



PISM | POLSKI INSTYTUT SPRAW MIĘDZYNARODOWYCH
THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

BULLETIN

No. 13 (953), 6 February 2017 © PISM

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Possible Course of U.S. Climate Policy under President Trump

Aleksandra Gawlikowska-Fyk, Marek Wąsiński

During his election campaign, Donald Trump announced a break with the policy of reducing greenhouse gas emissions, which in his view adversely affects business in the United States. Among his stated aims were taking the U.S. out of the Paris Agreement, cutting off financing for climate protection in developing countries, and repealing federal regulations aimed at reducing emissions and the use of fossil fuels. The limitation of actions related to climate protection in the U.S. seems to be a foregone conclusion, but the global consequences will depend on the specific decisions of the new administration.

Of the many announcements Trump made during his election campaign, those most likely to transpire seemed to be those relating to withdrawal from the Paris Agreement and federal carbon emissions regulations. In the first weeks after his election victory, the then president-elect sent ambiguous signals. On the one hand, he softened his tone, announcing that he would "look at" the Paris deal. At the same time, the then Secretary of State nominee Rex Tillerson (who has since been confirmed in the post) said he was in favour of continued U.S. participation in global climate negotiations. Later, however, Scott Pruitt was nominated as head of the Environment Protection Agency (EPA), and Rick Perry for Energy Secretary. These people openly question the impact of human activity on climate change. The nominations confirmed the tendency to negate or at least reduce the importance of climate issues in order to gain advantages for U.S. companies, especially oil and energy majors. Their representative is Tillerson, who, until 2016, was chief executive of Exxon Mobil.

Legal Options for the U.S. to Withdraw from the Paris Agreement. Negotiated in 2015, the Paris climate accord entered into force on 4 November 2016.¹ All 195 countries pledged to limit greenhouse gas emissions, and the U.S. declared that it would reduce them by 26–28% by 2025, compared to 2005. The Paris Agreement (art. 28) provides for withdrawal by any party that gives notice of such intent, no sooner than three years after it entered into force, and states that withdrawal shall be effective one year after such notice is given. This means that the U.S. may submit such a notification no earlier than November 2019, and actually leave the Paris Agreement in November 2020. Alternatively, Trump can opt for termination of the United Nations Framework Convention on Climate Change (UNFCCC), which automatically entails pulling out from the Paris accord. Such a procedure would take one year, and if Donald Trump makes such a move in 2017, the U.S. would cease to be a party to both in 2018. However, it is unclear whether the withdrawal of the U.S. from the UNFCCC would require qualified approval from two thirds of the Senate, which could significantly reduce Trump's freedom of action. In order to avoid confrontation with the Senate, and because the Paris commitments are not legally binding, there is a third option. The President may, refraining from the formal exit from international agreements, limit actions to reduce emissions at the federal level, which would result in a failure to deliver on declared commitments.

Cancellation of Funding for Climate Protection. Implementation of the Paris Agreement is delivered not only by domestic emissions reductions, but also, in the case of rich countries, by financial support for climate protection in developing countries (through UN mechanisms). According to a State Department report, the U.S. allocated more than

¹ M. Wąsiński, "The Historic Paris Climate Agreement and Its Significance for Poland and the EU," *PISM Bulletin*, no. 115 (847), 15 December 2015.

\$15 billion for this purpose from 2010 to 2015. In 2014, Barack Obama declared support for the Green Climate Fund, with \$3 billion. Because of the resistance of the Republican Party, the first payment of \$500 million only became due in March 2016, and the second, for the same amount, in January 2017. Trump will probably fail to deposit the remaining \$2 billion, since the cancellation of U.S. payments to UN climate change programmes was included in his *Contract with the American Voter*. This may discourage the intended recipients from implementing the Paris Agreement.

