

FOR IMMEDIATE RELEASE

Crowell & Moring Files Amici Curiae Brief on Behalf of Leading Former U.S. Diplomatic and Government Officials in Climate Change Case Upholding California Cap and Trade Memorandum with Quebec

San Francisco – March 24, 2020: In a closely-watched case challenging California’s cap-and-trade memorandum with Quebec, a federal court ruled in favor of the State of California, holding that the memorandum does not violate the Treaty or Compact Clauses of the U.S. Constitution. Crowell & Moring had joined the Yale Law School Peter Gruber Rule of Law Clinic in filing an *amici curiae* brief on behalf of 13 former U.S. diplomats and top government officials in *United States v. State of California et al.* (E.D. Cal.), in support of California, Governor Gavin Newsom, and other state officials. A copy of the brief is available [here](#) and the district court’s decision can be found [here](#).

Last October, the United States sued the State of California, Governor Newsom, and other state officials, alleging that a 2013 California [memorandum](#) coordinating cap and trade policy for carbon emissions with Quebec, Canada violates the federal government’s prerogative to conduct foreign diplomacy, as well as certain provisions of the U.S. Constitution, such as the Treaty, Compact and Foreign Commerce Clauses. The memorandum allows California and Quebec to better coordinate their programs to help reduce greenhouse gas emissions.

The *amici* brief, filed in support of the State of California’s and State-affiliated defendants’ cross-motion for summary judgment and in opposition to the United States’ motion for summary judgment, explained how the former U.S. officials, based on their experiences helping shape U.S. foreign and climate policy, do not believe that the non-binding memorandum with Quebec interferes with the United States’ conduct of foreign affairs or diplomacy.

In a March 12, 2020 order, Judge William B. Shubb of the U.S. District Court for the Eastern District of California agreed. The court granted summary judgment for California and the State-affiliated defendants and denied the United States’ motion for summary judgment. In doing so, the district court rejected the United States’ arguments that California’s memorandum to reduce vehicle emissions, in collaboration with the Canadian province of Quebec, was an unconstitutional international treaty or violated the Compact Clause and, therefore, was beyond the scope of a state’s authority. Because the parties did not move for summary judgment on the United States’ Foreign Affairs Doctrine or Foreign Commerce Clause claims, the case will continue to proceed in federal court in Sacramento.

Partner [A. Marisa Chun](#) and associate [Alice Hall-Partyka](#) handled this matter on a *pro bono* basis, serving as co-counsel with Yale Law School Professor and former Dean Harold Hongju Koh and the students of the Gruber Rule of Law Clinic.

The *amici* brief was filed on behalf of 13 former U.S. diplomats and government officials, including former U.S. Secretary of State John F. Kerry; former Deputy Legal Adviser at the State Department Susan Biniarz; former U.S. Deputy Secretary of State and U.S. Ambassador to Russia William J. Burns; former head of the U.S. delegation for the Kyoto Protocol as Under Secretary of State for Economic, Business & Agricultural Policy Stuart Eizenstat; former U.S. Deputy National Security Advisor and Deputy Director of the Central Intelligence Agency Avril D. Haines; former U.S. Special Envoy for Climate Change Jonathan Pershing; former National Security Advisor Susan E. Rice; and former U.S. Special Envoy for Climate Change Todd Stern.

Contact: **Andrew Loeb**
Senior Coordinator, PR
+1 202.624.2792

aloeb@crowell.com