

Table of Contents

U.S. Senate	Date: WEDNESDAY, JULY 8, 2015
Committee on Environment and Public Works	Washington, D.C.
STATEMENT OF:	PAGE:
THE HONORABLE JAMES M. INHOFE, A UNITED STATES SENATOR FROM THE STATE OF OKLAHOMA	3
THE HONORABLE BARBARA A. BOXER, A UNITED STATES SENATOR FROM THE STATE OF CALIFORNIA	7
KARL HAUSKER, SENIOR FELLOW, WORLD RESOURCES INSTITUTE	12
SARAH O. LADISLAW, DIRECTOR AND SENIOR FELLOW, ENERGY AND NATIONAL SECURITY PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES	17
JEFFREY R. HOLMSTEAD, PARTNER, BRACEWELL AND GIULIANI	23
DAVID BOOKBINDER, PARTNER, ELEMENT VI CONSULTING	29
JEREMY A. RABKIN, PROFESSOR OF LAW, GEORGE MASON UNIVERSITY SCHOOL OF LAW	34

ROAD TO PARIS: EXAMINING PRESIDENT OBAMA'S INTERNATIONAL CLIMATE
AGENDA AND IMPLICATIONS FOR DOMESTIC ENVIRONMENTAL POLICIES

WEDNESDAY, JULY 8, 2015

U.S. SENATE

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:01 a.m. in room 406, Dirksen Senate Building, the Honorable James Inhofe [chairman of the committee] presiding.

Present: Senators Inhofe, Boxer, Capito, Crapo, Boozman, Sessions, Wicker, Fischer, Rounds, Sullivan, Cardin, Whitehouse, Merkley, Gillibrand, Booker, Markey.

STATEMENT OF THE HONORABLE JAMES INHOFE, A UNITED STATES SENATOR
FROM THE STATE OF OKLAHOMA

Senator Inhofe. Now that Senator Sessions and Senator Wicker are here, our meeting will start. Senator Cardin, it is good to have you here, and I see Senator Sullivan in there.

Well, there has been a lot of coverage regarding the United Nations Twenty-First Annual Climate Conference at the end of the year. We have heard how the President has pledged the U.S. to reduce greenhouse gas emissions by 26 to 28 percent compared to the 2005 levels by 2025, and how he is going to lead other countries in openness, transparency and accountability.

You know, we have been here before. I remember so well, Copenhagen, I think it was about five years ago in Copenhagen, they all went over there, Obama, Clinton, Pelosi, John Kerry, Al Gore and they assured everybody that we were going to pass legislation over here that was going to control the emissions and all these good things were going to happen.

I went over as the one man truth squad, Barbara, to let them know that it wasn't going to happen and it didn't happen. So all of these statements sound good in a press release, but the slightest level of scrutiny reveals a significant lack of authenticity, substance and merit.

While the President is lecturing the rest of the world on the importance of credibility and transparency, he is going out

of his way to write the U.S. Senate and the American people out of the final agreement. That is why we are here today, to take a closer look at the President's international climate agenda and what it actually means for the United States.

The President may have created legal arguments to sign onto a legally non-binding international agreement but he does not have the backing of the United States Senate, which significantly limits such an agreement's domestic application. I carried that same message in 2009 when I attended the Copenhagen meeting, as I mentioned just now.

The President's Intended Nationally Determined Contribution - that is a new one, that is INDC - is not only unrealistic but it also does not add up. Let's show the chart up there, that is the white area that does not add up. I am sure that our witnesses will be addressing this.

According to a recent analysis by the U.S. Chamber of the Presidents INDC, it is about 33 percent short of meeting stated targets. Mr. Bookbinder, who has done his own analysis, and I appreciate your being here, Mr. Bookbinder, I recall when you were our witness before. You were a witness for Senator Boxer, now you are one of our witnesses. He has done his own analysis and has found even a greater gap. I am looking forward to his thorough breakdown. Additional studies are forthcoming showing similar results.

The Administration has yet to describe how the 26 to 28 percent of greenhouse gas reductions would be achieved. In fact the Administration's own deputy director for climate policy remains unable and unwilling to answer this basic question.

Further concerning is that a large portion of the INDC statement targets depend on the successful implementation of the President's so-called Clean Power Plan. This proposal not only faces significant obstacles at the State level, there are 32 States now on record opposing it, but it would also increase the price of electricity, depress local economies and cost \$479 billion and ship American jobs overseas. It is also on legal treacherous ground especially in the wake of the two recent Supreme Court decisions, *UARG v. EPA* and *Michigan v. EPA*, which was just decided last week.

The remaining portions of the INDC rely on an exaggerated stretch of current and future regulatory actions without consideration for inevitable legal challenges and delays, which I can assure you would take place. Even the very notion that the President's domestic and international climate agendas are about protecting the environment lack credibility. His EPA did not even bother to access the minuscule environmental benefits associated with the Clean Power Plan and its supposed core domestic climate policy. The international climate negotiators have already admitted that while they are not entirely clear on

what actions will need to limit the temperature increases to 2 degrees Celsius, they are sure that the Paris Agreement will not be enough.

The Paris Agreement will be the 21st such agreement that is under the United Nations and it is a pretty expensive one. They eat well and drink well but nothing ever happens. I thank the witnesses for being here and look forward to your testimony.

Senator Boxer?

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF THE HONORABLE BARBARA BOXER, A UNITED STATES
SENATOR FROM THE STATE OF CALIFORNIA

Senator Boxer. Thanks, Mr. Chairman.

The impacts of dangerous climate change are all around us. Just ask the people living in Texas who have had to face extreme weather rainfall events, record flooding. Or Californians who have had to deal with the crippling drought or New Yorkers who have suffered through Superstorm Sandy. Or those in Hawaii who are having to choose between saving their beachfront condominiums or losing their beach and their coral reefs. I saw that with my own eyes.

Fortunately, the Obama Administration has taken serious steps to address this growing crisis by reducing dangerous carbon pollution. The U.S. has committed to cutting our carbon pollution by 26 percent to 28 percent from 2005 levels by 2025. I believe this is achievable, because the President's Climate Action Plan contains the tools that are necessary to get the job done, even without Congress.

We have a decades-long record of success in our landmark environmental laws. We have withstood moves in this committee and on the Senate Floor to disassemble those landmark laws, such as the Clean Air Act.

Now, my colleague was right: we failed to pass cap and trade. The highest level we got was 56 votes, we needed 60.

The bottom line is we have the Clean Air Act. The opponents of doing anything under the Clean Air Act took the case to the Supreme Court. It took eight years. The Supreme Court found very clearly that carbon pollution is covered under the Clean Air Act.

So the Obama Administration has taken significant steps under the Clean Air Act. They have included establishing new fuel economy and carbon standards for cars and heavy duty trucks which has been embraced by Detroit. We have seen a rebirth of the automobile industry. We see that the power plant sector, we are moving toward cleaning that up. We have fights on our hands, I predict we will win those fights. The U.S. has always been a leader. We don't sit back and let other countries lead the way. And we are.

Climate change is a global problem. Two weeks ago, the G7 agreed to work with all countries to reduce carbon emissions by up to 70 percent by 2050. Action by the Obama Administration prompted China to make its first-ever commitment to reduce carbon pollution. Already coal use is down in China by 8 percent just this year.

The EU has pledged to reduce carbon pollution and developing countries such as Mexico and South Korea have come forward with their first-ever commitments to control their carbon pollution. Already, countries covering over 60 percent

of global carbon emissions have agreed to take action to cut carbon and other countries will join the effort.

There are huge benefits when we undertake cutting carbon. The recent study by the EPA shows us 57,000 fewer deaths per year from poor air quality, with economic benefits valued at \$930 billion, 12,000 fewer deaths per year from extreme heat and temperature changes, \$180 billion per year in avoided damages from water shortages, \$3 billion per year avoided damages from poor water quality, \$11 billion a year avoided losses in our ag sector, 40 to 59 percent fewer severe and extreme droughts and almost 8 million fewer acres burned each year from wildfires.

This is something we have to do. And it breaks my heart that the party in control of this committee doesn't believe in any of this and is trying to fight it. But the American people see it clearly. So this Congress is out of step with the American people.

The economy today will be made stronger if we take these steps. We see as a result of the Obama Plan 470,000 additional green jobs compared to the status quo.

In California, I think I can speak to this. We are on a path to cut our carbon pollution by 80 percent by 2050. That is required under our law at home. Very strongly supported by the California people. We had oil companies try to overturn it and the people said, sorry, we are sticking with it. During the

first year and a half of my State's cap and trade program we added 491,000 jobs, a growth of 3.3 percent which outpaces national growth.

I welcome the witnesses today. I feel stronger than ever the President is on the right path. This committee is on the wrong path.

[The prepared statement of Senator Boxer follows:]

Senator Inhofe. Thank you, Senator Boxer.

We do have a very distinguished panel of Karl Hausker, Senior Fellow at the World Resource Institute; Sarah Ladislaw, Director and Senior Fellow, Energy and National Security Program, Center for Strategic and International Studies; Jeffrey Holmstead, Partner, Bracewell and Giuliani; David Bookbinder, and I am real pleased, David Bookbinder was here before but he is here as a majority witness today. He has testified here before. And Jeremy Rabkin, Professor of Law, George Mason University School of Law.

We will start with you. Your entire statement will be part of the record, try to keep your remarks to right around five minutes. Mr. Hausker?

STATEMENT OF KARL HAUSKER, SENIOR FELLOW, WORLD RESOURCES
INSTITUTE

Thank you, Mr. Chairman. Good morning.

My name is Karl Hausker, and I am a Senior Fellow at the World Resources Institute. WRI is a nonprofit, nonpartisan environmental think tank that goes beyond research to provide practical solutions to the world's most urgent environmental and developmental challenges. Thank you for the opportunity to serve on this panel.

The main message in both my oral and written testimony is this: the U.S. can meet the Administration's 2025 emissions reduction target while maintaining economic growth and employment.

My testimony has four key themes. First, a growing body of evidence shows that economic growth can go hand in hand with efforts to reduce emissions and greenhouse gases. Recent experience at the national and State levels demonstrates that we can achieve both. What Senator Boxer referred to in California is a perfect example of that.

However, the policies often necessary to unlock these essential economic win-win opportunities have market barriers and hamper investment on what are otherwise beneficial activities. So good policies can unlock the win-win opportunities for the economy and the environment.

So we can achieve a prosperous low carbon future by harnessing key drivers of economic growth including more efficient use of energy and natural resources, smart infrastructure investments and technological innovation. These low-carbon solutions often create net economic benefits. For instance, we know that increased efficiency pays off.

