**The challenge of Canadian climate and energy federalism:**
**Explaining the collapse of the Canadian National Climate Change Process, 1998 - 2002**

Douglas Macdonald, Benjamin Donato-Woodger and Stefan Hostetter

Paper to be presented at the annual meeting of the Canadian Political Science Association, Ottawa, June 4, 2015 9,303 words

Climate change differs from all other environmental issues because at heart it has to do with the generation, transport and use of energy. Those energy issues are of central importance to a high energy-use and energy-exporting country such as Canada but today cannot be addressed independently of their climate-change implications. The issues of climate and energy are inherently connected and, for reasons set out below, in Canada can only be effectively addressed by co-ordinated federal-provincial policy action. During the period 1998 to 2002, Canadian federal and provincial governments engaged in the National Climate Change Process (NCCP), an unsuccessful attempt to develop co-ordinated national policy which through the collective, harmonized efforts of all governments would achieve one Canadian climate change policy goal. While dubbed a climate change process, inevitably issues related to energy were of central importance and help explain the failure. Currently, the Canadian provinces, without federal involvement, are working to develop a Canadian Energy Strategy. In a mirror image, co-ordination of energy policies is the goal, but climate change implications are being considered. The purpose of this paper is to explain why the NCCP failed, in order to better inform the current or any future efforts to develop national co-ordinated climate and energy policy.

The next section sets out the need for federal-provincial co-ordination in these twinned policy areas and the particular challenge that poses due to the decentralized nature of Canadian federalism. An explanation is then given for why the institutional context for intergovernmental relations is taken as a given, and the analytical focus is upon the interests and strategies of participating governments. After giving a short description of the current Canadian Energy Strategy process, the bulk of the paper is devoted to analysis of the failure of the NCCP. The conclusion discusses implications of that analysis.

## Co-ordination is essential but difficult to achieve

Effective climate and energy policy can only be achieved by means of co-ordinated federal and provincial policies for three reasons: 1) the physical nature of the climate change issue; 2) the basic geography of energy generation in Canada, in which some parts of the country are endowed with hydro-electricity capacity while others possess fossil-fuel resources; and, 3) the fact that jurisdiction is shared by both federal and provincial levels, and action is required by both levels. In terms of the first, the climate issue arises from changes in the composition of the global atmosphere caused by emissions of greenhouse gases around the world. It is impossible to establish a causal relationship between a given impact of climate change and a particular GHG source, which precludes bargaining or any other form of joint action between the victim and the source. Canada and the US could address their shared acid rain problem by a bilateral treaty, just as Mediterranean states have addressed their shared pollution problem by treaties limited to those states. The global collective-action problem of climate change, however, has to be addressed by all states working to establish some form of global treaty regime. Canada cannot solve its climate change problem by itself, even if it were to reduce its own emissions to zero, and so must

participate in such a global effort. Because collective-action problems require that participants give others assurances they will act, this country must give a commitment to other countries that it will reduce its emissions by a particular amount - as it did in Rio in 1992, Kyoto in 1997, Copenhagen in 2009 and as the federal government has done prior to the Paris climate summit in December, 2015. Having given one national commitment, as it begins efforts to achieve that goal Canada immediately runs into the question of how the total GHG reduction effort represented by that commitment will be allocated among both the different sources of emissions (transportation, buildings, manufacturing etc) and, inevitably because not all sources are spatially distributed in an even manner, among the regions and provinces (Macdonald, 2014; Macdonald et al, 2013).

This brings us to the second factor, geographic distribution of energy sources. The oil-producing provinces, most notably Alberta and Saskatchewan, have much higher per capita greenhouse gas (GHG) emissions than others, face much higher per capita emission reduction costs and are presently on track for planned emission increases which over the coming years will overwhelm reductions in other provinces. The rest of Canada can only achieve an effective national goal by working with those provinces to bring about a change in their climate policies. Conversely, oil-producing provinces wishing to bring their product to Asian or other markets outside the US must work with other provinces to gain necessary regulatory approvals for pipelines. While Alberta was a reluctant participant in the NCCP, it has been a leader in the recent co-ordination effort. Whether the emphasis is upon climate with energy necessarily considered or the reverse, geography dictates the need for co-ordination.

In terms of the third factor, the courts have recognized that both levels of government hold jurisdiction with respect to environment and if it were put to the test would likely recognize the same is true for climate change (Winfield and Macdonald, 2008). Similarly jurisdiction over energy is shared, with the provinces owning the energy resource and having authority to regulate its pollution impacts, but with the federal government also holding that pollution regulation authority and in addition have authority to approve inter-provincial and international energy undertakings such as pipelines (Gattinger, 2013). While both *can* act in the two policy areas, is action by both necessary? In a legal sense, the issues could be addressed by federal policy alone: the realities of Canadian federalism, however, plus the policy history of the past decade which has been marked by provincial leadership, makes that unlikely in the extreme. Canada, along with Belgium is one of the most decentralized federations in existence. In both countries, language cleavages have posed threats to the continued existence of the state, which have been addressed by a passing of powers down from the national to subnational level. In Canada today, with the possible exception of use of the military, this makes unilateral federal action which ignores provincial preferences difficult and unlikely. Stevenson (2000, 101-102) gives us this description:

> The picture that Canada presents to the outside world is that of a collection of semi-sovereign provinces, with a central government unable or unwilling to carry out coherent policies even within its own fields of jurisdiction. Compared with almost any other modern state, or Canada itself as recently as the 1950s, the extent of provincial power and the weakness of the central government are remarkable.

In this particular policy field, Alberta was the first Canadian jurisdiction to enact climate-change legislation and it did so in 2002 with the explicitly stated intention of improving its

ability to take legal action to prevent federal regulation of the Alberta oil industry. Since giving its first international commitment in 1992, successive federal governments have done little to enact their own climate change policies. Provinces, however, have begun to act: BC brought in its carbon tax in 2008, a year before a milder Quebec version; Nova Scotia has legislated mandatory GHG emission reductions; Quebec and California have been operating a joint cap-and-trade system since 2014; Ontario has phased out coal-fired electricity and has announced it will join the Quebec-California trading system (NRTEE, 2012; Macdonald, forthcoming). Given both the nature of Canadian federalism and the fact the provinces are now established actors in the climate policy field, unilateral federal policy may be legally possible but is nevertheless virtually impossible.

