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Expert Analysis

Negotiating With Someone Else's Money Shifting the Responsibility for Climate Change Funding

By Richard O. Faulk, Esq.

In the fourth installment from our correspondent at the United Nations climate change conference in Copenhagen, attorney Richard Faulk of Gardere Wynne Sewell LLP discusses the call for industrialized nations to provide funding to developing nations to mitigate the effects of global warming.

Let every eye negotiate for itself, and trust no agent.

—William Shakespeare, *Much Ado About Nothing*, Act II, Scene 1

Some people think that “Climategate” will ultimately undermine everything that the United Nations is attempting to resolve in Copenhagen, but that story is for a later column. The truth, however, is that the parties — all of whom profess agreement that manmade global warming is a reality — are doing a powerful job of self-destructing outside the scientific controversy. The divisive issue is, as expected, which nations will bear the costs necessary to deal with climate change and how those costs will be apportioned. Judging from Dec. 9’s conflicts, it seems that even those who agree that the problem exists are in gridlock over financing its solution.

The day began ominously with a press conference by the deputy head of the Chinese delegation, Su Wei, who demanded that the United States, the European Union and Japan make adequate reductions in their greenhouse gas emissions by 2020. He clearly believed that the U.S. was the primary culprit, saying the financial support from the United States to developing nations was the key to a successful conference. Su then refused to accept a proposal that the “economically advanced” developing nations — including China — commit to significant emission reductions and also contribute to the financing of mitigating and adapting to climate change in the poorer nations.

With this statement, China clung tightly to the Kyoto Protocol, which stipulated that no developing nations, even those that are economically successful, are required to cut emissions or provide funding to poorer nations. Su showed no sign that China was willing to compromise on this “hard line” position.

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Plainly, he not only signaled China's refusal to help any other nation but also placed his country in line with the rest of the developing world to receive money and technology, primarily from the U.S., but also from other nations.

If China thought it had a monopoly on uncompromising statements, it was quickly proved wrong when the U.S. representative stepped up to the podium. Todd Stern, the U.S. special envoy for climate change, starkly rejected extreme positions, such as those that suggest that the U.S. owes "reparations" for damages caused by historical emissions. He also disagreed (as I did) that China, as a prospering economic power, is comparable to poorer nations, essentially questioning China's status as a quasi-representative for the developing world.

China is sufficiently wealthy, according to Stern, to finance its own remedial measures without any U.S. public funding. Instead, U.S. money will be directed to assist the most vulnerable and needy nations. Stern firmly stated that there was "no chance" that the U.S. would accept the Kyoto Protocol, which China and many other nations insist upon.

"We're not going to do Kyoto and we're not going to do Kyoto with another name," he said.

Although Stern said he did not believe that a binding treaty could be negotiated in Copenhagen, despite the U.N.'s earlier optimism, he said the U.S. wanted the negotiations to move forward at "full speed" so that an agreement could be reached on a new treaty as soon as possible.

Throughout the day, the U.S. and other developed countries stood firm against cries of "climate colonialism" and "environmental imperialism" from delegates representing the developing world. One of the most vocal critics, Lumumba Stanislaus Di-Aping, the Sudanese leader of the "G77" cache of developing nations, decried the "dominance and supremacy" of the developed countries and reportedly accused the U.S. of trying to "destroy the balance" between the developed and developing nations. Other critics continued to insist that the developed countries owed a "historic debt" as a result of their polluting activities. Stern, however, refused to accept any "notion of debt" and flatly rejected "the sense of guilt or culpability or reparations."

The U.S. position was apparently intended to drive a wedge between the Chinese and the truly "developing" nations it seeks to hold within its negotiating orbit.

The strategy seemed designed to encourage nations not enjoying China's economic "boom" to form a new unit to deal with developed countries willing to provide assistance. Money, to be blunt, is the wedge, and it was refreshing, at least to American ears, to hear our government finally stand up and refuse to subsidize its largest competitor — a competitor that wants to do less, take more and give nothing.

Later, however, the "wedge" appeared to be working, as an unusual fracture appeared within the coalition of developing countries. The small Pacific island nation of Tuvalu requested and received a suspension of negotiations to attempt to resolve the split. The dispute surfaced after some island nations and poorer African countries insisted on lower greenhouse gas emissions than those suggested by the advanced nations and China. They claimed that Kyoto was not sufficiently strict to guarantee the protection of the most vulnerable nations. Under their proposed protocol to revise the Kyoto standards, concentrations should be stabilized at 350 parts per million instead of the 450-ppm standard supported by China and some other "developing" nations. Not surprisingly, China, India and South Africa opposed the proposal, claiming that it would hurt their economic progress. Thus, the "wedge" was transformed into a "vise," with the economically successful developing nations under pressure from nations at both ends of the prosperity spectrum.

What can we understand about this situation? Can an overall strategy be seen from these developments? It is indeed possible to see something new and very different emerging from these activities.

First, it seems unlikely that the United States and other major developed nations are going to support any transfers of wealth from their coffers to the Chinese and other relatively prosperous "developing" nations. After all, the Chinese are already realizing huge gains from their manufacturing activities and, as they export countless products throughout the world, will soon eclipse the United States in greenhouse gas emissions. Allowing China to pursue unrestrained development, unrestrained emissions and unrestrained competition would be reckless, but subsidizing those activities while curbing our own economic development would be, to put it softly, irrational.

Second, we may be observing the formation of a hitherto unlikely alliance between the most prosperous nations and the "most vulnerable" countries. This

alliance benefits both sides by forcing the Chinese and similarly situated nations to accept reductions and make contributions in view of their emerging position as major — and increasingly prosperous — emitters. If the highly developed nations such as the U.S. are unwilling to grant unreasonable competitive advantages to the Chinese, and if the “most vulnerable” countries, such as the island nations, are unwilling to accept annihilation and bankruptcy, they may form a powerful bloc that seizes the moral “high ground” and forces the larger developing nations to make major concessions. Isolated and exposed by this strategy, the larger developing nations could compromise and contribute to truly assist their brethren, or lose credibility and leadership by being justly ostracized politically.

In the midst of these machinations, perhaps the “most vulnerable” nations are learning to “let every eye negotiate for itself” by making their unique and morally sound case more visible. More importantly, perhaps they are also learning to “trust no agent” when cultural survival is concerned. The islanders and their colleagues probably recognize, by now, that trusting others to deliver moral messages is a dead end, especially when the proxies do not share common risks, when they stand to gain disproportionate advantages and when they attempt to use someone else’s money to advance their own interests.



Richard Faulk chairs the litigation department, environmental practice group and climate change task force of **Gardere Wynne Sewell LLP** in Houston. He is a credentialed attendee of the United Nations climate change conference in Copenhagen, Denmark. The opinions stated herein are solely those of the author. © 2009. All rights reserved.

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