BURNING MONEY TO SAVE THE ENVIRONMENT: AN INTEREST-BASED ANALYSIS OF CANADA'S IMPLEMENTATION PLAN FOR THE KYOTO PROTOCOL

by

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Abstract:

On December 17th 2002, Canada ratified the Kyoto Protocol to the United Nations Framework Convention on Climate Change. This binding international agreement committed Canada to reducing its greenhouse gas (GHG) emissions by 6% below 1990 levels between 2008-2012.

Following Canada's ratification, a struggle ensued between various interest groups over how best to achieve the reductions mandated by the Protocol. The federal government engaged in a broad consultative process with all concerned interests which ended in the release of "Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment" in April of 2005. This 48-page policy document describes in detail Canada's implementation strategy and forms the basis of analysis for this thesis. The plan outlined in "Moving Forward" is heavily reliant on government expenditure while relatively sparse on direct regulatory measures. This thesis will attempt to explain why the government chose to focus on indirect measures like expenditure, to the exclusion of more direct initiatives such as regulation.

It will do so by conducting an interest-based analysis of the forces which helped structure the government's implementation plan. It will theorize the consultative process as a "bargaining game" wherein the four main actors (the federal government, the business community, the Government of Alberta, and the ENGO community) each acted upon a list of prioritized interests to achieve an optimal policy outcome.

It will conclude that the business community and the Government of Alberta were successful in their bid to move the government away from a more coercive regulatory plan. They succeeded largely because their efforts to create dissent over the economic ramifications of a coercive regulatory scheme presented a credible threat to the government's future electoral prospects. In addition to this, ENGOs and environmentally-minded government officials did not possess the broad public support necessary to push for a more aggressive approach. The result is an implementation plan that distributes the costs of GHG reductions across the broader Canadian public instead of concentrating them on the most polluting industries.

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List of Acronyms:

BAU	Business-as-usual
CCRES	Canadian Coalition for Responsible Environmental Solutions
CDM	Clean Development Mechanism
CEPA	Canadian Environmental Protection Act (1988, 1999)
CRIC	Centre for Research and Information on Canada
ENGO	Environmental Non-Governmental Organization
ERU	Emission Reduction Unit
ETS	Emission Trading Scheme
GDP	Gross Domestic Product
GHG	Greenhouse Gas
HFC	Hydrofluorocarbon
LFE	Large Final Emitter
LULUCF	Land use, land-use change and forestry
MOP	Meeting of Parties (to the Kyoto Protocol)
MOU	Memorandum of Understanding
Mt	Mega-tonnes
NAP	National Allocation Plan
OECD	Organization for Economic Cooperation and Development
PFC	Perfluorocarbon
POGG	Peace, Order, and Good Governance
UNFCCC	United Nations Framework Convention on Climate Change
VCR	Voluntary Challenge and Registry Program

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Chapter 1: Introduction

In 1988 politicians, scientists, and activists from all over the world gathered in Toronto to address the new and pressing issue of climate change. The conference, titled "The Changing Atmosphere: Implications for Global Security," aimed to determine whether the Earth was gradually becoming warmer as a result of human activity. The theory behind this claim was that certain gases[1] created by humans through industrial manufacturing and energy production were lingering in the atmosphere allowing solar energy to enter but not to escape. Nineteenth-century scientist Jean Fourier first coined the term "greenhouse effect" after likening our atmosphere to the glass in a greenhouse; thus the gases trapping heat in our atmosphere became known as "greenhouse gases" (GHGs).[2] Since the Industrial Revolution, concentrations of carbon dioxide in our atmosphere have increased by 30% and methane and nitrous oxide by 150%.[3] This has effectively increased the thickness of the glass on our metaphorical greenhouse, resulting in a warmer planet. An increased global temperature could result in more extreme weather patterns, a greater number of airborne and water-borne pathogens, and potentially devastating food and fresh water shortages.[4] After hearing this startling evidence, the attendees of the Toronto Conference issued the following consensus

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[1] Human produced greenhouse gases include: carbon dioxide ($C0_2$), methane (CH_4), nitrous oxide (N_20), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6).

[2] Energy Information Administration. "The Greenhouse Effect and Greenhouse Gases: An Overview," *United States Department of Energy* (17 July 2002) (11 October 2005) http://www.eia.doe.gov/cneaf/alternate/page/environment/chap2.html

[3] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment* (Ottawa: Government of Canada, 2005), 4.

[4] Pachauri, R. K. "It's here. If we don't react, war, pestilence and famine will follow close behind, says R. K. Pachauri," *New Scientist* (17 September 2005), 39.

statement: "Humanity is conducting an unintended, uncontrolled, globally pervasive experiment, whose ultimate consequences could be second only to global nuclear war."[5]

Since 1988, the global community has moved to address the problem of climate change through a number of conferences and treaties, the most prominent of these being the Kyoto Protocol (1997). Kyoto is the only international climate change agreement that sets legally binding emissions targets for its signatories. In Canada's case, that target is a 6% reduction in GHG emissions below a 1990 baseline between the years 2008-2012. This presents a significant obstacle to Canada since national GHG emissions have grown by 24% since 1990.[6] While environmental groups across Canada applauded the government's decision to bind itself to climate change mitigation, critics worried that the government had no plan for implementing the Kyoto Protocol.

After years of nervous anticipation by business and environmental groups alike, the federal government released "Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment" in April of 2005. This publication outlines the government's strategy for implementing the Kyoto Protocol and explains how it will reduce GHG emissions by 270 Mega-tonnes (Mt) a year by 2008. Much to the chagrin of some environmentalists (and the delight of some businessmen) the key instrument in the government's war on climate change is not regulation, but public expenditure. To be more precise, the government plans to spend $10 billion dollars on climate change programs between now and 2012. This money will be invested in a combination of

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[5] Consensus statement of "The Changing Atmosphere: Implications for Global Security" Conference held in Toronto in 1988.

[6] The Pembina Institute. "Misdirected spending: Groups demand investigation into billions in federal subsidies to Canada's booming oil and gas industry," *The Pembina Institute – Energy Watch* (3 October 2005) (17 November 2005) http://www.pembina.org/newsitem.asp?newsid=154&section=

business subsidies designed to encourage voluntary compliance, public works projects, and international emissions credits.

While this massive investment showed that the government is prepared to take the issue of climate change seriously, it nonetheless puzzled some environmental groups and skeptical citizens. The drawback to spending programs is that they provide no assurance of compliance; thus it is entirely possible that Canada could expend billions of tax dollars and still fall short of its Kyoto target. Enforceable regulations, on the other hand, do a better job of ensuring compliance, impose costs on the worst offenders, and are considerably less costly to the average Canadian taxpayer. The question one must ask then, is why the government would choose an indirect and uncertain expenditure-based program over a more direct and less-costly regulation-based program?

The answer lies in the negotiating process that preceded the announcement of the government's implementation scheme. During that process, certain powerful interests, namely the Canadian business community and the Government of Alberta, managed to steer the government away from a regulatory approach and towards a less aggressive, incentive-based strategy. While there are parts of government who doubtless would have preferred to impose a solution that adheres more firmly to the "polluter-pays" principle, the resistance from business and Alberta was too strong and the support from the Canadian public too weak to pursue a more aggressive implementation scheme. As Thomas P. Lyon writes: "government-sponsored voluntary programs are best understood as weak instruments adopted when political resistance blocks the implementation of more powerful mandatory controls."[7]

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[7] Lyon, Thomas P. "Voluntary versus Mandatory Approaches To Climate Change Mitigation," *Resources for the Future - Issue Brief 03-01* (February 2003), 2.

This thesis will attempt to explain why Canada ended up with a voluntary, incentive-based implementation program. It will do so by examining the actors and interests involved in the Kyoto implementation "bargaining game" (meaning the lobbying of government during the crafting of an implementation plan) and determining why certain actors and interests were successful while others were not. Chapter 2 will begin by providing a summary of Canada's political actions thus far and an overview of the country's plan to implement Kyoto. Chapter 3 will define the theoretical framework that will guide the rest of the paper. Chapters 4 through 7 will offer a profile of the four main actors in the implementation bargaining game (the federal government, the business community, the Government of Alberta, and the ENGO community) detailing their interests and strategies as they pertain to Kyoto. Chapter 8 will evaluate how the actors' various strategies played off of each other to produce the end policy result, and Chapter 9 will offer some concluding remarks and predictions for the future. On the whole, this paper does not aim not to condemn the government's actions in crafting the implementation scheme that it did, rather it simply seeks to understand the forces behind environmental policymaking in Canada and to understand why certain policies invariably end up weaker than others.

Chapter 2 - Background:

Before examining the specifics of Kyoto implementation in Canada, it is first necessary to have a solid understanding of the larger context under which the program was formed. This chapter will begin by examining the threat that climate change poses to Canada which is a necessary step in understanding the political actions that have been taken to address the problem. It will then look at the history of climate change policy in Canada to gain a sense of the evolving norms surrounding climate change and how they have changed since the issue first came to the fore. Later it will move to an in-depth analysis of the Kyoto Protocol itself to give the reader a firm grounding in the specifics of the agreement. A firm grasp of the instruments and mechanisms employed by the Protocol will be critical to understanding the decisions made by the Canadian government both before and after ratification Lastly, it will provide a summary of "Moving Forward on Climate Change," the central policy document which will form the basis of analysis for the remainder of this thesis.

2.1 Climate Change in Canada:

There are any number of moral and humanitarian reasons for Canada to take action on climate change, however the most powerful rationale remains the economic imperative. In its publication "Moving Forward on Climate Change" the government acknowledges that: "More than half of Canada's GDP is substantially affected by climate and weather, including forestry, agriculture, fishing, hydro-electricity generation, transportation and tourism."[8] Any substantive change in climate or weather patterns would hit these industries where it hurts, in the pocketbook, which could have

[8] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 34.

repercussive effects across the economy as a whole. The government has already witnessed the potentially devastating effects that severe weather can have on our economy. It was saddled with hefty bills following the Ontario/Quebec ice storm of 1998, the British Columbia forest fire epidemic of 2003, and the prairie drought of 2004. While none of these events can be directly attributed to human-induced climate change, the prospect of similar events occurring with greater frequency should provide a rationale for immediate action.

Indirectly, climate change causes added stress to our healthcare system by diminishing air quality and increasing respiratory problems. A recent study conducted at McMaster University found a direct correlation between air pollution levels and healthcare expenditures.[9] A polluted atmosphere will also make it more difficult to attract business and investment to Canada. In "Moving Forward on Climate Change," the government writes: "International firms choosing to locate in Canada routinely cite quality of life for their employees as a key consideration in selecting a location for investment."[10] This is an advantage that Canada could lose if climate change is allowed to continue unabated.

2.2 Why Kyoto?

The Canadian government has always been an ardent supporter of the Kyoto Protocol, even if there has been a significant amount of domestic dissent on its decision. Much of that dissent has come from the business community, which has argued that

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[9] McMaster Office of Public Relations. "Better environmental protection means lower health care costs: McMaster study," *McMaster University* (11 July 2003) (12 October 2005) http://www.mcmaster.ca/ua/opr/nms/newsreleases/2003/jerrett.html.

[10] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 6.

Canada's target is unreachable without risking the health and vitality of our economy.[11] However if one examines Canada's pre-Kyoto attempts to address climate change, one would find that our emissions target has been drastically moderated since the beginning of the debate. At the Toronto Conference in 1988, Canada agreed to a non-binding goal of 20% below 1988 levels by the year 2005. Later, Lucien Bouchard, the Environment Minister under the Mulroney government, announced a less drastic plan which called for an emissions freeze at 1990 levels through the year 2000.[12] However when the Liberals came into power with Paul Martin as environment critic, it looked as if the government would indeed attempt to meet the Toronto target; it was even announced as part of the Liberals' Red Book in 1993. Since that time however Canada's target has become progressively less ambitious as a result of international pressures and a vocal Albertan government. The Kyoto Protocol, with its reasonable 6% target, is truly the lowest the government can aim while still claiming to make a substantive contribution to the global struggle against climate change.

Canada's participation in the Kyoto Protocol can also be viewed as a means of saving face in the international community. Canada was, after all, one of the most vocal proponents of the UNFCCC when it came into power; if it should shirk its responsibility to cut emissions now (when the economy happens to be performing well) it would be tantamount to an act of hypocrisy in the eyes of the international community. It would also put Canada in the same boat as the United States, who are currently being ostracized in every global forum for, amongst other things, their refusal to ratify the Kyoto Protocol.

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[11] See for example Canadian Manufacturers and Exporters. *Pain Without Gain: Canada and the Kyoto Protocol* (Ottawa: Canadian Manufacturers and Exporters, 2004).

[12] May, Elizabeth E. "The Kyoto Debate: Separating rhetoric from reality," *The Sierra Club of Canada* (1 December 2002) (21 September 2005) http://www.sierraclub.ca/national/programs/atmosphere-energy/climate-change/kyoto-debate-12-2002.html

This is not a risk that Canada can afford to take, particularly since Montreal will play host to the first annual Meeting of the Parties (MOP 1) in November and December of 2005.[13] Canada has put substantial effort into negotiating flexibility mechanisms that allow it a better chance of meeting its target and a refusal to ratify would mean that Canada unnecessarily delayed the negotiation process.

Lastly, as it currently stands, Kyoto is the only cohesive global strategy for dealing with climate change. Aside from pursuing a unilateral reduction scheme (like the United States), Canada really has no other options. This fact is acknowledged in "Moving Forward on Climate Change," where the government writes that participation in Kyoto is necessary since it is: "the only internationally agreed mechanism for reducing GHG emissions."[14]

2.3 The Kyoto Protocol:

The Kyoto Protocol and its parent Convention have been described as: "the most complex and ambitious agreements on environment and sustainable development ever adopted."[15] Indeed, the amendments and targets proposed by the Kyoto Protocol are so extensive that they required the signatories of the UNFCCC to ratify the extension separately. Furthermore, it was agreed that the Kyoto Protocol would only enter into force once 55 countries representing 55% of global GHG emissions had ratified it. For a while, the very existence of the Protocol appeared doomed as the United States (under the Bush administration) announced that it would not ratify. With the USA accounting for

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[13] United Nations Climate Change Conference Nov. 28-Dec. 9. Government of Canada. "Montreal 2005 - United Nations Climate Change Conference," *ClimateChange.gc.ca* (11 October 2005) (12 October 2005) http://www.montreal2005.gc.ca/default.asp?lang=En&n=1FD656DB.

[14] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 7.

[15] United Nations Environment Program. *Climate Change Information Kit* (Chatelaine, Switzerland: UNEP and UNFCCC, 2002), Foreword.

25% of global GHG emissions[16], it fell on the Russian Federation to ratify the Protocol and push it over the necessary 55% emissions target. The Russians ratified Kyoto on the 18th of November 2004 and the agreement went into force on the 16th of February 2005.

The main provision of the Kyoto Protocol is a commitment by Annex I countries (members of the OECD and the Central and Eastern European states) to reduce GHG emissions between 2008 and 2012 to a level roughly 5.2% below 1990 levels. Emissions targets vary from country to country, with Canada's target floating above the average at 6% by 2012.[17] In addition to this, Annex II countries (members of the OECD) agree to fund the cataloguing of GHG emitters in developing countries as well as transfer environmentally friendly technology to non-Annex I countries. In this way, the bulk of the costs of the Kyoto Protocol are borne by the developed countries, which is justifiable since they carry the lion's share of emissions. Reductions can be achieved through improvements in energy efficiency (since the majority of GHG emissions come from industries that rely on coal and fossil fuels for energy) as well as land use, land-use change and forestry (LULUCF) interventions. A country can receive emission reduction credits if it can demonstrate that it is improving the capacity of its carbon sinks through better forestry or agricultural practices.

Kyoto specifies three additional tools that countries can use to meet their emissions targets. The Clean Development Mechanism (CDM) allows Annex I countries to fund sustainable development projects in developing countries (in addition to their Annex II commitment) and use any verifiable emissions reductions towards their own

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[16] Energy Information Administration. "Greenhouse Gases, Climate Change, and Energy," *United States Department of Energy* (2 April 2004) (22 September 2005) http://www.eia.doe.gov/oiaf/1605/ggccebro/chapter1.html.

[17] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, (7).

emissions targets.[18] The Joint Implementation scheme allows Annex I countries to implement projects that reduce emissions in another Annex I country and count any emission reduction units (ERUs) acquired towards their own target.[19] And finally the emissions trading mechanism allows Annex I countries to purchase or sell emissions credits from other Annex 1 countries in order to meet their target. The idea behind this principle is that it assigns a dollar value to units of carbon thereby creating an economic incentive to reduce emissions beyond the levels required under the Protocol.[20] By harnessing market forces, the drafters of the Protocol hoped to create an economic as well as a legal imperative for compliance.

2.4 Canada's Implementation Strategy:

Ratifying the Kyoto Protocol was only the first step in the government's plan to fight climate change, the details of how the government would actually fulfill its international commitment were announced in April of 2005 with the release of "Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment." This 48-page publication outlines, in some detail, the government's proposed implementation scheme for the Kyoto Protocol. It will serve as the central point of both criticism and examination in this thesis; as such, some space will be devoted to summarizing and explaining the policy instruments described in its pages.

The Plan begins by outlining the six key elements it will focus on to achieve its goal; they are: competitive and sustainable industries for the 21st century, harnessing market forces, partnership among Canada's governments, engaged citizens, sustainable

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[18] For further information see UNFCCC. *Kyoto Protocol to the United Nations Framework Convention on Climate Change* (Kyoto: United Nations, 1997), Article 12, 12.
[19] UNFCCC, Article 3, 3-4.
[20] UNFCCC, Article 17, 16.

agriculture and forest sectors, and sustainable cities and communities. It then makes its most important proclamation, announcing a federal commitment of $10 billion dollars through 2012.[21] It should be noted that the government is careful not to bind itself to an exact figure; it uses vague language like "in the range of" and adds the following caveat about fund allocation: "This Plan outlines a possible allocation of funding to the different elements...spending on the individual components will almost certainly differ from the profile laid out in the plan due to ongoing review and evaluation."[22]

Government expenditure forms the backbone of Canada's Kyoto implementation strategy. In fact, expenditure of tax dollars is supposed to account for 80% of projected reductions.[23] The government uses the bulk of its proposed $10 billion dollar budget to create two new funds: the Climate Fund and the Partnership Fund. The Climate Fund, in the government's own words, seeks to create: "a permanent institution for the purchase of emissions credits on behalf of the government of Canada."[24] The initial budget for this fund is $1 billion dollars, although it could rise to $4-5 billion by 2012. Essentially the Climate Fund will offer a financial reward for companies, municipalities, or individuals that demonstrably reduce their GHG emissions. The government will purchase their emissions reduction units (ERUs) and retire them on behalf of Canada's Kyoto commitment. In essence, the Climate Fund is a giant subsidy program for businesses that

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[21] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, iv.

