

Many major corporations bemoaned Trump's withdrawal from the Paris Agreement and pledged to continue their own environmental efforts. Why stop with acting solo? Why not band together?

There's power in joint action. Here are four options, from simplest to most ambitious.

**Taking the Paris Agreement Private.** Under the Paris Agreement, nations agree to engage in certain types of monitoring to implement emissions cuts that they set themselves. Companies have to monitor and report emissions, so everyone knows whether they have hit their targets. There's already a step in this direction with [America's Pledge](#), and some other efforts. But these public commitments could be stronger with clearer monitoring and reporting commitments. Those monitoring and reporting requirements could be made as binding contracts, even if the emissions commitment themselves remained non-binding. In fact, some firms may even be willing to go even further than the Paris Agreement by making the emission cuts themselves contractually binding. Both moves would give other parties the ability to go to court if a firm failed to live up to its commitment.

**Paris + Incentives.** In 2010, I wrote a post about a scheme under which firms would set their own emissions limits, pay a fee, and then get a refund depending on how successful they were in reaching the targets. Any surplus could be used to finance some carbon reduction programs such as energy efficiency programs for low-income households. I called this the "write your own permit" approach to climate action. (Unfortunately, this post no longer seems to be accessible.) Originally, I had in mind state permitting programs, but the idea could easily be taken into the private sector.

**Taking Kyoto Private.** The Kyoto Agreement set an emissions reduction target for developed countries and allowed the use of emissions trading to help reach the target. For instance, firms could agree to cut their emissions on a schedule of (say) 2% per year for five years. Every year, they would get allowances equal to their current target, which could be traded. Everyone would have to be bound contractually to pay for purchased allowances coupled with an enforceable obligation to achieve the target.

**A Private Carbon Tax.** (This alternative was suggested by my colleague Prasad Krishnamurthy.) A growing number of firms use carbon prices for their own internal decision-making. Why not go a step further? Firms could contract with a nonprofit, each agreeing (again) to monitoring requirements and to pay a fee per ton of carbon emissions to the nonprofit. As with a real carbon tax, the fund could be used for just about anything - redistributed back to firms as dividends, used to finance research on emission reduction technologies, or for that matter paying for low-income housing. My guess is that firms would

not be willing to set the tax high enough to provide a serious incentive to cut emissions, but they might be willing to set the fee high enough to have a genuine impact if spent on financing renewable or energy efficiency.

**Overview.** Since all of these variations involve agreements by firms to cooperate, a business lawyer's first question is probably about antitrust issues. Current government [guidelines](#) on business collaborations are pretty lenient, however, even when firms are competitors. The effect of these schemes should be to intensify competition between firms to reduce emissions, which should be viewed with favor under the antitrust laws. In addition, there's no reason any of these schemes need to be focused on firms in the same industry. Obviously, no major company would want to join any of these schemes without some hard scrutiny by antitrust counsel, but at least the initial indications are not unfavorable. There are also some interesting contract law issues that I discuss [here](#).

So why would a firm agree to any of these schemes? Basically, the same reasons why it might undertake a unilateral effort to cut emissions - in order to please shareholders, get good PR, improve relations with regulators, and get themselves ready when mandatory emissions cuts come along down the road. (Not to mention, conceivably, a desire to do the right thing.) These schemes simply allow a firm to do all of those things in a more public and effective way. Maybe some foundation or individual firm could take the initiative in proposing one of these schemes, or maybe a state like California or New York could coordinate the effort.

In short, corporate America, why not take the next step and show that you're really serious about climate change?