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Discussion after the Speech of Laura B. Campbell

Discussion

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Discussion After the Speech of Laura B. Campbell*

QUESTION, *Professor King*: Is it true, in terms of general environmental standards, that though Japan has good laws on the books, such laws are not enforced as much as they are here?

ANSWER, *Ms. Campbell*: I think for automotive emissions the reverse would be true. The U.S. had a good law on books that just wasn't enforced. I haven't talked, however, about all areas of Japanese environmental regulation, and some areas are better than others. Air pollution is one of the big successes in Japanese environmental regulation.

I think one of the biggest problems facing Japan today is hazardous waste disposal. In fact, they just amended the Waste Disposal and Public Cleansing Law last year. They have been rather late in recognizing the problem, but ground water studies and discovery of abandoned hazardous waste sites has started to generate more interest on their part.

So, what I have been talking about is one big success for Japanese environmental regulation; success hasn't been across the board.

QUESTION, *Professor King*: Do the Japanese have an agency comparable to EPA?

ANSWER, *Ms. Campbell*: Yes, it's called the Japanese Environment Agency. It does not have as much authority as the EPA, because it's basically a standard setting, not an enforcement agency. The enforcement takes place through ministries such as the Ministry of Transport for cars, the Ministry of Health and Welfare for hazardous and solid waste, and various other ministries that have direct jurisdiction over a regulated commodity.

QUESTION, *Professor King*: Our system is rather adversarial in terms of environmental regulation. Is the same true in Japan?

ANSWER, *Ms. Campbell*: I think generally that it's not an adversarial system. It's particularly not a litigation-oriented system. Nevertheless, I tried to talk today about how the auto emissions standards arose in order to show that it, in fact, still can be very public-opinion driven and controversial.

It's not the calm, total-consensus environment that we often hear about. In fact, one of the primary reasons that Japan enacted fourteen laws related to the environment in 1970 is that there had been four big litigations in the courts during the previous couple of years, all of which yielded substantial judgments for groups of individuals whose health had

* The questions and answers presented herein have been edited by the *Canada-United States Law Journal* for the purpose of clarity, and have not been edited or reviewed by the respective speakers.

been damaged by pollution. These were very severe cases. So, like most governments, there was a kind of risk and liability management approach adopted by the government after that in an attempt to be the one in charge of handling the problem, as opposed to having it handled through the courts.

QUESTION, *Mr. Brueckmann*: How much can we generalize from the particular case you've told us about? How much can we expect a competitive advantage to be gained from compliance with environmental standards?

ANSWER, *Ms. Campbell*: I think one very big area will be the export of environmentally-sound or environmentally-related technology. To some extent, this includes pollution control technology, but it also includes energy efficient technology, which will be strongly encouraged in the 1990s due to ongoing international negotiations such as the United Nations Conference on Environment and Development and climate change negotiations. I think that as we speak, Japan is gearing up to be highly competitive in this business, and due to the fact that they've had strong domestic regulation for a long time, but not necessarily a good record in terms of foreign operations and foreign activities, there is a lot they can do.

There will be increasing opportunities economically for companies with environmentally sound technology. It's not only for Japanese companies.

QUESTION, *Mr. Mehosky*: What were the mechanics of the Japanese Government's discussions with manufacturers to phase out the production of polluting automobiles? Was it something along the lines of a "gas guzzler" tax?

ANSWER, *Ms. Campbell*: The relationship between the government and industry in Japan is quite different than it is in the United States. In Japan, the government is in a much more powerful position. In some cases, the relationship is friendlier, but it's also much pushier. If the Ministry of International Trade and Industry (or "MITI") calls in major players from the Japanese car companies and encourages them to phase out certain lines that can't meet the standards, there are many incentives for the manufacturers to comply; a lot of research and development money might come, for example, from MITI-sponsored consortiums. Also, the manufacturers might have their permits for operation revoked.

I don't believe there was any discussion of additional taxes, but there are so many different ways in which MITI can control. It handles export licenses and a whole variety of things that are the daily bread of any large Japanese company. So, compliance is strongly encouraged.

QUESTION, *Mr. Langmack*: In Japan, who pays the bill for all of these environmental improvements? Is it paid through some government agency, or does the individual business pick up the tab?

ANSWER, *Ms. Campbell*: In most cases, it's privately funded, but there are cases where, for example, research and development is funded by the government. I don't believe that was the case for changes in technology to meet the auto emissions standards. Rather, the actual costs of paying for pollution control, while there might have been some tax abatement or other incentives, some of which we have in this country, were paid for generally by the private sector.

