

CANADIAN FEDERALISM AND INTERNATIONAL ENVIRONMENTAL POLICY MAKING: THE CASE OF CLIMATE CHANGE

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INTRODUCTION

"Bold environmental internationalism"¹ has been used to describe Canada's international environmental diplomacy. This label may apply to early Canadian initiatives in the area of climate change in the late 1980s but one would be hard pressed to assign that label to the apparent fumbling surrounding more recent Canadian diplomacy on climate change. The early boldness was more rhetorical than substantive. Canadian climate change policy has been both difficult to develop and to implement. While it will be seen that a host of factors affect the development and implementation of Canadian climate change policy and that the domestic and international are intertwined, the primary focus here will be on intergovernmental relations. The central question posed is: what affect have intergovernmental relations had on Canadian climate change policy from 1988 to the present?

In response to the question above this analysis begins with a brief consideration of the broad policy context. Any assessment of Canadian climate change policy would be incomplete without some understanding of the scientific and international dimensions of the climate change issue. This is followed by a description of the broad federal objectives with a focus on the emissions reductions targets and emissions projections. These targets and projections are the most visible means by which to measure the evolution of the policy. We then turn to the involvement of the provinces in this area. The penultimate section returns to the question

above and analyses the impacts of the provinces on Canadian climate change policy. Consistent with Brian Hocking's observation that the provinces "can materially affect the substance of those policies and the capabilities available to governments for the attainment of their objectives in the international system"² it will be seen that the provinces have affected Canadian climate change policy. And, while role and impact of the provinces on foreign policy varies according to the issue it is argued that, in the case of climate change, intergovernmental relations have had an impact on the substance of the policy, the ability of the federal government to implement international conventions, and has affected the coherence of Canada's international position and, credibility. It will also be seen, however, that the federal government has bowed to international pressures and that these concessions have, in turn, affected intergovernmental relations. More broadly, the case of climate change offers us insights into the dilemma's facing a federate state when dealing with complex international environmental issues.

THE SETTING

One of the difficulties faced when dealing with climate change is the uncertainty that surrounds the issue. The greenhouse effect is accepted as a naturally occurring phenomenon which maintains the earth's surface temperatures at an average of 15 degrees Celsius and there is little debate about whether greenhouses gases (GHGs), both natural and anthropogenic have increased in atmospheric concentration or in terms of emissions. The debate centres on questions of the timing of projected changes, impacts, appropriate responses and the costs related to those responses.

Critics argue there is no evidence that warming has begun.³ Incalculable feedbacks such as the effects of water vapour, the role of clouds and oceans, the melting of the polar ice sheets and the capacity of forests to act as sinks are claimed to be impossible to model. In the view of one author, predictions about climate thirty

years into the future are pointless. "Any oracular knowledge of how, over the next quarter century, the earth will respond to our presence lies in the realm not of science but intuition".⁴ Such criticisms express the views of the minority, but they are important views nonetheless. Others, though, argue that there is an international scientific consensus that human activities affect the global climate. The Intergovernmental Panel on Climate Change (IPCC), a scientific body established in 1988 and devoted to the study of climate change, concluded in its 1995 Second Assessment Report, that "there is now a discernible human influence on global climate".⁵

Scientific uncertainty about the timing and magnitude of global warming is accepted but the willingness or lack thereof to act in spite of the uncertainty is a political decision. "The determination of what constitutes danger, while based on science, is ultimately a political process".⁶ Perceptions of danger have direct implications for the selection of responses. In the case of climate change there was some perception of danger in the late 1980s, thus propelling the issue onto the international agenda. The threat of danger does not appear to have been sustained. Danger, as will be seen, is defined economically, not environmentally. Assessments of cost are also defined economically, not environmentally. These perceptions of danger and cost underpin much of the debate surrounding climate change and when coupled with the remaining uncertainty about the science it has meant that international and domestic negotiations on the subject have been quite divisive. Substantive cooperation has been hard to achieve.

Climate change arose on the international diplomatic agenda in the late 1980s. In June of 1988 a conference titled "The Changing Atmosphere: Implications for Global Security" was held in Toronto. The Toronto Conference, as it has come to be known, received a significant amount of international attention because of the presence of individuals such as Gro Harlem Brundtland, Chair of the World Commission on

Environment and Development. The event also benefitted from good timing because the hot summer of 1988 drew attention to the issue of global warming. The most significant outcome of this conference was its call for reductions of carbon dioxide emissions reductions by 20 percent of 1988 levels by the year 2005 were also recommended.⁷ This emissions reductions recommendation has since become a benchmark.

Following the Toronto Conference a series of international meetings were held in rapid succession. Between 1988 and 1990 state leaders, scientists and non-governmental organizations met in various fora in an attempt to build an international consensus on climate change. In 1991 negotiations began on the Framework Convention on Climate Change (FCCC), culminating in its presentation for signing at the 1992 United Nations Conference on Environment and Development (UNCED). According to observations of one participant, the issue moved from the international agenda to an international convention in a speed that was unprecedented. But, it was not a smooth process.

