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Governing the global climate commons: The political economy of state and local action, after the U.S. flip-flop on the Paris Agreement

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ABSTRACT

United States withdrawal from the Paris Agreement, which follows well-known principles of common pool resource management, poses a serious challenge, but it could provide a golden opportunity to cement and advance the efficacy and legitimacy of the Agreement. The Agreement encourages subnational units to participate in a polycentric, multistakeholder governance structure. As many as two dozen states have policies that could put them in compliance. These states represents over 40% of U.S. emissions, making them the 4th or 5th largest emitter. Subnational compliance would give the Agreement a major boost particularly if they seek observer status and are exempted from sanction. Even without such rewards, the states have strong reasons to follow this path. As non-fossil fuel producing states, they have clear interests in developing local resources as the basis for their electricity sector. As a large group, they gain economies of scale and network effects. As part of the American Federalist system, they would be defending their right of independent action. At COP 23, the U.S. subnational entities played a prominent role and the treaty participants reacted strongly against the Trump administration position, while embracing the activities of U.S. subnational entities. The U.S. presence was limited and isolated.

1. Introduction

After months of agonizing, frequently in very public debates between members of the administration, President Trump declared his intention to withdraw the U.S. from the Paris Agreement.[1] The definitiveness of the decision was always clouded by the fact that the actual withdrawal could not take place for three years, so the U.S. could still participate in events, and hints that the administration might reconsider, if the U.S. got a better deal.

The reaction of the signatories to the Agreement was more decisive. There were strong and broad statements that supporters were unshaken in their resolve. In the U.S. units of local government (individual states and cities) affirmed their commitment to the goals of the agreement. California, which has the sixth largest economy in the world, seized the mantle of U.S. leadership in supporting the agreement.[2] Many U.S. corporations also affirmed their commitment to the goals.[3]

This paper analyzes the policy actions and debates that developed both in the U.S. and globally around the decision of the Trump Administration to withdraw U.S. participation in the Agreement.[4] This debate raised issue that touch key elements of the structure of the Agreement. First, it highlights the tension between national and local energy policy authority – under both American federalism and the subsidiarity principles of the Paris Agreement that encourage action by subnational entities. Second, it describes how these governance conflicts play out in the context of the unique institutional and governance structure of the Agreement. Third, it examines the underlying economic forces that drive groups of U.S. states and other subnational entities in opposite directions (potentially compliant v. non-compliant), which underscores the dramatically different economic interests that motivate policy choices.

The paper focuses on the actions leading up to the decision to withdraw to stress the underlying fundamentals at play. We also point out that the immediate actions after the decision to withdraw are consistent with those prior dispositions. For the purposes of the

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[1] Trump (2017).

[2] Resistance was instantaneous, with California in the lead, Leslie (2017); Davies (2017); Davenport and Nagourney (2017); Meyer (2017); Reilly (2017c); local governments were represented too, Wattles (2017); Graeber, 2017; Kahn, 2017; Plumer, 2017; Renews, 2017.

[3] America's Pledge (2017), claims almost 1400 corporations (C2ES; Cusick, 2017a; Fairley, 2017; Hirji, 2017a; Hulac, 2017b; Reilly, Sean, 2017c).

[4] Cooper (2017), framed the challenge of transforming the electricity sector as requiring policy to pass through the horns of a global dilemma – development with decarbonization. The structure of the Paris Agreement was explained as a response to this dilemma. This paper elaborates on the development of a new challenge, the Trump administration's refusal to accept decarbonization as a problem to be solved and withdrawal from the Agreement (Friedman, 2017d; Joselow, Maxine, 2017b; Smith-Schoenwalder, 2017).

