ASSESSING STATE INTERVENTION: FEDERAL OIL POLICIES 1973-84

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ABSTRACT

In the last decade or so political scientists have found the pluralist and marxist theoretical perspectives wanting for their inadequate attention to the causal role of states. In response, a burgeoning international literature has emerged which sets out to develop a state-centred theoretical perspective. This study is deeply informed by the emerging statist theoretical perspective.

This thesis explores the relative capacity of the federal state to increase its autonomy in relation to the powerful oil MNCs in the period 1973-84 through an expanded federal presence in the energy sector. Whereas many scholars have assumed that a positive relationship existed between state capacity and the effectiveness of state intervention, Evans and Ikenberry for instance argue that an almost inverse relationship exists between the magnitude of intervention and its effectiveness.

In Canada the literature on federalism has long been cognizant of the important role of states. This thesis therefore attempts to fuse the two bodies of literature, namely statism and federalism, in order to shed added light on the development of federal oil policy during 1973-84.

The fact that the Canadian state is federal accounts for the recurring tendency for the energy issue to be redefined from its "obvious" focus on state-oil industry relations to intrastate issues (federal-provincial relations). A major contribution of this thesis is to explore the circumstances in which jurisdictional concerns deflect attention from policy substance - and also to those in which the reverse occurs.

The thesis finds that when one level of government sought to become more independent of dominant societal actors, such as the oil industry, the intervention, whether so intended or not, was redefined to follow intergovernmental lines of conflict, rather than state-society lines of conflict. The nature of the issues also changed as distributional problems became subsumed under and were driven by the jurisdictional concerns of governments. This increased the policy interdependence between the two levels of government, squeezed out industry interests from intergovernmental deliberations, and generated intervention aimed directly at curtailing the power of the other level of government. This intervention which at first rendered the aggregate state less dependent on the oil industry by for example the creation of Petro-Canada, and later by the NEP, ultimately backfired on the state, at both levels. Important world oil market changes, intergovernmental conflicts and stalemates, deteriorating economic performance, industry reactions, and other mounting economic and political problems undermined the federal government's intervention and led to concessions for the industry. Such concessions were therefore the product of an increasingly irrelevant regulatory framework rather than purely a reflection of the power of the oil industry as such.

This thesis confirms in general terms Ikenberry's finding that an inverse relationship exists between the degree and magnitude of intervention and its effectiveness. Evans and Ikenberry see this most clearly in relation to NOCs, that is in their propensity to evade state control schemes and to undermine centralized state control. In Canada the opposite change exacerbated conflicts, namely the efforts by governments to shore up their capabilities as corporate actors and the emergence of "political federalism" which saw decision-making becoming centralized within each government, in the hands of decision-makers with jurisdiction-wide concerns. The ensuing process of intrajurisdictional policy coordination not only exacerbated conflicts but also oriented the emerging policy instruments along intergovernmental lines. Another contributing factor was the learning process that decision-makers underwent in the intergovernmental arena. In addition, 'policy mobilization' in the NEP served to link Petro-Canada closer to the political objectives of federal elites.
Therefore, while the effects are the same in Canada, the process is almost the reverse of the one described by Evans and Ikenberry. Evans and Ikenberry see ineffective state intervention largely as the product of state actors mobilizing societal actors and state and societal actors becoming more closely linked. This study supplements the statist literature by noting that the attempts of a number of interventionist governmental actors to introduce comprehensive and more independent interventionist strategies heightened conflicts, generated inefficiencies and essentially caused the intervention to fail.
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While many people have helped and guided me along the way to an improved understanding of the complex Canadian energy scene, any remaining shortcomings are my responsibility.
The politics of oil has long been the focus of news headlines. Since the discovery of oil as a highly efficient fuel source, millions of wells have been drilled into the crust of the earth and vast sums have been spent to search for this "black gold". As the awareness of the very uneven distribution of the world's resources of oil became clear, the politics of oil took on added importance. In the post-colonial world the emergence of new states eager to establish their independence from the old colonial powers increased the political importance of oil. In the 1970s, a highly politicized world oil market elevated oil to the "high politics" concerns of states. Today the large number of studies dealing with oil politics fill library stacks and government offices all over the world. The interest shown in the politics of oil is clearly reflective of the importance of this topic throughout the 1970s and early 1980s, a topical interest that may well re-emerge from its present lull, with the prospect of rising oil prices and a more dominant OPEC oil market role in the late 1990s.\(^1\)

The study sets out to answer two basic questions. First, why did the federal government intervene in the oil sector in the period 1973-84? Second, why did Ottawa essentially fail in achieving its original energy objectives in the field of oil?

\(^1\) Petro-Canada, in its 1988 Annual Report, predicts that oil prices will strengthen significantly in the 1990s. See Petro-Canada: *Annual Report, 1988*, p.2. The future pattern of supply also clearly favours OPEC. To exemplify this, in 1988 the Middle East produced 5.5 billion barrels of oil (or 24% of world oil production) and had 650 billion barrels in reserves (or 66% of global oil reserves), whilst OECD countries produced 6.1 billion barrels of oil from a reserve base of 58 billion barrels. Source: OECD, IEA: *Annual Oil Market Report 1988* (Paris: OECD, 1989), pp.33-34.
In the period under study the federal government and the provinces, as well as almost all oil-exporting and oil-importing countries, intervened in the oil sector. In the aftermath of the sudden oil market upheavals of the 1970s, all governments took measures to reduce their vulnerability to the rapid international oil market changes. The aims of oil exporting states (and provinces) differed from those of oil importing states (and provinces), but both sides introduced a large number of policy instruments as the international oil market became increasingly politicized. Canada, as both an oil importer and an oil exporter at the time, appeared as a microcosm of the world oil market, incorporating the international tensions between consumers and producers within her own borders.

What is particularly interesting, in light of the complex nature of Canadian oil policy, is to try to explain the specific nature of the Canadian reaction. More specifically, this study sets out to investigate the federal government's objectives, the manner in which Ottawa intervened, the forces that shaped the federal government's intervention, and the effects of the intervention.

Ottawa, in response to the initial OPEC oil shock of 1973, introduced a number of measures intended to increase federal control over oil activities in Canada. This need for control was manifest in all federal objectives in the energy field and was greatly reinforced in Ottawa's response to the second international oil market upheaval.

In the period after the first OPEC oil shock Ottawa introduced a number of important policy measures to realize its goals. Ottawa regulated oil and gas prices. It established a national oil company, Petro-Canada. It altered the system of land management in the areas under federal jurisdiction, and undertook a number of revisions of the federal tax and incentive systems. Ottawa thus introduced a host of measures common to all oil producing countries to curtail the influence of the oil MNCs. In addition, this period witnessed a significant increase in federal administrative capacity in the oil and energy sector.
The federal objectives in the NEP of 1980 - entitled self-sufficiency, Canadianization and fairness - all involved a federal commitment to control oil activities. Ottawa's actions were aimed at curtailing both the power of the oil industry and that of the oil producing provinces.

Despite adopting these measures, Ottawa did not succeed, on balance, in achieving its objectives, nor did it succeed in its attempts to curtail the power of the oil MNCs. The second question this thesis thus posits is why Ottawa essentially failed to achieve its original energy objectives in the field of oil.

The main contribution of this thesis is in a detailed historical analysis of the 1973-84 period. This time of extraordinary changes and unusually high levels of conflict in Canadian energy relations is broken down into three periods, 1973-75, 1976-79, and 1980-84. In each of these periods a new federal energy policy framework was introduced. The study analyzes the federal government's goals in each period and tracks the evolution of a range of interventionist measures that Ottawa introduced. This historical approach allows us to study in close detail the evolution of federal energy policy objectives and instruments, the forces that shaped the intervention, and the effects of the intervention over time. In addition, this historical approach enables us to identify continuities and changes over time. The emphasis of this study will be on the upstream stage of oil and gas development because most of the federal government's intervention was focused on the upstream stage.

The thesis provides a detailed study of the decision to establish Petro-Canada and its subsequent emergence as an important corporate actor and federal policy instrument. Further, this study analyzes in considerable detail the

2 Upstream activities refer to the exploration, development and production phases of oil and gas extraction.
development of a strengthened federal landlord role in the Canada Lands, through changes in the system of rights issuance and land management. In addition, the thesis tracks the federal government’s different price, tax and fiscal regimes. A close analysis of the specific nature of federal policy instruments, the evolution of the instruments over time and their interaction at the federal level as well as with other governmental actors has produced new insights and interpretations that differ somewhat from the literature on each instrument. In particular, it is found that Canada’s membership in the International Energy Agency severely limited Petro-Canada’s role as a means of alleviating oil supply shortfalls during crises. Second, the study finds that different land management practices existed in DIAND and EMR which exacerbated interdepartmental conflicts. Third, the thesis reveals that the state in exercising its landlord role through the land management system has an important means (in addition to the system of corporate controls) by which it can control the activities of NOCs. Fourth, in the extension of this, the study demonstrates how important it is to understand the close relationship that exists between state oil companies and systems of rights issuance and land management. An expanded state landlord role provided the NOC with preferential rights but also enabled state officials to wield considerable direct influence on the activities of the corporation. Finally, this study also finds that Petro-Canada had less corporate autonomy than other NOCs. This was not only because of the corporation’s policy functions and the system of corporate controls which linked it closely to federal decision-makers but perhaps even more a function of the highly politicized role of energy policy in Canada in the NEP. Governments, concerned with ensuring and promoting their jurisdictional rights mobilized policy instruments such as Petro-Canada. These and other findings are referred to in the substantive chapters of this thesis. Before presenting the analytical framework that guides the historical analysis, a brief survey of the literature on Canadian energy policy will be provided.
In Canada an enormous body of economic studies of Canadian and international oil policy has emerged. Economists have studied widely and extensively matters relating to oil and gas pricing, revenue sharing, resource management, supply and demand, conservation, interfuel substitution and all stages of oil and gas development in Canada. Important debates have raged among economists on the role of the state in resource development in Canada. The

economic literature also reveals that the academics who were least optimistic about the relative merits of an active state role in the energy sector have gained increased say in the last five years. Intensive debates have also gone on about intergovernmental and industry-government revenue distribution, regional development, and industrial adjustment policies. Economists have studied the economics of public corporations and joint public-private companies. Economists have sought to pinpoint the economic rationale of government policies and the economics of governmental goals and policy instruments. Economists have studied the role of energy issues in the constitutional debates and have proposed important constitutional changes. There is therefore clearly a strong overlap in the issues and concerns that have and continue to preoccupy economists and political scientists. Drawing on insights from this wide economic literature also helps understand the political issues and concerns that were involved. Nevertheless, this thesis is essentially written from a political science perspective and addresses concerns that are germane to this field.

The study by Doern and Toner entitled The Politics of Energy is undoubtedly the most comprehensive political science analysis available on Canadian energy policy and politics covering the period of the 1970s and early 1980s. The authors view Canadian energy policy in this period as

a summation of the Canadian body politic, embracing issues of nationalism, regionalism, foreign ownership of the economy, partisan conflict, theories and beliefs about Canada's resource heritage, bureaucratic growth and state intervention, and the realities of international dependence and Canada-United States relations.\(^4\)

The authors track the evolution of federal energy policy during 1973-80 along both intergovernmental and government-industry relations. In addition, the book analyzes the implementation of the National Energy Program in the period 1980-84. The authors list a whole range of different interests, the most important of which they find to be the oil industry, the producing provinces, and the

federal government. Each is seen as independent with powers of its own and power to affect its relations with the other actors. The authors make the useful observation that the power of each of these interests emanates from the presence in Canada of the institutions of capitalism, federalism, and cabinet-parliamentary democracy. In this period, the authors find that an altered balance emerged among these actors as the governments at both levels became much more deeply involved in the conduct of Canadian energy policy.

In explaining the emergence of the NEP the authors find that it was "first and foremost a political act intended simultaneously to change the structure of power between Ottawa and the provinces and between Ottawa and the oil industry." As such, the authors see the NEP as a deliberate attempt by the Trudeau Liberals to reassert federal power, or to alter the balance of power between the central government on the one hand and the provinces on the other.

The authors note that

In the larger context of the Liberals' overall program, once they returned to power after the Clark interregnum, the NEP can be viewed as part of an interrelated effort by recentralizing Liberals to reaffirm the central government's economic management powers and political visibility.

However, they also view the NEP as a bargaining ploy against the province of Alberta in the matters of pricing and revenue-sharing. These two conceptions of the NEP differ in the role and importance of the main causal factors that were involved in shaping the program and also in the interpretation of the program itself. While the NEP can properly be viewed as a comprehensive effort to reassert federal power, it remains true that the program was clearly a direct domestic response to an altered international environment. It was the altered international environment that induced the federal government to launch a comprehensive effort to establish itself as an oil-producing government. The reassertion of federal power then depends not only on Ottawa's ability to

5 ibid., p.12.
6 ibid., p.2.
7 ibid. p. 458.
extract an increased share of the wealth from the rapidly declining conventional oil reserves in the provinces but also, a point which Doern and Toner insufficiently stress, depends on Ottawa's ability to establish itself as an oil producing government. On the other hand, viewing the NEP as a bargaining ploy against Alberta, which Doern and Toner also do, means seeing the program as a short-term attempt by Ottawa to extract more revenue by using price regulation as a weapon. This ambiguity in the manner in the authors' view of the NEP is not borne out in the subsequent chapters of this thesis.

In their assessment of the NEP the authors give it a mixed review, and they make the important observation that the oil MNCs were not overly hurt by the NEP. Doern and Toner analyze the evolution of intergovernmental and federal-industry relations but say little about the specific manner in which these two pairs of relations interact. We argue that the interaction of the two pairs of relations led to the redefinition of a conflict from state-society (federal-industry) to intergovernmental lines of conflict which rendered the intervention ineffective. In addition the dominance of the intergovernmental issue tended to weaken the interventionist thrust. The authors' analysis about the nature and effects of federal objectives and intervention in relation to the oil industry also requires supplementing. They observe that both levels of government became more interventionist in the entire period from 1973-84 and the intervention strengthened governmental actors in relation to the oil industry. However, their analysis does not take account of the ineffectiveness of government intervention which was the main reason why an expanded government role in fact coexisted by 1984 with a revived and strong MNC role.

Berry, in a case study of the OPEC oil crisis in 1973-74, examined three propositions regarding the oil crisis and the role of the oil lobby. These propositions were: "that pressure group influence declines during a crisis situation; that if the crisis necessitates federal-provincial negotiation this tendency is accentuated; and that when facing a serious threat from government action the group under attack will seek to exert its influence as widely as
possible."Berry finds that after the immediate crisis was over, the oil lobby was granted concessions from the government of Alberta. The factors that served to exclude the oil interests, Berry contends, were linked to the constitutional nature of the conflict, the speed with which events unfolded, and the concerns of consumers with rising oil prices. The short time-frame of his analysis did not enable him to study the more long-term effects of the crisis on the federal government's role and the influence of the oil industry.

Toner and Doern re-examine Berry's propositions in a case study of the second OPEC oil shock and find that they hold also for this period. In addition they propose two additional propositions, namely "that in post-crisis periods interest group influence is re-established, but that where crises broaden the scope of policy, interest groups are restructured so as to accommodate the broadened interests which both benefit from and are harmed by the crisis policy response." The main reasons that Toner and Doern briefly list for the second oil crisis as excluding interest groups relate to the goals and priorities of elected federal officials. More specifically, the authors link this to Trudeau's centralist notion of Canadian federalism, in response to interventionist premiers.

Both the studies listed above have acknowledged that intra-state conflicts may squeeze out societal interests but they have not developed the

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9 Berry studies the period between March 1973 and March 1974. ibid., p.603.

10 See Toner and Doern, op.cit., p.468. The authors attribute the reestablishment of interest group influence to the period after the Mulroney Conservative government was elected. This thesis only covers events up until the Conservative election of 1984 when the Liberals had decided to walk away from the NEP. The thesis will also not examine the last proposition by Toner and Doern in detail because the main focus is on the federal government's actions in relation to the oil MNCs rather than the oil and gas industry as a whole.

11 The authors base this view on their previous works. See Doern and Toner, The Politics of Energy... op.cit. and Doern, G.B. (ed.) How Ottawa Spends 1981 (Toronto: Lorimer, 1981)
argument at any length. In addition, they discuss how the interest groups afterwards manage to reestablish their influence, but are much more concerned with the adaptive organizational and strategic changes made by groups than in explaining the changing power relations between groups and the state.

The observations made by Berry and Toner and Doern, however, provide an interesting starting point for an in-depth and more comprehensive examination of the forces that shaped the federal government's intervention, the manner in which Ottawa intervened, and the results or effects of the intervention both on Ottawa's capacity to grapple with energy concerns and with the power of the oil industry, in particular the oil MNCs.

Larry Pratt has made several important contributions to the understanding of Canadian energy policy and politics. In his studies of Petro-Canada, Pratt has shed light on the policy functions of the corporation; the system of corporate control and accountability that was devised for Petro-Canada; the corporation's corporate priorities and relationship with Ottawa; and the corporation's location and extent of activities over time.

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Pratt has also shed light on the formation of the NEP. He argues, in emphasizing the NEP's Canadianization objective, that the energy program can be viewed as a major intervention by the Canadian state on behalf of Canadian capital as a whole, and more particularly on behalf of the larger pools or groups of capital attempting either to enter the most profitable sector of the Canadian economy or to expand within it.  

His argument is two-pronged. First, Canadianization was seen as the centrepiece of the NEP. Second, he argues that while the federal government had interests of its own - to strengthen the federal fiscal base and expand its control over energy activities in Canada through a greatly expanded public role in the energy sector - its primary motivation was to act in the interest of Canadian capital. This argument presupposes first that the federal government's interest converges with that of Canadian capitalists, notwithstanding the NEP's introduction of a much heavier system of taxation on the oil sector. Further, Pratt's argument is based on the questionable assumption that the federal government's own interests would be secondary to the interests of Canadian capitalists when the federal government possessed the means to determine the nature and composition of the private-sector participation, the relative balance between public-sector and private-sector participation, the level and composition of industry taxes, and future oil prices. Given the wide interventionist powers available, Ottawa not only could set the parameters for Canada's energy future by deciding which priorities mattered most, it could also essentially determine the nature and extent of the convergence of federal and capital interests over time.

Perhaps the largest contribution Pratt has made to the understanding of the forces shaping Canadian energy policy is the study he co-authored with Richards and which is entitled Prairie Capitalism. In this book the authors

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examined the political economy of oil and gas in Alberta and Saskatchewan (and also potash in Saskatchewan) from the 1930s to the late 1970s. They criticize the left-nationalist version of dependency theory in Canada for its failure to consider the complex historical relationship between Canadian federalism and national economic development, and for its underestimation of the autonomous role of the provincial state in Canada. The authors are primarily concerned with the factors that shaped the provincial states of Alberta and Saskatchewan as entrepreneurial actors in staple-led development and the emergence of the province of Alberta as an important economic actor. They employ a line of reasoning reminiscent of the obsolescing bargain thesis espoused by Vernon, and point out how the bargaining relationship between provincial governments and foreign investors changed over time to the benefit of the province. The foreign investor, over time, by committing large financial resources to a province and losing his monopoly of expertise, sees his bargaining advantages erode. An important insight provided by their study is that provincial governments also move up a learning curve of skills, information and expertise. The steepness of this learning curve became pronounced in the 1970s when a new entrepreneurial elite emerged in each province. The authors find that the main force generating a similarity of response by the provincial elites in Alberta and Saskatchewan in their interventionist quest was an encroaching federal government.

The authors criticize federal encroachments while placing less emphasis on the interaction between the federal and provincial actors and the role of federalism in structuring their relations.

In terms of the outcome of the bargaining process between the province


17 See Richards and Pratt, op.cit., pp. 8-9. Jenkins criticizes this thesis by applying it to the NEP. This study has examined Jenkins' arguments and found them wanting. See Jenkins, B.: "Reexamining the "Obsolescing Bargain": Canada's National Energy Program", International Organization, (1986):139-165. and Part Four of this thesis.

18 See Richards and Pratt, ibid. p.8, 10-11.
and the oil MNCs, the authors suggest that foreign investors over time would lose their monopoly power. Since the study ended before the NEP was introduced, it can not say anything about the magnitude of change for the whole interventionist period. If the authors had covered events beyond the 1970s and included the NEP period, their conclusion would have been different. Indeed Pratt, in a later article writing about the final stages of the NEP, concluded that "(a) nicer example of foreign capital turning economic nationalism into profitable business opportunities would be hard to find." Are Pratt's positions incompatible, largely unrelated, or possible to reconcile?

The fact that the study by Richards and Pratt and the much later article written by Pratt analyze the actions of two different levels of government at different times may mean that their findings are unrelated. But since both levels of government intervened to reduce the power of the oil MNCs throughout the period 1973-84 it is also conceivable that the two findings are compatible because the intervention may have backfired. The oil MNCs may have proven to be more adaptive to state intervention than Richards and Pratt thought in the 1970s. Other factors such as intergovernmental interaction may have affected the role of the oil MNCs. Intergovernmental interaction may generate stalemates and competition from which the oil MNCs could benefit. These propositions will be discussed later in this thesis.

Building on the works by the analysts listed above, this thesis extends their analyses in six important ways. First, it argues that international

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19 See Pratt, L.: "Energy, Regionalism and Canadian Nationalism", Newfoundland Studies, 1, No.2 (Fall 1985):192. Although Pratt’s critique of the NEP of course focuses on the federal government, he also notes that "The Lougheed government admitted that the average royalty on a barrel of "old" conventional oil had by 1985 fallen to 24 per cent, which is little more than it was in 1971 when Lougheed took power." ibid. p.179. This is hardly indicative of a significant and lasting shift in the bargaining relationship between the province and the oil industry.
crises which required state\textsuperscript{20} response in Canada favoured intrastate conflicts. This bears out the general validity of Berry's two first propositions. But this thesis also supplements Berry's argument by pointing out that federal (and provincial) officials had clearly defined interests that related both to other governmental actors and that diverged from powerful societal actors such as the oil MNCs.

Second, this thesis further supplements the works by Berry, Doern and Toner, and Toner and Doern, by finding that the initial federal-provincial conflict not only excluded interest groups but redefined the conflict from its 'obvious' focus along state-society lines and issues to intrastate lines and issues. This redefinition led to a transformation of federal and provincial policies and regulatory systems. These systems, rather than grappling with the industry's influence, were clearly intended to fend off incursions by the other level of government. They therefore served to perpetuate an established intergovernmental bias which facilitated the propensity for future conflicts to revolve around intergovernmental lines. Intergovernmental conflicts also weakened the interventionist thrust and generated the need for generous concessions to make up for regulatory uncertainties.

Third, this study puts stronger emphasis on the development of federal and provincial systems of resource management in this period, in particular the strengthening of the state's landlord and entrepreneurial role at both levels of government in Canada. The study draws on the international literature to develop criteria by which to analyze in detail the expanded federal landlord and entrepreneurial role in the Canada Lands. It also examines how this process was shaped by and the manner in which it influenced Ottawa's relation with the provinces and the oil industry.

Fourth, this study views the NEP as an attempt by Ottawa to establish

\textsuperscript{20} The term "Canadian state" in this thesis means the aggregate Canadian state, i.e. it refers to both levels of the state. "Federal state" refers to the federal level of the state. While not synonymous, "federal state" and "federal government" in Ottawa refer to the same entity. And the term "Canadian government" is in this thesis viewed as synonymous with the federal government in Ottawa.
itself as an oil producing government in Canada, through its promotion of the Canada Lands. As such the NEP was a response to an anticipated future world oil market dominance of oil producing governments.

Fifth, this thesis supplements and extends the analysis by Doern and Toner by pointing out that the failure of federal intervention can be attributed to international factors which raised the stakes and tensions in the intergovernmental arena and heightened the incompatibility between the two main principles of state structure in Canada, parliamentary democracy and federalism.\textsuperscript{21} Interventionist governments at both levels introduced comprehensive policy programs that were largely directed at each other. This led to standstills and vulnerability to international change. This thesis thus places more importance on the role of structural factors in explaining outcomes than do Doern and Toner.

Sixth and finally, the thesis also modifies the analyses by Pratt, Doern and Toner, and Jenkins,\textsuperscript{22} by finding that the inability of the NEP to challenge the oil MNCs must be related in large part if not wholly to intergovernmental competition and conflict. This finding supplements the argument by most Canadian analysts, not by downplaying the independent role and influence of the oil MNCs, but rather by accepting the general validity of the statist proposition of Ikenberry and Evans\textsuperscript{23} to Canada that an almost inverse relationship exists between the magnitude of state intervention and the effectiveness of it.

\textsuperscript{21} For an insightful discussion of the role of international factors in Canadian energy policy, see McDougall, J.N.: "Natural Resources and National Politics", in G.B. Doern: The Politics of Economic Policy, (Toronto: The University of Toronto Press, 1985), pp.163-220.

\textsuperscript{22} See Jenkins, op.cit.

\textsuperscript{23} See Evans, P.B., Rueschemeyer, D. and T. Skocpol (eds.): Bringing the State Back In, (Cambridge, MA: Cambridge University Press, 1985), p.49. and Ikenberry, G.J.: "The Irony of State Strength: Comparative Responses to the Oil Shocks in the 1970s", International Organization 40, 1, (Winter 1986):134. This hypothesis will be further elaborated in the next section of this chapter.
Statist and Federalist Approaches - A Brief Overview

This study's emphasis on the explanatory variables of state structure and international influences has been profoundly informed by the statist theoretical perspective. Probably the clearest exposition of the essential features of the statist perspective is presented by Krasner who provides five characteristics that distinguish the statist perspective from approaches related to the behavioural revolution in political science:

First, statist approaches see politics more as a problem of rule and control than one of allocation; they are more concerned with issues associated with preserving order against internal and external threats than with the distribution of utilities to political actors...

Second, statist approaches emphasize that the state can be treated as an actor in its own right either as an exogenous or an intervening variable. Whether in its institutional form or in terms of specific policies, the state cannot be understood as a reflection of societal characteristics or preferences...

Third, statist orientations place greater emphasis on institutional constraints, both formal and informal, on individual behavior... Actors in the political system, whether individuals or groups, are bound within these structures, which limit, even determine, their conceptions of their own interest and their political resources. Political outcomes cannot be adequately understood as simply the resolution of a vector of forces emanating from a variety of different groups.

Fourth, ... (i)t is necessary to understand both how institutions reproduce themselves through time and what historical conditions gave rise to them in the first place... (O)nce an historical choice is made, it both precludes and facilitates alternative future choices...

Fifth, statist arguments are more inclined to see disjunctures and stress within any given political system... Political life is characterized, not simply as a struggle over the allocation of resources, but also periodically by strife and uncertainty about the rules of the game within which this process is carried out.24

The statist literature identifies two state roles, the state as actor and the state as structure. The latter which refers to the institutional and organizational composition of the state will be dealt with later in this section.

From the international perspective, the state as actor can also be seen as the "gate-keeper", standing in the cross-section between the domestic and

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the international scene, which enables the state to mediate international and
domestic processes. Succinctly the state as gate-keeper thus acts as the
foremost mechanism of a country to preserve order against internal and external
threats or crises. Evans et al. note that it is when faced with a crisis that
a state is most likely to launch distinctive new strategies with little or no
input from societal actors. The position of the state, standing in the cross-
section between the international and domestic arena, provides it with a unique
opportunity to utilize external or internal events to forward its own
interests. For instance, the ability to define an event as a crisis or threat
requiring drastic action, is in itself a tremendous potential source of state
power. Crises therefore provide states with a unique opportunity to set and
control the agenda of the nation. Even when responding to demands for action
states often put their own mark or imprint on the intervention and the crisis
response.