International diplomacy during this period was anything but consensual. The Americans and Europeans were divided. The Americans remained resistant to a carbon dioxide only convention, as was being advocated by the Europeans. This conflict can be explained, in part, as a division between the energy efficient and the energy enthusiasts.⁸ The United States and Canada fall into the latter category, with the second and third highest energy related per capita emissions of CO₂, respectively, of all OECD countries.⁹ Energy enthusiasts are those countries who view "economic growth and environmental degradation as complementary" and who see "suggestions to reduce greenhouse gas emissions as being prescriptions for the reduction of industrial growth".¹⁰

There were also divisions between developing and developed states and within the block of developing states. Small island states were con-

cerned about rising sea levels. Oil exporting states, linking development and the environment, "feared the consequences of the introduction of energy taxes".¹¹ These states, energy enthusiasts, stressed the link between world economic growth and the debilitating impact of proposed measures. "They went to great lengths to minimize any specific commitments to emissions reductions, avoid any reference to energy and generally to delay the conclusion of an agreement".¹² Developing states, as a group, also stressed that the primary source of emissions was the activities of developed states. This concern was expressed in the principle of common but differentiated responsibilities, which recognized the development needs of these states.¹³

Ultimately, these divisions, and the concern that the US would not sign the agreement, resulted in a rather vaguely worded framework convention that represented the lowest common denominator. The Framework Convention on Climate Change includes an acknowledgement that the concentrations of GHGs have been increasing and that the majority of global emissions originate with developed states. The uncertainty surrounding the issue, "particularly with regard to the timing, magnitude and regional patterns thereof"¹⁴ is noted. It also acknowledges that cooperation is necessary but that states have "common but differentiated responsibilities".¹⁵ Article 4, section 2, sub-section (b) does provide a loosely worded and voluntary target. Parties commit themselves to the "aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not covered by the Montreal Protocol".¹⁶ Two important points must be raised here. First, the FCCC applied only to Annex I countries, that is industrialized states. It did not apply the voluntary commitment to developing states. Secondly, there was no reference to implementation because "many countries, both industrialized and developing, voiced concern about possible economic

impacts that could result ...[and therefore] the elaboration of any implementation strategies was left to fall within the competence of the national governments".¹⁷ As an international instrument it did not provide much pressure for states to meet their commitments.

The FCCC came into force in March 1994. In early 1995 the first Conference of Parties (COP) was held in Berlin, the main objective of which was to review progress on the commitments made under the Framework Convention on Climate Change. At Berlin it became obvious that, largely because of perceived economic costs, emissions reductions had proven difficult to achieve for many states, including the United States, most members of the European Union and Canada.¹⁸ It was concluded that progress was inadequate and therefore parties to the convention adopted the "Berlin Mandate" which called on states to aim for a legally binding protocol by the third Conference of Parties in Kyoto, Japan in 1997. En route to the Kyoto meeting, the American administration under Bill Clinton reversed the position of the previous Bush Administration and came out in support of a legally binding protocol. While the divisions between the US and the EU remained, with the EU demanding more substantive reductions than was acceptable to the US, there was a broad commitment that a legally binding protocol was necessary. The developed states remained divided but nonetheless adamant that they should not be forced to reduce their emissions. Ultimately, after considerable tension, a protocol was negotiated at the last minute.

CANADA'S INTERNATIONAL OBJECTIVES

Generally, Canadian policy on climate change has been characterized by a recognition that climate change is a problem and one that has anthropogenic sources. The federal government has also appeared to embrace the precautionary principle. This principle espouses taking action to combat climate change regardless of

the remaining scientific uncertainty. Furthermore, a commitment to some variation of sustainable development is also apparent. The federal government has also promoted equity and fairness in relations with less developed states while at the same time trying to ensure that developed states are part of any international convention and protocol on climate change.

In keeping with the desire to include developed states in any international convention the federal government has consistently emphasized the need for collective action to combat climate change and the action had to be institutionalized. In events leading up to the Rio conference, Canadian delegations maintained strong support for formal international legal instruments, particularly a framework convention. Since Rio, the emphasis has been on negotiating a protocol that includes commitments for all industrialized states and preferably includes developing states.

The reasons for this emphasis on collective action are numerous. First, there is an awareness that global problems demand global solutions. Second, collective action and a commitment to multilateralism is a consistent part of Canadian foreign policy. More practically, Canada produces only 2 percent of the world's carbon dioxide and unilateral initiatives will have little long term impact on mitigating the consequences of global warming. Canadian policy makers worry that preventive action, and particularly unilateral action, will undermine Canadian trade competitiveness. As such, it was essential to have as many states as possible committed to the same action therefore levelling the playing field somewhat.

Another consistent objective is a desire that international conventions focus on net emissions as opposed to per capita emissions. If we focus on net emissions, Canada is viewed as a rather insignificant part of the problem. The United States, on the other hand, produces approximately 22 percent of the world's carbon dioxide emissions. Adopting measurements

other than net emissions casts the Canadian contribution in quite a different light. Canada is portrayed as an energy enthusiast.

Perhaps the most visible and contested objective of Canadian climate policy is its emissions reductions target. In the early stages of this issue's life the objective was to establish a target. Following the ratification of the FCCC in 1992 the objective shifted from development to implementation. The development and implementation of this policy objective has been difficult.

The establishment of the reductions target at the federal level has been fraught with confusion since the late 1980s. In late 1989 and early 1990, the Minister of Environment, Lucien Bouchard publicly toyed with the idea of a CO₂ only commitment. Bouchard indicated that "we believe there is a need to stabilize CO₂ emissions at their present levels as soon as possible".¹⁹ In April 1990, the *Globe and Mail* reported that "Canada will propose specific targets and deadlines this fall for tackling carbon-dioxide emissions that threaten disastrous climate change".²⁰ Yet, prior to the 1990 Bergen meeting a U.S. memo was leaked to the press. It was stated that "Canada will support the United States in an attempt to thwart a proposal by six European countries to stabilize carbon dioxide emissions at current levels by the year 2000".²¹ Accused of collusion with the United States, Mr. Bouchard denied that "Canada has agreed to join the United States in blocking an international effort to limit carbon dioxide emission".²²

The significance of these statements is that a CO₂ only target would have placed Canada in the European camp of emissions reductions targets which would have put Canada significantly out of step with the United States which at that time was leery of any kind of target. Further, it is suspected that this was a unilateral initiative on the part of Bouchard who wished to signal his displeasure with events surrounding the Meech Lake Accord.

