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Briefing on International Environmental Law

Tyler Boney
tboney@arcadia.edu

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Tyler Boney

Intro to International Law

Roland Adjovi

Final Assignment

Senator Cardin,

I have been assigned to assist you in your climate change policy preparation for the next administration entering the white house in 2017. Based on your past commitments to finding more sustainable and renewable energy sources, using domestic energy sources that don't rely on fossil fuels from unstable nations, fighting against off shore oil drilling in the Atlantic Ocean, and overall protecting the natural resources and sanctity of our environment I have prepared the following briefing for you. As you are a member of the Democratic party this briefing will see where your agenda meets with the current Democratic agenda of the Obama administration in regards to climate change. The briefing will also examine the relevant legal instruments on an international level that can be useful to you in preparing an agenda for the United States to follow in the near future. After this examination the briefing will compile some options for you to consider in regards to tackling the world issues of environmental decay and climate change.

Over the course of the past eight years President Obama and his administration have had very explicit goals for the future of not only the domestic environment but the international environment and climate as well. In a modern world where we are all connected and finally realizing how much our actions affect each other this topic is more important than

ever. President Obama has frequently pushed for the reduction of carbon emissions worldwide. Modernizing our nation's power plants and setting regulations on them and their emissions has been one of the President's goals during his tenure in the oval office as well. The majority of President Obama's concerns directly point to carbon emissions. As an industrial society that depends on large industry to function daily this is a daunting issue that needs to be tackled step by step. Based on your concern for renewable and healthier energy sources it will not be hard to align your policies with the executive branch's concerns on climate change and our energy options. Much like you the White House has been a large advocate for wind power as a way to provide efficient and clean energy in our country. You've stated that your home state of Maryland "is taking the lead in installing 400-600 megawatts of off-shore wind electricity generation" (Cardin). This is a major step in the right direction and an example to be seen by the rest of the country.

On an international level The United States has worked hard on creating and being involved in a multitude of environmental agreements across the globe. This briefing will go into further detail about many of these agreements later on. As stated earlier it is important to understand how each nations actions affect the others when it comes to actions that are impactful on the world climate/ environment. This is why looking at this problem through the lens of international law in this briefing is so necessary to creating future policies that the United States can follow in efforts to mitigate climate change worldwide.

In regards to instruments for combatting climate change one of the first tools that can be considered and used are bilateral agreements. In regards to climate change the U.S has multiple bilateral agreements with other nations in efforts to tackle the issue. The U.S has a

bilateral agreement with Indonesia called *The U.S-Indonesia Partnership on Climate Change and Clean Energy*, which supports Indonesia's efforts to make itself a greener nation and conserve its environment. This agreement involves U.S. financial aid to Indonesia as well as financial aid from organizations that the U.S. are primary donors to such as the Clean Technology Fund (Fact Sheet: Indonesia). In 2009 the U.S. and India entered into a bilateral agreement called the *U.S.-India Green Partnership to Address Energy Security, Climate Change, and Food Security*. This agreement has a heavy focus and mutual expansion of creating jobs and improving the environment through investing in clean energy together. Some of these clean energies include solar power and natural gas energy. Both more sustainable than traditional fossil fuels. The agreement also includes arrangements for the U.S. National Oceanic and Atmospheric Administration and India's Ministry of Earth Sciences to work together to more accurately predict monsoons and reduce the risks of disasters caused by climate change.

