

Editors' Note

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EDITORS' NOTE

Sustainable Development Law & Policy publishes a Climate Law Reporter each year with a goal of providing practitioners and academia around the world with an accessible and concise report on the current state of climate law. After taking stock and regrouping following the UNFCCC negotiations in Copenhagen, the international community began to focus on the December 2010 meeting in Cancún, Mexico. With the continued inability of the U.S. Congress to pass a climate bill, expectations were not high going into the Cancún negotiations. Although Parties moved forward with the acceptance of numerous Agreements and Decisions, a successor to the Kyoto Protocol with the continuation of a bifurcated approach—different obligations and responsibilities for developed and developing countries—appeared even more uncertain. As the international community looks toward the 2011 negotiations in Durban, South Africa, expectations are again increasing.

One of the major challenges to reaching an international binding agreement over the past ten years has been the opposition by the United States. But in more recent years the international community has also come to recognize China as a countervailing force. This issue of the Climate Law Reporter includes proposals for climate change mitigation, as well as shifting approaches to address climate policy and effects of climate change. One of our authors reviews the tension between the United States and China on “green technology” and questions whether the portrayal of a “green energy race” is accurate or advantageous for either country. Other articles focus on climate change mitigation mechanisms such as the role of due process in the carbon markets; which metrics are best for additionality of carbon sequestration projects; the inclusion of other ecosystems and services beyond the confines of current forestry programs including reducing emissions from deforestation and forest degradation (“REDD”) programs; and even if private property monetization of carbon reduction is an approach we should pursue. Another article performs a comparative analysis of the successes and failures of climate change litigation tactics across venues and continents, while one author suggests that litigation and legislation might not be necessary because the U.S. President already has authority under existing national security laws to mitigate the threat of climate change. Additionally, one article focuses on an aspect of human rights challenges inherent in climate change—developing country use of clean energy technologies that are protected by intellectual property rights, frequently held by developed countries thousands of miles away. Two authors focus on Africa, where

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impacts from climate changes are disproportionate compared with the continent's contribution. These articles review the key challenges and prospects in sustaining the outcomes of the seventh African Development Forum to address climate change, and the effects of establishing renewable energy feed in tariffs in South Africa.

As the climate conference in South Africa approaches and the international community again prepares for negotiations extending into the early mornings, we must remember that while climate change is most often seen as an international issue, actions, agreements, and compromises at all levels are required to succeed in our efforts to mitigate climate change.



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