For reasons of cost-effectiveness, Hoberg and Meadows (2015) recommend unilateral federal government policy action in the form of either a carbon tax or trading system. However, they recognize the difficulties set out above when they say: "a national approach would be politically challenging, especially given the diverse policy instruments currently in use by different provinces and the political sensitivities within the federation (Hoberg and Meadows, 2015: 60)." They suggest these problems could be addressed by allowing provinces to continue to implement their own policies, with the use of federal-provincial equivalency agreements and a province-specific reduction target - in effect, rather than unilateral federal action a co-ordinated national program, complete with agreement on burden sharing.

If federal action alone is impossible, might the reverse be viable - action by the provinces only, with no federal policy at all? In the case of climate change, a recent study has recommended precisely that (Ecofiscal Commission, 2015). The study recommends that Canada continue what is has been doing since failure of the NCCP in 2002 - allow each government to implement its own climate policy without regard to what other Canadian governments are doing (the report recommends that as a first step, but does see the value of co-ordination and recommends provinces move in that direction). The Commission can only recommend unilateral provincial action, however, by ignoring Canada's international role. If we want Canada to contribute to the global effort, we have to accept one national target, which means, as discussed above, we need to reach agreement on how the costs and benefits of meeting that target are shared amongst sectors and provinces. The current completely unco-ordinated policy making by all fourteen governments is politically the easiest way to go but is not viable unless Canada completely abandons any international role. In the case of energy, since the days of Pierre Trudeau's deeply divisive National Energy Program, the federal government has worked to avoid involvement in provincial energy disputes such as the Quebec-Newfoundland electricity agreement or BC-Alberta Northern Gateway Pipeline conflict. However, as Gattinger (2013) argues, co-ordination on energy issues, including an active federal role, is essential.

The fact that effective climate and energy policy can only be achieved through federal-provincial co-ordination does not mean it will automatically happen - to date, effectiveness has largely been sacrificed precisely because co-ordination is so difficult. The basic problem is that the only forum for co-ordination is intergovernmental relations. In a centralized federal state such as Germany, co-ordination is achieved by giving subnational governments direct representation in the upper house of the central government, providing an arena for negotiating and resolving regional tensions within a forum of clearly stated, enforceable rules and effective

decision making by means of majority vote. The fact the Canadian Senate effectively has no governing powers precludes that approach in Canada, meaning those negotiations must instead take place in the arena of intergovernmental relations (IGR). Given the power of the executive to dominate the legislature in our Westminster-style government organization, IGR is referred to as both "executive federalism" and "federal-provincial diplomacy." The heads of the fourteen Canadian government units and their ministers interact directly with one another in decision-making processes which can only be completely consensual, given the right of any government to opt out at any time. While that process has at times been collaborative, particularly, as Stevenson notes, in the immediate post-war years, given ideological and material differences and the electoral interests of governments the default option is competitive federalism (Bakvis and Skogstad, 2012).

Bakvis and Skogstad (2012, 11) examine the effectiveness of the "public policies and programs made within and resulting from the web of intergovernmental interactions" and find that it varies greatly both over time and across policy fields. Reviewing case studies of intergovernmental relations in thirteen different policy fields, Skogstad and Bakvis (2012) find that the effectiveness of federal-provincial policy can be considered poor in three fields (early childhood education, climate change and aboriginal peoples); fair in our fields; and good in the remaining six (including harmonization of environmental regulation other than climate change). They argue that as they function in these different policy fields, whether governments work independently or through some form of collaboration or joint-decision is decided by four factors: constitutional jurisdiction in the area; prior patterns of intergovernmental relations in that area; the ideas and partisan goals of Prime Ministers and premiers; and the international context. In the two closely tied policy fields examined here of climate and energy jurisdiction is shared, the prior history, including such things as Trudeau's National Energy Program and the failure of the 1990-2002 effort to develop national climate policy, does not bode well; and the international context, both in terms or global energy markets and efforts to develop an effective global climate regime significantly influences domestic decision making.

Similarly, Inwood et al (2011, 14) examine "intergovernmental policy capacity" (IPC) defining it, in the first instance, as "the ability of national and sub-national governments to work together to address public policy problems." Like the authors in the Bakvis and Skogstad edited volume, they too find that IPC varies across time and policy fields. The factors they present as influencing the ability of federal and provincial governments to work together are also similar. They present four - institutions, both constitutional jurisdiction and machinery of intergovernmental relations, including resources devoted to making institutions work; the broad ideational context for such things as the proper role of the state; the role of actors, both elected and intergovernmental officials; and relations among actors, including informal personal relations. Having examined IPC in four policy fields (finance, environment, trade and health) they found that, according to the intergovernmental relations officials interviewed, ideas only indirectly the ability to achieve effective national policy and that the machinery of IGR, while important was only one variable determining effectiveness. Instead, they found (Inwood et al, 2011: 345): "For most officials the resources, actors, and relations associated with various institutions were primary determinants of IPC." This finding supports the focus here upon the roles and strategies of the primary actors involved, executives of federal and provincial

governments, including financial resources they deploy and relations they enter other with their peers.

Bakvis, Baier and Brown (2009) have also examined the variables which influence the workings of intergovernmental relations in this country. They too include in that list actors, institutions and resources, including the greater capacity of the wealthier provinces to acquire and deploy expertise during intergovernmental negotiations. Like this analysis, they also focus upon the interests of governments, both the particular interests of each province and territory and what they describe for the federal government (beyond the partisan goal of re-election) as: "a general sense of the interests of Canada as a whole" (Bakvis, Baier and Brown, 2009: 50). They also discuss government strategies for achieving their interests, including choice of arena, such as the courts or public opinion, beyond IGR; whether or not to link the issue at hand to other issues; whether to engage in quiet diplomacy or public discussion; and what alliances or coalitions to seek (Bakvis, Baier and Brown, 2009: 51). They state (Bakvis, Baier and Brown, 2009: 217) that at the time of their writing: "Canada's environmental union remains very much contested terrain." Inwood et al (2011, 212) state that:"Overall, officials characterized the state of IPC in environmental policy [including climate] during this period as exhibiting low capacity, low conflict, low cooperation, and inaction on many fronts." Skogstad and Bakvis (2012) describe intergovernmental environmental policy making as good, because it has been harmonized through the 1998 Accord, but describe national climate change policy making as poor.