Let me give three examples. With strengthened CAFE and GHG standards, drivers will save on average a net of \$3,400 to \$5,000 over the life of light duty vehicles made in 2025 compared to those made in 2016.

Another example: federal appliance efficiency standards put in place over the past 25 years have resulted in \$370 billion in cumulative utility bill savings. Finally, States with energy efficiency targets and programs in place are generally saving customers \$2 for every \$1 invested.

Let me turn to my second theme. The U.S. emissions reduction target announced in March is ambitious, but it is achievable. We can meet this target using existing federal laws combined with actions by the States. Well-designed policies can accelerate recent market and technology trends in renewable energy, energy efficiency, alternative vehicles and in other areas, combining to reduce emissions 26 to 28 percent below 2005 levels.

WRI's recent report delivering on the U.S. climate

commitment shows several pathways to get there. However, U.S. and global efforts to combat climate change can't stop in 2025. Deeper reductions will be needed in the decades ahead to avoid the worst impacts of climate change.

Therefore, it is incumbent on this Congress to play a constructive role in efforts to reduce emissions in the years ahead. This can and should be done in a cost-effective manner such as by establishing an economy-wide price on carbon.

Third, we can achieve the U.S. 2025 target while generating multiple co-benefits and maintaining economic growth. The proposed Clean Power Plan, a key policy for meeting the target, will result in reduced exposure to particulates and to ozone pollution. EPA estimates these air pollution co-benefits alone are worth \$25 billion to \$62 billion per year.

And the economy is projected to keep on growing. The Energy Information Administration projects the macroeconomic impacts of the proposed Clean Power Plan will be very small, approximately a tenth of a percentage point decrease in GDP in 2030. This in the context of economy projected to grow from \$17 trillion to \$24 trillion in 2030. Similarly, the EIA is projected net employment impacts are essentially zero.

Fourth, U.S. leadership is essential to the global efforts to limit warming to 2 degrees Celsius above pre-industrial levels. Failure to meet that goal will increase economic,

social and environmental risks for the United States and for all nations. We can't simply ask, how much does it cost to avoid climate change. We must also ask, what does it cost our Country if we don't avoid climate change? If nations fail to combat climate change, the U.S. will suffer billions of dollars in damage to agriculture, forestry, fisheries, coastal inland flooding damages, along with heat-driven increases in electricity bills, among multiple other impacts.

So our Country has a choice. It can show international leadership and bring the same spirit of competition, ingenuity and innovation to the climate challenge that it has brought to other problems. Or we can be left behind as other countries develop the solutions, capture the markets for the fuels, technologies and processes that reduce greenhouse gas emissions.

In closing, the target is ambitious and achievable, fully compatible with economic growth and employment. Thanks, and I look forward to your questions.

[The prepared statement of Mr. Hausker follows:]

Senator Inhofe. Thank you, Mr. Hausker. Ms. Ladislaw.

STATEMENT OF SARAH O. LADISLAW, DIRECTOR AND SENIOR FELLOW,
ENERGY AND NATIONAL SECURITY PROGRAM, CENTER FOR STRATEGIC AND
INTERNATIONAL STUDIES

Ms. Ladislaw. Good morning, members of the committee.
Thank you very much for the opportunity to testify today.

My name is Sarah Ladislaw and I direct the Energy and National Security Program at the Center for Strategic and International Studies. CSIS is a bipartisan, nonprofit organization in Washington, D.C. My remarks today represent my own personal views and not those of CSIS as an institution.

The Obama Administration came into office in 2009 with a goal to reestablish the United States as leader in the fight against global climate change. Climate leadership under the Obama administration has two primary goals. One, lead by example through domestic action; and two, create a durable international framework that is able to mobilize and coordinate global efforts. These two goals are interdependent, because no single country acting alone can effectively deal with the challenges of global climate change and because the global community will not mobilize without leadership from major economies.

I plan to make three points about the Obama Administration's actions to address climate change in the context of these ongoing international negotiations. One, U.S.

actions are in line with the actions of other major economies. Two, ambition plays a key role in the negotiations and it is important to understand that. Three, more action will be necessary to meet global targets.

First, some people have criticized the Obama Administration for pursuing emissions reduction policies. They argue that other countries are not taking similar measures and that acting alone will hurt U.S. economic competitiveness. In reality, climate change policies and regulations are spreading around the world.

According to the U.N. Intergovernmental Panel's Fifth Assessment report, as of 2012, two-thirds of global greenhouse gas emissions are covered by some sort of national policy or strategy compared to 45 percent in 2007.

As of yesterday, 18 formal pledges, covering 46 countries, well over 55 percent of global emissions, were submitted in advance of the climate negotiations in Paris and more submissions are expected by October. In this regard the United States is acting in line with and not contrary to the global trend with regard to mitigation activity.

The question of whether the actions taken by the United States are comparable to the efforts of other countries is inherently difficult to access. Take for example two of the major parties in the negotiations, China and the United States,

two of the world's largest emitters with different economies, different political structures and different approaches to climate change.

The U.S. commitment to reduce emissions from 2005 levels is arguably more stringent than the Chinese goal to peak emissions. But the Chinese target to increase fossil fuel resources in the energy mix is arguably more ambitious than the corresponding U.S. goal. Exact comparability is difficult to assess but both countries' cumulative targets represent an increase in ambition from the business as usual future.

Second, several analyses have suggested that the United States will be unable to meet its 2025 emission reduction target under the actions announced thus far. While this point has been used to criticize the Administration's goal, it is not clear that having a stretched target is negative in the context of international negotiations.

All countries want to see that other countries are working hard to meet their emission reduction pledges. It signals a level of ambition that entices participation from certain countries as well as more ambitious action from others. For example, the idea that the United States and China are committed to emissions controls despite having a potentially hard time meeting those targets, whether that is true or not, can catalyze additional action by other countries.

Third, according to the International Energy Agency analysis, current pledges would be consistent with an average temperature increase of 2.6 degree Celsius by 2100 and 3.5 degree Celsius by 2200. Clearly, additional action will be required if the standing global target is to be achieved.

This begs the question, if the negotiations fail to yield emission reduction pledges on the order of the 2 degree target, how can they possibly be considered a success? As the IEA states in their report, the Paris outcome will be successful if it is viewed as the foundation upon which to build a future action.

According to the IEA, the new international negotiating process will be less about big deliverables and big agreements, but instead about creating a virtuous cycle of strengthening mitigation ambition over time. From a U.S. domestic standpoint, if the goals of this negotiation are achieved, the United States and other major emitters will eventually have to take additional domestic action to reduce emission further.

The Obama Administration has sought to take a leadership role in the realm of international climate action. The Administration's agenda has grounded in domestic action with an eye towards building long-term sustainable strategy for achieving deep emission reductions and preparing the United States and other countries to cope with the impacts of a change

in climate.

The key question for this Congress, the next Administration and Congress as well as the partners at the State and local level in industry and in civil society is how to ensure that the policies being put into place today are the ones that most effectively address the challenge of global climate change and serve the long-term interest of the Country in light of this ongoing challenge.

Thank you.

[The prepared statement of Ms. Ladislav follows:]

Senator Inhofe. Thank you Ms. Ladislav. Mr. Holmstead.

STATEMENT OF JEFFREY R. HOLMSTEAD, PARTNER, BRACEWELL AND
GIULIANI

Mr. Holmstead. Thanks to all of you for inviting me to participate this morning. My name is Jeff Holmstead. I am currently a partner at the law firm of Bracewell and Giuliani. But I spent much of my career in the Federal Government, in the White House during the deliberations over the 1990 amendments to the Clean Air Act and then as the Head of the EPA Air Office from 2001 to 2005.

I kind of feel like we are talking about different issues up here today. And I guess I have just a different view of what it means to make a commitment in the international community. I guess I am puzzled by the assertion that the President shows leadership by making promises that he has no way of keeping.

Last November, the Administration announced it had reached this landmark deal with China. They made a very specific commitment, 26 to 28 percent reduction. Then in March, the administration made the same commitment to the rest of the international community in its official statement for the Paris Climate Change Conference. The Administration has said repeatedly that it will meet this commitment by taking actions under current law and that no action from Congress is needed.

As you may remember, when the Administration announced this agreement with China, senior officials took to the airwaves to

tout it. Mostly, they talked about what a great achievement it was that they had persuaded China to agree to increase its emissions only for the next 15 years.

But they also explained how they had come with their very specific 26 to 28 percent pledge. EPA Administrator Gina McCarthy stated, "that the entire target was based on a thorough interagency review of the available tools in each of the agencies. The ones that are outlined in the Climate Action Plan, but also other tools and initiatives that could be teed up and brought to fruition very quickly."

White House senior advisor John Podesta wrote on the official White House blog that the 26 to 28 percent numbers were "grounded in an intensive analysis of what actions can be taken under existing law."

Given these very specific targets, I assumed that there was a document that tallied up the emissions reductions that would be achieved by all the things that had been identified by this thorough interagency process and this intensive analysis. But many people, including a researcher from the Congressional Research Service, have asked the Administration for such a document or for any other evidence that this extensive analysis ever took place.

But the Administration has never provided anything like this. In fact they won't even say whether such a document

exists. As you heard from others, a number of people have looked at this and said all the things they are talking about are not nearly enough to meet the 26 percent reduction that the Administration has promised to achieve.

Now, it is possible that the Administration does have a plan that includes additional actions they have not yet announced. Perhaps the agricultural sector, given it is the section with the largest emissions that have not yet been regulated. But it now seems more likely that the Administration simply does not have a plan for achieving even a 26 percent reduction by 2025.

In my view, this is troubling. When the President or the State department makes a commitment on behalf of the United States, this is not something that should be taken lightly. I think most Americans would be concerned to learn that the President has made a commitment to the international community that he does not intend to meet.

Various officials in the Administration have said that climate change is a legacy issue for the President. Under our constitutional system, when a President wants this type of legacy he and his Administration normally work for legislation to accomplish it. But this Administration has never done this type of work. To be sure, the President has called on Congress to pass climate change legislation. But the Administration has

never made a serious effort to engage Congress or stakeholders on the difficult issues involved.

It is useful to contrast the Obama Administration's approach to climate change legislation to the approach taken by the first Bush Administration when President George H.W. Bush called for a fundamental overhaul of the Clean Air Act. That approach led to the 1990 amendments, the last major environmental statute to be passed by Congress.