Canada formally adopted a comprehensive stabilization commitment in the December 1990 Green Plan where it is stated that the objective is "to stabilize emissions of CO₂ and other greenhouse gases, not covered under the Montreal Protocol, at 1990 levels by the year 2000."²³ A comprehensive commitment includes carbon dioxide and other gases such as methane, nitrous oxide and ozone. Such a commitment, in the view of policy makers, allows the Canadian government the flexibility to deal with the gases that can be most readily reduced. Therefore, if Canada is able to reduce methane more easily than carbon dioxide then they may do so and still be true to their international commitment.

The comprehensive stabilization target was established by the Mulroney government and committed to in the FCCC. And, as will be seen, it appeared that this lacked provincial support. In spite of an apparent commitment to the Toronto target in the Liberal's Red Book of 1993, a comprehensive stabilization commitment remained the official Canadian target until events leading up to the Kyoto meeting. Generally, more ambitious emissions reduction targets such as the Toronto target have been viewed as requiring further investigation prior to any Canadian commitment.²⁴ Further, while attempts appear to have been made at building a consensus on some degree of reductions, domestic support from numerous quarters has not been forthcoming.

For example, emissions reductions positions have been constantly subject to interdepartmental rivalry and cabinet infighting. Prior to the signing of the FCCC the Department of Environment (DOE) and Energy, Mines and Resources (EMR - now Natural Resources Canada or NRCan) squared off over climate change policy. When international negotiations began in 1991 the Department of Foreign Affairs and International Trade (DFAIT), (at the time the Department of External Affairs and International Trade), led the international negotiating team. They saw their role as balancing

competing positions. "There are departments of government which have quite different views on the problem and somebody has to, somewhat independently, ensure that these get balanced into what the Canadian position is."²⁵ Consistent with many of the long standing principles of Canadian foreign policy "more assertive and confrontational interventions"²⁶ were not favoured by DFAIT. The tensions identified here, and particularly between DOE and NRCan have not been resolved.

At the heart of this issue, for all orders of government, is economic viability. Even after the 1992 commitment was made the stabilization target was challenged on the basis of economic viability. A 1993 EMR (now NRCan) Standing Committee Report indicated that "if Canada finds that this goal is not economically attainable through domestic action, it should be permitted to satisfy its international obligations through a concerted overseas effort."²⁷ In contrast, evidence presented to the Environment Standing Committee casts a different light on cost assessments. In one report it was argued that cost-effective measures could be used to reach the Toronto target with net benefit in energy savings between \$100 billion and \$150 billion.²⁸ These debates over economic viability reaffirm the importance of competing definitions of cost in the development and implementation of Canadian climate change policy and show us, as noted previously, that danger has been understood largely in economic terms.

The interdepartmental divisions, supplemented by federal provincial conflict resulted in a policy based on the lowest common denominator and a policy that was insufficient to meet the 1992 commitment. Yet, going into the Kyoto meeting Canada proposed that developed states reduce greenhouse gas emissions by three percent below 1990 levels by 2010 and an additional five percent by 2015.²⁹ By the end of the Kyoto meeting the Canadian delegation agreed to a six percent reduction of carbon dioxide and other greenhouse gases at 1990 levels by

the years 2008-12.³⁰ The Canadian national commitment was part of an approach adopted by industrialized states, which was noted above. However, this international position, like the position taken in 1992, lacked provincial support. On 12 November 1997 the JMM stated its position as follows: "it was reasonable to seek to reduce aggregate greenhouse gas emissions in Canada back to 1990 levels by approximately 2010".³¹ This ten year extension of the 1992 FCCC commitment was not the Canadian position in the international arena. This will be discussed further in the next section.

THE PROVINCES

The provincial involvement in the international realm can be understood as the protection, and projection, of their interests. In the case of climate change the most obvious interest being protected is constitutional. This said, the protection of economic interests is also a significant component of the story. But, it is the constitutional dimension that explains a key source of provincial power in foreign affairs and it is here that we begin our examination of the provincial role in climate change policy. The *Constitution Act, 1867* does not explicitly assign power to the federal government in the area of foreign affairs, nor does it explicitly exclude the provinces from international activities. This absence can be understood if we consider that the colonies did not have independent foreign policies and therefore it was not an issue at the time adoption of what was then the British North America Act.

Federal and provincial rights and obligations in the area of foreign affairs have, thus, been somewhat contentious. Three court cases in the 1930s established the basic terms of engagement. The central issue in all three cases was whether or not the federal government had the right to implement such treaties that affected provincial interests. First, the 1932 Aeronautics Case was fought over federal involvement in the area of civil aviation. "The federal government argued that it was implementing an international

convention signed...by the British Empire. The Judicial Committee concurred".³² This allowed the federal government to invoke section 132 of the BNA Act which permitted implementation of an Empire treaty, in spite of provincial jurisdiction.

The second significant case is the Radio Case of 1932. The federal government had signed an international agreement on wireless broadcasting and the provinces opposed the federal government's claim to jurisdiction in this area. Section 132 could not be used to protect the federal interests as it was not considered an Empire treaty. The JCPC ruled broadcasting was not specifically assigned to the provinces and Ottawa had the rights to implement under the residual powers of section 91.

The extension of federal powers was constrained by the ruling in the third case, the Labour Conventions Case of 1937. It was ruled that "the federal government could not enact legislation in an area explicitly given to the provinces under section 92, even if it was designed to fulfil obligations under an international treaty".³³

It remains generally accepted that the federal government has the right to negotiate international agreements, but the 1937 ruling does limit their power to implement such agreement. In the context of climate change this is particularly important because actions to mitigate climate change directly affect "the development, conservation, and management of non-renewable resources in the province, including forestry and hydroelectric facilities", all of which are areas under the exclusive jurisdiction of the provinces. As will be seen, this division of powers has affected the development and implementation of Canadian climate change policy.

