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A CASE FOR THE UNITED STATES' OPPOSITION OF INTERNATIONAL AND DOMESTIC COAL SUBSIDIES

by Josh Fieldstone*


Since the United Nations' Framework Convention on Climate Change¹ came into effect in 1994, international financial institutions have provided more than \$37 billion in direct financial support for at least 88 new and expanded coal plants.² Although the United States has stated that it wants to deter international financial institutions from subsidizing coal,³ it supports its vast domestic coal subsidies.⁴ So long as these subsidies remain, the United States should refrain from opposing international coal subsidies in order to maintain its credibility.⁵ The United States faces the following dilemma: it could either actively oppose domestic and international coal subsidies even though the subsidies are in its short-term energy interest, or it could continue supporting coal subsidies despite coal's long-term damaging effect on the environment and human health. The United States should prioritize public health and environmental interests and oppose all coal subsidies domestically and internationally. Specifically, it should begin by withdrawing tax credits for domestic coal production and pressure the World Bank to stop funding coal projects internationally.

International financial institutions have continued to finance coal projects despite the emergence of climate change as a major international issue.⁶ Meanwhile, the United States refrained from applying political pressure to curb such financing. In 2010, the International Bank for Reconstruction and Development ("IBRD"), one of five institutions that compose the World Bank Group, funded a record high \$4.4 billion for coal projects⁷ in the face of both substantial protests⁸ and a recommendation by the World Bank's Extractive Industries Review to refrain from financing coal.⁹ The United States Executive Director abstained from voting on—and using its substantial political clout¹⁰ to oppose—the largest of the projects,¹¹ a \$3 billion loan to a South African coal-fired power plant.¹² However, if the United States takes a more active stance against coal projects, it could send a stronger message of opposition to international institutions that fund coal, in which the United States is involved, including the Inter-American Development Bank¹³ and the African Development Bank.¹⁴

The United States has not only refrained from opposing international financial institutions' funding of coal, it has also continued subsidizing coal domestically. A great percentage of these domestic subsidies come from the Internal Revenue Code Section 45k¹⁵ credit for production of nonconventional fuels.¹⁶ This tax credit amounted to a \$14 billion subsidy between 2002 and 2008, which has primarily benefited coal producers.¹⁷ In addition to tax credits, the United States' subsidies for coal include low-interest loans¹⁸ and loan guarantees.¹⁹

The United States has a strong incentive to promote coal subsidies because it has substantial short-term interest in maintaining—and even expanding—its present coal use to reduce energy costs and unemployment.²⁰ The United States has more coal reserves than anywhere else in the world and is the second largest producer after China.²¹ In 2009, coal mines alone employed 90,000 people in the United States.²² Coal can generate usable energy at a cost between \$1 and \$2 per Million Metric British Thermal Units ("MMBtu") compared to \$6 to \$12 per MMBtu for oil and natural gas, providing an inexpensive and relatively stable energy source.²³ Additionally fifty percent of electricity generation in the United States is dependant on coal, illustrating both the United States' interest in coal use and the importance of its domestic coal policy.²⁴

Even though the United States' short term interests favor coal subsidies, its long term interest are against them. Some of the downsides of coal use are immediately tangible such as harm to the environment²⁵ and health hazards to those working at coal facilities.²⁶ Still, perhaps the most pressing concern is its effect on climate change.²⁷ A recent study of Harvard's Center for Health and the Global Environment found that the total external cost—the negative effect of an economic activity on a third party—of United States' coal-use²⁸ could amount to \$523 billion annually.²⁹ The National Resource Council found the external costs to be \$120 billion even without generally taking coal's effect on climate change into account.³⁰

In light of these long-term realities, the United States should oppose coal subsidies domestically by terminating the tax credit for production of nonconventional fuels and internationally by pressuring the IBRD to refrain from giving any further loans to coal projects. By subsidizing coal now and leaving the greater cost of externalities for the future, the United States is supporting an economically and socially irresponsible position. Ending the existing tax credit and pressuring the IBRD would help mitigate coal's effect on climate change, catapult the United States as a credible leader on the climate change debate, and protect the United States from the predicted economic losses that far outweigh its current problems. 

