The U.S. Business Challenge to the Kyoto Protocol

U.S. business attitudes to climate change mitigation have not been uniformly negative. Opposition reached its heyday during negotiation of the Kyoto Protocol and the subsequent implementation period. With regard to the Kyoto Protocol, the veto power of large American business groups is well documented. The principal group undermining U.S. support for the Kyoto Protocol was the Global Climate Coalition (GCC), an association of large energy, automobile, and manufacturing firms opposed to ghg reductions, led by ExxonMobil, and diverse industry associations from the energy sector loosely connected to the GCC. The GCC’s principal purpose was to keep the U.S. government from signing the Kyoto Protocol or at least preventing ratification, in effect to delay climate legislation as long as possible. The constant theme of the GCC was to stress the economic costs of climate change measures and to question the findings of climate change science. Thus, the GCC sponsored a number of studies projecting extraordinarily high costs of low carbon policies. In advance of the Kyoto conference, the GCC spent 13 million US-Dollar in a TV-ad campaign, warning of catastrophic economic consequences of strict ghg reduction. Other industry groups such as the National Coal Association, the Western Fuels Association, and the Edison Electric Institute created the Council on the Environment, which sponsored prominent climate scientists with a skeptical attitude. The Edison Institute described the Kyoto Protocol as economic suicide (Layzer 2007, p. 105). The American Petroleum Institute has been consistently opposed to mitigation measures and in 2001 even questioned a report by the U.S. National Academy of Sciences confirming recent evidence for global warming commissioned by the G.W. Bush administration (Layzer 2007, Brewer 2009).

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Industry voices resonated strongly in Congress. In 1997 the U.S. Senate passed the (non-binding)1 Byrd-Hagel-Resolution that stated unequivocally that the Senate should not ratify any international climate agreement which would impose major economic costs on the U.S. and that would exempt major developing countries from ghg-reduction commitments (U.S. Senate 1997). Its purpose was to alert the Clinton administration to the prospect that the Kyoto Protocol would face insurmountable opposition in the Congress. Concerted business and congressional opposition finally induced President Clinton not to submit the Kyoto Protocol for Senate ratification. Afterwards, the coal industry and ExxonMobil were credited with persuading President George W. Bush to reject American participation in the Kyoto process for good (Layzer 2007).

The Influence of Small Business

The focus on large corporations and their associations, however, can obscure the view of the depth of business opposition. Business influence on climate change is not limited to large corporations and their alliances and associations. The influence of small business on the climate change debate has been frequently underestimated or ignored in the literature, as big corporate interests have more explanatory force in blocking climate change initiatives. A significant force militating against ghg reductions is the small business sector that is effectively represented in the U.S. Chamber of Commerce (2009), the National Federation of Independent Businesses, and in ad-hoc groups such as the Small Business Survival Committee. The small business sector also plays a role in the ideological landscape of the American imagination, seeing it as the mythic incubator of free enterprise. The influence is enhanced by the fact that it is able to command a nationwide network that has influence in every congressional district (Fifka 2005).

The anti-ghg-reduction business phalanx has never been monolithic, nor have its principal exponents had the staying power, when economic and political circumstances were changing. A number of important members, among them Ford, Shell, BP, Texaco, and Daimler, left the GCC. In the case of the affiliates of European corporations, the catalysts for change were political pressures in their home base. The GCC was finally deactivated with the claim that its purpose had been served.2 The opposition to climate change policies has also lessened because of changes in the structure of the U.S. economy, which since the 1990s has been characterized by rapid de-industrialization and a shift towards information technologies and services where the share of energy input in value-added is relatively low. Simultaneously, a pro-climate change lobby arose through companies that are benefiting from state-level policies fostering renewable energy and a more efficient energy infrastructure (Rowlands 2010).

Already during the G.W. Bush administration, business sentiment shifted when some companies that were previously opposed to any type of climate change policy changed course. Four principal reasons can be identified for a shift: 1. Political dynamics, above all the takeover of Congress by the Democrats in 2006 for the last two years of the Bush administration. 2. The need for regulatory certainty to create a more reliable planning horizon as businesses were anticipating evolving state and regional climate programs and eventual action on the national level. 3. Economic opportunities arising from new energy technologies, which led to a business push for a supportive national regulatory framework. 4. The growing attractiveness of reputational benefits to be reaped from supporting climate change policies, which would be attractive to those companies where stakeholder (customers, shareholders, and employees) were demanding action on climate change as part of a social corporate responsibility agenda (Pew Center on Global Climate Change 2010, Brewer 2009).