These analyses show that despite the inherent weaknesses of executive federalism as a means of co-ordinating policy, success has been achieved in a number of areas. That success is contingent to some extent upon context, such as dominant values, norms and empirical analysis of the policy issue in question. However, it also depends upon interests and actions of the intergovernmental actors. As set out immediately below, climate and energy policy is one of the most intractable challenges to be addressed by Canadian intergovernmental relations. Even here, however, strategies used by governments will be an important factor in determining intergovernmental policy capacity.

Three factors make climate and energy policy a particular challenge for intergovernmental relations. The first is the fact that the larger, wealthier provinces (BC, Alberta, Ontario and Quebec) have always tended to resist regulation of pollution within their borders by the federal government (Skogstad, 1996; Harrison, 1996; Harrison, 2002) and presumably the same motivation exists for climate regulation. The second factor is the high-stakes nature of the climate/energy issue. Export of fossil fuels is extremely important to the economies of the oil-producing provinces and, to a lesser degree, to that of Canada as a whole. Pollution can be reduced and managed at a relatively low cost, but the cost of leaving oil in the ground or building new renewable energy capacity is high. Like Quebec sovereignty, climate and energy represent the high politics of intergovernmental relations, focussing government attention in a way other issues do not. Winfield and Macdonald (2008) argue that is what explains the success of governments in agreeing on the 1998 Accord while at the same time failing to agree on climate policy. The third factor is the vastly greater differences of economic interest found in this policy field. Costs of education, transportation or environmental regulation do not differ markedly across the country. As discussed below however, the cost of climate mitigation varies greatly

among provinces. We now turn to discussion of how this significant challenge has been addressed to date.

The proposed Canadian Energy Strategy

The current effort to develop a national energy policy which necessarily also addresses climate change began in 2007 with a Council of the Federation report titled A Shared Vision for Energy in Canada, which set forth a vision of Canadian governments working together to achieve energy security, environmental protection and economic benefits. That same year, Roger Gibbons (2007), then head of the Canada West Foundation put forth a call for national co-operation to achieve economic benefits, while also meeting environmental goals. The theme resonated with business interests and some environmental organizations and was discussed by those two groups at meetings in Winnipeg in 2009 and in Banff the following year. This interest in national energy policy was driven by the fact that the US market for Canadian oil was diminishing, as that country increased its own supply by means of new fracking methods. Increases in US supply meant a drop in prices paid for Canadian oil to a point significantly below what could be obtained in Asian or other markets, which motivated the industry to develop plans for new pipelines to either the west or east coasts (Gattinger, 2013; Hoberg et al, 2012) and has since led to the current controversies over the Northern Gateway and Energy East proposals. Presumably the environmentalists who participated in these early discussions saw an opportunity to also address the climate change issue - the discourse since 2007 has always coupled the energy and climate issues.

Governments then became involved and the September 17, 2010 meeting of the federal-provincial Council of Energy Ministers included discussion of a possible national energy strategy. It seems Alberta was the government which pressed for that discussion and sought to include a reluctant federal government. The concept was then on the agenda of the federal-provincial Energy and Mines Ministers conference on July 19, 2011, at which time the federal NRCan minister, Joe Oliver endorsing the goal of energy collaboration. During the winter of 2011-12 Alberta Premier Alison Redford met with the Prime Minister and the Quebec and Ontario premiers, attempting to garner support for national policy which would facilitate approvals for new eastern or western pipelines.

By the summer of 2012, however, the national effort had run into difficulties. The simple fact the Northern Gateway pipeline posed environmental risks to BC while all the financial benefit went to Alberta led to dispute between those two provinces. At the same time, the federal government reversed position and withdrew from the effort headed by energy and mines ministers. Presumably for that reason, the initiative moved from that federal-provincial forum to the provinces-only forum of the Council of the Federation. At its August, 2012, annual meeting the CoF endorsed the concept of a Canadian Energy Strategy, even though "Prime Minister Harper has been cool to the idea and Natural Resources Minister Joe Oliver openly dismissive... (McColl, 2013: 24)." The Canadian Energy Strategy Working Group was established, led by Newfoundland, Manitoba and Alberta. At the time, BC and Quebec declined to participate, but both have since joined, with the latter putting emphasis on the need for a national program to also address the issue of climate change. Progress reports have been submitted to both the 2013 and 2014 meetings of the Council of the Federation and the current hope is that agreement on a

national program involving only the provinces will be reached at the August, 2015 meeting of the Council. After reviewing reasons for the failure of the 1998-2002 NCCP, we return in the conclusion to discussion of how the Canadian Energy Strategy or any future such effort might succeed.

The collapse of the NCCP

To provide historical context, we first provide a brief chronology of national climate change policy making before and after the 1998-2002 period. The Canadian federal government led by Prime Minister Brian Mulroney played a key international role when it worked with the United Nations Environment Programme and the World Meteorological Organization to host the 1988 "Toronto conference" which put climate change on the global policy agenda. In 1990, the federal government announced the policy objective of stabilizing emissions at the 1990 level by the end of the century and two years later Mulroney was an active supporter of the 1992 United Nations Framework Convention on Climate Change. Within Canada, Mulroney recognized from the outset that climate policy had to take into account its implications for energy policy and that the provinces, owners of the energy resources, had to be involved. A preliminary report by federal and provincial energy and environment officials was prepared in 1990. It was 1993, however, which saw the start of a formal intergovernmental process led by the two relevant policy secretariats, the Council of Energy Ministers and Canadian Council of Ministers of the Environment, supported by a system of committees made up of federal and provincial officials and meeting regularly in what were termed "Joint Meetings of Ministers" (JMM).