The provinces became active on climate change shortly after the 1988 Toronto Conference. In response to the recommendations arising out of the Toronto Conference Canadian Energy ministers established the Task Force on

Energy and the Environment. The task force produced two reports which were published in August 1989 and April 1990 respectively. In March 1990, Canadian environment ministers called for the development of a national action strategy to combat climate change. This directive resulted in the November 1990 Draft National Action Strategy.

A product of Energy and Environment ministers, the Draft National Action Strategy proposed "a strategic framework for a national action strategy to be undertaken jointly by government and all other sectors of the economy in the context of the current state of scientific knowledge about the issue of global warming".³⁴ The strategy calls for a carefully defined and institutionalized process for addressing the problem of climate change. "The agreements should also establish the institutional arrangements that will be used to manage implementation of the agreements..."³⁵ This diplomatic language was a signal to the federal government that provincial jurisdiction in the area of implementation was not to be ignored. Provincial prerogative was being flexed.

It was stated in the Strategy that the limitation of greenhouse gases should be comprehensive in scope and that Canadian policies must be set in an international context "recognizing that taking certain actions out of step with other nations would have little impact and could jeopardize our competitive position internationally".³⁶ A flexible strategy recognizing regional differences is also advocated. This is the Canadian version of the common but differentiated responsibility principle which was included in the FCCC. Limitation measures, it is argued, will vary from region to region and any national measures must take into account "specific characteristics of regional economies".³⁷

These recommendations are parallel to the policy outlined in the Green Plan. Broader principles included in the Strategy such as collective action, flexibility and a comprehensive strategy are consistent with the federal objectives

discussed in the previous section. The Green Plan section on climate change is even identified as the National Action Strategy on Global Warming.³⁸ This suggests that consultations with the provinces which took place during the development of the climate change section of the Green Plan³⁹ had an impact on the Green Plan. At the very abstract level of broad objectives there is a commonality between the provinces and the federal government. However, this commonality did not extend to specific commitments.

A striking difference between the 1990 Green Plan and the 1990 National Action Strategy is the commitment to stabilization. The discussion of the limitation of greenhouse gas emissions in the National Action Strategy includes a reference to federal international commitments. The federal government's commitment to stabilize CO₂ and other greenhouse gases at 1990 levels by the year 2000 is acknowledged but provincial support for the commitment is less clear. The reference to the commitment in the National Action Strategy, which is also the commitment in the Green Plan, is followed by a statement that indicated that "this is a national target and does not pertain to specific regions or sectors".⁴⁰

What is intriguing here is what is not said. It is not obvious that the National Action Strategy either recommends or supports this emissions reductions target. In the section of the strategy that more fully discusses targets and schedules the wording on the emissions commitment is reiterated. Cooperation between the federal and provincial governments is stressed. "The federal government, the provinces and territories must work together if such goals are to be achieved. Targets must also be realistic and achievable".⁴¹ This suggests that provincial ministers were leery of the stabilization commitment and that the federal government entered the international arena without a firm commitment from the provinces on an emissions reductions target, let alone specific strategies for reduction.

The provinces were consulted during the FCCC negotiation process. To support the international negotiators two consultative committees were established. The first was the Climate Change Convention Advisory Committee (CCCAC) which had a membership composed of representatives from affected federal departments, as well as industry. Environmental groups were largely absent. The second was the Provincial-Territorial Advisory Committee (PTAC). PTAC was "structured so that each province would be represented by a dual delegation from its environment and energy departments".⁴² It was designed to keep provinces informed of the negotiations and to provide for their input. Central to the advice provided by this committee was that Canada should seek a comprehensive approach to emissions reduction, an approach which was adopted by the Canadian negotiators. According to Bruce Doern this committee was the least active of the two advisory committees. "The committee was not as active as its industrial counterpart because key energy provinces such as Alberta were exercising pressure through ministers and departments, and because the impact of CO₂ emissions reductions varies greatly among the provinces".⁴³

Provincial representatives also functioned as advisors to the Canadian delegation to the Intergovernmental Negotiating Committee for the Framework Convention on Climate Change. For example, a representative of the Alberta Ministry of Energy was advisor to delegation to the first and second negotiating sessions. A member of the New Brunswick Department of Environment attended the fourth negotiating session.⁴⁴ It must be stressed that the provincial representatives functioned as advisors and not full partners. International negotiating positions are subject to cabinet approval, not the approval of advisors or advisory committees.

Following UNCED the domestic institutional structures for discussion pertaining to implementation were established. In 1992 the Cana-

dian Ministers of Energy and Environment approved a new "Comprehensive Air Quality Management Framework for Canada". The Framework recognizes the need for cooperation between the federal, provincial and territorial governments on air issues. The right of the federal government to negotiate international agreements is protected but there is also a commitment to consult the provinces "including the opportunity where appropriate for the direct provincial/territorial representation on Canadian negotiating teams".⁴⁵ The inclusion of the phrase "where appropriate" is significant because it protects the right of the federal government to function as the sole representative of Canada in international agreements and gives them the flexibility to determine when consultation is appropriate.

The Comprehensive Air Quality Management Framework institutionalized federal-provincial collaboration. This collaboration serves numerous purposes. On a superficial level, it is recognized that cooperation is necessary to ensure the preservation of a healthy environment. Another explanation for this framework is jurisdictional. No one jurisdiction is solely responsible for the emissions⁴⁶ but more importantly, the federal government cannot take actions that infringe on areas under provincial jurisdiction and therefore this cooperation is necessary if international commitments are to be met, without the use of federal unilateral measures, such as carbon taxes.

It would be misleading to suggest that the Comprehensive Air Quality Management Framework is simply evidence of a collaboration. The agreement also meets the need of rationalization. It adopts an integrated approach to air issues which is deemed "less costly and more environmentally effective".⁴⁷ It also provides an opportunity for the harmonization of policies which aids in the development of a more cohesive and coherent international position and reduces overlap in the domestic arena.