[22] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 12.

[23] See Harrison, Kathryn. "Speech given at Institute for Intergovernmental Relations Conference." (Kingston: Unpublished, May 2005), 9.

[24] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 20.

choose to 'green' their operations.[25] It is also capable of purchasing international offset credits, although the government makes it clear that its primary mandate remains domestic reductions. Any international credits that will be purchased will have to demonstrate a connection to Canada (i.e. a foreign company using Canadian technology) and will have to produce real and verifiable results. The government estimates that the Climate Fund could yield between 75-115 Mt of reductions annually in the 2008-2012 period.

The Partnership Fund aims to encourage cooperation between the federal and provincial governments (and possibly industry) on large-scale infrastructure projects. Initial funding is $50 million dollars per year however it is estimated that the total will rise to $2-3 billion dollars between now and 2012.[26] The Partnership Fund functions in a similar manner to the joint implementation scheme – essentially the federal government splits the bill with a provincial partner and then counts any emissions reductions achieved towards its final target. Amongst the projects that could benefit from the fund are the replacement of Canada's coal-fired power plants and the construction of an east-west electricity grid. It is hoped that the Partnership Fund will establish a sense of cooperation between industry, the provincial governments, and the federal government. Ottawa estimates that the Partnership Fund could yield between 75-115 Mt of reductions annually in the 2008-2012 period.

A considerable investment is also being made into the creation of new and cleaner sources of energy. The government is investing $200 million into wind power, $100 million into other sources of renewable power, and offering $300 million in tax

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[25] Harrison, "Speech given at Institute for Intergovernmental Relations Conference," 9.

[26] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 26.

incentives for efficient and renewable energy generation.[27] It is estimated that investments in renewable energy will generate 15Mt of reductions annually in the 2008-2012 period.

A substantial amount of money will also be given to cities under another policy program outlined in the 2005 budget known as the "New Deal for Cities and Communities."[28] Under this program, which receives funding over and above the $10 billion allotted for climate change, municipal governments will receive an estimated $5 billion dollars in gas tax transfers for use in constructing environmentally sustainable infrastructure. This money could be used towards improvements to public transit, landfill gas capture technology, and solid waste management. The Plan makes no prediction on how many tonnes of reductions this program will cause.

In addition to large scale reductions, the Plan also seeks to effect change on a smaller level by influencing individual actions. Individual Canadians account for 28% of Canada's GHG emissions, mainly through use of cars and by heating and lighting our homes.[29] The government's plan for individuals is to educate them and encourage voluntary action through programs such as the 'One-Tonne Challenge.' This program asks Canadians to reduce their estimated 5 tonnes of GHG emissions annually by choosing energy efficient appliances, driving their cars less, and generally moderating their consumption patterns. The government has set aside roughly $120 million dollars for education and awareness programs and has launched a national television and print

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[27] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, iv.

[28] Government of Canada. *A New Deal for Canada's Communities - Budget 2005* (Ottawa: Government of Canada, 2005).

[29] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 27.

advertising campaign to promote its program. It is hoped that individual reductions will yield 5Mt of reductions annually.

Ottawa also plans to lead by example by reducing emissions across the board in federal operations. To do so, it will retrofit a further 20% of its commercial buildings to be more energy efficient and will build all new facilities to be 25% more energy efficient than the existing Model National Energy Code for Buildings.[30] It will also use its purchasing power (estimated at $13 billion a year) to support green technology and buy eco-friendly products. This includes buying more fuel efficient cars for the federal fleet and replacing those cars sooner to ensure maximum fuel efficiency.

The only real regulatory measures introduced in the Plan are those dealing with Large Final Emitters (LFEs). LFEs account for just under 50% of Canada's total GHG emissions and are composed mainly of companies in the mining, manufacturing, oil and gas, and thermal electricity sectors.[31] The government aims to achieve a 45Mt total reduction from a business-as-usual (BAU) baseline; a target which was been significantly moderated from its 2002 target of 55Mt. The reasoning behind the reduced target is that certain sectors, particularly those with fixed process emissions (emissions which are driven purely from underlying chemical reactions and not by fuel combustion) cannot reduce emissions without also reducing overall production. The government (in negotiations with LFE companies) agreed that it would be unfair to force reductions on companies who depend on fixed process emissions and thus decided on a 0% target for

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[30] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 26. Code can be found at: National Research Council of Canada. "Model National Energy Code of Canada for Buildings 1997," *Nationalcodes.ca* (16 July 2002) (12 October 2005) http://www.nationalcodes.ca/mnecb/index_e.shtml.

[31] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 14.

these companies. The target for all other emissions is set at 15%, with a further agreement that compliance cost will not exceed $15 per tonne of carbon.

LFEs have several options for reducing their emissions; they can invest in in-house reductions, purchase excess credits from other LFEs, or purchase verified international reduction credits. Instead of drafting new legislation to deal with the Plan's enforcement, the government has decided that violators will be punished under the guidelines laid out in the Canadian Environmental Protection Act (CEPA 1999)[32] In response to industry pressure, the government agreed to remove the term 'toxic substance' from section 64 of the Act because certain LFEs felt it unfairly characterized the emissions they produced. A more specific report on how the government will use CEPA to implement its LFE system is expected this fall.

The government decided not to take a regulatory approach to the automotive industry, opting instead for a negotiated agreement to reduce emissions by 5.3Mt by 2010.[33] The agreement concerns emissions from light-duty trucks and passenger cars, which account for 12.5% of Canada's GHG emissions. To meet its target, the automotive industry will make improvements in advanced vehicle emissions technology and produce more hybrid and alternative fuel vehicles. The government will monitor the automotive industry's progress and will employ legislative and regulatory instruments "as necessary" to ensure that the target is met.[34]

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[32] Government of Canada. "Bill C-32: The Canadian Environmental Protection Act," *Library of Parliament* (5 July 1999) (12 October 2005) http://www.parl.gc.ca/common/Bills_ls.asp?lang=E&Parl=36&Ses=1&ls=C32&source=Bills_House_Government.

[33] MOU is available at: Association of International Automobile Manufacturers of Canada. "Press releases," *Aiamc.com* (5 April 2005) (12 October 2005) http://www.aiamc.com/second.html

[34] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 18.

The one theme that recurs frequently throughout the document is that success of the program is largely in the hands of external actors. Time and time again the government downplays its role in combating climate change and places the burden of responsibility on private citizens, businesses, and the provinces. Phrases like "it will be up to Canadians whether we reach our final destination"[35] and "the amount of domestic reductions that will be realized depends on many factors, including the entrepreneurial spirit of Canadians and their interest in finding innovative means of reducing emissions"[36] recur frequently. These remarks serve to further emphasize the voluntary nature of the Plan. It is almost as if the government is removing itself from the equation and denying its own agency in creating these policy instruments in the first place.

Further analysis of the government's motives and intentions will be offered later in this paper. This chapter merely aims to give the reader the essential information necessary for further analysis of the government's instrument selection. These instruments consist mainly of incentive programs designed to stimulate voluntary action. The government's plan is surprisingly light on regulatory measures and what little regulation there is was developed in consultation with the affected industries. It is this decision to use instruments that are 'all carrot and no stick' that will form the basis of analysis for the remainder of this thesis. The next chapter will outline the theoretical framework that will guide the remainder of this thesis.

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[35] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 2.

[36] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 23.

Chapter 3 - Theoretical Framework:

In order to explain why Canada adopted an implementation strategy that was both heavily reliant on expenditure and sparse on regulation, it is necessary to look at a number of different theories. There are several paths an academic could follow in attempting to explain why a country chose to pursue a given policy; one might examine the institutions within the government or organization that created the policy, the climate of ideas shaping the political landscape at the time, or even the influence of other countries and international actors on a given country's policy decisions. Invariably, most policies are not the result of simply one of these factors, rather they are the product of several factors converging on a given point in time and space. It is however possible to single out one factor as having played a greater role in the formation of a given policy, and such is the certainly case in the explanation of Canada's climate change program.

Before elaborating on why this thesis chose to focus on rational choice and interest based theory, it is perhaps equally important to state why it chose to forgo other theoretical frameworks. It is incredibly difficult to state that other theories possess no analytical value whatsoever in explaining Canada's Kyoto implementation plan, however they can certainly be shown to be less useful than an interest-based perspective. Whenever a scholar is trying to describe why a particular piece of policy is less decisive than it could have been, the answer invariably has something to do with a collision of interests resulting in a compromise. As Richard W. Gable writes: "The more complex and controversial the decision, the more likely that a great number and variety of

contending groups has participated in some way in the shaping of the policy."[37] Whether that compromise was shaped by a larger institutional context is irrelevant to the scholar seeking to understand the minutiae of an agreement. At best, an institutional analysis tells us whether the actors were competing on a level playing field; it does not, however, tell us anything about the actors themselves. One could conceivably blame every piece of weak policy in the liberal democratic world on the fact that there are too many inputs into the policymaking process, but this would be an academically useless enterprise. There is far more knowledge to gain in understanding *which* forces and interests collided to produce a piece of policy.

In addition to being more useful for examining the ground-level forces colliding to produce a piece of policy, interest-based theory is also more inclusive of other theories, thereby allowing for a broader picture of the overall situation. For example, an institutionalist might argue that the provinces had undue influence in the bargaining process because of the position ascribed to them under Canada's Constitution. While this is true, it is equally possible to consider the provinces as just another group of interests working towards their own goals. This notion can similarly be applied to any international influences; one could consider the influence of the United States under its own theoretical header, or one could place it in the same category as the rest of the interests, as simply another actor at the bargaining table.

Ideational theories can also be useful analytical tools, however they tend to be more useful in explaining how new and innovative policies originated. An ideational theorist might explain Canada's low-regulation plan as part of a larger tide of voluntary

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[37] Gable, Richard W. "Interest Groups as Policy Shapers," *Annals of the American Academy of Political and Social Science* 319 (September 1958), 86.

agreements developing around the world between governments and private actors, however this would downplay the influence that certain interests had on this particular piece of policy. Truly then, the argument is not that other theoretical explanations are entirely without merit, rather it is that interest-based theory provides a more rounded, inclusive, and nuanced explanation of the end policy result. More than anything, focusing on interest-based theory will allow this paper to avoid a 'mixed-bag' solution which borrows from all sorts of theories and has no real analytical value.

3.1 Rational Choice Theory:

The school of thought that most ably explains Canada's Kyoto implementation strategy is rational choice. This paper will use the fundamentals of rational choice theory, while intentionally avoiding its more abstract and mathematical aspects, to provide a basis of understanding for the behaviour of all involved actors. In essence, rational choice theory works by invoking a set of assumptions which purportedly govern all human behaviour. The first of these assumptions is that all humans are purposive and goal oriented.[38] Essentially this implies that decisions are made for a reason and are not the mere result of a random thought process. The second assumption is that humans have sets of hierarchically ordered preferences, meaning that there are certain things that they value higher than others. The third assumption is that humans will make rational calculations in choosing lines of behaviour. This means that humans will determine what the best possible outcome is (in terms of their own preferences) when making a decision, and then pursue the course that allows them to achieve that outcome. Any kind of

[38] All assumptions on human behaviour from Turner, Jonathon. *The Structure of Sociological Theory* (Belmont, CA: Wadsworth Publishing Co., 1991), 354.

emergent social phenomena, such as organization into groups or institution-building, is ultimately the result of rational choices made by utility-maximizing individuals.

This general behavioural theory can easily be applied to the world of politics. As Professors Michael Trebilcock and Douglas Hartle write:

> Just as with private markets whose functioning is presumed to be dominated by self interest, so in political 'markets' one should assume that relevant actors – voters (demanders), politicians (suppliers), bureaucrats, and the media – tend to be motivated principally by self interest.[39]

In a democratic system, these interests collide in an institution of some sort (in Canada's case, the houses of parliament) and the resulting output becomes policy. As suppliers of policy, politicians must balance between serving their own interests and the interests of their constituents. Since their job (and thus their personal income and well-being) depends on the support of the voters, politicians in a democratic system must be responsive to their demands. At the same time, most politicians sought their position in the first place for the purpose of pursuing good policy. This dilemma is recognized in the work of Paul Burstein and April Linton, who write:

> Many party activists are likely to have gotten into politics because they are strongly committed to relatively extreme ideological views, and, when their party wins power, may be torn between the need to follow public opinion and their desire to transform their own ideologies into policy.[40]

Occasionally, good policy coincides with the demands of the voters, however sometimes a politician may be forced to choose between pursuing a *good* policy and pursuing a *popular* one. In this circumstance, the pursuit of the popular policy almost invariably wins since the politician can easily justify the decision to him/herself. As R. Kent

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[39] Trebilcock, Michael and Douglas Hartle. "The Choice of Governing Instrument," *International Review of Law and Economics* 2 (1982), 30.

[40] Burstein, Paul and April Linton. "The Impact of Political Parties, Interest Groups, and Social Movement Organizations on Public Policy: Some Recent Evidence and Theoretical Concerns," *Social Forces* 81, No. 2 (December 2002), 385.

Weaver explains, politicians can simply argue that; "they cannot pursue their own policy objectives if they are not re-elected, and they will not be re-elected if they do not suppress their own views of 'good policy' when these views clash with the strongly held opinions of their constituents."[41] Thus in the hierarchy of interests, the need to ensure re-election habitually supercedes the desire to craft the best or most efficient policy.

3.2 Interest Groups:

If all policies can best be explained by this overarching need to be re-elected, then the variable factor becomes the forces acting for and against re-election. These forces can be divided into two separate categories: voters and interest groups. Both perform a function critical in maintaining a politician's position in government. Voters, obviously, provide votes without which the politician could not hold office. Interest groups on the other hand provide resources to the politician, both in the form of financial resources and informational resources. A financial resource can be direct, such as a contribution to a politician's campaign, or indirect such as an offer to locate a job-creating business in a politician's riding. Informational resources are less concrete, but just as important. An informational resource might consist of an interest group using its time and resources to disseminate information that helps a politician, which, in turn, helps generate votes.

The role of interest groups is particularly important in a situation where the vast majority of voters are ignorant of policy decisions. In a seminal piece of interest group literature, Randall L. Calvert argued that voters are completely ignorant until such time as they are provided with biased information.[42] This makes it doubly important for politicians to address the needs of interest groups since they have both the time and

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[41] Weaver, R. Kent. "The Politics of Blame Avoidance," *Journal of Public Policy* 6 (1986), 377.

[42] Calvert, Randall L. "The Rational Preference for Biased Information," *Working Paper No. 75 – Centre for the Study of American Business* (St. Louis: Washington University, 1982).

resources to provide voters with selective or biased information. Arthur T. Denzau and Michael C. Munger expand on this notion, arguing that: "legislators must depend primarily on interest groups to provide them with enough resources to be able to make themselves known to the uninformed voters."[43] A politician's efforts must therefore be divided between appeasing interest groups and catering to the needs his or her constituents. As Denzau and Munger write: "In order to influence votes received, legislators can provide services to any of *n* interest groups, or provide constituency services to voters in their geographic district by allocating a limited amount of effort to producing these services."[44] The key for politicians then is to identify which interest groups will provide the greatest resources, and target their efforts towards them.

Interest groups, under rational choice theory, can also be seen as working with a hierarchical list of preferences. Most groups are organized to perform a very narrow function, usually to push a unitary policy agenda. Since they do not have to worry about re-election, their primary interest will be to ensure that they have a seat at the table when policy is created. Anytime a policy issue comes to the fore that affects their specific interests, they must strive to convince government that their voice should be heard. Thus interest groups logically seek to inflate their own importance and convince government that its policy will not succeed without their support.

This is where the policymaking process becomes a game of bluffing and bargaining. Interest groups will use all kinds of tactics to convince government to cater to their needs, including the use of threats. It is the government's job to determine which threats are credible and which threats are not. Two authors who have extensively studied

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[43] Denzau, Arthur T. and Michael C. Munger. "Legislators and Interest Groups – How Unorganized Groups Get Represented," *The American Political Science Review* 80 (No. 1) (1986), 99.
[44] Denzau and Munger, 91.

why government responds to certain interest groups and not others are John Mark Hansen and John R. Wright.[45] Both authors point out that government must ask a number of questions when evaluating the utility of an interest group; questions like does the organization have many members or few? Can it mobilize them to vote? Will their decisions about how to vote be affected by what they hear from the organization? Can the organization provide resources — money, campaign workers, access to media — that can help the elected officials win reelection? Only if the answers to these questions favour the interest group will the government give its demands any credence.

Obviously, not all interest groups were created equal, some possess far greater resources or credibility amongst voters than others. It is up to government to decide which interest groups are actually capable of affecting a government's chances of re-election and which are simply overstating their own importance. In this way, interest groups are not only competing with government for influence, but also with each other. The end result of this bluffing game usually shows which side played its cards better. If a policy is tailored to suit a certain interest, it is usually because government determined that an interest group posed a credible threat and crafted its policy accordingly.

The influence an interest group can wield is also dependent on the salience of a given issue amongst voters. As Paul Burstein points out: "the greater and more persistent the majority favoring a particular policy, and the more important the issue to that majority, as perceived by legislators, the smaller the direct impact of interest

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[45] See Hansen, John Mark. *Gaining Access: Congress and the Farm Lobby, 1919-1981* (Chicago: University of Chicago Press, 1991) and Wright, John R. *Interest Groups and Congress* (Washington, D.C.: Allyn & Bacon, 1996).

organizations on legislative action."[46] In this case, however, some distinction must be made between the popularity of a policy and its depth of support amongst the public. Particularly in the realm of environmental policy, it is possible for an initiative to have incredibly broad support and still fail because that support is only surface deep.