The JMM process generated agreement in 1995 on the National Climate Change Action Plan, which had as its central element the Voluntary Challenge and Registry, a system which encouraged public and private organizations to publicly commit to a given greenhouse gas reduction target (by registering the number of the VCR website) and then subsequently report publicly on progress made in achieving that goal. Two years later the intergovernmental process was damaged when the federal government at the Kyoto climate summit set aside the goal of emissions stabilization at the 1990 level by 2010 which it had previously agreed to with the provinces in the context of a meeting of environment and energy ministers. Instead, federal diplomats agreed at the Kyoto meeting that Canada would reduce its emissions to be six per cent below the 1990 level. Alberta in particular strongly objected to this unilateral commitment by the federal government. Presumably in response, at a First Ministers Meeting on December 11-12, 1997, the Prime Minister and premiers agreed that no region would be asked to bear "an unreasonable share of the burden" and that a federal-provincial process would examine costs and feasibility of meeting the six per cent reduction goal before Canada formally ratified the Kyoto Protocol. This set the stage for the second stage of the effort to develop national co-ordinated policy, the NCCP, which functioned from 1998 to 2002.

As examined below, that effort involved primarily multi-stakeholder consultation for the first two years; an unsuccessful effort by Quebec to focus the effort on explicit allocation of the total burden among provinces; a failed effort to develop a framework agreement in 2000; and then for the next two years was dominated by provincial resistance to Prime Minister Chretien's plans to ratify the Kyoto Protocol, which eventually happened in December, 2002. Alberta had already left the process in the spring of that year, and the October JMM was the last time

ministers met. Whether Alberta left or was pushed by Ottawa depends upon one's interpretation, since by that time the federal government had lost faith in the intergovernmental process and was actively and publicly planning to itself regulate emissions, regardless of provincial actions. During the period 2003 to December, 2005 when it lost a confidence vote in the House of Commons, the Martin government made an attempt to develop co-ordinated policy by combining its own policy with that of willing provinces through a series of bilateral agreements, but without making any real gains (Winfield and Macdonald, 2008). Since taking power in January, 2006, the Harper government has displayed little interest in the issue and none whatsoever in any sort of national approach. To the extent co-ordination has happened at all, it has been among some provinces and US states (Macdonald, forthcoming) plus, of course, the current provincial effort to develop a Canadian Energy Strategy.

*Institutions of the NCCP*

The basic format of intergovernmental committees reporting to joint meetings of environment and energy ministers was carried forward to the 1998-2002 process. To that was added, however a new body, the National Climate Change Secretariat, within which the main body, the National Air Issues Co-ordinating Committee - Climate Change, was co-chaired by David Oulton and John Donner, officials in the federal and Alberta governments. The creation of a new federal-provincial body came out of recognition by all involved, including federal representatives, that provincial trust in the intergovernmental process had been badly damaged by the federal government's Kyoto decision to replace the JMM stabilization position with its own six per cent reduction. It was thought that a new federal-provincial body with more equal representation of the two orders of government would help restore trust; furthermore, federal officials believed that if Alberta, the province with the most at stake in the issue, agreed to national policy measures other provinces would follow (Oulton interview; confidential interviews). This federal-provincial institutional structure, co-chaired by Canada and Alberta and with considerable staffing capacity from seconded officials suffered all the inherent weaknesses of Canadian intergovernmental relations, in particular, the fact governments could quit the process at any time without any serious consequences. Nevertheless, although direct involvement of First Ministers would have helped (Macdonald et al, 2013) it was perhaps as robust as Canadian federalism would allow. We argue the failure of the NCCP was due more to strategic errors than to the basic institutional weakness.

*Interests and strategies of the four main NCCP governments*

In discussing interests of governments as they participate in Canadian intergovernmental relations, we start by borrowing from international relations the distinction between the "enduring interests" of the state (plus in this case subnational government), such as survival and security and which are pursued by all its governments, and the particular interests of the government which happens to be in power during a given IGR process (Kirton, 2007: 17-18). In terms of the first, we assume that the enduring interest of all Canadian federal governments is survival of the Canadian state and that the dominant threat to that survival since the 1960s has been the possibility of Quebec secession. Canadian unity is the dominant goal, one which was reinforced by the near-death experience of the 1995 Quebec referendum. The enduring interest of Canadian provinces, on the other hand, is their economic well-being within the federation, which flows from the differing natures of their economies and means they are engaged in competition for federal policy which aids their particular industrial sectors. To that must be added the

ongoing Quebec interest in maximizing its autonomy within Canada, and to a lesser degree the historical western belief that the cards are stacked against them such that national policy tends to favour the central Canadian industrialized regions, to their detriment. The particular interest of the government in power at any given time is holding on to power - winning the next election. For that, it must show its voters it is doing a good job safe-guarding the jurisdiction's enduring interests, which in the case of provinces often means "standing up to Ottawa." To a lesser degree, the ideological proclivity of the government may influence its objectives as it participates in intergovernmental negotiation of national policy.

