

# WITH U.S. BACKING, UKRAINE PUSHES TO PRIVATIZE PARIS CLIMATE AGREEMENT

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Photo: Lukas Schulze/Getty Images

**LIKE MOST DOCUMENTS** that travel through U.N. channels, a recent proposal from

Ukrainian diplomats is blanketed in jargon and buzzwords, promising to render things “integrated, holistic and balanced” and to promote “ambition.” But this proposal — brought by the Ukrainian negotiating team to this year’s U.N. Framework Convention on Climate Change Conference of Parties, COP23 — carries more substance than its language might suggest: giving the world’s biggest polluters an official say in how the Paris Agreement gets implemented.

“We have to stop forcing our corporations to do something, but making — I don’t like to say profitable — but, I like to say, make them think about environmental actives as serious business,” Taras Bebeshko, an adviser to Ukraine’s energy minister who presented the proposal on behalf of his delegation this month, told The Intercept.

Bebeshko acknowledged the role fossil fuel companies play in driving up global emissions, but he cautioned against painting them as “enemies of humankind” and was eager to have them on board in a governing role. “This concept is not aiming to

replace the UNFCCC process,” he said of the Committee for Future plan. “It’s aiming to assist and make the ground ... for a global agreement.”

He said he had spoken to representatives of the United States, who reacted positively to the proposal. Another Ukrainian official close to the issue [told](#) Climate Home that his country’s negotiating team has been in “permanent contact” with the United States.

The role of subnational and private actors has been debated in other contexts at COP23 as well.

Business — including those who have lobbied actively against climate action — play a major role in the talks through trade associations, like the World Coal Association and the U.S. Chamber of Commerce, and they have for years attempted to shape international climate policymaking. Several pavilions in the conference’s exhibition space are sponsored by major corporations, including fossil fuel companies.

Jesse Bragg of Corporate Accountability

International said that corporate involvement has shaped what kinds of policies are on the table.

“There’s a huge focus on what the market can do and not a huge focus on what government can do,” he told *The Intercept*. “There’s a huge focus on voluntary commitments and almost none on mandatory regulation. And that’s because industry doesn’t want that.”

An unofficial delegation from the United States — led mainly by former New York Mayor Michael Bloomberg and California Gov. Jerry Brown — convened state and federal lawmakers and private sector leaders from around the country in an igloo-shaped tent just opposite where official talks were taking place. Under the banner “We Are Still In,” major carbon-intensive companies, like Walmart and PG&E — America’s largest private utility — joined a self-styled resistance to the Trump administration’s withdrawal from the Paris Agreement, speaking on stage about their commitments to sustainability.

“The bulk of the decisions affecting carbon

emissions in the U.S. – and in many other countries – are made by cities, states, businesses, and civil society,” Bloomberg said in an opening event for the tent, dubbed the U.S. Climate Action Center. “The role of the federal government is ideally to coordinate and support those efforts, but if Washington won’t lead, mayors, governors, CEOs, and civil society will.” He went on to attribute the success of the Paris Agreement to the fact that “non-state actors were recognized and taken into account for the first time,” calling that a “big step in the right direction.”

“We hope the U.N. will continue working on ways to incorporate non-state actors into the international process, in every country in the world,” Bloomberg concluded, encouraging UNFCCC administrators to create official venues for subnational actors’ participation.

Others were more skeptical. Asked what precedent such a move might set, Susan Bizian — who worked as the principal lawyer for the State Department for nearly 30 years — told The

Intercept that such policy shift would be “totally precedent-setting. It’s an initiative that would go way beyond climate change, to the nature of international law and international agreements,” suggesting, too, that the change could bleed well outside the UNFCCC.

“Apart from the legal issues are policy issues,” Bizian said. “Are we opening a Pandora’s box? What’s good for an NGO or some group that cares about climate change then becomes open to any kind of group. A policy like that can’t be discriminatory.” If de facto emissions-cutting pledges can compensate for a lack of action at the federal level, she argued, it may be wiser to simply wait until the United States is able to rejoin rather than to rewrite international law.

“Be careful what you wish for,” Bizian said, referring to those pushing for private actors to be involved in the implementation process. “You could set something up and then say, ‘Why did we do that?’ It wasn’t necessary, because we got all that we needed through these more informal

methods, and we created a monster.”

**PRESENTED AT A** backroom meeting here in Bonn, the measure proposes the creation of something called [Committee for Future](#), a “Permanent Subsidiary Body” to — among other things — “enhance public and private sector participation” in the UNFCCC process. The committee would report to the CMA, the collection of states that are party to the Paris Agreement. And while all major actions in the UNFCCC have to be initiated by states, the committee would allow states to create Integrated Climate Partnerships, bodies comprised of clusters of states, subnational governments (states or cities, in the United States), or corporations with shared priorities. Those ICPs in turn would be empowered to oversee the Paris Agreement’s implementation and could also drive forward other policies independent of the UNFCCC process.