Lastly, interests groups hold an advantage insofar as they are not under direct pressure to meet a deadline or achieve a result. Since the heads of interest groups are normally not elected, they do not face as great a threat of being replaced if they fail to achieve their objective or if negotiations break down. This allows them considerably more leverage then the government in a bargaining situation. As game theorists Avinash Dixit and Susan Skeath observe, in certain bargaining situations: "time has value and impatience is important, and so a delayed agreement is worth less."[47] If only one party is impatient to reach an agreement, then it is likely that that party's bargaining position will be compromised. Dixit and Skeath continue: "With unequal rates of impatience, the more impatient player, A, gets a lot less than B even when he is able to make the first offer."[48] In the case of international agreements and their implementation, it is normally the government who faces the greatest pressure to reach an agreement quickly. Dixit and Skeath state: "The media, interest groups, and rival politicians all demand results and are quick to criticize the administration or the diplomats for any delay."[49] Thus the government faces an inherent disadvantage in any bargaining situation because it is the only party that must achieve a result.

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[46] Burstein, Paul. "Social Movements and Public Policy," in *How Social Movements Matter*, eds., Marco Giugni, Doug McAdam, and Charles Tilly. (St. Paul: University of Minnesota Press, 1999), 9.
[47] Dixit, Avinash and Susan Skeath. *Games of Strategy – 2nd Edition* (New York: W. W. Norton & Company, 2004), 577.
[48] Avinash and Skeath, 584.
[49] Avinash and Skeath, 586.

3.3 Framework for this thesis:

The key for any scholar attempting to explain a policy through interest based-theory is first to identify the actors or interests involved. Once the various parties have been established, the scholar must then examine each party's interests and objectives as well as its relative status in the policy formulation process. The government is going to be a principal actor in any policy decision, but the remaining interests may be quite diverse in terms of size and power. The scholar must then establish what each interest's optimal outcome would be as well as any compromised outcomes that would also be acceptable. With this information in hand, it should be possible to establish a list of ranked preferences for each interest. Obviously not all interests can be theorized as unitary actors, however this thesis will construct its lists based on the perceived majority sentiment. By examining an actor's ranked list as well as its relative power in the bargaining process, it should be possible to identify several strategies that it could use to achieve an acceptable outcome. Lastly, the scholar could predict how these strategies would interact with one another to produce the end policy result. This experience can then be used to predict future policy outcomes under similar conditions.

This is the rudimentary framework that this paper will follow. It will model itself on a similar explanatory paper written by Norwegian academic Kaare Strøm in which a bargaining game between the opposition parties in the Norwegian parliament is described.[50] It will identify the relevant actors and define their interests; it will then move systematically from actor to actor describing each player's strategy and optimal end result. Lastly, it will show how these strategies played off of each other to produce the

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[50] See Strøm, Kaare. "Leadership, Accountability, and Bargaining Failure in Norway: The Presthus Debacle," in Wolfgang C. Müller and Kaare Strøm, eds. *Policy, Office, or Votes? How Political Parties in Western Europe Make Hard Choices* (New York: Cambridge University Press, 1999).

government's Kyoto implementation program. In performing this task, it hopes to shed light on the difficulties of implementing environmental policies in Canada as well as the undue influence of certain interests in the bargaining process.

There were four principal actors involved in shaping Canada's Kyoto implementation strategy. The first, it goes without saying, is the federal government. As the party who committed the country to this binding international agreement, it is only logical that the federal government should have a stake in seeing how it will be implemented. The second major party is the Canadian business community. Business holds a seat at the table because it stands to be the most affected by emissions reductions and wants to make sure its voice is heard. The third party is the Albertan government. Alberta deserves special mention because many emissions producing industries are situated in Alberta and because it has been one of the most outspoken critics of Ottawa's climate change policies. Lastly there is a coalition of environmental non-governmental organizations (ENGOs) and the environmentally conscious Canadian public. This group represents a relatively small and well-informed fraction of the Canadian public who wants to look beyond the government's international promises and ensure that they are actually followed up on. This paper will devote a chapter to each of these actors, describing their motives and strategies in greater depth and providing empirical evidence of their intentions. Chapter 8 will tie all of the actors together and evaluate how the bargaining game unfolded.

Chapter 4 – The Federal Government

The federal government enters this bargaining game with very little in the way of flexibility. There is really only one solution for the government, and that is to fulfill its Kyoto obligation. Any failure to do so would not only be a violation of international law, but would also reflect poorly on the government come election time. Canadians have clearly demonstrated their support for Kyoto; a CRIC poll conducted in November of 2002 pegged Canadian support for ratification of the Kyoto Protocol at 78%.[51] An Ipsos-Reid poll, also conducted in the fall of 2002, declared that 4 out of 5 Canadians believed that reducing greenhouse gas emissions and global warming effects should be the government's top environmental priority.[52] Clearly then, the vast majority of Canadians are concerned about climate change and believe that the government should have some sort of role in addressing the problem. At the same time, most Canadians would also like to pay less taxes and maintain a vibrant economy, which puts the government into a bit of a conundrum. Not only must it craft a program that meets its Kyoto target, it must also ensure that it does not impinge on its performance in other sectors.

In this way, the federal government has the most difficult task of any player in this bargaining game; its only viable option is to meet its Kyoto target and it must satiate three distinct interests in arriving at its end goal. This severely hampers the government's ability to make credible threats since all other players know that the government must reach an agreement no matter what. That said, the government is also

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[51] Centre for Research and Information on Canada. "Canadians Say Kyoto Won't Hurt Jobs, But Most Say Ratify Only After Provinces Onside" (Ottawa: Centre for Research and Information on Canada, 2002), 1.
[52] Macrae, Scott. "UBC poll shows Canadians feel greenhouse gas, global warming top environmental concerns," *UBC Public Affairs* (17 October 2002) (19 September 2005) http://www.publicaffairs.ubc.ca/media/releases/2002/mr-02-98.html

the most powerful player in this game and the only one who can claim a mandate from the Canadian people to expend their tax dollars. The government has the capacity to move forward unilaterally, should it choose to do so. Ultimately the end result would either justify or condemn the government's actions, thus moving forward without support is a gamble on the government's part. However before we begin a discussion on possible government strategies, it is first necessary to hypothesize a list of the government's interests.

4.1 Interests:

Each actor within a bargaining game must be understood to have a list of ranked preferences which governs their actions within that game. The federal government is no different from any other actor except that its interests theoretically bear some semblance to the interests of the public it serves. The hierarchical list of preferences proposed for the federal government by this paper is as follows:

1. **Ensure re-election (primarily by avoiding blame, but also by claiming credit wherever possible).**
2. **Gain respect in the eyes of the international community.**
3. **Make genuine progress in the global struggle against climate change.**

It should be noted that encompassed in the need to achieve re-election are any number of sub-tasks that the government must perform, such as maintaining a vibrant economy and preserving national unity. As such, this category far outweighs the two below it and is the only item that *must* be factored into any policy decision.

It is imperative that a party remain in office so that it can continue to shape policy and distribute resources in the manner that it sees fit. Within this overarching need, there are several sub-categories that must be adhered to in order to ensure that this final goal is met. Primary amongst these is the need to avoid blame. Blame avoidance theory stems

from the assumption that voters' electoral preferences are based largely on retrospective considerations.[53] When considering the performance of a previous government, voters tend to react far more to negative impacts then they do to positive ones. As American academic R. Kent Weaver writes: "voters are more sensitive to what has been done *to* them than what has been done *for* them."[54] As such, politicians stand a better chance of re-election by avoiding making unpopular decisions then they do by making popular ones. As any former politician will undoubtedly verify, the voting public is far more likely to punish an administration for creating a new tax than they are to reward an administration for lowering an old one.

While blame avoidance remains the primary objective, the government also has an interest in credit-claiming, that is, gaining electoral mileage by making popular decisions. This becomes considerably more problematic when dealing with environmental policy. Polling has shown that there is great support for climate change initiatives in Canada,[55] the question is how deep that support runs. Some might argue that the government has already harvested its credit by ratifying the Kyoto Protocol and that the bulk of the populace will not be interested in the minutiae of its implementation. Others might argue that the government will only receive credit insofar as its initiatives do not affect other matters of great concern to Canadians, namely trade, energy prices, and the economy. Still others, like professors Kathryn Harrison and George Hoberg, point out that there is little credit to claim in the realm of environmental policy. They write: "Given the 'public goods' character of natural resources, the benefits of environmental protection are

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[53] Weaver, 380.
[54] Weaver, 373.
[55] Macrae.

inherently diffuse."[56] This statement is even more true in the case of climate change, since any sort of benefit may be a century or more away from realization. This makes it difficult for the government to prove the value of its efforts with anything other than numbers on paper. Thus credit-claiming remains a distant second to blame avoidance.

Second on the interest list is the desire to gain respect in the eyes of the international community. In a roundabout way, this also ties into the government's need to be re-elected. Canadians are very conscious of how they are perceived by the rest of the world. Historically, this country has been party to a great number of treaties and a host of international organizations. Its implementation of those treaties has been lackadaisical at times,[57] but the government usually escapes criticism because few observers, either at home or abroad, continue to pay attention after the treaty has been signed. This is not the case, however, with climate change. Canada's implementation strategy is being scrutinized regularly and publicly by the OECD and the other parties to the UNFCCC. In 2004 the OECD released its second Environmental Performance Review for Canada which contained several less than flattering comments. Amongst other things, the report found that although Canada has built sustainable development into its government structures: "this has not yet resulted in practical policies and actions."[58] It further stated that Canada: "Needs to strengthen compliance & enforcement

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[56] Harrison, Kathryn and George Hoberg. "It's Not Easy Being Green: The Politics of Canada's Green Plan," *Canadian Public Policy* 20 (1994), 122.

[57] Take for example Canada's enthusiastic endorsement of the UN Millennium Goals which has been completely unsupported by a paltry 0.28% of GDP committed to development assistance. Stats from: CTV News. "Canada's foreign-aid falls short of promises," *CTV.ca* (19 April 2005) (14 October 2005) http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1113915824477_52/?hub=Canada.

[58] OECD. "OECD Review of Canada's Environmental Performance: Good Progress, Much to Be Done," *Organization for Economic Co-operation and Development* (29 September 2004) (6 October 2005) http://www.oecd.org/document/30/0,2340,en_33873108_33873277_33744542_1_1_1_1,00.html

of environmental regulations at both federal and provincial levels."[59] Perhaps most distressingly, Canada's environmental performance was downgraded from an already disappointing twelfth place ranking in 2002, to sixteenth place amongst OECD countries in 2004.[60] This dire review found its way to the houses of parliament and eventually to the national media, who were quick to bring the government to task.

This scrutiny will only increase when Canada hosts MoP1 in the fall of 2005. As the host nation, all eyes will be on Canada to see how our government has progressed in implementing a viable emissions reductions scheme. A failure to demonstrate progress will not only be a blow to Canada's status on the world stage but will also have electoral consequences at home. Clearly then, the government has a vested interest in creating an implementation strategy that it can proudly showcase to the world.

The final item in the government's ranked list is the achievement of substantive progress in the fight against climate change. The reason this interest comes last is because it is clearly superceded by the need to stay in office. As mentioned earlier in this paper, it is better to stay in office and affect modest change over a drawn out time period than to attempt drastic action and be replaced by a politician whose views run contrary to your own. That said, it would be incredibly cynical to believe that the government is solely concerned with preserving its own position. If policy were constructed in a vacuum and there were no political considerations to worry about, many politicians would take the sharpest approach possible to climate change. Indeed some have proven the tenacity of their environmental values and have even been awarded for it. Every four

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[59] OECD. "OECD Review of Canada's Environmental Performance: Good Progress, Much to Be Done."
[60] Angus, W. David. "Commissioner of the Environment and Sustainable Development—Reports on Environmental Performance," *Debates of the Senate* 1st Session, 38th Parliament, Volume 142, Issue 10 (28 October 2004).

years the Sierra Club of Canada holds the Eco-Olympics, a tongue-in-cheek event that gives out medals to politicians who have demonstrated their commitment to environmental causes. Amongst the recipients in the 2004 contest are several members of the current government. Marlene Jennings, a Liberal from the Notre-Dame-de-Grace-Lachine riding won gold for being "one of the strongest advocates for controlling the use of potentially lethal toxic pesticides in the House of Commons."[61] She had previously won a gold medal in 2000 for her private members bill banning pesticides from cosmetic and frivolous uses. Keith Martin, a Liberal from the Esquimalt-Juan de Fuca riding won gold for his efforts to protect the Upper Macal River from a Canadian Dam in Belize.[62] In total, Liberal party members won 45 medals and were awarded bronze medal status as a party. While these medals represent little more than a publicity stunt by the Sierra Club, they do point to some genuine concern about the environment amongst individual members of government. Thus it would be incredibly cynical to argue that substantive progress on climate change was not even considered in crafting an implementation plan. That said, it remains a distant third to electoral concerns and international image.

4.2 Strategies:

With a hypothetical list of government's interests defined, we can now proceed to an examination of the strategies that the government could use to serve those interests. Here as well, each actor in the bargaining game must be assumed to have a ranked list of preferences. An actor's preferred strategy will invariably be the one that attains an outcome consistent with the top priority on its interest list. As mentioned earlier, it is

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[61] Sierra Club of Canada. *Eco-Olympics: Medal Ceremony for the Parties and Individual Candidates in the 2004 Federal Election* (Ottawa: Sierra Club of Canada, 2004), 19.

[62] Sierra Club of Canada, *Eco-Olympics: Medal Ceremony for the Parties and Individual Candidates in the 2004 Federal Election,* 13.

imperative that the federal government pursue a strategy that will allow it to meet its Kyoto target. This severely limits the government's bargaining clout since it cannot stall the bargaining process for long or hold out for better terms. Furthermore, the government knows that the public will look to other actors in the game to evaluate its strategy and provide them with subsidized, selective information. Any outcome that provides no chance of reaching the Kyoto target or unduly angers more than one of the other actors would qualify as an unmitigated disaster for government. Thus government must perform a delicate balancing act between ensuring that its program has enough substance to achieve results and ensuring that it does not step on too many toes in the process.

In formulating a well-balanced strategy there are any number of factors the government must consider. The following paragraphs will outline some theories and general considerations that the government undoubtedly took into account while formulating its strategy. The first of these is that it must avoid imposing concentrated costs on marginal voters. A marginal voter is one whose vote in an upcoming election is still undecided, and therefore must be wooed by the incumbent party. An infra-marginal voter is one whose vote is already decided; either he/she is a strong supporter of the incumbent party, or he/she is so violently opposed to it that no amount of pandering could ever sway his/her vote. Professors Michael Trebilcock and Douglas Hartle argue that a key factor in a politician's struggle to remain in office is his/her ability to craft policies that impose costs on infra-marginal voters while funneling benefits towards marginal voters.[63] In this way, all the negative impacts of a party's policy decisions are absorbed

[63] Trebilcock and Hartle, 35.

by people who either were not going to vote for them anyway or are such fanatic supporters that they do not mind absorbing some costs.

If we apply this theory to climate change policy in Canada, we can see that the Liberal government faces some substantial obstacles in crafting policy. For one, as Canada's middle-of-the-road party, the Liberals naturally possess fewer infra-marginal supporters. It stands to reason that the less fanatical your beliefs, the less likely you are to have voters who support you unconditionally. Much of the Liberals' support is performance-based and liable to shift if the country takes a turn for the worse. Presumably then, the Liberals have to assume that most of the country consists of marginal voters when they create policy.

Trebilcock and Hartle further stipulate that: "It will be rational for a governing party to treat highly concentrated or well-endowed interest groups as marginal voters to the extent that they possess an ability to provide (or threaten to provide) subsidized, selective information directly to marginal voters."[64] In essence, it behooves government to pander to influential interest groups should it wish to avoid being the subject of large anti-government media campaigns. In the case of climate change, any of the other three actors (business, Alberta, or ENGOs) are capable of launching a media campaign against the federal government. The task for government then, is not only to pursue a strategy that satisfies all three parties, but to determine which actor holds the most sway over public opinion and ensure that its needs are met.

If avoiding concentrated costs proves impossible, then the government should look for the least intrusive way of imposing those costs. This is the strategy put forth by

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[64] Trebilcock and Hartle, 40.

B. Guy Peters in his article "The Politics of Tool Choice." Peters writes: "In an era in which much of the public is highly skeptical of government and tends to favor government as being as little involved in social and economic life as possible, the selection of less intrusive instruments may have a strong appeal for politicians."[65] By 'less intrusive,' Peters is referring to the correlation between a policy decision and its impact on an average voter's day-to-day affairs. Peters outlines three dimensions of policy instruments: visibility, directness, and automaticity.[66] Visibility refers to how noticeable a policy is to the general public, directness denotes how effective an instrument is at addressing the policy objective, and automaticity refers to the degree of individual discretion that must be exercised every time an instrument is used. In the case of climate change, the government has an interest in selecting a low visibility instrument, one that will not impose disproportionate costs on the business community or the province of Alberta. This will automatically affect the directness of the chosen instrument since the most direct means of addressing the problem would be to legislate strict regulations targeting the largest emitters (business and Alberta). The automaticity of the instrument is irrelevant apart from the government's desire to use the most cost-effective means available. The ideal strategy for the government then is one that is low-visibility, indirect, and operates at variable levels of automaticity.

One could alternately define such a strategy as one that operates at a low degree of coercion. Authors Bruce Doern and Richard W. Phidd wrote a book in 1983 describing how policy instruments can be situated along a continuum of legitimate coercion. The continuum, beginning at the least coercive and moving to the most

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[65] Peters, B. Guy. "The Politics of Tool Choice," in Lester M. Salamon, ed., *The Tools of Government: A Guide to the New Governance* (NY: Oxford, 2002), 554.
[66] Peters, 559-561.

coercive, progresses as follows: Self-Regulation (Private Behavior) – Exhortation – Expenditure - Regulation (including taxation) - Public Ownership.[67] Doern previously explained in a volume compiled with V. Seymour Wilson that: "politicians (especially the collective cabinet) have a strong tendency to respond to policy issues by moving successively from the *least coercive* governing instruments to the *most coercive*."[68] The motivation for using low-coercion instruments is to avoid imposing concentrated costs on marginal voters, which presumably would have deleterious effects on the government come election time. In the case of climate change, public ownership of GHG producing enterprises is clearly unfeasible, so the government is far more likely to employ measures like self-regulation, exhortation, and expenditure. Regulation is a less attractive option for government because it is more coercive, highly visible, and will probably affect certain sectors and regions more than others.