The statist literature also views states as actors in the domestic arena,
capable of formulating objectives that reflect their own interests and that may
differ or conflict with those of dominant societal actors. Skocpol notes that
without independent goal formulation there is no need to think of states as
important actors. She defines state autonomy in the following manner:

States conceived as organizations claiming control over territories and
people may formulate and pursue goals that are not simply reflective of
the demands or interests of social groups, classes, or society. This is
what is usually meant by "state autonomy." Unless such independent goal
formulation occurs, there is little need to talk about states as
important actors. Pursuing matters further, one may then explore the
"capacities" of states to implement official goals, especially over the
actual or potential opposition of powerful social groups or in the face
of recalcitrant socioeconomic circumstances.

25 Nettl views the state as "the gatekeeper between intrasocietal and
extrasocietal flows of action." See Nettl, P.: "The State as a Conceptual
Variable", World Politics, 20, (July 1968), p.564. See also Skocpol, T.: States
and Social Revolutions: A Comparative Analysis of France, Russia and China,
(New York: Cambridge University Press, 1979) for a study that emphasizes this
aspect of the state.


27 ibid., p.9.
Skocpol’s definition of state autonomy thus consists of two parts, state goals and capacities. Skocpol and also Krasner\(^{28}\) essentially require that an autonomous state formulates goals that diverge from those of powerful societal actors. Nordlinger notes that there is no a priori reason to exclude from autonomy cases in which the goals of state actors converge with or are compatible with the preferences of societal actors, as long as the state acts on its preferences.\(^{29}\) Instead, as he notes, the degree of convergence or divergence "serves as the most important basis for distinguishing between the different types of state autonomy."\(^{30}\) There is little doubt that Nordlinger’s position reflects more accurately state autonomy than does the position taken by Skocpol and Krasner. Nordlinger’s position, by not confining state autonomy to cases in which state and societal interests diverge, enables us to analyze the state’s autonomy also when issue areas become politicized to involve a larger number of powerful societal actors whose interests may conflict. When societal interests differ sharply, an interventionist state is bound to initiate actions that converge with the interests of at least some actors. As long as the state pursues its interests it is less important whether it seeks to balance different societal interests or whether it sides with one set of societal actors. The main criterion for autonomy therefore must be that the state has preferences, that it acts upon its preferences and that its preferences are relatively consistent over time.

A practical consideration, however, interferes somewhat with the notion of autonomy adopted here to make divergence a somewhat more important concern because the oil MNCs were the dominant actors in the field of oil prior to the oil embargo. In the absence of goal divergence it is hard to establish a clear-cut case for a deliberate federal attempt to reduce this industry influence.


\(^{30}\) ibid. p.20.
In terms of the capacity of a state to pursue specific kinds of policies, Skocpol suggests that "a state's territorial integrity, financial means, and staffing may be the place to start in any investigation of its capacities to realize goals." In Canada, each of the eleven state actors had administrative and economic resources, Constitutional autonomy, and powers related to a specific territory, to be able to act autonomously. Further, it is important to note that autonomy relates to individual state actors, such as the federal and individual provincial governments, not to the aggregate Canadian state as such.

When applied to the issue-area of oil, state capacities refer to the policy-making and regulatory powers of state actors and their ability to extract economic resources through the power to raise taxes, extract fees, and levy duties. In addition to their organizational and institutional capacities, state actors also develop and apply a wide range of policy measures.

Two major statist interpretations of energy policy are available, but neither addresses the Canadian case in any depth. First, in a comparative study of the national adjustment strategies of France, West Germany, Japan, and the United States, Ikenberry develops a typology of policy instruments in order to understand the range and variation of national adjustment strategies in response to the two OPEC oil shocks. Ikenberry suggests that the Canadian adjustment strategy most closely resembles the French which he terms a neo-mercantilist strategy. Ikenberry's classification is useful, but needs to be extended to incorporate the specific nature of the Canadian case. Second, in a wide-ranging study, Merrie Klapp emphasizes the entrepreneurial role of the state in oil producing countries such as Canada. She finds that in Britain, Norway, Malaysia and Indonesia in the 1970s the state's landlord and

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31 See Skocpol in Evans et al., op.cit., p.17.
32 See Ikenberry, The Irony... op.cit.
entrepreneurial roles were expanded. Extending Klapp's analysis, an expanded landlord role would enable the state to regulate oil companies' access to land and resources; regulate exploration and production rates; introduce state participation; issue work requirements; and establish rules regarding national sourcing and other nationality requirements. In addition, an expanded landlord role would enable states to grant preferential rights to national oil companies. Apart from finding that the four states strengthened their landlord roles in this period, Klapp also argues that a change in the state's role from state as landlord to state as entrepreneur took place. This study will shed added light on the federal Canadian state's attempts to strengthen its landlord and entrepreneurial roles.

While some statist scholars have viewed the establishment or the strengthening of state capacities as enhancing state autonomy and state power, other statist scholars are less optimistic about the effects of this process on the effectiveness of state actions and on the state's autonomy. Evans et al. note that:

It is tempting to see the development of bureaucratic machinery as enhancing autonomy, autonomy as facilitating the state's ability to operate as a corporate actor, both as enhancing possibilities for effective intervention, and both as being reinforced in turn by the expansion of state intervention. The result is an image of the state as an evermore self-aggrandizing juggernaut. We argue instead for a more double-edged relationship between these characteristics, suggesting that the state's very success in building its role as a corporate actor may undercut its ability to remain autonomous and that effective intervention may increase the extent to which the state becomes an arena of social conflict.

From this it can be hypothesized that the stronger and more successful the federal state's thrust to develop itself as a corporate actor, the less autonomy it would retain. Ineffective state action would then result from, first, a certain "decoupling" of subunits and a reduced ability of central

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34 See in particular Krasner, Defending... op.cit.
35 See Evans et al. (1985) op.cit. p.49.
state elites to coordinate actions properly. Second, as noted by numerous analysts, the propensity of NOCs to develop corporate autonomy and interests increasingly on par with those of the oil MNCs would further reduce the coordinating powers of central state actors. This also suggests that a strengthened state entrepreneur role could in fact weaken the ability of central state elites to pursue consistent and autonomous policies. Finally, Evans et al. suggest that deep state intervention would tend to mobilize societal actors against the state’s intervention.

Ikenberry supports the general thrust of the argument put forth by Evans et al. and challenges Krasner’s position on the strong state/weak state distinction by noting that "the strong and weak state literature is misleading in its basic implication: that strong states have greater power or control over political outcomes." Instead, Ikenberry points to a certain paradox of state intervention by finding that the higher the degree of intervention, the lower is the flexibility of the state to intervene. Ikenberry therefore not only addresses the issue of the state as a corporate actor but also suggests that the density of intervention may tend to generate inefficiencies and affect outcomes. In the extension of this, Ikenberry notes that the actions taken by a state to withdraw from regulatory intervention may be "as powerful an expression of state capacity as intervention was in the first place."

Extending Ikenberry’s argument, we may suggest that the wider the range of interventionist measures applied by states the lower the flexibility and subsequent effectiveness of state action. The range and density of intervention is clearly related to state goals. Therefore, the wider the range of goals of state actors the more comprehensive the state’s intervention is likely to be.

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36 In Norway, which is one of the countries that Klapp analyzed, the concern with inadequate public control and steering of Statoil, the Norwegian NOC, has been one of the most important political issues since Statoil was formed in 1972.

37 Ikenberry, op.cit., p.134.

38 ibid., p.135.
Inefficiencies would then also relate to the large potential for goal conflicts.

The notion of state capacities is directly related to the structure of the state and leads us to consider Skocpol's second notion of the state, namely what is termed the state as structure. As noted above, Skocpol et al. make a distinction between the state as actor and the state as structure. They describe what they call a "Tocquevillian" approach as follows:

In this perspective, states matter not simply because of the goal-oriented activities of state officials. They matter because their organizational configurations, along with their overall patterns of activity, affect political culture, encourage some kinds of group formation and political actions (but not others), and make possible the raising of certain political issues (but not others).

To be sure, the "strengths" or "weaknesses" of states as sites of more or less independent and effective official actions constitute a key aspect of the organizational configurations and overall patterns of activity at issue in this perspective. This second approach is entirely complementary to the ideas we explored in the previous section [discussing the role of the state as actor], but the investigator's modus operandi is not the same. When the effects of states are explored from the Tocquevillian point of view, those effects are not traced by dissecting state strategies or policies and their possibilities for implementation. Instead, the investigator looks more macroscopically at the ways in which the structures and activities of states unintentionally influence the formation of groups and the political capacities, ideas, and demands of various sectors of society.

This structural notion of the state which Skocpol et al. label Tocquevillian focuses on how the structures of states tend to favour certain kinds of ideas, objectives, and political capacities. The structure of the state affects the range of policy instruments available and the type of policy networks that states develop and retain over time. The structural configurations of a state also tend to favour certain types of conflicts and outcomes while actively deterring or preventing others. An obvious example is the noted tendency of the Canadian state to favour conflicts of a territorial nature. Skocpol et al. note that the two state roles, the state as actor and the state as structure are

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39 Skocpol in Evans et al. attribute this approach to Tocqueville's The Old Regime and the French Revolution and Democracy in America. See Evans et al. op.cit., p.21.

40 ibid.
analytically complementary. Perhaps the most important structural feature of the Canadian state, to which we now turn, is federalism.

A Federalist Perspective

In the Canadian context, a statist perspective necessarily involves paying significant attention to federalism. Any analysis of the role of Canadian federalism needs to pay attention to the fact that the conclusions may reflect the particular nature of the overall Canadian state and the special version of federalism in Canada rather than say much about the effects of federalism as such. Chandler and Bakvis, in a comparative analysis of federal systems, distinguish between two types of federalism, namely jurisdictional and functional federalism. The Canadian system is termed jurisdictional federalism because it contains a "combination of parliamentary institutions and traditions and separate jurisdictional spheres of national and provincial government". The special form Canadian federalism has taken is also reflected in the view of Canadian federalism as a "federalism of big governments". The literature on Canadian federalism has long been cognizant of the role of state actors in shaping outcomes. In addition, the federal perspective also emphasizes how federalism and the constitutional framework guide and shape the perceptions and actions of state elites and their interaction.

The fact that the Canadian state is federal also accounts for the recurring tendency for the energy issue to be redefined from its "obvious" focus on state-oil industry relations to intrastate issues (federal-provincial

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relations). A major contribution of this thesis is to explore the circumstances in which jurisdictional concerns deflect attention from policy substance - and also to those in which the reverse occurs.

This study therefore sets out to identify in greater detail the factors that were associated with this process of redefinition that took place in association with the two OPEC oil shocks in 1973 and in 1979-80. How important were international factors in generating and shaping this process of redefinition? How important were the goals of individual state actors in generating the two processes of redefinition from policy substance to jurisdictional concerns? A number of scholars have emphasized the federal Liberal government's priorities and in particular Trudeau's notion of Canadian federalism in generating the NEP. How were the two processes of deflection influenced by the growth of governments at both levels in this period? The growth of big governments at both levels, it may be argued, provides individual state actors with increased capacity to intervene and solve problems. Such increased capacity, in turn, may tend to (a) make individual state actors more cognizant of the constraints on their powers in the Constitutional framework; (b) more sceptical of the appropriateness of the constitutional framework and more capable of interpreting the constitution to serve their interests; (c) and more cognizant of the actions by other actors that negatively affect what they

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43 This relates to the general proposition in the federalist literature that federalism tends to favour conflicts of a territorial kind. In their survey of the effects of federalism on public policy, Fletcher and Wallace note that "From a broader perspective, the case studies suggest that the intergovernmental policy process has some general effects on the kinds of policies agreed upon. For example, shared jurisdiction and interdependence tend to narrow the range of policies considered, focussing attention on jurisdictional issues rather than substantive ones." (p.194) The authors further note that "In the area of economic policy, the consensus of the case studies is that interest groups are usually frozen out of federal-provincial decision making." See Fletcher, P.J. and D.C. Wallace: "Federal-Provincial Relations and the Making of Public Policy in Canada: A Review of Case Studies" in Simeon, R.: Division of Powers and Public Policy, vol.61 of the research program of the Royal Commission on the Economic Union and Development Prospects for Canada, (Toronto: University of Toronto Press, 1986), p. 181.

perceive to be their interests. As the last observation implies, however, the introduction of comprehensive measures of intervention, particularly in a federal system, may have a tendency to generate countermeasures from other governments as well as from private actors. This may seriously damage the capacities of the governments of a federal state to achieve their objectives.

How important were structural factors relating specifically to the role and influence of federalism in generating redefinition? This question relates specifically to the effects of the division of powers between levels of government in the Canadian federal system on the propensity of conflicts to become redefined.

Drawing on insights from Cairns and Bakvis and Chandler, it could be argued that the growth of big governments at both levels and the centralization of decision-making power commonly referred to as political federalism generated an increased incompatibility between the two principles of structure in Canada, namely parliamentary democracy and federalism. This proposition differs from the one set forth by Evans et al. because it suggests that it was the frequent and competitive introduction of comprehensive intervention at both levels rather than the success of the intervention that produced ineffective state actions in Canada. Increasingly interventionist governments took actions that generated standstills, and tied governmental actors together in complex webs of policy interdependence.

This process would almost certainly affect the role and influence of dominant societal actors. The net effect of this process of deflection or redefinition could be to exclude societal actors from intergovernmental deliberations, as Berry noted. An alternative account would suggest that a redefinition of conflict could reduce the federal government's willingness (and that of the provinces) to grapple with the power of the oil industry as oil industry actors became important allies to governments. Or, it could be argued

45 These points are adapted from Cairns. See Cairns, The Other Crisis... op.cit., pp.181-184.
that a redefinition of conflicts along intergovernmental lines could reduce the ability of governmental actors to grapple with the influence of the oil industry, because the intervention became so clearly focused on other governmental actors that it was ineffective in reducing industry influence. A fourth outcome is also conceivable, namely that intergovernmental interaction would exclude industry interests but Ottawa and the provinces would afterwards set out to patch up the perceived damage of the intervention in order to address both their substantive concerns that were neglected during the conflict and take measures to ensure the future cooperation of the oil industry. Fifth, it could be argued that the oil MNCs were so powerful that they could apply effective pressure to secure their interests. The detailed chapters that follow evaluate these competing hypotheses.

Integration of The Two Perspectives, Statism and Federalism.

The integration of the two perspectives, statist and federalist, would emphasize how individual state actors in Canada often pursue goals in both the intergovernmental and in the state-society arena. Combining the two perspectives further involves investigating how the actions of individual state actors in Canada are informed, conditioned and constrained by the unique structure of the aggregate Canadian state and by international factors.

The statist perspective supplements the literature on federalism by its more explicit emphasis on international factors and the manner in which the interaction of states in the international arena affects the domestic policies of individual states, and conversely, how the domestic policies of individual states affect other states. The statist literature also supplements the federal one by its stronger emphasis on comparisons and the development of typologies of various state types, of which the strong state/weak state typology is the most widely used. Statist scholars have shed light on how economic adjustment
strategies are conditioned and shaped by the largely idiosyncratic state structures and state-society linkages of individual states.

Statist scholars focus on the goals of state actors and how the goals often differ from those of dominant societal actors. Statist scholars stress ideology, the learning experiences of state elites, the role of policy instruments and policy networks, and the role and importance of state structure in wider sociopolitical terms. Many of the themes that statist scholars are concerned with have either been developed independently in the literature on Canadian federalism, making the two bodies of literature highly compatible.

The federalism perspective supplements the statist literature by emphasizing how intergovernmental relations or intrastate factors, as influenced by the constitutional framework, shape the behaviour of governments. Further, the federalist perspective supplements the statist one in its emphasis on how intergovernmental interaction may serve to redefine conflicts and issues. A federalist perspective can shed light on how intergovernmental factors and the jurisdictional concerns of state actors interact with policy substance and often generate outcomes that are detrimental to solving the substantive concerns. Together, these two literatures provide insights into the evolution of Canadian oil policy.
PART TWO: FEDERAL INTERVENTION, 1973-75
Part Two of this thesis focuses on the federal government’s intervention in the oil and gas sector in the period 1973-75. The imposition of an oil embargo by OPEC in October 1973, represented a major turning-point in Canadian energy relations, in particular in the role played by the federal government. Ottawa, in response to the OPEC oil embargo, adopted self-sufficiency as the official federal objective. Canada, in response to an emerging oil import dependence, sought to become self-sufficient in oil and oil products.

A precondition for self-sufficiency and increasingly an objective in itself was Ottawa’s emphasis on federal control over the operations of the oil and gas industry. While the petroleum industry claimed it was capable of ensuring self-sufficiency, given sufficient federal and provincial incentives, federal officials decided that in the absence of federal intervention, oil and gas development would not proceed in a manner acceptable to Ottawa. This aspect of control was intimately linked to other, less clearly stated but not less important, federal objectives which can be summarized under the headings of revenue distribution and Canadianization. Ottawa’s objective of Canadianization in this period refers to an increased public-sector presence in the oil and gas sector and differs somewhat from the commitment to Canadianization formulated in the NEP. Ottawa’s objective of distribution entailed the use of federal price and tax measures to ensure the federal government an increased take of oil and gas revenues. These objectives signify an altered federal relationship to the oil and gas industry, as federal control over the activities of the oil industry became an increasingly important concern for Ottawa.

Ottawa’s objectives, although clearly related, were also independent of each other and required different policies and policy instruments for their success. They not only prescribed different policies, they were also somewhat contradictory.

While intent on ensuring itself increased control over the activities of the oil industry, only marginal improvements in federal control were found
during the period 1973-75. Part Two will reveal that the federal government essentially failed in prompting industry to develop indigenous resources; at the end of this period no measure was as yet in operation to ensure Canadianization; and Ottawa's revenue distribution objectives fell short. Existing and new measures taken to ensure federal energy objectives were clearly ineffective in providing it.

The widening discrepancy between federal energy goals and the outcome of events begs the question of why this happened. Chapter Four looks at the measures adopted by Ottawa to address its goals. The federal government's basic response to world oil market changes, instead of promoting the development of indigenous sources of supply, was increasingly defined in distributional terms, and mainly along federal-provincial lines of conflict. The ensuing federal-provincial struggle created considerable uncertainty over the direction of government policy, caught the oil industry in the middle by both levels of government squeezing it, and generated strong disincentives to industry investment by the government's price regulation policies and budgetary measures.

Rather than effectively challenging the oil and gas industry, Ottawa found itself caught up in an intricate web of federal-provincial struggles along two principal lines of conflict. First, Ottawa sought to redistribute economic benefits accruing from dramatically increased world oil prices and thus sought to establish itself as a "national balancer" in Canada. Second, Ottawa sought to curtail provincial attempts, begun before the OPEC oil embargo, to expand the bounds of provincial jurisdiction and control over oil and gas activities. The net effects were first the redefinition of a conflict.

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1 This was before Petro-Canada started its operations, however.

2 The decision to establish Petro-Canada had been made but its role and effectiveness still remained to be seen. Investment controls were also instituted in this period but these measures would not affect the structure of foreign ownership at the time.
which in other countries was focused on state-industry relations, to become centred along federal-provincial issues and lines of conflict. Second, and closely related to the first, was a redefinition of the issue-context from issues relating to self-sufficiency and Canadianization, to intergovernmental redistribution, as an intrinsic part of the jurisdictional struggle between levels of government.

This process is here referred to as redefinition because it was not primarily an intentional act. Rather, it was largely an unforeseen consequence of the nature, composition and interaction of governmental objectives and policy instruments, as these were shaped and as they interacted, in the context of a changing world oil market and the structure of the Canadian federation. The jurisdictional struggles involved issues of rule, order and control, and set the stage for the emergence of an altered political context of intergovernmental and state-society relations in Canada.
CHAPTER TWO: DOMESTIC AND INTERNATIONAL BACKGROUND TO EVENTS

This chapter consists of three sections. First a brief overview of Canadian oil policy in the period prior to 1973 will be provided. In the second section the OPEC oil embargo and the international oil market restructuring that both preceded and succeeded the embargo will be briefly outlined. The third section assesses the impact these international events had on Canada, and examines other factors associated with Ottawa's intervention.

**Canadian Oil Policy Prior to 1973**

Prior to 1973 Canadian energy policy was essentially formulated by the oil MNCs in close cooperation with provincial governments. The federal government, largely sharing the concerns of the oil industry and the producing provinces with oil and gas development, had basically adopted a laissez-faire approach within the framework of the Diefenbaker government's National Oil Policy, introduced in 1961. The National Oil Policy emerged out of the recommendations of the Borden Commission which was established to review the proper use of Canadian energy resources in the wake of the highly politicized and deeply divisive pipeline debates in the middle of the 1950s. The international context was one of excess oil supplies and the NOP must also be viewed as a response to this world-wide oversupply of oil. The National Oil Policy set the stage for a ten year long climate of consensus among the main players on the energy stage. John McDougall identifies the basic principles underlying Canadian energy policy in the 1960s:

> In broad summary, these were to establish an integrated national economy in natural gas but to permit a continental and international pattern of trade in oil; to export natural gas surplus to Canada's own present and foreseeable requirements; and to permit, if necessary, exports at prices which realize something less than their full value, provided the exports contributed to the service of Canadian markets which would otherwise be

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3 See Berry, G. R.: "The Oil Lobby and the Energy Crisis", *Canadian Public Administration*, (1974), 17:4, p.605
inaccessible and provided there was a prospect of future exports on more
favourable terms. In terms of the role played by the federal government, four observations are
particularly important.

First, the federal government played a very limited role in Canadian
petroleum policy in the 1960s and early 1970s. The federal government’s 1967
decision to participate with an equity share in the Panarctic venture was
simply a bailout of small private firms without any federal government
influence on corporate decision-making. Also, the Canadian Ownership
Regulations in the NOP represented no real impediment or obstacle to the
operations of foreign-owned oil companies in Canada.

Second, even in matters subject to federal jurisdiction, such as exports
and imports of petroleum, the federal government established an independent
federal agency, the National Energy Board (NEB) which had been granted
considerable administrative discretion in the formulation and implementation
of federal regulatory policies in oil and gas matters. In fact, Ian McDougall
contends that the National Energy Board had essentially become co-opted by the
oil industry. Further, even in the geographical areas that were under direct
federal jurisdiction, the currently denoted "Canada Lands" which consist of the
areas North of 60° and the offshore areas, the federal government’s actual
regulatory role was minimal. The main federal instrument in the geographical

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4 See McDougall, J.N.: "Oil and Gas in Canadian Energy Policy", in Doern, G.B.
and V.S. Wilson: Issues in Canadian Public Policy, (Toronto: Macmillan of
Canada, 1974), p.121

5 The federal government’s share of the Panarctic venture was a minority share
of 45% which left the controlling interest in private hands. Ottawa was
entitled to place 4 federal officials on Panarctic’s 18-member board of
directors. The main point in terms of Panarctic, however, was that "The
government decided to let Panarctic operate as a private concern and its formal
entry into the exploration business represented no change in government

6 See McDougall (1974), op.cit. p.121-22

7 See McDougall, I.: "The Canadian National Energy Board: Economic
'Jurisprudence' in the National Interest or Symbolic Reassurance", Alberta Law
frontiers was the system of land management and oil and gas licensing outlined in the Canada Oil and Gas Land Regulations of 1961 (SOR/61-253). Thompson and Crommelin who have written extensively on the land management systems in all Canadian jurisdictions note that the COGL of 1961 offered the permit holders permits and leases of excessive duration:

The closest approximation to this long duration is to be found in the 60- and 99-year concessions that the Arab sheiks granted in their unenlightened period prior to World War II.

The COGL were departmental regulations that had never been subject to Parliamentary approval and that provided the federal government with very little control over the rate and location of resource development in the frontier areas. Thompson and Crommelin wrote in 1973:

Few Canadians know about them even now and few are aware that the government of that day gave the oil industry carte blanche, telling them to write the kind of regulations that would create incentives for northern development. As a result we have a resource "give-away" unparalleled in any country in modern times.

This system was still in operation in 1973 although the government in 1970 introduced a land freeze and notified the industry that it would introduce important changes in the system.

A third aspect of Ottawa's role relates to price regulation. The price of oil was partially regulated in the period prior to 1973 because consumers west of the Ottawa Valley Line used Albertan oil and paid a certain additional premium for this. Consumers east of the Ottawa Valley paid the international price for oil which was lower. Ottawa's price regulation scheme prior to 1973 was intended to help the oil industry expand and provide domestic producers

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8 As opposed to the tar sands of Alberta and the heavy oil deposits of Saskatchewan which are considered technological frontiers and which will not be referred to as frontiers here.


with a market outlet rather than protect Canadian consumers from the vagaries of the world oil market.

Ottawa's oil and gas tax and incentive scheme was intended to stimulate oil and gas development and expansion of the oil and gas industry and underlined the federal government's producer-orientation.

Finally, a basic value-consensus existed between the federal government and the governments of the oil and gas producing provinces in terms of the management of Canada's oil and gas reserves. The net upshot of the NOP was a divided oil market, with the five eastern Canadian provinces dependent on cheaper overseas supplies and Venezuelan oil, and the five western Canadian provinces being supplied by more expensive Albertan oil. Thus, the NOP ensured Alberta a guaranteed market outlet with potential for exports to the United States, and in a period of falling real oil prices, the eastern five provinces were able to benefit from the low international prices. Canada thus stood with one leg in a north-American system of oil distribution and one leg in the international system of crude oil trade, the two systems being neatly tied together by the large international oil companies which operated them both.

Imperial Oil, Gulf Oil Canada, Shell Canada, and Texaco Canada - all subsidiaries of the major international oil companies, the "Seven Sisters" - have long dominated oil and gas activities in Canada. These four companies

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12 Debanne attributes the allocation pattern established and maintained by the NOP to the role of the MNCs. He notes: "This allocation pattern, (imports into the region east of the Ottawa Valley Line and exports of Albertan oil to the U.S.) which was to be officially endorsed in 1960 as Canada's national oil policy, was in fact the pattern already adopted by the multinationals for Canada." Thus, the author contends that the NOP only institutionalized the basic interests of the oil MNCs. See Debanne, J.G.: "Oil and Canadian Policy", in Erickson, E.E. and L. Waverman: The Energy Question: An International Failure of Policy, Volume 2: North America, (Toronto: University of Toronto Press, 1974), p.128

13 Laxer notes that in 1981 the combined revenues of these four companies accounted for 6.5% of Canada's Gross National Expenditure. See Laxer, J.: Oil and Gas: Ottawa, the Provinces and the Petroleum Industry, (Toronto: Lorimer,
together with BP and a number of other, mostly foreign-owned companies, were the key land-holders, oil explorers, producers, marketers, refiners and owners and operators of the pipelines and the refineries. The dominant role of the major international oil MNCs in Canada, most of whom were based in the United States, served to tie Canada and the United States closely together, over and above the close official ties between the two countries. The integration of the Canadian and American oil markets was facilitated by the fact that most of the oil and gas pipelines either had the U.S. market as their final destination or crossed large parts of U.S. territory. The dominant role of the MNCs is further seen in the federal (and Albertan) government’s dependence on information submitted by the two key industry organizations, the Canadian Petroleum Association (CPA represents the majors) and the Independent Petroleum Association of Canada (IPAC represents the independents). The federal government’s informational dependence assumes further importance in light of the close access that key industry players had to central federal decision-makers through their participation in the National Advisory Committee on Petroleum (NACOP).