Lobbying Shifts towards Favoring a Climate Change Bill

By the middle of the first decade of 21st century, business was forced to respond to increasing public concern and government activism at the state level, in the absence of federal action under the G.W. Bush administration. Business Week (2006), a widely-read business weekly, referred to 2006 as “the year global warming went from controversial to conventional for much of the corporate world”. At this time, the business sector became more accommodating towards ghg-reduction policies or at least appeared more willing to give up its veto power. This shift was best epitomized by companies such as General Electric, Alcoa, and Duke Energy, who joined the U.S. Climate Action Partnership (USCAP), an advocacy coalition of five leading environmental groups and 26 major corporations (among them Ford, Shell, Siemens, NRG Energy, Rio Tinto) that supports a moderate ghg-reduction regime based on a cap-and-trade system. The focus of major firms had clearly shifted from preventing a climate change bill to shaping it. This can be seen in a sharp upsurge of registered lobbying on climate change, as documented by the Center for Public Integrity (see figure, p. 22).
By 2008, 770 interest groups and companies had hired 2,340 lobbyists for climate change related issues, a record number. 15 percent of all registered lobbyists had climate change as one of their portfolios and expenditures for climate change lobbying topped 90 million US-Dollar (Lavelle 2009 a). With a Democrat-ic majority in Congress and the possibility of a Democratic president in the White House, it had become clear that climate change legislation would have better prospects.

The Increase of Lobbying Diversity

In addition to an overall increase in lobbying, the diversity of interest representation increased dramatically. The greatest increase was among those groups that previously had no or negligible representation such as the financial sector, the labor unions, and organizations representing state and local governments, reflecting increased activism by state and local governments during the G.W. Bush administration. In 2003, 70 percent of lobbying groups represented the power and energy sector (coal, oil), and those industrial sectors like automobiles, cement, steel, and aluminum most heavily affected by climate change legislation, complemented by the nine major environmental groups. In 2009, only half of the 880 registered lobbyists represented carbon-intensive industries. Newcomers included publicly owned utilities, a growing renewable energy sector and consumer and technology companies such as Sun Microsystems, Nike, Levi Strauss, and Starbucks, who had not previously invested in lobbying on climate change. These companies created a lobbying platform in the Business for Innovative Climate & Energy Policy (BICEP), with the purpose of pushing for higher energy efficiency goals in federal climate change legislations. Other new and notable actors included the Electric Drive Transportation Association (EDTA), promoting low carbon fuel standards, and finally the financial service industries, which have a great interest in organizing the market of trading emission permits. Noteworthy as well were the activities of large defense contractors such as Northrop Grumman, a company that sensed opportunities for marketing its satellite sensor technology for producing better emissions data. General Electric supported a climate change bill as it hoped to benefit from the move away from coal to alternatives such as nuclear and wind.

All these groups generally abetted US-CAP’s efforts to pass a bill, although they did not subscribe to all elements of specific legislative proposals. Many groups favoring a bill worked for specific provisions, such as clean coal advocates who pushed for clean coal research subsidies (carbon dioxide capture and storage, CCS) and union representatives who focus on the issue of carbon leakage (Lavelle 2009 b).

The American Clean Energy and Security Act

This rise of new groups in diverse business sectors was instrumental in pushing through climate change legislation: In 2009, the House of Representatives passed the American Clean Energy and Security Act (ACES) that aimed at cutting CO₂ emissions by 17 percent by 2020 compared with levels in 2005 (Congressional Research Service 2009). The act was driven by President Obama’s call “to send me legislation that places a market-based cap on carbon pollution and drives the production of more renewable energy in America” (White House 2010). But the dominant power, energy, and industrial interests left their mark on the bill (U.S. Climate Action Partnership 2010). This is one of the reasons why many elements of the bill were diluted or weakened. Thus, lobbying or the changing lobbying scene can explain the relative success of passing a bill in the House of Representatives as well as the compromised nature of that bill (Rabe 2010, Congressional Research Service 2009). Nevertheless, the passage of ACES was historic in that it was the first comprehensive climate change bill that passed in one chamber of Congress.