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analysis, we consider the initial reaction to fall in the period from the announcement of the intention to withdraw until the first meeting of the parties after the announcement. Therefore, the entire period analyzed covers a little over a year with three subperiods of intense activity – the lobbying to influence the Administration's decision (election day until June 2017), the announcement of the decision itself (early June 2017), and the meeting at which the U.S. was "on the way out" (November 2017). We focus on the first two subperiods to build a map of the political economy of the decision, then asses the actions in the third period as a reflection of the underlying political economy. The paper focuses on three sets of actors who will deeply affect the early phase of the development of the Agreement – the U.S. Federal level, the parties to the Agreement, and the U.S. subnational entities that are supporting the agreement.

Explaining and predicting actions of key players does not, however, predict an outcome. On the contrary, with complex and powerful forces pushing and pulling the implementation of the Agreement in different directions, even challenging its very existence, the outcome is uncertain. This paper argues that, ironically, an unintended consequence of the U.S. withdrawal could be to strengthen the Agreement.

The paper is divided into four parts. The first section outlines the contemporary debate and tension between two horns of the dilemma the Trump administration faced – participation vs. federalism.

Section 2 describes climate change as a common pool resource problem and discusses how the Paris Agreement is a response to this unique challenge. It also briefly describes how the analysis of the digital revolution can be applied to the electricity sector to support the conclusion that the Paris Agreement can be, and is, perhaps, the only, effective institutional response to climate change.

Section 3 shows why American Federalism may play a key role that reinforces the Agreement, even after the U.S. decision to formally withdraw from the Agreement because the subnational entities have strong economic interest and a significant amount of political independence to act on those interests.

The paper concludes in Section 4 with a brief discussion of the policy options for each of the main actors and the direction of policy development. Having taken the position that the U.S. withdrawal could have the ironically positive, unintended consequence of strengthening the Agreement, I evaluate the options/likely actions of the parties from the point of view of seizing on the moment to promote the success of the Agreement.

2. Trumps' climate change dilemma

2.1. The Paris Agreement

Over the first half year of the Trump administration, arguably the most public, long running policy soap opera was the decision of whether to withdraw from the Paris Agreement or not.[5] Individual members of the cabinet had taken public positions on opposing sides.[6] The President's closest advisers were severely divided.[7] White House staff meetings were cancelled and rescheduled, but ultimately failed to resolve the issue.[8] The Administration was being lobbied to participate and comply by advanced industrial nations[9] and corporations,[10] while conservative think tanks were pushing it towards withdrawal.[11] One of the central points of debate raised by the advocates of participation was the loss of America's international leadership role combined with the questioning of the willingness and ability of other nations to fill the void.[12]

With policies to promote the production of fossil fuels already implemented[13] and the primary policy to reduce carbon emissions from existing electricity generation facilities (i.e. the Clean Power Plan) a high visibility target for weakening or abandonment,[14] it was clear that the U.S. would have great difficulty complying with the Agreement. The decision not to fund the U.S. commitment to the United Nation's Green Climate Fund was a clear indication of the Trump administration's unwillingness to actively participate in the global effort to combat climate change.[15] Therefore, a strategy of participating in order to lower the targets and reallocate the burdens was floated.[16]

This not only magnified the divisions within the Administration,[17] it also quickly elicited a vigorous response from officials closely associated with the Agreement and nations that intended to comply.[18] They rejected that idea.[19] The rationale that the U.S. had been treated unfairly in the treaty was also contested.[20] One important issue that plays a key role is the very different understanding that the Parties have of how the process is intended to operate.[21] Some advocates in the U.S. debate argued incorrectly, as discussed below, that the Agreement was meaningless since it was voluntary and could not be enforced.[22]

2.2. American federalism

The 'toing-and-froing' on participation interacted with a second

[5] Hess (2017a, 2017j), Cushman and Lavelle (2017), Chemnick and Lehman (2017b); the hand wringing became so profound and public that Chemnick and Evans (2017a), likened Trump's indecision on participation to Hamlet. While others fretted about participation being put on and taken off the table (Chemnick, 2017c). This is not to suggest that there were not other issues that involved very loud division. However, they were much more external –between the Administration and the Congress, the Courts, the Republicans and the Democrats (Battelle, 2017a; Bowlin, 2017; Colman, 2017; Davenport, 2017; Koss, 2017; Lavelle, 2017b; Loris and Schaefer, 2017; Mooney and Eilperin, 2017; Mooney et al., 2017).

