

# An assessment of the Biden Presidency's climate policy

by Roberto Louvin

**Abstract:** *Una valutazione della politica climatica della Presidenza Biden* – After recalling Biden's electoral campaign and the strong commitment to merge environmental and climate matters with job growth, the essay outlines the main features of Biden Presidency's climate policy, with the aim of highlighting the main difficulties in passing the three major climate bills, namely the Infrastructure Investment and Jobs Act, the Build Back Better Act, and the Inflation Reduction Act. The analysis focuses as well on the restrictions imposed by the Supreme Court, pointing out the cautious approach during the second half of the term, which cooled down the initial momentum for measures devoted to cope with climate issues.

**Keywords:** Biden Presidency; Climate; Infrastructure Investment and Jobs Act; Build Back Better Act; Inflation Reduction Act

429

## 1. The big promise: climate and job

Running for President in 2020, Joe Biden proposed the most ambitious climate action platform of any of his predecessors in the U.S. history. He inherited former President Obama's policy legacy and seemed to have become more willing to respond to larger policy needs than then, but he had to counter Trump's climate denialism and, as democratic candidate, he went very far in his election promises: 100% clean energy economy and net-zero emissions by 2050. He intended to build at the same time a stronger and more resilient country and claimed for the USA as leading country at a global level in coping with the impacts of climate change.<sup>1</sup> However, Biden's strategy as a challenger had yet to be defined, while his voters expected a tighter regulation to force industry, oil companies and consumers to reduce CO<sub>2</sub> emissions, as well as a policy to foster changes for a more sober

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<sup>1</sup> For introductory remarks on the Biden-Trump clash for the 2024 Presidential campaign see R. Louvin, *Biden's Plan for Climate Change*, in *The American Presidency After Two Years of President Biden*, in *DPCE Online*, Special Issue, 1, 2023, 149-158. For a comment of previous development of Trump's Environmental and climate policies: Id., *Environmental Policies*, in *The American Presidency under Trump: the first two years*, The Hague, 2019, 165-172; Id., *President Trump's Environmental Policy*, in *DPCE Online*, 2021, 1, 1135-1147. For an extensive analysis of the general evolution of climate change policies in the United States, from early warnings to the ascendancy of climate denialism: Jerald C. Mast, *Climate Change Politics and Policies in America: Historical and Modern Documents in Context*, Santa Barbara, CA, 2018.

behaviours in terms of consumption. The target of candidate Biden was the American middle class, deeply concerned about saving jobs threatened by the energy transition.

The expectations of European countries for a turn towards a convincing and effective US climate policy were at that time very high, after the frosty years of Trumpian policies launched by the USA withdrawal from the Paris Agreement in 2017. The Biden's mantra, hammered throughout all the 2020 campaign was "Jobs! Jobs! Jobs!", a political message to persuade voters that public support might drive energy transition policies and enlarge the number of jobs.

The new philosophy inspiring the Biden administration was the antithesis of that expressed by its predecessor and is well expressed by the Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, in line with the strategy to tackle politicization of climate science: "Our Nation has an abiding commitment to empower our workers and communities; promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory. Where the Federal Government has failed to meet that commitment in the past, it must advance environmental justice. In carrying out this charge, the Federal Government must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making".<sup>2</sup>

## 2. Rushing start and significant commitments

As flagship decision, Joe Biden agreed to immediately join again the Paris Agreement, to pause oil and gas leases on public land and to repeal the Presidential permit granted to Keystone XL pipeline, strongly opposed by environmentalists and indigenous peoples. The new national goal to reduce emissions by 50% from 2005 levels by 2030 was formalized in April 2021 in an updated nationally determined contribution (NDC) according the Paris Agreement.<sup>3</sup> He also chose to immediately review many of Trump's environmentally harmful regulations assembling a team of high-level scientists at the White House and at the Environmental Protection Agency

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<sup>2</sup> *Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, January 20, 2021. It is necessary emphasize the importance of the Biden's administration's novel approach, involving scientific consultative bodies within its decision-making processes, with a strong political commitment to enforce an evidence-based method of political decision-making: S. Penasa, *The role of scientific advisory bodies and Biden administration: a laboratory for an evidence-based decision-making process?*, in *DPCE Online*, Special Issue, 1, 2023, 333-344.

<sup>3</sup> According to *The United States of America Nationally Determined Contribution Reducing Greenhouse Gases in the United States: A 2030 Emissions Target*, «After a careful process involving analysis and consultation across the United States federal government and with leaders in state, local, and tribal governments, the United States is setting an economy-wide target of reducing its net greenhouse gas emissions by 50-52 percent below 2005 levels in 2030».

(EPA) with specific expertise in climate change and greenhouse gas (GHG) regulatory policy.

The main direction of Biden's climate policies seemed relatively ambitious, and the Biden administration focused immediately on regulations on transport, energy, and financial reporting, as well as government procurement.<sup>4</sup> The new general Presidential climate strategy results in three different pieces of legislation: 1) Infrastructure Investment and Jobs Act, 2) Build Back Better Act, 3) Inflation Reduction Act.