Based on these generalized assumptions, we offer this picture of the interests of the four main government actor as they engaged in the NCCP. The federal government was led by the Jean Chretien Liberals, first elected in 1993, re-elected on June 2, 1997 and then, following collapse of the NCCP, led by Paul Martin after Chretien resigned on December 12, 2003. The Martin forces within the Liberal party had been working actively to unseat Chretien for some time before that, and this threat to Chretien's personal power had some influence on Chretien's strategy during the NCCP, particularly toward the end when he knew he was being forced out of power and saw Kyoto ratification as something which would burnish his historical record (Simpson et al, 2007). After the 1995 Quebec referendum, the Chretien government had a strong interest in showing that Canadian federalism could work and provide benefits to participating regions and provinces, something which led it to pursue intergovernmental agreement in the form of the 1998 environmental Harmonization Accord (Winfield and Macdonald, 2008). Presumably that interest also extended to the search for a national climate policy but there it played out very differently, in the first instance due to the high stakes nature of the issue. Secondly, the federal bureaucracy was sharply divided between NRCan, whose mandate led it to support the energy industries and Environment Canada, whose mandate led it to impose costs on those industries. Thirdly, the Prime Minister himself was never fully engaged with the issue. He largely left it to his ministers (meaning he did not try to resolve the conflict between the NRCan and EC ministers) until the December, 1997, Kyoto summit at which point, influenced by US President Bill Clinton (Harrison, 2007) he ignored the position adopted just the month before at the Regina JMM. Having done that damage to provincial trust in the intergovernmental process he acquiesced in the efforts to strengthen the process described above, but then again largely ignored it until, in July, 2001 he re-engaged, announcing his government might well ratify Kyoto, despite clear signs of Alberta resistance.

Thus in summary we can say the federal government had an interest in playing a lead role in development of national climate policy (the exact opposite of the federal role in current efforts to develop national energy policy). However, it did not see national co-ordination as *essential* because it believed there was another means available for achieving the policy objective - direct federal regulation, if necessary using the authority of the Canadian Environmental Protection Act, to reduce GHG emissions. Thirteen years later, that direct regulation has been promised many times but not delivered. Perhaps if the Liberal Party had been in power throughout that time things would be different, but perhaps not - whoever is governing Canada faces the same constraints on unilateral federal policy set out above. Regardless, the fact is that the federal government failed to achieve its objective of co-ordinated policy, as we argue below, because of the strategic error of abandoning the national effort in favour of unilateral action - which in turn stemmed from its only half-hearted interest in playing a national co-ordinating role.

Alberta was the province most actively opposed in public to the federal goal of a national policy. The Ralph Klein Conservative government had been re-elected on March 11, 1997 and was again re-elected on March 12, 2001. Despite periodic talk of the need to diversify the economy, the basic enduring interest of all Alberta governments since the Leduc oil strike of 1947 has been economic prosperity through extraction and export of oil and natural gas. Beyond the way its spending contributes to jobs and economic wealth in the province, the oil industry provides something like forty per cent of Alberta government revenues, meaning it holds significant structural power to influence Alberta policy. The industry is a major source of Canadian greenhouse gas emissions, resulting in a significant difference in per capita emissions between Alberta (in 2008 68.1 tonnes person) and the lowest per-capita emitter, Quebec, which in 2008 generated 10.6 tonnes per person (Macdonald, et al, 2013: 166). If all provinces reduced by the same per-capita amount as part of a national program the reduction, and associated costs, in Alberta would be some six times greater than in Quebec.

Modelling generated in November, 2002, by the Analysis and Modelling Group, one component of the NCCP gave this picture of the differing impact on provincial economies of policy options being considered at the time (AMG, 2002: 61).

> Ontario is somewhat more vulnerable than Quebec, owing to the positive effects of Quebec`s hydro electricity generation. The impact on Ontario is due to its trade-sensitive manufacturing industries. Saskatchewan and Alberta are most affected in the long term because of the dominance of resource-based industries in those provinces.

Presumably because it was most threatened, Alberta was more fully engaged with the NCCP than any other province. As well as co-chairing, Alberta contributing more seconded staff than any other province (Oulton, 2010). As discussed below, in the spring of 2002 Alberta presented its own proposed national policy. At the same time, it was developing an independent Alberta climate policy, which it proceeded to implement after it withdrew from its position of NCCP co-chair on May 21, 2002. In summary, the Alberta interest was to protect its economic position which led it first to participate fully in the national effort, presumably to blunt its impact on the province, and to then, like the federal government, abandon it in favour of its own unilateral policy.

The Ontario government also saw its economic interest as being threatened by effective national climate change policy. The Mike Harris Progress Conservative government, which had replaced the NDP Rae government in 1995, was re-elected on June 3, 1999. Harris resigned as Premier on April 13, 2002, to be replaced by his Finance Minister, Ernie Eves who then lost power to the McGuinty Liberals in the election held October 2, 2003. Thus, beyond enduring economic interest, Ontario was governed by a right-wing government with a neo-liberal ideology closely aligned with that of the Alberta Klein government and very different from that of previous Ontario Progress Conservative governments, such as that of Bill Davis. Presumably because the economic threat was less, Ontario was not motivated in the way Alberta was to play a lead role in the national process. One government official who participated in the NCCP described that process as the main highway, with Ontario driving in the same direction, but by itself, on a the accompanying service road (confidential interview). Despite this disengagement, as discussed below Ontario certainly had a hand in the failure of the NCCP.

Quebec during this period was led by a PQ, separatist government, first under Premier Lucien Bouchard who was then replaced by Bernard Landry in March, 2001. Landry then ruled until losing power to Jean Charest's Liberal party in the election of April 14, 2003. Despite its separatism agenda, the Quebec government participated throughout and was clearly the Canadian government most in favour of effective action. It had not participated directly in the 1995 program, but implemented its own ÉcoGESte program which was essentially the same as the VCR. Although there is no evidence the Quebec government was directly motivated by it, the fact remains that a carbon-constrained North America provides increased opportunity for Quebec to benefit from hydro-electricity exports to neighbouring jurisdictions in Canada and the US. At the same time the aluminium industry, central to the Quebec economy and a major source of emissions had managed to significantly reduce its emissions as part of manufacturing process changes driven by the search for increased efficiency and profitability. It thus had a basic economic interest exactly the opposite of Alberta, which helps explain the fact that in April, 2001 the Quebec National Assembly passed a resolution calling upon the federal government to ratify Kyoto. During the intergovernmental process, Quebec pursued two objectives. The first was to gain credit for early action, in the form of its investments dating back to the 1970s in hydro-electricity generation. The second was to avoid what it feared would be a national program which gave Alberta a sweet-heart deal, forcing greater cuts in Quebec. Presumably for both reasons it was the one province consistently calling for agreement on burden sharing among the Canadian provinces, as had been done by the European Union. Despite having endorsed the principle that no region would be asked to bear an undue portion of the total reduction cost, the federal government and other provinces consistently opposed explicit allocation of the total reduction among provinces. We argue this was another strategic error which helps explain failure of the NCCP.

