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## Climate Change Policy Update Week of September 24-28, 2007

### Commentary

*International climate talks were the most significant development this week. The United Nations General Assembly held its first-ever meeting specifically to discuss climate change and set the stage for the upcoming talks in Bali where negotiators hope to agree on a post-Kyoto program for reducing GHG emissions. President Bush did not attend the UN General Assembly meeting, but hosted two days of climate change discussions with 16 of the world's largest GHG emitters in Washington, D.C. The President continued to support an international approach focused on voluntary efforts within each country and funding for technology transfers. More information on these meetings can be found below under the **International** heading. In addition, John Dingell, Chairman of the House Energy and Commerce Committee, released a discussion draft of his carbon tax proposal, but made clear that he still intends to work on cap-and-trade legislation. Rep. Dingell's proposal is discussed below under the **Congress** heading.*

### Congress

- **Chairman Dingell Lays Out Carbon Tax Proposal.** House Energy and Commerce Committee Chairman John Dingell (D-MI) provided an outline this week for his proposed tax on greenhouse emissions that seeks to reduce emissions by 60 to 80 percent by 2050. Specifically, the outline includes a \$50 tax on each ton of carbon. The draft plan does not specify the entities that would be taxed, but the draft suggests that the tax would be imposed "upstream," i.e., on coal, petroleum, and natural gas. The tax would be phased in over a period of five years and adjusted for inflation. Additionally, Chairman Dingell's plan calls for a 50-cent tax on each gallon of gasoline sold in the United States. Revenue from the tax plan would go toward expanding the Earned Income Tax Credit, a tax benefit for low income households. Extra funds from the gas tax would be diverted to the Highway Trust Fund. Chairman Dingell's plan also includes a phase-out of the mortgage interest deduction for "McMansions," defined as homes larger than 3,000 square feet. Chairman Dingell indicated that he may introduce a formal bill before the end of the year; such a bill likely would go not to Chairman Dingell's committee, but rather the Ways and Means Committee. Chairman Dingell also noted that he is working separately on complementary cap-and-trade legislation that will set mandatory limits on CO<sub>2</sub> emissions.
- **Sens. Reid and Pelosi Ask President Bush for Mandatory Emissions Cap.** Senate Majority Leader Harry Reid (D-NV) and House Speaker Nancy Pelosi (D-CA) sent a letter to President Bush before this week's two-day Major Economic Meeting on Energy Security and Climate Change. The Congressional leaders asked the President to end his opposition to a mandatory greenhouse gas emissions cap.

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They also urged the President not to initiate a separate process that will compete with negotiations under the United Nations Framework Convention on Climate Change, to which the U.S. is a party. This week's meeting was convened to lay the groundwork for subsequent meetings to establish a global goal for cutting future emissions. The U.S.-hosted meeting and the UN General Assembly meeting are discussed below.

- **House Includes Climate Amendment in Insurance Bill.** The House approved an amendment that will require the Federal Emergency Management Administration (FEMA) to take climate change into account when agency officials map flood plains in the U.S. The amendment, sponsored by Reps. Blumenauer (D-OR), Welch (D-VT), and Gilchrest (R-MD), was attached to H.R. 3121, the *Flood Insurance Reform and Modernization Act of 2007*. The measure was approved by voice vote.
- **Sen. Lieberman Claims Enough Votes to Move Cap-and-Trade.** Senator Lieberman (I-CT) said this week that he believes that both Chambers of Congress will pass mandatory greenhouse gas emissions reduction legislation before the end of the 110<sup>th</sup> Congressional Session. He also said that he expects to obtain the 60 votes necessary to prevent a filibuster in the Senate and proceed with debate on climate change.
- **Rep. Waxman Cites Evidence of CEQ Approval of Lobbying on California GHG Rules.** House Government Reform Committee Chairman Henry Waxman (D-CA) said in a letter to the White House Council on Environmental Quality (CEQ) that documents obtained by the Committee indicate that the CEQ was behind a coordinated lobbying effort on California's vehicle CO<sub>2</sub> emission standards. Rep. Waxman said that the documents show that the CEQ approved of calls by Department of Transportation (DOT) officials to various Congressional offices last spring advocating rejection of a waiver that would allow California to enforce its vehicle standards. DOT officials claim that the contacts were not improper because Federal lobbying laws do not apply to contacts between executive branch officials and members of Congress.
- Selected Committee Hearings From the Past Week:
  - Senate Energy and Natural Resources Committee held a hearing on climate change and wildfires (September 24, 2007).
  - Senate Environment and Public Works Committee held a hearing on green jobs (September 25, 2007).
  - House Select Committee on Energy Independence and Global Warming held a hearing on global warming in the arctic (September 25, 2007).
  - House Science and Technology Subcommittee on Investigations and Oversight held hearings on climate change and national security (September 25 and 27, 2007).
  - Senate Environment and Public Works Committee held a hearing to examine the impacts of global warming on the Chesapeake Bay (September 26, 2007).
  - House Select Committee on Energy Independence and Global Warming held a committee briefing on global warming perspectives (September 26, 2007).

