



RGGI - Why No Public Debate?

By Lawrence A. Kogan, J.D., LL.M., and Slavi Pachovski, Ph.D.*

During the next two weeks (Nov. 28- Dec. 9), the United Nations will hold its 11th climate change conference in Montreal, Canada, at which the signatories to the United Nations Framework Convention on Climate Change (UNFCCC) are to meet. This gathering has been hailed as symbolically important. It will serve as the first forum of the parties to the Kyoto Protocol, a related international treaty that has been used by its participants to impose mandatory greenhouse gas (GHG) emissions caps on global industries and consumers without regard to science or economic cost.

American proponents of the Protocol's strict precautionary principle-based regulatory approach hope to draw political strength from the 'hot winds' swirling around this upcoming atmospheric event to create a nor'easter of their own. Since 2003, nine northeastern U.S. governors have funneled their Regional Greenhouse Gas Initiative ('RGGI') up and down the northeastern U.S. coastline, through the *back-door* of Washington policymaking, and into the communities and pocketbooks of unsuspecting American consumers, all without ever informing the American public – 'regulation *without* representation'.

Why, thus far, has there been *no public debate* on the merits of the RGGI? Will *not* the power plants and other industries targeted by the RGGI be forced to pay for the air they are using? Is the RGGI *not* a mini, regional Kyoto treaty-in-the-making? Are there *not* foreign interests and constitutional legal issues involved? Are *not* northeast consumers the ones who will pay in the end?

These are important questions that deserve a thoughtful response. Since these questions have remained unanswered, and there is a paucity of credible and publicly available information about the RGGI, we are compelled to ask more probing questions in an effort to spark a public debate:

What is the true nature and extent of the scientific uncertainties surrounding the evidence of global warming that we are now witnessing in the U.S. and worldwide? Is it attributable mostly to human activity, as environmentalists have claimed time and again in the media, or instead, to natural and cyclical global climatic events (historic fluctuations) that scientists do not yet completely understand?

Is there *not* mounting scientific evidence showing that the RGGI will provide little, if any, environmental benefits to the northeast region, the nation, or the world?

Will **not** the imposition of the mandatory RGGI regulatory scheme serve as another hidden consumer tax that raises energy, goods and services prices significantly in the northeast and renders regional businesses no longer competitive to industries located outside the region?

Will **not** a voluntary incentives-based approach with workable, agreed upon verification mechanisms secure greater industry cooperation and promote greater and more measurable environmental benefits at lower economic cost than the strict mandatory RGGI ‘cap and trade’ approach?

Is there **not** an effort to ignore clear and convincing anecdotal evidence coming from European electricity markets indicating that a significant *increase* rather than decrease in the cost of carbon credits has occurred? Will **not** this increase jeopardize the very success of the European emissions trading scheme (ETS), and of the similarly structured RGGI?

What about the steady data flowing from European electricity markets, investment banks, and think-tanks? Does it **not** show how the ETS will push long-term European electricity and natural gas prices up 30% or more, and consequently trigger a significant increase in European consumer goods and services prices, and hence, an overall increase in the cost of living for millions of Europeans? Is this result **not** contrary to prior EU government forecasts and prognostications?

Is it **not** easier, less costly, and more realistic to achieve a scaled reduction in regional and national greenhouse gas intensity (GHGs emitted per \$ million of economic output) than an absolute and immediate reduction in actual regional and national GHG emissions?

Is there **not** clear and convincing scientific and economic evidence showing that the RGGI will impair or further jeopardize northeast regional energy reliability and security? Is it **not** true that regional energy demands are outpacing supply, that future regional and national energy supply will be inadequate, and that the regional energy delivery system (grid-infrastructure) has become increasingly vulnerable to failure?

Have **not** irrational environmental fears and panic once again overtaken policymakers’ judgment? Will this **not** result in a premature restructuring of the regional, and perhaps, national energy markets? Is **not** the energy mix proposed by the RGGI based more on purely political considerations than on either science or economics?

Does **not** the RGGI’s energy-mix effectively favor expensive and hard-to-come-by natural gas, and rely on untested and/or undeveloped renewable energy sources, such as wind and solar power, while rejecting readily available and less expensive clean-coal and nuclear-based energy sources?



Will **not** the RGGI be accompanied by other costly energy efficiency and renewable portfolio standards/regulations that cannot help the region to meet its growing energy needs? Will **not** regional energy security and affordability be placed in further jeopardy because of them?

Are there **not** lobbying efforts currently underway to secure the RGGI's enactment by well-known American financial firms which, desirous of unseating London as the global leader in 'carbon trading', stand to derive hundreds of millions of dollars of trading commissions from transacting exchanges of 'hot air' credits, that will ultimately be paid for by American businesses and consumers?

Have **not** the European Commission, EU member state governments, and the adjacent Canadian provinces played an intimate and supportive role in the development of the RGGI? Have **not** these parties advised the governors to bypass the White House and the State Department in order to establish the RGGI as *the* model template for a future federal climate change policy consistent with the Kyoto Protocol? Will these actions **not** undermine the longstanding U.S. international negotiating positions at the U.N. and the World Trade Organization (WTO)?

Is there **not** an effort currently underway within each governor's administration to ensure the adoption of RGGI by bypassing that state's transparent and inclusive democratic legislative review processes, i.e., by using instead a technical, dense, and mostly closed-door executive regulatory review procedure that is neither accessible nor comprehensible to ordinary Americans?

Thus far, the governors of the nine state region spanning New England, metro-New York and the Delaware Valley have avoided answering these tough questions. It is now time, *before* the RGGI becomes a reality, for the governors or their staffs to act responsibly. They must step forward into the public spotlight for the purpose of initiating an open discussion. This is the calling of a true representative democracy, and the American people deserve and expect nothing less.

** The authors, respectively, are CEO and President of The Institute for Trade, Standards and Sustainable Development. ITSSD is a Princeton, NJ-based non-partisan non-profit international legal research organization that examines international law as it relates to trade, industry and **positive** sustainable development around the world. This article is based on a recently released ITSSD white paper entitled, "RGGI is Europe's 'Back-Door Man' - How Europe Relies on the Northeast Greenhouse Gas Initiative to Influence U.S. Climate Change Policy", accessible at: http://www.itssd.org/white_papers.htm .*