

# DRAFT PROGRAMME

## **Cooperation, Compliance & Coherence: Sustainable Developments in Law and Policy on Climate Change**

An International Law Symposium

- Dates: Friday, Dec 02 (afternoon) and Saturday, Dec 03 (all day), 2005, with follow-up international experts meeting to review draft manual on December 04 (morning), 2005.
- Themes: *Cooperation*: Recent developments in law and policy to support Joint Implementation (JI) and the Clean Development Mechanism (CDM), and future directions for these mechanisms.  
*Compliance*: Recent developments in international law and policy to strengthen compliance with the UNFCCC and Kyoto Protocol, through facilitation and enforcement.  
*Coherence*: Intersections between global and domestic climate regimes, and other international regimes (trade and investment, biodiversity and desertification, human rights).
- Participants: Between 80 – 120 climate change policy-makers, academics, business leaders and civil society organisations (lawyers and non-lawyers), from Canada and the world, also representatives of the media, many of whom will be in Montreal for the COP-11/MOP-1 of the UNFCCC and Kyoto Protocol.
- Advisors: Prof. James Cameron (Climate Change Capital), Dr. David Freestone (World Bank), Mr. Richard Ballhorn (Foreign Affairs Canada), Dr. Kemal Dervis (UNDP), Dr. Joke Waller-Hunter (UNFCCC Secretariat), Dr. Gao Guangsheng (NDRCC - Office of National Coordination Committee for Climate Change, Director General), Mr. David Runnalls (IISD), Prof. James Gustav Speth (Yale University), Sir Crispin Tickell (Green College, Oxford University), Prof. Gordon McBean (University of Western Ontario), Dr. Sheila Watt-Cloutier (Inuit Circumpolar Conference), Dr. Kamal Hossain (International Law Association) and H.E. Judge C.G. Weeramantry (WICPER, former Vice-President of the International Court of Justice).
- Venue: McGill University Faculty of Law, 3660 & 3647 Peel St, Montreal, Quebec, Canada, with Special Guests Reception at the McGill University Faculty Club\*.

*\* Suggestions only, subject to confirmation.*

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Sustainable Developments in Law and Policy on Climate Change**  
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**Draft Programme  
(02-08-05)**

**DAY ONE**

02.00pm – 03.00pm

**Opening Plenary: The International Climate Regime**

*(Plenary to be conducted in both French and English)*

03.00pm – 05.30pm      **Concurrent International Experts Panels (3)**

**1) Setting the Rules to Support the CDM and JI**

*How did the first full-project cycle develop, and what are the key steps that it consists of? What are the practical legal experiences of JI and CDM managers? How could the Kyoto rules facilitate their work? What are the most significant differences between CDM/JI? How to set the rules for JI, and what needs to be taken into consideration? What proposals are possible for terms of reference for the Supervisory Committee? Which contractual arrangements are needed?*

**2) Facilitation and Enforcement in the Kyoto Protocol Compliance Regime**

*What has been proposed in current global negotiations related to compliance with the Kyoto Protocol? How might the mechanisms for facilitation and enforcement be developed and strengthened? How will these negotiations affect laws in developed and developing countries, and what analysis is still needed?*

**3) Inter-Linking the Kyoto Protocol and Other International Regimes**

*What is the nature of linkages between the Kyoto Protocol and other international instruments? How do the rules of the Protocol relate to the rules and instruments of the international trading system, bilateral and international investment regimes, international and regional human rights instruments, desertification, biodiversity and other instruments? Where might overlaps or conflicts arise? How best to build synergies at the areas of inter-linkage?*

06.00pm – 07.30pm

**Symposium Reception**

*[Canadian book launch for Making Kyoto Work: Legal Aspects of Implementing the Kyoto Protocol (OUP, 2005).]  
[Launching of 'Climate Change Course for Judges', sponsored by the National Judicial Institute of Canada]*

07.30pm – 9.30pm

**Symposium Buffet Dinner\***

*[Sponsor to be confirmed, potentially Government of Quebec]*

## DAY TWO

09.00am – 10.30am

### **Plenary Session: Trends and Innovations in Domestic Law and Policy to Implement the Global Climate Regime**

*What have practitioners found to be the current trends, and the most effective ways of implementing global and national climate change commitments and obligations? How have countries such as Canada, China and Chile responded by setting up national laws or policies, and what do these mean for practicing lawyers, on the ground? Have countries or companies developed innovations, or alternative strategies, to meet Kyoto Protocol targets? [High level panel in French and English, sponsored and hosted by CERIUM]*

10.30am                      *Coffee / Tea Break*

11.00am – 12.30pm        **Concurrent International Experts Panels (4)**

#### **1) Land Use, Land Use Change, and Forestry in the International Climate Regime**

*Can the CDM serve as financial mechanism for afforestation? Does LULUCF cover failures of the UN CBD, complementing the existing biodiversity regime? How to build on synergies and complementarities between MEAs? Can the scope of the CDM be extended to cover avoided deforestation and forestry conservation? How to measure and monitor biodiversity benefits accurately? How to transact temporary credits? Who owns title to CERs in a context of weak property and titling systems? How to bundle and transact community forest projects? Does the existing CDM scheme fit for characteristics of LULUCF projects? Potential Speakers:*