President Bush did not just call on Congress to pass legislation. His Administration developed a detailed legislative proposal and submitted it to Congress. Then, while the relevant Congressional committees were working on the legislation, the Bush Administration did not just stand back and hope for the best. At least five senior White House officials were involved in the legislative effort on almost a daily basis for more than a year, meeting with members of Congress and Congressional staffers and with industry and environmental groups and often hammering out specific compromises.

Even though the Obama Administration has said it views climate change as a legacy issue, it has never done any of these things.

I do not pretend that the 1990 amendments represent an ideal piece of legislation. There is much to criticize about those amendments. But the process that led to the amendments

was instructive. It shows what an Administration can do even when Congress is controlled by the opposing party to get legislation through Congress when such legislation is actually a priority for the President.

In my view, it is a shame that the Obama Administration has not made this type of effort when it comes to climate change and has instead pursued an ill-advised regulatory approach that simply will not meet the commitment that they have made to the international community.

Thank you.

[The prepared statement of Mr. Holmstead follows:]

Senator Inhofe. Thank you, Mr. Holmstead.

Mr. Bookbinder. Welcome back.

STATEMENT OF DAVID BOOKBINDER, PARTNER, ELEMENT VI CONSULTING

Thank you. Good morning, Mr. Chairman, Ranking Member Boxer.

Thank you for the opportunity to discuss the United States commitment to the Paris climate process. My name is David Bookbinder. I am a Partner in Element VI Consulting and adjunct fellow at the Niskanen Center here in Washington.

Chairman Inhofe, you mentioned that I have testified here previously as a witness, asked by Senator Boxer. I think it is a bit of sad commentary that we have to point out that someone can be a witness for both a Republican Chairman and a Democratic Chairman. I think that is a sad that this is seen as something extraordinary.

In order to make sure that I had the right format for my testimony, I actually looked at the testimony that I gave back in 2007. The first sentence in that testimony bears repeating today. It was, "Let me begin acknowledging that climate change, a problem that affects every aspect of our environment and whose solution will affect every aspect of our economy, is best addressed by tailor-made legislation." Seven years later, those words are even more true.

First, as predicted, we have seen enormous amounts of federal and State regulation and subsidies dealing with the climate issue. That is a second best solution. Everyone,

everyone agrees that regulation and subsidies are not the optimal way to deal with climate change.

Second, seven years later, the effects of climate change are all the more apparent. The science is, if anything even more certain, and the effects are growing and are becoming worse every day. Action is something we need to take.

So custom made federal climate legislation, preferably in the form of a carbon tax would be the most useful thing Congress can do in order to make an effective international agreement possible. That international agreement is the only way we are going to deal with climate change.

And now that I have lectured you as to your responsibilities, I am going to talk about what the Administration has proposed, which is the Paris Commitment.

What is the fuss? This is arithmetic, it is nothing but arithmetic. The INDC submission lists a series of regulatory measures and says we can get 26 percent from below 2005 by 2025. All I did was take a look at each of those measures, take the maximum amount of emissions reductions from each of those measures as described either by EPA or by the Department of Energy or to the best of my ability and my partners' ability.

By the way, speaking of bipartisanship, I was the former Chief Climate counsel of Sierra Club. My partner was the former Director of Climate Policy at ExxonMobil. And we have yet to

have a policy disagreement.

So we went down this list of measures and we looked at the numbers. We added them up and we did the exact same thing that Karl Hausker did at WRI, that I understand the Chamber did, that other groups have done. We all came up with the same result. We all say that these listed measures get us between 68, 70, 75 percent of what we need, depending on how you treat those numbers. The fact that all that all these different analyses come up with the same range tells you that you should have some confidence in that.

I want to emphasize that this should come as no surprise to you and what is more, this is no surprise to anybody. We are not the only ones who can do the numbers. I promise you the rest of the world can look at the same regulatory measures and can do the numbers just as well as we can. The Chinese, the EU, the Indians, the developing countries, they all have very sophisticated people who understand U.S. regulatory measures. They are all going to come up with the same answer.

No one has disagreed with these analysis. If I have left out any regulatory measures or my numbers are wrong, I would deeply appreciate somebody pointing that out to me, and I would be delighted to go back and work through them and see if we can get to a more accurate figure. So far no one has done that. But I welcome, I welcome anyone coming forward and saying, no,

you are wrong about X, Y or Z, in which case I would absolutely, after discussing it with them, come up with a better number.

And that is all I have to say right now.

[The prepared statement of Mr. Bookbinder follows:]

Senator Inhofe. Thank you, Mr. Bookbinder. Professor Rabkin?

STATEMENT OF JEREMY A. RABKIN, PROFESSOR OF LAW, GEORGE MASON
UNIVERSITY SCHOOL OF LAW

Mr. Rabkin. I am Jeremy Rabkin. I teach at the George
Mason Law School.

I should start by saying I am not an expert on climate
science. I am not even a specialist in environmental law. I
have written about international law and foreign relations law.
The issue that I want to put in focus here is, can we undertake
a response to the climate challenge through the President acting
on his own.

A lot of people who are advocating for this say, oh, yes,
we do this all the time. The President signs agreements on his
own, it is true. But they are very specialized, very limited in
their effect, or else they have been authorized by Congress. If
this were a normal thing to do, you have to ask yourself, why
didn't President Clinton think of this? Because President
Clinton negotiated the Kyoto protocol, saw that he didn't have
the votes in the Senate. He didn't say, never mind, I don't
need the Senate, I will just do it because I am President and
that is what matters.

Let us remind ourselves that Vice President Gore was right
there, he was actually the one who went to Kyoto. Gore was very
committed to this. He didn't say, no record of him even in
private telling President Clinton, you can do this on your own,

don't worry about it.

Now we have the successor protocol which seems to be basically the same thing but with more ambitious goals and we are told, last time we needed the Senate, we don't need the Senate, we don't need anyone, the President can do this on his own. That is a pretty astonishing thing and I think the Senate needs to look hard at that and ask itself, going forward, does it really want to let the President make these kinds of commitments.

So I briefly want to discuss two follow-on issues that arise. It is said, well, it is okay for the President to do this, because he has all kinds of domestic legislation which he can rely on. I think the answer to that is maybe or maybe not. We will see. But I think it is pretty likely going forward that the EPA and others will say, this domestic legislation has to be interpreted in the light of commitments that the President has made to foreign governments. That is also disturbing because what it means is, when you enact legislation, that is just the starting point. The President then gets to bargain with for foreign governments about what that legislation is supposed to mean. I think that is very disturbing.

The final thing I want to talk about is what it means to have a political commitment. We are told it is not a treaty, it is not even really an agreement. Much of it would be a

political commitment meaning the President has promised.

Why does that bind the United States? I think there are two possibilities. Either it is just talk and so it is meaningless, or actually the President thinks and other people think we are kind of on the line because we have made this promise. It is true and it is fair enough to remind ourselves that Presidents in the past have made political commitments. President Nixon went to China, and his first visit there in 1972 he issued with Chairman Mao the Shanghai Communique saying, going forward, we promise each other our relations are going to be governed by these principles. There are a number of examples of political commitments like that.

I believe without exception they dealt with diplomatic relations, things we would do out in the world. They were very vague and there was no kind of implementation machinery. What we are doing here is something that doesn't fit that pattern at all. What we are doing here is exactly what we did previously by treaty. We are saying let's have a very elaborate international agreement which is a very precise commitment about how much we will do in how many years. We will have implementing machinery. We will have regular conferences.

It is all the aspects of a treaty, not just a political statement, not just a political framework. All the aspects of a treaty except for the Senate.

If you think that, yes, the President can make that kind of political commitment and then the Congress is obliged to follow through, I have two questions for you. First, the President has been saying for years he wants to do something about immigration reform. Why can't he make a political commitment to the President of Mexico saying, we are going to change American immigration law in the following ways? I will draw on existing legislation to the extent that I think I can. And then the Congress has to follow through and do the rest because I have committed the United States. How do you feel about that? I don't see that it is different

Or another example, Canada has much stricter gun control than we do. What if the President makes a political commitment to the Prime Minister of Canada, we both agree that there have to be tighter gun controls on both sides of the border, especially our side in America. So I am going to use existing authority to the extent I think I can and beyond that, Congress is obligated because I promised.

It is really worth asking yourselves, how that is different. I don't see how that is different. So I think going forward if the Senate shrugs its shoulders and says the President can commit us on this very complicated, costly, elaborate, ambitious climate agreement, maybe he can do it on many, many other things and is that really the way you want to

be governed.

Thank you.

[The prepared statement of Mr. Rabkin follows:]

Senator Inhofe. Thank you very much, Mr. Rabkin. Those are some new thoughts we haven't heard before.

We are going to have five-minute rounds. We are going to ask our colleagues to adhere to the clock here because we have an excellent turnout and we want to get to everyone here. So let us start with you, Mr. Bookbinder.

While I do not agree with some of the conclusions you have, I do agree that you have put together a study - put that chart back up, will you, that 30 percent chart? - that shows the way we are trying to do this now doesn't seem to work. Now, you are on the same side as the White House in terms of your philosophy on global warming and all this. I am sure you have talked to them about this chart, about the gap that is there, this approximately a 30 percent gap which I think everyone agrees is there.

Were you not able to get information that you needed?

Mr. Bookbinder. Chairman Inhofe, I have not talked to the White House about this. I have made public statements on blog posts, I have responded to email inquiries, I have talked on the phone to people. I have had no communication with the Administration or any officials concerning this analysis.

Senator Inhofe. Let me ask you, then. Why would the President come out with INDC that doesn't work mathematically?

Mr. Bookbinder. I think you would have to ask the

President or Secretary Kerry.

Senator Inhofe. Mr. Holmstead, on this same chart giving the 30 percent gap, what concerns me, and it concerns a lot of people from my State which is a rural State, which is an agricultural State. Where would you go to make up, what are the possibilities of where you would go to make up the gap?

Mr. Holmstead. Well, if you look at the major sectors that emit greenhouse gases, most of them are now regulated or soon will be under various regulatory programs that the Administration has either adopted or promised to adopt.

The biggest remaining sector that is not regulated is the agricultural sector. And they have a voluntary program. There is a history that sometimes voluntary programs become regulatory programs. And so if they are serious about filling in that 30 percent gap, you might anticipate that they would do such things as mandating changes in the way that conservation tillage is done, restricting nitrogen fertilizer, mandating different treatment of manure waste and other such things.

Senator Inhofe. Crop insurance to emissions or something like that?

Mr. Holmstead. Who knows? But if you are looking for where you might get those emission reductions, I think that is really where you would have to start.

