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AGENDA: Drafting Model Laws on Indoor Pollution for Developing and Developed Nations

University of Colorado Boulder. Center for Energy & Environmental Security

Colorado Natural Resources, Energy and Environmental Law Review

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Workshop: Drafting Model Laws on Indoor Pollution for Developing and Developed Nations

Date:

12 -13 July 2012

Location:

University of Colorado Law School, Boulder, Colorado

The Legal Challenge Addressed by the Workshop

There are many professionals around the world tackling the technical, environmental, economic, and social issues related to widespread adoption of clean cookstoves in developing countries; however, those efforts are largely unsupported by laws that establish workable cookstove programs and funding for such programs. Hence, the primary purpose of the workshop is to demonstrate the extent to which a model law, as a societal instrument, can help address the global problem of indoor pollution.

There are two possible ways of approaching this challenge. The first is “top down,” centering on state-based policymakers engaged in negotiating international treaties within intergovernmental institutions like the UN. This kind of legal response may result in “the glitz and public drama of treaty-signing ceremonies, grand openings of international institutions, and high-level diplomacy.” But experience shows that large international treaties or conventions are exceptionally difficult to negotiate, time-consuming, and resistant to implementation and enforcement. For instance, the faltering negotiation of a treaty replacing the Kyoto Protocol, despite strong diplomatic and media backing, reflects a backing away from large multilateral treaties.

The second approach is bottom up lawmaking involving a “soft” normative process that produces “hard” legal results. It traverses unofficial, or informal, lawmaking communities, “joined by avocation rather than location, coalescing around shared objectives.” The workshop will review the key technical and social issues that will determine the form of draft model laws; outline the primary provisions for such laws; and establish two working committees to draft and finalize two preliminary statutes of such bottom-up model laws. One model law will be designed for adoption by rich (developed) countries (to fund their obligations to the Green Fund or other funds that support clean cookstove program); another model law will be designed for adoption by poor (developing) countries that want to implement a practical cookstove program. Workshop attendees will work over two days to produce these two model laws.

The Nature and Impact of the Model Laws

It is important to have two different model laws. The model law aimed at developed countries will seek to provide a practical way for them to act on their international legal obligations to transfer resources to developing countries (based on the principles of sustainable development (SD) and of a common but differentiated responsibility (CBDR)). This model law will aim to

facilitate the review and amendment of existing national legislation as well as the adoption of new legislation to implement such obligations.

The model law aimed at developing countries will seek to provide a practical way for them to address indoor pollution caused by inefficient cook stoves in their countries. Such legislation will likely include a number of sections, such as Findings, Statement of Purpose and Targets; Publicity and Communication about the problem; Definitions, if needed; Quantitative or Qualitative Monitoring; Establishing Indoor Air Pollution Standards; Technical Specifications of Cookstoves; Allocation of Public Resources and Criteria for Deciding; Applications for Assistance; Micro-financing, Markets and Trade Alliances; Standards and Certifications; Administrative Machinery; NGO's and Faith Groups; Civil or Criminal Penalties; and Monitoring Impacts.

The two Model Acts produced by the workshop will be recommended for adoption by developed and developing countries. The proposed Model Act for developing countries, in particular, will permit flexible approaches that can be adapted to the particular circumstances of each country, and may involve some trial and error. It is precisely this flexibility that makes a model law potentially easier to negotiate and more likely to be adopted than an international agreement containing obligations that cannot be altered.

Based on the practice of the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law (UNIDROIT), and the American Law Institute (ALI), the Model Acts will be accompanied by commentaries or "guides to enactment" setting forth background and other explanatory information to assist Governments and legislators in using the text. The guides will include, for example, information that would assist States in considering what, if any, provisions of the model law might have to be varied to take into account particular national circumstances; information relating to discussions in the working group on policy options and considerations; and matters not addressed in the text of the model law that may nevertheless be relevant to the subject matter of the model law.

After the workshop, the Model Laws and Commentaries will be edited by a special editorial team. Once drafted, they will be offered for publication to the Colorado Journal of International Environmental Law and Policy (CJIELP), the Colorado Law Review, or appropriate journal.

The adoption of the Model Laws by a significant number of countries will draw national and international attention to the problem of indoor pollution and constitute an effective and much needed legal response to indoor pollution.

Program

July 12, 2012

Conceptual Underpinnings

9:00 am

1. Importance of Law as an Instrument of Social Change in Developing Countries.

Speaker: Cynthia Barr, Founding Member International Consortium for Law and Development

(ICLAD), Adjunct Professor, Boston University, School of Law

9:30 am

2. Bottom Up Approaches to International Law

Speaker: Dr. Makau Mutua, Dean Suny Buffalo Law School

10:00 am

3. The Engineering Challenges of Designing and Marketing Cookstoves

Speaker: Bryan Willson, Professor of Engineering and Director, Energy Conversion Lab.
Colorado State University

10:30 am

4. The Entrepreneurial Challenges

Speaker: Leslie Cordes, Senior Director, Strategic Partnerships, Global Alliance for Clean
Cookstoves | United Nations Foundation

10:30 am – 12:00 pm

Coffee Break and Roundtable Discussion

Moderator: Jude Biggs, Partner, Holland Hart

12:00 pm – 1:30 pm

Lunch

Afternoon — Parallel Sessions

1:30 – 4:30 pm

Drafting Model Law (with commentaries)

- Developing countries Group
- Developed countries Group

July 13, 2012

9:00 – 11:00 am (with coffee break)

Drafting Model Law (with commentaries)

- Developing countries Group
- Developed countries Group

11:00 am – 12:00pm

Reports of Both Groups

12:00 -1:00 pm

Lunch

1:00 – 4:00 pm (with coffee break)

- Roundtable Discussion of Both Model Laws and Commentaries

- Future Action
- Appointment of Drafting Groups

Contact Information

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