



Written by [William F. Jasper](#) on November 18, 2017

## State Dept. Sued for Secret Records on UN Paris Climate Accord

The Competitive Enterprise Institute has filed suit against the State Department for illegally withholding documents related to the 2015 Paris climate agreement — particularly e-mails of two State Department officers involved in the Obama administration’s maneuvering to evade the Senate’s constitutional role in the treaty process.



On November 11, the Competitive Enterprise Institute (CEI) filed its second lawsuit against the State Department to obtain illegally withheld documents related to the 2015 Paris climate agreement. The lawsuit is the result of the State Department’s failure to respond to a Freedom of Information Act (FOIA) request filed by the Washington, D.C.-based think tank in October of 2017. CEI is requesting e-mails of two State Department officials involved in the Obama administration’s maneuvering to circumvent the Senate in order to join the Paris agreement.

Those officials, Trigg Talley and Alexandra Costello, “were both members of the State Department when the decision was made to avoid characterizing the Paris agreement as a treaty,” according to a CEI [press release](#). “The Obama administration cut the Senate out of the treaty process in order to join the Paris agreement,” CEI asserts. “Documents obtained under a previous FOIA production show Costello’s correspondence with a lawyer for Senate Foreign Relations Committee Chairman [Bob Corker](#),” the press release notes, stating further: “In response to an August 2014 *New York Times* report about Obama’s plan to circumvent the Senate, the lawyer said this news ‘indicate[s] a disturbing contempt for the Senate’s constitutional rights and responsibilities.’ Yet, Chairman Corker never publicly opposed Obama’s circumvention of the Senate. CEI seeks to learn just why this silence occurred.”

CEI is seeking “certain text message and email correspondence to and from Talley and Costello,” which are specified in its [FOIA request](#). According to the plaintiffs, “to date, the State Department has provided no production of records, prompting CEI to sue.”

### Why Are Trump and Tillerson Sitting on This?

“As the Senate and now two administrations continue to remain silent about how our treaty process was ignored in order to claim the U.S. was a party to the Paris climate treaty, CEI continues to seek relevant information to learn how this came about,” says CEI Fellow Chris Horner. “The Trump administration should carefully examine what led to our signing of the agreement without seeking Senate advice and



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consent, and what steps should be taken next given what their own records show. Critically, the new administration should allow the public to see this information, no longer abetting the Obama administration's many FOIA stonewalls."

"President Obama purported to commit the United States to the December 2015 Paris climate agreement as an agreement among executives requiring no legislative approval," CEI states in its October 6 FOIA request. "Regardless, most countries — including those whose diplomats made clear an overriding need to avoid Paris 'going to Congress,' because 'we know the politics in the U.S. Whether we like it or not, if it comes to the Congress, they will refuse' — somehow managed to involve their own elected parliamentary bodies in approving the agreement, and apparently as a treaty, if their submissions to the United Nations depository offer any guide. This may help inform the Obama White House's telling admission that the Paris treaty was 'the most ambitious in history'".

CEI's quote about avoiding the constitutional requirement to subject a treaty to a Senate vote is a reference to French Foreign Minister Laurent Fabius, who [told delegates](#), during the June 2015 UN climate talks in Bonn, Germany, that "we know the politics in the US. Whether we like it or not, if it comes to the Congress, they will refuse."

"We must find a formula which is valuable for everybody and valuable for the US without going to the Congress," said Fabius, who later served as the host of the UN Climate Summit in Paris that December. President Obama, of course, was entirely on board with this approach, and, notwithstanding his claimed expertise as a former constitutional law professor, decided to foist this costly, invasive, and destructive regime on Americans by executive fiat, in violation of constitutional requirements. As we have [reported](#), economists have placed the price tag for the Paris agreement, which will have no effect on global climate, as high as \$100 trillion — or higher. The cost in terms of loss of freedoms, due to vastly enlarged and empowered government regulation, is incalculable.

"All of these factors cry out for public review and assessment of State's determination as to why it decided a nation, whose Constitution imposes a rare two-thirds supermajority requirement for treaty agreements, handled its entry into this admittedly unpopular agreement as matter purely between executives, requiring no legislative involvement," says the CEI document request. "The public should understand how the United States recently evolved its system such that the Senate's expressly shared role in the treaty power now exists solely at the pleasure of the executive." Under the practice employed by President Obama, when a president believes he does not have sufficient support in the Senate for a treaty, "he may merely deem a treaty to be 'not a treaty.'"

"This suggests," CEI notes, "the revolutionary interpretation, that the Constitution's rare imposition of a supermajority requirement is actually code to take the Senate's role less, not more seriously than its majority-vote roles in, say, approving Supreme Court justices, found alongside its now passé role in the treaty process also found in Art. II, Sec. 2."

"Both for the public to understand the upcoming presidential determination on the Paris climate agreement, and to understand how State performed its advisory role both regarding what it stated and what it may have left unstated, is of great public importance," CEI contends. "The public currently has no source of information on the subject matter at the center of this request. State's response to this request will provide an important window into how the State Department carried and is carrying out its obligation to properly consider and accurately advise the executive branch on international obligations. This will provide information on what State did and did not inform the executive of in its assessment of the Paris climate agreement. Because there is no such information currently available to the public, any



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increase in public understanding of this issue is a significant contribution to this highly visible and politically important issue as regards the operation and function of government.”

The CEI lawsuit comes at an important time, just as the UN’s perennial climate talks in Bonn, Germany, entered into another session, November 11-17. Official delegates from nearly 200 nations, as well as lobbyists/activists from hundreds of environmental organizations, met at the Bonn confab this past week to continue negotiations on the “rulebook” that, ostensibly, will guide the Paris accord commitments by signatory nations. Although various spokesmen declared the talks had made progress, the conference concluded Friday with many issues left to be taken up again next year.

Nevertheless, we can be sure that next month, as the second anniversary of the Paris climate accord rolls in, we will see wall-to-wall, floor-to-ceiling special coverage of “climate change” issues and events. After all, UN Secretary-General Antonio Guterres [told](#) the Bonn conferees on Wednesday that climate change is “the defining threat of our time” and requires concerted action by the international community. [Guterres](#), now titular head of the global dictators club (aka the United Nations) and a former president of the [Socialist International](#), was a principal architect of the disastrous UN-European Union “refugee tsunami” that inundated Europe with more than a million Middle East/African migrants in 2015.

*Photo: AP Images*

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