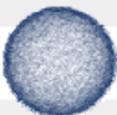


# S U M M A R Y

## THE US POSITION ON

## CLIMATE CHANGE

## LEADING UP TO

C  P 1 5

## Executive Summary

Despite the fact that the USA will attend COP15 in Copenhagen without signed domestic legislation, President Obama and the US delegation have diverged from the previous US policy position regarding the international climate change negotiations and have promised emissions reductions, as long as certain conditions are met. The USA has specific expectations of the international community – particularly, developing nations – that must be met in order for the USA to consider signing an international climate treaty. Although ratification of an international treaty and federal legislation will have to wait until after COP15, US states and cities are taking measures into their own hands by establishing emissions reduction expectations, implementing new green infrastructure and urban planning initiatives, as well as introducing a preliminary cap and trade system.

## About the Author

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## Content

<b>Movement of US Climate Policy through the Federal Process</b>	<b>P3</b>
<b>International Process and US Negotiations in Copenhagen</b>	<b>P5</b>
<b>Intra-USA Environmental Policy</b>	<b>P6</b>
<b>The National Sentiment – some selected quotes</b>	<b>P7</b>

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# 1

## Movement of US Climate Policy through the Federal Process

### US Legislative Process

The US political process requires that several conditions be met in order to successfully enact legislation. Because climate change legislation steers the US in a bold new direction – with far-reaching economic, political and structural implications – the US legislative process will assume a greater role of importance and, consequently, could prove to be more cumbersome and time-consuming than usual as a heightened sense of scrutiny will dictate congressional review of US climate policy.

### House, Senate, and President

The political process requires that both chambers of the US Congress – the House of Representatives and the Senate – agree on legislation, with the President providing final approval.<sup>1</sup> The fact that the President's own party – the Democratic Party – holds the majority in both chambers does not automatically ensure the smooth passage of legislation desired by the President.

### The President's position

The White House issued a statement announcing that President Obama will travel to Copenhagen on 9 December to participate in COP15. The statement, which was released on 25 November, confirmed that the President will go to Copenhagen with a proposed US emissions reduction target in the range of 17 per cent below 2005 levels in 2020, provided that the overall international deal includes 'robust mitigation contributions from China and the other emerging economies', and is 'ultimately in line with final US energy and climate legislation'.<sup>2</sup>

### Three contingencies

Although the President has offered a commitment to reduce US emissions, certain contingencies must be met, namely:

- (a) Emerging economies such as China must commit to what the US considers to be suitable emissions targets;
- (b) A robust verification system must be used to verify that countries are in fact complying with their commitments; and
- (c) The finalized emissions reductions commitment will reflect ratified US energy and climate legislation.

The international community must also agree upon a framework with which to support developing countries as they work to combat climate change, and this framework must meet US expectations.

### Passage through

Draft legislation called the *American Clean Energy and Security Act* was

- 1 As this paper went to press, the US EPA ruled that greenhouse gases endanger human health, potentially allowing the Obama administration to regulate them without legislation from the Senate. A White House spokesman said President Obama still preferred legislation, rather than regulation: RTHK Online News (8 December 2009) 'US moves to regulate greenhouse gases', <http://www.rthk.org.hk/rthk/news/englishnews/news.htm?highlight&20091208&56&632190>
- 2 White House Press Release (25 November 2009), *President to Attend Copenhagen Climate Talks*, <http://www.whitehouse.gov/the-press-office/president-attend-copenhagen-climate-talks>, accessed 26 November 2009.

**the House**

passed by the House of Representatives on 26 June 2009 and the Senate version is currently working its way through the Senate. Assuming it is approved in the Senate, the two chambers will then agree on a common piece of legislation to present to the President.

**Political Hurdles in the Senate**

The US Senate has raised two concerns regarding passage of legislation, as the Kerry-Boxer bill (the Senate version of the *American Clean Energy and Security Act*) currently stands. One pertains to the financial costs of the bill while the other involves the re-evaluation of the scientific theories of climate change.