Senator Inhofe. I appreciate that, because I look at this,

we have studied in our committee to see where would you go, were that to be desired. My farmers and ranchers in Oklahoma understand this. They understand that the greatest problem they are facing is nothing that we normally face in the Ag Bill but it is overregulation by the EPA. And they are afraid of that.

Professor Rabkin, if the President signs a unilateral political agreement, let's say he figured a way to do that in Paris. And I know something about this, I mentioned the Copenhagen agreement, when I went over. Those 191 countries assumed since they had the Vice President, they had the whole group that I mentioned to you over there assuring them, including Obama, that once those people agreed, it doesn't take legislation. They probably still assume that today.

Now, if they were to figure out a way to do this without coming for ratification to Congress, and I might remind everyone here, I know you are aware of this, but it is worth bringing up again, the Clinton-Gore Administration never did bring this for ratification to Congress. Because they knew it would not be ratified.

Now, if they are able to do something without ratification, without Congress's input, wouldn't the next Administration be in the same position to undo anything that was done?

Professor Rabkin. The next Administration could certainly say they made a political commitment, we repudiate it. That was

their commitment, you shouldn't have trusted them. Of course, that is an awkward thing to do because it does undermine the credibility of American Presidents. So I think it is lamentable that President Obama is putting his successor in that position, either repudiate my extra-Constitutional commitment or else undermine American credibility.

But of course they will be tempted to say, maybe they will be under a lot of pressure to say, I as Obama's successor cannot be committed by his unilateral posturing.

Senator Inhofe. Very good. Senator Boxer?

Senator Boxer. Thanks.

Mr. Rabkin, are you aware that 94 percent of our treaties are executive, done by the executive? Are you aware of that?

Mr. Rabkin. I am very aware of that.

Senator Boxer. Good. Because you didn't seem to, you were so outraged. Now, are you aware that in 1992, Congress ratified the United Nations Framework Convention on Climate Change?

Totally bipartisan. Are you aware of that?

Mr. Rabkin. Very aware of that.

Senator Boxer. Are you aware that these negotiations are based on that ratified treaty?

Mr. Rabkin. Yes.

Senator Boxer. So whoa, whoa, whoa. Then, your comments, sir, just make no sense at all. You speak as if this is a rouge

President.

Now the fact of the matter is not only do we have that vote, but we also have the Clean Air Act. Do you know how many times the Supreme Court has upheld that Clean Air Act? And how many decisions there have been that said greenhouse gas emissions are covered? Do you know how many cases there have been?

Mr. Rabkin. About greenhouse gas emissions? Probably single digits.

Senator Boxer. There are three, that is right, and the Supreme Court has spoken. So the fact is the Clean Air Act governs here, you have the treaty that governs here, you have a President who is carrying out the Clean Air Act. And frankly, sir, if he didn't he would be hauled into court.

So I just have to say that your outrage doesn't match the law.

Mr. Rabkin. Okay, so we agree on certain facts. That is what the initial colloquy was, do you know this, do you know this, yes, I know it, I know it, I know it. Now let me explain to you why I wouldn't say I am outraged, but I am very concerned and let me explain to you why.

Senator Boxer. But, sir, you already did in your -

Mr. Rabkin. Oh, no, no, no you are raising challenges and you have to let me answer.

Senator Boxer. I have the time if Senator Inhofe wants to give you more time. Your entire presentation was bashing this Administration without mentioning once that the Supreme Court upheld this law and that we have a convention that was ratified by Congress. So I am going to move on because I only have three minutes left. Mr. Bookbinder, I want to talk to you about something.

Senator Wicker. Mr. Chairman, I suggest that we extend Senator Boxer's time, so that the gentleman could answer the question and she could still have the remaining two minutes and 32 seconds to ask what she wants.

Senator Inhofe. A good suggestion, Senator Wicker from Mississippi, that is exactly what we are going to do. Because he wants to respond and we are going to give him time, if necessary my time on a second round. Go ahead, Senator Boxer.

Senator Boxer. Okay, can I go back to 2:32 because I was interrupted?

Senator Inhofe. Sure.

Senator Boxer. Thank you.

Mr. Bookbinder, you have come a long way in my direction since the last time I saw you. You are calling for a carbon tax. And that is where I am at. I think it is the simplest way and it is a way to put a price on carbon that is fair.

And you point out that your partner, his background is with

Exxon and I was going to ask you about that. You say you have never had a disagreement with him? Does he agree with you that a carbon tax is the right way to proceed here?

Mr. Bookbinder. Yes, he does.

Senator Boxer. Well, that is really newsworthy. Let's get that in the record, that ExxonMobil believes we should fight climate change with a carbon tax.

Mr. Bookbinder. Excuse me, Senator Boxer.

Senator Boxer. A former employee of Exxon.

Mr. Bookbinder. Yes. Please do not --

Senator Boxer. I am sorry. You are right. A former employee who spent how many years with Exxon?

Mr. Bookbinder. Decades.

Senator Boxer. Decades with Exxon. This is progress, folks, and I hope that would be the news coming out of here.

Now, Mr. Bookbinder, I also reread your testimony and I appreciate the fact that you are not backing off from what you said. So I am just going to read certain things.

You said severe heat waves are projected to intensify in magnitude and duration over the portions of the U.S. where these events are already occur, with likely increases in mortality and morbidity, especially among the elderly, young and frail. Do you still believe that?

Mr. Bookbinder. I assume you are reading from my previous

testimony?

Senator Boxer. Correct.

Mr. Bookbinder. Yes, I still believe those things.

Senator Boxer. Okay. Do you also agree now that climate change is also expected to facilitate the spread of invasive species and disrupt ecosystems?

Mr. Bookbinder. Yes, I do.

Senator Boxer. Do you also agree that climate change is expected to lead to increases in ozone pollution, with associated risks in respiratory infection and aggravation of asthma?

Mr. Bookbinder. Yes, I do.

Senator Boxer. Now, what you say in this in the very beginning is worth repeating. You point out that the best way to approach fighting climate change is through specific legislation. I couldn't agree with you more. I agree that the carbon tax, cap and trade, the things I have been fighting for.

But you said in the absence of such legislation the Clean Air Act will still enable us to get the job done. Do you still agree with that?

Mr. Bookbinder. It depends really on what you mean by the job.

Senator Boxer. They are your words, not mine.

Mr. Bookbinder. I understand that. Senator, aside from

that first paragraph that I cribbed, I haven't looked at that testimony since I gave it.

The Clean Air Act will reduce carbon dioxide emissions, there is no doubt about it. That is why I advocated successfully to bring the Massachusetts case. It is simply not as efficient a means.

Senator Boxer. I agree.

Mr. Hausker, does your analysis indicate that the U.S. target of reducing carbon pollution in the range of 26 to 28 percent by 2025 is achievable?

Mr. Hausker. Yes, I want to emphasize very strongly that it is achievable and I want to say I disagree strongly with Mr. Bookbinder's characterization of the WRI report as consistent with what he did in showing that there is a gap or that there are missing tons. I am happy to expand on that if you like.

Senator Boxer. My time has run out. I so appreciate the time, Mr. Chairman.

Senator Inhofe. Yes. Now, I am going to take the Chair's prerogative and give Mr. Rabkin a chance to respond as he was so anxiously trying to do a just a moment ago.

Mr. Rabkin. Thank you.

So on the first point, 94 percent of our agreements are executive agreements, that is true. But almost all of them are either authorized by Congress like the trade agreements.

Senator Boxer. So is this one.

Mr. Rabkin. No, this --

Senator Boxer. Yes, in 1992.

Mr. Rabkin. So you want to say the Framework Convention on climate change authorized the President to do anything that he wanted later on. And my simple answer to that is, if that is true why didn't anyone tell President Clinton? Why didn't President Clinton say, oh, Kyoto doesn't have to be a treaty, I was authorized by the 1992 Framework Convention. Al Gore, so enthused about the subject, why didn't he say, Mr. President, you don't need a treaty, don't bother with the Senate, you can do this inherently. So that seems to mean not at all convincing.

And I do want to go back and say apart from things that are implementing treaties, there are a number of executive agreements which are implementing treaties. Almost all of them are extremely narrow and technical, which is not what this is. This is a very big, ambitious thing.

The last point that you raised, which I think you were most substantive, don't we have the Clean Air Act and hasn't the Supreme Court said that is relevant to it? Yes, we do and yes, they have said it. It matters a lot when you get down to it. What is it that we think we are achieving in regard to climate change?

It is one thing to say we actually have a treaty which Congress has considered in some form. Maybe not two-thirds of the Senate but some congressional participation. That is one thing.

It is another thing to say, oh, you know, the President has made a deal so that Clean Air Act now needs to read this. And on particular issues there could be billions of dollars at stake. You are really making the Clean Air Act into a kind of blank check for the President and whatever people he happens to make agreements with. I think that is a real problem.

Just a last thing. We have this case, Michigan v. EPA. And it is about mercury and there is actually an international convention on mercury. Some amicus brief said, hey, what about the international convention on mercury. Neither the government nor the Supreme Court brought it up. I think that is because on both sides they thought, that is really dicey, let's not go there. I do not think it is at all settled that as long as the President has made a promise you can reinterpret domestic statutes accordingly.

Senator Inhofe. Thank you, Professor, for that clarification. Senator Sessions?

Senator Sessions. Thank you, Mr. Chairman, and thank you panelists, for your testimony. We are dealing with some important issues.

I just would say this. The American people are getting frustrated, that we have individuals executing policies that affect their everyday life, driving up the cost of their whole existence based on legal theories that are so tenuous that it is almost breathtaking in its thinness.

For example, the Clean Air Act was passed with no thought whatsoever that we would be controlling CO₂, an odorless, tasteless gas that is a plant food. And now we have a five to four decision in the Supreme Court, five members of the Court now saying that EPA can regulate your backyard barbeque, your lawnmower or any other item that emits any CO₂. It is a breathtaking thing.

Congress has never voted for it, Congress will not vote for it. American people do not favor it. In a poll I saw recently of 18 important issues listed, global warming was 18th.

So here we are, a group of elitists in this Country, through the thinnest of legal arguments, imposing huge costs on the American economy. I am worried about it. I don't think this is democracy in action and we have to be careful about this all occurs.

Mr. Rabkin, it seems to me that Congress, in resisting a President's overreach, could do something like Senator Cotton did with regard to Iran, write a letter and make sure that people who sign on with the United States know that is not

binding on the United States. Is that a legitimate response?

Mr. Rabkin. I think it is a really good idea. Because one of the things that we are going to be told is, oh, you are undermining trust in America if you don't follow through on what the President has promised. What you are proposing is to warn people, don't rely on what the President is saying, he is speaking for himself.