Repeal of Federal Regulations. The actions of the Trump Administration at the national level will have an impact on the pace and scale of emissions reductions, and hence on the implementation of the commitments adopted in the Paris Agreement. So far, the U.S. has failed to adopt federal legislation in this area. Therefore, the main role is played by the EPA, which, on the basis of a Supreme Court judgment of 2007, gained the right to regulate CO₂ emissions as harmful to public health or welfare. The most important carbon emissions regulation is the Clean Power Plan, issued by the EPA during Obama's tenure in 2015. It aims to reduce emissions from the power sector by 32% by 2030, compared to 2005. Key provisions of the plan are to establish CO₂ state-level goals, the introduction of emission standards for power plants, and the promotion of renewable energy sources. In 2015, 27 states challenged the Clean Power Plan in the Court of Appeal for the District of Columbia, on the grounds that it goes beyond the powers of the federal agency. As a result, the Supreme Court suspended the regulation in February 2016. Senate approval of a new judge just nominated by Trump will give the Republican Party, sceptical towards federal regulations on climate, an advantage in the Supreme Court. Irrespective of the above, the new administration can soften or reject the Clean Power Plan. As part of the marginalisation of EPA's activity, Republicans, who have a majority in both houses, may seek to prohibit the introduction of any new regulations on CO₂ emissions. They can also adopt a law giving Congress the right to object to or approve regulations of particular economic significance. Republicans also announced that the EPA's staff and budget would be cut, which is probably a reflection of Trump's announcement that he would reduce environmental legislation at the federal level in favour of actions taken by individual states.

Trump also announced the easing of regulations on the extraction of energy resources. During Obama's term, the provisions relating to the extraction of hydrocarbons from unconventional sources were strengthened (including the introduction of requirements for publishing information on the composition of chemicals used in hydraulic fracturing and reduced methane emissions in mining and transport), as were those relating to offshore deposits (moratoria on production in the near-Arctic waters, and on a substantial part of the Atlantic and Pacific coasts). Trump announced the withdrawal of at least part of these regulations. He also intends to make all land and federal waters available for commercial extraction of raw materials (previously, approximately half were excluded from the lease), and wants to end the "war on coal" (allowing the leasing of federal lands for new mines, and reducing environmental restrictions). On 24 January, he resumed two environmentally controversial projects: the Keystone XL oil pipeline and Dakota Access.

Conclusions. The direction of U.S. climate policy under Trump remains unclear. Although the radical step of the U.S. withdrawing from the Paris Agreement cannot be completely ruled out, it is more likely that the Trump Administration will simply ignore it. The voluntary nature of national contributions under the accord means that the limitation of actions aimed at climate protection will have a similar effect as a formal withdrawal.

The new administration's activities in the area of climate policy will aim to optimise the business environment in the U.S. and make life easier for fuel and energy companies. Despite this, it seems that Trump will try to distinguish himself from climate-friendly Democrats, and from climate-leery Republicans. He does not recognise climate policy as strategically important, treating it more as ideology, but will not block actions taken at the state level associated with the reduction of emissions and the development of low-carbon technologies. That is why local authorities will play an important role in the long-term policy of reducing emissions, as already visible with the example of Texas. Some of them will, in the event of relaxed federal environmental regulations, will replace them with their own. A departure from prohibitions and environmental standards may be accompanied by maintained or even increased incentives for investment in low-carbon technologies (such as clean coal, or tax credits for wind and photovoltaic power).

If the U.S. openly steps back from actions to protect the climate, it could have a twofold effect on global emission reductions. On the one hand, it will hinder the implementation of the Paris Agreement, undermining the joint effort (since the U.S. is the world's second largest emitter of greenhouse gases) and complicating discussions on future decisions (such as the expected ambitious reviews of national commitments). If the U.S. reduces funding for developing countries, this will adversely affect the commitment from less determined and less wealthy nations. On the other hand, it is unlikely that other major emitters will follow the United States, especially in the European Union, where the chances for softening climate regulations are negligible. What's more, it could possibly even provoke the introduction of mechanisms for raising the cost of goods produced without charges for CO₂ emissions (such as Border Tax Adjustment), already voiced by Canada.