

PUTTING FREE ENTERPRISE TO WORK: A CONSERVATIVE VISION OF OUR ENVIRONMENTAL FUTURE

BOB INGLIS†

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It is time for conservatives to take the lead on environmental issues because, in the face of our most pressing environmental problems, conservatism offers the solution—free enterprise. For years, conservatives have been afraid to lead on the issues of climate change and energy because we thought we did not have a viable solution to offer the country. I propose a new approach. Conservatives can and must offer a muscular, free enterprise solution to the energy and climate challenge. We have the answer that the country and the world urgently need.

First, the climate is changing. That fact is neither conservative nor liberal. However, what we choose to do about the climate crisis is a political issue. I posit that the climate crisis is not an unsolvable riddle. Instead, if we apply conservative principles, climate change can be an opportunity for the economy and the environment.

I will offer a definition of sustainability to frame my discussion about the free enterprise solution to our energy and climate crisis. I heard the definition for sustainability that I now take as an operational definition for the Energy and Enterprise Initiative from Carlos Gutierrez of Spartanburg, South Carolina.

Carlos is a recycler of a type of plastic called PET who developed a new process for recycling PET by crushing and sorting the material,

† Executive Director of the Energy and Enterprise Initiative at George Mason University. Before founding E&EI, Bob represented South Carolina's Fourth District in the United States House of Representatives. Subsequently, he was a resident fellow at the Institute of Politics at Harvard University and taught at Duke University.

1. The Duke Environmental Law and Policy Forum held its Symposium on September 24, 2012 in Reynolds Industries Theater in Durham, North Carolina. Bob Inglis delivered the keynote address—the following excerpt is adapted from his remarks by DELPF editors. The full speech is available online. See Duke Law, *Keynote: Putting Free Enterprise to Work*, YOUTUBE (Oct. 9, 2012), <http://www.youtube.com/watch?v=7Xo4CSpOm48>.

rather than grinding it. He then sent the PET back to Coca-Cola unmelted to be used in the same way as virgin material. The virgin PET manufacturers thought that there was no way Carlos could recycle the material successfully and beat them on price. In fact, Carlos's innovative solution allowed him to do just that. He proved that he could sell recycled PET at a lower price point than virgin PET.

It was Carlos who told me the definition of sustainability that I now accept: sustainability means making a profit. If you can make a profit, it's sustainable. If you can't, it is not. The profit motive extends to innovations that have driven sustainability in the technology and energy sectors. Technological innovation has evolved faster than we ever could have imagined. Expect speed if you have muscular free enterprise.

I suggest to you that conservatives really do have the answer to our energy and climate challenges. The reason we shrink into positions like science denialism is because we don't think we have the answer. We're not confident in our abilities to deliver a better product. This is simply wrong.

If you're a conservative, it is time to step forward and engage in the climate and energy debate because we have the answer—free enterprise. I'd like to outline several foundational concepts of this approach: accountability, certainty, and tax reform.

The first key is accountability. If you're a social issue conservative like me, you understand that accountability is the underpinning of how we view all of human society. We believe that human beings are responsible moral actors and should be held accountable for their actions. For all conservatives, whatever style, whether libertarian, economic conservative, social conservative, or national security conservative, accountability is a central concept.

The second point is certainty. In this economic climate, uncertainty is hampering economic growth. Conservatives argue that people are not investing because they don't know what their labor costs will be, they don't know the regulatory environment they will face, and they do not know the health care costs they will confront.

In the energy sector, that lack of certainty about a carbon price holds back investment. Many in the power sector believe that a price on carbon is inevitable, but they do not know how much it is going to be. If power executives knew what price Congress was going to put on carbon, then they would know whether to build a nuclear power plant, or just a natural gas plant, or eke out an existence with coal. If

the signal is strong enough and the locale suits it, they may move on to other options like wind and solar. All of these business decisions depend on the certainty of the pricing.

The third point is tax reform. Conservatives are already talking about tax reform and we should leverage our existing authority on this issue. Conservatives understand that we must set the correct incentives, and this should include internalizing pollution and other environmental costs in our market system. We tax income but we don't tax emissions. It makes sense to conservatives to take the tax off something you want more of, income, and shift the tax to something you want less of, emissions.

This notion is simple: we reduce tax on some form of income that we want more of, whether it is corporate income tax, payroll taxes, or personal income tax, and shift that tax to carbon dioxide. One can be agnostic about climate change or be a believer like me, but we come to the same place. It doesn't matter whether it's real or not—the economy benefits either way. Dollar for dollar, there is no increase in the size of government in this transformation of tax policy.

Conservatives should move forward on tax reform to address our climate and energy challenges. This solution reflects our deeply held values of strong accountability and regulatory certainty, and it is consistent with our other policy answers. We want to change what we tax and free up income from taxation. We want to create incentives for people to work and to innovate. And we want to tax something we want less of: pollution. This Pigovian tax swap is a proven concept that has been around a long time. It fits with our conservative beliefs.

I would like to address several obvious criticisms of this proposal.

One criticism is that states need a stable source of revenue, and an emissions tax may be a fairly unstable source. Certainly industry will act strategically: we can expect substitution of technology and higher levels of efficiency. Instead of worrying about this instability, we should celebrate technology substitution and efficiency. There is new wealth in new technology. Further, free enterprise spurs innovation, accelerating our ability to achieve the desired environmental benefits.