Senator Sessions. That is exactly what is going to happen, colleagues, on the trade, the motion authority. If the President comes back with a bad treaty and somebody says, oh, we shouldn't adopt it, he is going to say, well, you authorized me to negotiate it. And now I negotiated it and you are going embarrass the United States before the whole world and we are going to be a renegade nation, et cetera.

Mr. Rabkin. Could I just say, it is bad to disappoint foreigners. It is also bad to disappoint Americans and if you are elected by Americans maybe you should take the American reaction more seriously.

Senator Sessions. Exactly. Well, as lawyers we know who we represent. Our duty is to our constituents who voted for us. Now, with regard to what the other action would be we could pass legislation. But as a practical matter, any legislation that were to be passed is subject to a Presidential veto, is that correct, Mr. Rabkin?

Mr. Rabkin. Yes, what happened with Kyoto was the Senate passed a nonbinding resolution. So it wasn't subject to a veto. But that was registering how much opposition there was to the impending Kyoto deal. I believe that is why President Clinton backed off from submitting it, because of the resolution.

Senator Sessions. Well, I believe it was 97 to nothing, that resolution rejecting the Kyoto requirements.

Mr. Rabkin. Right.

Senator Sessions. Yet now we have a President signing a new one that would go even further than Kyoto, and there is no public support, or congressional support that would ratify that in any way.

Mr. Rabkin. I think you have described this exactly.

Senator Sessions. Senator Boxer talked to you about these treaties that we have signed. But if it is signed by the President and not ratified by Congress, it is not a treaty, is it?

Mr. Rabkin. The word treaty is usually reserved for things that are ratified by the Senate.

Senator Sessions. Now, with regard to another response the American people might have, what else could Congress do to represent their constituents if the President commits us to something that is not appropriate? It seems to me that the power of the purse remains maybe the only realistic option. Can

Congress use the power of the purse to rein in a President who is spending to carry out programs that the people don't agree with?

Mr. Rabkin. That is why they have the power of the purse.

Senator Sessions. So the power of the purse is essentially, Congress has no duty, does it, to fund any program that it believes is inimical to the interest of the constituents they represent?

Mr. Rabkin. Well, this is what we will be arguing about. The President will say, I have made a political commitment and you have to support me because we will be embarrassed. And the Congress will have to consider that.

Senator Sessions. Well, I appreciate your testimony. This is a matter of real concern and I have come to see more and more that the classical powers of Congress are being eroded. And it is not just the power of the Congress, it is the American people's power, their ability to control the people who control them. So now we are going to have somebody in some entity in some foreign country that is going to be directing us.

Mr. Rabkin. I would just like to add one word to what you said, which is Constitution. We have certain background assumptions about how our government is supposed to work. That is why we have a Constitution and what this is fundamentally about is saying, ah, that is old-fashioned, forget that. That

didn't work for Clinton. We are moving forward with something different in which the President gets to commit us. That is a real change in our Constitution.

Senator Sessions. A grave concern. Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Sessions.

Senator Merkley?

Senator Merkley. Thank you very much, Mr. Chair.

Interesting discussion, thank you all for your testimony.

Does anyone here disagree that climate change is a real challenge that we need to be engaged in addressing?

[No response.]

Senator Merkley. Anyone here disagree that human activity and burning of fossil fuels is a contributor to the challenge?

[No response.]

Senator Merkley. Well, thank you. I think that is the foundation for this discussion. I don't want us to get lost in losing our perspective on the forest, if you will, while we are looking at the individual trees.

I can certainly convey that in my home State of Oregon, climate change is very evident in a number of ways. Our fire season has increased by something close to 60 days over a few decades, far more forest being burned. We have a much bigger problem in the west with pine beetle, with warmer winters not

killing the pine beetles as they have in the past.

We have a big challenge to our shellfish industry, specifically our oysters, because of the acidification of the Pacific Ocean, which is tied to the same carbon dioxide that is causing climate change. We have a significant problem with loss of snowpack in the Cascades, which is resulting in warmer streams.

My rural communities care a lot about their fishing. Streams are not as good when they are small and when they are warm as when they are cold and when they are deep. They care a lot about their forests and they care a lot about their farming. And we have a massive drought that is tied in as well.

So in terms of the impact of this on rural America, it is massive. And it is manifested in farming, in fishing and forestry, all in my home State. So I have been struck by how important this conversation is as one that has direct impacts on the ground right now. We don't have to look at 50 years out or 100 years out.

Now, it is important that this be an international conversation. Pollution of the air or seas is a tragedy of the commons, if you will. In that sense, China has committed to producing as much new renewable energy between now and 2030 that is equal to all the electricity produced in the United States today. In fact, currently the U.S. produces about 1,000

gigawatts of electricity, all forms, including fossil fuels. China has committed to produce about 1,400 gigawatts of renewable non-fossil fuel energy by 2030.

So we are not talking about measures that they are committed to doing after 2030. We are talking about things they are doing between now and 2030. That is a massive deployment of renewable effort.

India has been a little slower to come around. But they have committed to increasing their solar capacity by 100 gigawatts by 2022, just seven years from now, and to work toward a more global HFC phase-down. Brazil has announced that it has a goal of 20 percent of its electricity from renewable sources, and pledging to restore 12 million hectares of forest, about the size of England, by 2030. So many nations are working together to take this on.

The U.S. has often been in the forefront of bringing the world together to take on world challenges. Certainly that is true of disease and taking on the pandemics of AIDS and tuberculosis and malaria. It certainly should be the case here.

I do feel that this it is important to place this conversation into that context. The exact nature of agreements that occur later this year in terms of setting goals and pledging the U.S. to work toward those goals, you can argue as lawyers over the fine print. But let's not lose perspective on

the fact that this is about a major challenge to the world that is having impact in our home States every single day on our rural resources and more to come.

Dr. Hausker, I wanted to, you touched briefly in your written testimony on the interaction between climate policies and international businesses. Why is it that we are seeing companies like Starbucks, eBay, Nike, Ikea, Sprint lobbying for action on climate change when, according to some of my colleagues, climate change will do harm to the economy?

Mr. Hausker. That is a very good question. You have pointed out the fact that more and more corporations, both U.S. and multinationals, are pressing for climate action by governments. They are also taking internal steps to reduce their own greenhouse gases.

I might add in that context, we talked about Exxon a short time ago. Exxon Corporation recognizes the problem of climate change and they have adopted an internal price on carbon to guide their investments. Many other companies have done that as well.

So the business community is taking this increasingly seriously and taking internal steps as well as advocating sound public policy.

Senator Merkley. I think it goes to the heart of demonstrating that businesses' boards that are committed to

profits see that climate change can be enormously harmful to our future economy. Thank you, my time is up. Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator Merkley. Senator Sullivan?

Senator Sullivan. Thank you, Mr. Chairman. I appreciate the panelists coming in and already having a very important discussion.

I always think it is important to begin these sessions by making it clear that we all care about clean air, clean water. I think sometimes my colleagues on the other side try to claim a little bit of the high ground, that they care more about it. They don't care more about it. My State probably has the cleanest air, cleanest water, certainly in the United States, maybe in the world. It is largely because of local actions, not the EPA, I guarantee you. Alaskans care more about the environment than officials here in the EPA in Washington do in our State.

But we also have significant concerns about what we call in Alaska federal overreach. That is usually in the form of an agency taking regulatory action without statutory or constitutional authority. Big concerns. They usually take the action because it is not popular in the Congress, so they can't get it through, so they take it anyway. At least in Alaska, the

EPA is considered the poster child of an agency that conducts Federal overreach on a very regular basis.

So legally, I think that the EPA is a rogue agency. But I think importantly, you don't have to take the word of members of the Senate or members of the public. We are seeing this more broadly.

The Supreme Court, we talked about Supreme Court opinions, in the last two terms, in terms of the UAR v. EPA, Michigan v. EPA, the Supreme Court has come out and said the EPA has violated the law or the constitution. It is increasingly conservative and liberal commentators who are starting to hold this view that the EPA is out of control legally.

You may have seen Laurence Tribe, well-respected liberal Harvard law professor who testified in front of Congress recently on the EPA's CO2 regs, saying "The EPA possesses only the authority granted by Congress, and its rule is attempting to exercise lawmaking power that belongs to Congress. Burning the Constitution should not become part of our national energy policy." That is Laurence Tribe.

I think this should be a concern of every member of Congress. And yet the EPA just kind of continues. This should be a concern of every member of this committee when we have an agency that doesn't respect the law of the land. We were talking about outrage before. I am outraged. We should all be

outraged, Democrats, Republicans, that an agency regularly violates the law.

My biggest concern is they just power through and keeping doing it. There was a Wall Street Journal editorial yesterday, Mr. Chairman, that I would like to submit for the record, called Stopping EPA Uber Alles. Essentially what the Wall Street Journal was saying is that the EPA, even when it gets struck down by the Supreme Court, it takes five or six years to have that happen, they just keep powering through anyway, ignoring the law.

Senator Inhofe. Without objection, that will be made a part of the record.

[The referenced information follows:]

Senator Sullivan. Thank you.

So I would just like to ask a few questions, Mr. Holmstead, Professor Rabkin, Mr. Bookbinder, others, do you believe, like the Supreme Court, like Laurence Tribe, that the EPA legally is a rogue agency?

Mr. Rabkin. Laurence Tribe was one of my teachers. I never disagree with him, especially when he is right.

Senator Sullivan. Thank you.

Mr. Bookbinder. That is an incredibly loaded question, Senator.

Senator Sullivan. Just a yes or no, or you can defer.

Mr. Bookbinder. I would say, and this is from someone who sued EPA frequently in the past, no, I don't believe it is a rogue agency.

Mr. Holmstead. I am quite confident that EPA does not let statutory intent get in the way of what it wants to do.

Senator Sullivan. I would take that as a yes.

Mr. Holmstead. We have seen that most prominently in the Clean Power Plan.

Senator Sullivan. Let me ask another question. With the executive agreement with China, does anyone on the panel believe that that somehow grants authority for the EPA, and I am not talking about the Clean Air Act, the President executes an executive agreement with China, does that give the EPA even the

smallest legal authority to start implementing domestic legal commitments on U.S. companies? An executive agreement. And I am not referring to the Clean Air Act, just that agreement.

Do they have any authority to anything legally, domestically here in the United States based on that agreement?

Mr. Rabkin. It is a really good question. My answer would be no, I am not sure what their answer is.

Senator Sullivan. Any other panelists want to respond to that?