3 The USCAP is credited with formulating the blueprint for ACES and inducing the necessary deals and bargains to allow passage of the bill.
The Climate Policy Process in the Senate

The process as well as the outcomes were different in the Senate. These differences can be attributed to a changing political context and political constraints specific to the Senate. The Senate started much later in devising a climate bill, thus moving action closer to the midterm elections and making Senators more vulnerable to the fall-out of the controversial health care reform. Various proposals competed with one another. A bi-partisan proposal sponsored by Senators John Kerry (Democrat, Massachusetts), Lindsey Graham (Republican, South Carolina), and Joseph Lieberman (Independent, Connecticut), known as KGL, emerged as a front-runner after a previous effort by long-time climate change champion John McCain (Republican, Arizona) and Lieberman had fallen apart because of McCain’s vulnerability on this issue in a tight primary race against a conservative challenger. But the true liability for any Senate initiative was an important subset of Democrat Senators from industrial and coal states (Michigan, Ohio, Pennsylvania, Illinois, Indiana, Kentucky, West Virginia) who had signaled their opposition to taking up climate change legislation (Murray and Kane 2010). Ohio, Indiana, and West Virginia, for instance, derive more than 85 percent of their power from coal (Broder 2009). Therefore, for any type of climate legislation to pass in the Senate Republican support was necessary. This situation limited the scope of climate change activism by an alliance of moderate environmental groups working with progressive elements of the business sector.

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The need to win over Republican Senators forced the sponsors of KGL to actively seek the support of potential veto groups in the energy sector, amounting to giving generous concessions to the power sector (including nuclear power), and allowing oil drilling in protected wildlife reserves in exchange for a cap-and-trade-system. They even offered to curtail the authority of the U.S. Environmental Protection Agency (EPA) to regulate ghg emissions to neutralize the influence of the American Chamber of Commerce, but included a politically poisonous fee on the oil refining industry. But lack of coordination with the White House in the timing of granting concessions, which had prematurely offered support for off-shore drilling and for the nuclear industry, and eventually uncertainty about White House support for the bill in the spring of 2010 led to the withdrawal of Senator Lindsey Graham and the eventual demise of the bill. Even a pared down version which only covered the power sector did not win over much – if any – Republican support. In the end, although the sponsors of climate change action in the Senate had gone out of their way to gain support from crucial groups in industry such as the U.S. Chamber of Commerce and energy industry groups, it had failed to build a majority (Lizza 2010).

All the concessions could not outweigh the deterioration of the political environment for climate change policy or any other type of progressive policy. Adverse economic conditions, with unemployment sticking close to ten percent, could be exploited by opponents of climate change legislation in the 2010 election cycle. Veto groups such as the U.S. Chamber of Commerce and conservative action groups such as Americans for Prosperity, sponsored by Koch Industries, an industrial conglomerate with significant interests in the energy sector, became increasingly emboldened in the course of the election year, and started a national campaign to discredit the entire reform program of the Obama administration, including climate change. The conservative backlash against the Obama reform program clearly cast a shadow over deliberations in the Senate (Egen 2010, Mayer 2010).

Public Opinion for Climate Change Measures

Polls showed that the Republicans stood to make major gains in the 2010 midterm elections. The Republican surge was driven by a populist right-wing movement, the Tea Party, that put centrist and mainstream Republicans under pressure and pushed the Republican Party further to the right (Zernike 2010). Public opinion data showed decreasing support for climate change measures, dropping sharply among Republican and independent voters, the latter a crucial swing-group that helped elect Barack Obama. Between 2006 and 2010 the number of Americans believing that climate change is a serious problem dropped from 79 to 61 percent. Only 40 percent of polled Republican voters and only 23 percent of Tea Party adherents believe climate change is a serious issue or threat, and only 24 percent and eight percent respectively believe it requires immediate government action (Borick 2010, Pew Research Center for the People and the Press 2009).