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Endnotes: A CASE FOR THE UNITED STATES' OPPOSITION OF INTERNATIONAL AND DOMESTIC COAL SUBSIDIES

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- ¹ U. N. Framework Convention on Climate Change (“UNFCCC”), May 9, 1992, S. Treaty Doc. 102-38, 1771 U.N.T.S. 107.
- ² BRUCE RICH, ENVTL. DEFENSE FUND, FORECLOSING THE FUTURE 6 (2009), http://www.edf.org/sites/default/files/9593_coal-plants-report.pdf.
- ³ The U.S. Treasury Department has issued guidance to multilateral development banks stating that lending policies should foster planning for and development of no or low carbon energy sources rather than funding conventional coal-fired facilities. See U.S. DEP’T OF TREASURY, GUIDANCE TO MDBS FOR ENGAGING WITH DEVELOPING COUNTRIES ON COAL-FIRED POWER GENERATION (2009).
- ⁴ See LUCY JOHNSTON ET AL., SYNAPSE ENERGY ECON., PHASING OUT FEDERAL SUBSIDIES FOR COAL 6-17 (2010) (listing examples of domestic coal subsidies, including tax credits, low interest loans, and loan guarantees); Daryl Glaser, *Does hypocrisy matter? The Case of US foreign policy*, 32 REV. OF INT’L STUD. 251-68 (2006) (arguing that the United States damages its credibility with hypocritical policies).
- ⁵ Daryl Glaser, *Does Hypocrisy Matter? The Case of US Foreign Policy*, 32 REV. OF INT’L STUD. 251-68 (2006) (arguing that the United States damages its credibility with hypocritical policies).
- ⁶ Richard S.J. Tol, *The Economic Effects of Climate Change*, 23 JOURNAL OF ECON. PERSPECTIVES 29-51 (2009).
- ⁷ Heike Mainhardt-Gibbs, Bank Info. Ctr., *World Bank Group Energy Sector Financing Update*, 1 (2010).
- ⁸ See, e.g., Press Release, Bank Info. Ctr., South Africans Say No to Eskom’s R29 Billion World Bank Loan, BANK INFORMATION CENTER (Feb. 16, 2010), <http://www.bicusa.org/en/Article.11773.aspx> (reporting a protest consisting of over 50 organizations opposed to IBRD’s loan for a coal-fired power plant).
- ⁹ World Bank Group Mgmt., *Striking a Better Balance—The World Bank Group and Extractive Industries: The Final Report of the Extractive Industries Review*, vii (Sept. 17, 2004), <http://siteresources.worldbank.org/INTOGMC/Resources/finaeirmanagementresponse.pdf> (“[T]he Extractive Industries Review recommend[ed] that the Bank Group should withdraw from investment in oil and coal in developing countries”).
- ¹⁰ The United States has substantial influence over the IBRD, comprising sixteen percent of the voting power, when the next closest country, the United Kingdom, only has four percent. See World Bank Group, *International Bank for Reconstruction and Development Subscriptions and Voting Power of Member Countries* (Sept. 30, 2011), <http://siteresources.worldbank.org/BODINT/Resources/278027-1215524804501/IBRDCountryVotingTable.pdf>.
- ¹¹ World Bank Group, *Minutes of Joint Meeting of the Executive Directors of the Bank and IDA, and the Boards of Directors of IFC and MIGA* (April 8, 2010), http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2010/04/28/000112742_20100428165745/Rendered/PDF/542790MIN0M201101OfficialUseOnly1.pdf.
- ¹² Mainhardt-Gibbs, *supra* note 7, at 4.
- ¹³ See, e.g., Inter-American Dev. Bank, *Brazil Expands Energy Supply in Northeastern Region with IDB Financing* (Mar. 20, 1009), <http://www.iadb.org/en/news/news-releases/2009-03-20/brazil-expands-energy-supply-in-northeastern-region-with-idb-financing.5178.html> (stating that the Inter-American Development Bank gave just under \$200 million to two new coal-fired power plants in Brazil).
- ¹⁴ AFRICAN DEV. BANK, MEDUPI POWER PROJECT, PROJECT APPRAISAL REPORT iii (2009), <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/South%20Africa%20-%20Medupi%20Power%20Project.pdf> (reporting that the African Development Bank recently gave a \$1.7 billion loan to a coal-fired power plant).
- ¹⁵ I.R.C. § 45K (2011).
- ¹⁶ ADENIKE ADEYEYE ET AL., ENVTL. LAW INST., ESTIMATING U.S. GOVERNMENT SUBSIDIES TO ENERGY SOURCES: 2002-2008 7 (2009), http://www.elistore.org/Data/products/d19_07.pdf.
- ¹⁷ *Id.*
- ¹⁸ JOHNSTON ET AL., *Supra* note 4, at 13-15.
- ¹⁹ *Id.* at 15-17.
- ²⁰ Guri Bang, *Energy Security and Climate Change Concerns: Triggers for Energy Policy Change in the United States?*, 38 ENERGY POL’Y 1645-53 (2010) (“The US economy is dependent on easy and plentiful access to cheap oil, coal, and natural gas.”)
- ²¹ JAMES T. BARTIS ET AL., RAND, PRODUCING LIQUID FUELS FROM COAL 5 (2008).
- ²² *Coal and Climate Change Facts*, PEW CTR. ON GLOBAL CLIMATE CHANGE, <http://www.pewclimate.org/global-warming-basics/coalfacts.cfm> (last visited Nov. 1, 2011).
- ²³ *Id.*
- ²⁴ *Id.*
- ²⁵ See LINDA LUTHER, CONG. RESEARCH SERV., MANAGING COAL COMBUSTION WASTE (CCW): ISSUES WITH DISPOSAL AND USE 1 (2010), <http://www.fas.org/sgp/crs/misc/R40544.pdf> (stating that coal combustion waste, including coal ash and toxic chemicals like arsenic, constitutes the nation’s second largest waste stream after municipal solid waste).
- ²⁶ See e.g., A.M. Donoghue, *Occupational Health Hazards in Mining*, 54 OCCUPATIONAL MED. 283-286 (2004) (detailing health risks to coal miners, including silicosis, “black lung,” and lung cancer).
- ²⁷ Coal use accounts for nearly twenty percent of global—and over thirty percent of United States—green house gas emissions. PEW, *Supra* note 20. The United States produces over seven billion tons of CO₂ per year, with two billion coming from coal-burning power plants. *Id.*
- ²⁸ The external costs of the United States’ coal use include costs associated with water pollution, toxic coal waste, and air pollution. See Peter Rafaj & Socrates Kypreos, *Internalisation of External Cost in the Power Generation Sector: Analysis with Global Multi-regional MARKAL Model*, 35 ENERGY POL’Y 828-843 (2007).
- ²⁹ Paul Epstein et al., *Full Cost Accounting for the Life Cycle of Coal*, 1219 ANNALS OF THE NY ACAD. OF SCI. 73, 93 (2011) (“The low estimate is \$175 billion, or over 9¢/kWh, while the true monetizable costs could be as much as the upper bounds of \$523.3 billion.”).
- ³⁰ NAT’L RESEARCH COUNCIL, HIDDEN COSTS OF ENERGY: UNPRICED CONSEQUENCES OF ENERGY PRODUCTION AND USE (2010) (“Just the damage from external effects the committee was able to quantify add up to more than \$120 billion for the year 2005.”).