From the above it is clear that the petroleum industry had a very strong influence on federal energy policy. The industry’s influence stemmed first from characteristics of the industry itself relating to: (a) the number and size of

14 Crane notes that: "In 1979, five foreign-controlled companies accounted for 52 per cent and 14 foreign-controlled companies accounted for 82 per cent of Canada’s oil production. Similarly, six foreign-controlled companies accounted for 51 per cent while 12 foreign-controlled companies accounted for 68 per cent of Canada’s natural gas production. ... The oil majors held most of the tar sands and over 60 per cent of the frontier lands, including the potentially rich Hibernia field off Newfoundland and the reserves near Sable Island by the Nova Scotia coast, as well as much of the potential in the Beaufort Sea and Mackenzie Delta. See Crane, D.: Controlling Interest: The Canadian Gas and Oil Stakes, (Toronto: McClelland and Stewart, 1982), p. 11-12

15 NACOP was established by energy minister Joe Greene in 1969. According to Foster, NACOP served to formalize links between cabinet members and key industry officials, from the major MNCs. See Foster, P.: The Blue-Eyed Sheiks: The Canadian Oil Establishment, (Totem Books: Toronto, 1977)p.108 NACOP was chaired by the Chief of the NEB’s Oil Policy Branch. See McDougall, (1974) op.cit. p.130.
units involved; (b) the industry's economic strength which was enhanced by the importance of the petroleum sector in Canada's economy; (c) the financial, managerial, technical and geological expertise of the large industry players and their umbrella organizations;\(^{16}\) and (d) the close links between the Canadian subsidiaries and their American or British/Dutch parent companies.

A second source of the petroleum industry's particular influence was due to its close links to federal decision-making processes. The industry enjoyed both direct integration into federal decision-structures and also close and regular consultation with federal regulators and decision-makers in all matters pertaining to oil and gas.

**International Oil Market Events and Trends**

In the 1970s a complex mix of domestic and international factors led to the breakdown of the consensus of the 1960s with increased politicization of energy relations and conflict as a result. The period under study in Canadian energy policy, the Liberal post-OPEC embargo regime, 1973-84, is one in which both federal and provincial levels of government embarked upon a highly interventionist and "nationalist" path in oil and gas development; a trend which has been reversed in the mid-1980s under the framework of the new Conservative energy policy.

The obvious starting point of the Liberal "nationalist" energy epoch\(^ {17}\) was the federal government's December 1973 pronouncement of a policy of self-sufficiency in oil and oil products at the end of the decade. The altered federal role in the energy sector must be seen in connection with the changes

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\(^ {16}\) The most important oil industry organizations were the Canadian Petroleum Association (CPA) and the Independent Petroleum Organization of Canada (IPAC).

that took place on the international oil market. These changes consist of the OPEC oil embargo, the ensuing world oil price increases and the restructured power relations among the main actors on the oil scene.

Although the Saudi government denied that Canada was on the embargo list\(^\text{18}\), Canada faced reduced imports in 1973/74 as a result of the extreme pressure that was placed on available supplies by other importing countries and by the joint decision of the major oil MNCs to spread the effects of the 25% shortfall in supplies instituted by OPEC against the embargoed countries. The shortfall that resulted was mostly offset by tanker shipments, however.\(^\text{19}\) Still, considerable political uproar emerged in light of press allegations of tanker diversions from Canada to the United States.\(^\text{20}\) It was later found that the allegations were without substance. But the absence of tangible supply effects directly related to the embargo does not reduce the importance of the OPEC oil embargo. The OPEC oil embargo was a sudden and temporary indication of a major ongoing political restructuring between the major oil companies and the consuming countries, on the one hand, and the oil producing countries on the other.\(^\text{21}\) To some extent the embargo can be seen as a delayed response to these events. The embargo was important because it was the most visible manifestation of this ongoing change. The Trudeau government's introduction of a new energy policy in 1973, as the reaction of most oil importing countries, was therefore not only a reaction to the immediate crisis in oil supplies, but

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\(^{18}\) See Berry, (1974), op.cit., p. 602 who notes that the official status of the Arab embargo with reference to Canada was unclear. ARAMCO insisted that Canada was on the list whereas the Saudi government denied that it was on the list.

\(^{19}\) ibid.


\(^{21}\) Although the producing countries joined together in OPEC were the primary actors, non-OPEC members such as Britain and Norway also took important measures to increase government control and extract a larger share of economic rent from the oil majors operating on their respective continental shelves. The Norwegian national oil company Statoil was established in 1972. Shortly thereafter state participation became a condition for the granting of licenses.
also a response to a new situation of uncertainty in which rapid market changes and future shortfalls were considered part of a new reality. The international polarization and the ensuing politicization of the world oil market made it inherently difficult to predict the degree of certainty with which future oil imports would be forthcoming. The crisis situation impressed the governments of oil-import dependent countries with the critical need for state control of the nation’s vital oil supplies.

The shortfall of supplies was only one of two major and immediate effects of the OPEC embargo, however. The rapid increase in the international price of oil contributed to the collapse of the system of crude oil price fixing, and reinforced the view that political and not economic factors determined world oil supply and price developments. The political restructuring of the international oil market placed OPEC in a position of market power, which enabled the cartel to act as the de facto international oil price maker.

International and Domestic Sources of Ottawa’s Actions

The important changes that took place in the role of the Canadian government in the early 1970s can be attributed not only to international events such as the OPEC oil embargo and the changing relations between oil producing countries and major international oil companies. The new role was a reaction to four different sets of events.

First, it was a reaction to the international oil market restructuring and the new-found power of OPEC. The sudden oil market eruption created considerable fear and confusion in all oil-import dependent countries and underlined the need for states to ensure order and control in a crisis

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22 The price of Saudi Arabian Light Crude rose from $2.48 (US) in 1972, to $3.09 on October 1 and to $5.68 on October 16 and then jumped to $12.35 in 1974. See Laxer, op.cit. Table 1.

23 The international oil market restructuring will be described in more detail in Parts Three and Four of this thesis.
situation. The federal government, in initiating actions to deal with the new situation of uncertainty, struggled to establish a measure of centralized authority to grapple with the crisis. The need to ensure order and control, while inspiring actions, does not necessarily determine the specific response that is taken. Rather, the manner in which Ottawa responded was conditioned by a number of other factors which interacted with the international oil market changes to produce the outcomes.

Second, the federal Canadian government, a minority Liberal government, faced considerable pressure from its own back-benchers and from the NDP which held the balance in Parliament, to take measures to increase Canadian ownership and control in the important oil sector. The issue of Canadian ownership and control centred on the Canadian subsidiaries of the international oil majors.

From the late 1960s the international oil companies had been confronted with strong demands for control over their activities by increasingly assertive oil-producing and exporting countries. The inability of the oil majors to fend off the demands of the producing countries for more control over upstream oil activities, as evidenced in nationalizations, state participation agreements and important changes in the concession systems that regulated the activities of the companies, reduced the ability of the oil majors to act as vital middlemen between oil exporting and importing countries. The ensuing credibility gap spilled directly over on the Canadian subsidiaries which found this gap difficult to fill. Although these companies had operated in Canada since the start of oil activities, they were now increasingly viewed as foreign actors operating beyond the control of Canadians. This issue not only revolves around foreign ownership and control of Canadian operations as such, but also on the degree to which the Canadian majors operated independently of or as

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24 The Waffle faction in the NDP as well as the Committee for an Independent Canada were very vocal groups lobbying for increased Canadian ownership and control.

integrated parts of the network of operations established by their respective parent companies. Critics contended that the Canadian majors had no autonomy over their own activities, which meant that Canadian oil activities were in the hands of a number of large companies whose operations were being challenged by an increasingly assertive OPEC. Critics contended that the Canadian majors had no autonomy over their own activities, which meant that Canadian oil activities were in the hands of a number of large companies whose operations were being challenged by an increasingly assertive OPEC.²⁶ Oil industry officials, many of whom were Canadian nationals, denied allegations of lacking autonomy.²⁷

The federal government acknowledged the link between foreign ownership and control on the one hand and oil price and security of supply concerns on the other.²⁸ The main concern of the federal government was not with Canadianization as such, but rather with increased federal control over the activities of the oil industry, in particular the federal government’s ability to control the rate and location of oil and gas development in Canada.²⁹ This emphasis on control was not simply a function of the pressures facing Ottawa but instead expressed the priorities of central federal decision-makers.

Third, the federal government’s altered role was also a response to important changes in Canada-United States relations in the early 1970s, as U.S.

²⁶ Differences existed as to the degree of parent company ownership of the Canadian subsidiary. Imperial Oil, the largest, was 70% owned by Exxon. Texaco was 91% owned by its parent company whereas Mobil, Amoco and Chevron were wholly owned by their parent companies. See Doern and Toner, (1985) op.cit. p.211

²⁷ An assessment of parent-subsidiary relations would start with noticing that such linkages differed from one Canadian subsidiary to another. Further, the exact nature of such linkages depended on a number of factors related to (a) the size of the holdings that the mother company had in the subsidiary, (b) the subsidiary’s absolute size and its size in relation to the mother company, (c) the assertiveness of the management of the subsidiary, (d) the importance of Canada in the operations of the mother company, etc. The availability of such data is very limited which makes it difficult to draw firm conclusions about the nature of parent-subsidiary company relations.

²⁸ The establishment of the Foreign Investment Review Agency (FIRA) in 1973 is a clear indication of Ottawa’s concern with foreign ownership and control. Partly because of the established links between foreign ownership and security of supply concerns, the oil sector became one of the prime candidates for Canadianization.

²⁹ Canadianization refers to both public and private Canadian ownership and control and therefore does not in itself ensure the federal government control.
domestic oil production peaked, reserve additions fell and domestic demand continued to climb. The upshot was to make the U.S. more dependent on oil imports, both from Canada and from OPEC countries. In 1972 Canada exported 341 million barrels of crude oil to the U.S. as well as a large quantity of fuel oils. Crude oil exports represented 61% of total Canadian crude oil consumption in that year (including imports). In 1973 the figure had increased to 68%.30 Exports had surged since 1971 when the United States lifted the Mandatory Oil Import Program and notified the federal government that it wanted increased oil and gas exports from Canada.31 Even prior to the OPEC oil embargo, however, the National Energy Board had instituted export controls of Canadian oil and gas to protect Canadian consumers from shortages.

Finally, Ottawa's intervention was conditioned by actions taken by the producing provinces before and immediately after the OPEC oil embargo to increase provincial revenues from and control over oil and gas development. The OPEC oil embargo raised the stakes so much, that it served as a catalyst for intergovernmental interaction to alter its character. Pre-embargo federal-provincial interaction may be characterized by attempts at reaching an appropriate balance between provincial needs and federal requirements, with Ottawa playing a rather passive role. In the aftermath of the embargo such attempts were abandoned and replaced by a conflictual setting in which the interests of the other level of government were largely ignored and each government instead sought to expand its jurisdictional powers to the full.

The federal government therefore responded to a set of diverse factors and events which placed it in a number of different and potentially conflicting roles.


31 The prevailing notion at the time was that Canada had ample supplies of oil and gas, as EMR Minister Joe Greene's speech of June 1971 had clearly indicated. Referred to in Doern and Toner, (1985) op.cit. p.496-97 Note, however, that Greene referred to figures produced by the CPA, the quality of which the federal government proved inadequate to assess.
CHAPTER THREE: FEDERAL OBJECTIVES

The basic change that took place in the federal government’s role after the OPEC embargo was that Ottawa, although barred from wielding direct influence on upstream petroleum activities in the main producing provinces, due to the Constitution granting the provinces ownership of the resources within their jurisdiction, sought to increase its control over and economic take from resource development in Canada. It is important to emphasize several aspects of the federal government’s role here.

Ottawa’s Emphasis on Oil and Gas Development

In terms of development the main change was an increased emphasis on federal control over development rather than a changed approach to development per se. From 1973 onwards Ottawa, while still stimulating oil and gas activities, emphasized the need for federal control and adopted a series of policy instruments intended to ensure federal control over oil and gas development.

The emerging new federal policy framework was expressed in terms of the Liberal government’s resolve to achieve oil and gas self-sufficiency by the end of the decade. Ottawa’s response to the rapidly changing world oil market was characterized by a series of ad hoc measures whose combined effects were neither foreseen nor really expected. The absence of a comprehensive policy framework is most clearly seen in Ottawa’s stated objectives. Ottawa expressed a commitment to render Canada self-sufficient in oil, but initiated intervention not only to make Canada self-sufficient in oil, but also to Canadianize the oil industry and redistribute oil rents and revenues. The somewhat unclear nature of the federal objectives of revenue distribution and Canadianization also affects the manner in which they are presented here.
Rather than treating these as official goals, they will be analyzed in conjunction with Ottawa’s policy measures which, after all, are the most tangible evidence of their existence. This chapter therefore discusses Ottawa’s commitment to the goal of self-sufficiency.

Essentially the federal government’s commitment to self-sufficiency meant a commitment to increased indigenous oil development in Canada within the framework of a national market with a single price for oil. Prime Minister Trudeau noted that:

The creation of a national market for Canadian oil is one essential requirement of a new policy. ... A second requirement for self-sufficiency is a rapid and significant increase in oil production in Canada.\(^{32}\)

In his speech the Prime Minister pointed out that the immediate goal of the Liberal government was to maintain the existing condition of "net" self-sufficiency, a case in which exports and imports balanced out. It was emphasized however that the government’s primary goal was to reach a state of complete self-sufficiency in oil and oil products by the end of the decade. Further, it was noted that the goal of self-sufficiency required a shifting of oil activities from the production of conventional low-cost oil in the Western provinces to high-cost sources of conventional frontier oil and synthetic oil from the Alberta tar sands and the heavy oils of Saskatchewan. Prime Minister Trudeau noted, in his December 1973 speech:

The reserves from conventional sources - mostly from the oil fields of Alberta - are known and no major new discoveries can be hoped for at present. Production from these existing reserves is expected to decline towards the end of this decade and will then be insufficient to meet current and projected rates of consumption.

Canada must therefore move and move immediately to develop its frontier and non-conventional sources of supply so as to be able to reach a situation that will permit self-sufficiency.\(^{33}\)


\(^{33}\) Ibid. The federal government’s projections were based on the figures presented in the newly published white paper entitled "An Energy Policy for Canada, Phase I." See EMR: An Energy Policy for Canada, Phase I (Ottawa: Minister of Supply and Services, 1973), 2 vols. This document presented resource estimates based on a rather shaky statistical method. The important point is that the government adopted estimates of ultimate recoverable
Since the Prudhoe Bay discovery in Alaska in 1968 the industry had increasingly shifted its activities to the northern areas, from the Western sedimentary basin. This trend of course caused considerable concern in Alberta. Alberta's problem was that although it was the dominant oil producer in Canada, the reserves-to-production ratio (R/P-ratio), which denotes the longevity of current proven and economically recoverable reserves, was approximately 12 years. Further, net reserve additions - the balance of total additions of new reserves and net production - declined from an average annual level of 818 million barrels for the 1960s, to an average annual rate of 234 million barrels for the period 1970-75, and was negative in 1976. Projections of future production revealed that oil production from the provinces would peak in the mid to late 1970s. After that it would decline rapidly, creating an increased shortfall between available domestic sources of supply and projected demand. The projected shortfall in supply was amplified by the forecasts of future demand for oil increasing from 1500 bbl/day in 1970 to 2300 bbl/day in 1980, resources and treated these as if they were proven reserves. Thus, the federal government’s assessment of the future of Canadian supplies was overly optimistic and revealed the policy dependence of the federal government on the Canadian Petroleum Association (CPA), the association of the major oil companies operating in Canada. This fact became clear later on. It will be discussed in more detail later in this chapter.

Industry exploration expenditures in Alberta declined from $174.8 million in 1968 to $160 million in 1971. The relative size of industry exploration expenditures allocated to Alberta, the main oil-producing region of Canada declined from 64% in 1968 to 37% in 1972, with the increase taking place in the geographical frontiers. Source: Oilweek, February 21/72, p.74 Land sale bonuses declined from a high of $146 million in 1969 to $72 million in 1971 in the Western provinces. Oilweek February 21/72, p.81

Although oil and gas could be found in several parts of Canada, the province of Alberta was and has been the dominant petroleum producing province with a large portion of the proven reserves. Alberta's share of proven reserves in 1974 was 6,351,437 out of a total of 7,171,229 barrels, or 88%. Alberta's share of proven reserves of natural gas was 43,376,959 out of a total of 56,708,086 million cubic feet, or 76%. Alberta's share of crude oil production in 1974 was 515,437,000 of a total of 614,769,000 barrels, or 84%, and the province's share of natural gas production was 2,537,515 out of a total of 3,405,506 million cubic feet, or 74% Source: Statistics Canada and taken from The Financial Post Survey of Oils 1977, p.17-18

See Helliwell et.al.: "Oil and Gas in Canada ...", published version, 1989, p.302. In 1976, for the first time, a negative balance of 86.9 million barrels occurred.

3200 bbl/day in 1990 and 4400 bbl/day in 2000. The main alternative sources of supply were the frontier areas and the tar sands of Alberta. Under the high price scenario produced by EMR and considered the most likely estimate of future oil price developments with an oil price of $6 (1972$), maximum production capacity for frontier oil would range between 30 and 58 billion bbl. and 35 billion barrels of tar sands oil.

In summary, federal resource estimates clearly indicated that Canada had ample supplies of oil and gas. These estimates also revealed that the Western provinces were rapidly running out of conventional oil and gas. The frontiers and the tar sands were considered the main alternative sources of supply. The frontiers were important not only as a future source of oil but also as the main source of natural gas. In light of this, the federal government's goal of self-sufficiency entailed a federal policy stance of channelling private and public investment to certain areas deemed of vital importance for future oil and gas supplies. The federal government emphasized self-sufficiency not only as a condition to be attained at the end of the 1970s, but also as a future condition that would persist for a considerable period of time. Therefore, the federal government did not intend to maximize the production of existing and potential oil and gas sources, because this would generate considerable pressures for oil and gas exports and accelerate the process of resource

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37 This forecast is in fact the lowest version. The highest forecast estimates future demand to be 2500 bbl/day in 1980, 4800 bbl/day in 1990 and 6900 bbl/day in the year 2000. ibid. p.72

38 It is important to note that all reserve estimates are sensitive to price changes.

39 The wide difference in frontier production capacity was due to different estimates of ultimate recoverable resources produced by the Geological Society of Canada. The GSC's downward revision between 1972 and 1973 produced such a large change indicating the very uncertain nature of forecasting - a forecasting of resources that was based on geological inference rather than drilling results. Although shaky, these forecasts played a central role in federal decision-making.

40 This was explicitly stated by Prime Minister Trudeau in his December 1973 speech in the House of Commons. See House of Commons, Debates, p.8479

41 No mention was made of the possibility for enhanced and tertiary recovery of oil from the Western sedimentary basin.
depletion, and thus shorten the actual period in which Canada would enjoy self-sufficiency. Instead, as Scott also emphasizes, the federal goal of self-sufficiency entailed a modest capacity increase, but with a redirection of industry activity to high-cost resources as a necessary precondition.

Self-Sufficiency as a Political Goal

Although adopting the goal of self-sufficiency, the federal government had little or no assurance that the investment decisions of the private industry in fact would conform to the government's stated priorities. Faced with high discount rates, private companies normally require a relatively rapid return on their investment. Therefore, private companies would need to convert whatever reserves that they discovered into production as rapidly as possible. The subsidiaries of the MNCs operating in Canada were the private sector companies that due to their capacity for internal generation of investment funds (from existing production in Western Canada) were least exposed to this problem and had the largest capacity for risk-taking.


43 Prime Minister Trudeau noted that the proposed national oil company "may choose to hold part of such resources as a reserve for the long-term security of the Canadian market. This is a function which private investors find it difficult to perform for understandable reasons, and it is a function to which the government attaches importance." op.cit. p.8481. See also Pratt, L.: "Petro-Canada", in Tupper, A. and G.B. Doern: Public Corporations and Public Policy in Canada, (The Institute for Research on Public Policy, Montreal, 1981), p.105-6. Pratt refers to this alleged propensity of private companies' push for production as the "exploration-production nexus". This is also widely discussed in the economic literature. See the contributions in Crommelin, M. and A.R. Thompson: Mineral Leasing as an Instrument of Public Policy, (Vancouver: Published for the British Columbia Institute for Economic Policy Analysis by University of British Columbia Press, 1977) for arguments supporting this position. See also Adelman, M.A.: "The Changing Structure of the Oil and Gas Market", in Tempest, P.(ed.): International Energy Markets, (Cambridge, Mass: Oelgeschlager, Gunn & Hair, 1983), pp.15-25. for an argument that rejects this.

44 See EMR: (1973) op.cit. The report noted that the most important source of investment funds for the petroleum industry was internal cash generation. For the period 1961-70, 66% of the capital came from internal sources. The report notes: "For the integrated companies (which are 100% foreign controlled)
There is little doubt that the integrated oil companies were the best equipped operators for the development of Canada's future sources of supply at that time. They possessed not only the most advanced technical information and expertise but also, as the main land-holders in the geographical and technological frontiers, had the best geological information available. They had access to large amounts of capital and their international network of operations ensured them of early capitalization of technological breakthroughs in other parts of the world. Yet, the foreign-owned oil companies were also constrained by the policies of their home countries and, to different degrees, their own parent organizations. They were no less eager than Canadian-owned companies to convert exploration successes into production and pushed hard for increased exports of oil and gas. As conventional production in the provinces, which generated their internal cash-flow, started to dwindle, they would probably become even more concerned with rapid return on their investment. Further, their mobility, which refers to their ability to shift operations from one country to another and from one part of Canada to another, made them potentially unreliable resource developers from Ottawa's perspective. The issue of potential unreliability was of particular importance because Canada's future oil and gas sources were of a high-cost and high-risk nature.

The dilemma facing the federal government, therefore, was that increased oil and gas development necessitated a strong private (read foreign) sector presence, but this very presence would also make it inherently difficult for Ottawa to ensure itself of much control over the rate and location of oil and gas development in Canada.

The federal government's apparent dilemma between on the one hand seeking to encourage increased development of high-cost resources and, on the other, ensure itself of adequate control of this development, touches upon the essence

internal capital sources tend to account for an even larger proportion of total capital than for the industry as a whole." In the period 1966-70, this percentage for integrated companies was 73.8% whereas for Canadian controlled companies it was 52%. ibid., p.241
of the notion of self-sufficiency as it was adopted by the Trudeau Liberal government. This was also a dilemma that created considerable tension between different federal departments involved in resource development in Canada. Pratt notes that this dilemma characterized relations between EMR and DIAND, the two federal departments most closely involved in oil and gas development in the frontier areas. EMR’s prime motive, according to Pratt, was to ensure itself increased control over the operations of the oil industry. DIAND, on the other hand, was more concerned with maintaining a high level of private investment in the areas under federal jurisdiction. The two federal departments, it may be noted, differed in their substantive concerns. EMR’s focus was energy policy whereas officials in DIAND viewed their role as much wider, namely to pursue "province-building" in the North. The two departments also had developed different land management practices which made it difficult to develop a uniform land management strategy for the entire Canada Lands area.

The policy dilemma faced by the federal government was resolved by the government emphasizing the political aspects of self-sufficiency, as translated into Ottawa’s need to increase its control over oil and gas development in Canada. Pratt notes that:

(T)he appeal of self-sufficiency lay mainly in its perceived political advantages, not in the dubious economics of "home production." Macdonald and his advisers, for example, advocated a higher level of self-sufficiency because they gave high priority to the goal of increasing the state’s control over the supply of energy to Canadian users. A heavier reliance on indigenous energy resources would reduce Canadian dependence on OPEC suppliers and corporate intermediaries, thereby permitting the national government to expand its own control over the vital energy sector, and particularly over the petroleum industry. Such control was deemed essential if Ottawa hoped to reduce the political costs of dependence on foreign oil; or if it wished to support new energy-intensive industries with the assurance of supply; or if it wanted to regulate domestic energy prices beneath world levels. Little attempt was made to weigh these against the costs of an autarkic, dirigistic policy.

46 Interview with senior DIAND official.
47 See Pratt, ibid., p.104 The definition of self-sufficiency presented here resembles the notion of security of supply. Yet, self-sufficiency places the emphasis on the development of indigenous sources of supply, whereas security of supply contains no explicit reference to the degree to which the resources
Self-sufficiency, rather than specifying a certain level of resource development within a specified target date, served mainly as a powerful rationale for increased federal control over the activities of the oil industry in Canada.

Self-Sufficiency and a National Market

Federal government control over oil and gas development not only related to control over resource development, it also included the establishment of a national market for oil in Canada. The definition of control as applied in this thesis, however, refers to the federal government's ability to control the rate and location of oil and gas development in Canada. Therefore, we are not interested in the extent to which the federal government managed to establish a national market for oil in Canada, a topic which has been well addressed by McDougall in his book *Fuels and the National Policy*. Instead, we are particularly interested in the emerging and highly controversial role of the federal Canadian government in controlling resource development in Canada by means of influencing upstream processes. Also, it would be virtually impossible for Ottawa to establish and operate a national market unless it was able to control the upstream processes of oil and gas exploration and development. A number of structural features of the Canadian federation made such upstream control very difficult.

are domestically produced. Security of supply focuses instead on the assurance that importers have of stable future supplies. The two terms are synonymous when no import dependence exists.

The notion of development encompasses the stages of exploration, field development and production, i.e. the upstream stage of oil and gas activities.

McDougall here discusses the persistent calls for a national fuel policy in Canada and seeks to explain "why successive federal governments have been willing or unwilling to adopt policies encouraging the Canadian consumption of Canadian fuels." See McDougall, J. N: *Fuels and the National Policy*, (Toronto: Butterworths, 1982), p.1
The Federal Government as Resource Developer: Constraints

The federal government essentially has two sets of measures by which it can influence resource development in Canada, indirect and direct ones. These measures are defined in the Canadian Constitution and their role and application is essentially determined by the federal-provincial distribution of powers in Canada. Thus, one of the problems facing the federal government in influencing upstream oil and gas development relates to the fact that the British North America Act of 1867 granted ownership of the natural resources within provincial bounds to the provinces. This structural aspect clearly renders direct federal interventionist means such as Petro-Canada less effective than they would be in unitary states.

Indirect federal means emerge primarily from Ottawa’s powers to tax, to regulate interprovincial and international trade, and to provide grants to provinces, groups and individuals. In addition to the measures listed above, the federal government introduced legislation in Parliament to ensure itself control over oil and gas prices in Canada. Before addressing Ottawa’s direct interventionist means, a few comments will be made about some of the effects of indirect federal (and provincial) means.

Federal measures often interacted with provincial interventionist means

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50 Section 109 of the BNA-Act states that all lands, mines, minerals and royalties belong to the province in which they are situated. Further, provincial ownership is also reinforced by clauses [92(13), the property and civil rights clause, [92(2)], the power to levy direct taxes, and [92(5)], the authority over the management and sale of public lands belonging to the province. See Doern and Toner, (1985), op.cit. p.159 The provincial role in natural resource ownership was further strengthened in the new Canadian Constitution (1982).