The Framework established the National Air Issues Steering Committee (NAISC) and the National Air Issues Coordinating Committee (NAICC). The Air Issues Task Group of the Canadian Council of Ministers of the Environment (CCME) was subsumed under NAICC and while substantial funding is made by the CCME, NAICC has its own secretariat and does not report through the CCME. Both the steering committee and the coordinating committee are co-chaired by representatives of the energy and environment departments. It also established the Joint Ministers Meeting (JMM) of ministers of energy and environment. It is through this vehicle that the "national consensus" on climate change has been developed.

But the "national consensus" has been difficult to develop. At the November 1993 meeting of Ministers of Energy and Environment, officials were charged with the development of response options. An assessment of diverse types of measures was prepared and provided to the JMM at their November 1994 meeting in Bathurst, New Brunswick.⁴⁸ Federal Environment Minister Sheila Copps went to the Bathurst meeting with the intention of achieving what she called a "massive commitment beyond the voluntary approach".⁴⁹ However, as described in the *Western Report* she was unsuccessful. "Successfully fighting off the jurisdictional raid, Alberta argued that voluntary industry initiatives could achieve real reductions at far less cost".⁵⁰ Only voluntary measures would be considered by Alberta.

Similar difficulties faced the Federal Minister at a February 1995 meeting of Canada's environment ministers. This meeting was to consider the final drafting of Canada's National Action Program on Climate Change (NAPCC) which was to be submitted to COP1. The influence of those provinces committed to only voluntary measures was felt at the meeting. "Alberta and its powerful fossil fuel industry have lead a strong enough fight for purely voluntary cut-

backs to force all legislative measures to be dropped from the plan".⁵¹

The plan was presented as a national consensus. Its emphasis was on voluntary, cost-effective strategies. "The National Action Program must therefore emphasize actions that are cost-effective, enhance employment opportunities at home and maintain or improve Canada's competitiveness abroad."⁵² This emphasis is reflected in the strategies adopted in the plan. For example, the Climate Change Voluntary Challenge and Registry Program (VCR) is reaffirmed as an integral component of Canada's program. The VCR is designed to encourage business to voluntarily reduce greenhouse gas emissions. A commitment to joint implementation, or the "sponsoring of actions to reduce greenhouse gas emissions in other countries"⁵³ is also made. The assumptions behind joint implementation is that the ultimate aim is the reduction of global greenhouse gases and therefore countries can sponsor activities outside of their borders that reduce emissions in a manner that is more cost effective than if they reduced emissions at home. It is also assumed that sponsoring states would get "credit" for their efforts abroad. In spite of these efforts, the plan showed that "forecasts predict that Canada's greenhouse gas emissions could be in the order of 13 per cent above 1990 emissions by the year 2000."⁵⁴

The JMM has continued to meet. In November 1995 the provinces and the federal government tabled follow-up documents to the NAPCC and met again in December 1996 to review commitments. The outlook for significant reductions was not promising. In spite of federal and provincial efforts to reduce the emissions of greenhouse gases 1996 predictions were not promising. The 12 December 1996 statement of the JMM indicates that "Ministers recognized that current actions are not sufficient to meet Canada's goal of stabilizing emissions at 1990 levels by the year 2000. Ministers agreed to continue and strengthen effort to reduce greenhouse gas emissions – and work towards stabi-

zation".⁵⁵ Canada's Second National Report on Climate Change produced in 1997 also indicated that emissions were continuing to rise.⁵⁶ The consensus crafted at Bathurst and articulated in the NAPCC remained essentially unchanged in spite of the predictions of rising emissions. Canada was well off its 1992 commitment but the provinces were disinclined to act more aggressively. Therefore, as noted in the previous section, in November 1997, at a meeting in Regina, the JMM committed to a ten year extension of the 1992 commitment.

When the federal government agreed to the reductions at Kyoto the response of the premiers was swift. Many provinces expressed dismay over the apparent unilateral actions of the federal government. Saskatchewan Premier Roy Romanow is reported as stating "It's an example of the kind of confusion and stepping on each other's toes that this country doesn't need".⁵⁷ In the view of Manitoba Premier Gary Filmon the "Kyoto deal doesn't bode well for federal-provincial collaboration".⁵⁸ According to Alberta Premier Ralph Klein "it's not acceptable, this accord in no way reflects the Canadian position that was established in Regina".⁵⁹ Ultimately, the provincial leaders, meeting in Ottawa shortly after Kyoto meeting, got the federal government to agree to a process that will review the implications of the Kyoto deal. This process will take place before the Protocol is ratified by Canada.

IMPACTS AND ANALYSIS

The previous sections outlined the evolution of Canadian climate change policy and highlighted some of the tensions involved in the development and implementation of this policy. This section returns to the question in the opening section: what impact have the provinces had on Canadian climate change policy?

The first and possibly most significant characteristic of this issue to note is that the impact of the provinces varies according to whether we are discussing international policy development

or domestic implementation. The provinces were consulted during the development of the Green Plan and during international negotiations but one should not equate consultation with partnership. In the international realm provincial interests were relegated to the status of stakeholders; a status disliked by provincial actors.⁶⁰

The federal government has consistently protected its prerogative to speak for Canada. This prerogative was institutionalized in the Comprehensive Air Quality Management Framework and any involvement that the provinces were allowed in the international arena was done in part to try to get provincial actors to see "the bigger picture". As indicated by a member of the DFAIT when speaking of the subject of provincial involvement the provinces are involved "just so they can see the dynamics internationally, that we're not just making up something. It [the international negotiations] would happen whether or not we're there, we should be there and we should be impacting on it. That requires the provinces to think not only about their interests but about a wider interest".⁶¹ The ability and or willingness of the provinces to see the wider interest was limited and perhaps the expectation that they would do so was naive given their "quasi-sovereign" status in issue areas under their jurisdiction. Just as the states in the international arena protect their interests, regardless of the existence of environmental commons issues that transcend boundaries, the provinces have worked to protect their interests in the Canadian context. As a result, the national consensus, like many negotiated international conventions, reflects the lowest common denominator.