Rejecting an excessively ideological approach and acting according to a pragmatic style, the Infrastructure Investment and Jobs Act<sup>5</sup> had a significant environmental impact due to some measures in particular regarding highways, roads, bridges and promoting access for cyclists and pedestrians. The bipartisan endorsement of the Infrastructure Law represents the most significant climate policy advancement in US history, thus, most of the largest environmental organisations have supported the Act (e.g., BlueGreen Alliance), although some environmental organisations have taken a critical approach.<sup>6</sup> The Build Back Better Act, a spin off from the American Jobs Plan approved in August 2022, included many provisions related to climate change and to social policy.<sup>7</sup> The Inflation Reduction Act (IRA) also turned into law in August 2022 and was the most comprehensive climate legislation in U.S. history, investing hundreds of billions of dollars in clean energy, electric vehicles, environmental justice. It included the largest federal climate change investment in American history<sup>8</sup> and was supposed to fulfil commitments deriving from the 2015 Paris Agreement, concerning essentially reduction of greenhouse gas emissions. This Act established decade-long tax credits especially for electric vehicles and air capture and sequestration of carbon dioxide. Since the entry into force, billions of dollars fostered novel investments, which created hundreds of thousands of jobs, thanks to the increasing number of clean energy manufacturing projects.

After two-decades long efforts – often ending in failures – Congress delivered the three Acts that could really trigger transformative legislation and tackle the climate crisis. To this end, looking at the expectations of the international community, the emergence of the Biden administration could serve as an historical opportunity to redefine the agenda in terms of policies and legislation of the international climate cooperation.<sup>9</sup>

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<sup>4</sup> M. Elder, *Optimistic Prospects for US Climate Policy in the Biden Administration*, Institute for Global Environmental Strategies, Feb. 2021.

<sup>5</sup> The Infrastructure Investment and Jobs Act was approved by the Congress and signed by Joe Biden in mid-November 2021.

<sup>6</sup> D. Stevis, *The promise and perils of Biden's climate policy*, European Trade Union Institute, Sept. 15, 2022.

<sup>7</sup> Build Back Better Act was also adopted by the House of Representatives in November 2021.

<sup>8</sup> Approved in August 2022.

<sup>9</sup> Ch. Hyeonjung, *U.S. Climate Policy and Issues in the Biden Era*, Asan Institute for Policy Studies, Issue brief, May 17, 2021.

### 3. Mid-term, clashes and mediations

In 2023, the Biden administration approved the establishment of a new oil refinery in northern Alaska (the Willow project), strongly opposed by environmental organizations due to the large amount of greenhouse gas emissions it would produce. That decision was only partly offset by a group of oil and gas leases in and around the Arctic National Wildlife Refuge. Climate activists complained that under President Biden there have been record peaks in oil and gas production.<sup>10</sup> Joe Biden convincingly sought to tighten emission limits on carbon dioxide and greenhouse gas emissions, but his efforts to develop a federal climate change policy were hampered by the Supreme Court's ruling in *West Virginia v. EPA*. The Court ruled against the EPA's power to set limits on emissions (as established by the Clean Air Act), thus providing a challenging obstacle: in a severe blow to the fight against climate change, the Supreme Court limited the country's main 'anti-air pollution legislation' which could be used to reduce carbon dioxide emissions from power plants. The Supreme Court was met with much criticism in affirming that the EPA went beyond the delegated authority provided by the relevant federal law, the Clean Air Act. "The Supreme Court ... ended up standing as the ultimate decision-maker of U.S. climate policy, while failing to secure the fundamental (and no longer to be postponed) goal of climate protection".<sup>11</sup> Through a 6-3 vote, with conservatives in the majority, the court said that the Clean Air Act does not give the EPA the broad authority to regulate greenhouse gas emissions from power plants that contribute to global warming. Environmental lawyers and dissenting liberal justices considered this decision a major step in the wrong direction, as a consequence of the conservative majority's scepticism of the power of regulatory agencies. In fact the Court's ruling complicated the Administration's plans to combat climate change.<sup>12</sup>

### 4. Prudence and realism

In 2022, the majority of US citizens were quite in favour to stricter environmental laws. However, a large number of people were more concerned about economic shortcomings.<sup>13</sup> The Inflation Reduction Act, in the Administration's intentions, was just the first step. In the following years, the main focus was on implementing clean energy provisions, to

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<sup>10</sup> Reaching 12.9 million barrels per day in 2023 and 530,000 barrels per day from public lands from 2020, despite a campaign pledge to stop drilling on such lands.

<sup>11</sup> G. Grasso, *Respectfully, I dissent. Prime note su West Virginia et al. V. Environmental Protection Agency et al.*, in *Corti supreme e salute*, 2, 2022. For further insights on the negative impact of this decision: G. Caravale, *L'Environmental Protection Agency e i conflitti tra poteri negli Stati Uniti*, in *Scritti in memoria di Beniamino Caravita di Toritto*, Roma, 2024, 53-70.

<sup>12</sup> B. Kennedy et al. *Americans Divided Over Direction of Biden's Climate Change Policies: Several Climate Policies Receive Bipartisan Support, despite Republicans and Democrats Differing on Overall Approach*, Pew Research Center, 2022.