Some of the most important bilateral agreements the U.S. has, are with China. With China being one of the world's highest polluting states making sure China has regulations and assistance in making itself a cleaner nation is an issue of global security. They have the highest population in the world and if they can be encouraged to improve their environment then they could potentially serve as a major statement for ensuring environmental security in years to come. *The U.S-China Electric Vehicles Initiative* is a 2009 agreement that plans to encourage the U.S. and China to work together on developing electric vehicles and other such technologies. As the world's two largest vehicle markets this could be a major step in promoting green technology. The U.S. government has provided 8.5 billion dollars to help auto makers retool their factories to produce electric vehicles (Fact Sheet: U.S-China Electric). The *U.S-China*

Energy Efficiency Plan is a 2009 agreement that intends to have the two nations who consume forty percent of the world's power work together to develop greener strategies and technologies and lessen their carbon footprint (Fact Sheet: U.S-China Efficiency). The technologies and strategies include green buildings, and more efficient building and manufacturing. Audits that will be carried out by the respective governments will be the way these new standards will be enforced. The nations also plan to educate manufacturers and builders on how to meet these greener standards. This has been a multi-billion-dollar investment for both nations respectively. Finally, the *U.S-China Cooperation on 21st Century Coal* is a 2009 agreement on smarter use of coal as a means of energy in the U.S and China. Combined the U.S and China are responsible for more than half of the world's coal consumption (Fact Sheet: U.S China Cooperation). The goal of the agreement is to continue to create more sustainable energy practices by sharing technologies with each other and investing in studies of gasification of coal at Chinese power plants.

The first multilateral agreement that this brief will discuss is *The Vienna Convention for the Protection of the Ozone Layer*. This 1985 agreement came into effect in 1988 and has 197 states that have ratified it. This agreement is important because anytime a multilateral agreement includes 197 states as well as the European Union its impact will be felt and its message will be heard. The agreement aims to create a collective of states who are willing to improve the environment and halt climate change through cooperation, sharing of information, and sharing of technologies. The agreement also has the obligation of using international instruments and organizations to "implement effectively this Convention" (The Vienna). However, this convention does not include any legally binding goals for Chlorofluorocarbons

(CFCs) which is why the *Montreal protocol on Substances That Deplete the Ozone Layer* was drafted. This agreement is the accompanying agreement to the Vienna convention that lays out a time line for the reduction of CFCs in *Group I of Annex A* to zero by 1996 (The Montreal). There are multiple substances and time tables outlined throughout this agreement that bind states to reduce emissions gradually over time. Because the Vienna agreement includes 197 states and a stipulation that using international instruments and organizations to ensure effectiveness and cooperation these agreements have broad legal value on an international scale.

Agreements aren't the only valuable tools for international environmental law on climate change. International organizations are also highly valuable instruments that can be used to enforce climate security. The United Nations (U.N) is the most valuable international organization available to promote environmental protection and enforce climate change law. The United Nations Security Council (UNSC) has the ability to impose sanctions upon those who violate international law. The Security Council can impose sanctions on nations who are perceived to be a threat to the peace and in 2011 the President of the Security Council stated that "possible adverse affects of climate change, may in the long run, aggravate certain existing threats international peace and security" (Statement). In 2009 the Secretary General of the United Nations reported the possible security implications adverse affects on the environment and climate have on the world stating that climate change affects food security, pace of development, migration security, and international resources (Statement). These suggest that states can be sanctioned for environmental reasons by the security council. The United Nations

and the United Nations Security Council can both be highly valuable tools when using international law to protect and improve the environment.

The Climate and Clean Air Coalition is an international coalition that unites governments, civil society and private sector who are committed to “improving air quality and protecting the climate in next few decades by reducing short-lived climate pollutants across sectors” (About us). The United States are one of the 50 nations who are partnered with this coalition whose goal is to promote short term change in reducing emissions. The coalition primarily targets Methane and Black Carbon and uses its broad partnerships across different sectors and different parts of the world to push its agenda. Partnership with the *Climate and Clean Air Coalition* is not restricted to any government or any specific nation or region, which makes it a much more open and flexible instrument than some.