That the lowest common denominator has been accepted means that there are some areas of agreement, but the areas of agreement are very broad-based principles. Recommending collective action or calling for flexible responses are principles upon which the provinces and federal governments agree but they also provide room for considerable interpretive

licence. According to Brian Wynne, the greater the room for interpretative licence, the weaker the practical implementation.⁶² This observation applies to both the international and the inter-governmental levels. A specific target, such as stabilization, is open to less interpretive licence and, as a result, has been subject to considerably more debate.

One explanation for this broad interpretative licence is found in the different perceptions of the relationship between climate change and economic impacts. Alberta, for example, equates increased emissions with economic growth. The Alberta progress report submitted to NAICC in 1995 states that Alberta's CO₂ emissions grew 15 percent between 1990 and 1994. This growth in emissions parallels the 15 percent growth in the Alberta economy. Continued economic and population growth are expected to add pressure on Alberta's emissions.⁶³ In addition, Alberta produces approximately 27 percent of all of Canada's carbon dioxide, with only Ontario at higher net emissions at approximately 32 percent.⁶⁴ Thus, Alberta's position as champion of voluntary initiative can be understood as finding its source in the belief that voluntary actions are the most efficient and are more likely to improve economic competitiveness than more severe regulatory measures which could hurt the Albertan economy. B.C.'s Greenhouse Gas Action Plan is critical of the voluntary approach taken by the Canadian government and rejects the link between economic output and emissions growth that underpins the Albertan assessment. "Reducing provincial emissions is not inconsistent with maintaining economic growth".⁶⁵ B.C. can take a more proactive approach because its emissions, at 8.9 percent, are considerably lower than those of Alberta and the B.C. economy is not as dependent on coal, oil and gas.⁶⁶ Thus, just as in the international realm, where states can be divided into energy enthusiasts and energy efficient, we find that regional economic differences are clearly significant determinants of provincial positions.

The shallow national consensus is also a reflection of the fact that throughout the period under scrutiny different provincial premiers attempted to present themselves as the champions of competing environmental philosophies likely with their respective electorates in mind. In addition, competing views of federalism, particularly related to the right of the federal government to present the "Canadian" position, infuse the interprovincial relations.

For example, one finds competing claims of environmental leadership. In *Meeting the Challenge of Climate Change* the government of Ontario presents itself as a leader in pollution prevention and energy efficiency.⁶⁷ The government of British Columbia has attempted to distinguish itself from the other provinces arguing that it is the only jurisdiction committed to the stabilization of greenhouse gases by the year 2000.⁶⁸ In contrast, for example, Ontario is "committed to assisting Canada meet national climate change objectives".⁶⁹ While a specific commitment is notably absent from the Alberta documents, Alberta's 1995 progress report presents the province as the champion of the voluntary approach.⁷⁰ The federal government has also claimed a international leadership position, although more so during the time of the Mulroney government.

Related to the point about competing visions of federalism, one finds both calls for more decisive action as well as calls for restraint. A joint statement by the Ministers of NRCan and Environment calls on "other governments in Canada – the provinces/territories and municipalities – [to] demonstrate leadership".⁷¹ Former B.C. Minister of Environment, Lands and Parks, Paul Ramsey looked to the federal government for leadership. "Our efforts in B.C. will however be limited unless the federal government vigorously leads on a national emissions reduction strategy".⁷² The Clean Air Strategic Alliance of Alberta, in its 1994 recommendations to the Alberta government voiced its opposition to federal unilateralism. In a section discussing the

development of a climate change strategy by consensus the report states that "the federal government should not adopt a unilateral national strategy or unilateral measures".⁷³ The Alberta position can be seen as the result of federal independence in international negotiations, the arms-length treatment of the provinces during the international negotiation phase, and concern about economic impacts, noted above. It represents an attempt to constrain federal activism at the international level and to ensure that the positions negotiated through the JMM are the "Canadian" positions, as claimed by Ralph Klein after the Kyoto meeting. Who speaks for Canada is a contentious question and one that informs the divisions between the two orders of government.

Intergovernmental relations had a further impact on the substance of the policy. As indicated in the discussions of the Bathurst meeting, the federal minister wanted a "massive commitment". A massive commitment was not forthcoming. The substance of policy has been affected by the ability to get agreement on only voluntary actions such as the Voluntary Challenge and joint implementation. Voluntary actions are seen as efficient and cost effective. They are also the only kind of actions that would be supported by the Alberta government. Joint implementation has received considerable support from both the federal and provincial governments. The reason for this support reveals the entangling of the international and the domestic. Canada produces only two percent of the world's carbon dioxide net emissions. Through support of joint implementation projects Canada can be seen as supporting international initiatives while at the same time removing some of the pressure to reduce emissions domestically.

The impact on the substance of the policy was that only voluntary measures could be negotiated. Voluntary measures have contributed significantly to the inability of the federal government to implement the 1992 FCCC commitment and without stronger measures in the fu-

ture, the likelihood of the Kyoto commitment being implemented is low. But, the relations between the provinces and the federal government have affected more than the federal ability to implement.

Canadian climate change policy lacks authority and legitimacy. Climate change policy is continually referred to as a "living issue" and is thus subject to ongoing negotiations. This is not necessarily a problem because the science of climate change is constantly evolving and hence the understanding of the issue is subject to change. But it is not the evolution of science that explains this lack of authority, but, rather, the independent actions of the federal government. Brian Wynne speaks to this point: "policies which are seen to have been negotiated without real cohesion, and with continual conflict over underlying boundaries of political legitimacy, are unlikely to enjoy a high level of authority and credibility amongst the diverse groups whose commitment is necessary to make such policies work in practice".⁷⁴ The lack of authority is further affected by the interdepartmental rivalry identified in the section on federal government objectives.