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## States

- **Multi-State Group Offers Carbon Sequestration Framework.** The Interstate Oil and Gas Compact Commission, a multi-state government agency, proposed a regulatory framework that would give states – rather than the Federal government – the primary authority in overseeing geologic CO<sub>2</sub> storage. The report concludes that oil-producing states in particular are best suited to regulating carbon sequestration because of their experience with natural gas storage and enhanced oil recovery operations. The group also said that states would be better suited to making decisions regarding the siting of carbon storage projects.

## Industry

- **Industry Disagrees on Future of Carbon Capture and Storage.** Power industry officials at the International Conference on Air Quality disagreed about the future path for carbon capture and sequestration. A technical executive from the Electric Power Research Institute predicted that carbon capture and sequestration would be technically feasible after 2020, but a researcher at Southern Company, an electric power company, said that the costs would be prohibitive or would require significant increases in the price of electricity. An American Public Power Association official agreed, saying that electricity costs could double with use of carbon capture and sequestration. Officials also discussed the need to resolve outstanding concerns regarding liability before carbon sequestration can be implemented, calling for Federal policymakers to decide these issues and agree to indemnify companies.
- **HSBC Launches Climate Stock Indices.** HSBC introduced a stock market index intended to help investors track the performance of companies best able to adapt to climate change. The Global Climate Change Index will track 300 firms, which were selected based on how much they are reducing their GHG emissions and their profits from climate-related activities. HSBC also created four investment indices related to climate change: (1) general climate change; (2) low-carbon energy production, which includes biofuels, solar, wind, and geothermal energy companies; (3) energy efficiency, including auto manufacturers and fuel cell companies; and (4) water, waste, and pollution control, which consists of recycling, waste technology, and pollution control firms. HSBC would not name the firms that were part of each index.
- **Banks Form International Climate Lobbying Coalition.** A group of international banks and other firms joined together to form the International Carbon Investors and Services to advocate for emissions trading systems in the U.S. and other nations. The group includes Citigroup, Lehman Brothers Holdings, and Morgan Stanley, Barclays Capital, Deutsche Bank, Credit Suisse and the law firms Baker & McKenzie and DLA Piper.
- **Dell to Be Carbon-Neutral by Next Year.** Dell announced that the computer company will be carbon-neutral by next year through energy efficiency upgrades and purchases of renewable power and carbon offsets. Dell will offset emissions from buildings and

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manufacturing facilities owned and leased by the company, as well as employee air travel. The company will not offset emissions associated with subcontractors, but will continue to work on a program under which subcontractors will identify and report their GHG emissions. Dell said that costs to purchasers of Dell products would not increase as a result of carbon-neutral program.

