

# Withdrawal of the United States from the Paris Agreement Time for a Level Playing Field & A Fair Framework? *Part 1: Problem Definition based on Interests-Not Position*

[Dr Ted Christie, 17 August 2017](#)



## **Disclosure Statement**

*Ted Christie does not work for, consult to, own shares in or receive funding from any company or organisation that would benefit from this article, and has no relevant affiliations*

The position taken by President Donald Trump on the landmark 2015 Paris Agreement was made clear in June 2017, when the United States withdrew its ratification; the US was no longer bound by the Agreement's legal obligations.

Most attention has focussed on the President's position rather than interests. **"Interests"** are the **"needs"** and **"concerns"** that underlie the position taken. Interests must be satisfied, for outcomes sought under a problem-solving pathway.

Looking behind positions, and understanding interests, has clear advantages for problem-solving. The [following statement by President Trump](#) identifies some of the issues of concern that led to the position held by the United States: -

*[The deal is] less about the climate and more about other countries gaining an advantage over the United States...*

*The Paris Agreement, as it stands, would make it "very hard" for the US*

*"to compete with the rest of the world "...*

*leaving it would save 2.7 million jobs, primarily in manufacturing.*

The Paris Agreement entered into force on 4 November 2016. Of the 197 countries that are signatories, [159 Parties have now ratified it.](#)

Criticism of President Trump's decision to withdraw ratification came from within the United States as well as throughout the world. The decision galvanized critics from diverse backgrounds – global political leaders, national corporate CEOs, the scientific community, environmentalists....

Their reaction varied across a broad spectrum: Disapproval, condemnation, fury, alarm and doom. It polarised public opinion and ignited conflict.

But, counter-balanced against this global reaction, is the public statement made by Dow Chemical's Chief Executive, Andrew Liveris, the head of a private sector group that advises the US Secretary of Commerce, the US "Manufacturing Council".

[While [Dr Liveris wrote in an email](#) that he was disappointed with Mr Trump's decision, he said he understands] *"there are always many potential solutions to challenges and are eager to work toward alternative solutions"*.

This statement needs to be considered within the context of [President Trump's statements](#) made following the decision to withdraw ratification:

*The US would begin negotiations either to re-enter the Paris Accord or to have a new agreement "on terms that are fair to the United States, its businesses, its workers, its people, its taxpayers"... and "I will work to ensure America remains the world's leader on environmental issues but under a framework that is fair" (Emphasis added).*

Against the background of global concern over President Trump's decision is the uncertainty about what pathway the US could now take for a solution to emerge?

It should not be in dispute that negotiation must be a cornerstone to address the challenge posed by the President; and that a problem-solving approach is essential.

Concepts and principles from conflict resolution provide the framework for problem-solving; commencing with an **assessment** of the "**interests**", underlying the United States "**position**" that were held for withdrawing, must be satisfied.

For the Paris Agreement, **three core interests** are primary sources of conflict:

- 1.0 The United States' withdrawal from its ratification of the Paris Agreement, has raised global **concern** about its influence, prestige and good reputation for environmental protection and management.

*But, there may be some misconceptions over ratification issues? Either failing to ratify international environmental Treaties<sup>1</sup>, or withdrawing ratification from climate change Treaties?*

2.0 Prior to the Paris Agreement, the playing field for complying with GHG targets was not level under Kyoto. As a result, **“fairness”** emerged as a global **concern**. This value remains problematic; it has a significant influence on shaping the outcomes sought under the Paris Agreement.

*Kyoto Protocol obligations did not require all countries to pursue the binding GHG emission reduction targets set under this international Treaty after its entry into force in 2005 - regardless of historic contribution to global emissions!*

3.0 There is a **need** to find global consensus for the **meaning of “fair”** to facilitate decision-making on mitigation actions and measures for reducing GHG emissions under the Paris Agreement.

*President Trump has raised the **need** for obligations to be **fair**. Also, there is an obligation for implementation of the Paris Agreement to reflect **“equity”** (Article 2.2). A practical answer is required for the practical question raised by President Trump.*

## **Ratification Issues<sup>2</sup> and UN Climate Treaties**

The [Kyoto Protocol](#) was adopted unanimously in 1997 and entered into force in 2005. It was the first international climate Treaty that set binding emission reduction targets for the GHGs that cause climate change.