*The main turning points in the intergovernmental process*

The renewed intergovernmental climate process had its origins in a previously scheduled First Ministers Conference on December 11-12, 1997, which by coincidence occurred immediately after the Kyoto summit. Premier Klein of Alberta had publicly voiced his strong opposition to the Kyoto commitment, while Premiers Filmon of Manitoba expressed concern over the impact on federal-provincial relations, as did then opposition leader Jean Charest, saying (Greenspon, 1997): “I can't see how they will make this agreement happen without the active engagement of provincial governments, but now they've irritated them to the point where it's going to be very difficult." Presumably to placate that provincial opposition, Prime Minister Chretien agreed with the premiers on the principle that region would bear an undue portion of the cost; that costs and benefits of implementation would be studied before a final decision on ratification of the Kyoto commitment was made; and, as discussed above, that the intergovernmental process would be revamped so as to be a more equal partnership between the provinces and federal government (Harrison, 2007). Some of those formerly involved with the NCCP believe Chretien also gave a commitment his government would not ratify Kyoto unless the US had previously done so, while others believe no such commitment was given (Macdonald et al, 2013: 52). Simpson et al (2007, 61) say the Prime Minister at the meeting was "musing aloud about other treaties that had not been ratified."

Two problems which were to plague the NCCP throughout also had their origins in this launch of the new intergovernmental process. First, there was no agreement on the objective. Some, such as Alberta and the federal department NRCan, believed the objective was to do studies to determine *whether* Canada could ratify. Others, most notably officials in Environment Canada believed the objective was to determine *how* Canada could best implement Kyoto after ratification (Macdonald et al, 2013). The former view implicitly gave provinces a voice in the ratification decision. The latter view implicitly said that decision had already been made - without provincial participation. The other problem was that Alberta officials did not feel their province was bound by the Kyoto commitment. Since the federal government had adopted the 6% reduction target by itself, it was up the federal government, not Alberta, to meet it (Macdonald, et al, 2013).

The federal budget of February, 1998, provided $150 million over three years for the planning process. At the JMM on April 23-24, 1998, ministers created the national process, co-chaired by Alberta and Canada, established a number of federal-provincial working groups and also launched a major multi-stakeholder consultation by means of sixteen "issue tables" to examine different aspects of climate policy. The Halifax JMM of October 19-20, 1998 noted progress but made no further decisions. On March 25, 1999, Quebec Environment Minister Paul Beguin publicly called for distribution of the total Canadian emissions reduction on a territorial basis and pointed to the fact per capita emissions were six times higher in Alberta than in his province (Ministre du Développement durable, 1999). At the March 27-28, 2000, Vancouver JMM, the Quebec Environment Minister then staged a dramatic walk-out, saying he could no longer participate in an effort which was failing on two counts - because it refused "to enter into talks for equitable sharing of the 6% GHG emissions reduction effort required"; and because it refused to recognize reductions previously achieved by Quebec through hydro-electricity construction (Québec, 2000). Foreshadowing the move to unilateral, uncoordinated action following the 2002 collapse of the NCCP, the Minister said Quebec "intends to implement its own action plan within its own territory and scope as soon as possible" (Québec, 2000). In order to bring Quebec back into the process, the JMM at the October 16-17, 2000 meeting created the Emissions Allocation and Burden Sharing Working Group. This federal-provincial body studied the issue of territorial allocation, but had not yet reported by the time the JMM process ended with its last meeting in October, 2002.

At the March 27-28 meeting, ministers also agreed they would develop a "short high level framework agreement that formalizes the nature of the partnership in responding to climate change" (National Briefing Note, 2000). Although not an agreement on substance, such a formalization and institutionalization of the national policy process would have helped. Gattinger (2013, 15) recommends the current energy process start by entering into a framework agreement "along the lines of the Social Union Framework Agreement... [which] would have the advantage of beginning where it matters most: developing the norm of collaboration."

During the summer of 2000, federal and provincial officials reached agreement on wording of the framework agreement and expected that it would be approved by ministers at the October 16-17 meeting. That did not happen, however, due to last-minute objections by Ontario which surprised even the Ontario officials (Macdonald et al, 2013: 53) and the framework agreement was never signed at subsequent meetings of ministers. Why did Ontario do this?

Earlier in the year, at the time of the March 27-28 JMM, a newspaper reported stated that both business officials and environmentalists were coming to see Ontario opposition as the greatest challenge to federal-provincial action (Mickleburgh, 2000). Another press report in April, 2000 also identified the Ontario energy and environment ministers as those most opposed to action in closed-door discussions (Duffy, 2000). Having blocked the framework agreement, Ontario then refused to sign the final meeting communiqué, on the hypocritical grounds that it was not sufficiently effective (Rhéal, 2000). Federal Environment Minister David Anderson said (quoted in MacKinnon, 2000): "Canada's plan is not together yet because Ontario is the missing piece and Ontario is a very big piece."

At that same meeting, the federal and provincial ministers, without endorsement from Ontario, publicly released their second national plan (after the 1995 NAPCC), the National Implementation Strategy and Business Plan. The plan was essentially a shopping list of actions different governments had themselves agreed to, but was not a coherent plan with clear indications of how co-ordinated action would achieve the 6% reduction goal. The federal government also provided its own plan for federal actions which were intended to achieve a 65 megatonne reduction, about one-third of the total required (Simpson et al, 2007: 62). The weakness of both efforts seems to have flowed from previous discord in the intergovernmental process.