**Financial costs**

The insistence by members of the Republican Party on a thorough review of the economic effects of the bill by the US Environmental Protection Agency (EPA) accounts for much of the opposition to the legislation.<sup>3</sup> The economic impact of climate legislation underscores the ongoing debate regarding assumptions and statistics relied upon by the House's bill and the accuracy of those assumptions. Democrats insist that modification of the assumptions used by the EPA in the House bill will prove to have minimal economic impact. But Republicans challenge that modification of the assumptions would prove significant, especially in terms of legislative costs:

'[Republicans] want the EPA to retread its economic modeling using assumptions that they think are more realistic. The likely result would be that the cost of the bill would shoot up'.<sup>4</sup>

**Arguments on the science**

There is a smaller minority that disputes the validity of the scientific theories that suggest climate change is, in part, attributable to human actions – and whether the sharp increase in warming of the earth can be mitigated by climate policies such as emissions reduction targets.<sup>5</sup> Some members of Congress fervently argue against passage of legislation because of the lack of consensus among the scientific community (e.g. Senators Inhofe and Hatch, and Representative Barton) while others have only aligned themselves with this claim in order to justify their unwillingness to move the legislation towards ratification because of other considerations (e.g. Senator Barrasso).<sup>6</sup>

**Delaying the legislative process**

As is common during the process of passing legislation in the US, opponents to legislation will often look for procedural loopholes that, if utilized, impede Congress' ability to pass legislation and even stall a bill for an indefinite period of time. Although it goes without saying that the democratic system and US political process require such opportunity for dissension and debate, such tactics are often times utilized for the purpose of avoiding debate entirely, which can prove to be counterproductive and destructive. Both issues of contention – re-evaluation of financial costs of the bill and scientific hypotheses relating to climate change – are topics of discussion which can be used in order to prolong (or even avoid) debate and ratification of the bill.

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3 Garber, K. (11 November 2009) 'Climate Change Bill's Murky Battleground: Assumptions and Statistics', US News and World Report <http://www.usnews.com/articles/news/energy/2009/11/11/climate-change-bills-murky-battleground-assumptions-and-statistics.html>, accessed 26 November 2009.

4 Garber, 2009, above.

5 US Senate Minority Report (11 December 2008, updated 16 March 2009), 'More Than 700 International Scientists Dissent Over Man-Made Global Warming Claims', [http://epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord\\_id=d6d95751-802a-23ad-4496-7ec7e1641f2f&Region\\_id=&Issue\\_id=.](http://epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=d6d95751-802a-23ad-4496-7ec7e1641f2f&Region_id=&Issue_id=.), accessed 26 November 2009.

6 Vaughan, E. (17 November 2009) 'Climate Change Bill's Five Biggest Opponents', *NationalJournal.com* [http://www.nationaljournal.com/njonline/no\\_20091117\\_1825.php](http://www.nationaljournal.com/njonline/no_20091117_1825.php), accessed 26 November 2009.

### Likely timetable

Despite Republican opposition to voting on legislation because of questions arising from the bill's scientific theory, assumptions and statistics, two committees – the Environment and Public Works, and Energy and Natural Resources – have passed versions of the bill while other committees are set to take up the legislation.<sup>7</sup> Some commentators predict that legislation could be finalized after the Copenhagen meeting, with final ratification occurring near Christmas, at the earliest. However, it is more likely that debate on the bill will spill over into the spring session, 2010, with passage occurring sometime thereafter.

## 2

## International Process and US Negotiations in Copenhagen

### USA – a signatory to a binding agreement?

Within the context of international climate negotiations, it seems that the USA will become a signatory to a binding international agreement only with the express consent provided by ratified US legislation, and as long as the pre-conditions set forth by President Obama are met (see above).

However, it is important to note that the 17 per cent reduction target announced by President Obama is consistent with legislation that was passed in the US House of Representatives in June 2009 and now awaits debate by the US Senate. If this measure is passed and signed into law, it would increase the likelihood that the USA will become a signatory of a binding international climate agreement.

### US expectations of developing economies

However, the notion that developing countries will seek binding pollution targets from developed countries and reject similar requirements for themselves presents a challenge for the US contingent.<sup>8</sup> In President Obama's statement concerning US willingness to become a signatory of any international agreement, he (as well as Congress) expects developing nations such as China, India and Brazil to agree to a meaningful commitment to reduce emissions. It remains to be seen what specifically the US will consider 'meaningful', and how they will react if such a commitment is not made. It is fair to assume that if Congress passes legislation similar in nature to the bill already passed by the House, *and* developing nations deliver credible emissions reduction pledges of their own, the USA should be prepared to ratify an internationally binding agreement on climate change.<sup>9</sup> But anything short of that, according to the USA, could serve as a severe hindrance to it becoming a signatory to any international climate agreement.