Ms. Ladislaw. No, but I am not entirely sure it is necessary for the Administration to accomplish what they want to.

Senator Sullivan. Thank you, Mr. Chairman, I see my time is up.

Senator Inhofe. Thank you. Senator Cardin?

Senator Cardin. Thank you, Mr. Chairman. I very much appreciate your holding this hearing, The Road to Paris. Paris, to me, is going to be an important moment in our global commitment on the problems of climate change.

It is interesting, a good deal of the discussion here seems to be the role between the executive and legislative branch, rather than dealing with the underlying problem of how America needs to respond to the global climate change challenge. I don't see any disagreement that climate change is real, that we

could do something to mitigate it, that there are health risks, that there are economic risks, there are security risks to the United States in regards to global climate change. If we don't take aggressive steps, the world depends upon U.S. leadership.

There seems to be more fight as to whether Congress needs to take action or the executive action. I would hope both would take action.

I serve as the senior Democrat on the Senate Foreign Relations Committee. I am frequently in international meetings when climate change comes up. And I must tell you, President Obama is getting good reviews internationally. The United States Congress is not.

I think the international community would welcome the ability of the United States to speak with a more united voice and would welcome Congress taking affirmative steps by legislation to deal with the climate change issue. We have tried, Mr. Chairman, we have tried. Senator Boxer has taken a real leadership role. I was here with she worked with Senator Warner of Virginia and Senator Lieberman, and we came close. Senator Markey, who is not here right now, took an incredible leadership role on the House side in past legislation.

The challenge is that we need to put a price on carbon. We have to put a price on pollution. It is unlikely that will happen. I think we all understand the realities of the politics

of this Congress. But the United States has an opportunity and President Obama is taking advantage of that to show world leadership, to make a difference not only for the United States security and health and economy but for the global security, health and economy.

So Mr. Hausker, I want to ask you a question if I might. What action would you think Congress could take that could be most helpful to achieving the goal President Obama has laid out for us to meet as we go into the Paris meetings?

Mr. Hausker. I would certainly wish that Congress would be supportive of achieving the target that President Obama has set forth. It is an ambitious but achievable target. It can be done using existing federal authority, supplemented by actions by the States.

And in the longer term, I would hope that Congress would do what you pointed to, which is put a price on carbon, which could be done in a variety of ways. There is WRI research and research by other think tanks and academics pointing to the multiple benefits of putting a price on carbon and the ways it could be constructed to promote economic growth.

So I think there is a short-term mission to advance the agreement that we hope will be concluded in Paris into 2025 and then the longer term agenda of putting the right press signals in place that can help this Country as well as help the globe

toward the decarbonization in the decades ahead necessary to solve this problem.

Senator Cardin. Senator Whitehouse is here, who has been one of the real leaders on this issue on the price of carbon and dealing with energizing the private sector to develop ways in which we can meet our economic challenges, recognizing there is a price of carbon. We can show it directly in regards to what it does to our environment, what it does to our health. There is clearly a price.

By recognizing that, the private sector then comes up with ways in which we can reduce our carbon and help our economy and do it in the most cost-effective way. That is what many of us have been trying to do. We thought that it is a sensible bridge between the Democrats and Republicans to energize the private sector.

What I really think the tragedy is here is that we don't have to get into a philosophical debate here. It seems to me the same solutions help our economy, help our security and help our environment. So all of us want to do all three. I am not sure why we are having this tough philosophical debate about recognizing the dangers of carbon emissions and having our vibrant economy figure out ways that we can again lead the world in innovation and dealing with the underlying problems.

Thank you, Mr. Chairman.

Senator Inhofe. Thank you, Senator. Senator Fischer?

Senator Fischer. Thank you, Mr. Chairman.

It was mentioned before that maybe we shouldn't forget about the forest, and we are looking at the trees. Well, I would say the purpose of this hearing is to look at the trees. We are looking at the road to Paris. As Senator Cardin said, we tend to get into philosophical discussions here on climate change and where we are on that. But I would like to get back to where the hearing is focused.

My friend from Oregon was talking about rural America and the effects that climate change has on rural America. Well, I am a cattle rancher. I live in a county in Nebraska with less than one person per square mile. So I think I can speak about rural America. I think I can focus on maybe some of the effects that the road to Paris will have on rural America and have on agriculture.

I happen to know where my friend from South Dakota lives. He lives two hours north of me in Pierre, South Dakota. He can speak to rural America as well. Basically, we live in the middle of nowhere or the center of the cosmos, one or the other.

Mr. Holmstead, you had spoken earlier about the regulations that are out there, the known regulations, the issue that we would have with those and the effects that they would have on families and businesses. And you had kind of gotten started

into where the unknown regulations would come from that you believe would need to be imposed on families in order to meet those targets of 26 to 28 percent in reductions.

You mentioned the agriculture sector. That is the economic engine of Nebraska. It is an economic engine for this Country. This road to Paris would have an effect on families, on the economy and they are unknown. They are unknown regulations.

Can you let us know what you think some of those regulations would be and the impacts that they would have?

Mr. Holmstead. My point, as you know, was that the sector that, according to EPA, emits greenhouse gases that are not really regulated is agriculture. I am probably not the right person to predict exactly what those would be. But what I would say is, if you look at the things that the environmental community is calling for in terms of tighter controls on animal manure, in terms of changes in the way that we plant crops, in terms of changes in the way we do grazing and all these sorts of things, changes in the way that fertilizer is used, these are the things you can imagine.

Again, my point is, if they really are serious about meeting their commitment, they almost have to do those things. So it is either they are not serious about meeting their commitment or we can anticipate perhaps a greater regulatory burden on rural America.

Senator Fischer. Mr. Bookbinder, you stated in your testimony that the reduction target submitted by the President would also be attributed to unknown regulatory measures. Those are going to add costs to families and businesses. Do you have any idea what some of those unknowns would be, what the Administration needs to be looking at in order to meet those requirements that they have set out for the American people?

Mr. Bookbinder. Senator, let me make sure I understand your question. You are asking, am I aware of what the regulatory measures the Administration is contemplating to make up what I call the gap, I have no idea what the Administration is contemplating. None.

Senator Fisher. Do you have suggestions or any ideas on where the Administration might be looking?

Mr. Bookbinder. No client has come to me to ask me to try and figure out where those missing tons have come from. If they did, I would be delighted to think about it. But my job so far was to say, hey, there is just a missing bunch of tons here.

Senator Fischer. I guess I am not going to pay you then, to give me an answer. Is that correct?

Mr. Bookbinder. I certainly don't want to add to the deficit.

[Laughter.]

Senator Fischer. Thank you.

Mr. Holmstead, do you think that existing U.S. law, particularly the Clean Air Act, authorizes the President to achieve the carbon reductions that are promised in this international carbon commitment?

Mr. Holmstead. No, I don't see how the Clean Air Act can be used to get the reductions that they have promised. Again, if I can just point out, the Clean Air Act hasn't changed really since 1990. So if the Clinton Administration believed that it could have achieved these reductions under the Clean Air Act, you would think it would have done something.

So what we are seeing is an incredibly creative use of the Clean Air Act in ways that I think the courts are almost certainly going to strike down.

Senator Fischer. So more lawsuits in the future. Thank you.

Senator Inhofe. Senator Markey.

Senator Markey. Thank you, Mr. Chairman, very much.

This is a very important hearing. It kind of calls into question the can-do capacity of the United States in order to meet big challenges. Can we do it? We know the threat is there. Do we have the capacity to do it?

Well, back in 2005, the annual U.S. carbon pollution was the second highest level ever, just slightly lower than the peak of 2007. Back then in 2005, fuel economy standards for the

United States were 27.5 miles per gallon.

We passed a new law. The President implemented the law. For model year 2016, the average is going to be 34 miles per gallon. No one had that on the books in 2007. But we passed a law. And that is dramatically reducing emissions, and it is going up to 54.5 miles per gallon by the year 2025. We can do it.

Same thing is true for the price of natural gas. It was \$7.33 per 1,000 cubic feet in 2005. And that price has plummeted. No one had that on the books that through new fracking technology we would see such a dramatic reduction in natural gas prices that would substitute natural gas for coal, reducing right there by 50 percent the amount of emissions that were coming out.

No one had that on the books. Technology and innovation made the difference.

In 2005, we connected a mere 79 megawatts of solar for the whole year and about 2,400 megawatts of wind. That is 2005. In 2014, we added 7,000 megawatts of solar up from 79 megawatts in 2005. We expect to add 11,000 megawatts of wind just this year. That is not on the books in 2005.

This is innovation. This is America saying, there is a problem, we are going to solve it.

So if we can make those kinds of changes, then the sky is

the limit if we have a sense of American can-do.

In New England, New York, Delaware, Maryland, we implemented a Regional Greenhouse Gas Initiative. From 2007 until today, we have reduced our greenhouse gases across those nine States by 40 percent. In Massachusetts, we saw an increase in our gross domestic product by 29 percent at the same time.

We can do it. We can do it. We have to believe in innovation.

So let me come to you, Dr. Hausker. From your perspective, what do these changes in the last eight, nine, ten years mean in terms of what is possible in the future, from your perspective?

Mr. Hausker. Senator Markey, I think you offered some great examples of the power of innovation, the power of ingenuity and the way American business can rise to challenges and produce not only jobs and economic growth, but fewer greenhouse gas emissions.

The kind of things driving some of the changes that you cited is we are in the middle of a clean energy revolution. Over the last five years, we have seen the cost of wind power decrease by 58 percent. We have seen the cost of solar PV decrease by 78 percent. That is innovation, that is achieving economies of scale and those trends can continue also with supportive public policies and can lead to the kind of decarbonization of the economy as we continue to grow and

provide jobs.

We have seen that across vehicles, power generation, HFC reduction technologies, across the board we are seeing the innovation that can deliver on the kinds of reduction targets the Obama Administration is set.

Senator Markey. But again, we have to drive the innovation. When the Wright Brothers were taking that first flight in 1903, at Kitty Hawk, even they would not have envisioned the role an airplane would play in World War I, just 14 years later. They could never have imagined. But because of the commitment of innovation, because of the American can-do, it revolutionized the rest of the world.

Dr. Hausker, your analysis found that the United States could meet the President's proposed targets with existing authority. Mr. Bookbinder's testimony finds an emissions gap. Can you tell us why your arithmetic adds up?

Mr. Hausker. Yes, thank you. Here is how, I have reviewed Mr. Bookbinder's analysis, and here is how I can explain why he has one set of conclusions and the WRI analysis has a different set of conclusions.