Whether regulation will in fact harm an industry or the economy is irrelevant – what matters is whether the public *thinks* that regulation will hurt the economy. As author Dirk Schmelzer writes:

> ...there might not be any trade-off between economic growth and environmental protection, there might as well be a harmony or a 'double dividend' from environmental taxation. This is not important for the political cost the government faces. These cost stem from the voters perception on the existence of such a cost, and in fact most people believe that there is a trade off between those goals.[69]

Schmelzer makes an important distinction between the real and perceived consequences of any policy decision. Even if the government can prove that a regulatory strategy will

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[67] Doern, G. Bruce and Richard W. Phidd. *Canadian Public Policy – Ideas, Structures, Process* (Toronto: Methuen Publications, 1983), 111.

[68] Doern, G. Bruce and V. Seymour Wilson eds. *Issues in Canadian Public Policy* (Toronto: Macmillan of Canada, 1974), 339.

[69] Schmelzer, Dirk. "Voluntary Agreements in Environmental Policy: Negotiating Emission Reductions," *New Economics Papers* (21 September 1998),8.

have no ill effects on trade or business, their position may be undercut by Canadian business associations who say otherwise. The burden of proof clearly lies on the government; the business community need only sow the seeds of doubt in the public's mind in order to make the political cost of regulation too high.

Luckily for the government, the difference between real and perceived results is also blurred when it comes to evaluating a program's benefits. This is especially true with respect to climate change initiatives, since it is incredibly hard to show any concrete results within a given electoral cycle. This, however, is not as great a problem as it first may appear, since, as Trebilcock and Hartle write: "the more widely dispersed the group of marginal voters sought to be benefited by a chosen policy, the less real the benefits need be."[70] There is no group that will benefit more than another from a reduction in GHG emissions, rather whatever benefit is derived from the program will be dispersed across Canada as a whole. This works to the government's advantage since it alleviates the need to show physical evidence of the program's success. It can further benefit by launching a media offensive touting the benefits of its program. Trebilcock and Hartle write: "Perceived benefits can be made to appear greater than real benefits by the provision by a governing party (typically through the mass media) of subsidized, selective information, often of a highly symbolic nature."[71] Thus government can plan its strategy knowing that it will not have to generate concrete benefits; it will, however, have to expend considerable resources on explaining the value of the program to the public.

While some thought should go into which credit claiming opportunities might result from a given strategy, the government's primary focus must remain on blame

[70]Trebilcock and Hartle, 41.
[71]Trebilcock and Hartle, 41.

avoidance. R. Kent Weaver outlines a number of broad strategies for avoiding blame in his article "The Politics of Blame Avoidance."[72] One which may be applicable to the federal government in this circumstance is 'passing the buck.' Weaver defines passing the buck as when a government "deflects blame by forcing others to make politically costly choices."[73] Since failing to meet Kyoto targets would undoubtedly be politically costly, the logical thing for the federal government to do is to pass much of the responsibility on to the provincial governments. In this way, the government has someone to point the finger at when the program fails (a technique which Weaver calls 'scapegoating.')[74] This can similarly be accomplished by adopting a strategy that forces businesses to self-regulate, in this way the government can shift blame to the business community when it falls short of its targets. Lastly, Weaver defines a strategy known as 'throwing good money after bad.'[75] Under this strategy, the government either covers-up a bad decision or avoids making a decision altogether by throwing more taxpayer money at the problem. This tactic has alternately been termed 'chequebook governance' and it has enjoyed a prominent role in Canadian federalism in recent years. It may seem that recklessly spending tax dollars would be on the higher end of the coercion spectrum and hence a risky political move. However, as Doern and Phidd point out: "actual coercion occurs when the revenue is extracted from the taxpayer but, when it is spent, the coercive edge has disappeared or is at least blurred since the question of who pays and who benefits is not always easily determined."[76] Hence government can expend public money

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[72] Weaver, R. Kent. "The Politics of Blame Avoidance," *Journal of Public Policy* 6 (1986).
[73] Weaver, 385.
[74] Weaver, 385.
[75] Weaver, 385.
[76] Doern and Phidd, 112.

freely as long as there is some alleged goal for the funds and it is not purely lining their pockets. This provides a convenient 'out' for a government that is low on solutions but high on budgetary surplus.

The government provides us with a window into the early strategizing process through a publication it released in the Spring of 2002, long before its official policy position was announced. The document, entitled "A Discussion Paper on Canada's Contribution to Addressing Climate Change,"[77] outlines a number of factors that the government must consider in crafting its final strategy. The first of these is that "no region is asked to bear an unreasonable burden."[78] This undoubtedly applies to Alberta, since its emissions are over three times higher than the national average and a large part of its economy consists of emissions-heavy industry.[79] The government concedes early-on that it must tailor its program so that it does not completely alienate the Albertan government and further fan the flames of a national unity crisis. The second point outlined in the document is that the plan must allow Canadian industry to make a successful transition to a less carbon-intensive economy while remaining competitive in the global marketplace, especially vis-à-vis the United States.[80] Here the government recognizes the importance of Canada's trade and business community and the need to address their fears in crafting a final solution. Lastly, the discussion paper mentions the importance of focusing primarily on domestic actions and initiatives, as opposed to

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[77] Government of Canada. *A Discussion Paper on Canada's Contribution to Addressing Climate Change* (Ottawa: Government of Canada, 2002).
[78] Government of Canada. *A Discussion Paper on Canada's Contribution to Addressing Climate Change*, 8.
[79] Harrison, 5-6.
[80] Government of Canada. *A Discussion Paper on Canada's Contribution to Addressing Climate Change*, 17-18.

relying on the purchase of international emissions credits.[81] This is a logical conclusion since there would undoubtedly be a negative reaction to a government program that invested billions of Canadian tax dollars into foreign industry.

Having taken all of these general strategic guidelines into consideration, here then is the proposed list of strategic preferences for the federal government:

> **1. Reach voluntary agreements with business and provinces binding them to substantial reductions.**
> **2. Impose a regulatory framework that will lead to substantial reductions but will not have any deleterious (or perceived deleterious) effects on the economy.**
> **3. Massive public expenditures to induce business and the provinces to reduce emissions. Largely voluntary initiatives with minimal regulation.**
>
> **Absolute failure: A regulatory scheme that has a damaging effect on the economy and achieves no substantive results.**

Beginning with the first option, it is clearly in the government's best interest to bring business and the provinces on side. By treating these actors as marginal voters, the government ensures that there will be no negative media campaigns directed at it. If an agreement with a respectable reductions target can be reached, the government will have all actors on board, including the environmental community, and it will have done so without resulting to coercive measures. The government can then claim credit for building bridges between private actors and different levels of government and can also 'pass-the-buck' to these actors when it comes to actually developing a reduction scheme. Should Canada fall short of its target, these actors will also serve as scapegoats to absorb the blame. Essentially this is the strategy that allows the government to achieve all of its interests with the least degree of risk.

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[81] Government of Canada. *A Discussion Paper on Canada's Contribution to Addressing Climate Change*, 19.

The second option necessarily involves some gambling on the government's part. By imposing a regulatory framework, the government proceeds unilaterally, without the support of the business community and the Albertan government. While this strategy is the most direct way of reaching emissions targets, it also stands the greatest chance of adversely affecting the economy. Here the government must gamble that business and trade will not be affected by the regulations and that the public will not react to a predicted economic impact before the true effects of the program are known. It is entirely possible that business could launch a scare campaign convincing voters to remove the government before their initiative has been given a chance to prove itself. However, should a regulatory approach succeed both in achieving genuine reductions and in retaining economic vitality, the government would be heralded as environmental heroes and lauded for their progressive leadership. The credit for such an achievement would be entirely the government's and it would certainly result in substantive environmental progress as well as a growth in international prestige, thereby fulfilling all of the government's interests.

The third option envisions hefty public expenditures in the form of subsidy programs designed to induce the business community and the provinces to reduce emissions. The upside of this option is that government removes the risk of damaging the economy as well as the risk of being held solely accountable should the program fail. This strategy would likely appease the ENGO community by virtue of the fact that government is backing up its commitment with billions of dollars. Similarly, business will support the decision since it avoids coercive regulation. The downside of this option is that it in no way guarantees that Canada will meet its Kyoto target and it is the least

cost-effective means of solving the problem. It is entirely possible that the incentives will fail or that the money will be misused in such a way that there will be a public inquiry into government's decision at a later date. Thus while promising a lower degree of risk, this approach is not as efficient or aggressive as the other options.

The worst possible outcome for the government would be a regulatory framework which both fails to meet the target and substantially harms the economy. Under this circumstance the government would be held solely responsible, being attacked on all fronts by business, the provinces, and environmentalists. Not only would this outcome undoubtedly result in negative electoral consequences, it would also result in a loss in international prestige as well as a failure to improve environmental conditions at home.

This then is the government's overall position in the bargaining game; it is at once the most powerful and the most vulnerable actor in the policymaking process. Its ultimate goal is the fulfillment of its Kyoto promise. In striving for this goal it must first assure that it does not harm its chances of re-election. Following this need, it also seeks to improve its international status while realizing genuine environmental progress. In formulating a strategy, it is primarily concerned with blame avoidance and minimizing costs to marginal voters. Hence its preferred strategy relies entirely on voluntary measures which impose no costs and allow a scapegoat if they fail. Its secondary option necessitates a gamble on regulatory measures, but could create immense electoral incentives if successful. As a fallback option it looks to public expenditures which allow for the appearance of a solution as well as an escape route should the initiative fail. While this option probably has the least chance of success, it also carries a lower degree of risk and hence would be preferable to an outright regulatory failure.

Chapter 5 – The Canadian Business Community:

Next to the federal government, the Canadian business community is the second most influential actor in the Kyoto implementation bargaining game. Its inflated status, by comparison to other actors, can be attributed both to the wealth of its resources as well as its influential position in modern society.[82] As Douglas MacDonald writes: "In today's capitalist societies, organized primarily on the basis of neoliberal ideas and dedicated to material consumption, business, not surprisingly, is the dominant political actor."[83] In Canada, business as a whole is represented by three broad-based advocacy groups: the Canadian Council of Chief Executives, the Canadian Chamber of Commerce, and the Canadian Manufacturers and Exporters Association. The main function of these three groups is to protect the business community from any government policy that could potentially harm jobs, investment, trade, or the economy. The business community generally opposes any kind of government interference into the free market; thus regulation, particularly environmental regulation, tends to be frowned upon. Since the Kyoto Protocol has the potential to impact business more than previous international environmental agreement, it stands to reason that the business community should want a say in how it will be implemented.

The business community has been united in its opposition to the Kyoto Protocol since the very beginning. Douglas MacDonald writes, in the years leading up to ratification:

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[82] See Brooks, Stephen and Andrew Stritch. *Business and Government in Canada* (Scarborough: Prentice-Hall, 1991).

[83] MacDonald, Douglas. "The business campaign to prevent Kyoto ratification," *Presented at the annual meeting of the Canadian Political Science Association* (Halifax: Unpublished, 2001), 6-7.

> ...Canadian business, led by the oil and gas sector in a coalition which included almost all the other manufacturing and resources sectors plus the three broad-based associations which speak for capital as a whole, mounted its largest effort to date to influence the environmental policy of the government of Canada.[84]

In its attempt to convince the government not to ratify the Protocol, business employed a number of different strategies. The three main arguments put forward by business and the conservative political community were as follows:

1. The evidentiary basis of global warming is weak and even wrong.
2. Global warming would be beneficial if it were to occur.
3. Global warming policies would do more harm than good.[85]

As a riding tide of scientific evidence quickly invalidated the first two arguments, the business community came to rely increasingly on the third; it centered its attack on climate change policy and attempted to poke holes in the logic of the Kyoto Protocol.

Business's attack on Kyoto employed three main arguments: first that the treaty would be too costly for Canada, second that Canada would be committing itself to a target that it could not meet, and third that the treaty would achieve no substantive environmental gains. Of the three, the first argument was undoubtedly the most persuasive. Several business think-tanks conducted studies of what the cost of implementing Kyoto would be to the Canadian economy and the average taxpayer. One such study conducted by the Fraser Institute concluded that the cost would be roughly equivalent to a one year recession, with an estimated dollar value of $45 billion over 10 years and 500 000 current and future jobs lost.[86] Another study conducted by the Chicago-based Heartland Institute put the cost at $4700 per taxpayer per year over the

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[84] MacDonald, 2.

[85] As outlined in McCright, Aaron M. and Riley E. Dunlap. "Challenging Global Warming as a Social Problem: An Analysis of the Conservative Movement's Counter-Claims," *Social Problems* 47 (No. 4) (November 2000).

[86] Cooper, Barry. "Like Lipstick on a Pig – The Politics of Kyoto," *Fraser Forum* (Vancouver: The Fraser Institute, 2003), 4.

next five years.[87] It further estimated that Canada would suffer a 6% annual decline in GDP and would gain only one dollar in benefits for every seven it spent.[88] Granted these studies assumed worst-case-scenarios and employed incredibly fuzzy math at times, but they nonetheless caught the attention of both the government and Canadian taxpayers.

Neither the government nor environmentalists could dispute the fact that ratifying the Protocol could put Canada at a comparative disadvantage with its trading partners. The agreement has not been ratified by the United States and does not include major developing economies like China and India. Nancy Anthony Hughes, the president of the Canadian Chamber of Commerce wrote a letter to Prime Minister Paul Martin stating: "Canada must recognize that whatever action that we take cannot be in isolation from our major trading partners, namely the United States, and the emerging economies of China and India."[89] The Canadian Manufacturers and Exporters Association later released a report titled "Pain Without Gain: Canada and the Kyoto Protocol" in which it argued that the Kyoto Protocol would render Canada uncompetitive in areas where it was already struggling, such as steel and chemicals.[90] This imbalance would be further aggravated by the Bush administration's climate change plan which emphasizes investing in technology and development to achieve GHG reductions while maintaining competitiveness.

The second argument put forward by the business community was that Canada would be unable to meet its Kyoto commitment, and thus should avoid ratifying. By the government's own admission, Canada has the most challenging target of any Kyoto

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[87] Green, Kenneth. "High Costs of Kyoto Compliance Punishing Canadians," *Environment News* (Chicago: The Heartland Institute, 2003),1.
[88] Green, 1.
[89] Hughes Anthony, Nancy. "Letter to The Right Honourable Paul Martin," *The Canadian Chamber of Commerce* (11 February 2005) (19 October 2005) http://www.chamber.ca/article.asp?id=3562.
[90] Canadian Manufacturers and Exporters, 15.

signatory.[91] This already daunting challenge, argued the Canadian business community, would be further exacerbated by certain geographical and structural features unique to Canada. Several independent studies have confirmed that Canada would face the highest implementation costs of any Annex-1 country.[92] These extra costs occur for a number of reasons, for example: "...our climate, large geographical area and relatively low population density contribute to higher end-use energy demands than most other countries."[93] Higher energy use equates to more GHG emissions and thus puts Canada at a disadvantage. Canada also has fewer coal-fired power plants than other Annex-1 countries, and thus is less able to benefit from improvements in clean-coal technology.[94] Nancy Hughes Anthony, the President of the Canadian Chamber of Commerce argued before the House of Commons Standing Committee on Environment and Sustainable Development that Canada's target was unfeasible because of Canada's status as a resource-based economy and an energy exporter.[95] Even Natural Resources Canada concluded that the efficiency improvements required to sustain economic and employment growth would have to be three times greater than the best that Canada has been able to achieve over the past 30 years in order to meet Canada's target.[96] These obstacles, argued the business community, were so insurmountable that Canada should

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[91] Government of Canada. *Moving Forward on Climate Change – A Plan for Honouring our Kyoto Commitment*, 7.

[92] See for example Cooper, Livermore, Rossi, Wilson, & Walker. "A Cross Country Quantitative Investigation using the Oxford Global Macroeconomic and Energy Model"; in Weyant (ed.), *The Costs of the Kyoto Protocol: A Multi-Model Evaluation, Special Issue of the Energy Journal* (May 1999).

[93] Canadian Association of Petroleum Producers. *Climate Change: The Upstream Oil and Natural Gas Industry's Contribution to Canada's Debate on Climate Change and the Kyoto Protocol* (Calgary: CAPP, 2004), 3.

[94] Canadian Manufacturers and Exporters, 8.

[95] Hughes Anthony, Nancy. "Canada's Climate Change Challenge," *Presentation to House of Commons Standing Committee on Environment and Sustainable Development* (Ottawa: Canadian Chamber of Commerce, 2005), 3.

[96] Natural Resources Canada. *Canada's Emissions Outlook: An Update* (Ottawa: Government of Canada, 1999).

avoid ratifying to save the embarrassment that would surely follow from failing to meet its targets.

The final argument against ratification centered on the inefficiency of the Kyoto Protocol, not only in terms of costs and benefits, but also in achieving substantive environmental progress. Critics pointed out that anthropogenic emissions account for only 2% of GHGs worldwide,[97] and that Canada was only responsible for 2% of those emissions.[98] Thus our reduction target of 6% would affect such a minute change in the total number of GHGs released into the atmosphere as to make it entirely unworthy of the economic sacrifices that would have to be made in order to accommodate the Kyoto Protocol. The fact that the Kyoto Protocol excluded some of the world's largest GHG producers, namely China and the US, only further invalidated its pretension to affect genuine change. Canada, argued the business community, would be better off building on the minor victories it had already achieved than tying itself to a symbolic multilateral agreement. As the Canadian Manufacturers and Exporters Association put it:

> Neither Canada nor the global environment will benefit from an international agreement that excludes some of the world's largest sources of greenhouse gas emissions, while penalizing countries — like Canada — that are making significant progress in energy efficiency and reducing carbon intensity.[99]

A better option, in the eyes of the business community, would be to pursue a 'Made-in-Canada' alternative to the Kyoto Protocol; one that would ensure the needs of the business community while also aiming at more substantive change. It was under this auspice that the Canadian Coalition for Responsible Environmental Solutions (CCRES) was created in the summer of 2002. The goal of the CCRES, which is composed of the

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[97] Canadian Manufacturers and Exporters, 2.
[98] Environment Canada. *Canada's Greenhouse Gas Inventory* (Ottawa: Government of Canada, 1999).
[99] Canadian Manufacturers and Exporters, 19.

three umbrella business advocacy groups as well as a host of others, was to stave off ratification by highlighting the benefits of a uniquely Canadian solution.[100] The CCRES pointed out that much progress had already been made in reducing emissions through voluntary initiatives and basic corporate-social responsibility. Honda Canada, for example, had cut emissions produced per vehicle by 35% while more than tripling production between 1990 and 2002.[101] Similarly, the aluminum industry kept GHG emissions stable while increasing production by 73% since 1990.[102] With this sort of progress being made, it hardly seemed rational for Canada to commit itself to a potentially damaging international agreement.

