

A Report on Ambassador Clayton Yeutter's Lecture—Climate Change, Agriculture, and International Trade: Challenges and Opportunities

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On April 11, 2011, the students of the University of Colorado Law School welcomed Ambassador Clayton Yeutter for a lecture co-sponsored by the Colorado Journal of International Environmental Law and Policy. Ambassador Yeutter's resumé is extensive. He served in the cabinet or sub-cabinet to four separate presidents. He served as the U.S. Trade Representative and helped to facilitate the Uruguay Round of negotiations, which led to the formation of the World Trade Organization. He then served as the United States Secretary of Agriculture. Ambassador Yeutter has also worked as the Assistant Secretary of Agriculture, Deputy Special Trade Representative, and was Chief of Staff to a former Governor of Nebraska. Today, Ambassador Yeutter is Of Counsel to Hogan Lovells in Washington, D.C., as well as the director of several corporations involved in international commerce and international finance. With his expertise in negotiations and international trade, Ambassador Yeutter brought with him a different perspective on solutions and responses to the many consequences of global climate change.

Despite his wealth of knowledge and experience, Ambassador Yeutter's tone was relaxed, friendly and conversational. Before he began speaking about solutions to the consequences of climate change, Ambassador Yeutter framed the issue by asking, "Is climate change a legitimate issue? Should we even be concerned?" These questions are important because they serve as a reminder that the issue of climate change remains politically unsettled. Therefore, before discussions can

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begin about solutions to the problem, everyone involved needs to agree that a problem actually exists. Yeutter spoke candidly in saying that it is clear that the American public is not convinced that climate change is a threatening problem, or, at least, they are not convinced that they should be doing anything about it yet.

To give an example of the contention surrounding climate science, Ambassador Yeutter mentioned a conversation he had with the Dean of Agriculture at the University of Wisconsin. He described how the Dean believed states like Wisconsin could potentially benefit from climate change, as it would lead to longer growing seasons and higher crop yields. Ambassador Yeutter also reminded the audience of how complex the consequences associated with climate change actually are. What about the increased possibility of droughts for instance? How would that contribute to changes in crop yields? The actual consequences of climate change remain uncertain and are predicted to be vastly different in different places. All of these uncertainties help explain why climate change remains politically unsettled.

Ambassador Yeutter then continued by asking, regardless of the debates surrounding the projected consequences of climate change, whether there is something that the world ought to be doing now. The theory justifying preemptive action of this sort, even in the absence of indisputable scientific data, is commonly referred to as the Precautionary Principle. This principle can be applied very broadly to different subjects, such as law and economics, but more recently it has been applied to environmental policy issues.¹ More specifically, the Precautionary Principle calls for protective action to be taken in the absence of certain scientific data out of concern for the health and safety of present and future generations.² Ambassador Yeutter also mentioned the American Clean Energy and Security Act, which was passed by the U.S. House of Representatives in 2009 to address climate change.³ The Bill died in the Senate, which again illustrates the ongoing debate surrounding the creation of legally enforceable climate change policies.

Despite the lack of a national U.S. policy on climate change, Ambassador Yeutter made it clear that he believes the United States is actually in substantially the same position as the rest of the world. He went on to say that he does not think anything worthwhile is being

1. See INTERPRETING THE PRECAUTIONARY PRINCIPLE (JAMES CAMERON & TIMOTHY O'RIORDAN EDS., SEPT. 1994), available at <http://www.Agobservatory.org/library.cfm?refID=30236> (last visited May 30, 2011).

2. *Id.*

3. H.B. 2454, 111th Cong. (2009).

accomplished at a global level. Despite the publicity and excitement surrounding the United Nations Framework Convention on Climate Change (“UNFCCC”), Ambassador Yeutter believes that the meetings between the UNFCCC parties are too cumbersome and inefficient to produce real results. He also suggested that while many other countries appear much more invested and engaged in climate change discussions and negotiations, many of the policies created by these countries are just for show and are not actually useful for preventing or reducing the predicted effects of climate change.