Endnotes: NATURAL RESOURCE “CONFLICTS” IN THE U.S. SOUTHWEST: A STORY OF HYPE OVER SUBSTANCE

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- ²⁷ 63 Fed. Reg. 31400, 31401 (June 9, 1998).
- ²⁸ WILDEARTH GUARDIANS, LESSER PRAIRIE-CHICKEN: A DECADE IN PURGATORY 2, 3 (2008), http://www.wildearthguardians.org/site/DocServer/WildEarth_Guardians_Decade_in_Purgatory.pdf?docID=924&AddInterest=1059.
- ²⁹ See generally DAVIS ET AL., LESSER PRAIRIE CHICKEN INTERSTATE WORKING GROUP, LESSER PRAIRIE-CHICKEN CONSERVATION INITIATIVE 13, 14 (May 2008), http://www.wafwa.org/documents/LPCC_FINAL.pdf (showing that the lesser prairie chicken’s diet consists largely of insects).
- ³⁰ *Id.* at 40.
- ³¹ *Id.* at 15.
- ³² 75 Fed. Reg. 69222, 69243 (Nov. 10, 2010).
- ³³ See 63 Fed. Reg. 31400, 31400 (June 9, 1998) (discussing the importance of listing the lesser prairie-chicken as threatened and designating critical habitat). In the end, the Fish and Wildlife Service determined that their listing though warranted, was precluded by higher priority species. *Id.*
- ³⁴ *Id.*
- ³⁵ 75 Fed. Reg. 69222, 69243 (Nov. 10, 2010).
- ³⁶ FITZGERALD ET AL., THE RANGE AND DISTRIBUTION OF *SCELOPORUS ARENICOLUS* IN TEXAS: RESULTS OF SURVEYS CONDUCTED 8-15 JUNE 2011, 1 (2011), http://twri.tamu.edu/media/278298/tx_dsl_final.pdf.
- ³⁷ *Id.* at 1.
- ³⁸ 75 Fed. Reg. 77801, 77805 (Dec. 14, 2010).
- ³⁹ *Id.* at 77805-06.