Yet this is exactly what the government did and in the wake of the Protocol's ratification in December of 2002 the business community has been scrambling to organize its next campaign, which is to control the damage that Kyoto implementation will have on business. Having examined business's overall sentiment towards climate change policy and gained an idea of its relative status at the bargaining table, it seems reasonable to structure its interests in the following way.

5.1 Interests:

1. Ensure the continued vitality of the Canadian business community, both now and in the future.
2. Maintain a level playing field with the US and other trading partners.
3. Ensure that the provincial governments are involved and hold authority.
4. Establish a precedent for future environmental agreements.
5. Make sure that any government expenditure primarily benefits Canadian businesses.

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[100] See Canadian Coalition for Responsible Environmental Solutions. "Backgrounder on Kyoto," *CanadianSolution.com* (No posting date given) (25 October 2005) http://www.canadiansolution.com/backgrounders.asp.

[101] Hughes Anthony, Nancy. "Canada's Climate Change Challenge," 1-2.

[102] Hughes Anthony, Nancy. "Canada's Climate Change Challenge," 2.

The first point, it goes without saying, supercedes all the others. In the eyes of the business community, there is nothing more important than maintaining a healthy economy, all other social programs depend upon it. The very foundations of the Canadian lifestyle are built upon the freedom to accrue as much wealth as one needs to live comfortably. This places the needs of the wealth-generating machine above all else. As Douglas MacDonald writes: "A capitalist society dedicated to material consumption readily cedes power to those who have capital to invest."[103] Environmental protection, then, is a luxury that can only be afforded if the needs of business are met first. This is the view taken by Pierre Alvarez, the President of the Canadian Association of Petroleum Producers, who writes: "Regardless of the policy that governments choose to implement, Canada will not achieve its objectives without a strong national economy."[104] Thus the first thing that business will measure in evaluating any kind of proposed implementation scheme is what effect it will have on business and the economy.

The second point is heavily tied in with the first. It is impossible for Canada to maintain a vibrant economy when government policies place it at a disadvantage vis-à-vis its trading partners. The Canadian Association of Petroleum Producers writes:

> Canadian companies operate increasingly in other areas of the world. Investment opportunities in Canada must compete with opportunities elsewhere. Investment capital is highly mobile. Policies that disadvantage Canadian production would encourage a shift of investment out of Canada, with no benefit of reduced global emissions. Other countries would simply replace Canadian supplies to central Canada and the US.[105]

The larger concern of the business community is that Canada may not be able to compete in a world where trade barriers are falling rapidly and more and more actors enter the

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[103] MacDonald, 14.
[104] Canadian Association of Petroleum Producers, 3.
[105] Canadian Association of Petroleum Producers, 3.

market every day. In this environment, Canada needs every edge it can get to remain competitive, including a government that will not hinder its performance in an attempt to conform to environmental standards. The wrong kind of Kyoto plan might impose costs on business, which in turn would reduce cash flow and erode rates of return on capital investment.[106] Business is also concerned that export-intensive industries have remained competitive largely because of reliable and competitively priced energy and because of efficient transportation systems which deliver goods to the U.S. market. A Kyoto implementation plan that allows a rise in energy prices could erode that competitive edge and effectively price Canadian exporters out of the US market.[107] With 86% of all Canadian exports destined for the United States,[108] Canada cannot risk the loss of its largest export market to a less encumbered domestic industry. It is for this reason that maintaining a level playing field is of paramount concern to Canadian businesses.

The third point on business's interest list is to ensure that provincial governments hold authority or are at least somewhat involved in any kind of implementation program. Business's relationship with the provinces is a bit of a complicated one and can likely be attributed to the provincial jurisdiction over harvesting of natural resources. Provinces accrue tax revenue from the management of natural resources and generally oppose interference in their affairs by the federal government, as a result of this, the interests of provinces and businesses have become somewhat aligned over the years. It should come as no surprise then that business feels it has a better working relationship with the provinces than the federal government and would rather operate under their stewardship.

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[106] Canadian Manufacturers and Exporters, 14.

[107] Canadian Manufacturers and Exporters, 14.

[108] United States Government. "Canada-US Trade Relationship," *US Commercial Service* (No posting date given) (25 October 2005) http://www.buyusa.gov/canada/en/traderelationsusacanada.html.

In a poll of CEOs and business leaders conducted by Compas Public Opinion and Market Research an extraordinary 89% of respondents felt it was vital for the provinces to be involved in the decision-making on Kyoto.[109] This sentiment is supported by a statement by the Canadian Chamber of Commerce which reads: "...all levels of government, particularly provincial and territorial, must be involved in Canada's action plan on climate change. Whatever we do, we must ensure that we don't create a regulatory burden with layers of duplication between the levels of government."[110] In a letter to John Efford and Stéphane Dion, Pierre Alvarez the president of the Canadian Association of Petroleum Producers, writes at length about the need to leave the door open for some kind of provincial equivalency agreement with the province of Alberta.[111] Clearly then, the Canadian business community feels that the provinces will be more sympathetic to its needs and has a vested interest in seeing that the provinces hold a seat at the table.

The fourth point in business's list of interests is to establish a precedent for future environmental agreements. Since Kyoto is truly the broadest and farthest reaching environmental agreement Canada has ever been part of, it will undoubtedly serve as a template for future agreements. Hence decisions made by the government will not only affect business in the short term, but will also decide the role that business plays in policy creation in the future as well. In this sense, it would be a victory for business simply to have a seat at the table and be consulted on whatever implementation program the government decides on. This would establish a norm of collaboration on important

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[109] Compas Public Opinion and Market Research. "Support for Kyoto Fades – Strong Demand for More Consultation," *Weekly Compas Poll of CEOs and Business Leaders for the National Post* (Ottawa: Compas, 2002),1.

[110] Hughes Anthony, Nancy. "Letter to The Right Honourable Paul Martin," 2.

[111] Alvarez, Pierre. "Letter to The Honourable John Efford and The Honourable Stéphane Dion," *Canadian Association of Petroleum Producers* (14 February 2005).

environmental policies and would also make it more difficult for the government to take unilateral action in the future. Should business succeed in steering government away from coercive regulatory measures, it would establish a precedent of using low coercion instruments before resorting to more drastic measures. In essence, business needs to attain a satisfactory result in this series of negotiations to ensure its continued dominance of the political sphere in the future.

The final point on the business community's interest list is to ensure that any government expenditure primarily benefits Canadian businesses. The main point here is that business wants to avoid government investment in international reductions credits. All three of the mechanisms specified by the Kyoto Protocol (clean development, joint implementation, and emissions trading) allow the government to invest money overseas in order to achieve its emissions target. Logically, Canadian businesses would prefer that our tax dollars stay in the country and help make Canadian industry more innovative and competitive.

5.2 Strategies:

The preceding analysis provides us with a foundation on which to postulate a ranked list of policy preferences for the business community. Before examining individual strategies however, it is important to note that business often employs similar lobbying techniques in a number of bargaining situations. Regardless of the type of policy it chooses to pursue, business always employs a two-pronged attack consisting first of vocal appeals to the public and second of private appeals to the government. On the whole, material aimed at the public tends to be far more negative and often creates a 'boogeyman' scenario of what will happen if the government has its way. As Douglas

MacDonald writes: "Advertising aimed at individual Canadians emphasizes costs they would bear, such as job losses and higher gasoline prices."[112] The information aimed at government, by contrast, strikes a far more conciliatory tone, emphasizing the need to cooperate to reach mutual goals. An example of this can be found in a letter to the government by Pierre Alvarez, which reads: "...industry has been a partner in our collective progress towards meeting climate change commitments. It has always been our position that we must work closely together to achieve goals that benefit all Canadians."[113] By using both inside bargaining and outside lobbying, the business community can exert pressure on government from two sides at once and stands a better chance of realizing its policy goals.

By building on the ranked list of interests proposed for the business community we can hypothesize a similar list of strategic policy preferences. We can also determine what the business community would consider an absolute failure in the bargaining process. The list of preferences hypothesized for the business community is as follows:

> **1. Reach a voluntary, non-binding agreement with light emissions targets and a flexible schedule.**
> **2. Agree to binding, enforceable, reductions targets, but only with generous subsidies from government.**
> **3. Agree to an unsubsidized market-based emissions trading scheme that allows for the purchase of offset credits.**
>
> **Absolute Failure: A unilaterally imposed regulatory system that imposes concentrated costs on business and is viewed as necessary by the public.**

The first option is clearly the best for business since it avoids coercive regulatory measures and satisfies most of business's interests. A voluntary reduction scheme with generous targets and a flexible timeline would have the least effect on jobs and

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[112] MacDonald, 22.
[113] Alvarez, 1.

investment and would likely not place Canada at an extreme disadvantage vis-à-vis the United States or any of its other trading partners. It ensures business's seat at the table in future negotiations by establishing a norm of cooperation and also firmly entrenches the primacy of business and trade over the environment. A voluntary system is also likely to draw funds from the government thereby keeping Canadian tax dollars at home and benefiting business. Empirical evidence exists to confirm that voluntary mechanisms are the preferred instruments of business; many business associations say as much in their press releases on climate change. For example, the Canadian Manufacturers and Exporters Association states: "Voluntary and market-based approaches should be preferred over regulatory and tax-based approaches to reducing greenhouse gas emissions."[114] The question for business then is how to go about convincing government and the public that it is better served by a voluntary agreement?

Here as well, business is likely to use a two-pronged approach, emphasizing at once the benefits of voluntarism as well as the disadvantages of regulation. In terms of benefits, voluntary compliance measures are effective both at reducing costs for the regulated community as well as for the regulatory authority.[115] They can redirect resources from lawyers towards more environmental protection and reduce the overall burden on the judicial system.[116] By contrast, a regulatory system places unnecessary pressure on government and stands to harm both parties if it does not work. As the Canadian Council of Chief Executives argues: "If Canadian companies are to be leaders in the development, adoption and export of climate-friendly technologies, climate change

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[114] Canadian Manufacturers and Exporters, 20.

[115] Commission for Environmental Cooperation. *Voluntary Measures to Ensure Environmental Compliance: A Review and Analysis of North American Initiatives* (Montreal: Commission for Environmental Compliance, 1998), 8.

[116] Commission for Environmental Cooperation, 8.

goals for Canadian industry must reflect economic and competitive realities and not penalize already efficient firms with arbitrary targets."[117]

One way business could convince government of this is to demonstrate the gains that voluntary measures have already made in Canada. As the Canadian Association of Petroleum Producers points out, many companies have been participating in a Voluntary Challenge and Registry (VCR) program since 1995.[118] Between 1999 and 2004, VCR members implemented 307 projects resulting in a reduction of 13 million tonnes of GHG emissions.[119] According to Natural Resources Canada, manufacturers cut energy-related GHG emissions by 1.9% between 1990 and 1999 as a result of voluntary actions aimed at both improving energy efficiency and switching to cleaner fuels.[120] If these programs have proven successful to date, it would make no sense for the government to revert to an unproven regulatory scheme. Its energy and resources would be better spent by building on these successes and supporting companies that adopt voluntary initiatives.

Proponents of a voluntary system also point to examples in other countries to demonstrate how these types of agreements are rapidly becoming an international norm. In France, for example, the government is working with major automobile manufacturers to create a voluntary program for recycling end-of-life vehicles. [121] German industry has similarly entered into a voluntary agreement with the German government to reduce carbon dioxide emissions and British Petroleum has committed itself to cutting

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[117] Canadian Council of Chief Executives. "Creating a Healthy Environment – Kyoto Protocol," *CEOCouncil.ca* (No posting date given) (21 October 2005) http://www.ceocouncil.ca/en/creating/kyoto.php.

[118] Canadian Association of Petroleum Producers, 2.

[119] Canadian Association of Petroleum Producers, 2.

[120] Natural Resources Canada. *Canada's Emissions Outlook: An Update.*

[121] Lyon, Thomas P. "Voluntary versus Mandatory Approaches To Climate Change Mitigation," *Resources for the Future - Issue Brief 03-01* (February 2003), 5.

greenhouse gas emissions by 10%, relative to its 1990 emissions levels.[122] The business community can point to any of these examples in attempting to convince government that regulatory measures are inefficient and outdated. It is important not to underestimate how much our government looks to other countries for leadership in certain policy areas.

Business's preferred vehicle for a voluntary agreement would be a series of MOUs (Memoranda of Understanding) between individual corporate sectors and the government. Essentially, and MOU sets out steps to be taken voluntarily by industry, as an alternative to the imposition of new legal requirements.[123] In the event that a corporate sector fails to fulfill the requirements set out in an MOU, it can only be held accountable by the media and the public. The benefits of adopting an MOU system, from business's point of view, are that it may create: "a parallel system in which industry agrees to do more than the status quo, in return for which government tacitly agrees not to regulate."[124] This is exactly the kind of system that business hopes to have in place for future negotiations on environmental policy. It keeps emissions targets low enough that they will not affect economic performance, but also can be used to demonstrate that industry is taking action on climate change and being a good corporate citizen.

Should business be unable to negotiate a series of voluntary agreements with the government, its secondary strategy would be to agree to a series of fixed targets, but only if government was willing to expend the funds necessary to help business meet them. This would entail a massive program of business subsidies coupled with considerable investment into new technology to give Canada a cutting edge in the international market.

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[122] Lyon, 5.

[123] Gibson, Robert B. ed., *Voluntary Initiatives: The New Politics of Corporate Greening* (Peterborough: Broadview Press, 1999).

[124] Commission for Environmental Cooperation, 81.

This is a sentiment that has been iterated repeatedly by the Canadian Chamber of Commerce, particularly in its letter to the Prime Minister, where it urged Paul Martin to "focus on incentives rather than penalties."[125] Such a strategy would likely fulfill business's interest in not harming trade or the economy and would also succeed in keeping Canadian tax dollars at home. It would also establish a precedent of government financially supporting business anytime it created potentially harmful regulation.

Failing a government commitment to subsidize an emissions reduction program, business's tertiary preference is an unsubsidized market-based emissions trading scheme. While this option would clearly be less preferable than a series of voluntary agreements or a subsidized reductions program, it would allow business some degree of flexibility in meeting its targets and would be preferable to an out-and-out regulatory system. It is likely that a market-based emissions trading system would lower the cost of compliance, especially for the worst offenders. As Thomas D'Aquino writes: "Market-based instruments such as emissions trading and joint implementation have the advantage of achieving the same environmental improvement at lower cost."[126] A firm that is unable to improve its reductions through in-house measures (or finds those measures too expensive) could simply purchase offset credits from a company who stands to achieve compliance more easily. At the very least, this program would reduce the overall impact on the economy and make compliance somewhat more feasible.

The worst possible outcome for business would be a severe regulatory system which imposes hard, enforceable targets and concentrated costs on the business

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[125] Hughes Anthony, Nancy. "Letter to The Right Honourable Paul Martin," 2.

[126] D'Aquino, Thomas. "Kyoto and the Canadian Challenge," *A Presentation to the National Forum on Climate Change National Roundtable on the Environment and the Economy* (Ottawa: Business Council on National Issues, 1998), 24.

community. Such an outcome would undoubtedly harm economic performance while at the same time putting Canadian trade at a disadvantage. It would firmly establish the primacy of the environment over business – a norm that could come back to haunt the business community in future negotiations. Still worse would be if the public deemed that the regulations were necessary because business simply was not cooperating with the government in negotiating a joint strategy. Of course business will only negotiate to avoid this outcome if it feels that the federal government is making a credible threat to impose such a regulatory system. If it at any point determines that government is unwilling to follow through on its threats, then it will have garnered a bargaining advantage which it can use to old out for better terms.

To summarize, business holds a great deal of status in this bargaining game because of the resources it commands and its influential position in modern society. Its ultimate goal is to secure the interests of business, both now and in the future, by ensuring that environmental policies do not supercede the importance of trade and the economy. In achieving these ends, it looks to support from the provincial governments, who have an established history of shared interests with the business community. It also seeks to secure more federal investment in business and to keep Canadian tax dollars at home. The strategy that best accommodates these needs is the pursuit of a series of voluntary, non-binding agreements on emissions reduction. Failing this, a heavily subsidized program of targeted reductions or a market-based emissions trading scheme are passable alternatives. The door is left open for some kind of combination of the above strategies.

Chapter 6: The Government of Alberta

The third actor to be discussed in our analysis of the Kyoto implementation bargaining game is the Government of Alberta. While some might question the decision to focus solely on Alberta to the exclusion of other provinces, there are several valid reasons for giving Alberta special mention. First, it would be difficult to group all the provincial governments together as a unitary actor since there are few areas where their interests coincide and far more where they diverge. Quebec and Alberta, for example, are at completely opposite ends of the Kyoto spectrum and it would be completely misrepresentative to argue that they occupy a single position at the bargaining table. Second, Alberta clearly stands to be more affected by the Kyoto Protocol than the other provinces. Alberta's per capita emissions are more than 6 times higher than Quebec's and about 3 times higher than the national average.[127] As Kathryn Harrison has pointed out, if Alberta were a country, its per capita emissions would be comparable to that of petrol-rich gulf states like Bahrain.[128] Indeed, Alberta accounted for 30.5% of national emissions in 2002 and 44% of growth in GHG emissions between 1990 and 2002.[129] Clearly then, no other province has a larger stake in how the Kyoto Protocol will be implemented than Alberta.