51 These powers emerge from clause [91(2)], the "trade and commerce" power which provides Parliament with jurisdiction over all aspects of interprovincial and international trade. Other sources are section [91(10)(c)], the federal declaratory power, the federal "emergency power" (POGG) of section 91, section [91(5)] which grants the federal government almost unlimited freedom to employ any mode or system of taxation - apart from taxing "Lands and Property" belonging to a province, - the federal spending power and the federal government’s power to reserve or disallow provincial legislation, the former undertaken by the Lieutenant Governor, who is appointed by Ottawa. Doern and Toner, ibid. p.159-60.
to produce unintended effects. For instance, it was found that the federal automatic depletion allowance financed cash bonuses paid by industry to provinces for exploration permits and mineral rights, instead of financing actual exploration and development. Ottawa's incentives thus ended up in provincial coffers instead of in increased development.

Ottawa's ability to use indirect means to influence resource development in Canada was hampered not only by the constitutional division of powers but was also constrained by the structure and operation of the oil industry in Canada. As Bell points out:

(P)rice increases and fiscal incentives for new exploration and development would, if left untouched, involve a perpetuation of foreign domination of this sector. These signs were clearly evident in the fact that the new prospects of the frontiers and tar sands were almost entirely, and understandably, in the hands of the foreign companies that were large enough to handle the investment scale and risk exposure on large individual projects. Furthermore, the cash flow anticipated from the higher prices from existing production would place these large foreign oil companies in a commanding position in the Canadian economy.

Although the constitutional division of powers was ambiguous, with considerable room for federal actions to influence activities within provincial bounds, the major foreign-owned oil companies in Canada could effectively undermine and use to their own advantage many of the indirect measures that Ottawa had introduced.

Apart from its indirect role, Ottawa also plays an important direct role in oil and gas development in Canada. As overseer of the vast geographical frontier areas encompassing the Yukon, the Northwest Territories and the offshore areas, the federal government itself occupies a vital landlord role. Although jurisdiction over the offshore areas has long been the subject of federal-provincial strife and conflict, it is important to take notice of the federal stance on this issue in 1973:

The Supreme Court of Canada in its West Coast Advisory Opinion handed

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52 See Debanne, in Erickson and Waverman, op.cit. p.142

down in November, 1967, was unanimous in finding entirely in favour of 
the Crown in right of Canada with respect to the resources of all 
submerged lands lying offshore from the "ordinary low-water mark" and 
outside of "harbours, bays, estuaries and other similar inland waters." 
The principles forming the basis of this Opinion would appear to be 
substantially applicable to the east coast as well as to the west 
coast. 54

The jurisdictional status of the offshore areas was not clarified until 1984 
when the Supreme Court handed down its decision which established federal 
ownership over these areas. Thus, in the period prior to 1984, provinces such 
as Newfoundland, which claimed jurisdiction over the areas offshore, could and 
did, establish regulations effectively requiring the industry to subscribe to 
a dual set of regulations. Further, the areas North of 60° were managed by 
Ottawa but the Constitutional status of these areas was unclear because of the 
many and very comprehensive native land claims and due to the pressures for 
devolution and province-status that were brought forth by the inhabitants of 
these areas.

The "Canada Lands" which the offshore and the areas North of 60° are 
currently denoted, were governed by the Canada Oil and Gas Land Regulations of 
1961. The federal government established Petro-Canada which enabled it to 
combine its landlord function with an entrepreneurial role. 55 The federal 
government’s emphasis on developing new sources of supply also meant that the 
areas under direct federal jurisdiction became more important in the overall 
Canadian oil and gas supply picture. This fact projected the federal 
government, eager to ensure itself of control over oil and gas development in 
Canada, into an important position as a potential challenger, both to the 
dominant role of the province of Alberta as the centre of oil activities, and

by geography the Prime Minister in 1968 and 1969 made several comprehensive 
announcements in the House of Commons to delineate federal and provincial 
coastal bounds.

55 It is this combination of landlord and entrepreneur which enabled the oil 
producing and exporting countries to wrestle upstream control away from the oil 
MNCs. See Al-Chalabi, F.: OPEC and the International Oil Industry: A Changing 
Structure, (Oxford: Oxford University Press, on behalf of OAPEC, 1980) and 
Klapp, M.: "The State - Landlord or Entrepreneur?" International Organization, 
3, (Summer 1982):575-607. and Noreng, O.: The Oil Industry and Government 
to the role of the oil MNCs as the key oil and gas developers.

Chapter Conclusion

The main difference between the period prior to 1973 and the period after, was not that the federal government suddenly developed an interest in resource development in the areas under its own jurisdiction. Rather, the important change in 1973 was that Ottawa became increasingly concerned with controlling resource development in all of Canada, but particularly in the areas under its own jurisdiction. In a larger perspective, encompassing the whole period 1973-84, the federal government’s adoption of the goal of self-sufficiency can be said to have contributed to Ottawa’s increasingly conflictual relations with both the producing provinces and the major oil companies. Ottawa’s long-term dilemma seemed to present itself as a choice between either relying on the provinces and the oil industry for oil and gas development, with little direct control over resource development, or itself attempting to influence resource development by a host of direct and indirect means, with considerable political and economic risks at stake. Although the latter was the scenario adopted by federal decision-makers, Ottawa’s priorities in the period 1973-75 were driven by a different dynamic, as the next chapters will show.
CHAPTER FOUR: FEDERAL POLICY MEASURES

Chapter Introduction

This chapter analyzes the policy measures instituted by Ottawa to ensure self-sufficiency and the less clearly specified objectives of revenue distribution and Canadianization. These policy measures are price regulation, tax and fiscal instruments, the federal system of rights issuance and land management, and Petro-Canada. All of these policy instruments, this chapter will reveal, were intended to reduce the power and influence of the oil MNCs on the conduct of federal (and provincial) energy policy.

This chapter traces the development of federal policy measures throughout the entire period 1973-75. Chapter five will simply summarize the most important trends of this period.

The basic policy measures announced by the Trudeau government in 1973 for the attainment of self-sufficiency, were:

1) the establishment of an Energy Supplies Allocation Board to ensure equitable allocation of petroleum products in times of shortage.\(^{56}\)

2) the creation of a single national market for Canadian oil which meant that the National Oil Policy would be abolished.

3) the extension of the IPL pipeline network to Montreal.\(^{57}\)

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\(^{56}\) Since no real shortages have occurred in the period under study we will not discuss this measure any further.

\(^{57}\) An immediate priority for the federal government, on which there was consensus in the House of Commons, was the decision to extend the Interprovincial Pipeline to Montreal. The pipeline would displace 250 000 barrels/day of imported oil. In an emergency, the capacity of the pipeline could be increased to 350 000 barrels/day which constituted about 45% of total crude oil imports in 1975. See EMR: An Energy Strategy for Canada: Policies for Self-Reliance, (Ottawa: Minister of Supply and Services, 1976), p.30. Even with this measure in place, which would take several years to construct, Canada would still need in excess of 350 000 bbl/day of imported oil to the eastern provinces. The pipeline’s reversibility feature would provide added security to its users in Ontario provided shortages of west Canadian crude emerged. See Petroleum Economist, August 1976, p.297. Yet, unless a truly nation-wide pipeline were built that supplied the Atlantic provinces with oil from the Western Canadian sedimentary basin or frontier oil or East-Coast oil were found and developed, the five eastern provinces would still experience oil import
4) a pricing mechanism that would provide adequate incentives for the attainment of self-sufficiency while preventing the windfall profits from landing in the corporate coffers of the oil industry.

5) the creation of a national oil company intended primarily to "expedite exploration and development".

6) increased research and development of oil sands technology.

These measures mark the beginning of a new and much more interventionist federal government stance, with a number of policy measures added to the list throughout the 1970s and early 1980s. Apart from discussing the contribution of these measures to the federal government's goal of self-sufficiency, as we have defined it, the federal budgets of May and November 1974 will be dealt with. The two budget proposals contained important incentives (read disincentives) for oil industry activity and introduced fiscal measures intended to increase federal government control over the activities of the oil industry. The focus of this chapter will be on price regulation, tax and fiscal measures, the federal system of rights issuance and land management and Petro-

dependence.

See Hon. P.E. Trudeau, House of Commons debates, December 6, 1973, p.8479. The federal government announced a commitment to invest $40 million into research and development of the Alberta tar sands. This commitment was later supplemented with the establishment of an Office of Energy R & D within the Department of Energy, Mines and Resources whose purpose it was to review, assess, and coordinate the activities of the federal government in Energy R & D. Further, the new national oil company was intended to play an important role in the development of the new technology needed for in situ extraction of the tar sands. The federal government's position in 1973 on the development of the tar sands as an important element in the government's policy of self-sufficiency did not include direct federal participation in the development of the tar sands. Yet, the decision by Atlantic-Richfield on December 4, 1974 to withdraw from the project prompted government investments of $600 million into the project, of which $300 million was federal funds. Further, the Syncrude consortium presented the federal government with a set of demands which had to be met for the project to proceed. The demands included guarantee of world price, guarantees for exemption from the non-deductibility provisions that were introduced in the Liberal government's May 1974 budget and reintroduced in its November 1974 budget (and which will be discussed later), exclusion from future pro-rationing of oil production and the infusion of large amounts of public capital. The Syncrude case is a case in point of the power of private-sector companies in obtaining concessions from governments eager to stimulate large-scale and highly visible (both economically and politically) mega-projects. Once Petro-Canada was established, the federal government used the directive clause of the Petro-Canada Act to establish Petro-Canada as a major player in the tar sands by it taking over the federal government's investment in the Syncrude project. The federal government, thus, in response to a changing context became an important contributor and direct participant in the development of the tar sands.
Canada's role.

PRICE REGULATION

The Trudeau Liberal government in 1973 abolished the National Oil Policy and adopted the principle of a single price of oil for Canada. The Liberal government's decision to adopt a single price of oil for Canada emerged partly as a result of a measure taken in September 1973, prior to the OPEC oil embargo, to introduce a "voluntary" freeze on wellhead prices of oil in Canada. The price freeze was to be effective from September 1973 to 31 January 1974 and was conceived of as a temporary and ad hoc measure, in response to consumer complaints about higher oil prices unmatched by rising costs. A price freeze would prevent the oil industry from reaping windfall profits. The Prime Minister, however, promised a return to world price at the end of the proposed five month freeze. Domestic oil prices were frozen at $3.80/bbl and an export charge was levied on crude oil exports.

Ottawa's export tax policy must be viewed in conjunction with the pricing policy because the tax was introduced to fill the gap that had emerged between Canadian and international oil prices, following the introduction of oil price controls in Canada. As early as March 1973 the federal government had started controlling exports of oil to the United States, which had risen by 83% between 1970 and 1973, to prevent the possibility that the rapid growth in exports would deprive Canadian refiners of adequate crude oil supplies. According to Strachan, the shortage emerged primarily as a result of the decision of some of the major producers, lacking refinery operations in Canada, to cease


guaranteeing supply to crude-deficient Canadian refiners. Tyerman notes that the export tax was essentially a response to a decision by the National Energy Board in September 1973 to refuse applications for export of oil to the U.S. on the ground that the proposed export price based on the frozen wellhead price was $0.40 lower than the price of Arabian crude to Chicago. The export tax was introduced to maximize the value of exported oil by pricing Canadian oil exports to the U.S. on par with the world oil price. Energy Minister MacDonald noted about the export tax that "additional windfall involved in the re-evaluation of existing oil reserves should come back into the public treasuries, both provincial and federal, rather than being permitted to go through to the hands of the industry." The federal government proposed to share the proceeds of the export tax equally between itself and the producing provinces. If the producing provinces had been allowed to collect the whole windfall price gains and put these into the general revenues of the province, Ottawa's equalization payments would have risen accordingly. Alberta's choice of using nonrenewable assets, instead of collecting taxes from its residents, made this a likely prospect and would have given Alberta special treatment under the equalization formula. Federal officials were not overly favourable to a provincial policy that positively discriminated in favour of Alberta.

The price freeze and the export tax were introduced prior to the OPEC oil embargo and the ensuing battle that emerged along both federal-provincial and

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63 Tyerman, op.cit. p.428

64 See Testimony by Energy Minister Macdonald to the House of Commons, Standing Committee on National Resources and Public Works, 17-4-74, p.10:11.

65 The Export Tax Act was later replaced by Bill C-18, the Petroleum Administration Act.

66 Energy Minister Macdonald noted that "If a province, as Alberta has chosen to do, chooses not to impose the customary system of taxation on its residents but to use a nonrenewable asset for the purpose of avoiding taxation then that is its choice. But it seems fair in the over-all equalization balance that that should be taken account for the purposes of equalization calculation. Otherwise, Alberta would be getting a very special treatment under the statute." See statement by Macdonald, op.cit., 2-4-1974, p.6:16.
federal-industry lines of conflict. Even before that, in 1972, Premier Lougheed of Alberta had introduced legislation to capture increased oil and gas rents.\(^{67}\)

Between September 1973 and January 1974, international oil prices rose to $9.60/bbl (f.o.b.), creating a gap between domestic and international oil prices of $5.80/bbl and raising the export tax to $2.20/bbl in January and $6.40/bbl in February 1974.

Ottawa's introduction of the price freeze and the oil export tax sparked very strong reactions in the oil producing provinces and the oil industry. In October 1973, before the major escalation in world oil prices took place\(^{68}\), the Lougheed government of Alberta abandoned its new royalty plan, which was the product of months of negotiations between the province and industry, and announced that provincial royalties would rise with world prices. Noticing that this move was made without prior consultation with the oil industry, Richards and Pratt find:

The province's primary objective was evidently to force Ottawa to withdraw its export levy by squeezing the industry; damage done to the oil industry could be repaired by Alberta later on. A secondary, but scarcely less important, aim was to free the government from the fixed royalty ceilings in existing contracts so that the province could take

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\(^{67}\) In 1972 Premier Lougheed confronted the oil industry with the Natural Resource Revenue Plan, which represented a clear break with earlier Social Credit policies, by effectively removing the 16 2/3 per cent maximum royalty levels. After considerable industry pressure, which resulted in several concessions, the government proclaimed enabling legislation under the Mineral Taxation Act and the regulations were to take effect on January 1, 1973. See Richards and Pratt, op.cit. p.224. In August 1972, acting on the recommendations of the Alberta Energy Resources Conservation Board, the Alberta government announced that it intended to revise existing gas contracts. The Albertan government, however, also announced its intention to institute a two-tier pricing system to protect Alberta residents from increases in gas prices. See Plourde, A.: Oil and Gas in Canada: A Chronology of Important Developments, 1941-1986, Energy Study No. 86-5, Policy and Economic Analysis Program, (Toronto: Institute for Policy Analysis, November 1986), p. 95. Even the market demand prorationing system in place in Alberta since the 1950s, by balancing supply and demand and stabilizing oil prices, may be considered an encroachment on federal constitutional powers. See Tyerman, op. cit., p.430 and Richards and Pratt, ibid. p.239-40.

\(^{68}\) As Richards and Pratt correctly point out, the international oil market restructuring started at about 1969 with the overthrow of king Idris of Libya and was first evidenced in the new terms set out in the Teheran Agreements of 1971. Alberta had already then started to introduce measures to benefit from these international changes. See Richards and Pratt, ibid., pp.217-223.
maximum advantage from rapidly changing market conditions.\textsuperscript{69} Alberta used federal actions as an "excuse" for breaching contractual agreements with the industry in order to maximize provincial revenues and jurisdictional control.

Alberta's actions could be viewed as confiscatory because the contracts had established a maximum royalty ceiling.\textsuperscript{70} The opportunity available to Alberta and which was also used was to alter the terms retroactively through the legislative powers available to the province. Alberta thus initiated legislation to alter the contractual terms of industry actors as early as 1973. Ottawa took similar measures in the NEP. The concessions later granted the industry by the province can be viewed partly as compensation for this drastic measure and also as an attempt by the province to retain good working relations with the industry. Faced with a much more unpredictable federal government role, the province could benefit from maintaining relatively good working relations with the oil industry.

The Albertan reaction sparked a series of federal-provincial meetings which ended in a stalemate. In early December 1973, just after the breakdown in federal-provincial consultation, but prior to Prime Minister Trudeau's announcement of a new "National Energy Policy" on December 6, 1973, Premier Lougheed of Alberta announced a new and very comprehensive regulatory package. The new regulatory package reflected Alberta's very optimistic view of the extent of provincial constitutional jurisdiction over natural resources\textsuperscript{71} and was designed to entrench this view in the new regulatory regime by putting Alberta's energy legislation on its strongest constitutional footing. Richards and Pratt cite Leitch, the former Attorney General of Alberta, who asserted that:

a province can with respect to natural resources it owns: (a) decide

\textsuperscript{69} See Richards and Pratt, (1979), op.cit., p. 225


\textsuperscript{71} See Richards and Pratt, p.238.
whether to develop them, (b) decide by whom, when and how they’re going to be developed, (c) determine the degree of processing that’s to take place within the province, (d) dispose of them upon conditions that they only be used in a certain way, or in a certain place, or by certain people, (e) determine the price at which they or the produce resulting from their processing will be sold.\textsuperscript{72}

Since 85 per cent of Alberta’s oil was located in crown lands, the province could introduce changes to set the legislation on its strongest constitutional footing without affecting the property rights of private-sector actors. The wide definition of provincial jurisdictional powers adopted by Albertan decision-makers would clearly encroach upon the regulatory powers of the federal government, in particular the federal power to regulate interprovincial and international trade. The province’s position is an important example of how state actors in this period increasingly sought to utilize constitutional arguments of limited validity to forward their own interests.\textsuperscript{73} This also contributed to an increased ‘insecurity of governments’\textsuperscript{74}, as governments experienced a diminution of respect for the constitution and the appropriateness of the constitutional division of powers.

There is little doubt that Alberta’s actions were intended to expand greatly the power of the provincial government to control oil development in the province.

The Albertan regulatory package contained the Arbitration Amendment Act, the Freehold Mineral Taxation Act, Mines and Minerals Amendment Act (which required that all oil producers deliver to and sell their share of petroleum through the Alberta Petroleum Marketing Commission) and the Alberta Petroleum Marketing Act (which established the Alberta Petroleum Marketing Commission,

\textsuperscript{72} See Richards and Pratt, p.238.

\textsuperscript{73} The Alberta government claimed that its position as a relatively young province placed it in a superior position to that of the older provinces. The reasoning was based on s.1 of the Constitution Act, 1930, which were the schedules that transferred resources to the province of Alberta. Alberta then claimed that "the schedules have the force of law "notwithstanding anything in the British North America Act, 1867..."" See Bankes, N.D. C.D. Hunt and J.O. Saunders, "Energy and Natural Resources: The Canadian Constitutional Framework", in Krasnick, M.: Case Studies in the Division of Powers, (Toronto: University of Toronto Press, 1985), p.65.

\textsuperscript{74} See Cairns, The Other Crisis... op.cit. p.185 for this term.
APMC). The APMC, a Crown corporation, was given very broad powers relating in particular, but far from exclusively, to the sale and pricing of oil within the province.\(^75\)

The net result of the provincial actions was to grant Alberta a considerable measure of control over all aspects of resource development in the province by means of the powers vested in the APMC. The province thus effectively abandoned its traditional policy of granting well-head control over oil and gas development to the oil industry in favour of a policy of increased direct provincial control over upstream processes. The provincial government could deal with Ottawa from a much stronger position, in particular in matters relating to the pricing of oil, and it could, at least in principle, pursue an "Alberta first" allocation policy. Since the provincial government through the APMC effectively controlled oil pricing within the province, the provincial government could enter into binding agreements with Ottawa without any producers opting out of the agreed-upon scheme.\(^76\) Alberta's new legislation not only infringed on the rights of private-sector actors and the federal government, it was also designed partly to preclude the federal level from exercising or expanding its jurisdictional rights. Richards and Pratt note that:

> Since the Commission [APMC] retains ownership of all crown oil until the sale to a final consumer, and is empowered to determine the price paid to producers for their services in producing crown oil and the price at which it sells, the difference between these two prices could be used as an alternative to royalties as a mechanism for collecting economic rent.

\(^75\) Pratt and Richards note that: "(T)he powers granted to this new commission appear to be so broad that virtually any dealing with respect to petroleum produced from crown land lies within its potential control." ibid. p.239. See also Tyerman, op.cit. p.439.

\(^76\) Alberta took care to include free-hold oil and gas production in this scheme. Helliwell et al. note that "The APMC was given the power to set prices and terms of sale for all petroleum produced from Crown lands and became the sole agent for disposing of both the royalty share of production and the lessee's share." In terms of allocating production among buyers, the APMC produced a list of eligible buyers and enabled producers to enter into private contracts with any one of these potential buyers. In April 1980, the APMC's role was expanded as it was given the role of acting as the sole purchaser of oil from Crown lands and took over all the arrangements related to the sale to the buyers. See Helliwell et al.: Oil and Gas... op.cit. published version, p.42-43.
To date the mechanism remains a potential but unused tactic, and untested in the courts.  

The increased ambiguity of the constitutional bounds of federal and provincial jurisdiction heightened the insecurity of governments and helped generate a process of dynamic intergovernmental interaction in which such incursions were repeated.

The actions taken by the province of Saskatchewan were at least as drastic as those taken by Alberta. The NDP government enacted Bill 42 which essentially nationalized (with compensation) all freehold oil and gas rights. The Bill also imposed a "royalty surcharge" on all crown oil production. Thus, the province of Saskatchewan followed the pattern set by Alberta, "by taxing all incremental revenues accruing to the oil industry at a high enough level, to preclude any increase in federal corporate income tax from the industry."  

While nationalizing all free-hold oil, the province enabled the companies to continue to operate on the land by issuing leases and even instituted legislation to force them to continue to produce. Moull notes that:

Section 33(1) expressly preserved the status of leases previously granted to producers by the expropriated freehold owners - only the underlying fee simple rights were expropriated - and section 33(2) expressly made those leases subject to the payment of the royalty surcharge. Where an expropriated owner had been producing oil himself from his own land, section 35 [of the act] required the Minister of Mineral Resources to issue a Crown lease to him so that he could continue production. As an anti-avoidance measure, to prevent the cessation of production from these "Crown-acquired lands, section 42 made it an offence to cease production from these lands without the consent of the Minister, except for necessary repairs and maintenance.

While the legislation clearly affected both Ottawa and the oil industry, there is little doubt that the main purpose of the legislation was to preclude Ottawa from extracting any of the excess rent. When compared with the actions by oil-

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77 See Richards and Pratt, op.cit. p.294.
78 ibid., p. 289
producing governments in the Middle East and Northern Europe in this period, it is quite clear that Saskatchewan's nationalization was a means of strengthening the province's constitutional position vis-a-vis Ottawa rather than depriving the oil industry of its powers because the former lease holders were granted compensation, were allowed to retain their leases, and no nationality requirements were included in the legislation.

The oil industry decided to challenge the legislation. Ottawa joined with CIGOL as a co-plaintiff. The ensuing court-battle, CIGOL vs. Saskatchewan, over the constitutionality of Bill 42, was resolved when the Supreme Court in 1977 ruled the royalty surcharge ultra vires but upheld the nationalization.

The CIGOL case also demonstrated the uncertain nature of the Albertan royalty system. This argument not only applied to royalties, it also applied to the province's prorationing scheme which regulated oil production in the province. Thring notes that:

In rejecting the argument that taxes levied against producers and traders of certain fixed-price commodities are direct taxes, the courts have reasoned that inflexible prices do not figure in the determination of the general tendency of a tax. If the courts choose to apply the same reasoning in an examination of the pro-rationing scheme, it may be decided that the scheme, by regulating the supply of an export goods, is infringing on the federal trade and commerce power, notwithstanding that the regulation of supply will not influence price.80

The CIGOL court case had several important effects. First, it increased uncertainty of the Constitutional division of powers. This has been widely recognized among analysts.81 A second effect was the heightened insecurity of governments as they realized that their tax and regulatory systems rested on an often uncertain constitutional basis. In Alberta this could be said to apply both to the royalty structure and the pro-rationing system. The uncertain constitutional status of the provincial regulatory systems also provided the oil industry with an important weapon because it could threaten the province with a court challenge. The above listed factors help explain the emphasis that the provinces placed on the need for constitutional change. Increasingly

80 See Thring, op.cit. p.82.
81 See Richards and Pratt, op.cit., Thring, ibid. and Doern and Toner, op.cit.
assertive and interventionist provinces were themselves important factors in generating added uncertainty.

It is hardly surprising to find that the provincial actions in 1973-74 precipitated a strong federal response. At a First Ministers’ Conference held in January 1974, agreement was reached to maintain the price at the current level, and at a reconvened First Ministers’ Conference in March 1974, an agreement was reached on a price increase to $6.50/bbl. The federal government subsequently tabled legislation in the House of Commons to introduce the Petroleum Administration Act which ensured the federal government ultimate powers over pricing and exports of oil. Tyerman notes:

Part II, Division II, section 36, of the Petroleum Administration Act establishes a mechanism by which the federal government may unilaterally set prices for oil within a province in the event that no pricing agreement is reached between the province and the federal government pursuant to section 22 of the Act.\(^\text{82}\)

The PAA must be seen not only as a response to the changed international context and the considerable uncertainty that existed over the future development of world oil prices, but also as a response to the provincial actions taken to counter the initial federal price freeze and export tax. The introduction of the PAA clearly reveals that the federal government was willing to take strong measures to develop legislative capacity to preserve a federal predominance in the area of oil price regulation. Ottawa did this by abandoning its policy of piece-meal regulation, and instead adopted legislation that ensured it of full control over pricing.\(^\text{83}\)

Ottawa’s important price regulatory role also provided it with an important means of influencing oil and gas development in Canada. Although there is agreement among economists that the main effect of regulating oil

\(^{82}\) Tyerman, op.cit. p.449

\(^{83}\) First Ministers’ Conferences as a forum for oil price setting ceased to be of any relevance following the conference that was convened on April 9-10, 1975. In response to the federal government’s decision to raise the price from $6.50/bbl to $8.00/bbl, the Ontario government imposed a ninety-day freeze on the increase from $6.50 to $8.00 on oil sold in Ontario. See Doern and Toner, (1985) op.cit. p.176
prices below world price levels is to discourage both development and conservation, the specific nature of this regulation also matters both for the level and location of development.  

Regulating oil prices below world levels tends to produce disincentives to producers to increase indigenous production of oil. The disincentives emerge partly from added uncertainty about the future development of oil prices as price setting becomes a function of both economic and political factors. McDougall notes, in terms of the PAA:

(O)n the self-sufficiency issue, the age-old trade-off between the reliability of Canada's fuel supply and its price no longer related to a division of the Canadian market between domestic and foreign sources of supply, but was instead related to the price at which domestic fuels would supply as much of the domestic market as was practicable.  

Also, as noted above, price regulation was linked to self-sufficiency in an even more direct way, namely because self-sufficiency was considered a precondition for price regulation. The White Paper presented by EMR in 1976 noted that:

Through the combination of the export charge and the oil import compensation program it was possible for consumers across Canada to purchase petroleum products at prices consistent with the price of domestic crude oil. At the same time, however, it was recognized that the single-price oil system could continue to operate in this way only as long as we remained self-sufficient.  