I think I understand what you did, Mr. Bookbinder. You have looked at rules that have been finalized or rules that are in near-finalized state across some different end uses and sectors and added up their emissions reductions as projected for

2025 and compared that to the target.

What is final or near final doesn't add up yet. The WRI analysis, which I would be happy to put into the record, looks beyond what is just finalized and near-finalized. We look at the potential across the economy for the use of existing federal authority to reduce emissions.

So that looks beyond some of the categories you looked at. We also looked at industry, at aviation, at some reductions in the trace greenhouse gases like PFC and SF6. We also looked at deeper gains from energy efficiency, deeper gains from the reductions.

Senator Markey. Mr. Hausker, I hear you are being gaveled. I thank you. I agree with you. I would just say this, Wright Brothers, Elon Musk, that kind of innovation if we keep the rules in place. We will solve this problem. We just have to believe in ourselves.

Senator Inhofe. Thank you, Senator Markey. Senator Capito?

Senator Capito. Thank you, Mr. Chairman. I would like to thank the panelists, too. This is a very interesting discussion. I don't know if the panelists know, I come from West Virginia, which is heavily impacted by the Clean Power Plan. We have had heavy impacts to this point with the MATS ruling.

I would like to stick on the legal parameters to begin with, at an agreement that could be reached in Paris. My colleague from Massachusetts was touting the fact of more efficiencies in cars. One of the quotes he used was, we passed a law, we, being Congress, passed a law and forced that. So I think that is the crux of the argument, for me, especially after the decision of the Supreme Court last week.

So Mr. Holmstead, the Administration is relying on the Clean Power Plan to deliver a substantial share of 26 to 28 percent reduction. But we know that the Clean Power Plan is going to be on shaky legal ground. We don't know when this is going to be settled. It could be overturned in whole or in part just as the Supreme Court rejected EPA's Mercury Rule last week, by not considering economic impact. We keep trying to get the EPA to come to West Virginia to look at the economic impacts of their regulations, and we have yet to achieve that.

So what are the domestic legal implications of a Paris agreement that commits the U.S. to a level of emission requirements that the courts could later then determine were faulty EPA interpretations of the Clean Air Act? How would you see that?

Mr. Holmstead. I don't understand how the President's pledge can change domestic law. And Professor Rabkin may know more than I do about these issues, but I thought a lot about

what would happen, what kind of a lawsuit would somebody bring. I think the answer is that there is nothing like that.

That is why, again, I think it is a problem to have the President, no matter what you think about climate change, why should the President be out making commitments on behalf of the Country that he has no way of meeting? That is my real problem.

So I don't see how he can change domestic law by making that kind of a unilateral agreement.

Senator Capito. Would you agree, Professor Rabkin? You have pretty much addressed this issue.

Mr. Rabkin. So there is this canon of construction that you should avoid interpreting a statute in a way that puts it in conflict with international law. If there were a treaty that had been ratified by the Senate, I think it would be a plausible argument which might move some justices or some judges on an appellate panel to say, let's avoid the conflict with a treaty.

I think it is really a big stretch to say, let's avoid a conflict with a President's political commitment because he promised. That is really allowing the President to rewrite statutes, just because he has foreign friends. I don't think that can work.

Senator Capito. Mr. Bookbinder, let me ask you a question. The system of pledging review that Paris is based on seems to confer, gives a lot of flexibility on developing nations, but

more hard commitments by industrial nations like the United States, both in terms of emission reductions and possible financial obligations.

I have already spoken about my State and what we see in terms of what kinds of impacts this could have, the Clean Power Plan and further agreements could have on a State such as hours. We are so heavily reliant on coal. We have a lot of it as a resource, we have a lot of natural gas. We are happy about that.

Are there any safeguards that are being considered to protect American industries, consumers, workers? We already know the cost of our power is going to go up and the cost of energy is going to go up. What kinds of parameters in an agreement are to be considered as you look at us as an industrialized nation in contrast to the developing nations?

Mr. Bookbinder. Senator, you are going to hear words from me that you rarely hear in Washington, which is, I don't know. I know almost nothing about the Paris process. I will defer to people who do.

I simply looked at the U.S. commitment and added up the numbers. I think Dr. Hausker and I have a slight difference. He said I looked at measures. I looked at every one of the measures that Secretary of State Kerry put in the INDC. So I simply took the measures that the Secretary of State put in the

INDC and added them up. If there are others, then there are others. He didn't put them in the INDC.

Senator Capito. Mr. Holmstead, do you have any reaction to that? Or is that something, in terms of developing nations commitments and industrialized nations, are we looking at what kind of advantage or disadvantage that would play and how it might impact us?

Mr. Holmstead. I don't think there is any explicit consideration of that in Paris.

Senator Capito. It sounds like a Supreme Court decision to me.

[Laughter.]

Senator Capito. Thank you.

Senator Inhofe. Senator Whitehouse.

Senator Whitehouse. Thank you very much, Mr. Chairman.

First of all, let me thank Mr. Hausker for bringing up the value of the price on carbons, since I have a bill to exactly that effect, that appears to comport with at least the general principles that most of the Republican study groups that have looked at this issue require, i.e., that the money go back to the American people and not be used to fund any growth in government.

Let me just sort to set a baseline for the hearing ask each witness to answer the following question. That is, if you

believe that climate change, man-made, through carbon emissions, is a serious problem that merits the sincere attention of Congress. Mr. Hausker?

Mr. Hausker. I completely agree with that statement.

Senator Whitehouse. Ms. Ladislav?

Ms. Ladislav. I agree.

Senator Whitehouse. Mr. Holmstead?

Mr. Holmstead. I agree.

Senator Whitehouse. Mr. Bookbinder?

Mr. Bookbinder. I agree, and I want to add one thing.

Senator Whitehouse. Let me finish what I have asked first.

Mr. Rabkin?

Mr. Rabkin. Sure.

Senator Whitehouse. I could hear through the hearing, and I have heard a lot of my colleagues talk about their concern that the gap would be an opening to regulate agriculture in different ways. I would simply urge my Republican colleagues who are concerned about that to talk to big American corporations like Cargill, which are heavily, heavily invested in agriculture. Big American companies like Mars that depend on agriculture for their product lines.

I think you will find that they are urging the agricultural sector to move in this direction on their own. This isn't some plan that just got hatched in the White House. Because they

understand that climate change is real. We on a bipartisan basis have done things like approve funding for biodigesters in the Agriculture Bill to help reduce the methane. That is a pretty simple way of addressing the manure from ginormous feed lots that put out tons and tons of manure.

So it is not as if there are not ways that we can address this in a bipartisan fashion. There are ways we already are beginning to address this in a bipartisan fashion and ways in which the corporate community, particular big American corporations, are leading us on this.

I hope that we can address the question of regulatory burden in this committee, but I don't think that we can address the question of regulatory burden in the context of a committee that refuses to acknowledge that climate change is real. I am glad that all the witnesses get it. I doubt if we polled the Republican side of this committee you get the same answers.

It is unfortunate, because I think it is hard to address a problem that people are busy denying is a real problem. I particularly note what I consider to be the baleful effect of the Citizens United decision. We actually had a lot of good, bipartisan work going on climate change until the Citizens United decision came along.

In this committee, John Warner was the Republican co-author of Warner-Lieberman. Senator Cantwell and Senator Collins got

together to do a very significant cap and dividend bill back in the cap and trade era. Senators like Senator Flake have written articles saying that a carbon tax would be the way to go as long as, again, back to the original requirement, it is revenue neutral, the money goes back to the American people.

Senator Kirk, back in the day, voted for the Waxman-Markey bill. Senator McCain campaigned vigorously for President as the Republican nominee on doing something about climate change.

So there is a steady, steady heartbeat of Republican activity until Citizens United happened in January of 2010. After that, it has been like the EKG flat-lined. I think there is a direct correlation between the fossil fuel industry taking advantage of the bullying and manipulating power that Citizens United gave it to perform exactly those tasks and trying to bring the Republican party in Congress to heel. Unfortunately, I think they succeeded in doing so.

Fortunately, the American people have a very different point of view. There is going to be a big accountability moment in November of 2016, when the Republican party has to take what is presently its theory about carbon change, which is either it is not real or people don't have anything to do with it or I don't want to talk about it and vet that before the American voters. I don't think that is going to be a very healthy moment for that particular set of political theories.

So I hope we can continue to work together on this. But I do think that Citizens United has had a really, really unfortunate effect on this conversation. My time is over, so I will yield.

Senator Inhofe. Thank you. Senator Boozman, thank you for your patience.

Senator Boozman. Not much choice on who to recognize.

Senator Inhofe. That is right.

[Laughter.]

Senator Boozman. Thank you very much, and thank all of you for being here.

As Senator Markey said, we can and should be very proud of the innovations we have made and the ability of America's can-do spirit. The other side of that, though, is that we are a nation of laws. We have checks and balances in place. There is a proper way to do things. So I guess the real question is, does the President have the authority to go overseas and strike an agreement that is very, very far-reaching.

In listening to the panel today, and you have done an excellent job, really representing both sides, but anybody who has listened today, anybody who has read the literature, there is profound disagreement as to whether or not this 26 to 28 percent can be reached and what it would take to do that.

Mr. Holmstead, in the course of studying, being a part of

the Clean Air Act for many, many years, how long under the current scenario that we are doing, how long would it actually take to get to a goal like that?

Mr. Holmstead. The single biggest thing that the Administration has promised to do is something called the Clean Power Plan. And their assertion is that that can achieve a significant reduction. It is maybe half of what the President would need to get to 26 percent.

I have been dealing with the Clean Air Act for 25 years. I just don't think the courts are going to uphold that. It is so far beyond what the statute says. So if you take that away, you are looking at things that could improve the efficiency of a lot of different things, cars we already have, we could do other things. But I don't see how you get to 26 to 28 percent. And I can tell you we can't get there by 2025.

Senator Boozman. But even with that, if the courts did uphold it, you still have a huge problem in doing something different even getting to the 26 to 28 percent.

Mr. Holmstead. Yes.

Senator Boozman. That would take decades.

Mr. Holmstead. I want to point out there, is not such a disagreement between Mr. Bookbinder and Mr. Hausker. They both have said that what the Administration has announced is not enough to get you there. Mr. Hausker believes there are many

other things that they and States can do.

Senator Boozman. Exactly.

Mr. Holmstead. But the EPA doesn't have that authority, in my view.

Senator Boozman. So in the case of the international climate agreement proposed by the President, does anyone disagree that it won't drive up the cost of food, fuel and electricity for American families and have an impact on domestic policies ranging from agriculture to energy to transportation if we were able to do this 26 to 28 percent reduction?