The Government of Alberta has been a vocal opponent of the Kyoto Protocol since its inception. Much of Alberta's provincial tax revenue stems from the province's lucrative energy, mining, and forestry sectors – all of which are emissions heavy

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[127] Harrison, ""Speech given at Institute for Intergovernmental Relations Conference," 3.
[128] Harrison, ""Speech given at Institute for Intergovernmental Relations Conference," 3.
[129] Government of Canada. "Canada's Greenhouse Gas Inventory - Overview 1990-2002," *Environment Canada* (20 October 2004) (2 November 2005) http://www.ec.gc.ca/pdb/ghg/1990_02_factsheet/2002Factsheet_e.cfm

enterprises and could potentially suffer under the Kyoto Protocol. The main weapon in the government's anti-Kyoto arsenal is speculation about the disastrous consequences that Kyoto will have on Alberta's economy. Stories about massive job losses and crashing stock prices were abundant in the pre-ratification days, and some have persisted into the post-ratification era. An article in the *Edmonton Journal* in May of 2005 claimed that in order to comply, Alberta would: "...have to shut down perhaps half of its oil and gas production, double or even triple the cost of gasoline, limit electrical generation and perhaps even restrict the distance and duration you could drive your car."[130]

In September of 2002 alone, the Government of Alberta spent roughly $1.5 million dollars on anti-Kyoto advertising.[131] Numerous options were floated for opposing the treaty's ratification. One such option was the launching of a constitutional challenge against the federal government, arguing that it could not impose a treaty that had a direct effect on matters of provincial jurisdiction. The Constitution does not clearly outline which government has authority over matters pertaining to the environment. While it gives the provinces power over the harvesting of natural resources as outlined in section 92a, the federal government has the residual power of P.O.G.G. (Peace, Order, and Good Governance) which pertains to all matters not explicitly covered in the Constitution. Numerous cases have come before the Supreme Court in an effort to decide the matter, but there have been no clear rulings in either the provinces or Ottawa's favour. As Robert Richards writes, throughout Canada's constitutional evolution, the

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[130] Gunter, Lorne. "Liberals' Kyoto plan full of hot air," *Edmonton Journal* (17 May 2005).

[131] Brownsey, Keith. "The World Changed Forever: Alberta's Oil and Gas Industry in a Post-Kyoto World," *Paper delivered at the Carlton University Conference on Sustainable Energy* (Ottawa: Unpublished, 2002), unpaginated.

"Court has been sensitive to the need of maintaining a balance between federal and provincial authority."[132]

Alberta Premier Ralph Klein took the issue to another level when he hinted at the possibility of separating from Canada. In a media outburst in September of 2002, Klein remarked:

> The Clarity Act applies to all provinces, not just Quebec. It sets out a formula for leaving the country, Alberta is not looking at that at this time, but that's not to say that some people are not already doing so. There's been some talk. I get lots of cards and letters. So I say to Ottawa, just don't push us. Be fair and understand the importance of this industry to Alberta and Canada.[133]

Of course, Klein recanted his statement only hours later after a massive outcry from Albertans and the rest of Canada. Nonetheless, a message had been sent to the federal government and the rest of Canada: Alberta would not be pushed around on Kyoto and Albertans demand to have their interests taken seriously.

In the end, Klein decided to form the Kyoto External Advisory Committee, headed by former provincial premier Peter Lougheed, to advise the provincial government on drafting its own environmental legislation. Lougheed, as well as several other members of the committee, clearly rejected the possibility of a Supreme Court challenge and instead advised Klein to develop a "made in Alberta" solution.[134] The result was two pieces of legislation designed to keep the federal government at arms length. The first was The *Climate Change and Emissions Management Act* (Bill 32) which protected

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[132] Richards, Robert G. "The Canadian Constitution and International Economic Relations," in Douglas M. Brown and Murray G. Smith. eds., *Canadian Federalism: Meeting Global Economic Challenges?* (Kingston, Ontario: Queen's University Institute of Intergovernmental Relations, 1991), 49.

[133] Canadian Press. "Klein says Alberta won't separate over Kyoto," *CTV.ca* (30 September 2002) (31 October 2005) http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20020930/kein_alberta_kyoto_020930?s_name=&no_ads=

[134] Kukucha, Christopher J. "From Kyoto to the WTO: Evaluating the Constitutional Legitimacy of the Provinces in Canadian Foreign Trade and Environmental Policy," *Canadian Journal of Political Science* 31 (No. 1) (March 2005), 147.

Alberta's ownership of its natural resources and outlined a plan for reducing greenhouse gases.[135] The Act set an overall emissions target for Alberta along with targets for specific sectors of the economy established through negotiation and regulated agreements. It also developed a framework for an emissions trading system and a fund to help sectors meet performance targets and to allow for private sector investment in research, technology and energy conservation. The second piece of legislation was "The Alberta action plan on climate change," which was announced in October of 2002. The plan called for a 50% reduction in emissions intensity (emissions per dollar of economic production) below 1990 levels by the year 2020.[136] Note that the target is both smaller than that of the Kyoto Protocol and has an extended timeline. Klein's intention in launching these plans was to pre-empt the federal government in creating a GHG reduction scheme in the hopes that the government would deem Kyoto unnecessary. Alas for him, the government proceeded in ratifying Kyoto and Alberta was forced to revamp its strategy to conform to the new realities of Kyoto compliance.

6.1 Interests:

In formulating a strategy to deal with Kyoto implementation, we can hypothesize that the Government of Alberta's two main interests are:

> **1. Protect the oil and gas industry and the tax revenue it generates.**
> **2. Prevent constitutional authority over the environment from shifting to the federal government.**

The first of these interests stems from the need to maintain Alberta's position as one of the fastest growing and most economically dynamic provinces in Canada. The

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[135] Government of Alberta. "New legislation to support Alberta's action plan on climate change," *Government of Alberta News* (19 November 2002) (31 October 2005) http://www.gov.ab.ca/home/index.cfm?Page=338

[136] Government of Alberta. "New legislation to support Alberta's action plan on climate change."

Government of Alberta often promotes itself under the slogan 'The Alberta Advantage.' The campaign is designed to attract business and investment to Alberta by promoting the fact that Alberta has the lowest personal income tax rate and cost of living of any province and is the only province without a provincial sales tax (PST). In addition to this, it also boasts the lowest provincial corporate tax, the lowest cost of doing business, and the lowest private sector unionization rate in Canada.

All of these benefits are ostensibly based on the government's sound fiscal policy and legislated promise never to run a deficit budget.[137] However the true reason that Alberta can consistently realize a budgetary surplus while having the lowest taxation rate in the country is the province's immense natural wealth in oil and gas. Alberta's oil sands reserve is considered to be one of the largest in the world, containing 1.6 trillion barrels of bitumen initially in place.[138] In 2003, Alberta's mining and energy exports were valued at $39.6 billion and accounted for 70 per cent of all Alberta's international exports. The energy sector employs nearly 304,000 people, or about 18% of Alberta's total workforce. The provincial government directly owns 81% of its natural resources and its total non-renewable resource revenue for the fiscal year 2003/04 was $7.68 billion, or 30% of all Government of Alberta revenues. The turbulent situation in the Middle East in recent years has driven energy prices through the roof, which has only further inflated Alberta's oil windfall. Soaring energy revenues left the government with a predicted $6.8-billion budgetary surplus this year, although the actual figure could end

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[137] Government of Alberta. "Alberta Advantage," *About Alberta* (No posting date given) (1 November 2005) http://www.gov.ab.ca/home/Index.cfm?Page=4.

[138] All statistics and figures in this section unless otherwise sourced from: Government of Alberta. *Alberta's Energy Industry Overview* (Edmonton: Government of Alberta, 2004).

up closer to $8.8 billion.[139] Ralph Klein has decided to allow Albertans to have a share in that profit by issuing a $400 "prosperity rebate" cheque to all Albertan taxpayers.[140] He has further promised to spend $1.4 billion of the surplus on healthcare.

Clearly then, the 'Alberta Advantage,' and the all the other various incentives that Alberta manages to offer, would not be possible without the tax revenue gleaned from oil extraction and refinement. Indeed, the tenure of the Conservative government would likely have been shortened had it not been able to offer such generous corporate incentives because of the province's natural wealth. It follows logically that the government's number one priority in dealing with the Kyoto Protocol is to protect the oil and gas industry from any federal policy that stands to adversely affect it. Above all else, Alberta must ensure that it continues to benefit from oil so that it can maintain a comfortable existence for both its government and its citizens.

The second priority for the Government of Alberta is to prevent constitutional authority over the environment from shifting to the federal government. Provincial governments have fought long and hard to maintain control over their natural resources and there is no sign that they will be willing to cede control anytime in the near future. During the 1970s, environmental regulations were largely conducted by provincial governments by means of regulator-firm negotiation of both standards and compliance time-tables with little use of prosecution as an enforcement technique.[141] This was an ideal situation for the provinces, but it did not last very long. The 1980s saw a rise in the

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[139] CTV.ca News Staff. "Alta. to spend $1.4B surplus cash on health care," *CTV.ca* (15 October 2005) (1 November 2005) http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20051014/alberta_surplushealthcare_20051014/20051015?hub=Health.

[140] CTV.ca News Staff. "Alta. to spend $1.4B surplus cash on health care."

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

salience of environmental issues and the federal government moved closer to a direct regulatory role with the enactment of the Canadian Environmental Protection Act (CEPA) in 1988. This pressure was relaxed somewhat in the 1990s as the paradigm of environmental policy was reframed from "the polluter pays" to the more business-friendly concept of "sustainable development."[142] Moving into the new millennium, climate change promises to elevate the environment into the mainstream of public consciousness once again, and with this renewed salience will come another push for federal involvement.

This incursion, as usual, will be met with great resistance from the provinces. Already a group of prominent Albertan businessmen and politicians, including the current federal Conservative party leader Stephen Harper, have made their thoughts known to Premier Ralph Klein in a January 2001 letter which became known as the 'The Alberta Agenda.' The letter urged Alberta to "build firewalls around Alberta" by, amongst other things, opting out of the Canada Pension Plan and replacing the RCMP with an Alberta Provincial Police Force."[143] Klein gave the letter a decidedly lukewarm reception but its contents struck a chord with members of government and the public alike. While Alberta may not be ready to act upon the drastic measures proposed by the 'Alberta Agenda,' it most definitely recognizes the value of keeping the federal government on its toes. If there ever were a piece of policy designed to drive a wedge between Edmonton and Ottawa, Kyoto would most certainly be it. In the words of skeptics like Barry Cooper: "The most lasting political legacy of Kyoto in Canada is likely to be an atmosphere of

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[142] MacDonald, 4.

[143] Harper, Steven et al. "The Alberta Agenda," *Alberta Residents League* (January 2001) (19 October 2005) https://www.albertaresidentsleague.com/How/AlbertaAgendaLetter.htm

acrimony and deadlock because mutual distrust makes federal-provincial cooperation impossible. Nowhere will that be more apparent than in Alberta."[144]

6.2 Strategies:

With Kyoto ratification a reality, and the vitality of its oil industry at risk, the Government of Alberta was presented with a number of strategic options. In terms of gaining leverage over the federal government, there were two options available to the province. The first was to continue threatening to engage the federal government in a nasty constitutional debate. As Sylvia LeRoy, a conservative commentator for the Fraser Institute pointed out:

> Ratification of the Kyoto Accord, an action well within the federal government's constitutional powers, was easily pushed through the House of Commons on December 10... Implementation, on the other hand, will be nasty, brutish, and long, requiring new federal legislation and the cooperation of the provinces whose jurisdiction will be infringed.[145]

This is Alberta's strongest tactic since the federal government would likely face electoral repercussions for proceeding with an implementation program that was completely in disaccord with the wishes of one of the members of confederation. As Sylvia LeRoy and Jillian Frank write: "Without the power to unilaterally implement Kyoto, the federal government's treaty promises will only be effective to the extent the provinces agree to implement them."[146]

The second option available to the Government of Alberta is to form a unified front with the other provinces and jointly oppose implementation of the Kyoto Protocol. This is a tactic that Ralph Klein attempted once before in February 2002, when he

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[144] Cooper, 5.

[145] LeRoy, Sylvia. "A Constitutional Firewall Against Kyoto," *Fraser Forum* (Vancouver: The Fraser Institute, 2003), 17.

[146] LeRoy, Sylvia and Jillian Frank. "Kyoto and the Constitution," *Fraser Forum* (Vancouver: The Fraser Institute, 2002), 6.

ambushed then-Prime Minister Jean Chrétien in Moscow with a letter allegedly signed by all the Premiers condemning the decision to ratify the Kyoto Protocol.[147] The strategy backfired when Manitoba Premier Gary Doer refuted the letter a few days later and came out in favour of the Protocol. Klein's attempts to form a unified front were met with greater success with the drafting the Provincial and Territorial Statement on Climate Change Policy in October 2002. The statement announced 12 Principles for the federal government to adhere to in creating an implementation program for Kyoto. Amongst other things it recommended that: "The plan must ensure that no region or jurisdiction shall be asked to bear an unreasonable share of the burden and no industry, sector or region shall be treated unfairly."[148] This clause was clearly inserted for the benefit of Alberta and the oil industry. However the continued intransigence of Manitoba and Quebec in supporting Kyoto make seeking a solidarity with other provinces a risky strategy for Alberta. In doing so, it runs the risk that the others will capitulate and Alberta will be left hung out to dry.

Following Alberta's ranked list of interests and the general strategic considerations listed above, its strategic policy preferences can be divined as follows:

> **1. Pre-empt federal implementation strategy with a made-in-Alberta solution.**
> **2. Implement a volunteer-based system administered by the provincial government.**
> **3. Agree to targeted, enforceable, reductions targets, but receive generous subsidies from the federal government.**
>
> **Absolute Failure: A 'polluter-pays' regulatory system that imposes concentrated and disproportionate costs on the province of Alberta.**

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[147] Jaimet, Kate. "Bid for provincial solidarity against Kyoto accord fails," *Ottawa Citizen* (20 February 2002).
[148] First Ministers of Canada. "Provincial and Territorial Statement on Climate Change Policy," (Halifax: Unpublished, 28 October 2002).

It may appear that the first two options closely resemble each other, but in actuality there is a key difference between them. The first option allows Alberta to follow its own timeline and meet a self-chosen target through a volunteer-based system. The second option accepts that Alberta belongs to national commitment to achieve a set target by the year 2012, and will attempt to meet that goal through voluntary mechanisms.

The first goal is clearly Alberta's preferred option since it stands to hold the least effect on the oil and gas industry and would also assert provincial supremacy in matters pertaining to the environment. Federal support of a made-in-Alberta plan would not only represent a significant endorsement of a province's ability to manage its own affairs, it would also set a precedent of deference to the provinces in future cases of constitutional vagueness. Furthermore, if Alberta could succeed in selling the federal government on its extended timeline and moderated reductions targets, it would have successfully demonstrated how a single province can influence the foreign policy of an entire country.

In order to achieve this goal, Alberta needs to demonstrate that its programs have already been successful and will continue to achieve results over the long term. By highlighting the innovativeness of some of its programs, Alberta may be able to convince the federal government to adopt similar tactics. Already the projects it currently has in place have been projected to lead to 66.5 million dollars in economic development over the next decade and savings of 24 million dollars in energy costs.[149]

Realistically though, convincing the federal government to renege on its Kyoto commitment and side with Alberta is going to be incredibly difficult, which is why the second option exists. Should Alberta be unable to convince Ottawa that its current

[149] Climate Change Central. "Partners in Building Our Future," 2.

climate change program is sufficient, it can at least demonstrate the efficiency of voluntary measures and push for a federal system that adopts similar tactics. By pre-empting the federal government in creating a climate change strategy, the Government of Alberta will have already developed much of the infrastructure and performed much of the networking necessary to implement such a program. It therefore leaves itself in a good position to continue its administrative control over the program and preserve provincial jurisdiction. Furthermore it can form a combined front with business at the bargaining table since business would certainly support a voluntary, provincially administered system as well.

In the event that the government does not see voluntary measures as a viable strategy, Alberta's third option is to allow set emissions targets, but only if federal government agrees to generously subsidize the province and industry. This is a position that the provinces agreed on when they announced their 12 Principles in October of 2002. The second principle on the list states: "The plan must incorporate appropriate federally funded mitigation of the adverse impacts of climate change initiatives."[150] Obviously the provinces, and especially Alberta, do not want to be left holding the bill for a program they never supported in the first place.

An absolute failure for the Government of Alberta would be a coercive regulatory system which imposes concentrated costs on the oil and gas industry and results in lower tax revenues for the government. Not only would such a system be bad for Alberta's economy, it would also signify an end to the cooperative federalism of the post-World War II era and a return to centralized power in the hands of the federal government. It

[150] First Ministers of Canada. "Provincial and Territorial Statement on Climate Change Policy," 1.

would further establish a clear precedent of federal authority over the environment, as well as the supremacy of environmental issues over the economy. The federal government may, for instance, choose to use existing environmental legislation to enforce the Kyoto Protocol; this move would undoubtedly prove disastrous for Alberta. As one columnist for the Calgary sun writes:

> Alberta's biggest concern, and a major potential hurdle, is that Ottawa not use the Canadian Environmental Protection Act to underwrite the Kyoto plan. The act gives the feds a legal hammer, and would effectively demolish any suggestion that this is a co-operative effort with the provinces.[151]

Such a move would undoubtedly threaten the continued viability of the 'Alberta Advantage' as well as the continued hold of the Conservative party on provincial politics.

Although Alberta lost the battle over Kyoto ratification, it remains an influential actor in the battle over implementation. It seeks mainly to protect the oil and gas industry, which provide the province's economic backbone, as well as to keep the federal government from stealing any more authority away from the provincial governments. In bartering for position, its main weapons are the persistent threat of a constitutional challenge as well as its solidarity with the other provincial governments and the business community. An ideal outcome would be an endorsement of its homemade climate change program by the federal government, however a comparable voluntary system would also be acceptable. It will accept enforced reductions targets only if they are sponsored by the federal government, but at all costs it seeks to prevent a coercive regulatory system.

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[151] Stanway, Paul. "Feds Eye Alberta's Kyoto Strategy," *Calgary Sun* (30 January 2005), 31.