Climate Policy – a Wedge Issue

Climate change clearly emerged in 2010 as a wedge issue between Democrats and Republicans. Republicans increasingly denounced any type of cap-and-trade system as just another tax, thus burying any discussion of climate change policy with their anti-tax bias. In this political climate Democratic candidates and even senators not up for reelection from industrial and coal states saw climate change legislation as a political liability. With the strong Republican surge in the run-up to the 2010 midterm elections, vulnerability for Democratic senators up for reelection increased, and initial reluctance turned into opposition. The Sen-
climate policy will most likely resemble a quilt-like patchwork of measures with varying effectiveness and focus. One upside of this election cycle was the clear defeat of Proposition 23 in California – a ballot proposition that would have effectively killed California’s climate change legislation by tying its implementation to a drastic drop of the state’s unemployment rate (Legge 2010). However, the impact of significant Republican gains in other states needs to be monitored. In New Mexico, the new Republican governor reversed the state’s ghg regulations upon entering office (Roosevelt 2011).

**Last Exit Environmental Protection Agency?**

The Obama administration continues to maintain its pledge to cut overall emissions by 17 percent by 2020, compared with 2005 levels (Eilperin 2010). It is pursuing a national ghg reduction strategy through a regulatory approach under the *Clean Air Act (CAA)* by the EPA, which involves the need for permits for stationary emission sources and mandates to install “best available control technology”. The regulatory focus will be initially on large emitters in the power sector (McCarthy and Parker 2010). Given the visceral Republican aversion to any national action, major controversy can be expected about EPA-based strategy. Already in the legislative period prior to this one, there were challenges to the EPA’s “endangerment finding” of greenhouse gases as a pollutant; the challenges seek to amend the CAA to exclude ghg from regulation or try to delay EPA actions regulating stationary source emissions of ghgs until the economy improves. Republicans in Congress may also attempt to undermine EPA’s operational capacity by withholding funds through the appropriation process (McCarthy and Parker 2010). Even with some support from a limited number of Democrats, it is highly doubtful whether any of these bills can garner a veto-proof majority, assuming that President Obama will veto such a bill. EPA regulations could also be challenged on narrow technical grounds in the courts by industry associations, conservative action groups connected to the Tea Party, and by Republican-run state governments such as Texas (Broder 2010). Other fields for action are smaller incentive programs for clean energy and a national renewable portfolio standard for electricity, which President Obama has identified as one of the few possible areas of cooperation between Democrats and Republicans. The push for fiscal austerity by the new Republican majority may limit the scope for action (Davenport 2010, Maron and Rahim 2010). After the experience with various climate change bills in the Senate in 2009 and 2010, the remaining moderate Republicans cannot be counted on as a counterweight, particularly in support of EPA action: Senators McCain, Collins, and Snowe (both Republicans, Maine) have all shed or moderated their image as climate legislation supporters (Lizza 2010).

**At any rate, the small window of opportunity for a comprehensive climate change bill has closed.**

The backlash against climate policies by those business groups which had taken a lower profile during the 2009 deliberations in the House of Representatives is in full swing. The U.S. Chamber of Commerce, the National Association of Manufacturers, and coal producers and utilities using coal have come out clearly in support of curtailing the EPA’s mandate. Should Republicans initiate an all-out campaign against climate change mitigation policies, it remains to be seen whether the supportive segment of the business sector can function as an effective counterweight. Specifically, the question remains how the progressive business alliance that supported ACES will position itself with regard to the remaining opportunities to reduce emissions, i.e., EPA action and support for clean energy and a renewable portfolio standard. On EPA regulation, the power sector is likely to split from the alliance. Support for clean energy initiatives may be the only remaining bond of the progressive coalition.

**The Window of Opportunity Closed**

The question is increasingly whether under the current economic and political conditions the moderate center will hold or whether reasoned debate will be buried in the Republican whirlwind of polarization and posturing for the 2012 presidential elections.
The populist extremism of the Republicans may backfire, but this is less likely to happen in the area of climate change. Attitudes and influence by business are not the only variable. A crucial factor may be the recovery of the negative trends in public opinion, but this is only likely to happen if there is a sustained economic recovery on the horizon. There will be few positive signs regarding climate change coming out of Washington for the next two years. At any rate, the small window of opportunity for a comprehensive climate change bill has closed. Only a step-by-step approach toward reducing emissions appears possible in the foreseeable future.

References