In the past year the United Nations Framework Convention on Climate Change (UNFCCC) has drafted the *Paris Agreement*. The UNFCCC states that “the Paris Agreement’s central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius” (The Paris Agreement (Summary)). The agreement aims to strengthen the ability of countries to deal with the impacts of climate change such as erosion and extreme weather. The key to the success of the agreement is the proper financial flow from nations who have ratified the agreement and a new technology and building framework to assist developing and vulnerable nations. The *Paris Agreement* is a more progressive update on the 1992 *United Nations Framework Convention on Climate Change* and intends to strengthen the world response to

climate change. It put emphasis on the nations involved in the agreement following through with their obligations that they have signed on to. *The Paris Agreement* is a massive agreement because of the large amount of nations that have signed on to it and the level of world emissions these nations are responsible for.

Now that I have laid out an array of different agreements and instruments its time to put together a policy for you to strive towards in the upcoming presidential administration cycle. The United State's interests in regards to climate change have been very clear in the Obama administration. The Obama administration has continually held climate change as one of the worlds largest looming issues. This goes hand in hand with your statements such as "Climate change represents an enormous challenge for all inhabitants of our planet. It is the preeminent national security issue for the 21st Century" (Cardin). Based on the praise you have offered for "President Obama's and President Xi's consistent cooperation and commitment to responsible action on climate change" (Cardin) we can start with what needs to be done in regards to the U.S and China. China and the U.S represent 42% of the worlds greenhouse emissions. If the U.S and China can slow and reduce the level of their emissions that would be a major cut down for the planet. I believe continued bilateral and multilateral agreements regarding emissions levels and sanctions for not adhering to them regarding China and the U.S are necessary to enact serious change. The U.S and China already are partners in a series of bilateral agreements; a few of which this brief discussed earlier. The problem is that there is no nation to help strong arm the U.S and China to push the limits of green house gas reduction. This is why multilateral agreements are important. They add extra parties who can lock parties

such as the U.S and China into their commitments. With that being said, progress domestically and in China is one the biggest concerns in combating climate change.

The Obama administration has held improving the standards and lowering emissions levels of power plants as a step towards a cleaner future. You have stated that you support clean energy initiatives such as wind power and other greener sources of power. In your home state of Maryland wind power is a source of energy and you have approved of the jobs this industry has helped create. Using bilateral agreements to enhance the number of nations that invest in wind and solar energies could a be a major step forward in lowering green house gas emissions. This in return could also create jobs abroad for American builders and engineers. The key to lowering emissions is not only working domestically but also building relationships with other states internationally to discuss and combat these issues. Bilateral agreements such as the ones with China, Indonesia, and India should be seen as examples of what can be done to assist other nations in their efforts to develop more sustainable and eco-friendly practices. The U.S has done a good job in participating in multilateral and bilateral agreements but that does not mean it should stop or slow down.

The United Nations, and the CCAC are two international organizations that can be used to improve climate conditions. The United Nations not only has global legal reach but it also serves as the instrument through which states can be sanctioned for threats to the peace which environmental destruction can be held as. The United Nations Security Council (UNSC) can impose sanctions on nations and can be used by member states as a way to make sure fellow UN members are helping the world they live in. The UNSC could be used as an international legal enforcer for environmental protection if states actions or lack of action are severe enough.

The U.S should continue to maintain a relationship with the CCAC and support their efforts to enhance awareness of climate change issues and their initiatives to work on short term improvements to emissions lowering. Their broad reach through different sectors and government support makes them a very unique tool in international spectrum for combating climate change.

In conclusion as a ranking member of the Senate foreign relations committee you should continue to support the growth of clean energy and take the successes your home state has had and expand it into the international level. I hope this brief has helped give you an idea of what spectrum of instruments are relevant to you and what you see as the ways to combat climate change. The key to halting climate change is not through solely domestic improvement but it will require strong partnerships with other countries through bilateral and multilateral agreements, international organizations, and conventions that address the issue of climate change. I'm sure you are already aware of this fact because of your recent outspoken support for the recent Paris Agreement. I hope you will continue to be an advocate for improving the worlds climate and environment and use these legal instrument to assist the U.S in furthering its efforts internationally.

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