7 Jerichow, R. (11 November 2009) 'Ban Ki-moon: US Senate Framework Would Be a "Sign of Commitment"', *Associated Press* <http://en.cop15.dk/news/view+news?newsid=2568>, accessed 26 November 2009.

8 von Bülow, M. (26 November 2009) 'China: Rich Nations Must Cap Pollution Emissions', *Associated Press* <http://en.cop15.dk/news/view+news?newsid=2710>; von Bülow, M. (30 November 2009) 'Indian Climate Envoy: No Emission Cuts', *Associated Press* <http://en.cop15.dk/news/view+news?newsid=2739>; Wong, E. and Bradsher, K. (26 November 2009) 'China Joins US in Pledge of Hard Targets on Emissions', *The New York Times* [http://www.nytimes.com/2009/11/27/science/earth/27climate.html?\\_r=1&th&emc=th](http://www.nytimes.com/2009/11/27/science/earth/27climate.html?_r=1&th&emc=th), all accessed 3 December 2009.

9 Broder, J. (25 November 2009) 'Obama to Go to Copenhagen With Emissions Target', *The New York Times* <http://www.nytimes.com/2009/11/26/us/politics/26climate.html?hp>, accessed 26 November 2009.

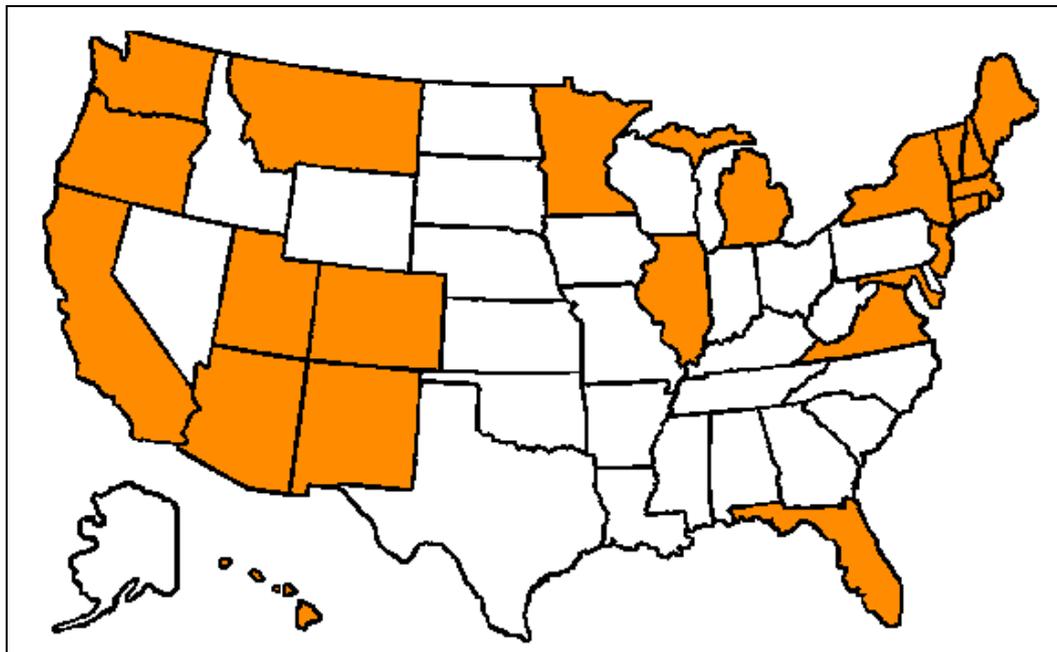
# 3

## Intra-USA Environmental Policy

### State vs. National policy

The US political process encourages state action independently of federal legislation and mandates, and the climate debate is a primary example of states and localities leading the federal government in this context. Several US states and cities have taken steps towards ratifying climate legislation, including committing to emissions targets, independently of a federal bill or mandate (see Figure 1 and Table 1).

**Figure 1:**  
US States with greenhouse gas emissions targets  
Source: Pew Centre<sup>10</sup>



### California

California, as just one example, has taken a large step towards emissions reductions by agreeing, in principle, to a broad-based cap and trade system to help curb emissions.<sup>11</sup> With Executive Order S-3-05, which established statewide greenhouse gas emission reduction targets of 2000 levels by 2010, 1990 levels by 2020, and 80 per cent below 1990 levels by 2050, and the ratification of the Global Warming Solutions Act, AB 32, California is the first state in the country to mandate an economy-wide emissions cap that includes enforceable penalties. The significance of California's position cannot be underestimated. California's economy is the largest of any state in the USA<sup>12</sup> and before the economic downturn of 2008/2009 was ranked in the top ten economies of the world.<sup>13</sup>