The provincial actions and the federal response by instituting the PAA in

84 Price regulation is only one isolated measure and many of its effects can be dealt with by other types of government intervention.


87 Some consuming provinces also instituted retail price freezes in 1975: "The provincial retail price freezes of the type which some provinces imposed after the July 1975 price increase for crude oil will be a source of difficulty should they occur again. At that time the Government of Canada recommended that product price increases be delayed for 45 days, on account of inventory stocks purchased at lower prices. Some consuming provinces imposed longer price freezes, one of which lasted 138 days. Others imposed no additional price restraints beyond the recommended 45 days. The situation that resulted compromised the single-price policy, led to inequities among provinces and regions of Canada, and caused severe cash flow problems for certain companies in some provinces." See EMR: An Energy Strategy, op.cit. p.128. Although hardly an unbiased account, there is no doubt that the actions taken by some consuming provinces, and in particular the province of Ontario, caused increased uncertainty over future oil price developments. Further, the actions by both
essence meant that the development of self-sufficiency in Canada would be determined by political criteria, in terms of the bargaining over price levels by the two levels of government. Governmental actors, concerned with current and future revenue shares, first struggled to establish a division of revenues that was acceptable to each and thereafter sought to address developmental concerns. This made both levels of government strongly dependent on industry cooperation. Such dependence was exacerbated by Ottawa's largely neo-mercantilist adjustment strategy which was conditioned on a high level of indigenous resource development.

The fact that Ottawa did not possess adequate industry cost data only serves to underline the importance of political criteria as the basis for price regulation. Thus, even though both levels of government were strongly committed to resource development, price regulation linked closely to political concerns offered few assurances that resource development would indeed proceed. **

Ottawa's failure to differentiate among the various sources of supply meant that relatively high prices needed for increased development could producing and consuming provinces to influence price levels, seriously challenged the federal role as the oil price maker in Canada.

** See for instance Gainer, W.D. and T. L. Powrie: "Public Revenue from Canadian Crude Petroleum Production", Canadian Public Policy, (Winter 1975): 1-12, who emphasize inefficiencies emerging from artificially low prices. Scarfe also notes: "Although economic logic strongly suggests that Canada should have moved fairly rapidly towards world oil prices, a variety of reasons have been employed as partial justification for keeping wellhead prices for oil and gas below the levels that market forces would otherwise dictate." See Scarfe, B.L.: "The National Energy Program After Three Years: An Economic Perspective", Western Economic Review, 3, No.2, (July 1984):2-31. The reasons Scarfe lists are as follows. First, a heavy degree of foreign ownership requires taxation of the energy rents. Second, energy pricing policies have inflationary side effects. Third, low energy prices are needed in order to provide the Central Canadian manufacturing sector with low energy prices, to enable these companies to retain a competitive edge. Scarfe, however, discards these reasons and instead lists four likely consequences of the price freeze. These are, first, that existing supplies of conventional oil are likely to be consumed more rapidly due to the reduced incentive to conserve them. Second, interfuel substitution will be inhibited. Third, the development of more expensive sources of supply, such as deeper geological formations, oil sands and offshore deposits will less likely occur. Fourth, the reliance upon expensive (and possibly insecure) imported oil supplies may place an unnecessary strain on the balance of payments, and put downward pressure on the Canadian dollar or necessitate larger foreign borrowing and possibly higher interest rates. This reliance may also enlarge the federal deficit through the subsidization of imported oil.
produce waste and generate excessive profits for low-cost oil producers, because the largest producers of low-cost oil were not necessarily the most active explorers. Further, few federal measures were available to induce low-cost producers to convert their windfall gains into new exploration and production. In response to these problems the Albertan government introduced a distinction between old oil and new oil in its incentive and regulatory scheme. Ottawa introduced a set of tax measures, in response to these problems. Ottawa's problem in reconciling its concern with increased development, controlled development, and distribution is again seen in its decision to grant the Syncrude oil sands project. World oil prices. This decision clearly reveals how eager the federal government was to ensure itself of increased oil development.

In the period 1973-75, price regulation was introduced as an important federal (and provincial) regulatory measure. This section has revealed the important role federal-provincial interaction played in the establishment of price regulation. This dirigistic element of Canadian energy policy would likely serve to generate more intervention. A government both committed to price regulation (by keeping domestic prices below world market levels) and to increased development of indigenous sources of oil, would have to intervene further in order to encourage indigenous resource development. This was the case because a precondition for price-regulation to function effectively was that Canada became self-sufficient in oil. Self-sufficiency was not simply a function of price-regulation, however. Self-sufficiency was important largely for political reasons, as a powerful rationale for increased federal control of the influential oil industry.

Very few countries chose to shelter consumers from rising prices. While the Conservative opposition objected to the federal government having the final authority over the setting of oil and gas prices in Canada and also expressed

89 The U.S. government also distinguished between the price of "new" oil and "old" oil, new oil being defined as oil whose recovery was not economically feasible at the price of old oil.
concern with producer interests, the Petroleum Administration Bill was passed with the support of the two opposition parties.  

**TAX AND FISCAL MEASURES**

Tax and fiscal measures constitute important means by which governments regulate resource development, distribute resource rents and revenues, and influence the nationality of industry participants. Tax and fiscal measures can not easily accommodate all these objectives equally, however. Higher income tax requirements for the petroleum industry produce important disincentives to investment, in particular in risky and long-term projects, whereas tax deductions and reductions produce powerful incentives for the industry to invest. As a policy measure for the regulation of resource development, it is not only the level of taxes that counts, but also the nature and composition of such measures. The level of taxation affects the level of investment, whereas the structure and composition of the various tax and fiscal measures decide who invests, how and where companies invest, and the extent to which companies channel earnings into reinvestment. Fiscal and tax measures constitute an integral part of a large and complex system of government policies related to resource development. Tuschak notes:

The fiscal system's role as a resource allocative instrument complements both the government's oil and gas pricing policies and the degree of direct or indirect state participation in the petroleum industry. Only if these major planks in our overall energy policies are considered together, with a view of their common objective of a desirable level of resource allocation to the petroleum industry, can the individual measures affecting pricing, rent collection and state participation be fully understood.

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90 See McDougall: Fuels, op.cit. p.136-141.


The assessment of this wider range of government instruments, as suggested by Tuschak, also provides us with a clearer view of government priorities and enables us to see the interplay and trade-offs among various types of government instruments. Tax and fiscal measures, as noted above, are multi-purpose and multi-function instruments which are used both for allocative and distributive purposes. As such they often become overloaded, i.e. they are meant to fulfill several tasks that conflict or at least are incompatible. In Canada, since these measures also serve as powerful instruments of use for each level of government to ensure or expand its jurisdictional control, the potential for overload is even greater.

The May 1974 Budget Proposals

In May 1974 Finance Minister Turner tabled a budget that contained a number of important changes in the taxation of the oil and gas industry. Faced with escalating inflation,\(^93\) the federal government was forced to take measures to deal with this increasingly serious problem. The May budget followed immediately after the Alberta government raised its royalty rates from 50% to 65%, in order to capture the rise in the world oil price, from $3.80 to $6.50. The federal measures were instituted with the express purpose of protecting the federal tax base, redistributing income to benefit a larger number of Canadians, and retaining fiscal clout so as to preserve the fiscal system as an important policy instrument.\(^94\)

The May budget measures were, first, an increase in the basic rate of the corporation tax applicable to production profits from minerals, oil, and gas,
to 50%.\textsuperscript{95} Second, the federal government decided to disallow the deduction of provincial royalties in the calculation of taxable federal income. Alberta viewed this act as thwarting "provincial primacy over the ownership and management of natural resources."\textsuperscript{96} The federal rationale for this measure was that a number of provincial royalties and similar measures had seriously eroded the federal government's income tax base. Further, the Finance Minister noted that a number of provincial royalty and other revenue-raising measures, were thinly disguised provincial income taxes that blurred the distinction between allowable and non-allowable deductions from corporate income tax purposes. This is another example of the unclear nature of the constitutional division of powers and how expansionist governments utilized this to expand their powers and revenues. The increased willingness of individual governmental actors to challenge the constitutional framework within which they interacted served to exacerbate tensions in the intergovernmental arena.

Third, Finance Minister Turner declared an immediate end to the automatic depletion allowance, which had been scheduled to end ultimo 1976, and which was to be replaced with an earned depletion allowance equal to the lesser of 25\% of production profits, or $1 for every $3 of eligible drilling and exploration expenditures. These measures were to be effective May 6, 1974. The conversion from automatic depletion to earned depletion reflected the federal government's view that the oil and gas industry had reached maturity and had established itself in a strong producing position which generated significant industry revenue. This change also reflected a commitment on the part of Ottawa to ensure itself that the funds generated from production actually were reinvested in the development of new production capacity.\textsuperscript{97} Thus, this policy change reveals an attempt by the federal government to ensure itself of more control,

\textsuperscript{95} This entailed an increase by 2\% in 1974, 3\% in 1975 and 4\% in 1976 and onwards, from the earlier 46\% rate. Federal and provincial tax abatements however would reduce the effective tax rate to 30\%.


\textsuperscript{97} See Tuschak, op. cit. p. 160-61.
by indirect means, over oil and gas development in Canada.

Fourth, exploration and development costs, in the new federal budget, would cease to be immediately deductible, and instead be amortized at an annual rate of 30% commencing on May 6, 1974.

The Finance Minister calculated that these measures would produce $410 million in added federal revenue, the highest levy on any one single sector of the economy. Predictably, industry reaction to the budget was strong and negative. Yet, the May 6 budget had little immediate effect, as the Liberal government was defeated in Parliament on the budget issue. The Liberal government vowed to re-introduce these measures if it were re-elected and also make them retro-active to May 1974.

The November 1974 Budget Proposals

Many of the key points of the May budget were reintroduced in the November 1974 federal budget, following the re-election of a majority Liberal government. The federal government upheld the 50% tax on natural resource production\(^9\), reintroduced the commitment to eliminate the automatic depletion allowance and replace it with earned depletion, and retained the nondeductibility clause.

In the November 1974 budget Ottawa reintroduced the 30% rate of write-offs for development outlays in the May budget, but retained the established right to write-off exploration expenditures at the rate of 100%.

The May and November 1974 federal budgets introduced the principle of taxing the oil and gas industry on par with other sectors of the economy. The federal government contended that this was necessary for several reasons. First, it was concluded that the industry had reached maturity and the federal government needed clear assurances that the funds were actually being

\(^9\) Increased abatements effectively reduced the 1976 tax rate to 25% from 30%, however.
reinvested. Second, federal taxation rules prior to 1974 had been highly conducive to development.99 Rapid oil price rises had created windfall profits which Ottawa had few if any assurance were being reinvested in exploration. Even if assurances had been given, investment flows needed to bring on stream new supplies, rather than following price rises, would rise gradually, because they were constrained by physical factors.

In direct response to the two federal budgets, the oil industry launched a:

well co-ordinated capital strike - withdrawing drilling rigs, cancelling new projects and investments, and laying off employees. This campaign was particularly effective in Alberta, as it threatened many of the province’s oil-dependent businesses with sudden recession.100

Apart from reduced spending and drilling activity, equipment and rigs were also moved out of Canada.101 Industry spokesmen repeatedly pointed out how much they considered Ottawa’s actions to deviate from the stated federal goal of self-sufficiency.102

Apart from Ottawa’s insistence on procuring an increased share of industry proceeds, the nature of federal-provincial relations seriously

99 According to Tuschak: "The 100% write-off of exploration and development costs with automatic depletion equal to one-third of taxable income combined with deductibility and royalties resulted in few producers paying tax over the period." Tuschak, ibid. p.159-60.

100 See Richards and Pratt, op.cit. p.227. Oilweek reports that Imperial in light of the federal budgets undertook a reexamination of all its capital spending plans, Gulf Oil Canada slashed its proposed 1975 budget with over $100 million, Home Oil halved its proposed 1975 spending on exploration from $34 million to $17 million, Chevron released five rigs on which it had an option to contract, and Pacific cut its operations down to a bare minimum, to list some of the industry’s responses. See Oilweek, December 2/74.

101 Oilweek reports that several rigs moved from northern Canada into the Alaska region. Oilweek, December 16/74. Rigs also moved from Alberta to the United States.

102 Oilweek reports: "In a telegram sent last week to the prime minister and premiers of the three western provinces, Arne R. Nielsen, president of Mobil Oil Canada, called for a reconciliation of both federal and provincial measures against the industry before Canada is "embarked on a path which could only result in energy shortages. Mobil is being forced to cancel investments that have been rendered uneconomic by these measures", he said. Oilweek, December 6/74, p.8 A spokesman for Amoco noted that studies had shown that self-sufficiency was unattainable in the economic climate created by the budgets. Lindsay Milne, in Proceedings of the Conference on the Economics of Oil and Gas Self-sufficiency, op.cit. p.27.
affected the measures taken and the outcome of events. The relative historical shares of net operating income of the three main players, the oil industry, the federal government and the producing provinces, were 57.4%, 17.9% and 24.7% respectively. The introduction by the province of Alberta of a 65% royalty rate effectively reduced the industry’s share to 41.9%, the federal government’s share to 9.1%, whereas it raised the province’s share from 24.7% to 49%. The federal budgets of May and November must be viewed primarily as attempts at redressing this perceived imbalance. The May 1974 budget would have reduced the industry’s share to 20.6%, the federal government’s share would have increased to 24% and the provincial share would have increased to 55.4%. The November 1974 budget, raised the industry’s share to 26% and reduced the federal government’s share to 19.1%. Although both levels of government were committed to increased resource development, neither level refrained from taking measures that could impede such goals when challenged by the other level of government.

Further evidence that the confrontation was first and foremost one between the two levels of government can be found in Finance Minister Turner’s remarks at the introduction of the November 1974 budget where he invited provincial authorities to reconsider their fiscal regimes in order to assist the industry. The Albertan Premier responded in December 1974 by announcing a major program to spur exploration and development in Alberta and reduce the tax burden on the industry. Further, Turner’s new 1975 budget also contained new measures that significantly improved the industry’s relative share.

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103 See Tuschak, op.cit. p. 165. See also Table II.1, Chapter Four of this thesis.

104 EMR, 1976: An Energy Strategy, op.cit. p.34. Doern and Toner note that Alberta’s PEP was estimated to cost $2.5 billion. It reduced royalties and introduced new drilling incentives. The province of Saskatchewan also introduced measures to rebate a portion of the increased tax liabilities arising from the non-deductibility of royalties. See Doern and Toner (1985), op.cit. p.181.

105 According to Tuschak, relative shares of net operating income was now changed to 38.3% for industry, 19.1% for the federal government and 42.7% for the province of Alberta. Tuschak, op.cit. p.165. Clearly, the Albertan measures were the most important, a fact that is further underlined by the significant
In conclusion, Richards and Pratt are correct in stating that:

(T)he interventionist behaviour of the producing provinces and Ottawa seems to have originated as much in a determination by governments to defend their constitutional prerogatives and powers as in any desire to undercut or supplant the private sector.\(^\text{106}\)

The important policy revisions in late 1974 by Alberta and in May 1975 by Ottawa reveal how this conflict first became oriented along federal-provincial lines, and later how the industry regained an increased share of the rents. Berry\(^\text{107}\) argues that the federal and provincial governments, interacting in response to the first oil market crisis, effectively shut out the oil industry. The industry reacted to this by mobilizing resources and obtained important concessions from the government of Alberta. Berry's argument is that crises involving inter-governmental bargaining tend to shut out interest groups such as the oil industry. Berry is correct in emphasizing how federal-provincial interaction during times of crisis tends to shut out interest groups. But the federal-provincial interaction not only served to shut out interest groups, it also effectively redefined the issue-context from state-industry lines of conflict to intra-state lines. Berry does not consider the federal government as an actor with objectives that diverge from those of the oil MNCs. Therefore, his analysis does not capture the full extent of the change produced by the crisis. His analysis also only covers the period of the immediate crisis which means that he does not consider the medium and long-term effects of the crisis. The redefinition of the issue-context affected the governments' choice of interventionist means and the relative importance attached to these. Ottawa's crisis response was driven by price regulation and tax measures, because these instruments mattered most in the intergovernmental arena. The preoccupation of the federal government (and provincial governments) with jurisdictional concerns in the intergovernmental arena lessened Ottawa's attention to other concerns and also reduced Ottawa's ability to apply existing means and develop move in industry activity levels back to the Western Sedimentary Basin.

\(^{106}\) See Richards and Pratt, op.cit. p. 226.

\(^{107}\) See Berry (1973), op.cit. p.635.
new instruments to grapple with the oil industry’s continued influence.

The reasons for the failure of federal intervention relate less to the oil industry’s influence than to the manner in which the two levels of government, adopting different positions, got woven together in a complex and adversarial web of policy interdependence which reduced Ottawa’s ability (and that of the provinces) to address energy policy concerns. This argument does not deny the power of the oil industry to withdraw funds, reduce drilling, move their operations from one jurisdiction to the other, and bargain directly with federal and provincial officials for concessions. But it stresses that the more governmental actors become concerned with each other, the less effective will their actions be to address industry power and energy issues. Another set of reasons for Ottawa’s relative inability to grapple with the industry’s influence related to the nature of existing federal policy instruments. Such instruments at times served as obstacles to new and more powerful federal intervention.

**THE FEDERAL LAND MANAGEMENT REGIME**

When intended to maximize state control, systems of rights issuance and land management enable states to regulate companies’ access to land and resources; introduce state participation; regulate exploration and production rates; issue work requirements; establish rental fees and royalty rates; and establish rules regarding national sourcing and other nationality requirements.

Briefly comparing the Canada Oil and Gas Land Regulations (COGL) of 1961 with the international changes that took place in the early 1970s serves to underline the federal government’s lack of capacity to control industry activities in the Canada Lands.

Important aspects of the COGL of 1961 resembled the old concession system
in the Middle East in terms of the federal government's ability to control industry operations. Turner notes, in terms of the concession system that existed prior to the 1970s in the OPEC countries, that:

Such agreements generally did not give the host government any say in the planning or running of activities in the concessions. Most did not specify commitments of the concessionaires to spend given amounts of money on exploration within given times, nor production rates once oil or gas was found, nor reinvestment ratios for profits which might be made, nor the development of and support for, local suppliers. In other words, apart from the freedom the host governments had at the start to choose from a limited number of suitors, they had no rights to a strategic role in the development of the resources in question, once the choice was made.108

This system, as both Turner and Al-Chalabi note, changed dramatically in the early 1970s. Al-Chalabi says:

A chain of structural changes has radically altered many aspects of the oil industry, in particular those pertaining to the patterns of oil extraction in producing/exporting areas and the system of international marketing of oil, as well as the pricing of oil, which is the most effective and important channel for wealth transfer and sharing between raw material exporters and importers.

However, the pivotal point for all these changes was the growing and forceful exercise of the concept of the inalienable right of a state to permanent sovereignty over its natural resources. The effective practice of this right was the real impetus for all recent radical developments that have occurred in the international oil industry.109

Although a commitment to initiate important changes was made as early as 1970, no similar change took place in the COGL until 1976. Thus, the system of rights issuance and land management represented an important obstacle to the federal government increasing its control over resource development in the Canada Lands.

In the following pages, some of the key features of the COGL of 1961 will be outlined and some of the most important reasons why no real changes took place before 1976 will be presented. Many of these reasons are directly related to the structure of the system itself and to the nature and structure of the Canadian state.

108 Turner: Oil Companies, op.cit., p.126.

The COGL of 1961: An Ineffective Instrument

The basic conclusions concerning the nature and operation of the COGL of 1961 are as follows. First, the structure of the system essentially precluded the federal government from influencing industry exploration rates. Second, the federal regime had consistently proven itself to offer more generous conditions to industry than those offered by the main oil and gas producing provinces of Canada.110 Third, in terms of entrance requirements, the COGL contained Canadian nationality requirements but all the large foreign corporations could easily adapt to these.111 The system essentially was a "free-entry" system, in the sense that companies could get permits simply by filing an application with the relevant department.112 Thompson and Crommelin note, about this system:

Under this free-entry system, no influence is exercised by the government over the total acreage under permit at any time, over the particular areas in which oil and gas operations are to take place, over the nature and ownership of the companies requiring permits, or over the kind of exploration and development work to be done.113

Ottawa, prior to the 1970s, did not attempt to regulate the issuance of permits. Prior to the Prudhoe Bay discovery in 1968, it had problems finding enough applicants. After the Prudhoe Bay discovery, however, all the most attractive acreage was rapidly taken up. After this, the incentives provided by the COGL Regulations were no longer required to attract exploration commitments in the North. But it was also evident that a complete evaluation would be impossible during the first sequence of exploration, and vast acreages


111 Oilweek notes that, ironically, Panarctic had problems getting leases. See Oilweek, Oct.9, 1972, p.5.


113 Thompson and Crommelin, (1973) op.cit. p. 24.
had to be returned to the Crown only partly explored. The enormous size of the areas to be explored, the almost complete lack of knowledge about the actual size of the reserves, the environmental and climatic challenges facing those trying to do so, and the need for drilling to establish accurate knowledge, made it virtually impossible for the government at this stage to set down specific priorities for where the companies were to drill. The system can hardly be criticized on this point. Instead, Thompson and Crommelin focus their critique on the long duration of the permits, covering a twelve-year period. This fact effectively precluded the federal government from instituting a second round of exploration until after 1980. Land Order 1-1961, by eliminating the Crown reserve system, enabled companies to apply for the Crown share rather than return it to the Crown for reallocation. In allowing the companies to pick up the Crown reserves, Ottawa had deprived itself of an important means of initiating a second round of exploration. The COGL provided Ottawa with very little control over the entry of companies to the Canada Lands.

The fact that Ottawa adopted Land Order 1-1961 is also indicative of its inability to compel companies to do things it deemed of importance. The regulations guiding the conversion of permits into leases, the tenure of leases and the minimal work requirements that were set down, provide additional evidence of the permissiveness of the system.

The uncertainty over the future of the system following the federal government's 1970 announcement of its intention to change the system provided a strong disincentive to industry investment and placed additional pressure on government-industry consultations to proceed. Such consultations represented a long-established tradition with the federal government never making any changes to the system without prior consultation with the industry. Thus,

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114 See DIAND: North of 60, 1970, p.1 Note also that the fact that all the attractive acreage had been taken up seriously constrained the potential role of the proposed NOC. Private rights, it must be concluded, had to be violated if the NOC was to play an important role in Canadian energy policy.

when faced with the immediate effects of the OPEC oil embargo, Ottawa neither had much control over industry operations nor had it produced a new set of regulations to address this problem. The fact that the federal government in 1972 instituted a land freeze and did not hand out any permits until the introduction of the new system in 1977 is important in that it reveals a federal commitment to alter the system. In the following few pages important reasons for the discrepancy between Ottawa's intentions and its actions will be explored.

Reasons for Ottawa's Inactivity

The regulations were departmental regulations that had not been subject to parliamentary approval. In terms of the nature of rights issuance, if the political history of industry-government relations can be summarized as a conflict over land use, the two contending claims have centred on the industry's claim to property rights versus the sovereign rights of government. The basic issues referred to in this connection are the rights conferred upon the industry and the role of government as regulator and participant in oil and gas activities. Prior to 1976, at least, Ottawa had come down on the side of private rights. The oil industry considered itself as having a number of vested rights, as a matter of contract. The industry's position was supported by legal scholars. Harrison notes that these regulations must be considered as conferring upon the industry certain rights as a matter of contract. This does not mean that the state was unable to initiate changes. The state as landlord, as Thompson notes, plays two different roles.

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116 For these terms, see Cameron, P.D.: Property Rights and Sovereign Rights: The Case of North Sea Oil, (London: Academic Press, 1983)

It is both proprietor and legislator. Harrison applies Thompson's terminology and notes that:

In its capacity as proprietor, [the state] can convey interests in petroleum resources by contract, thereby giving rise to contractual rights, with concomitant obligations binding on it as a matter of contract. In its capacity as legislator, however, it can derogate from contractual rights and obligations, including those it has created in its capacity as proprietor.

The fact that the regulations were never submitted to parliamentary approval or at all scrutinized by Parliament reveals that the federal government denied itself of the opportunities that the legislative powers could have provided. But Ottawa had long been concerned with changing the regulations. Ottawa chose, as an alternative, to make changes in the system rather than introduce a new system. This raised the issue of the magnitude of change available within the parameters of the old regulations.

By refraining from introducing legislation to Parliament, Ottawa had depoliticized the issue and enabled the industry to wield pressure on the relevant agencies in EMR and DIAND that administered this system. Thus, Ottawa could not seriously challenge the industry's claim of vested rights and remained in consultation with the industry.

The reasons for Ottawa's refusal at this time to initiate new legislation extend far beyond the industry's influence, however. First, while industry actors found allies for their views in the federal bureaucracy, within DIAND, EMR was becoming increasingly concerned with curtailing the influence of the oil industry, in particular the oil MNCs. The different positions held by the two departments is also partly reflected in the different industry composition in the areas under the administration of each federal department. Many small companies with limited financial resources operated in the onshore

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120 Interviews with two DIAND officials who had been involved with rights issuance and land management at least since the early 1970s revealed a ready acceptance of the industry's interests and concerns.
parts of Northern Canada which helps explain why DIAND had adopted a more lenient industry stance. The large companies dominated in the far North and on the East Coast. The difference in industry composition is also reflected in the divergent land management practices of the two departments which helped fuel interdepartmental tensions and resistance to greater coordination. Second, the introduction of new legislation for the Canada Lands would almost certainly have sparked further conflicts between Ottawa and the provinces on the East Coast over jurisdiction and management of the areas offshore.\footnote{121} Cognizant of the large potential oil and gas resources on Canada’s East Coast, the province of Newfoundland in particular took a strong stance on provincial ownership and control of the offshore. Third, the introduction of new legislative proposals would have provided a new forum for native people to pursue land claims in the North. Fourth, a more stringent system in the Canada Lands could fail to offer terms that were competitive with those offered in the producing provinces.\footnote{122} Fifth, the Canada Lands were still largely unexplored at this time which meant that considerable uncertainty existed as to the exact nature of the reserves in these areas. This fact in itself placed the industry in a strong bargaining position vis-a-vis Ottawa.

Thus, the federal government did little to increase its control over resource development by means of the system of rights issuance and land

\footnote{121}{The province of Newfoundland wanted not only jurisdictional authority over the offshore areas adjacent to the province but the province also had goals that differed considerably from those of the federal government in terms of the rate of exploration and production, in terms of spinoffs and in terms of rent distribution. Basically, Newfoundland wanted a lower rate of development than the one desired by industry and Ottawa. Newfoundland also wanted offshore oil and gas development to be attuned to the needs of that particular province and not the needs of the federal government or “Canada as a whole”. In a \textit{Background Paper on the Social and Economic Impacts of Offshore Petroleum Developments}, circulated in connection with the visit of The Honourable Leo D. Barry, Minister of Mines and Energy and Officials of the Department of Mines and Energy to the Coast of Labrador February 10 to 15, 1975, p.18, it was noted that: "(T)he Province is attempting to get the Federal Government of Canada to recognize our legitimate right to the mineral resources lying off the coast of Newfoundland and Labrador, and our right to control their development."}

\footnote{122}{Until the early to mid 1970s, the provinces had offered very generous terms to the industry.}
management in the period prior to 1976. There is no doubt that the oil industry was consulted during the process of revising the old regulations. Such consultation was critical to reduce the uncertainty surrounding the process after the new land freeze had been instituted in 1972. This uncertainty was caused by a host of factors, among which were intergovernmental and interdepartmental ones. The longer uncertainty as to the future of the regulations existed, the more investor confidence would weaken and the more difficult it would be to introduce more stringent regulatory terms. The uncertainty is also indicative of the manner in which the process of intervention was expanding beyond the narrow confines of industry-government relations characteristic of the period prior to 1973, to include a number of other issues and concerns that impacted on and shaped federal-industry relations.

