

COPENHAGEN BRIEFING N^o 3

U.S. ANNOUNCEMENT OF HELP TO DEVELOPING COUNTRIES TO ADDRESS CLIMATE CHANGE NOTABLE AS COP NEARS END

By Doug Tingey, Counsel

This is the third in a series of bulletins authored by Doug Tingey who is in Copenhagen attending the climate change negotiations from December 7th to 20th. Doug is Counsel to Borden Ladner Gervais LLP (BLG) in Calgary and is a member of the firm's Corporate Commercial Practice Group and Climate Change Focus Group. Doug advises on business law aspects of climate change mitigation to clients carrying on business around the world. BLG considers the outcome of COP 15 to be critical for many Canadian businesses and is providing these bulletins as a method of keeping clients and friends of the firm informed during the conference.

This bulletin is being written at noon in Copenhagen on Thursday December 17 – the final week of the COP 15 conference. The remaining moving parts in the negotiations are moving rapidly within ever smaller circles as access to the Bella Centre has been limited severely and negotiations on the larger text involves fewer countries in fewer informal meetings/conversations. Updates are now being sent by email between members of the various civil society and business groups actively lobbying delegates with regular complaints of Blackberry routers being overwhelmed. The open face of the negotiations is now limited pretty much to the heads of state statements to the COP. The remaining AWG contact groups have been suspended indefinitely.

A new COP sponsored contact group has been formed to finish work on unresolved issues on the basis of both the AWG-LCA and AWG-KP with groups to address the drafts presented to the COP this afternoon. Unresolved issues to be addressed include: Shared Vision, Financial resources and investments, Enhanced action on mitigation and means of implementation, Mechanisms to record NAMAs and support for NAMAs, REDD, Use of Markets, Adaptation, Technology Development and Transfer as well as Capacity Building and Institutional Arrangement. Developing country negotiators continue to worry that documents presented to high level COP will be other than those produced by AWGs.

CLIMATE CHANGE BULLETIN

Late yesterday, and following a similar statement of support for significant funding by Prime Minister Gordon Brown, Secretary of State Clinton announced that

“in the context of a strong accord in which all major economies stand behind meaningful mitigation actions and provide full transparency as to their implementation, the United States is prepared to work with other countries toward a goal of jointly mobilizing \$100 billion a year by 2020 to address the climate change needs of developing countries. We expect this funding will come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources of finance. This will include a significant focus on forestry and adaptation, particularly, again I repeat, for the poorest and most vulnerable among us.”

The ambiguity of this statement is a very good example of the ambiguity surrounding many of the ongoing key issues including: financing (amounts, recipients and mechanics), commitments (from whom and how ambitious), numbers (what they are and how they are calculated) and legal form.

WWF – US responded to the Clinton statement as follows: "Secretary Clinton's 100 billion dollar surprise breathes new life into the sputtering negotiations. It bridges the needs of the developed and developing worlds and changes the game in these global talks. All that remains is an agreement between the US and China about how they will define transparency, and a commitment by President Obama to make climate legislation his top priority for the new year."

Federal Minister of Environment, Jim Prentice is scheduled to speak second to last possibly very late Thursday night or early Friday morning and is expected to address the question of Canada's commitment to emissions reduction (rumour has it that the 1990 baseline has been accepted) and developing country financing.

The Secretariat chairman's recent comment is that we are in an "all or nothing" situation.

Sub-national side events drew an impressive list of provincial and municipal leaders – premiers of BC, Manitoba, Quebec, Nova Scotia, various provincial environment ministers, and the mayors of Toronto, Montreal and Calgary. Two of the premiers, Campbell and Charest, clearly indicated that they are pushing ahead with provincial regulatory initiatives within the framework of the Western Climate Initiative's cap and trade.

If you would like further information with respect to the information in this **Climate Change Bulletin**, please contact **Doug Tingey** at dtingey@blgcanada.com during the COP 15 meetings or in his Calgary office afterwards at (403) 232-9483 or **Adam Chamberlain** at 416-367-6172 or achamberlain@blgcanada.com.