- 10 Pew Center on Global Climate Change (9 September 2009) *Greenhouse Gas Emissions Targets*, [http://www.pewclimate.org/what\\_s\\_being\\_done/in\\_the\\_states/emissionstargets\\_map.cfm](http://www.pewclimate.org/what_s_being_done/in_the_states/emissionstargets_map.cfm)
- 11 Broder, J. (24 November 2009) 'California Takes Step to Limit Emissions', *The New York Times* [http://www.nytimes.com/2009/11/25/science/earth/25climate.html?\\_r=1&th&emc=th](http://www.nytimes.com/2009/11/25/science/earth/25climate.html?_r=1&th&emc=th), accessed 26 November 2009.
- 12 Bureau of Economic Analysis (updated 2 June 2009) *Gross Domestic Product by State*, US Department of Commerce, <http://www.bea.gov/regional/gsp/action.cfm>, accessed 3 December 2009.

**Table 1:  
Comparison of US  
national and California  
GHG emissions targets**  
Source: White House  
Press Release (25 Nov  
09), Broder 2009

Proposed US National Position	California Position
By 2020 – 17% below 2005 levels	By 2010 – Year 2000 levels
By 2025 – 30% below 2005 levels	By 2020 – 1990 levels
By 2030 – 42% below 2005 levels	
By 2050 – 83% below 2005 levels	By 2050 – 80% below 1990 levels

## 4 The National Sentiment – some selected quotes

**Charles T. Drevna,  
President of the  
National Petrochemical  
and  
Refiners Association**

'In the midst of a severe recession with 10.2 per cent national unemployment, our economy, the creation of jobs and consumer impact should take much greater precedence over attempts to impress international bureaucrats during an annual convention'.<sup>14</sup>

**Juliet Eilperin,  
Washington Post**

'The percentage of Americans who believe global warming is happening has dipped from 80 to 72 per cent in the past year [2009], according to a new Washington Post-ABC News poll, even as a majority still support a national cap on greenhouse gas emissions'.<sup>15, 16</sup>

**David F. Hales,  
President,  
College of the Atlantic**

'The fulminations of climate skeptics in the wake of the release of electronic documents stolen from the University of East Anglia demonstrates more clearly than ever that the skeptics don't understand either climate science or the scientific method... A few of the e-mails released — if they are accurate and not manufactured — should embarrass the authors of those e-mails. But they have nothing to do with the soundness of the basic science... Taken as a whole, the stolen material strengthens the scientific basis for concern, and emphasizes the need for urgent and decisive action - far more than the pallid measures being considered by the United States Congress'.<sup>17</sup>

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- 13 AFP (18 November 2009) 'California Faces New Multi-Billion-Dollar Deficit: Official', [http://www.google.com/hostednews/afp/article/ALeqM5imhbrTTb1EhYeM4LDepaU63\\_7HjQ](http://www.google.com/hostednews/afp/article/ALeqM5imhbrTTb1EhYeM4LDepaU63_7HjQ), accessed 3 December 2009.
- 14 Mouawad, J. (25 November 2009) 'Businesses in U.S. Brace for New Rules on Emissions', *The New York Times* <http://www.nytimes.com/2009/11/26/business/energy-environment/26emissions.html?hp>, accessed 26 November 2009.
- 15 Eilperin, J. (25 November 2009) 'Fewer Americans believe in global warming, poll shows', *The Washington Post* <http://www.washingtonpost.com/wp-dyn/content/article/2009/11/24/AR2009112402989.html>, accessed 26 November 2009.
- 16 For current polling data reflecting US perceptions regarding climate change, see The Washington Post-ABC News Poll (25 November 2009), 'New Doubts on Warming, But Most Favour Action', <http://www.washingtonpost.com/wp-dyn/content/graphic/2009/11/25/GR2009112500030.html>, accessed 26 November 2009.
- 17 Hales, D. (25 November 2009) 'An Admission That the Science is Sound', *The Washington Post* [http://views.washingtonpost.com/climate-change/panelists/david\\_hales/2009/11/focus\\_on\\_the\\_emails\\_is\\_admission\\_that\\_the\\_science\\_is\\_sound.html](http://views.washingtonpost.com/climate-change/panelists/david_hales/2009/11/focus_on_the_emails_is_admission_that_the_science_is_sound.html), accessed 26 November 2009.