<sup>13</sup> *Ibidem*.

develop guidelines for new programmes and to deploy a tax credit policy to support the transition. Furthermore, in all three main legal sources already mentioned, there was a specific mention to local content clauses, with the task of promoting the production of raw materials and components within the country. The political aim was clearly to increase domestic employment and to enhance the resilience of supply chains.<sup>14</sup> At the same time, the goal was also to reduce the country's enormous dependence on imports from China in some raw materials and green technologies.

Even if super pollutants (i.e., hydrofluorocarbons HFCs and methane) are emitted in smaller quantities than carbon dioxide, they trap much more heat. Therefore tackling super pollutants was a key component of any comprehensive climate strategy. A key-result was achieved when the Senate ratified the international Kigali Amendment on reducing HFCs in September 2022.<sup>15</sup>

During the second mid-term, Biden needed to secure Congressional appropriations for international climate finance. This was not a predetermined conclusion, considering the current House of Representatives leadership and his permanent efforts to cut, rather than increase climate spending. The 118<sup>th</sup> United States Congress, the current meeting of the legislative branch of the United States federal government, made this task much more difficult because of internal divisions.

On the other side of the Atlantic, the EU was planning to impose border carbon tax adjustments on emissions-intensive imports that didn't face a carbon-price equivalent to that created by the EU emissions-trading system for internal-produced items, but the majority support for carbon pricing in Congress remained elusive. Without a mechanism ensuring that emissions-reduction targets are met through enforceable emissions caps and/or an emissions fee that increases in case other measures fall short. Bipartisan efforts were made, in response to the EU position, to obtain the approval of the PROVE IT Act,<sup>16</sup> in order to put high-quality and verifiable data behind these practices, and bolster transparency around global emissions intensity data. A real climate policy remains, however, incomplete without effective and severe tax pollution mechanisms.

## 5. Towards the crucial year: Fearing the Trump's return

In the run-up to the Presidential election, the Biden administration announced in spring 2024 several changes to its climate policy approach. The EPA issued new emissions limits and new standards for power plant carbon emissions, foretelling massive cuts. At the same time, the Interior

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<sup>14</sup> S. Thielges, *The resilience of the Biden Administration's climate policy*, German Institute for International and Security Affairs, September 2024.

<sup>15</sup> U.S. Environmental Protection Agency had time to define regulations to phase down HFCs: on September 23, 2021, EPA issued a final rule to phase down the US production and consumption of HFCs by 85% over the next 15 years.

<sup>16</sup> Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency (PROVE IT) Act of 2024.

Department raised royalty rates, doubled rents and increased lease bond minimums on federal land for oil and gas companies.

Joe Biden has to face China, which holds an ever-increasing share of the solar cell market, and his rhetoric on “America against China” could end in a struggle between rival political systems, leaving only one winner. To this end, in May 2024 the Biden administration doubled tariffs on solar cells imported from China and tripled tariffs on lithium-ion electric vehicle batteries imported from China. This protectionist intervention made its “propaganda purposes” more evident.

Earning a pivotal position in climate action requires continuing, timely and equitable implementation of the legislation, while taking additional action to fill policy gaps.<sup>17</sup> Moreover, while the future of US climate policy depends largely on the results of the elections to the White House and Congress, an important factor will also be the progress that has already been made within the US states.<sup>18</sup>

A true shift towards the past, even in the event of Trump’s victory, seems quite unlikely. US people can now easily access energy efficient appliances consumer tax, credits for clean energy technology and for electric vehicles, and the chances for a rapid reduction of these incentives altogether seems rather unlikely. However, any of the Biden administration’s climate policy measures could be cancelled by a second Trump administration, and a drastic scenario is not entirely to be ruled out: Trump’s return to the White House would inflict a fatal blow to climate protection.

As Democratic candidate for 2024 United States Presidential election Kamala Harris has so far resisted, outlining her exact priorities for her administration in case of a victory. While President Joe Biden came into office with detailed climate plans crafted alongside activists, the details of a potential Harris administration agenda is still undefined.<sup>19</sup>

The overall opinion that has been expressed in Europe about the merits of the Biden administration remains in the final analysis largely positive: “During his presidential term, Joe Biden has been able to achieve climate policy successes at different legal levels. He issued a series of executive orders to ensure that US climate policy would comply with the Paris Agreements, which included the reduction of greenhouse gas emissions to 50–52 percent below 2005 level by 2030 and net-zero emissions by 2050”.<sup>20</sup>

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<sup>17</sup> D. Lashof, *Tracking Progress: Climate Action Under the Biden Administration*, World Resources Institute, July 30, 2024.

<sup>18</sup> All across the country, states and cities achieved real emissions reductions. Their policy experience now represents a key element in the action to tackle the effects of climate change, including increasing renewable energy generation and efficient energy use.

<sup>19</sup> A. Aton, *What’s on Harris’ Day One climate agenda?*, in *Politico*, Sept. 23, 2024.

<sup>20</sup> S. Thielges, *The resilience of the Biden Administration’s climate policy*, cit., 2.