#### **2) Implementing Sub-National Emission Trading and Other Climate Schemes in Federal Countries**

*How to design and implement sub-national emission reduction schemes in federal countries? What are the opportunities and the key challenges? For example, what is the role of emission reduction registries in sub-national bodies of states party to the Kyoto Protocol, and is there a role for such registries in sub-national bodies that are not parties to the Protocol? Are such registries stepping stones or stumbling blocks to future Kyoto implementation? How do they relate to emission trading in general and to the GHG inventories in particular? Could existing initiatives be linked? Are they helpful or harmful to broader climate change implementation? [Panel potentially sponsored by the Government of Quebec, presented in French with English translation available].*

#### **3) Integrating National, Regional and International Law on CDM and JI**

*How does the international approval relate to the national approval? What happens if one but not the other is withdrawn? Are there any liabilities for governments associated with the approval? How to best understand issues related to ownership of emission reductions? What laws govern transfer of these rights? Will Annex I countries allow CDM projects in their own countries, or threaten to do so for the post-Kyoto period?*

#### **4) International Liability for Climate Change Risks: Public and Private Perspectives**

*Could liability of countries most responsible for climate change be construed and litigated? What are the legal and practical barriers to such liability? Who pays for disappearing Small Island Nations? Could companies held liable? What risk do insurers face? Which areas of the Kyoto Protocol will lend themselves to domestic and international litigation? What does the Protocol mean for compensation claims?*

12.30pm – 02.00pm        *Buffet Luncheon (McGill Law Faculty Atrium)*  
*[Sponsored by Fasken Martineau LLP]*

02.00pm – 04.00pm      **Concurrent Workshops**

**1) Green Investment Schemes: Green-washing or Key to Compliance?**

*What are the different forms of Green Investment Schemes? Are there different definitions of “greening AAUs”? What are the minimum requirements? What are the risks and the chances associated with such schemes? How to ensure that the different mechanisms (JI, EU ETS, GIS) are complementary? Which key actors should be involved? What is the role of commercial banks in securitizing the transactions, and what is the role of the private sector? How to address problems of state aid and public procurement? Can the Canadian Climate Fund deliver? Is the Prototype Carbon Fund still the Prototype of Carbon Finance? What is the potential for International Development and Private Banks? [Workshop sponsored and organised by Climate Focus]*

**2) Legal Clarity, Innovation and Flexibility: Facilitating Private Sector Engagement in the CDM?**

*What are the challenges and opportunities of the private sector to engage in the CDM? Which principles should guide the CDM process? What are the sustainable development considerations for each? What are the legal boundaries of additionality? Can the demonstration of additionality be simplified? Should methodologies for the selection of baselines be amended, and if so how?*

*What is the status and potential of unilateral CDM projects? [Workshop sponsored by Mallesons Stephen Jaques]*

**3) Linkages between the Kyoto Mechanisms in National and Regional Emission Trading Schemes**

*What are the challenges to link the EU ETS with other national trading schemes? If Canada does not allow “hot air” credits but the EU converts them into allowances, is this an obstacle for bi-lateral linking negotiations? How do developing countries benefit from Annex I domestic ETS? How can domestic ETS provide practice and examples of post-Kyoto ideas such as broad private participation in Kyoto mechanisms. How to address issues such as transfer and ownership of credits, allocation rules, state aid, state and private liabilities, and settlement of any disputes?*

*[Workshop sponsored by the European Studies Institute]*

**4) Legal Implications of the Changing Climate for Indigenous Peoples Claims**

*What are the legal and policy implications of a changing climate in governance and interactions with Inuit Land-claims organizations? How to address legal issues of indigenous peoples with regard to environmental protection and human rights, and international sovereignty and diplomacy? What legal research is needed to formulate adaptation strategies and national and international policies to address the impacts and opportunities of climate change and globalization in the Arctic? [Workshop potentially co-hosted with the Inuit Circumpolar Conference]*

04.00pm – 5.30pm      **High Level Closing Panel (1)**

**The Future for Carbon Financing, Climate Compliance and Coherence of Regimes**

*What is the future for carbon financing mechanisms, compliance and enforcement, and coherence between different international regimes? Will the post-Kyoto regime allow for CDM projects in Annex I countries? Will the gold standard turn into platinum or tin after the commitment period? Is project financing enough to combat climate change? What would be the role and challenges of micro-mechanisms, such as community funds? Will the post-Kyoto regime allow for CDM projects in Annex I countries? Will the gold standard turn into platinum or tin after the commitment period? Is project financing enough to combat climate change? What would be the role and challenges of micro-mechanisms, such as community funds?*

05.30pm – 06.00pm      **Closing Session**

**DAY THREE**

10.00am – 01.00pm      Experts Meeting to Review Draft CISDL Manual “Sustainable  
Development Law on Climate Change”

*[Sponsored by CIDA, Government of Canada]*

*Deepest gratitude to the Symposium sponsors:*

The Government of Canada,  
Fasken Martineau LLP,  
Climate Focus,  
The National Judicial Institute of Canada,

The Government of Quebec,\*  
Malleons Stephen Jaques,  
The European Studies Institute,  
The Inuit Circumpolar Conference.\*