Ambassador Yeutter referred anecdotally to a discussion he once had with a European Environmental Minister. It was 1992, at the Rio Earth Summit, and this specific Minister made it clear that many European countries were very eager to sign up for specific greenhouse gas reduction targets and timetables, yet they also admitted openly that their goals were unrealistic. Therefore, despite the fact that this Environmental Minister and many others were attending the Rio Summit and eagerly committing to reducing greenhouse gas emissions, they already may have known they would not be able to meet any of these commitments.

Ambassador Yeutter continued by outlining some possible solutions to the problems with inefficiencies in environmental negotiations. His first suggestion was to have environmental negotiators mimic the practices of international trade negotiators. Based on his experience in the world of global commerce, Ambassador Yeutter believes trade negotiators are more efficient at working through tough issues to reach mutually beneficial international agreements. Second, he called for a reduction in the number of parties in attendance at international environmental policy negotiations. Although climate change is recognized as a global problem, Ambassador Yeutter pointed out the inefficiency of inviting over a hundred countries to these meetings. For example, it can take days for real negotiations to begin at these conferences because of the time taken by each country in making opening remarks.

To illustrate his point, Ambassador Yeutter discussed the Trans-Pacific Partnership,⁴ which he believes to be the best and most efficient example of current international negotiations. The partnership consists of nine countries that work together to negotiate the limitations on trade barriers in the Asian Pacific region. The Partnership is continuing to grow, but Ambassador Yeutter appeared confident about the Partnership’s ability to continue to negotiate favorable outcomes for all

4. *Trans-Pacific Partnership*, OFFICE OF THE U.S. TRADE REP., <http://www.ustr.gov/tpp> (last visited May 30, 2011).

parties involved.

In relation to climate change, Ambassador Yeutter made it clear that a combination of sticks and carrots, or regulations and incentives, would be necessary to achieve effective climate change policies. Necessary regulations may include penalizing sources that emit greenhouse gases through various measures such as taxes, while necessary incentives may include giving real trade benefits to producers of certified green products and services. These trade benefits could be structured to work domestically or internationally.

While Ambassador Yeutter engaged students by suggesting a different approach to international environmental negotiations, his ideas still need to be expanded upon. In the end, listeners had to decide for themselves which approach they find more effective. Is it better to go ahead and sign agreements and create greenhouse gas reductions goals just to begin moving in the right direction, even if the goals are unattainable? Or would it be better to wait to legislate until there is a national consensus that climate change is a problem and a smaller group of negotiating countries that has formed a realistic, coordinated, international solution?

In his closing, Ambassador Yeutter left the audience with some general advice, explaining that the most important skills for all professions are the abilities to read, write, and speak well. He also emphasized the importance of succinctness in writing and speaking. His earlier call for more streamlined and efficient negotiations tied into this final reminder: in every situation, the most effective communicators are able to move directly to the heart of a matter and summarize their opinions briefly and comprehensively.

Overall, the differences between climate change and international commerce remain distinct. Skeptics of Ambassador Yeutter's position could argue that because climate change will effect the whole world, inviting only seven or eight countries to international climate change policy discussions would not be worthwhile or fair. It is true that in the absence of any global consensus on the consequences of climate change or enforceable international laws, greenhouse gas emissions cannot be eliminated; however, there is always the possibility that they can be reduced.

Ambassador Yeutter's point that the United States and other powerful world leaders could show the rest of the world exactly what can be accomplished through legislation is an important one. At the very least, legislating and thereby placing restrictions or penalties on greenhouse gas emissions, would show the rest of the world that the United States is taking the threat of climate change seriously and acting in a precautionary manner to ensure the safety and well-being of current

and future generations. And if the United States really were able to give trade benefits to imports of certified “eco-friendly” products, more countries might begin to take the threat of climate change seriously. Under such a system, many corporations would likely choose to make more environmentally friendly choices when manufacturing products to be shipped into the United States.

Legislation addressing climate change could also be technology forcing, meaning it could encourage the private sector to come up with more innovative and affordable ways to decrease greenhouse gas emissions. While these would all be very positive steps for the United States, no perfect solution exists to minimize the consequences of climate change. And no matter how far the United States, or any country, goes on its own, global solutions cannot exist until the world’s biggest greenhouse gas emitters find a way to work together to reduce global greenhouse gas emissions.