Another critical question that this proposition evokes is why the United States should act without compelling other countries to join us. I was concerned about American competitiveness when I voted against cap-and-trade legislation in Congress, which I believe was a massive tax increase that would decimate American manufacturing.

However, as conservatives, we can make this problem of global competitiveness into an opportunity for innovative reform.

The solution to this challenge is a border-adjustable tax that is removed on export and imposed on import, designed to be World Trade Organization-compliant. There are several advantages to this approach. First, the United States can use the strength of our markets to compel China, India, and other developing nations to see the need to have an equivalent system in their own countries so that they wouldn't have to pay that landing fee on import into the United States. The entire world wants access to American markets, and we can use our power as leverage to introduce a free- and fair-trade option with a level playing field.

While in Congress, I introduced a measure similar to this border adjusted tax. Since then, the proposal has developed, both in terms of WTO compliance and practical implementation. The system uses American equivalent energy inputs to calculate the landing fee of the carbon tax, rather than, for instance, Chinese energy inputs. This makes sense for two reasons. First, it is very difficult to audit Chinese energy usage. Second, it makes it clear that we are not trying to be trade-punitive because we are actually giving the Chinese a break. American energy inputs would be less per unit due to more efficient manufacturing.

Rather than be trade-punitive, my aim is to set up a system that supplies the answer to our climate and energy challenge without hurting the American economy. The answer is a border adjustable tax removed on export and imposed on import.

This proposal will correct several market distortions. These distortions include clumsy government regulations, fickle tax incentives, direct cash subsidies, and unrecognized negative externalities. The economic goal is to internalize negative externalities in order to overcome those market distortions.

I believe that we can collapse all of those problematic market distortions into two specific, conservative, common sense policy proposals. First, we should eliminate all subsidies for all fuels, including fossil fuels. Second, we should attach all costs to all fuels. Coal-fired electricity causes over 13,000 premature deaths each year in the United States due to particulate matter that billows out of

smokestacks.² Coal-fired electricity causes 1.6 million lost workdays because of the same soot.³ These are enormous damages to society for which coal companies are not accountable. Coal-fired electricity should clean it up—in fact, all energy sources should be held accountable for their emissions. Accountability is an essential conservative principle.

Yet whenever we demand that coal be held accountable for these high costs to society, the industry lobbyists run to Congress, saying that accountability will lead to higher costs. Well, unless you believe in the tooth fairy or that there is such a thing as a free lunch, this argument fails when put in the broader societal context. Simply put, we are already paying all that cost. The emitters are enjoying the benefits without paying the tab.

If 13,000 people die prematurely each year because of that soot, we're paying for it. The same insurance company that you're covered by covers some of them. You're paying in your premium. Some of them are covered by Medicare. You're paying in Medicare taxes. Medicaid covers some of them. You're paying for the patients who are going to the hospital because of those small particulates. And if they aren't covered by anything you're paying for cost-shift at the hospital that causes your premiums to go up. This is an industry-wide free-rider problem. And we fix it by demanding that coal and every other source of energy pay to ride the bus so rates go down for everyone.

So our challenge as conservatives is to realize that we have the answers the country has been waiting for to face our energy and climate crisis head on. The strength of our ideas is what the nation and the world are waiting to hear. All we've got to do is step forward and engage and deliver our solution—a domestic carbon tax that is border adjustable—in the political process.

There are two primary reasons why conservatives have failed to lead on this issue. The first is that we, as conservatives, have not believed we have an answer. But we do have an answer—by harnessing free enterprise, we can reach optimal environmental outcomes.

2. CLEAN AIR TASK FORCE, *THE TOLL FROM COAL: AN UPDATED ASSESSMENT OF DEATH AND DISEASE FROM AMERICA'S DIRTIEST ENERGY SOURCE 10* (2010), available at http://www.catf.us/resources/publications/files/The_Toll_from_Coal.pdf.

3. *Id.*

The other problem is that politics is infected right now, in my party, by something called populist rejectionism. The term rejectionism is traditionally a foreign policy term that refers to the rejection of the state of Israel, but I'm here to submit that we do something similar when it comes to environmental ideas. In these populist times, anyone who steps forward with a solution rather than with a scapegoat is in danger in the political system. It is better to offer up a scapegoat rather than a solution because solutions take time to explain. Scapegoats work better because one can shout, "It's all Barack Obama's fault! The structural deficit is his fault! He did it! He's been in office for four years and the structural deficit has been coming for decades, but it's all his fault."

Populist rejectionism is reigning in my party right now. But if you are of my party, I argue that unless we can tell students at Duke University and universities around the country that we have a solution to the energy and climate challenge, we are going to lose them. And we will become a minority party of good intention that never again delivers smart, pragmatic solutions. This is unfair to the country and the world.

To conservatives, please understand that our challenge is to sell a message that works and to make sure that we have product that works. In politics, just like business, we must deliver value. Politicians can get away for a while with selling scapegoats and selling fear, but eventually people figure it out. And when they do, we lose them. It is time for us to step forward with this muscular, free enterprise solution. Come on, conservatives. Let's offer the free enterprise solution to our energy and climate challenge!