PETRO-CANADA

The federal government’s decision to establish a national oil company in December 1973 formed an integral part of its commitment to oil self-sufficiency. Although Bill C-32 died on the Order Paper when the minority Liberal government was defeated on the May 1974 federal budget issue, the newly elected majority Liberal government introduced Bill C-8 in the House of Commons on 30 October, 1974. Bill C-8 was identical to Bill C-32. After a long and unusually heated debate, the Petro-Canada Act received Royal Assent on 30 July 1975. Petro-Canada commenced operations in January 1976 and therefore had no direct impact on the Canadian energy scene prior to then.

This section sheds light on Petro-Canada’s role in Ottawa’s program to increase federal control of oil and gas development in Canada. Focusing on the relationship between Petro-Canada and the oil industry, three sets of variables
will be discussed. These are first, the corporation's policy functions and the extent to which Petro-Canada's policy role was directed against the oil industry. National oil companies may be assigned a limited number of policy tasks from a large spectrum of possible functions. The wide spectrum of possible tasks NOCs may perform place them in widely different relations to the private oil industry. National oil companies may subsidize industry operations by performing tasks that private-sector actors find it unprofitable to perform. As such, NOCs may operate as economic instruments intended to alleviate market failures. Or, NOCs may be used as powerful means of ensuring state control of the oil industry. In the latter case, the NOC must be viewed as a powerful political instrument for the state to expand state power. A careful analysis of the policy functions assigned to each NOC is required to establish the intended relation of the NOC to the private oil industry actors.

The second set of concerns addressed in this section refers to restrictions or constraints on the corporation. Did Ottawa introduce any constraints on the corporation's future operations or size? Operational and size constraints clearly delimit the importance of NOCs as political instruments.

Third, the federal government's ability to control the corporation must be investigated. Such control is essential to ensure that a corporation conforms its operations to Ottawa's priorities rather than to those of the industry or its own management. Such controls are important not only for the corporation's initial policy role, but also over time, as Ottawa's objectives change. Given proper controls, a determined government can, at least in principle, redefine the corporation's role as its own objectives and needs change. Corporate flexibility, then, is a requirement for a NOC to be an effective instrument.

The main argument presented in this section is that Petro-Canada was conceived of as a policy instrument for the federal government to ensure self-sufficiency by increasing indigenous oil and gas development in Canada.
Although a second and related concern was to ensure "politically secure" supplies of oil by state-to-state deals, the main emphasis was on the development of indigenous sources of oil and gas. The corporation's mandate provides few clues as to its specific role, but ministerial statements both list Petro-Canada as a means of increasing federal control of oil and gas development in Canada and as a means of assisting the oil industry, by Petro-Canada acting as a catalyst for private-sector involvement. On the face of it, this suggests that Ottawa initially presented Petro-Canada as both an economic and a political instrument, with the relative balance of these two functions to be determined by events and future decision-makers. This apparent ambiguity in the political role of the corporation was to some extent a function of political expediency, but even more it was reflective of Ottawa's concern with the need for a flexible instrument to handle a situation of considerable international and domestic uncertainty. By including as few formal restrictions as possible on the corporation's future operations and size, and by subjecting the corporation to unusually stringent controls, Ottawa ensured itself of a potentially very powerful future instrument. The lack of formal operational restrictions would enable Ottawa to hammer out a clearer political role of the corporation, whenever needed, without legislative changes. The system of corporate control, it was also thought, would enable a determined government— but not Parliament—to ensure itself that Petro-Canada in fact conformed its operations to Ottawa's objectives.

Petro-Canada must be viewed, first and foremost, as an independent expression of Ottawa's emphasis on federal control over the operations of the oil industry. A clear understanding of the specific role of the corporation in ensuring federal control of oil and gas activities in Canada must await the analysis of the actual operations of the corporation, the preferential role later granted Petro-Canada, and the structure and operations of the system of
rights issuance and land management on federal lands.  

Petro-Canada's Mandate and Policy Role

Petro-Canada was established as a wholly state-owned Schedule D or proprietary Crown corporation subject to the regulations in the Financial Administration Act. The objects of the corporation were, as specified in the legal Objects clause:

a) to engage in exploration for and the development of hydrocarbons and other types of fuel or energy;

b) to engage in research and development projects relating to fuel and energy resources;

c) to import, produce, transport, distribute, refine and market hydrocarbons of all descriptions;

d) to produce, distribute, transport and market other fuels and energy; and

e) to engage or invest in ventures or enterprises related to the exploration, production, importation, distribution, refining and marketing of fuel, energy and related resources.  

This legal Objects clause not only provides Petro-Canada with a very wide mandate, but it also specifies functions that parallel those of any other petroleum or commercial energy corporations operating in Canada. 

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123 The literature on Petro-Canada, although emphasizing the importance of access to land for Petro-Canada, as a crucial element of the preferences granted the company, has failed to study the combined impact of the federal landlord and entrepreneurial roles on industry activities in Canada. For studies on Petro-Canada, see Pratt: Petro-Canada, op.cit., Halpern, op.cit., Bell, op.cit. See also United States General Accounting Office: Petro-Canada: The National Oil Company As a Tool of Canadian Energy Policy, October 15, 1981, pp.1-56 and Cestre, G.: Petro-Canada: A National Oil Company in the Canadian Context, prepared for the Committee on Energy and Natural Resources, United States Senate, November 1977, pp.1-35.


125 See EMR-Minister Macdonald in House of Commons, Standing Committee on National Resources and Public Works, 24-4-1975, p.15:10 who emphasized the need for enabling Petro-Canada to have the same wide range of operations as the private-sector companies have in Canada. J.S. Poyen, the president of the Canadian Petroleum Association, CPA, made the same point and noted that "the joint group here representing the Canadian oil and gas industry have considered the Petro-Canada Bill. We on principle have no fundamental concerns about the
accordance with the powers granted the corporation in the objects clause, the corporation could become vertically integrated by involving itself in exploration, production, transportation, refining and marketing of petroleum products. Further, Petro-Canada could become horizontally integrated and enter into all types of energy and related resources. The federal government enabled Petro-Canada to diversify its operations and involve itself in interfuel substitution. The mandate of the corporation also provided Petro-Canada with the option of expanding its activities to other countries and placed no restrictions on where in Canada the company could operate. Petro-Canada could enter into agreements with other companies and with provincial governments, it could acquire the rights to new fields or companies or dispose of holdings or investments.\textsuperscript{126} The corporation could also establish new agencies and branches. Yet, Petro-Canada did not have the power to expropriate other companies, it was not given powers to regulate industry activities, it was not intended nor designated to act as a rent-collector for the federal government, and it could not dissolve itself.\textsuperscript{127} Apart from the power to dissolve the corporation, the role of Parliament in providing the corporation with policy direction was minimal. Section 7 of the Petro-Canada Act states:

\begin{quote}
The Corporation may do such things as it deems expedient for and conducive to the furtherance of the objects of the Corporation, within and outside Canada.\textsuperscript{128}
\end{quote}

The rationale for providing the corporation with a very wide mandate and minimizing Parliament's role was to provide the corporation's management with a large measure of flexibility necessary for operating in a rapidly shifting environment. It was also felt that such flexibility was needed in order to enable the corporation to adjust itself to changing government priorities.

\textsuperscript{126} See Bill C-8, op.cit. Section 7(d), (f), (i), (j), (o)

\textsuperscript{127} See Section 28 of the Petro-Canada Act., ibid.

\textsuperscript{128} ibid.
Energy Minister MacDonald noted with reference to the Petro-Canada Act:

(W)e are not incorporating this for a single or passing transaction; it is to create a corporate person over a period that we anticipate will be very many years in which we will be operating in this field. Therefore we are setting it up with the widest possible flexibility so that this management, as it sees situations that may be advantageous from the standpoint of the general public interest, will have the legal authority to get into them and be able to participate in transactions.

If we had to follow the policy of coming back to Parliament each time for each particular transaction, particularly when ... these transactions have often to be negotiated in haste and with private interests, then there would really be no opportunity for it to carry on a versatile and dexterous petroleum development business.\(^{129}\)

The many important international and domestic changes in the period immediately following the OPEC oil embargo in October 1973 lent considerable support to the Energy Minister’s emphasis on corporate flexibility and adaptability. The very wide powers granted the corporation was a source of much furore and concern among Conservative MPs during the parliamentary deliberations on Bill C-8. The Conservative reaction coincided with industry concern over what the specific role of the corporation was to be. The Petro-Canada Act, by providing the corporation with such a wide mandate and powers also contributed to confusion about the corporation’s role and made the Liberal government’s critics argue that the government itself was not fully aware of its intentions with Petro-Canada.

The reading of ministerial statements, however, reveals that the Liberal government had a more clearly defined role for Petro-Canada. Energy Minister MacDonald outlined this role first in a cabinet memorandum of 31 October 1973, parts of which are cited in Pratt’s article on the genesis of Petro-Canada. MacDonald is here quoted as defining the future role of Petro-Canada as the following:

It would explore in Canada’s frontier areas for various energy resources; research the problems of tar sands and heavy oil development and perhaps into further uses of petroleum; seek to establish reliable import supply links; and potentially enter the downstream activities of refining and distribution. In doing this it would enhance the degree of governmental control over the rate and pattern of Canadian energy resources; back up the revision of other policies such as land tenure and rent collection by giving the government the operating capacity to fill any undesirable gaps; take direct steps to improve the security of the supply of energy.

\(^{129}\) House of Commons, Standing Committee, op.cit. 24-4-1975, p.15:11.
to Canadian markets; provide a more significant Canadian presence in a largely foreign-dominated industry; co-ordinate the diverse operational activities of the federal government in the various energy industries, and provide an instrument through which the government might participate with provinces, foreign governments and private sector firms in direct energy industry activities in stimulating further developments.

These functions require a separate body - and one which can adapt readily to the commercial and industrial environment in which it would operate. In fact, the foreign governments with which discussions would be sought would prefer to deal with a publicly-owned company. It is for these reasons that a corporate form is suggested.¹³⁰

Two main points emerge from the above. First, the federal government had a relatively clearly defined policy-role for Petro-Canada, and a role in which the corporation was intended to perform a number of functions not normally associated with private company behaviour. Second, a prime federal concern in establishing Petro-Canada was to increase federal government control of oil and gas activities in Canada, in particular increase the federal government’s control over "the rate and pattern of Canadian energy resources". It is also this presentation of the corporation’s intended role that informs Pratt’s works on Petro-Canada.

The problem with all such assessments of what Petro-Canada really was intended to be is that they tend to attribute very much importance to what the corporation was intended to be at one particular point in time. Thus, a "frozen" image is presented of the corporation, a picture that is bound to distort by virtue of the fact that Petro-Canada first and foremost was conceived of as an inherently flexible entity. This rather static representation of Petro-Canada is most clearly seen in the work by Halpern et al., when addressing the operations of Petro-Canada. Further, ministerial statements of intent do not necessarily produce results that conform with the stated intentions. Also, as Energy Minister MacDonald noted in his remarks to the Standing Committee on National Resources and Public Works and which were quoted above, the corporation needed to be flexible in order to incorporate changes in government policy.

Viewing public enterprises as inherently flexible entities does not reduce the importance of obtaining a clear understanding of their more specific

policy role; it simply questions our ability to develop good benchmark criteria for establishing exactly what this role is. One such means has been to analyze ministerial statements. A close analysis of such statements suggests certain changes in the intended role of the corporation in the period 1973-75. First, Halpern et al. note that the federal government's conception of a national oil company changed considerably between the publication of the EMR White Paper entitled "An Energy Policy for Canada, Phase I" in June 1973, and the role of Petro-Canada, as outlined by Prime Minister Trudeau in December 1973 and specified by government spokespersons in parliamentary debates and committee deliberations on Bill C-8. The main difference in the government's conception of a NOC between June and December 1973, according to Halpern et al., was a reorientation from an emphasis on the redistributive aspects of a NOC to increased emphasis on allocative efficiency:

...(T)he 1973 EMR report cast its examination of the pros and cons of the creation of an NPC largely in a distributional context; arguments in favour of a state presence in the oil and gas industry are mostly concerned with issues relating to the ownership and control of the industry. In contrast, the December announcement relies heavily on arguments relating to security of supply. Most of these arguments can be interpreted as concerns about allocative efficiency. ... Although the federal government still saw an NPC as a vehicle to ensure greater Canadian participation in the oil and gas industry, such redistributive concerns were now clearly of secondary importance.131

The authors, in stressing allocative efficiency, argue that economic reasons became more prominent in establishing Petro-Canada than political ones. Halpern et al., in the extension of this, argue that the federal government in December 1973 had a more limited version of the corporation in mind than the one originally conceived of and presented in the White Paper presented by EMR in 1973. The corporation, the authors contend, was not intended to become vertically integrated, at least not initially. Its main role would be in the upstream, in the exploration and development stages. Further, the corporation would primarily operate within Canada and the emphasis would be on the

131 See Halpern et.al. op.cit., p.38-40.
development of hydro-carbons and not the whole range of energy sources.\textsuperscript{132} Halpern et al. also argue that the corporation was not intended to involve itself in activities such as conservation.

Such statements, however, are neither committing nor are they legally binding on the federal government. Energy Minister MacDonald himself had earlier noted that the corporation would start with a limited role and expand as time passed on. As such, Halpern et al. are quite correct in emphasizing that the federal government's prime concern was to establish a strong upstream presence by means of Petro-Canada. EMR Minister MacDonald noted, with reference to Petro-Canada's role in indigenous resource development:

\begin{quote}
The government expects that the most important function of this enterprise will lie in the area of oil and gas exploration and development, particularly in our frontier areas. Private investment, both Canadian and foreign-controlled, will continue to play an important role in this area. However, we are looking to the company to increase the Canadian presence in a sector which is of critical importance to assuring future energy supplies. Where possible, the company would seek to operate jointly with both Canadian and foreign firms in development activity.\textsuperscript{133}
\end{quote}

This so-called catalyst role or 'adding without displacing' was directly related to the federal government's commitment to oil and gas self-sufficiency in Canada. As part of this commitment Petro-Canada was put in charge of managing the federal government's investments in Panarctic and Syncrude.\textsuperscript{134} The federal government clearly intended to establish Petro-Canada as an entity with an independent exploration ability. This fact and a number of other factors of even more importance indicate that Halpern et al. have underestimated the essentially political nature of Petro-Canada. First, Halpern et al. as well as a number of other analysts, draw a sharp distinction between the role of Petro-Canada as a catalyst, which they consider an essentially economic function, and the company as an instrument for Canadianization or, as the authors state, an essentially redistributive concern. We will argue that in

\textsuperscript{132} See EMR Minister Macdonald, in House of Commons, Standing Committee op.cit. 24-4-1975, p.15:8-9.

\textsuperscript{133} EMR Minister Macdonald, House of Commons Debates, March 12, 1975, p.4038

\textsuperscript{134} Panarctic would continue to operate independently of Petro-Canada.
terms of Petro-Canada this distinction confuses more than it enlightens. Even the catalyst role of Petro-Canada, to be effective, required a redistribution within the Canadian energy sector, because Petro-Canada needed access to land to be an attractive catalyst. All the most attractive prospective areas were already held under permit by private oil companies. In the frontiers and the tar sands, the dominant land-holders were the oil MNCs. The federal government granting Petro-Canada preferential access to land was probably the most important concern the oil and gas industry had about Petro-Canada, and such preferential rights the industry opposed very strongly. Energy Minister MacDonald, as revealed in the 1973 cabinet memorandum quoted above, was clearly interested in preferential rights for Petro-Canada. The federal government's land freeze and decision not to hand out any new permits until a new system of rights issuance and land management was in place are further indications of a federal commitment to reduce the dominant land holding position of the oil MNCs.

Opposition to preferential rights to Petro-Canada was building up even within the federal government. Pratt notes that DIAND, which administered the areas north of 60°, viewed MacDonald's proposal to give Petro-Canada a preferred land-position with considerable alarm. DIAND was concerned that industry investments would decline if Petro-Canada was granted preferential rights to land. This opposition within DIAND may help explain why it took Ottawa until 1976 to provide Petro-Canada with preferential rights to land.

The catalyst function of Petro-Canada, instead of simply involving economic or allocative concerns, in fact contained important political and distributive overtones. In fact, the very notion of Petro-Canada as a catalyst was to some extent self-contradictory, because in order for Petro-Canada to be an attractive partner, it needed access to promising areas; yet the very acquisition of these areas, could discourage industry investment. Further, the catalyst role of Petro-Canada also entailed considerable uncertainty, in particular because of provincial jurisdiction over crucial future sources of supply. It was obvious that the Alberta government would not grant Petro-Canada
any preferential role in the tar sands, and Petro-Canada’s effective functioning as a catalyst was conditional on Albertan acceptance of a prominent federal presence in the tar sands. This suggests that a proper understanding of the role of Petro-Canada needs to include an assessment of the corporation in the larger picture of Canadian energy policy, not only as key decision-makers react to events, but also in terms of the corporation’s role in the context of other federal policy instruments.

Petro-Canada’s catalyst role was not only referred to by federal decision-makers as increasing allocative efficiency but also included an element of control, namely the emphasis on severing the "exploration-production nexus."  

Prime Minister Trudeau noted:

[The new company] will undertake exploration for conventional oil and gas in the provinces as well as in areas under the control of the federal government, namely, in the Yukon and Northwest Territories and the Atlantic and Pacific offshore coastal areas. ...  
It will assist and participate in the research and development work necessary to develop an in situ technology from the oil sands which cannot be extracted by presently known methods. ...  
The company will not be precluded from developing other reserves which it may discover through its exploration activities, but it may choose to hold part of such resources as a reserve for the long term security of the Canadian market. This is a function which private investors often find it difficult to perform for understandable reasons, and it is a function to which the government attaches importance.

This function, variously referred to as severing the link between exploration and production, or as "patient money", was seen as important in order to prevent the oil and gas resources that were proven up by means of costly exploration efforts from being developed and exported. Thus, by Petro-Canada keeping proven up resources in the ground, it would contribute to the long-term security of supply to the Canadian market and expand the period of

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135 This is an important aspect of depletion control.
136 Prime Minister Trudeau, House of Commons Debates, op. cit. p.8481.
137 Waverman notes: "As Robert Solow suggested in his presidential address at the American Economic Association meeting last year (1976), the essential motivation for public ownership of extractive industries is the rate of exploitation." See L.Waverman’s Comment to A. Tussing’s article in Crommelin, M. and A.R. Thompson (1977), op.cit., p.181. Today, this rationale is far more widely questioned among economists. See also Pratt, Petro-Canada, op.cit. for a similar point.
self-sufficiency that the government hoped Canada could enjoy from the 1980s onwards. This role, however, seems to have become less pressing in 1974-75 as new reserve estimates were introduced, estimates which cast considerable doubt on the actual ability of Canada to ensure itself of adequate resources for future self-sufficiency. A problem with the approach adopted by Halpern et. al. is that although one function is not constantly repeated, it does not necessarily mean that it ceases to become important to the federal government. Ministerial statements are useful as guides to the corporation's intended policy functions only when viewed in the context of events and challenges facing the government at the time.

As the federal government became more aware of the possible shortfall of future supplies, it started stressing the need for the corporation as a "window on the industry", intended to supplement its catalyst role with an information seeking and disseminating role. Although MacDonald refers to this role as a side benefit, the federal government attributed considerable importance to enhancing not only its information basis but even more the quality of the interpretation of the information available to it. Petro-Canada's Annual Report of 1976, its first year of operations, noted that one of the primary roles of the corporation would be to:

(A) ssist the Government in the formulation of its national energy policy
- by accelerating the evaluation of Canada's supply potential from conventional or new sources;
- by providing a better understanding of the costs associated with various domestic resources and their comparison with available alternatives, to ensure competitively priced energy supplies to Canadian industry and consumers;
- by providing Government, as a direct investor in the risky ventures of this critical sector, with insights which will assist in policy development.

138 The importance of developing a "safety-net" of supplies was repeated in the NEP of 1980. See EMR: The National Energy Program, (Ottawa: Minister of Supply and Services, 1980), p.44.

139 EMR Minister Macdonald, House of Commons Debates, op.cit. p.4037.

140 See Pratt: Petro-Canada, op.cit. p.105. The so-called window role of Petro-Canada has been emphasized by numerous analysts.

141 See Petro-Canada: Annual Report, 1976, p.5.
Clearly, Petro-Canada's management attributed considerable importance to this function, to an extent that was far beyond the notion of a "side-benefit". MacDonald also stressed that the information which Petro-Canada could provide was not available from other sources. The importance of this role in the actual operations of the company will be studied in more detail in the next chapters on Petro-Canada. At this point it is sufficient to note that both the political salience assigned to severing the exploration-production nexus and the important role attributed the corporation as a window on the industry, demonstrate that the federal government had a more clearly defined political role in mind in establishing this corporation than what Halpern et al. are willing to concede.

Also, in response to the argument put forth by Halpern et al., it should be noted that allocative efficiency and Canadianization are not necessarily dichotomous, because an increased Canadian presence may simply lead to increased efficiency. Canadianization and Canadian control can not be equated with public ownership and federal control, because Canadianization may refer to both. Canadianization may refer to redistribution among different segments of private industry actors, or it may refer to redistribution between the public and private sectors of the economy. Therefore, if federal officials placed less emphasis on Canadianization, as Halpern et al. have argued, this refers to a weakened federal commitment to redistribute between different private-sector actors, while emphasizing the need for increased federal government control over oil activities.

Ottawa's policies and policy instruments variously served to expand or constrict the political and economic usefulness of the corporation. As MacDonald noted in the cabinet memorandum referred to above, Petro-Canada can be used to shore up the role of the land management system. On the other hand, even though Petro-Canada was touted as an important vehicle of state-to-state deals, Petro-Canada would not serve as an effective means of increasing security of supply during emergencies. EMR: An Energy Strategy for Canada,
1976, notes:

The negotiation of long-term bilateral supply contracts for oil has been urged as a desirable measure to safeguard supplies in an emergency. While long-term contracts may be advantageous for other reasons, they would not provide as much emergency protection as might seem the case, since our obligations under the IEA would require that the oil so procured be shared with other countries should shortfalls occur.¹⁴²

Canada became a member of the International Energy Agency in 1974 (the agreement was signed in December 1974 and came into effect in January 1976). Canada's membership in the IEA reduced the importance of Petro-Canada in establishing state-to-state deals to alleviate sudden crises or emergencies. Should the world oil supply situation worsen, then a national oil company handling long-term bilateral supply contracts, could help building stock-piles to help alleviate the expected emergency. A national oil company, providing an operational presence, would be one of, if not the best, means of finding out what was happening on the world oil market.

Pratt, in direct opposition to Halpern et al., emphasizes the political nature of Petro-Canada, as a vital part of the federal government's emphasis on controlling Canadian oil and gas development. This thesis lends support to Pratt's findings. But this work has also shown that the exact role of Petro-Canada in the period 1973-75 was somewhat more ambiguous than what Pratt has argued. This ambiguity can be explained partly as a consequence of the political strategy of the Liberal government at the time, and its use of Petro-Canada from a symbolic perspective.¹⁴³ By including statements of both economic benefit and political usefulness, the Liberal government sought to win


¹⁴³ Trebilcock et.al. note that: "Public ownership may ... be attractive as a way of symbolizing and dramatizing a government's commitment to a particular cause or set of values. In some situations, even if it were possible for the government to regulate the private sector activity so as to achieve its objectives, it may be too difficult to generate public confidence in, and understanding of, this reality, and an assertion of public ownership may be the only way to communicate sufficiently clearly the government's commitment to a particular public objective." See Trebilcock, M.J., Hartle, D.G., Prichard, R.S. and D.N. Dewees: The Choice of Governing Instrument, (Ottawa: Economic Council of Canada, 1982), p.79.
acceptance for the concept of an NOC. The opponents were against it on principle, and the proponents felt Ottawa did not go far enough. Ottawa cleverly played a balancing act with statements that accommodated both points of view, but established legislation that enabled it to define and expand the role of the corporation in the future.

Political expediency is far from the whole story, however. The Liberal government, when it introduced Bill C-8 in 1974, was in a majority position in Parliament and was not dependent on parliamentary support. The somewhat ambiguous role of Petro-Canada must be seen first and foremost as a reflection of the federal government not wanting to commit itself to a very specific definition of Petro-Canada because such a definition would be the single most important delimiting factor on the corporation's future activities.

The fundamentally political nature of Petro-Canada is further revealed in the system of controls established over the corporation which forms the subject of the next few pages.

Controls on the Corporation

The problems involved in defining the exact role of the corporation raise an important question relating to accountability and control of NOCs. Can a government which has established a multi-purpose instrument, intended to fulfil a large number of different roles expect the corporation to be fully accountable, when the corporation was also intended to be inherently flexible in order to adapt to changes in government policy? If it does, in accordance with what standards? Would the government adopt the standards of yesterday, that is, what it initially intended to do, but which was later changed? Or would it adopt current standards, that is, the role the federal government thinks the corporation should play at the present? Would it hold the corporation accountable to some standard which defines the role of the corporation not only today but also in the future? This discussion touches upon not only the problems underlying Crown corporation accountability and control,
but it also addresses the larger problem of government accountability and the problems facing academics concerned with these issues. In addition, corporate controls are usually viewed as critical both to prevent NOCs from developing interests on par with those of the oil MNCs, to ensure that they pursue their intended policy functions, and to prevent them from opposing their political masters. As noted in Chapter One, Ikenberry and Evans viewed NOCs that somehow escaped control and direction as an important factor in causing ineffective state intervention.

In terms of the controls on Petro-Canada, we may distinguish between two sets of controls, formal and informal. Formal controls were established in legislative form, either as part of the Petro-Canada Act or as part of other relevant legislation pertaining to Crown corporations, and such controls were unusually stringent. Informal controls, on the other hand, refer to day-to-day interaction between corporate executives and government officials, both elected and un-elected. In the case of Petro-Canada, a strong informal link was established between the corporation and EMR. The role of informal controls is much more difficult to assess than that of formal controls. Informal controls are also influenced by formal controls. For instance, budget submission requirements facilitate contacts and discussions on corporate planning in advance of submission of such plans to Parliament.