CLIMATE CHANGE BULLETIN

For questions related to Climate Change, call:

National Leader	Adam G. Chamberlain	achamberlain@blgcanada.com	(416) 367-6172
Calgary Contact	Doug Tingey	dtingey@blgcanada.com	(403) 232-9483

For questions related to Energy Markets, call:

National Leader	Linda L. Bertoldi	lbertoldi@blgcanada.com	(416) 367-6647
Calgary Leader	Kent D. Howie	khowie@blgcanada.com	(403) 232-9535
Montréal Leader	Sylvie Bouvette	sbouvette@blgcanada.com	(514) 954-2507
Ottawa Leader	Vincent J. DeRose	vderose@blgcanada.com	(613) 787-3589
Toronto Leader	Mark Rodger	mrodger@blgcanada.com	(416) 367-6190
Vancouver Leader	Sean Muggah	smuggah@blgcanada.com	(604) 640-4020

For questions related to Environmental Law, call:

National Leader	William K. McNaughton	wmcnaughton@blgcanada.com	(604) 640-4120
Calgary Leader	Alan L. Ross	aross@blgcanada.com	(403) 232-9712
Ottawa Leader	Janet E. Bradley	jbradley@blgcanada.com	(613) 787-3749
Toronto Leader	Rick F. Coburn	rcoburn@blgcanada.com	(416) 367-6038
Vancouver Leader	Rick Williams	rwilliams@blgcanada.com	(604) 640-4074

Stephen Andrews

Government Relations Advisor

sandrews@blgcanada.com (416) 367-6219

This bulletin is prepared as a service for our clients and other persons dealing with climate change issues. It is not intended to be a complete statement of the law or an opinion on any subject. Although we endeavour to ensure its accuracy, no one should act upon it without a thorough examination of the law after the facts of a specific situation are considered. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. This newsletter has been sent to you courtesy of Borden Ladner Gervais LLP. We respect your privacy, and wish to point out that our privacy policy relative to newsletters may be found at <http://www.blgcanada.com/home/website-electronic-privacy>. If you have received this newsletter in error, or if you do not wish to receive further newsletters, you may ask to have your contact information removed from our mailing lists by phoning 1-877-BLG-LAW1 or by emailing subscriptions@blgcanada.com.

© 2009 Borden Ladner Gervais LLP

BORDEN LADNER GERVAIS LLP
CLIMATE CHANGE GROUP

Borden Ladner Gervais LLP
Lawyers • Patent &
Trade-mark Agents

Calgary

1000 Canterra Tower
400 Third Avenue S.W.
Calgary, Alberta, Canada
T2P 4H2
tel: 403 232-9500
fax: 403 266-1395

Montréal

1000 de La Gauchetière
Street West
Suite 900, Montréal,
Québec, Canada H3B 5H4
tel: 514 879-1212
fax: 514 954-1905

Ottawa

World Exchange Plaza
100 Queen St., Suite 1100
Ottawa, Ontario, Canada
K1P 1J9
tel: 613 237-5160
1-800-661-4237
legal fax: 613 230-8842
IP fax: 613 787-3558

Toronto

Scotia Plaza,
40 King Street West
Toronto, Ontario, Canada
M5H 3Y4
tel: 416 367-6000
fax: 416 367-6749

Vancouver

1200 Waterfront Centre
200 Burrard Street,
P.O. Box 48600
Vancouver, British Columbia,
Canada V7X 1T2
tel: 604 687-5744
fax: 604 687-1415

Waterloo Region

Waterloo City Centre
100 Regina Street South,
Suite 220
Waterloo, Ontario,
Canada N2J 4P9
tel: 519 579-5600
fax: 519 579-2725
IP fax: 519 741-9149

www.blgcanada.com

Borden Ladner Gervais LLP
is an Ontario Limited
Liability Partnership