**The United States never ratified the Kyoto Protocol and was criticized for this omission.**

But, there was a rationale for this omission. [Reasons advanced by the United States](#) for failing to ratify Kyoto included: -

- A lack of participation by the developing world: The Kyoto Protocol required 37 industrialized nations to reduce GHG emissions while not requiring the same from developing countries, including China, India and Brazil. A **“Developed Country-Developing Country Divide”** was so created;
- Uncertainty whether meeting the binding GHG emission reduction targets would be effective in slowing the process of global warming; and

- Uncertainty over the economic impacts for the binding GHG emission reduction targets *e.g. on international competitiveness of industrialised countries, including jobs/employment in manufacturing.*

Although the United States withdrew its ratification of the Paris Agreement in June 2017, it needs to be recognized that this is not the first time that such a step has occurred for UN climate treaties.

### The precedent was set in December 2011 by Canada.

The government of Canada became the first and only country to withdraw its ratification of the Kyoto Protocol. In announcing the decision to withdraw, the then [Canadian Environment Minister](#) said:

*"The Kyoto Protocol does not cover the world's largest two emitters, the United States and China, and therefore cannot work... It's now clear that Kyoto is not the path forward to a global solution to climate change. If anything, it's an impediment... [Withdrawing ratification] allows us to continue to create jobs and growth in Canada."*

Prominent Canadian environmentalist, [David Suzuki](#), was critical of this decision to withdraw, saying: *"The Government has instead adopted a GHG reduction target ... [that] is much weaker than Canada's previous Kyoto commitment and sends the unfortunate message to the rest of the world that one of the top-ten global climate change polluters has pulled back from its efforts to reduce emissions"*.

*Statements by President Trump suggest that withdrawal from the Paris Agreement was made because of the belief it was in the **"best interests"** of the United States to do so.*

*A similar conclusion could be made for the withdrawal of Canada from Kyoto.*

## Will the USA Remain the World's Leader on Environmental Issues?

- 1.0 *The United States was the second largest contributor (15.99%) of [global CO<sub>2</sub> emissions in 2016](#) [China was the largest at 28.21%]. The challenge for the United States, now, is to address this issue with real action that is seen to make a difference, globally.*
- 2.0 *Real action requires potential or alternative problem-solving pathways to be evaluated that would enable the United States to re-enter the Paris Agreement; and to enhance its influence, prestige and good reputation for environmental protection and management.*
- 3.0 *The challenge for the United States is to ensure that the pathway taken will be influential in facilitating other countries that have ratified the Paris Agreement, to achieve its [central aim](#)<sup>3</sup>.*

**TAGS:** Paris Agreement; Best Interests; President Donald Trump; United States; Ratification; International Treaties; Kyoto Protocol; Fairness; Equity; Problem-solving

Part 2 will be posted on this web site on 24 August 2017.

It will outline a problem-solving pathway, under the Paris Agreement, that creates a level playing field and a framework that is fair.

### END NOTES

<sup>1</sup> The sequence for any International Treaty – like the Paris Agreement – commences with a country entering and completing negotiations on the terms and subject matter of the International Treaty; and to then become a ‘signatory’ to it.

But, signature by itself, does not result in the International Treaty becoming legally binding.

For this to occur, signatories must proceed to the next step — consenting to be bound by the International Treaty through the process of ‘ratification’ (also referred to as ‘*acceptance*’ or ‘*approval*’).

<sup>2</sup> The United States has a history of not ratifying international environmental Treaties introduced to address major global environmental problems. For example,

- ❖ The [Convention on Biological Diversity, Rio de Janeiro \(1992\)](#) was not ratified. This precluded the United States from becoming a signatory to the [Cartagena Protocol on Biosafety \(2000\)](#), *Protocol on Biosafety [GMOs] to the Convention on Biological Diversity*; and
- ❖ The [Basel Convention \(1989\)](#), for the *Control of Transboundary Movements of Hazardous Wastes and their Disposal* has never been ratified by the United States.

<sup>3</sup> *“To strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5°C”. Additionally, the Agreement aims to strengthen the ability of countries to deal with the impacts of climate change”.*