The next turning point was the decision of US President George W. Bush in March 2001 to withdraw from the Kyoto process, significantly increasing the competitive burden which Canadian ratification would impose upon industry in this country now that their major export destination was not bound by the same rules. Although Canadian climate policy had always been closely aligned with that of the US, the Chretien government in this instance did not follow suit. US withdrawal increased Canadian ability to convince other Kyoto party states it should be given credit for carbon sinks (thus reducing the reductions needed to meet the 6% reduction goal) since without US involvement Canadian participation was more important for meeting the Kyoto benchmark of ratification by countries representing 55% of global emissions coming into legal force. Agreement that Canada could count sinks in its reduction effort was reached at the July 24, 2001 Bonn Conference of Parties, setting the stage for the final Canada-Alberta showdown. The Prime Minister for the first time indicated he was leaning toward ratification: his website stated that the decision "open[s] the way for its ratification by Canada in 2002 (Macdonald, 2003)." The Alberta Environment Minister said of ratification (MacKinnon, 2001): “it would shut our economy down. It would destroy, not only the Alberta economy, but the Canadian economy.”

During the remainder of 2001 and early months of 2002, only Quebec and Manitoba supported ratification, with Quebec continuing to press for territorial allocation of reductions and publicly sparring with Alberta over the costs to be borne by both provinces. The federal government was by then moving toward both ratification and reliance upon its own unilateral policy making rather than participation in the federal-provincial process, since Environment Minister Anderson and officials in Environment Canada were losing faith in the possibility of federal-provincial agreement (Anderson, 2008). In May, 2002 the Government of Canada released a discussion paper setting out options for unilateral federal regulation. At the same time, Alberta proposed a national program which did not include ratification and was closely modelled on US current policy. When the other provinces refused to discuss that plan at the May 21, 2002

JMM Alberta withdrew from the national process. An Alberta official has said in a confidential interview that the province had no choice but to withdraw once it became clear the federal government had moved from the position of jointly investigating whether the 6% reduction target was feasible, to one of unilateral ratification. At the Johannesburg Sustainability Summit, Prime Minister Chretien announced his government would ratify. In fall, 2002, all Canadian provinces, including Quebec, demanded discussion at a first ministers meeting before ratification. The federal government refused this and instead negotiated a separate agreement with the oil industry to put a cap on its costs and thus blunt its opposition and then passed the ratification vote in the House of Commons on December 10, 2002, followed by formal ratification at the UN on December 17.

*Why did the NCCP fail?*

The first and obvious explanation for the failure of the NCCP is that the institutions of Canadian intergovernmental relations were too weak and the cost differences which had to be bridged too large. While true, that is not a complete explanation and nor is it helpful, given that both factors still hold true today and cannot be readily changed. Accordingly, we look for further explanation in the strategies used by the four governments. There the major explanation is found in decisions made by the federal government: 1) it damaged provincial trust in the national process by setting aside the federal-provincial agreement reached prior to the Kyoto summit and instead unilaterally agreeing to the 6% reduction; 2) it refused to seriously consider the Quebec call for explicit allocation of the reduction effort among provinces or to examine ways in which federal spending on such things as labour retraining programs might help make that allocation more equitable (Macdonald et al, 2013); and, 3) most seriously, in 2002 it knowingly torpedoed the national process by refusing provincial demands for a First Ministers meeting and instead ratifying Kyoto in the face of united provincial resistance.

The other government which might have done things differently is Ontario. Alberta was consistently opposed, but seems to have negotiated in good faith until it decided the cost of doing was too great. Ontario, on the other hand, said less publicly but did more damage behind the scenes, particularly with the last-minute sabotage of the already-agreed to framework agreement in October, 2000. Finally, all governments except Quebec made a mistake when they refused to publicly and explicitly address the central question of what national action would cost each province and how that cost might be equitably shared. Since the issue was never explicitly addressed, there was never any chance of brokering a cost-sharing deal, including both federal spending and differing provincial targets.

In summary, we argue two factors, aside from the inherent problem of institutional weakness, explain the failure. The first is the federal government lack of commitment to developing national policy. It has powers not available to any province to induce co-operation. The threat of regulation can motivate provincial action, as it did with the Alberta climate legislation, and it can use spending powers to make the cost more equitable. The Chretien government, however, never seriously considered use of either instruments. Secondly, despite Quebec efforts, the process never addressed the central issue - the fact that national climate policy imposes much greater costs on some provinces than others.

Conclusion

Following from that finding, we suggest the current effort by provinces to develop a Canadian Energy Strategy is likely to fail for both reasons. The federal government is not involved and nor yet is it explicitly considering the distribute effects of any national energy policy. Macdonald and Lesch (2013) argue that the current national energy effort is inherently redistributive for these reasons: (1) since Alberta is the prime mover, it necessarily involves the disparities in wealth between Alberta and other regions; (2) a strategy, by definition, involves picking winners and losers, which means any co-ordinated policy will aid some energy sectors (and thus regions) more than others; (3) it inherently involves the same issue which bedevilled the NCCP, that GHG reduction will impose higher costs on some sectors and regions than others; and, (4) as vividly illustrated by both Northern Gateway and the Lac Mégantic disaster, energy transport across the country gives financial benefit to some and risk to others. This basic political problem of the need to reach agreement on distribution of costs and benefits was recognized by the early non-state actors at the Winnipeg and Banff meetings, but has been absent from government texts generated as part of the process. Those focus only on the benefits of co-ordination and say nothing about the distributive challenges. As a result, it is likely the provinces will announce a partial agreement which includes only some governments and some energy sectors, while avoiding the tough issues of wealth redistribution.

We argue here that climate and energy policy must be considered together and that policy goals can only be achieved by a national intergovernmental process involving both levels of government. As both Gattinger (2013) and Macdonald et al (2013) argue, strengthening the national policy making arena by means of formal intergovernmental agreements is a necessary first step. After that, all governments must admit to themselves and their electorates that they are engaged in a distributive exercise. Only by doing that can they take steps to make the distribution as equitable, and therefore politically acceptable, as possible.

Works cited

Anderson, David, former federal Minister of the Environment (Feb. 7, 2008). Personal communication with Douglas Macdonald.

AMG, Analysis and Modelling Group (November, 2000). An Assessment of the Economic Implications for Canada of the Kyoto Protocol. Report submitted to the NCCP.