Chapter 7: ENGOs

The final actor to be discussed in the Kyoto implementation bargaining game is the Canadian ENGO community and the Canadian environmental movement as a whole. ENGOs bring an entirely different set of values and interests to the bargaining table. They are decidedly less concerned with economic consequences and political ramifications; instead, they hold the gradual abatement of climate change as their ultimate goal. ENGOs have been largely supportive of the Kyoto Protocol, recognizing it not as an all-encompassing solution to climate change, but rather as a valuable first step towards global action. As the Sierra Club of Canada writes:

> The protocol has always been intended as a first step towards greater emission targets. To reintroduce the Titanic analogy, point the boat in a slightly different direction now and we will eventually be going towards a very different destination indeed. Hopefully one that will avoid the iceberg.[152]

ENGOs also have a very different conception of Canada's position in the world. While business leaders stress Canada's progressiveness in using voluntary reduction schemes, environmentalists point out that Canada possesses one of the world's least energy efficient and most carbon intensive economies. Canada's economy, for instance, is 33% less energy efficient than that of the United States.[153] Moreover, our GHG emissions have grown by 24% between 1990 and 2003.[154] This only makes the need for action more urgent.

In contrast to the dire economic consequences predicted by the business community and the provincial governments, ENGOs see at worst a minimal economic

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[152] The Sierra Club of Canada. *Ten Popular Canadian Myths about the Kyoto Protocol* (Ottawa: Sierra Club of Canada, 2002), 10.
[153] Boyd, David. "Canada vs the OECD: An Environmental Comparison," *University of Victoria Eco-Chair of Environmental Law & Policy* (Victoria: University of Victoria, 2001), 1.
[154] Government of Canada. "Canada's 2003 Greenhouse Gas Inventory," *Submitted to the UNFCCC on 27 May 2005* (Ottawa: Government of Canada, 2005), 3.

slowdown and at best an emerging comparative advantage. Jim Fulton of the David Suzuki Foundation writes:

> ...while achieving the Kyoto target, the Canadian economy is projected to grow by more than 31 per cent. Under the most realistic Kyoto implementation scenarios, emission reduction actions barely impact on this growth. This is true for all provinces, including Alberta, and all sectors, including the oil and gas industry.[155]

By investing in emerging technologies and making Canadian industry more energy efficient, Canadian businesses actually stand to reduce production costs and gain a comparative advantage on their competitors. The government also stands to save costs on healthcare and prevent some of the expensive side effects of climate change (like droughts, fires, and other extreme weather) by investing in Canada's future.

Even if Kyoto does have some deleterious effects on the economy, they almost certainly would not be as bad as those predicted by the business community. The Sierra Club of Canada writes:

> ...suppose the actual economic cost of Kyoto is over twice as bad as the federal government's worst-case scenario, and our GDP is reduced 4 percent by 2012 (about $50 billion). This perfectly compares to what happened in the 1990s when federal government cuts reduced our GDP by at least 4 percent between 1995 and 1997.[156]

Canada certainly rebounded from that recession and even found itself better off in the long run. If the country can justify slowing growth in the name of fiscal prudence (and even elect the man responsible as Prime Minister afterwards!) then it should have no compulsions about slowing growth in the name of preventing one of the biggest environmental challenges ever to face our planet.

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[155] Fulton, Jim. "Implementing the Kyoto Protocol Practical, Affordable and Achievable Solutions," *Submission to the Standing Committee on Finance, House of Commons* (Vancouver: David Suzuki Foundation, 2003), 4.

[156] The Sierra Club of Canada. *Ten Popular Canadian Myths about the Kyoto Protocol,* 2.

While the ENGO community makes some very valid arguments, its position at the bargaining table is somewhat diminished by comparison to that of the Government of Alberta or the business community. The only leverage ENGOs hold on the federal government is the court of public opinion. They do not possess the same wealth of resources as the business community nor do they possess the same ability to inflict economic costs on the government. While the Government of Alberta enjoys the power granted to it by the Constitution and the legitimacy of being an elected body, ENGOs can claim neither a constitutionally ordained position nor an electoral mandate. The only way ENGOs can hope to influence the government's implementation scheme is by winning enough public support for their initiatives to create an electoral incentive for the federal government to pursue an aggressive strategy on climate change. They must do so by furnishing voters with subsidized, selective information and using the power of the media to bring climate change to the top of the national agenda.

7.1 Interests:

A list of interests for the majority of Canadian ENGOs might look as follows:

1. Negotiate an effective reduction scheme that establishes Canada as a global leader in environmental regulation.
2. Set a precedent for other international environmental agreements.
3. Realize an implementation strategy as quickly as possible.

One can assume that the majority of ENGOs would list bettering the environment as their primary reason for existence. ENGO employees do not incur any kind of financial benefit from winning a policy battle, nor is there any other kind of hidden benefit to be gained from impeding business or development. Thus one must assume that their primary interest is to affect substantive change in the way governments prioritize the environment in policymaking decisions.

In this round of negotiations, the ENGO community seeks mainly to create a progressive GHG reduction plan that would elevate Canada to the level of world leader in the fight against global climate change. This would involve breaking out of the mould of lackadaisical voluntary agreements and half-hearted regulatory measures that Canada has employed to date. The Sierra Club of Canada writes: "It is imperative that we use what is left of our first Kyoto budget period to position Canada as an international leader in global efforts, while developing a larger momentum for the next round of reductions."[157] This sentiment is reinforced by Alex Boston of the David Suzuki Foundation who writes:

> Take leadership – this is the single most important consideration in developing and implementing the climate protection and sustainable energy agenda in Canada... While some progress is possible regardless, the Prime Minister's leadership will determine the extent to which a really successful and visionary Plan is developed and implemented to achieve Canada's Kyoto target and prevent dangerous climate change.[158]

Kyoto implementation represents a proving ground for the federal government; either it can assert itself in a way that it has never done before or it can continue doing just enough to assuage its guilty environmental conscience. Clearly the ENGO community would like to see it take the former approach.

Second on the interest list is the need to set a precedent for future environmental agreements. This precedent is twofold, for one, an implementation scheme that prioritizes the environment over economic considerations would firmly establish the primacy of the environment over the economy. This, in turn, might help to establish a global norm of countries making economic sacrifices in exchange for environmental benefits. The second precedent that would be established if the government adopted a

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[157] The Sierra Club of Canada. *Kyoto Report Card – 2004* (Ottawa: Sierra Club of Canada, 2004), 5.
[158] Boston, Alex. *Planning for the Next Generation - Ten Principles for Climate Protection & Innovation* (Vancouver: David Suzuki Foundation, 2004), 3.

policy in-line with ENGO recommendations is one of ENGO participation in environmental policymaking. This would provide an immense legitimizing function for the ENGO community and would undoubtedly help to expand its resource-base. It would also make the achievement of more ambitious reduction targets in the post-2012 era more realistic. Again however, this interest is tied to the ENGO community's ability to achieve a firm policy result in this round of negotiations.

Third on the list of ENGO interests is the need to achieve a satisfactory result as quickly as possible. The ENGO community is very conscious of the fact that Canada has a challenging target and that it will need every available month if it hopes to reach its 6% reduction goal. It is also conscious of the fact that other countries, namely those of the EU, are already achieving reductions while Canada is still mired in the negotiation process. The frustration of endless negotiations is summarized by Alex Boston, who writes: "The practice of consultations intentionally or unintentionally delaying implementation must end. Focused, timely consultations are needed."[159] Jim Fulton of the David Suzuki Foundation builds on this sentiment in a letter to Prime Minister Paul Martin, stating: "With Canada now far behind other countries in implementation, every further delay in producing the plan reduces the time available to show real leadership through these critical implementation steps."[160] Thus it is imperative for the ENGO community that Canada not only take appropriate action, but that it take action quickly. As one analyst writes: "The climate cannot tolerate further delay."[161]

7.2 Strategies:

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[159] Boston, 3.

[160] Fulton, Jim et al. "Letter to The Right Honourable Paul Martin, Re: Canada's Implementation of the Kyoto Protocol," (24 March 2005), 2.

[161] Fulton, Jim. "Implementing the Kyoto Protocol Practical, Affordable and Achievable Solutions," 1.

Having hypothesized a list of priorities for the ENGO community, we can now extrapolate a similar list of strategic policy options which might be used to achieve those ends. Such a list might look as follows:

> **1. Pursue a strong regulatory scheme coupled with financial incentives.**
> **2. Introduce a market-based emissions trading system similar to Europe's.**
> **3. Invest in Canada, create a subsidy plan that avoids excessive purchase of international credits and focuses on domestic reductions.**
>
> **Absolute Failure: A strictly volunteer-based program involving no legislative or financial commitment from government; or a decision to abrogate the treaty altogether.**

If there is one theme that is prevalent in all of the ENGO literature regarding implementation and instrument choice, it is that the plan must be based on strong regulatory measures in order to be effective. The David Suzuki Foundation writes: "Regarding credibility and effectiveness, we reiterate the need for the plan to consist mainly of regulatory initiatives and financial incentives conditional on real emission reductions occurring during 2008–12."[162] This enthusiasm for regulatory measures stems from two things; the first is a fear that the government may try to rely solely on voluntary initiatives – a strategy which ENGOs have not found to be effective enough in the past. The second is that regulation remains the most failsafe way to protect the environment. In a study conducted by the C.D. Howe institute, a Toronto-based economic think-tank, analysts found that a lack of command and control regulations can partially explain the failure of previous GHG reduction schemes.[163] They write:

> While corporate leaders and economists have convinced politicians and even some environmentalists that a strict regulatory approach inflicts a burden on the

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[162] Fulton, Jim et al. "Letter to The Right Honourable Paul Martin, Re: Canada's Implementation of the Kyoto Protocol," 2.

[163] Jaccard, Mark, Nic Rivers and Matt Horne. "The Morning After - Optimal Greenhouse Gas Policies for Canada's Kyoto Obligations and Beyond," *C.D. Howe Institute Commentary* (No. 197) (March 2004), 5.

> economy, people nonetheless argue that for many environmental concerns well designed regulations can be effective, fair and not too economically onerous.[164]

One of the reasons why regulation is so important is that it adheres to the "polluter-pays" principle. Since most of Canada's GHG emissions come from industry, ENGOs feel that the onus for reducing GHG emissions should rest largely on Large Final Emitters (LFEs). A regulatory scheme with set emissions targets ensures that emissions heavy-industry is doing its part to clean up the mess it created. It also ensures that Canadian taxpayers do not end up paying more than then necessary to compensate for business's shortcomings. The Kyoto Smart coalition writes:

> ...transferring additional responsibility to the Canadian taxpayer to compensate for industrial emitters not achieving expected levels of emission reduction will make it harder to convince individuals to play their part by participating in and meeting the one tonne challenge.[165]

Any attempt by government to shift costs away from business would doubtless be looked upon as another example of government caving to business in the environmental policy sphere.

As a preferred vehicle for regulation, most ENGOs would like to see the Canadian Environmental Protection Act (CEPA) used as Kyoto's legislative enforcing agent. The Act is favoured by environmental groups because it contains strong language about the toxicity of certain emissions and could conceivably be adapted to include GHGs in its list of banned substances. It would also cut down on the time necessary to begin implementation since the government could avoid drafting new legislation to deal specifically with the Kyoto Protocol. The David Suzuki Foundation writes: "The federal government should immediately list greenhouse gases on Schedule 1 of the Canadian

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[164] Jaccard, Rivers and Horne, 5.

[165] Kyoto Smart. "Position Paper on Canada's Emerging Kyoto Implementation Plan," *KyotoSmart.net* (November 2003) (4 November 2005) http://www.kyotosmart.net/position.htm, 2.

Environmental Protection Act (CEPA) and use regulations under CEPA to establish limits on greenhouse gas emissions for LFEs."[166]

A strong regulatory system satisfies all of the ENGO community's main interests by guaranteeing a substantive result at the same time as establishing the primacy of environmental issues over economics. It is important however that coercive regulatory measures be coupled with financial incentives. Financial incentives make a regulatory system more palatable to the business community and also improve the program's chances of success. Clearly the ENGO community would like to see their implementation program succeed both environmentally and economically as an economically successful GHG reduction scheme would facilitate future negotiations and would also lend credibility to future ENGO claims about economic impacts.

The second strategic policy outcome favoured by ENGOs envisions a market-based emissions trading system similar to the one currently employed by the European Union. This policy is similar in many ways to a coercive regulatory system with the notable exception that it allows regulated industry more flexibility in meeting its targets. Under the European system, each country allots a certain number of emissions credits to emission-producing companies under a National Allocation Plan (NAP) which is in accordance with that country's Kyoto target.[167] Companies can then either buy or sell emissions credits within the EU to help meet their targets. The European Union projects that the Emission Trading Scheme (ETS) will allow it to meet its Kyoto target at a cost of €2.9 to €3.7 billion annually, while without the ETS, reductions would cost € 6.8 billion

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[166] David Suzuki Foundation. "Briefing Note on Canada's Climate Change Plan," (Vancouver: David Suzuki Foundation, 2005), 4.

[167] European Union. "Questions & Answers on Emissions Trading and National Allocation Plans," *MEMO/04/44* (Brussels: European Union, 2004), 1.

annually.[168] The savings provided through a market-based system should prove attractive to business without compromising the regulatory foundation endorsed by the ENGO community. Several ENGOs have even recommended that Canada attempt to join Europe's carbon market.[169] On the whole, most ENGOs appear willing to endorse a market-based system so long as the government is not overly generous in its initial allocation of credits and so long as companies do not resort to buying so-called "hot air" from countries like Russia.

If, however, the federal government does choose to rely primarily on subsidies and financial incentives to encourage compliance, ENGOs advise that taxpayer money should at least remain in Canada. The Kyoto Smart coalition writes:

> the federal government should ensure that the implementation of Canada's Kyoto commitment promotes reduction opportunities within Canada, thereby providing all Canadians with the environmental, technological and health benefits associated with emission reductions.[170]

While massive government expenditures are by no means the first choice of the ENGO community, the general consensus is that Canada is better off investing in the long term health of its own industry than funneling money into other countries through the Clean Development Mechanism. ENGOs prefer domestic reduction programs because they are more verifiable and will help Canada achieve future reductions more easily.

An absolute failure for the ENGO community would be a government decision to rely solely on voluntary measures without any kind of regulatory backstop or financial incentive system. This is the approach that the government has taken thus far, with very

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[168] European Union, 5.

[169] Ferguson, Kyle. "Kyoto plan aims low, hopes high: WWF," *WWF.ca* (13 April 2005) (8 November 2005) http://www.wwf.ca/NewsAndFacts/NewsRoom/default.asp?section=archive&page=display&ID=1376&lang=EN

[170] Kyoto Smart. "Position Paper on Canada's Emerging Kyoto Implementation Plan," 1.

few results to show for its efforts. The Voluntary Challenge and Registry (VCR) program is looked upon as a colossal failure by ENGOs because it succeeded only in paying lip-service to GHG reductions without achieving any real gains. A study conducted in 2001 found no difference in GHG abatement between VCR participants and non-participants.[171] At the same time, ENGOs realize that voluntary programs are incredibly attractive to the government because they offer the appearance of a solution without actually imposing concentrated costs on any interest group or voting block. As the C.D. Howe institute writes, voluntary initiatives are largely ineffective but are unlikely to face political resistance and will face only minor administrative feasibility issues; this of course "is of no consolation if the approach is ineffective."[172]

To summarize, the ENGO community looks at Kyoto as an opportunity to place the environment at the top of the national agenda. Not only could an effective implementation plan position Canada as a world leader in environmental policy, it could also legitimize ENGO involvement in the policymaking process and set a precedent for future international environmental agreements. The preferred means of achieving these ends is a strong regulatory system, one which could utilize an emissions trading scheme similar to the one currently being employed in Europe. Government expenditures are also an important component of a successful plan, and all efforts must be made to ensure that taxpayer's money remains in Canada. Most importantly, ENGOs want the federal government to move away from a voluntary system and demonstrate the sincerity of its commitment to the environment by taking strong, decisive action.

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[171] Takahashi, T. et al. "Rising to the Kyoto challenge: Is the response of Canadian industry adequate?" *Journal of Environmental Management* 63 (2001), 149-161.

[172] Jaccard, Rivers and Horne, 11.

Chapter 8: Evaluation of the Bargaining Game

This chapter will be devoted to examining the outcome of the Kyoto implementation bargaining game and determining who won, who lost, and why. An actor is said to be a "winner" if it succeeded in achieving most of its interests, while a "loser" is one who achieved few or none of theirs. While not all policy decisions produce winners and losers, Kyoto certainly did because the interests of its participants were so fundamentally opposed. This chapter will proceed in descending order from the biggest winner to the biggest loser, explaining for each actor which interests were achieved and why it succeeded (or failed to succeed) in navigating the Kyoto bargaining game. Figure 8.1 will serve as a reference tool summarizing each actor's interests and strategies in a side-by-side comparison.

The single biggest winner in the Kyoto implementation bargaining game was the business community. Not only did it succeed in achieving most of its objectives in this round of bargaining, it also left itself in a good position for future environmental policy negotiations as well. As outlined in Chapter 5, the business community succeeded in achieving its two top priorities: avoiding damage to Canadian industry and circumventing a potential trade imbalance with the United States. The government's implementation plan was decidedly soft on big business, mandating only 45Mt of reductions for Large Final Emitters. To put this figure in perspective, LFEs are responsible for roughly 50% of Canada's total GHG emissions, but only have to produce 13% of the country's

Figure 8.1: Actors, Interests, and Strategies

Actor:
The Federal Government

Interests:
1. Ensure re-election (primarily by avoiding blame, but also by claiming credit wherever possible)
2. Gain respect in the eyes of the international community
3. Make genuine progress in the global struggle against climate change

Strategies:
1. Reach voluntary agreements with business and provinces binding them to substantial reductions.
2. Impose a regulatory framework that will lead to substantial reductions but will not have any deleterious (or perceived deleterious) effects on the economy.
3. Massive public expenditures to induce business and the provinces to reduce emissions. Largely voluntary initiatives with minimal regulation.

Absolute failure: A regulatory scheme that has a damaging effect on the economy and achieves no substantive results.

