

## Viewpoints on Compliance and Cross-Border Harmonization from Around the World

Sustainable Development Law & Policy

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# VIEWPOINTS ON COMPLIANCE AND CROSS-BORDER HARMONIZATION FROM AROUND THE WORLD

by Sustainable Development Law & Policy

The “Confidence Through Compliance in Emissions Trading Markets” workshop brought together experts from all over the world for two days. The emissions trading sector is rapidly developing in some areas of the world and relatively new in others. A common theme throughout the conference was the importance of disseminating knowledge and learning from the mistakes and successes of others. Many participants reached consensus that it is the exchange of unique perspectives and experiences from across the world that will make emissions trading a success.

This article outlines the perspectives of a handful of participants at the conference regarding the importance of compliance in making emissions trading work, the need for cross-border harmonization, and the challenges of bringing countries into a regulatory program. The views expressed by experts in this article are personal and do not necessarily reflect the institutions with which they are affiliated.

## Mr. Chris Dekkers

According to Mr. Chris Dekkers, Coordinator for the Emissions Trading program in the Ministry of Housing, Spatial Planning, and the Environment, Netherlands, emissions trading is about creating new currency. Its success depends on trust within a society. As with other forms of trade, partners must develop procedures in order to generate confidence in the operation of the market. There are, however, significant differences between societies and the degree markets require compliance measures to function properly. Some societies are organized in a way where corporate citizens are more willing to comply voluntarily, such as in countries where there is a greater focus on consumer interests. In other societies, corporate citizens are under constant market pressure to create shareholder value, as a result of which they are more tempted to cheat if they are not closely monitored. In that sense, compliance measures are more important in competitive societies where corporate citizens may be tempted to seek ways to cheat, although strong compliance measures are necessary in every emissions trading system. Cross-border harmonization of compliance measures is another challenge. For instance, even in the case where there is a common basic law, as in the EU with the directive on emissions trading, translating this directive into national law may easily become a major obstacle in harmonization. Since words are poor instruments for conveying thought, information technology may be used as an additional tool for clarifying and harmonizing the various requirements, and thus help to connect emissions trading on a global scale. Despite the challenges, though, we must move forward in bringing countries into harmonized regulatory programs.

## Ms. Jill Duggan

Compliance is important in emissions trading because if you are linking different schemes, you must have confidence in

the accuracy of the verifications in each of the schemes. Ms. Jill Duggan of the National Climate Change Policy Division of the Department for Environment, Food, and Rural Affairs in the United Kingdom, expresses that without confidence in the chosen emissions trading scheme, the system will break down. Ms. Duggan stressed that due to the reality that European nations have adopted emissions trading regulations very quickly, there will be numerous upcoming matters that will need to be coordinated. Countries can learn from every new scheme that is created around the world, and we must accept that we may need to make improvements as systems and trading become established.

## Mr. Reid Harvey

According to Mr. Reid Harvey of the U.S. Environmental Protection Agency, the whole point of these systems is to achieve greater environmental certainty in emissions reductions. The United States is currently looking at the feasibility, not the desirability, of linking sulfur dioxide and nitrogen oxide emissions control programs with Canada. While the two countries might harmonize measures of emissions, compliance requirements, and penalties, they will continue to differ in how they distribute allowances. But so long as there is a set cap on emissions in both countries, the environmental outcome will be the same regardless of the measures taken by each country. Mr. Harvey believes that developing countries have also shown they have the capability to create emissions trading programs. The problems we have seen in establishing emissions trading systems are related to the larger problems of societies. For instance, the remnants of the command-and-control economies in post-Soviet countries have reduced capacity, such as staff size, training, and available resources, making it more difficult to create trading systems. No matter the country or regulatory system, a successful emissions trading program requires a strong compliance regime.

## Mr. Kunihiko Shimada

Mr. Kunihiko Shimada, a researcher for the Climate Policy Project of the Institute for Global Environmental Strategies at the time of the conference (now currently serving as Chief Administrator of the Office of International Strategy on Climate Change of Japan’s Ministry of Environment), shares his personal views that credibility for investors is key for the future of emissions trading. Japan is currently considering steps towards cross-border harmonization by modifying rules to become consistent with the EU emissions trading system. However, harmonization will be difficult because of countries’ vastly different legal systems, cultures, and backgrounds. Japan’s diplomatic strategy is “global” in the sense that it centers around the United

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Nations. He sees that the United States and Canada are not as likely to pursue a strategy of harmonization. Thus, while harmonization would be ideal, Mr. Shimada doubts it is practical or feasible.

### Mr. Marco Loprieno

Compliance is at the core of the credibility of any trading system. According to Mr. Marco Loprieno, Principal Administrator in the Climate Change, Ozone, and Energy Unit of the European Commission, trust must be present for the success of emissions trading. The only way to build trust is with strong, credible compliance. Emissions trading is an instrument to facilitate the global battle against climate change, and so by definition it is part of a multilateral approach. At the present, there are limitations to cross-border harmonization, such as the impending obstacle of only being able to harmonize with those that have signed onto the Kyoto Protocol. In order to bring countries into a regulatory program, it is important to have a common understanding of the definition of goals. Before these efforts are achieved, though, countries will still be able to improve their emissions trading systems by sharing knowledge and experiences.

### Ms. Jane Barton

Compliance is important in making emissions trading work because in a program that is intended to address health-based issues like smog, you must be able to ensure the result, according to Jane Barton, the Chief of the North American Smog Program for Environment Canada. While the U.S. acid rain and ozone transport trading programs have resulted in significant air quality gains that have translated in health gains, in Canada, a similar trading program does not yet exist. However, the *Canada-United States Emissions Cap and Trading Feasibility Study* found that, with certain key elements in place, NO<sub>x</sub> and SO<sub>2</sub> emissions cap and trading could be feasible between Canada and the United States. One element essential to “seamless” cross-border trading would be the use of the same emissions monitoring systems in both countries. The Feasibility Study found that the rigor of the emissions monitoring and tracking systems was an important factor in compliance with the emissions cap reductions. Conclusions reached by the Feasibility Study regarding the elements necessary to ensure that the environmental goal is met through “borderless” trading, and robust markets may be useful where multilateral trading designs are being developed.