Bakvis, Herman, Gerald Baier and Douglas Brown (2009). Contested Federalism: Certainty and Ambiguity in the Canadian Federation. Don Mills: Oxford University Press.

Bakvis, Herman and Grace Skogstad (2012). "Canadian Federalism: Performance, Effectiveness and Legitimacy." In Bakvis and Skogstad eds. Canadian Federalism: Performance, Effectiveness and Legitimacy. In Herman Bakvis and Grace Skogstad, eds. Canadian Federalism: Performance, Effectiveness and Legitimacy. Don Mills: Oxford University Press.

Canada. National Round Table on the Environment and the Economy (2012). Reality Check: The State of Climate Progress in Canada.

Council of the Federation (August, 2007). A Shared Vision for Energy in Canada.

Duffy, Andrew (April 3, 2000). "Ministers back away from taking action to reduce emissions: Documents leaked: Ontario opposes specific measures on climate strategy." The National Post. Ecofiscal Commission (2015).

Gattinger, Monica (2013). "A National Energy Strategy for Canada: Golden Age or Golden Cage of Energy Federalism." Paper presented at annual conference of the Canadian Political Science Association.

Gibbons, Roger (2007). Getting it Right: A Canadian Energy Strategy for a Carbon-Constrained Future. Calgary: Canada West Foundation.

Greenspon, Edward (December 12, 1997). "Provinces let down at Kyoto, Klein says." The Globe and Mail.

Harrison, Kathryn (1996). Passing the Buck: Federalism and Canadian Environmental Policy. Vancouver: UBC Press.

- (2002). "Federal-Provincial Relations and the Environment: Unilateralism, Collaboration, and Rationalization. In Debora L. VanNijnatten and Robert Boardman, eds. Canadian Environmental Policy: Context and Cases. Don Mills: Oxford University Press.

- (2007). "The Road not Taken: Climate Change Policy in Canada and the United States." Global Environmental Politics, 7, 4, pp 92-117.

Hoberg, George and James Meadowcroft (2015). "Climate Action: Carbon Pricing is an essential first step." A\J Alternatives Journal, 41, 1, pp. 59-60.

Hoberg, George, Andrea Rivers, Geoff Salomons (2012). “Comparative Pipeline Politics: Oil Sands Pipeline Controversies in Canada and the United States.” Paper for American Political Science Association meeting, August 30-Sept. 2, 2012.

Kirton, John (2007). Canadian Foreign Policy in a Changing World. Toronto: Thomson Nelson.

Knox, Paul (November 13, 1998). "No Clear Message from Summit on Global Warming." The Globe and Mail.

Macdonald, Douglas (forthcoming). "Climate Change Policy." In Debora L. VanNijnatten, ed. Canadian Environmental Policy and Politics. fourth edition. Don Mills: Oxford University Press.

Macdonald, Douglas (2014). "Allocating greenhouse gas emission reductions amongst sectors and jurisdictions in federated systems: the European Union, Germany and Canada." In Inger Weibust and James Meadowcroft, eds. Multilevel Environmental Governance: Managing Water and Climate Change in Europe and North America. Cheltenham, UK: Edward Elgar, 2014.

- (2003). "The business campaign to prevent Kyoto ratification." Paper presented at the annual conference of the Canadian Political Science Association, Halifax, May 5, 2003.

Macdonald, Douglas, Jochen Monstadt, Kristine Kern, David Gordon, Asya Bidordinova, Anders Hayden, Stefan Scheiner, Alexey Pristupa (2013). Allocating Canadian greenhouse gas emission reductions amongst sources and provinces: learning from the European Union, Australia and Germany. SSHRC-funded report. http://www.environment.utoronto.ca/AllocatingGHGReductions2013/docs/AllocatingGHGReductions2013.pdf

Macdonald, Douglas and Matthew Lesch (2013). "Competing Visions and Inequitable Costs: the National Energy Strategy and Regional Distributive Conflicts." Journal of Environmental Law and Practice, vol. 25, 2013

MacKinnon, Mark (October 18, 2000). "Ontario May Doom Climate Change Deal." The Globe and Mail.

- (July 20, 2001). "Kyoto Pact Would Destroy Economy, Alberta Says." The Globe and Mail.

McCarthy, Shawn (July 10, 2011). "National Energy Strategy Gains Clout." The Globe and Mail.

McColl, Velma (June-July, 2013). "Custom-Built by Provinces: Creating a Flexible Canadian Energy Strategy." Policy Magazine

Mickleburgh, Rod (March 27, 2000). "Ontario's Emissions an Issue as Ministers Meet in Vancouver." The Globe and Mail.

Ministre du Développement durable, de l'Environnement, de la Faune et des Parcs. "Communiqués de presse Mars 25, 1999". http://www.mddefp.gouv.qc.ca/communiques/1999/c990325c.htm

National Briefing Note: Federal-Provincial-Territorial Framework Agreement on Climate Change; JMM October 16-17, 2000 Agenda Item 5.

Oulton, David, former co-chair National Climate Change Secretariat, personal communication , November 16, 2010.

Québec Communiqué (March 28, 2000). "Quebec totally dissatisfied with the proposed Canadian strategy."

Rhéal, Segun (October 17, 2000). "Ontario Calls for Emission Standards." The Globe and Mail.

Skogstad, Grace (1996). "Intergovernmental Relations and the Politics of Environmental Protection in Canada." In Kenneth M. Holland, F.L. Morton and Brian Galligan, eds. Federalism and the Environment. Westport, Conn.: Greenwood Press.

Skogstad, Grace and Herman Bakvis (2012). "Conclusion: Taking Stock of Canadian Federalism." In Herman Bakvis and Grace Skogstad, eds. Canadian Federalism: Performance, Effectiveness and Legitimacy. Don Mills: Oxford University Press.

Winfield, Mark and Douglas Macdonald (2008). “The Harmonization Accord and Climate Change Policy: Two Case Studies in Federal-Provincial Environmental Policy.” In Grace Skogstad and Herman Bakvis, eds, Canadian Federalism, second edition, Don Mills: Oxford University Press.