Finally, the legitimacy of the JMM statements are called into question when we consider statements made by former Alberta Energy Minister Pat Black in 1994 who said that while Alberta agreed at the Bathurst meeting of Energy and Environment Minister to study both voluntary and regulatory measures, "there's no point in looking at anything but voluntary measures".⁷⁵ Any possibility of moving beyond voluntary measures, a possibility suggested in numerous intergovernmental documents, is denied by the Albertan Energy minister. Therefore, the attempts to work together to foster a national consensus seem at best shallow, and at worst, disingenuous.

The substance of climate change policy and the authority of the policy have been affected by intergovernmental relations. And, while the

ability to implement has been constrained, the evidence suggests that the federal right to negotiate international conventions has been protected. The provinces are unable to determine the setting of international positions. Whether the federal government felt impelled to act or choose to act contrary to the domestic consensus, on not one, but two occasions, is subject to speculation but what is clear is that the relative independence of the federal government during the FCCC negotiations and again at Kyoto resulted in a position that lacked broad domestic support.

In order to understand the behaviour of the federal government in the international arena we need to consider the FCCC negotiations separately from the Kyoto negotiations. We need to do this because the international dynamic altered over the almost ten year period and because the political party in power has changed. Some of the explanations for international activities remain the same but one should not assume complete parallels.

Four factors explain the behaviour of the Mulroney government that resulted in the 1992 commitment. First, the right of the federal government to function as Canada's international representative is carefully guarded because it ensures a role for the federal government in the environmental arena, which is otherwise dominated by the provinces. Moreover, the department of Foreign Affairs, which leads international negotiating teams is mandated with the external representation of Canada. The credibility of the Canadian international position would be viewed with some scepticism if it was not united. Second, and directly related to the first point, is the fact that the federal government was aware of some of the provincial concerns early in the process. Alberta, and energy interests lobbied during the Green Plan development to ensure that bold actions were not taken. If provincial interests were completely integrated into the Canadian position it would undermine the apparent international activism of the Canadian

government. This leads us the third reason for independence. In the late 1980s we witnessed an international "greening". State credibility dictated that Canada, the bold environmental internationalist, should be part of this "greening". Prime Minister Mulroney's statements on climate change also indicated a rather progressive position. While there was a tempering of the declaratory statements, to a more moderate position, by 1990, with the federal adoption of a stabilization commitment, by keeping the provinces at arms length the federal government ensured the maintenance of an image of leadership. Finally, recognizing the potential conflict associated with its independent actions it may be argued that the federal government pursued a policy, aware of the lack of domestic consensus, with the hope of using the international commitment as leverage to bring the provincial interests on side.

The Mulroney government committed Canada to the FCCC but it was the Chrétien government that was left to implement the commitment. Indeed, Sheila Copps appeared committed to significant reductions and by all reports she was thwarted by the provinces in her attempts to implement the necessary measures. But we must not assume that the intergovernmental relations offer the full explanation for the inability to implement. Arguments resting simply on the claim that constitutional limitations bind the federal government can function as a smokescreen for government inaction.⁷⁶

The need for provincial involvement does not tie the hands of the federal government entirely. The federal government could implement an incremental tax on motor fuels – an option raised in the response options document of 1993. But such actions would likely be greeted with little enthusiasm. Not only would this route be seen as another version of the National Energy Program by Alberta, it would likely sit poorly with the general electorate. Therefore, we must distinguish between ability to implement and willingness to implement. Certainly,

the federal government is constrained but it does have options.

It is rather curious that the federal government waited until shortly before the Kyoto meeting to break with the "national consensus". A series of federal ministers decried Canada's unfortunate position of being unable to meet its international commitments but it was not until leaving for Kyoto that Minister Stewart stated a Canadian position. It would appear that prior to Kyoto that not only were many provinces disinclined toward regulatory measures, but in fact, there was an unwillingness on the part of the Chrétien government to implement the 1992 commitment. Three factors must be considered in order to understand this unwillingness.

First, Canada was not the only state unable to reach the stabilization target. The United States, too, has been unable to meet its target. Canadian climate change documents have consistently emphasized the need for multilateral action. If states take common actions then no one state is disadvantaged. This is particularly important in the case of climate change where debates on economic impacts have been divisive. The international dynamic was such that it is not functioning as a strong incentive for Canada to take unilateral action. Unilateral initiatives would likely have returned Canada to a international leadership position, but such behaviour was seen as having the potential to adversely affect the Canadian economy.

Second, even though Canadian representatives expressed concern about the inability to meet the 1992 commitment, Canada did not function in the international arena like a state committed to meeting its commitment. Rather, Canada, at COPI in Berlin and COPII in Geneva in 1996 was part of a coalition of states known as JUSCANZ (Japan, US, Canada, Australia, New Zealand). JUSCANZ was seen as complicating the negotiations with demands for emissions reductions by more advanced developing states and until COPII was seen as having an

implicit coalition with oil-rich Organization of Petroleum Exporting Countries (OPEC). The coalition between OPEC states and JUSCANZ appeared to break down at COPII over the IPCC Second Assessment Report. Regardless of the condition of the JUSCANZ coalition, one cannot equate Canadian behaviour with that of a bold environmental internationalist.⁷⁷

Canada's international position, however, is consistent with the general foreign policy orientation adopted by the Chrétien government. Canadian foreign policy, in general, has been undergoing a shift. There is a movement away from broad internationalism to a more focused, fiscally responsible orientation that has been called managed internationalism. One of the characteristics of managed internationalism is the high priority given to trade competitiveness and domestic economic well-being. This emphasis is reflected in 1994 government statement titled *Canada in the World*, which identified as one of Canada's main foreign policy objectives the "promotion of prosperity and employment".⁷⁸ Given this emphasis one may argue that there is a general unwillingness of the federal government to take actions which will affect Canada's economic well-being, regardless of the provincial positions. But, provincial positions support this orientation. Differences at the level of intergovernmental relations may in fact obfuscate a deeper commonality of purpose.