In terms of formal controls, corporate flexibility is a problem, because few formal measures available to governments can ensure adequate policy direction. Corporate flexibility is essential for informal control because, without it, such controls are largely irrelevant. While unusually stringent,

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144 See Ikenberry, The Irony... op.cit.
145 See Evans et al. op.cit.
146 Key appointments signal something about informal controls. The corporation's first president, Maurice Strong, held views very similar to those of the Liberal government. Bill Hopper, who replaced Strong, left his position as Assistant Deputy Minister in EMR, to go to Petro-Canada. Joel Bell, the corporation's vice-president in the period 1976-82 also came from EMR.
the formal controls on Petro-Canada could easily become ineffective in producing adequate policy direction. Then, over time, Ottawa's need for flexibility could lead to the corporation's management being placed in a central position to define many critical aspects of the corporation's strategic role.\footnote{Evidence supporting this is the fact that the management would decide which companies to participate with in its operations, it would decide where in Canada it would concentrate its operations - subject to budget controls - and, it would largely determine itself how it was to operate.}

Although the federal government had ensured itself of unusually strict budget controls, such controls are often ineffective in providing adequate policy direction, because they deal with only one year at the time.\footnote{The Norwegian government, in its attempts at controlling the future policy role of Statoil, the Norwegian NOC, introduced as a requirement the formulation of a corporate plan which includes both next year's operations and future activities. Statoil, Articles of Association. Budget controls can be used to direct the corporation to operate in certain areas but these controls do not enable the federal government to determine exactly where in each location or each major petroliferous area of Canada the corporation would operate. Neither could budget controls really affect who Petro-Canada was to operate with. The directive clause was needed for these concerns.} Adequate policy direction, it would seem, requires that measures be taken to include a historical review of company operations (which the budget papers, when viewed together, can provide) as well as company statements relating to its future intended role. Budget controls, when used effectively, can help to establish operating criteria. These are somewhat ineffective in providing adequate policy direction because of the problems involved in projecting the cumulative effects of annual budgets over time. Clearly, the more complex the policy mandate of a corporate entity is, the more serious this problem becomes. This limitation, it must be emphasized, was due to the limitations inherent in budget control as an instrument of control, rather than to any lack of interest on Ottawa's part to ensure itself of adequate control.

The directive clause was intended to ensure that the federal government
could impose its will on the activities of the corporation. Yet, during the Parliamentary deliberations strong Conservative fears of political intervention in the day-to-day affairs of the corporation led to a change in the initial legislation. This change reduced both the role of the Energy Minister in defining the exact role of the corporation and the government’s overall ability to impose its priorities on the operations of the corporation. The directive clause requires that federal directives to Petro-Canada be delivered in written form and published, which exposes the government to critiques of political meddling with the corporation’s affairs. By forcing Ottawa to publish its directives, the opposition not only enabled Petro-Canada to use the directive clause against Ottawa, if needed, but it also effectively forced the federal government to redefine the directive clause from a largely informal control mechanism to a formal and less effective type of control.

The final set of controls, the control over the appointment of board of directors is effective only to the extent that the government can find credible candidates to replace old board members. This can function as an important indirect set of control but is only truly effective while the corporation is in its infancy. It is inherently difficult even for board members to keep on top of the affairs of a large and complex entity such as Petro-Canada today.

Ottawa, in establishing Petro-Canada, sought to ensure itself of a large and inherently flexible policy instrument that was intended to be closely monitored and controlled by Ottawa. While the decision to establish Petro-Canada did not represent a head-on challenge to the oil industry, there is no doubt that Ottawa established a potentially very powerful political instrument that could be used to curtail the industry’s influence.

At the inception, the specific role the corporation was to play was somewhat ambiguous, due largely to the federal government’s emphasis on

149 MPs were concerned that the hostility of private oil company officials to a direct government presence in the economy would make it difficult to ensure the recruitment of able company officials. This fear was later shown to be groundless.
corporate flexibility, which also placed the corporation's management in a highly strategic position. Ottawa's attempt at establishing a strong federal input role in the affairs of the corporation was somewhat undercut by the political concerns of the parliamentary opposition. But the system of controls available to control Petro-Canada was more extensive than for any other federal Crown corporation.

The chameleon-like nature of Petro-Canada is not unique to it but is rather an inherent feature of multi-purpose public enterprises. Such entities are notorious for evading public accountability and control schemes. The contradictions inherent in public enterprises may be magnified or may generate unintended effects when such entities are confronted with complex and conflictual political and economic situations and challenges.

Chapter Conclusion

This chapter has analyzed the policy measures instituted by Ottawa to ensure self-sufficiency, revenue distribution and Canadianization. Ottawa's objectives and the federal policy measures adopted in this period were clearly intended to increase federal control over and economic take from the oil industry. Rather than effectively ensuring federal control, however, the analysis of Ottawa's policy measures has revealed that a redefinition of the conflicts took place. This process of change - in which concerns with self-sufficiency and security of supply were essentially replaced with price, tax and royalty considerations - was a function of the preoccupation of provincial and federal governments with jurisdictional control. The redefinition of the issue-context became further manifest in the introduction of new policies and policy instruments and was driven and kept alive in subsequent federal-provincial negotiations to resolve the conflicts. In the next chapter a brief summary evaluation will be provided of the fate of Ottawa's objectives in this period.
CHAPTER FIVE: THE EFFECTS OF FEDERAL POLICIES

This chapter, in providing a brief summary assessment of federal policies in the period 1973-75, discusses the extent to which Ottawa succeeded in fulfilling its explicit and implicit energy policy objectives.

Self-Sufficiency

Ottawa’s ability to ensure its objective of self-sufficiency in this period can be assessed by means of, (a) the balance of Canada’s oil exports and imports, (b) the role of the frontiers in Canada’s energy policy and, (c) industry activity levels. This assessment reveals that Ottawa failed to increase its control of industry operations in the period 1973-75.

Oil Export/Import Balance

Although the federal government in 1973 expressed a strong commitment to oil and gas self-sufficiency by the end of the decade, the period 1973-75 reveals a clear trend in the direction of increased import-dependence. Canada experienced "net self-sufficiency" in the period prior to 1975, a condition, as noted, where exports were larger than imports. Yet, in 1975 Canada imported 817,000 bbl/day and exported 707,000 bbl/day, creating a considerable shortfall and conjuring up an important negative trade balance in oil and oil products. This led the NEB to take further measures to reduce exports of oil. Thus, Canada, although adopting the goal of self-sufficiency, was faced with the prospect of an increasingly negative trade balance in oil and an increased vulnerability to world-market events. The short-term export-import balance, however, was less important in federal energy strategy than the more long-term prospects of Canadian oil development. Up until this time, Canadians had been quite confident that Canada had adequate supplies of oil and gas.
The Role of the Frontiers

Instrumental in the decision to phase out oil exports was a major hearing held by the NEB in 1974. The hearing produced the report entitled In the Matter of the Exportation of Oil, which recommended that oil exports should be phased out by the end of 1981 in order to avoid further oil import dependence. This report and another report entitled Canadian Oil: Supply and Requirements, published in September 1975, both predicted increased supply shortfalls. The NEB adopted this conclusion by introducing the notion of "producibility", instead of relying on "ultimate recoverable resources" which earlier federal position papers had used. The two NEB reports presented a dramatically altered supply outlook for the 1970s and 1980s from what the White Paper published by EMR in 1973 had provided. The NEB reports noted that the provinces, or rather the Western Sedimentary Basin, would remain the main oil producing area in Canada first, as the source of conventional oil, and later, from tar sands oil. Thus, the two reports effectively ruled out the frontier regions from the Canadian oil supply picture in the period until the mid-1980s, at least. As the 1975 NEB report noted, no frontier reserves of oil had been proven up to warrant the NEB giving any recognition to possible oil production from frontier regions within the NEB's 10-year protection period.

From the NEB's point of view, this did not rule out the frontiers from the Canadian energy scene, however. Instead, the two NEB reports emphasized the

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150 Whereas the notion of producibility refers to proven and recoverable reserves under current economic conditions, ultimate recoverable resources simply represents a statistical measure of probable resources. The technique adopted was one in which the total volume of known sediments is multiplied by the barrels of oil per cubic mile. The problem was that the calculation that formed the basis of the figures in the White Paper published by EMR in 1973 had used the most petroliferous U.S. areas as the basis for the calculation. Not even Alberta could match the bbl/oil per cubic mile found in these U.S. basins.

151 See EMR: An Energy Policy... (1973), op.cit. Vol.I, Table 1, p.87. The report distinguishes between resources in place and recoverable resources. Total recoverable oil/gas resources were estimated to range between 561 and 616 billion barrels of oil equivalent.

need for development of frontier natural gas to substitute what the NEB considered to be rapidly declining reserves of gas in the conventional producing regions of Western Canada. The NEB report Canadian Natural Gas: Supply and Requirements, published in April 1975, finds that:

The natural gas reserves in the conventional producing areas of Canada will not be adequate to meet both growing domestic requirements and currently authorized exports in the future.153

Thus, the NEB was forecasting increased shortfalls and shortages of both oil and gas in relation to predicted future demand. The NEB, in the mid 1970s, suddenly predicted that the frontiers, up until then viewed as a large part of the vast storehouse of future Canadian oil supplies, had almost overnight ceased to be of much relevance. Yet, the NEB found that the frontiers were still important as the main source of future natural gas for Canada. A possible reason for the NEB's position could be concern for Canada-U.S. cooperation. This concern could also be a factor in the Canadian government's interest in northern pipeline development, i.e. in the Mackenzie Valley gas line.

The NEB's forecasting may be termed a "pendulum policy", from overestimating the ready supply of oil, to exaggerating the urgency of developing new supplies. The NEB reports also exaggerated the need for new supplies by presenting inflated demand estimates.154 Rather than downsizing the resource base, what the NEB did was simply to point out that these resources would not be available for production as early as predicted. The main effect

153 See NEB: Canadian Natural Gas: Supply and Requirements, (Ottawa: Minister of Supply and Services, April 1975), p.73.

154 Influential critics voiced concern with the NEB's forecasting techniques. The most vocal critic was Professor John Helliwell who presented his own submissions to the NEB hearings. In his analysis of the NEB reports, Helliwell notes that both the reports dealing with oil and natural gas had presented demand estimates that were grossly inflated. The main reason for this was that the NEB reports had failed to take increased energy prices into account. The White Paper published by EMR in 1976 took increased prices into account and produced future demand estimates for oil that were much lower than those presented in the White Paper presented by EMR in 1973. For instance, the 1973 report predicted that oil demand in 1990 would range between 3200 and 4800 M bbl/day whereas the 1976 report predicted demand to range between 2588 and 2731 M bbl/day, subject to different economic growth and price scenarios. Source: EMR: An Energy Policy, 1973, op.cit. Vol.II, Table 14, p.29. and EMR: An Energy Strategy, 1976, op.cit. Tables 12 and 13, p.74,81.
of this was to place additional pressure on Ottawa to provide the industry with drilling incentives. The NEB’s inflated demand estimates served to overemphasize the need for rapid development of indigenous sources of oil and gas, and also make the federal government more susceptible to industry pressure for favourable treatment and early pipeline development.\(^{155}\)

Thus, oil and gas reserve, supply and demand forecasting was inherently unreliable in this period in Canada. Although considerable uncertainty existed as to the magnitude and location of future sources of supply, there was much less uncertainty about the fact that Canada was rapidly running out of low-cost sources of oil. The NEB, Ottawa’s main oil and gas forecasting and regulatory instrument in the Canada Lands, not only adopted forecasts and forecasting techniques that clearly benefitted the oil and gas industry,\(^{156}\) but also sowed considerable doubt as to the direction of federal energy policy. The large reversals of frontier oil (and gas) resource forecasts reveal that very little reliable knowledge existed on the actual reserve potential of the Canada Lands.\(^{157}\)

\(^{155}\) Helliwell contends that the NEB exaggerated the need for Arctic gas because it placed too much emphasis on the estimates submitted by the gas producers. He also suggests that part of the industry’s rationale for emphasizing rapid frontier gas development stemmed from an institutional problem, namely Trans-Canada’s refusal to raise the price of gas. Helliwell notes that Gaz Metropolitain had, in a NEB-hearing, stated that Trans-Canada PipeLines, the operator of the Trans-Canada gas pipeline, was unwilling to transport gas from sellers such as Pan Alberta in Alberta. Thus, the gas producers, by developing frontier sources of gas hoped to bypass this monopoly held by Trans-Canada. See Helliwell, House of Commons, Standing Committee on National Resources and Public Works, 8-5-1975, 22:6. Clearly, this institutional problem was not the main factor in the industry’s emphasis on the frontiers but this serves as a reminder of the potential that key industry actors had in influencing the substance and direction of public policy in Canada.

\(^{156}\) In connection with this Helliwell notes: "Although the rapidity of swings in opinion, and the resulting loss of credibility, have led to substantial attempts to improve the quality of official forecasting of energy demand, the analysis of energy supplies and costs is still primitive, and hence tends to be excessively dependent on the currently perceived state of confidence within the energy industry." See Helliwell, J.: Canadian ..., (1979), op.cit. p.221.

\(^{157}\) For instance, only a total of 745 exploratory wells had been drilled in the areas North of 60 as compared with approximately 18000 wells drilled in the province of Alberta, an area much smaller in size. Thus, as late as 1975 the frontier areas were still almost unexplored. Compared with the most petroliferous regions in the U.S. even Alberta had not been very well explored.
control resource developments in Canada, an essential consideration for Ottawa was to have information available that would enable it to decide where to channel its future efforts.  

Industry Activity Levels

Throughout the period 1973-75 the number of wells drilled in the frontiers declined. \(^{159}\) Drilling costs rose considerably while industry expenditures remained stable in the areas North of 60° and declined from $73 mill. (1973) to $57 mill. (1975) on the East Coast. In the Western provinces, the number of exploration wells declined from a peak of 2049 in 1973 to 1531 in 1975, which was the same as in 1972. \(^{160}\)

More significant for future oil activities was the fact that the major oil companies left the Canada Lands and returned to the Western provinces. Mobil and Shell, which had been operating off the East Coast, announced a complete shutdown, and Imperial announced a large drilling program in the areas South of 60°, which it had not done for a large number of years. \(^{161}\) The fact that the majors moved back to Alberta is interesting in light of the fact that in the period 1974-75 no reserves by primary recovery were added, \(^{162}\) and the total amount of reserves added in the period 1970-75 did not exceed the number added in 1968, which was not a good year, but the best of the period 1967 to

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\(^{158}\) This argument for the federal government's "need to know" has been strongly emphasized by Pratt who also contends that it was the basic rationale for Petro-Canada. Pratt: Petro-Canada, op.cit.

\(^{159}\) The number of wells drilled in the frontiers declined from a peak of 107 in 1973 to 43 in 1975. Source: Oilweek, December 1974, 1975 and 1976.

\(^{160}\) Although the number of wells also declined between 1973 and 1975 in the Western provinces, this is mainly due to the fact that 1973 was an exceptional year.

\(^{161}\) See Oilweek, December 15/75. p.13.

\(^{162}\) Reserve additions in Alberta declined from 837.4 million bbl. in 1968 to 163.4 million bbl. in 1975. In 1976 Alberta's reserves declined by 86.9 mill.bbl. See See Helliwell et.al. 1987, p.342. This observation contradicts Pratt who contends that the industry returned to Alberta because of large discoveries. See Pratt; "Petro-Canada ...", op.cit., p.127.
1977.\textsuperscript{163} The majors moving back to the Western provinces suggests how political considerations interacted with economic ones in the corporate strategies of the oil MNCs.

Although the rapid cost escalation\textsuperscript{164} produced important disincentives to frontier development, the industry in general was much more optimistic about the prospects in the frontiers than the NEB reports have indicated.\textsuperscript{165} An important reason for reduced industry activity, especially in the frontiers, was the context of federal-provincial relations, in particular the price and revenue battles between Ottawa and Alberta. This conflict first squeezed the industry as both levels of government introduced new and more stringent royalty and tax regimes. Later, the conflict, by producing a bidding-war between the two levels of government, enabled the industry to extract important concessions from both levels of government. The changes in industry operations, from the frontiers to Alberta, was partly a function of the bidding-war but also a result of federal inability to control industry activity levels in the frontier areas, by means of the COGL. One factor that contributed to increased uncertainty about the status of resource development on Canada's East Coast was the fact that the province of Newfoundland in September 1973 submitted draft regulations to Ottawa to fill what the province considered as gaps in the COGL. Ottawa rejected the offer. The jurisdictional conflict did not die down after this but was kept alive for another decade as neither Ottawa nor Newfoundland was willing to renege on the jurisdictional claims each had.\textsuperscript{166} One factor which clearly increased the industry's influence was Ottawa's dependence on the oil industry for resource information, as revealed in the NEB's oil and gas

\textsuperscript{163} See NEB: \textit{Canadian Energy: Supply and Demand 1985-2005}, (Ottawa: Minister of Supply and Services, October 1986), Table A6-4, p.288

\textsuperscript{164} Drilling costs rose from $222.93 per foot in the offshore in 1973 to $662.40 per foot in 1975. In the areas North of 60°, drilling costs increased from $261.01 in 1973 to $434.88 per foot in 1975. Source: Oilweek, December 1974, 1975 and 1976.

\textsuperscript{165} See the forecasts presented by industry actors in the NEB oil/gas publications of 1974/75.

\textsuperscript{166} See Parts Three and Four for further details.
Summing up the situation in 1975 we note that Canada, although restricting oil exports, faced a net import dependence, which was projected to increase because no immediate alternative sources of supply were available to fill the gap. Further, and more alarming for the federal government, which entered this period with a strong commitment to develop the frontiers, was the fact that very much uncertainty emerged as to the likelihood of immediate or relatively early frontier development. Also, the significant decline in industry activity levels in the frontier areas exacerbated the problems facing federal decision-makers. It is clear that this outcome of events, although not as bad as federal officials thought, was the exact opposite of what the Trudeau Liberal government had intended to achieve with its policy of self-sufficiency.

**Canadianization**

Ottawa’s objective of Canadianization in this period is most closely related to the establishment of Petro-Canada. In addition, in this period Ottawa introduced foreign investment controls. Such controls would have a relatively limited effect on the role of established companies, however.

Petro-Canada, as noted, was adopted with very few restrictions on its operations. Nothing in the Petro-Canada Act would therefore prevent the corporation from becoming a large and powerful presence in all aspects of Canadian energy policy. Ottawa, in forming Petro-Canada, embraced the goal of Canadianization. In the next parts of the thesis, we discuss how Ottawa’s definition of Canadianization was expanded to include federal control of land and oil/gas resources in the Canada Lands; industrial spinoffs and Canadian sourcing requirements; and an expanded private-sector Canadian presence.
In terms of Ottawa’s objective of revenue distribution, Table II.1 reveals that Ottawa essentially failed in improving its relative share between 1973 and 1975.

<table>
<thead>
<tr>
<th>Time</th>
<th>Ind. Share</th>
<th>Fed. Share</th>
<th>Prov. Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec. 31, ’73</td>
<td>57.4</td>
<td>17.9</td>
<td>24.7</td>
</tr>
<tr>
<td>Apr. 30, ’74</td>
<td>41.9</td>
<td>9.1</td>
<td>49.0</td>
</tr>
<tr>
<td>May 6, ’74</td>
<td>20.6</td>
<td>24.0</td>
<td>55.4</td>
</tr>
<tr>
<td>Nov. 18, ’74</td>
<td>26.0</td>
<td>19.1</td>
<td>54.9</td>
</tr>
<tr>
<td>Jun. 23, ’75</td>
<td>38.3</td>
<td>19.1</td>
<td>42.7</td>
</tr>
</tbody>
</table>

This table further reveals how the federal-provincial conflict helped generate significant fluctuations in relative revenue shares in this period. Although the industry obtained important concessions in 1975, the overall share held by governments did increase significantly in this period. It should be noted however that the shares in question were applied against a greatly expanded total revenue which also means that industry profits increased in absolute terms.

Chapter Conclusion

Ottawa failed to make any real progress with its goal of self-sufficiency in this period. Nor did Ottawa succeed in obtaining an increased revenue share, even though it did establish the principle of taxing the oil industry on par with other sectors of the economy. The reasons for Ottawa’s failure relate to the structure of the aggregate Canadian state which helped channel the actions of expansionist governmental actors, both at the provincial and federal level, to concentrate on curtailing each other’s influence rather than that of the oil...
industry. The many objectives governmental actors pursued made it inherently difficult to balance incentives to convert to a high-cost future of oil and gas with the need to extract higher taxes. This difficult task was further compounded by the important role price regulation played in redistributing revenues between governments and between producers and consumers. Regulating prices below world levels was the single most important instrument available to Ottawa to prevent a huge accumulation of wealth in Alberta, Saskatchewan and British Columbia. The subsequent federal-provincial conflict reduced investor confidence by generating considerable uncertainty, an uncertainty that was underlined by the fact that no single government actor could establish a pricing regime or a tax and fiscal regime.

PART TWO: CONCLUSION

Part Two of this thesis has focused on the federal government's response to the international oil shock and subsequent events during the period 1973-75. The OPEC embargo in October 1973 was a major turning-point for Ottawa's role in the oil and gas sector. Ottawa, in response to an emerging oil import dependence, sought to establish a stronger federal government presence in the important oil sector to render Canada self-sufficient in oil and oil products.

A precondition for self-sufficiency and increasingly an objective in itself was Ottawa's emphasis on federal control over the operations of the oil and gas industry. This aspect of control was linked to other federal objectives such as revenue distribution and Canadianization. These objectives signified a federal commitment to alter its relationship to the oil and gas industry.

Tracking federal intervention in this period, few improvements in federal control over industry activities were found. Ottawa essentially failed in prompting industry to develop indigenous resources; at the end of the period
no measure was as yet in operation to ensure Canadianization; and Ottawa’s revenue distribution objectives fell short. Existing and new measures taken to ensure federal objectives in the energy field were clearly ineffective.

Part Two has revealed that the federal government’s response to world oil market changes, instead of promoting the development of indigenous sources of supply, was increasingly defined in distributional terms, and mainly along federal-provincial lines of conflict. The battle fought out along federal-provincial lines created considerable uncertainty over the direction of government policy, caught the oil industry in the middle by both levels of government squeezing it, and generated strong disincentives to industry investment by the government’s price regulation policies and budgetary measures.

The net upshot was that rather than effectively challenging the oil and gas industry, Ottawa found itself caught up in an intricate web of federal-provincial struggles. The net effects were the redefinition of a conflict which in other countries developed along state-industry relations, to become centred along federal-provincial issues and lines of conflict. The nature of the issues involved also changed, as the jurisdictional concerns of governments became dominant and informed and drove their energy-related concerns.

The events of this period presented federal and provincial decision-makers with a fertile yet traumatic ground for drawing a number of important lessons from the immediate past. One of the lessons federal officials drew was the continued need to curtail the influence of the oil industry. The speed with which such actions would be taken depended on a number of factors, among which international oil market events were to play a critical role.
PART THREE: FEDERAL INTERVENTION, 1976-79
INTRODUCTION TO PART THREE

Part Three of this thesis discusses federal energy policy in the period 1976-79. This time-frame coincides with the introduction of the Liberal government’s new energy strategy in 1976 and the election of a new Conservative minority government in May 1979. Ottawa, in 1976, introduced a more comprehensive and coherent energy policy framework, as a delayed response to the international and domestic disruptions of the period 1973-74. In adopting a neo-mercantilist response to the international oil market disruptions, Ottawa opted for a producer-oriented approach, emphasizing the federal government’s role as producer and entrepreneur. Ottawa, in 1976, reaffirmed and strengthened its commitment of 1973-75 to controlling oil and gas development, increasing Canadianization, and ensuring its goal of redistribution.

Apart from forming a national oil company and directing it to increase the evaluation and development of indigenous oil and gas resources, the federal government also introduced a number of other measures to enhance its control over the activities of the largely foreign-owned oil and gas industry operating in Canada. The basic apparatus adopted by Ottawa to ensure its energy policy objectives was a complex system of tax concessions and write-offs, price regulation, a new industry cash flow monitoring system, changes in the land management system in the Canada Lands, and Petro-Canada. In this period, the federal government’s ability to grapple with energy issues was expanded considerably, as EMR’s policy-making and evaluating role was further strengthened.

Although Ottawa placed considerable emphasis on controlling resource development, the evidence presented in this part of the thesis will suggest that Ottawa’s objectives were not reached. In the following four chapters, Ottawa’s new energy policy framework will be analyzed.
CHAPTER SIX: A CHANGING INTERNATIONAL CONTEXT

OPEC’s Market Power

The OPEC oil embargo of October 1973 led to spiralling oil price increases and evoked grave concerns among industrialized and non-industrialized oil-importing countries over the security of their oil supplies. The period 1976-79, compared to the volatile oil market of 1973-75, was a period marked by relative stability, and can best be understood as a time in which OPEC managed to assert itself as the dominant international oil price maker. OPEC’s command of a majority share of world oil production reflects the fact that in the 1970s every OPEC member wrestled control of oil production from the major international oil companies. Further evidence of OPEC’s market dominance is

1 Although the Iranian revolution took place in late 1978, it was several months after the fall of the Shah in January 1979, that the second supply and price interruption took place. In this thesis, the year 1979 will be included in Part Three which deals with the period prior to the second oil shock. The reason for including the year 1979 in this chapter is because we are primarily concerned with the Liberal response. Although it was the Conservative federal government under Joe Clark that took the initial crisis measures, Clark’s government proved very short lived, and the measures taken had little long-term effect on the shape and direction of federal policy. In fact, part of the reason for the Clark government’s fall was the way it handled the crisis.

2 Helliwell et.al. note that "By early 1977 ... there was enough confidence in OPEC’s stability to negotiate a longer-term, more structured pricing agreement, which raised domestic oil prices $1.00 per barrel every six months." See Helliwell et. al.: Oil and Gas in Canada: The Effects of Domestic Policies and World Events, draft prepared for the Canadian Tax Foundation, 1987, p. 44.

3 OPEC’s share of world crude oil production in 1973 was 56.9% and the organization’s share of non-communist world oil production was 69.3%. Its share of non-communist world oil production remained relatively stable throughout the period 1973-79. See Griffin, J.M. and D.J. Teece: OPEC Behavior and World Oil Prices, (London: George Allen & Unwin, 1982), p.14 for the raw data on which these percentages have been calculated. The source of the raw data was U.S.: Department of Energy: 1979 International Energy Annual, USDOE/E1A-0219.

4 OPEC sales of crude oil (in mmb/d) to the major oil companies declined from 21.1 mmb/d in 1973 to 14.1 mmb/d in 1979, with oil production rates basically constant. Further, direct sales of OPEC oil, both state-to-state and commercially, increased from 2.4 mmb/d in 1973 to 12.8 mmb/d in 1979. The main indicators of the structural changes that were taking place on the world petroleum market can be summed up as:
- OPEC ownership/entitlements to own crude rose from 2% in 1970 to 20% in 1973 and to 80% in 1979, signifying a dramatic increase in control
found in the organization's regular and structured price increases in the period prior to the fall of the Shah of Iran.\textsuperscript{5} A stable price increase, as compared with a relative decline in world oil prices in the 1960s, can be viewed as a sign of OPEC being sufficiently strong to abstain from having to invoke embargoes to retain its market dominance.

