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Linking the California and Québec Emissions Trading Schemes

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Agreement commented on: [Agreement Between the California Air Resources Board and the Gouvernement Du Québec Concerning the Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas Emissions](#)

In late September 2013, California and Québec signed an agreement to link their carbon emissions trading schemes effective January 1, 2014. This is the first linkage under the Western Climate Initiative (WCI) – a regional collaboration between British Columbia, Manitoba, Ontario, Québec, and California to establish a carbon reduction and trading scheme that is intended to produce an overall 15% reduction from 2005 level carbon emissions by 2020 amongst the participating jurisdictions. (For more detail on the WCI see [here](#)). Alberta is notably absent from the WCI.

It is both remarkable and unfortunate that Alberta – a jurisdiction which promotes market-based tools to address environmental problems – has chosen not to participate in the WCI. Regulated carbon emitters in Alberta will not have the benefit of participating in the Québec and California markets – and other WCI markets as time goes on – to acquire or sell emissions allowances or offsets. Of course in order to participate in the WCI, Alberta will have to replace its intensity-based carbon emission reduction obligation with a real and absolute cap on carbon emissions that is lowered over time. As well Alberta will have to place limits on how many emission offsets can be used by regulated emitters for compliance purposes and eliminate the ability to comply by paying into the provincial Climate Change Emissions Management Fund. For more detail on offsets and how Alberta's intensity-based emissions reduction system differs from the cap-and-trade system in California or Québec see [here](#).

The linking agreement will allow regulated emitters in Québec and California to buy and sell carbon emissions allowances and offsets in either jurisdiction and integrate the two schemes. This is a significant step forward towards the development of a North American carbon market, and comes at a moment when momentum for carbon market development is building around the world. Many other regions, including Europe, Australia, Japan, New Zealand, and South Korea, have already established or are currently developing their carbon markets. Most recently, in August 2012, Australia and the EU also [announced](#) their intention to link their emission trading schemes.

In order to implement this linkage, both Québec and California had to amend their respective cap-and-trade regulations to provide for recognition of allowances and offsets produced in a foreign jurisdiction. California was required to give public notice concerning the proposal and provide an opportunity for public comment in accordance with the [Administrative Procedure Act](#) (Government Code sections 11340 et seq) before amending its rules. Accordingly, on May 9, 2012, the California Air Resources Board (CARB) – the agency with responsibility for

administering the California cap-and-trade scheme – published notice on the proposed linkage (see [amendments](#)). Subsequent to the notice, the Governor of California was required to make 4 key findings before the CARB could implement the linkage: 1) find that Québec’s program is similar to or identical to California’s in all material aspects; 2) determine that linkage does not change California’s ability to enforce its program against entities located inside or outside California; 3) confirm that Québec’s laws and regulations provide for equivalent enforcement of its cap-and-trade program; 4) find that linking is unlikely to place any significant liability on California. On April 8, 2013, the Governor informed the CARB that these requirements were satisfied (see letter [here](#)). And accordingly the CARB proceeded to prepare for linkage effective January 1, 2014, including a review of procedures and systems of California’s and Québec’s cap-and-trade ETSs to ensure their compatibility (see resolution [here](#)).

In December 2012 Québec amended its *Regulation respecting a cap-and-trade system for greenhouse gas emission allowances*, RRQ, c Q-2, r 46.1 issued under the *Environment Quality Act*, RSQ, c Q-2 to provide for linkage with California and other WCI partners going forward. To this end, the Regulation now recognizes emissions allowances and offsets for compliance purposes generated by partner jurisdictions with whom Québec has signed an agreement in accordance with section 46.14 of the *Environment Quality Act*. The amendments also strengthened administrative penalties and other sanctions to produce equivalency with California.

The Québec-California Linking Agreement provides the overall framework for collaboration between the jurisdictions on carbon emissions reduction and trading. Notable provisions in the Agreement include the following:

Consultation Committee: The Agreement provides for the creation of a consultation committee to monitor the coordination of the cap and trade programs and report at least annually. The Committee will be comprised of the CARB Executive Officer and the Assistant Deputy Minister for Climate Change, Air and Water at the Ministère du Développement Durable, de l’Environnement, de la Faune et des Parcs.

Regulatory Harmonization: The Agreement commits each jurisdiction to consult each other regularly and constructively to ensure ongoing harmonization of the regulations for the mandatory reporting of carbon emissions and for cap-and-trade programs. The jurisdictions have agreed to inform each other and work together on potential changes to their respective regulatory framework.

Specified Cap-and-Trade Requirements: The jurisdictions agree to mutually recognize compliance instruments such as emissions allowances and offsets from the other’s system. They also agree to ensure that all carbon emissions offsets produced by their own system are real, additional, quantifiable, permanent, verifiable and enforceable. Each jurisdiction agrees to allow trading of emission allowances and offsets across both systems. The jurisdictions agree to hold joint auctions of new emissions allowances with harmonized procedures. (Note however that joint auctions are not expected to take place until later). The jurisdictions agree to work cooperatively to monitor for fraud, abuse and market manipulation in the carbon market as well as share information to facilitate enforcement proceedings. The jurisdictions agree to form a common registry for emissions allowances and offsets and use a common auction platform, and to continue to work under the overall umbrella framework administered by the WCI.

Carbon markets have been slow to develop in Canada and the United States. This linking agreement is a significant step towards a functional carbon market in North America. It gives a real presence to the WCI, which until now was more of a policy network than a carbon market oversight body.

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Rolandas Vaiciulis currently holds a post-graduate research fellowship at the Canadian Institute of Resources Law to investigate the linking of carbon emissions trading schemes.

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