However, international events preceding Kyoto affected the federal position, at least on the surface. In the lead up to COPIII the U.S. declared its support for a legally binding protocol. In early October 1997, Prime Minister Chrétien, embarrassed that the June 1997 five year review of UNCED commitments by Canada's failure to meet the FCCC commitment, stated that Canada would commit to emissions reductions and in November 1997, he stated that Canada would do better than the United States who have committed to stabilization of GHGs at 1990 levels by 2008-2012.⁷⁹ The JMM statement of that same month that indicated an agree-

ment to seek to reduce GHGS back to 1990 levels by 2010 did not fully support the Prime Minister's ambitions and thus on 1 December 1997, the Minister of Environment, Christine Stewart, announced that Canada's position at Kyoto would be for industrialized states to seek a 3 percent reduction of GHG emissions to 1990 levels by 2010 with further reductions of 5 percent by 2015. Ultimately, and as noted in the section on Canadian objectives, Canada committed to reduce GHG emissions from 1990 levels by 6 percent by 2008-2012.

Explaining the Kyoto commitment reveals some parallels to the 1992 commitment but also at least one significant difference. Again, the federal government protected its prerogative to give expression to the Canadian voice internationally. Second, and also similar to 1992, if the federal position had been the one articulated by the JMM Canada would have looked like an international laggard. The JUSCANZ coalition had, to a degree, broken down and Canada had to maintain some international credibility. The only way to do so was to agree to a reductions commitment. Third, the interest of the Prime Minister did have an impact. His desire not to be embarrassed internationally helped the reductions policy get through cabinet. Finally, perhaps there was hope that the international commitment would force the provinces to see the wider picture.

The most important factor is that there may be little cost associated with the commitment made at Kyoto. Entry into force is questionable. "This Protocol contains a so-called double-trigger, which requires not only a certain number of ratifications, but also a certain percentage of emissions for the entry into force. As a result, the United States in effect has a factual veto".⁸⁰ Getting the Protocol through the United States Senate is going to be difficult for President Clinton given the unanimous adoption of the Byrd-Hagel resolution that indicated that "the Senate would refuse to ratify any treaty that did not contain commitments to limit greenhouse

gas emissions for developing countries".⁸¹ The Kyoto Protocol does not bind developing states to emissions reductions. For Canada, this means that a commitment allows a state that would otherwise be labelled a laggard to save face in the international arena while at the same time ensuring provincial leaders at home that no action will be taken on ratification until it is ratified in the United States.

The irony of this whole situation is that in spite of efforts to protect international credibility it is unlikely that other delegations at Kyoto were unaware of the very public difficulties Canada has faced in the attempt to present a coherent international policy. International credibility on global environmental issues unquestionably has been damaged and this has implications for the place of Canada in future international negotiations. Domestically, the sense of betrayal felt by the provinces, whether it is justified or not, will make future intergovernmental relations more tenuous. This is not the first time the federal government has acted in a manner disliked by the provinces on an environmental issue and it will likely not be the last time. This pattern does not bode well for our ability to deal with complex international environmental problems.

SOME CLOSING THOUGHTS

Clearly, the provinces have had an impact on the substance of climate change policy, on the authority of the policy and on the credibility of Canada's position in the international arena. At the same time, the federal government is willing to make international commitments without the necessary domestic guarantee for implementation when it is seen to be in our "international" interest to do so.

It is also important to understand that the discourse surrounding climate change policy defines danger and cost not in terms of environmental degradation, but in terms of negative economic impacts. The importance of prime

ministerial attention to foreign policy issues is also clear as we see that international commitments were made in part because of their personal expectations that Canada will function in a certain way in the international arena. The argument here reaffirms Kathryn Harrison's caution against defining everything in terms of intergovernmental relations, when other dynamics may be at work. The impact of the United States on the formation of our environmental policy is also evident, particularly when we focus on the events surrounding Kyoto. As such, it adds another element to the argument that we are environmentally dependent on the United States. Finally, the paper reveals the way in which the domestic and international are intertwined.

More broadly, the analysis above speaks to the difficulty in achieving cooperation between parties with divergent economic interests, competing environmental philosophies and different views of the respective obligations of different orders of government. The outlook is not optimistic, because as in the international arena, the involved parties are slow to deal with the realities of environmental interdependence. Global environmental issues such as climate change defy arbitrary lines on maps that demarcate states or provinces. Cooperation, at all levels, is necessary if this issue is to be addressed and the wider interest must be considered. The unfortunate reality is that the tendency has been to wait until an environmental crisis erupts before any substantive action is taken. Perhaps more extreme events such as the Manitoba Flood and the ice storms that braced Central Canada in the winter of 1998 – events that may or may not be related to global warming – will foster greater awareness of the power of the environment. But, the likelihood of a shift to a more sustainable lifestyle and value system does not seem immediately forthcoming and therefore, this working paper will finish with a practical suggestion.

The relations between the federal government and the provinces bear a striking resemblance to the relations between states at the in-

ternational level. In addition, the demands for economically efficient strategies for emissions reductions are high both domestically and internationally. We can learn from some of the successes at the international level and further investigate the potential for emissions trading programs, joint implementation and sustainable technology transfer within Canada. It may be possible to implement Canada's version of the "common but differentiated responsibilities" principle in such a way that it is seen as a fair and equitable arrangement by all parties involved. These suggestions may have a ring of naivete to some but given our present situation, with emissions continuing to rise and any sense of fair-dealing undermined, naive suggestions are preferable to the status quo.

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