Actor:
The Business Community

Interests:
1. Ensure the continued vitality of the Canadian business community, both now and in the future.
2. Maintain a level playing field with the US and other trading partners.
3. Ensure that the provincial governments are involved and hold authority.
4. Establish a precedent for future environmental agreements.
5. Make sure that any government expenditure primarily benefits Canadian businesses.

Strategies:
1. Reach a voluntary, non-binding agreement with light emissions targets and a flexible schedule.
2. Agree to binding, enforceable, reductions targets, but only with generous subsidies from government.
3. Agree to an unsubsidized market-based emissions trading scheme that allows for the purchase of offset credits.

Absolute Failure: A unilaterally imposed regulatory system that imposes concentrated costs on business and is viewed as necessary by the public.

Actor:
The Government of Alberta

Interests:
1. Protect the oil and gas industry and the tax revenue it generates.
2. Prevent constitutional authority over the environment from shifting to the federal government.

Strategies:
1. Pre-empt federal implementation strategy with a made-in-Alberta solution.
2. Implement a volunteer-based system administered by the provincial government.
3. Agree to targeted, enforceable, reductions targets, but receive generous subsidies from the federal government.

Absolute Failure: A 'polluter-pays' regulatory system that imposes concentrated and disproportionate costs on the province of Alberta.

Actor:
ENGOs

Interests:
1. Negotiate an effective reduction scheme that establishes Canada as a global leader in environmental regulation.
2. Set a precedent for other international environmental agreements.
3. Realize an implementation strategy as quickly as possible.

Strategies:
1. Pursue a strong regulatory scheme coupled with financial incentives.
2. Introduce a market-based emissions trading system similar to Europe's.
3. Invest in Canada, create a subsidy plan that avoids excessive purchase of international credits and focuses on domestic reductions.

Absolute Failure: A strictly volunteer-based program involving no legislative or financial commitment from government; or a decision to abrogate the treaty altogether.

reductions.[173] This represents a lowering of 10Mt from the government's 2002 climate change plan. Furthermore, the targets that LFEs must meet will be facilitated by subsidies from the Climate Fund and the flexibility of an emissions trading mechanism. While business may not be thrilled with the government's decision to enforce these regulations with CEPA, it did succeed in having the term "toxic substance" removed from section 64 of the Act. Indeed, things could hardly have turned out better for Canada's worst polluting companies.

The target set for the automobile industry is equally generous, entailing only 5.3Mt of reductions by 2010. This is not a legally enforceable target, rather it is an agreed upon figure decided by the federal government and the automobile industry in concert. The end result is that industry might actually benefit from Kyoto because it is essentially being paid to make efficiency improvements that will increase profitability in the long run.

Business similarly succeeded in establishing the legitimacy of its involvement in policy decisions. Not only did it convince the government to include it in the policymaking process, it also successfully convinced government that it must make concessions to the business community if it wants to impose any kind of regulation. The massive subsidies being offered to the business community under the Kyoto implementation program may create a pattern of government reaching for its chequebook every time it wants to regulate industry. Furthermore, the expenditures will largely remain within Canada, which, as hypothesized in Chapter 5, was another stated ambition of the business community.

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[173] David Suzuki Foundation. "Briefing Note on Canada's Climate Change Plan," (Vancouver: David Suzuki Foundation, 2005), 2.

There are several reasons why the business community came out on top in this bargaining scenario. First, and most importantly, it recognized that the federal government would not take any action that might jeopardize its hold on parliament. Much of the government's leverage over business was based on the threat that it could introduce a severe regulatory system that would impose concentrated costs on business if business did not cooperate. Business, however, knew that this threat was simply not credible. In imposing such a system the government would run the risk of slowing the economy and consequently jeopardizing its own position of power. The business community knew that the government would not risk such a prospect and was thus able to extract better terms for itself at the bargaining table.

Business also judged the depth of Canadian support for environmental policies extremely well. While support for climate change mitigation was high, it was doubtful that the issue would be able to supercede perennial favourites like the economy. In any number of issue polls, the economy consistently ranked well above the environment in the minds of Canadian voters.[174] The business community undoubtedly knew this, and was able to target its ad campaigns at citizens who were worried about their jobs and their investments. Whether either of these priorities were ever actually in peril is irrelevant; environmental issues are so low on the radar that business merely had to create the illusion of a threat to wipe out any chance of a public outcry for regulation.

The only area where the business community cannot claim full victory is in its attempt to talk the government out of Kyoto altogether. It did not push this argument because it knew that the government likely had more political capital to lose by caving to

[174] In 2004, the economy polled 12% higher than the environment on a list of national issues. See COMPAS Public Opinion and Customer Research. *Two-Part Canadian National Election Poll - Part 1: Campaign Dynamics and Issue Ballots* (Toronto: COMPAS Inc., 2004), 13.

business than by launching a regulatory assault against it. The government was backed into a corner and could not risk losing face; the business community had the good sense not to attack a cornered animal. Thus business conceded to Kyoto's timeline and targets all the while knowing that it could secure favourable terms for itself. It was not, for instance, difficult to convince the government to allow an emissions trading mechanism of some kind, since this was one of the few strategies endorsed by all involved parties. Government subsidies were similarly an expected benefit, since it was widely known that the federal government had a budgetary surplus to expend on climate change and was anxious to get the business community on board. In the end, the business community probably benefited more from this implementation plan than they would have if Canada had abrogated the treaty altogether.

The second biggest winner in this bargaining game is the Government of Alberta. Alberta succeeded in achieving its number one objective, which, as predicted in Chapter 6, was protecting its oil and gas industry. Ottawa's implementation plan with its modest targets for LFEs will not significantly impede the ongoing oil and gas boom. Subsequently, the Government of Alberta can rest assured that the 'Alberta Advantage' will remain intact for now and that it will not have to adjust its generous tax rates or spending policies.

Alberta achieved somewhat mixed results in its secondary objective, which was preventing the federal government from encroaching on its jurisdiction. While the federal government did succeed in implementing an environmental treaty that encroaches on provincial jurisdiction, the actual level of encroachment is quite small. As mentioned in Chapter 2, the regulations imposed on LFEs (which represent the only regulations in

the plan) are quite moderate and will not impinge on provincial tax revenues. The federal government maintains control over the enforcement of these regulations through CEPA, but was forced to make serious concessions in other areas. The Partnership Fund, for example, amounts to a large handout to the provinces to encourage infrastructure development and active participation in Kyoto. The federal government also allowed Alberta to continue operating some of the climate initiatives it had pioneered, such as Climate Change Central. While Alberta did not succeed in convincing the government to forgo Kyoto entirely and pursue a 'made-in-Canada' solution, it never really stood a chance of doing this in the first place. Ottawa was backed into a corner the minute it ratified Kyoto and could not risk reneging on its promise in front of an international audience, particularly when Canada was set to host MoP1 in November. Thus Alberta lost a few small battles, but likely won the larger war. The provisions negotiated under Kyoto implementation ensure that the norm of cooperative federalism is fully intact.

However Alberta's success in this bargaining game cannot be wholly attributed to the actions of its government. In actuality, Alberta achieved most of its objectives by riding on the coattails of the business community. While business's threat of economic repercussions leading to political fallout was credible, Alberta's threat of a constitutional challenge was not. Had the Government of Alberta earnestly considered launching a constitutional challenge, the time would have been before ratification, not afterwards. Prior to ratification, the government could have backpedaled if it felt the objection from the provinces was going to be too strong; after ratification, with the eyes of the Canadian public and the international community on Ottawa, no such option existed. Furthermore, the federal government understood that Ralph Klein's tough talk about separation was

little more than an empty threat. Polls have consistently shown that the vast majority of Albertans oppose separation, thus Premier Klein's opinions were not indicative of a larger sentiment in Alberta.[175]

Alberta's leverage was further undercut by its inability to form a combined front with the other provinces. The incident following Ralph Klein's Moscow press conference for instance, where Manitoba Premier Gary Doer announced that Klein had misrepresented his government's position, severely undercut the legitimacy of Alberta's claims. While Quebec can normally be counted on to oppose any kind of centralization of power in the federal government, in this case, it found itself in the unique position of supporting the government's position because of its heavy reliance on clean hydro-electricity. Aside from BC and Saskatchewan then, Alberta was waging war on its own. As a result, its demands for provincial authority over implementation were largely ignored by Ottawa. Instead, it accepted a light regulatory program reinforced with federal subsidies that was negotiated on the back of business community. The resulting implementation program demonstrates the weight that the federal government accorded these threats; the interests of Albertan businesses are protected, but no concessions were made to Klein's demands for an adjusted timeline or provincial control over the project.

In third place we find the federal government, who neither fully succeeded nor completely failed in this bargaining game. Its only real success is that it managed to avoid blame, as per R. Kent Weaver's suggestions in Chapter 4. The implementation program it has crafted will not allow any credit claiming opportunities by making Canada an environmental leader, nor will it succeed in achieving substantive progress in the fight

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[175] Only one quarter of Albertans see any benefit in leaving Canada. Gillis, Charlie. "West feels left out, poll shows," *National Post* (28 April 2003), 3.

against climate change; it will however, prevent the government from incurring electoral repercussions from angry Canadian businesses and disenchanted Albertans. The government singularly failed in its attempts to reach voluntary agreements with ambitious targets. While voluntary agreements were concluded, their targets were generous at best. It similarly shied away from a coercive regulatory framework, opting instead for just enough regulation to stave off criticism from environmentalists. In the end, the government decided to pursue its third strategy, which relied principally on expenditure.

Expenditure proved an attractive option for a number of reasons; first, a $10 billion dollar financial commitment would likely appease environmentalists enough to stave off calls for further regulation. Second, the complexity of the climate change issue allows the government to spend liberally without facing an accountability crisis at a later date. Unlike the Canadian Firearms Registry scandal where countless millions were invested into a program that failed to materialize – the results of climate change mitigation are so hard to measure that it would be much more difficult to prove that any money was wasted. Third, it is incredibly unlikely that the Martin government will still be in power in 2012, when Canada is supposed to have reached its Kyoto target. As such, the current government can delay the imposition of concentrated costs until a later date without having to worry about the electoral repercussions it may face.

As for why the federal government failed to achieve the better part of its objectives, the reasons for its failure are the same as the reasons for the business community's success. Namely, the government possessed no credible threat of unilaterally imposing a coercive regulatory system on business or the provinces. An aggressive, unilaterally imposed regulatory system would be political suicide if it were to

fail. The federal Liberals were clearly not in a position to pursue such an option since they held only a minority government. The only way the government could have taken an aggressive approach on climate change is with broad multi-partisan support bolstered by a very green-minded public, and unfortunately for Canada, this did not exist. Consequently the government had to make concessions to bring as many parties as possible onside and to do what it could with a reduced timeframe. The result is an implementation scheme that is decidedly meek and inoffensive, accurately reflecting the position of government at the time.

Lastly, the single biggest losers in the implementation bargaining game are Canadian ENGOs. As the only actor with an effective reduction scheme as its primary objective, ENGOs will be sorely disappointed with the final product. Canada's implementation program will not establish it as a world leader in climate change policy, rather it will leave the country in a gray area, somewhere between the environmental apathy of the United States and the progressiveness of the European Union. In actuality, it is questionable whether Canada's implementation program will succeed in meeting our Kyoto target at all. The ENGO community had hoped to set a precedent for future environmental agreements by establishing the primacy of the environment over big business, however no such precedent will be set in this policy decision. If anything, the government's decision to steer clear of regulation only reinforces the status quo. The David Suzuki Foundation criticized the government's plan as: "an abandonment of the polluter-pays principle," and further stated that it "will result in Canadians paying for a disproportionate share of the required pollution reduction."[176]

[176] David Suzuki Foundation. "Briefing Note on Canada's Climate Change Plan," 2.

Not only will Canadians be forced to carry a greater burden of GHG abatement than they should have to, Canada may also have to rely increasingly on the purchase of international credits to achieve its emissions target. This is a problem that could have been partially avoided had the government acted sooner in crafting an implementation program, as per the demands of the ENGO community. Unfortunately, the delay in negotiations, resulting from resistance in the business community and provincial governments, restricted the range of policy instruments available to the federal government. With less time to act, any kind of regulatory initiative would have to be fairly severe in order to achieve the necessary results in a short time frame. Thus the purchase of international credits became a necessary tool in the struggle to fulfill our Kyoto commitment. However even in this regard, most ENGOs did not achieve the outcome they would have liked. While the government promises to purchase only "real and verified" emissions credits, it provides no plan of how it will prove the authenticity of these credits. There is also the possibility that Canada will have to purchase more international credits if domestic programs fail to produce; if this happens accountability standards may falter in the face of a rush to meet deadlines.

ENGOs did manage to attain several small victories. Their mere inclusion in the policymaking process is a minor victory and a sign of optimism for future negotiations. Similarly, the fact that government did not decide to abrogate the treaty altogether in the face of withering pressure from business and the provinces is a victory for ENGOs.. They also succeeded in establishing CEPA as the supporting legislation behind LFE regulations, however this makes little difference since regulatory targets are both too few and too low to have any great effect. Further victory can be claimed over the

government's decision to expend several billion dollars and to focus that spending on domestic reductions. If nothing else, massive government expenditure will raise the profile of climate change at home and may lead to better infrastructure development in the long term. On the whole though, the government's implementation plan still relies too heavily on unproven voluntary measures to satiate Canadian ENGOs.

If the ENGO community failed in its efforts to push the government towards a more activist position on climate change it is because it never had the leverage needed to push the federal government towards an effective implementation plan in the first place. As mentioned in Chapter 7, ENGOs do not have the same resources, political networks, or commanding role in social affairs that the business community does. The only influence ENGOs can hope to wield is through the opinion of the Canadian public. Without broad-based and meaningful support for resolute action on climate change, ENGOs can lobby government all they want, but their demands will fall on deaf ears. Canadian public opinion on climate change currently lacks the sincerity to push for command and control regulations and coercive measures. While the problem remains widely known, not enough Canadian voters are willing to look past the threats of the business community and the promises of the federal government to demand more action. As such, the best the ENGO community can do is gradually raise the level of awareness in Canadian society until it achieves the proportions necessary to affect substantive change in the way policies are made in this country.

Chapter 9: Conclusion

Voluntary and incentive-based approaches to climate change mitigation hold many benefits. First, they can entice companies into better environmental practices by promising efficiency improvements and public relations advantages, both of which ultimately result in a better bottom-line. Second, they are more palatable for both government and affected industries because neither side has to worry about unduly angering the other. Voluntary approaches allow business to see government as more of a gardener than a policeman.[177] Third, in certain cases where the cost of regulation is predicted to be excessively high, voluntary approaches may provide a more cost effective means of achieving greenhouse gas reductions. That said, they also present many drawbacks, such as reduced effectiveness, transparency, and accountability. In numerous studies, voluntary and incentive-based programs have consistently been shown to be less effective at achieving environmental protection than strictly regulatory programs, or programs that combine a mix of incentives and disincentives.[178] While gentle exhortation may work in some cases, it is in no way a substitute for the compulsion of enforceable regulations.

Given this information, this thesis aimed to answer the question of why the Government of Canada opted for a Kyoto implementation scheme that relied heavily on voluntary action and sparsely on regulation. The answer is that while regulatory

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[177] Commission for Environmental Cooperation, 9.

[178] See for example: Commission for Environmental Cooperation. *Voluntary Measures to Ensure Environmental Compliance: A Review and Analysis of North American Initiatives* (Montreal: Commission for Environmental Compliance, 1998), or Lyon, Thomas P. "Voluntary versus Mandatory Approaches To Climate Change Mitigation," *Resources for the Future - Issue Brief 03-01* (February 2003) or Wu, JunJie and Bruce Alan Babcock. "The Relative Efficiency of Voluntary vs. Mandatory Environmental Regulations," *Journal of Environmental Economics and Management* 38, Issue 2 (1999).

measures may be more effective at achieving GHG reductions, they are not necessarily more politically operable. Had the government decided to push ahead with a coercive regulatory plan which imposed hard targets on the country's largest emitters, it would have done so in the face of stiff opposition from the business community and the Government of Alberta. Both of these interests presented enough of a threat to the government's future electoral prospects that the government backed down and opted for a compromised solution instead. The ENGO community was unable to conjure up a similar electoral threat because the majority of the Canadian public remains unwilling to prioritize the environment over other issues, such as trade and the economy.

The question that remains is whether there would have been greater support for a more aggressive approach to climate change if business and the provinces had not employed as many Kyoto "scare-tactics." Their early opposition to the Protocol and doomsday predictions of economic fallout placed the government and the ENGO community on the defensive from the outset. In spite of their best efforts, the ENGO community never fully succeeded in dispelling the myth that Kyoto would leave millions of Canadians jobless and destitute. The federal government was thus unwilling to take the chance that it would be blamed for any kind of economic slowdown, whether related to Kyoto or not.

For both ENGOs and environmentally conscious members of government, the key for future environmental policies will be to get out in front of the business community and proactively support certain policies from the beginning. The first impression a policy has on the public is crucial, if a policy can be shown to make both economic and environmental sense at its inception, then business will have a more difficult time trying

to convince the public otherwise. By the time the government ratified the Kyoto Protocol, enough doubt had been thrown onto it that it would have been impossible for the government to pursue it without engaging in a consultative process, hence a bargaining game ensued.

If the government is guilty of anything, it is of not moving fast enough on implementation. By engaging in a drawn-out consultative process, the government, while adhering rigidly to the principles of a liberal democracy, inevitably stalled implementation and watered down the final product. Every day that the business community succeeded in stalling the release of an implementation plan further restricted the government's choice of policy instruments and made the end product more and more attractive to industry. With less time to achieve the mandated amount of reductions, and any proposed regulatory action necessarily becoming more drastic, the government decided instead to focus on expenditures and the purchase of international credits. The ENGO community became increasingly desperate for the government to announce any kind of implementation plan whatsoever, and thus compromised its own bargaining position in the process.

It may be too early yet to judge whether the government made the right decision; Canadians will have to wait until 2008 to see if they succeeded in fulfilling their Kyoto obligation. If Canada successfully meets its commitment, it will be a tremendous vindication for voluntary approaches to climate change mitigation. If, however, it should fail, Canadians will need to re-evaluate the priority they accord the environment in their hierarchy of political issues as well as the consultative process their government engages in to create environmental policy.

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