[6] The State Department favored participation including Tillerson and his No. 2, as well as the head of USAID (Banerjee et al., 2017, Hess, 2017k, Chemnick, 2017k). Perry, at Energy (Irfan, 2017, Walton, 2017) favored participation, while the defense/intelligence community saw climate change as a threat including Coates in intelligence (Mintz, 2017). Pruitt, at Environment (Heikkinen, 2017a) was opposed (Waldman, 2017).

[7] Kushner, Ivanka in favor Bannon and Ebell opposed (Chemnick, 2017j, Lehmann, 2017a, 2017b; Chemnick, 2017n).

[8] Chemnick and Evan (2017a), Hess (2017i).

[9] Germany (Battelle, 2017b), France (Balaraman, 2017c), the UK (Balaraman, 2017a) and Nordic Nations (Hobson, 2017) in the unique context of the Arctic nations (Hess, 2017k; Volcovici, 2017).

[10] Those pushing for participation and compliance included large money managers (Casey, 2017) and corporations (Chemnick, 2017a, 2017g; Lehmann, 2017b; Hirji, 2017b; Hess, 2017e).

[11] American Energy Alliance (2017); Horner and Lewis (2017), Hess (2017b).

[12] China was the leading contender by far (Battelle, 2017c) and Moody's (2017) pointed out that the three largest emitters (China, the EU, and India) had all reaffirmed their commitment to the Agreement (Lavelle, 2017c) and taken shots at the shift in American policy (Balaraman, 2017f; Chemnick, 2017f, 2017m). The potential costs to the U.S. covered a range of issues from loss of diplomatic leadership (Hess, 2017a, 2017g, Ifran, 2017; to jobs, (Reuters, 2017b)) to renewable technology (Ferris, 2017; Chemnick, 2017e; Hulac, 2017a; Selin and Najam, 2016; Sengupta, 2017).

[13] Hafstead (2017), concluded that Obama policies were likely to fall short by a small margin under a best-case scenario, while Trump's would miss by a wide margin.

[14] The most strident strategy involved reversing the endangerment finding Hess (2017a); American Energy Alliance (2017); Artz, 2017; Reilly, Sean, 2017c; Trauzzi, 2017; Wamsted, 2017.

[15] Hess (2017d); Friedman (2017b).

[16] Horner and Lewis (2017). A letter from a "major American coal company" outlined the concessions the U.S. should seek for participation including changing the rules at international financial institutions to fund coal projects, a major focus of the Green Climate Fund on cutting-edge coal technologies, renegotiating the nationally determined contribution (NDC), which was deemed to be "de facto done anyway," with the executive order killing the power rule." (Chemnick, 2017l) Domestic policy would amend the Clear Air Act to give time for carbon capture technology to develop, with increased funding subsidies and incentives for coal. Similar demands had been made by Trump advisors (Hess, 2017l).

[17] Chemnick (2017a).

[18] Irfan (2017); Walton (2017a, 2017b); Chemnick and Lehman (2017a); Balaraman (2017d, 2017e, 2017g, 2017i); Battelle, 2017d; Chemnick, 2017h; Doughy, 2017; Reuters, 2017a.

[19] Chemnick (2017a), Cushman and Lavelle (2017); Lehmann (2017a), Hess (2017f), Chemnick, 2017d.

[20] Chemnick and Lehman, 2017b; Irfan, 2017; Walton, 2017a, 2017b.

[21] Irfan, 2017; Chemnick and Lehman, 2017b.

[22] Cushman and Lavelle (2017); Hess, 2017f; Balaraman (2017b); Chemnick and Lehman (2017b).

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