Mr. Hausker. The analysis that we have performed and the analysis of other groups that we have reviewed indicate that the U.S. can maintain economic growth, that it can maintain job creation.

Senator Boozman. I don't mean to interrupt, but you don't disagree that it is going to drive up the cost of food, fuel, electricity for American families and have a significant impact on domestic policies to achieve the 26 to 28 percent?

Mr. Hausker. I can't make any broad, sweeping statements. The impacts are going to vary by sector. If we look at electricity, for instance, and we look at the impacts, the projected impacts of the Clean Power Plan, we find that although the price of electricity may go up, the efficiency programs that would accompany it would actually decrease demand and that

average residential bills would be constant or could actually decline.

So things interplay in different ways.

Senator Boozman. But you would acknowledge this is a big deal? To reach a 26 to 28 percent reduction, you are going to have far-reaching things.

Mr. Hausker. We call it ambitious. It requires a lot of action. It requires a lot of operation.

Senator Boozman. And the question is, does the President have the unilateral authority to do that? And that is really kind of where we are.

Yes, ma'am?

Ms. Ladislaw. I just wanted to say, it is kind of a strange conversation we are having about what authority the President needs to make that kind of a commitment, whether it is a domestic or an international authority. I think that it is important to keep in mind that the Administration has said if they come back with an agreement that they believe legally requires State pass through Congress, they will take it that route.

So the idea here that we know what the agreement looks like and therefore can justify what kind of authority it requires, we won't really know until we get the outcome from Paris. There is some speculation about those things, but we don't really know

the answer to that question.

Mr. Bookbinder. I would like to take a shot at answering that question. The Congress, your predecessors have created this system. Congress wrote a Clean Air Act that says EPA shall regulate a pollutant that is anticipated to endanger human health and welfare. EPA has determined, quite reasonably, that carbon dioxide and other greenhouse gases do endanger human health and welfare. At which point the Clean Air Act, as written by your predecessors, says EPA must regulate.

Now, the point I am making is that as a result of that, Congress has already put a price on carbon. The regulatory costs, which are mandated by the Clean Air Act, are a price on carbon. What some in the White House and other people who propose a carbon tax is a more economically efficient price. So you are either going to be stuck with an inefficient or regulatory price or an efficient carbon tax price. Those are your choices.

Senator Boozman. Thank you, Mr. Chairman. The only thing I would say is if you can't sell it to the Congress, if you can't sell it to the American public, then again, it probably shouldn't be done in this manner. Thank you very much.

Senator Inhofe. Thank you, Senator Boozman. That is a very good point.

I am going to do something, and it is within the power of

the chair to do it. Senator Boxer wants a full five minutes to respond to everything. While she was the chairman, I never made that request.

[Laughter.]

Senator Inhofe. However, I am going to allow her to do that, and no one else coming in, they have now had their chance to come down. So we are through hearing from other members.

We will acknowledge Senator Boxer for five minutes, then I will acknowledge myself for perhaps an equal amount of time. Then it is over, you guys.

[Laughter.]

Senator Boxer. Senator, thank you.

I am not going to ask any questions. I am just going to thank the panel. All of you were terrific. Mr. Bookbinder, you spoke for me in your last comments. You are so right, there is a price on carbon. It is not the most efficient way. If we could come together around a carbon tax. I also think the international oil companies would come into that place, we would be far better served.

What I want to do in these couple of minutes is just give kind of a closing argument about why I think the President has this authority. I agree with Senator Boozman. We are a nation of laws. So I will take you back to 1992, October 7th, when the Senate, by unanimous consent, passed the U.N. Framework

Convention on Climate, under which this President and the next one has the authority to move forward with executive agreements as long as they don't violate our laws, such as the Clean Air Act and our fuel economy and all that. That is his intention.

I also wanted to speak to Senator Fischer's point, the point that she made as a rancher. You probably know I am not a rancher, I am not a farmer, I was born in Brooklyn, New York. There used to be farms in Brooklyn, but not when I was born. I am not that old.

I represent a State, along with Senator Feinstein, that has the largest ag production in terms of revenue. We are number one. If we move toward an agreement and toward doing what we have to do with very catastrophic climate change, we will save, in our Nation, \$11 billion a year out through 2050, in avoiding these damages to the climate which is going to adversely impact agriculture.

So it is because I represent this State that I fervently believe California is on track and the President is on track. Frankly, the Congress is off track.

Then I think it is very important, Senator Sullivan mentioned Larry Tribe. I love Larry Tribe. But I think he sold out in this particular case. It is okay. He took a lot of money from Peabody Coal and he is presenting their arguments. He has lost so far. Let's be clear. The courts have ruled

against him so far. I am sure he is doing a great job but that is where it is at this point.

I wanted to say to Mr. Holmstead, thank you for your government service. You were there at EPA for a period of time. When you were asked if you felt the EPA was a rogue agency, you gave kind of an answer that I sensed was leaning yes at this point.

When I look back at your service and your time there, your refusal and the refusal of the Bush Administration to admit that climate was covered in the Clean Air Act led us to Massachusetts v. EPA, in which your side lost and my side won. Now, the point there is, maybe EPA was a rogue agency at that time when you were there. Because clearly when you read the case, honest to God, it says, any pollutant that adversely impacts the climate.

I am not a lawyer. I am married to one, my father was one, my son is one. So maybe by osmosis I am one. But all you have to do is read the Clean Air Act. The Bush Administration wasted eight precious long years. It is really worth noting.

Now, Senator Sessions makes a really good point. He says, shouldn't we use the power of the purse. And the people here who agree with Senator Sessions, that this is the wrong way to go, say yes, use the power of the purse. And he made the point, we shouldn't have to go against our constituents.

Let me show you the recent poll, in January 2015. Eighty-

three percent of Americans, including 61 percent of Republicans, say if nothing is done to reduce emissions, global warming will be a serious problem in the future. Seventy some percent of Americans say the Federal Government should be doing a substantial amount to combat climate change. That is a Stanford poll. There is also a Wall Street Journal poll that has similar findings.

So I am saying to my friends on the other side, you are on the wrong side of the people and you are on the wrong side of history because of the way this thing is going.

Finally, I will close with a comment that was made by Christie Todd Whitman, former EPA Administrator under George W. Bush. She appeared here on June 18th, 2014: "I have to begin by expressing my frustration with the discussion about whether or not the EPA has the legal authority to regulate carbon emissions that is still taking place in some quarters. The issue has been settled." She is right. Thank you.

Senator Inhofe. Thank you, Senator Boxer.

First of all, this hearing today is not a science hearing. The questions that were asked of you, I am sure it was difficult to answer them. You didn't come here with that perspective. You came here for the what are we going to do about Paris and what about this 21st meeting that is coming up, what power does the President have to do these things that he seems to think he

can do without any ratification by Congress.

I would suggest, I want to clarify a couple of things. Senator Boxer used the statement that 56 percent of the people in Congress would adopt something that would be any type of cap and trade or a similar kind of restriction. That is not exactly true, because that was on a majority, a vote on a motion to proceed. I have many times, and every Senator up here has many times voted to proceed to something to hear it without supporting it.

The specific votes, the highest one it ever got was 48 percent. And that was the Warner-Lieberman vote, and then 38 percent and 43 percent.

Now, no useful purpose would be used, because I hear the same things over and over again. I have stood on the Floor. I was down there during the time that right after Tom Steyer put in his \$75 million to elect people that wanted to revive the old global warming argument. I went down there and listened and I heard the same things that have been rebuked many times before. They keep coming up.

We heard it from three of the members over here today. They talked about, oh, the weather consequences, the serious consequences, droughts, and in fact that the severe drought, that 34 percent covered 80 percent of the Country compared to 25 percent in 2011. We have all these statements that were made.

In fact, Professor Rabkin, your university, George Mason, did a study of all the meteorologists, not all of them, but a sampling of meteorologists. They reported that 63 percent of the weather forecasters, those are meteorologists on TV, believe that any global warming that occurs is a result of natural variation and not human activities.

Here is a good one here. Dr. Martin Hertzberg, he is one I knew personally, a very proud liberal Democrat, retired naval meteorologist with a Ph.D. in physical chemistry, also declared his dissent of warming fears. He said "As a scientist and a lifelong liberal Democrat, I find the constant regurgitation of the anecdotal fear-mongering claptrap about human-caused global warming to be a disservice to science." Continuing, he said "The global warming alarmists don't even bother with data. All they have are half-baked computer models." He goes on and on.

Then there is Richard Lindzen. I remember him very well, because he testified here before this committee. He said that regulating carbon is a bureaucrat's dream. If you regulate carbon, you regulate life. I am sure some of you remember that.

He is one who has been with MIT. Same thing with sea level and some of the other arguments.

But I do want to mention this. The most recent poll that Gallup came out with, they sent a list, and these are the 25 - I will make this a part of the record - national concerns of

Americans. Dead last on that list is climate change.

I know people want to believe it, people want to believe the world is coming to an end. Quite frankly, confession is good for the soul. I recall when I first was exposed to this, and everyone said it was true, so I assumed it was until they came out, it was MIT and some other groups, came out and said how much it would cost if we were to pass the cap and trade type of legislation that came originally from McCain and Lieberman. The range has been between \$300 billion and \$400 billion a year. That has not really changed.

So I did the math in the State of Oklahoma. Each family in my State of Oklahoma that files a federal tax return would end up paying about \$3,000 a year.

By the admission of President Obama's first director, Lisa Jackson, of the EPA, when asked the question when she was sitting at the table right where you are sitting today, if we were to pass some type of a cap and trade legislation, either by legislation or regulation, would this have the effect of lowering CO2 emissions nationwide, she said, no, it wouldn't. The reason was because this isn't where the problem is. It is in China and India and other places.

By the way, I know all this talk about what China is going to do, they haven't committed to anything. The President came back and he talked about this great achievement that he made.

They didn't commit to anything at all.

Now they say, well, we are going to increase our emissions of CO2 between now and 2025, then we are going to start decreasing it. That is a deal? It is really not.

So I only want to say that we have had the science hearing. It is a controversial subject. And I am glad that we are having this hearing today. I personally, as I said in my opening statement, went to Copenhagen and was at that time, this was after all the leadership, as perceived by the other 191 countries, were all on one side. I said no, what they are telling you isn't true. We are not going to be passing cap and trade as they told you. This was 2009. And of course, that didn't happen.

We will continue to look at this. We are concerned about any issue that comes before this committee, and we are adjourned.

[Whereupon, at 11:55 a.m., the committee was adjourned.]