## International

- **UN General Assembly Holds Climate Change Meeting.** Leaders and senior officials from more than 150 nations met on September 24 at the United Nations' (UN) first-ever General Assembly meeting on climate change. The objective of the meeting was to focus attention on the upcoming Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) scheduled for December 3 – 14 in Bali. At the Bali meeting, world leaders hope to negotiate a post-2012 international GHG reduction program that will go into effect after the Kyoto Protocol expires. One of the recurring themes of the UN General Assembly discussion was the financing of technologies and other measures to address climate change. Several developing nations called for access to clean technologies at lower costs and credit for actions such as preserving forests. The meeting also focused on the effects of climate change and adaptation measures. After the meeting, many environment ministers and other officials were optimistic that an agreement could be reached on a post-2012 international program on GHG emissions, particularly if the U.S. agrees to emission reduction targets.
- **U.S. Hosts Climate Meeting, Proposes International Clean Technology Fund.** This week, the United States hosted a meeting for sixteen countries that are the largest emitters of GHGs; the aim was to work toward an international approach for addressing climate change. On Friday, the President proposed an International Clean Technology Fund. The President proposed that the fund would be supported by voluntary contributions from governments and would transfer clean energy technologies to developing countries. Speaking at the meeting on September 27, Secretary of State Condoleezza Rice said the U.S. was willing to lead international efforts to reduce GHG emissions but that any such program must not frustrate economic development and must allow countries to adopt individual approaches to address the climate change issue. Some attendees said that these statements indicate U.S. intent to slow down momentum toward a mandatory climate change program. However, the Secretary of State and other U.S. officials said that the meeting was not intended to detract from the UN talks or the negotiations in Bali. Officials from Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, South Korea, Mexico, Russia, South Africa, and the United Kingdom attended the conference.
- **Developing Countries Discuss GHG Regime Alternatives.** The Mexican environment minister announced a preliminary proposal for inclusion of developing countries in any post-Kyoto climate change agreement. The proposal, offered at a conference organized by the Center for Clean Air Policy, would group developing countries based on socio-economic factors, and then apply different GHG reduction targets over varied timeframes to separate

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groups. Developing countries have expressed concerns that climate controls could hinder development. Also at the conference, representatives from China, Brazil, and Mexico indicated that any U.S. trade tariffs levied on goods from countries that are deemed to not take enough action on climate change could lead to trade wars. The nations said that such issues should be handled by the World Trade Organization.

- **Clinton Global Initiative Announces Pledges for GHG Reductions.** The Clinton Global Initiative held its annual meeting this week in New York, at which businesses, nonprofit groups, and government agencies announced pledges of support for GHG reductions. The announcements included the following pledges:
  - Eight utilities – Con Edison, Duke Energy, Edison International, Great Plains Energy, Pepco Holdings, PNM Resources, Sierra Pacific Resources, and Xcel Energy – committed to seek regulatory reforms and approvals to increase their investment in energy efficiency by \$500 million annually to about \$1.5 billion annually. The utilities explained that this increased level of investment in energy efficiency, when fully implemented in 10 years, will reduce carbon dioxide emissions by about 30 million tons. The eight utilities also committed to the creation of a national institute for electric efficiency to develop regulatory models and convene supporting conferences in the power sector. This institute would be formed within the Edison Electric Institute, which represents the nation’s investor-owned electric utilities. Van Ness Feldman assisted in the structuring of the utility commitment.
  - The Standard Chartered Bank agreed to underwrite debt between \$4-5 billion over the next five years to support clean energy projects in Asia, Africa and the Middle East; and
  - The X Prize Foundation committed \$300 million in new incentives for innovation in energy, climate change, and other areas.
  
- **Global Standard for Voluntary Carbon Market to Launch in November.** Four organizations that are developing a common standard for global GHG reduction credits expect that the Voluntary Carbon Standard (VCS) will be available in November. The groups – the International Emissions Trading Association, The Climate Group, the World Business Council for Sustainable Development, and the World Economic Forum – have developed the standard with the aim of ensuring the environmental integrity of GHG emissions reductions transacted in the voluntary trading market, i.e., projects not regulated by the UN or national governments.
  
- **Canada to Join Asia-Pacific Partnership on Clean Development and Climate Change.** Canadian Prime Minister Stephen Harper announced that Canada will officially become a member of the Asia-Pacific Partnership on Clean Development and Climate Change, an effort that focuses on voluntary GHG emissions reductions and whose members emit nearly half of the world’s GHGs. The current members include Australia, China, India, Japan, Korea, and the United States. The Canadian Prime Minister indicated that Canadian membership will contribute to garnering the support from member countries towards a new global climate change agreement.

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*The Climate Policy Update is intended as a general summary of major climate change-related policy developments that we judge to be of interest to a broad range of our clients. We welcome your comments and suggestions. Coverage in, and selection of topics for, the Update is not intended to reflect the position or opinion of Van Ness Feldman or any of its clients on any issue. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.*

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