“There are several opportunities that have not been used yet in the process,” Bebeshko said. The idea behind the Committee for Future, he

explained, is to create a level of decision-making between the official UNFCCC process and Nationally Determined Contributions, or NDCs, the individual emissions reductions plans that make up the Paris Agreement. “Unfortunately, the structure of UNFCCC is such that we have only country participation. But ... several corporations have budgets that are much higher than some countries’ and the influence some corporations have over the global process is also comparable to most of the countries’”, he added. “So we have to involve them in the process as a partner.”

On this policy end, this year’s COP is relatively quiet. The negotiators’ task is essentially to work on a rulebook for how the Paris Agreement will be implemented, with the goal of agreeing on the rules by the time they meet for COP24 next year in Poland. Before then will be an intercessional in Bonn in May and potentially another in September. At next year’s conference, participants will make their first attempt at what’s known in UNFCCC parlance as a “global stocktake,” where nations check-in on and ideally ratchet up their

emissions-cutting commitments. While the first full stocktake won't happen until 2023, next year's conference will be when countries chart their paths forward toward that date. The rulebook will be a central component and determine whether corporations will be an official part of the Paris Agreement's implementation moving forward.

The [Carbon Majors Report](#) released earlier this year found that just 100 companies — many of them oil and gas companies — have been responsible for 71 percent of greenhouse gas emissions worldwide since 1988. Another study from Oil Change International found that building any new fossil fuel infrastructure is incompatible with meeting the goals laid out in the Paris Agreement, and that several oilfields and mines should close their doors before extracting all of their available resources. Ukraine's proposal amounts to “quite literally putting energy and fossil fuel corporations in the driver's seat for global climate action,” said Corporate Accountability International's Jesse Bragg, who said such a policy would create clear conflicts of

interest.

Asked what power the ICPs might hold, Bebeshko responded that “it’s everything, actually” and talked specifically about the benefit he saw of allowing such groups to form and implement specific policy mechanisms — particularly those that might only be relevant to a few countries or corporations. “Other countries could take years to approve [a] mechanism,” he said. “So why not build up a treaty of countries, involving private entities who are actually doing that stuff, sit together, and agree how to make [the] mechanism?”

He sees it as a way to get things done faster on the international stage and account for the fact that “sometimes in finding ... global compromise we are losing some national or subnational priorities.”

The move comes as the Ukrainian government is seeking to double-down on fossil fuel production. With Russia occupying Ukrainian coal country, the country as a whole is more dependent on fuel

imports — in its government’s view, either natural gas from Russia or coal from the United States. U.S. Energy Secretary Rick Perry and Commerce Secretary Wilbur Ross this summer traveled to the Eastern European country to ink a [major deal](#) to ship coal there, for use in the country’s state-owned electric utility, Centrenergo.

**UKRAINE’S PROPOSAL TO** the UNFCCC is one of many for how to implement Article 6.8 of the Paris Agreement, which outlines methods for countries to go about voluntarily meeting their NDCs. Though Article 6 states that private and subnational actors should play some role in bringing down emissions, it stops short of giving them a say in how the agreement itself is carried out; the Ukrainian proposal would change that. And while it may not be the only idea on the table, Ukraine has some powerful allies. Among them are reportedly representatives from the Umbrella Group, comprised of the U.S., Japan, Switzerland, Canada, Australia, Norway, and New Zealand.

“So far it’s positive,” Bebeshko said of his

conversations thus far with the group. He also noted that Ukraine has made “several preliminary contacts” with private sector groups.

Bebeshko also said that Ukraine has “had preliminary discussions with the Americans” in particular about the proposal, and that “the reaction that I got was positive. ... Thinking globally, we have to think at the national and subnational level. I think that is very closely in line with the American policy now.” He was dismayed that the United States has decided to withdraw from the Paris Agreement, but he sees Committee for Future as a way that “they could take leadership on the subnational level,” including through American corporations.

The Committee for Future won’t be formally decided on until an intercessional meeting of the UNFCCC in Bonn next May, or potentially even later. Several details about the proposal need to be worked out before then. The goal now, Bebeshko said, was to have the language from his proposal integrated into the Paris rulebook by the time

COP24 convenes in Poland next winter. That said, “nothing could stop us except or willingness or unwillingness to start these regional, integrated activities,” he added, “even before reaching the agreement within the UNFCCC.”

Top photo: Steam rises from the Niederaussem coal-fired power plant operated by German utility RWE, which stands near open-pit coal mines that feed it with coal, on Nov. 13, 2017 near Bergheim, Germany. The COP 23 United Nations Climate Change Conference is taking place in Bonn, about 60 kilometers from the Niederaussem plant.