American negotiators can begin. Negotiators will have to navigate between two competing positions. On one side, developing countries, notably China and India, are reluctant to accept commitments to cut their own emissions. And on the other, the European Union is pressing all developed countries for sharp cuts that go well beyond the domestic consensus in the United States.

Meeting the climate change challenge will require a full-court press, not just action under the UNFCCC. And it will require not only the application of existing models, such as fixed emissions targets and trading, but the development of creative alternatives. ■

This article is adapted from an issue brief by the author, "Climate Change: Top 10 Precepts for U.S. Foreign Policy," RFF Climate Policy Program, RFF 18-09-01, January 2009.

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