

# Framework For Program Analysis

## GLOBAL BUSINESSES' CUTTING EDGE STRATEGIES

American Bar Association

Renewable Energy  
Resources Committee  
Teleconference  
May 17, 2006

Roger D. Feldman, Partner  
Bingham McCutchen, LLP  
Washington, DC  
r.feldman@bingham.com

# PREMISES OF THIS PROGRAM

- Lawyers and policymakers need to understand the perspectives and the programs which leading global corporations are pursuing in the renewable energy field with respect to sustainability.
- Specifically, legal policies work best when they are reflected in the corporate metrics for management.
- Therefore, legal policymakers need to understand the corporate strategic decision-making environment, and how energy/environments decisions are incorporated into them.

# THE DRIVERS

- Effective management of energy costs has escalated to a key element in management evaluation.
- Public concern with the corporate policies regarding environmental “sustainability” have escalated as a result of validation of “climate change” premises.
- New markets for business initiatives both to provide “green” energy and to optimize corporate participation in carbon markets have emerged.
- Corporate energy efficiency programs have gained recognition for their roles in both of the above contexts.

NEW CUTTING EDGE CORPORATE STRATEGIES ARE  
EMERGING TO ADDRESS THESE ISSUES

# BUSINESS MANAGERS MUST RESPOND TO MULTIPLE STANDARDS FOR MEASUREMENT

- The “bottom line”: near term; longer term
  - Profitability
  - Relative competitiveness
- Financial market assessments of corporate performance: near term; longer term
  - Valuation
  - Corporate adaptation to market trends
- Public interest/public relations
  - Regulatory environment
  - Consumer market response
  - Possible feedback loop to bottom line and financial markets assessment

# LAW AS FACTOR IN STRATEGY EQUATION

- Framework of incentives and restrictions on specific corporate activities
- Source of market creation – or limitation – relative to other energy alternatives
- Formal standards of responsible corporate governance
- Additional evaluation criteria applied by certain classes of corporate investors (notably climate change)

# RESULTANT CORPORATE STRATEGIES

- What are the core strategies of global corporations planning for renewable energy for sustainability?
- How do these compare with the recommended core strategies of different public interest groups?

# CORPORATE STRATEGIC PLANNING FOR RENEWABLES & SUSTAINABILITY

- Energy Consumers – Fitting renewability/energy efficiency sustainability investments and initiatives into overall corporate planning.
- Green Energy and Cleantech Producers – Market creation on financeable basis of difficult class of potential consumers.
- Both – obtaining optimal response to corporate strategies in terms of results; corporate metrics; public recognition.

# IMPLICATIONS FOR CORPORATE STRATEGIC PLANNERS

- How are corporate strategies introduced into the capital expenditure and operating budgets and procedures for budget implementation?
- How is the relationship of these strategies established to traditional corporate staff activities, e.g., Health, Safety & Environmental.
- Given the multiple audiences to which businesses must respond, how are managers' performance measured?

# TAKING RENEWABLE ENERGY INTO ACCOUNT

- How does the law affect the environment for cutting edge renewable and sustainability strategies.
- What changes in the legal environment for renewables and sustainables would be desirable.
- What corporate strategies and corporate organizational restructurings could follow further shifts in the legal environment.
- How significant will future emergence of trading markets be for corporate strategies?

# ROGER D. FELDMAN

- Partner, Bingham McCutchen, LLP (Washington, DC)
- Chair, American Bar Association, Renewable Energy Resources Committee
- Incoming Chair, American Bar Association, Energy & Environmental Finance Committee
- Director, American Council on Renewable Energy
- Chairman Emeritis, National Council for Public-Private Partnerships.