The record of OPEC behaviour throughout the 1970s revealed considerable disagreement within the organization as to appropriate price and output levels, and widespread price discounting by a number of countries took place.\textsuperscript{6} Saudi Arabia contributed more than its fair share to OPEC unity by essentially acting as a swing producer, adjusting its production rates to the trends in the market.\textsuperscript{7} Saudi Arabia’s actions can be viewed as the enlightened behaviour of an oligopolist rather than as an indicator of OPEC unity and comity. OPEC as

\begin{itemize}
  \item Direct OPEC exports rose from 7\% in 1973 to 42\% in 1979
  \item The share of state-to-state deals rose from 7\% in 1973 to 24\% in 1979
  \item The majors’ share of OPEC oil declined from 93\% in 1973 to 58\% in 1979
  \item The majors’ share in world oil trade fell from 90\% in 1973 to 42\% in 1979
\end{itemize}


\textsuperscript{5} The official price of Saudi Arabian Light Marker Crude Oil rose from $(US) 10.46 on March 1, 1974 to $11.51 on October 1, 1975. Between October 1975 and January 1, 1977 it rose from $11.51 to $12.09. Between January and July 1977, it rose an additional $.61 to $12.70. Between July 1977 and January 1, 1979 it rose an additional $.64 to $13.34. Between January and April 1, 1979 which was the last regular increase, it rose to $14.55. After that the price of oil started skyrocketing, climbing almost $3.50 in two months, from $14.55 on April 1, 1979 to $18.00 on June 1, 1979. Between June and November 1979 it rose another $6.00, to $24.00. Source: Lieber, R.J.: The Oil Decade: Conflict and Cooperation in the West, (New York: Praeger, 1983), p.16.

\textsuperscript{6} Griffin and Teece, op.cit., p.11. OPEC countries had adopted development strategies which differed in terms of the needs for oil-generated revenue. Saudi Arabia and Kuwait were among the slow developers and had the least immediate need for revenues, whereas pre-revolution Iran, and Libya and Nigeria were among the countries most strapped for cash.

\textsuperscript{7} In this sense Saudi Arabia replaced the Texas Railway Commission which had earlier played this de facto regulatory role. See Richards, J. and L. Pratt: Prairie Capitalism, op.cit., pp.51-54. on the role of the TRC. Saudi Arabia’s percentage market share of OPEC members’ production ranged between 27.1\% and 36.8\% in the period 1976-80. See Griffin and Teece, op.cit., p.13.
an organization never threatened or challenged the sovereign rights of individual member countries to control their indigenous oil production. OPEC production quotas emerged after often lengthy negotiations among individual member countries and the agreements were generally compromises. Further, considerable political instability within individual OPEC countries - most clearly evidenced in the Iranian revolution and the ensuing Iran-Iraq war, but also seen in Kuwait and Saudi Arabia - made it even more difficult to predict the future stability of OPEC as an organization or a price-fixing cartel. Such internal instability was fuelled by political power struggles, religious rivalries, and economic factors. The fact that OPEC's member states had widely divergent absorption capacities, and pursued different modernization strategies, placed added strain on the organization, and clearly affected the organization's price and output decisions.

OPEC's market predominance combined with the many tensions inside the

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6 It has been argued that actual oil price increases in the period 1974-79 were significantly lower than inflation-adjusted or indexed oil prices would have been. For this argument, see Al-Chalabi, F.J.: OPEC and the International Oil Industry: A Changing Structure, (London: Oxford University Press, on behalf of the Organization of Arab Petroleum Exporting Countries (OAPEC), 1980), p.95. Oil-exporting countries have used this argument to support their claim that even after the OPEC oil embargo world oil prices did not reflect their "real" commodity value. Thus, they claim that OPEC's actions were not only justified but also quite moderate. The figures presented by Al-Chalabi, however, did not include the two oil price shocks and therefore the most important price increases. Further, many economists argue that the inflation of the 1970s was a "cost-push" inflation which was caused by rapidly increasing commodity prices, of which the price of oil was one of the most important components.

9 Noreng argues that the OPEC countries can be divided in two groups, with the main differences related to different production profiles and needs for production incomes. Ironically, the most populous countries with the highest absorptive capacity also had the lowest oil reserves. Noreng's first group consists of Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Libya, Nigeria and Venezuela. Their high population-to-reserves ratios have tended to produce high financial requirements and little flexibility in terms of production strategy. The second group consists of Kuwait, Qatar, Saudi-Arabia and the United Arab Emirates. These countries have very low absorptive capacities but possess large reserves. Their long production profiles and low populations tended to generate low financial requirements and considerable flexibility in terms of production rates. See Noreng, O.: Oil Politics in the 1980s: Patterns of International Cooperation, (New York: McGraw-Hill, 1980), pp.63-73. Such differences not only led to many discussions between the two groups but also put considerable pressure on Saudi-Arabia, with the largest reserves and most flexibility, to play the role of the balancer.
organization to play an important part in shaping the responses of oil-importing countries. OPEC had established itself as an important driving force, and succeeded not only in initiating the oil embargo, but managed to reduce production to pick up the slack in oil prices, when the economic recession set in. OPEC's ability to keep oil prices firm in a period of falling demand, and later to push oil prices up,\(^\text{10}\) revealed that it was an important political force. Energy politics, and especially oil politics, in the period after the OPEC oil embargo, thus moved from the stage of "low politics" to be ranked among the "high politics" concerns of states. Energy politics became a high politics concern, first because OPEC took control of the world oil market, and second, because political factors within OPEC, often beyond its control, affected its decisions. It is also when policy issues are defined and addressed as high politics concerns that states become most strongly preoccupied with order, rule and control.

**National Adjustment Strategies: A Classification**

After the initial responses to the OPEC oil embargo, the industrialized world, in particular, sought to develop long-term measures to reduce their dependence on OPEC oil. Characteristically, government responses to crisis events and other important changes often involve considerable time-lags associated with the difficult and time-consuming process of writing and passing new legislation, instituting changes in public perceptions and established behavioural patterns, and challenging vested interests.

The main underlying trend on the world oil market, as it was seen at the time, was a secular change in the relative bargaining relations between multinational oil companies and OPEC. Yet, this transition was neither clear

\(^{10}\) Individual countries had attempted this before OPEC was formed in 1960 and OPEC tried it in the 1960s. Supply disruptions took place in the Iranian boycott of 1951-53, the Suez crisis in 1956-57 and the 1967 Six-Day War. The embargo launched by the Arab countries in 1967 entailed a 12% cut in output but the cut only lasted for one month. Increased production in the United States and elsewhere rendered the embargo ineffective. Source: EMR: Energy Security in Canada, op.cit., pp. 5-6.
nor complete. Although the changes signalled a shift from MNC dominance to OPEC predominance, of almost equal importance was the new-found power of individual oil-producing and exporting states, both to follow and challenge the collective decisions of the organization. Thus, central decision-makers in oil-importing countries were faced with considerable uncertainty. This uncertainty is partly reflected in the different problem definitions and adjustment strategies of the various oil-importing countries. Ikenberry notes:

A multitude of national security, economic, and political challenges confronted the advanced industrial states. But unlike war, where the threat is observable and lines of conflict quickly become apparent, the oil shocks cast up problems of energy security, economic adjustment, and industrial competitiveness. These international dilemmas could be defined in various ways, and a host of policy responses could be brought to bear upon them.11

The situational definition of the problems clearly affected the problem responses. Ikenberry identifies three basic adjustment strategies in response to the OPEC oil embargo and the subsequent oil price increases. These strategies are termed "neo-mercantilist adjustment", "competitive accelerated adjustment" and "defensive market response".12 Apart from dealing with different aspects of the problems facing oil-consuming and importing countries, these strategies also differ systematically in the degree of state intervention prescribed and exercised. Ikenberry's classification, we have noted, serves as a useful heuristic tool for a better comprehension of the Canadian reaction and for an improved understanding of the choices not taken by Canada. The discussion of these three adjustment strategies - the choice of which Ikenberry links to largely idiosyncratic state structural configurations and state-society linkages (which produce differences in state capacities and state organizational structures but which can not be ranked on a uni-dimensional scale or ranking of state power) - helps clarify some of the inherent biases


12 Although Ikenberry's article focuses on the United States, West Germany, Japan and France and includes both the OPEC oil embargo of 1973 and the Iranian revolution, the framework has a much wider application in terms of cases and can also successfully be used when analyzing events in the period 1976-79. ibid.
and policy dependencies facing the federal state in Canada.

The "neo-mercantilist" adjustment strategy was essentially a national and government-sponsored (and/or government-owned) program for a controlled development of indigenous sources of energy. This strategy, which emphasized the role of the state as a producer of energy, was also clearly a sector-specific strategy. The neo-mercantilist strategy was preoccupied with the notion of security of supply and defined the problem as one of "national control over foreign energy sources". The basic policy responses entailed nationalization of one or several energy firms, negotiated state-to-state energy contracts, and an active state role in the development of indigenous sources of energy (whatever they may be). Ikenberry considered France to be the clearest example of this strategy, with its heavy emphasis on the development of nuclear power. Ikenberry also noted that Canada's strategy most closely resembled a neo-mercantilist one.

The second adjustment strategy Ikenberry terms "competitive accelerated adjustment". This strategy which relies less on direct state intervention and more on market forces, defined the problem as one of general industrial competitiveness rather than security of supply. As such the policy measures were not confined to the energy sector but instead encompassed all sectors. The role of the state in devising this strategy, according to Ikenberry, was one of negotiation within the framework of intersectoral industrial adjustment and industrial policy. This strategy entailed measures to move away from energy-intensive industries. Further, important measures were taken to encourage increased energy conservation and fuel efficiency. The countries that adopted this adjustment strategy were Japan and West Germany.

The third strategy Ikenberry termed "defensive market response". This response which envisaged the role of the state as one of facilitator placed the emphasis on the price mechanism to shape production and consumption decisions. The United States increasingly came to adopt this strategy, in particular after 1980. This strategy, it was thought, would, in the case of rising world oil and

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13 ibid., p.110.
energy prices, stimulate production and reduce consumption. The defensive market response strategy emphasized the development of indigenous resources, characteristic of the neo-mercantilist strategy, and fuel efficiency and conservation, as in the competitive adjustment strategy. The main difference between defensive market response and the two first strategies, is that in the defensive market adjustment strategy the state's role is largely one of a passive bystander. All the three adjustment strategies would allow domestic energy costs to reflect international oil price levels.

The Canadian Response

As early as 1973 Ottawa, in stressing the need for self-sufficiency through the development of Canada’s indigenous resources of oil and gas, adopted a neo-mercantilist and production-oriented adjustment strategy. The decision to establish Petro-Canada with a mandate to increase the evaluation and development of indigenous energy resources placed the federal government in the role of oil and gas producer. Ottawa expanded the role and importance of existing policy and regulatory instruments such as federal tax and fiscal measures, federal tax (and later grants-based) incentive schemes, and the federal land management system in the Canada Lands. The tax, fiscal and incentive systems were intended to induce certain industry behaviour while

14 Canada has a long-standing tradition of public enterprise, which also includes the energy field. Examples are, on the federal side, Atomic Energy of Canada Ltd. (AECL, formed 1952), Eldorado Nuclear Ltd. (1944), Uranium Canada Ltd. (1971), Petro-Canada (1975), and the many energy holdings of the Canada Development Corporation (CDC, formed in 1971). See Langford, J.W. and K.J. Huffmann: "The Uncharted Universe of Federal Public Corporations", in Prichard, J.R.S. (ed.): *Crown Corporations in Canada: The Calculus of Instrument Choice*, (Toronto: Butterworths, 1983), pp.233-273. The most important mixed public-private enterprise in the oil and gas field is Panarctic Oils Ltd. A number of state enterprises have also emerged in the various provinces. Limiting the scope to the field of oil and gas, examples are Alberta Energy Corp. (AEC is a mixed public-private corporation formed in 1973. BC Petroleum Corp. (1973), Ontario Energy Corporation (1975), Saskatchewan Oil and Gas Corp. (SASK-OIL, formed 1973), and Societe Quebecoise d'Initiatives Petrolieres (SOQUIP, formed in 1969). Since the mid-1970s Newfoundland and Nova Scotia have also formed provincial Crown corporations in the petroleum field. For this listing see Vining, A.R. and R. Botterell: "An Overview of the Origins, Growth, Size and Functions of Provincial Crown Corporations", in Prichard, p.359.
simultaneously ensuring Ottawa of adequate returns. Since these measures were clearly intended to enable the federal government to exercise increased control over industry activities, and in particular over the activities of the oil MNCs, they must also be viewed as intrinsic parts of a neo-mercantilist adjustment strategy. The land management system was the prime mechanism by which to ensure that industry undertake activities in the areas under federal jurisdiction, within the parameters established by Ottawa. This mix of federal mechanisms enables us to understand the full scope of Ottawa’s role as producer in the larger context of state-industry relations.

The decision to phase-out oil exports to the United States also revealed that Ottawa emphasized a national strategy. The Canadian response was one that sought to equate increased federal government control with a nationally oriented adjustment strategy.\(^{15}\)

A neo-mercantilist adjustment strategy, according to Ikenberry, presupposes considerable governmental institutional capacity, not only represented by state-owned enterprises, but also by "central planning and high levels of government organizational capacity".\(^{16}\) In Canada, prior to 1973, the federal government had possessed little relevant energy planning capacity. After 1973, however, and in particular in the late 1970s and early 1980s, the federal government’s capacity to address energy concerns increased significantly, as Ottawa became increasingly concerned with becoming an oil producer.

In Canada a critical institutional variable interfered with the federal government’s attempts to become a producer. The issue of who determines and where energy policy was to be decided, became a major political issue after 1973 in Canada. The federal government’s claim to ascendancy was widely

\(^{15}\) In Canada, the existence of provincial ownership of oil and gas resources within provincial bounds has made producing provinces such as Alberta and Newfoundland argue for the merits of a provincially based adjustment strategy. In fact, Canada may be quite unique in the low level of "systemic legitimacy" of a federal position that equates a federal with a national adjustment strategy.

\(^{16}\) See Ikenberry, op.cit. p.112.
challenged by producing (and future producing) provincial governments with a very different view of what constituted the national interest and which also took actions to shore up their control over oil and gas production. This thesis argues that the deep-seated federal-provincial conflict of 1973-75, fought mainly over pricing and taxation of oil and gas, redefined the federal government’s adjustment strategy from an emphasis on indigenous resource development to stressing the jurisdictional concerns of governments. The federal price freeze, in the absence of continued self-sufficiency, in fact contributed to increased consumption and heightened import-dependence. While the effects of the strategy may make it hard to accept this as a viable adjustment strategy, it is quite obvious that a country that embarks upon a policy of price regulation below world oil price levels sets itself apart from the world oil market and places even more emphasis on the development of indigenous resources than do countries that adopt world oil prices. Therefore, Canada’s adjustment strategy was a neo-mercantilist strategy. But the Canadian case also differs from the countries discussed by Ikenberry in the degree to which the Canadian strategy revolved around a number of governmental actors, concerned with defending and expanding their jurisdictional rights, maximizing revenues, and ensuring oil and gas production. Each actor had powers to influence resource development and ability to block the actions of other governmental actors.

Chapter Conclusion

Canada’s response to the world oil market changes was two-fold: it was neo-mercantilist in the role played by Canada as an oil importer, emphasizing security of supply. The federal government’s response was neo-mercantilist also because Ottawa, by becoming actively involved as an oil explorer and producer, emphasized the need for increased national control over the rate and location of indigenous oil and gas development. An intrinsic part of this reaction was to devise new policy instruments and also to increase policy-making and
administrative capacity, in particular in the Department of Energy, Mines and Resources. A central aspect of Ottawa’s attempts to deal with market insecurities, the power of the oil MNCs, and the need for a more long-term energy strategy, was the federal government’s introduction of a new energy strategy as set out in the White Paper published by EMR in 1976.
CHAPTER SEVEN: FEDERAL OBJECTIVES

Chapter Introduction

In 1976 the federal government introduced a new energy policy framework for Canada. Ottawa reintroduced a commitment to the development of indigenous oil and gas resources, introduced a host of new policies to ensure Canadianization, and sought to obtain a larger share of oil and gas revenues. The new energy policy framework outlined Ottawa’s objectives more explicitly than before and included a set of policy measures to address these concerns. After the heated intergovernmental exchanges of the period 1973-75, Ottawa introduced policies to respond to a changed international and domestic context. Compared to the framework that evolved during 1973-75, the new federal policy program was more sector-specific and energy-oriented. Ottawa in 1976 sought to shift its focus from intergovernmental and jurisdictional concerns to more clearly energy-specific ones. While far from ignoring its concerns in the intergovernmental arena, the basic thrust of the new federal energy policy was to ensure the security of Canada’s future supplies through the development of additional supply capacity, increased Canadianization, and expanded federal share of the proceeds from current and future oil and gas production. The new federal energy policy was labelled self-reliance.

Self-Reliance

Both levels of government increasingly, after the main clashes of the period 1973-75, sought to devise policies that would ensure oil and gas development in Canada.\(^\text{17}\) While cognizant of the importance of oil and gas development, Ottawa found it even more important than before to ensure federal control over the activities of the oil industry. This commitment is most

\(^{17}\) As noted in Part Two, Alberta took such measures as early as 1974, in response to the federal budgets. New federal measures intended to stimulate development emerged in 1975/76.
clearly evidenced in the policy measures adopted by Ottawa in this period.

Ottawa’s objective of "energy self-reliance", was defined in the following manner:

The overall objective of the national energy strategy which the Government of Canada has adopted is energy self-reliance. Self-reliance in energy can be measured by the degree to which we are independent of imported oil from insecure sources: the greater our independence, the greater our self-reliance. We do not necessarily want to eliminate oil imports. We do want to reduce our vulnerability to arbitrary changes in price or prolonged interruptions in supply. This we can accomplish: first, by reducing our oil imports to the greatest extent possible and desirable in the context of our general economic, environmental and social objectives; second, by ensuring that we maintain a degree of emergency preparedness sufficient to withstand possible supply curtailments with minimal economic and social consequences.\(^\text{18}\)

Self-reliance was presented as a commitment to adequate security of supply. Did the adoption of the goal of self-reliance represent a change in federal objectives between 1973 and 1976? Self-reliance emphasized security of supply rather than autarchy and signalled that a change in federal objectives had taken place. The adoption of self-reliance instead of self-sufficiency, indicates that Ottawa replaced absolute security of supply with relative security of supply, because a country that is self-sufficient by definition experiences complete security of supply. The federal government’s adoption of the goal of self-reliance seems to indicate that Ottawa in 1976 was willing to endure an increased degree of insecurity, compared with what it sought in 1973.

A number of factors militate against such an interpretation, however. Ottawa continued to reduce oil exports to the United States,\(^\text{19}\) thereby confirming its resolve to ensure Canadians of adequate supplies. More importantly, Ottawa’s self-sufficiency objective changed less than the premises upon which it was based. New resource forecasts generated serious doubts about Canada’s ability to become self-sufficient, at least in the short to medium term, and the economic costs associated with the development of additional


\(^{19}\) This resulted in large quantities of shut-in oil in Western Canada.
supplies were becoming more apparent in this period. This new realism was closely related to a more sharply focused federal concern with specific energy issues. Ottawa's new realism stressed the need to make important trade-offs between politics and economics. Such trade-offs were less important when jurisdictional conflicts had dominated the scene. While emphasizing the need for trade-offs, Ottawa's concern with self-reliance was no less politically motivated than self-sufficiency had been, only now Ottawa defined the nature of its dependence on the industry more clearly and initiated a number of additional measures to address this. The expanded role of EMR, and in particular its energy policy division, as a central bureaucratic actor, also helped foster a more sharply focused federal energy policy. As a corollary to this, Ottawa's institutional, administrative and regulatory capacities in the energy field were examined and expanded.

Self-Reliance and Import-Dependence

The operationalization of self-reliance into a set of workable policy propositions hinges on which degree of import-reliance that can be reconciled with security of supply. The notion of Canada as rapidly running out of low-cost conventional oil, and the high costs associated with the development of Canada's indigenous oil and gas resources, helped convince the government to accept a higher degree of import dependence. The White Paper published by EMR defined as one of the specific targets under the heading of self-reliance "To reduce our net dependence on imported oil in 1985 to one third of our total oil demands." See EMR: An Energy Strategy, op.cit. p. 124. The document fails to provide any rationale for the adoption of one third instead of any other number. An examination of the different demand and availability scenarios listed in the White Paper reveals that the high-cost scenario with the projected tar sands development would generate a shortfall of 949 000 bbl/day or 40.2%. If the low-price scenario was adopted, the supply shortfall would constitute 1172 000 bbl/day or 47.2%. EMR, ibid. Tables 12 and 13. Additional supply capacity would therefore be needed for the government to attain its objective. In the high-price scenario roughly 162 000 bbl/day would be needed and the low-price scenario would require 344 000 bbl/day.

Availability of oil, both under a high-price and a low-price scenario, was projected to fall short of demand from 1980, and the shortfall would increase from then on. ibid., Figure 26, p.88.
in 1976 noted that:

(T)he risk exists that determined and successful efforts by Canada and other countries to develop higher-cost resources could shift the global supply/demand balance for OPEC oil to the point where international prices may fall below the costs of additional Canadian energy supplies, leaving Canadian consumers at a competitive disadvantage vis-a-vis importers of OPEC oil. Paradoxically, the greater the degree to which those countries that have high-cost resources develop those resources, the greater the possibility that world supplies will increase to the point where OPEC can no longer sustain its control over international oil prices. Should this occur Canadians could face the prospect of paying relatively more than other consumers for the bulk of their energy supplies. To the extent that positive action is not taken to develop this potential, however, the durability and effectiveness of OPEC will increase. Canadians will be exposed to the risks associated with increased dependence on relatively few foreign suppliers, some of whom have already demonstrated that their control over the international oil market may be exercised for political as well as economic ends.\textsuperscript{22}

The White Paper published by EMR thus formulates a dilemma facing countries that adopted a neo-mercantilist adjustment strategy, namely having to choose between political uncertainty associated with continued import dependence and the enormous economic costs of energy autarchy.\textsuperscript{23} The above quote reveals that the federal government - and in particular EMR - was becoming increasingly aware of the economic costs associated with the development of additional supplies of oil and gas. Simultaneously, the statement also underlines the close relationship that existed between political and economic factors. This relationship made solutions that emphasized the political aspects of energy potentially very costly economically. On the other hand, strategies that emphasized economic factors became politically risky solutions. Ottawa therefore tried to assess the relative importance of political versus economic factors. This was a difficult choice with the only assurance that whatever actions were taken costs and risks would be involved. This difficult balancing

\textsuperscript{22} See EMR, An Energy Strategy, ibid., p.26

\textsuperscript{23} The neo-mercantilist adjustment strategy clearly entails the lowest degree of import dependence of the three adjustment strategies listed above. Yet, a neo-mercantilist strategy that is based on developing indigenous sources of petroleum also renders the country very dependent on OPEC actions until such an adjustment is complete. And, as the White Paper noted, even when the adjustment was complete, Canada could lose out because of the economic costs associated with this adjustment strategy.
act would also be influenced by the degree to which jurisdictional concerns entered the federal and provincial decision-making processes.

Canada locking itself into the development of high-cost future sources of supplies, in particular from the frontiers and the tar sands, clearly demonstrated the high economic costs that were involved in solutions that emphasized autarchy. But inaction could have even more disastrous consequences because it could lead to increased import dependence and prices even higher than those facing Canada if it developed its own resources. When faced with a volatile and uncertain future in which crises may emerge, governments always seek to maintain order and control. This emphasis on order also colours the policy responses of governments.

Ottawa's decision to let domestic oil prices move closer to world oil prices could lessen the dilemma outlined above because the White Paper clearly recognized the negative effects price regulation below world prices would have on energy conservation and interfuel substitution.24 Ottawa's new energy strategy, however, retained price regulation and did not adopt world prices.25 Even though Ottawa in 1976 and 1977 introduced measures to reduce the average rate of growth of energy use in Canada, these measures were not overly effective.

The goal was to reduce the growth rate of energy use in Canada over the coming ten years to less than 3.5% per year.26 The main problem facing Canada was not the high level of energy consumption, even though Canada had the second highest energy consumption level in the world.27 More important was the rapid

25 In 1974 oil's share of primary Canadian energy demand was 54.5%, in 1975 it was 54%, in 1976 it was 51.3%, and in 1977 it was 49.9%. Source: NEB: Canadian Energy: Supply and Demand 1985-2005, October 1986, Table A3-1. Increased oil prices did have an effect on oil conservation, because oil's share declined from 1976 onwards when domestic oil prices were allowed to rise. But a more rapid price rise would have generated even larger savings.
26 EMR: An Energy Strategy, op.cit., p.129
27 ibid. p.130
rate of increase in Canadian energy consumption coupled with the fact that Canada was rapidly running out of conventional low-cost oil.\(^28\) Conservation efforts could reduce the rate of increase and lessen the need to develop large new sources of energy.\(^29\) The White Paper presented by EMR noted that:

\[\text{(R)ecently introduced mileage standards for automobiles can result in a reduction of gasoline demand in 1985 to levels 20% below 1975 consumption, even after allowing for continued growth in the number of automobiles. The energy saving resulting from these new standards in 1985 could be equivalent to the annual output of two Syncrude-size oil sands plants at a capital cost in excess of $4 billion.}\]

Although much emphasized by the federal government, these measures had little or no immediate effect on Canadian energy consumption. Apart from the targets set for mileage standards, the measures are vague and give few indications as to the overall level of savings to be made in the medium and long-term. Ottawa's conservation measures had little or no tangible effects on Canadian oil consumption in the period 1976-79. Consumption of oil rose and other measures were needed in order to deal with the problem of Canada running out of conventional oil.\(^31\)

\(^28\) Over the thirteen years from 1960-73 energy use per capita increased by almost 4\% p.a. Between 1970-73, it grew by over 4.25\% per year. ibid., p.130.

\(^29\) It has been widely discussed whether (or to what extent) there is a direct relationship between energy consumption and economic growth. The evidence presented so far seems to indicate that there is a relationship but it is not one-to-one. Canada's high consumption suggests that a large potential for energy saving existed.

\(^30\) EMR: An Energy Strategy, op.cit., p.131 The basic measures announced in February 1976 were: first, new mileage standards for automobiles sold in Canada. Each automobile manufacturer and importer with significant sales volume in Canada would be required to meet sales-weighted fleet-average targets of at least 24 miles per gallon by 1980 and 33 miles per gallon by 1985. Second, new guidelines for the design, construction and operation of energy-efficient buildings were to be completed by the end of 1976 and, third, minimum energy-efficiency standards for furnaces and appliances were to be introduced.

\(^31\) Total Canadian oil requirements rose from 79.81 million metric tons in 1973 to 90.78 MMTs in 1979, an increase of 13.7\%. Total oil requirements for OECD in the same period rose from 1874.69 to 1942.72 MMTs or an increase of 3\%. Source: OECD/IEA, Paris 1987. The figures for OECD oil consumption plunged significantly in 1974/75, whereas Canadian consumption did not. Also, the conservation measures that were to deal with oil consumption specifically, were not scheduled to come into effect until 1980. The transportation sector - the sector of the economy most dependent on oil - revealed a significant increase in demand in the period 1973-79, increasing from 1535.9 petajoules in 1973 to 1922.2 petajoules in 1979, or an increase of 25\%. Finally, although oil's
The federal government's high-cost options were also affected by other factors primarily related to the bargaining strength of the major oil companies. Syncrude is a case in point. In order for development to proceed, Ottawa (and Alberta and Ontario) provided financial support. In addition, Ottawa guaranteed the project world prices, provided tax concessions and exemptions, and trimmed front-end costs. These important concessions granted Syncrude by both levels of government threatened to establish a precedent for future government-industry bargaining. The terms granted the industry were so generous that, from a federal revenue perspective, large-scale tar sands development could be quite unattractive. Also, a large-scale tar sands development along the same lines as Syncrude could increase future foreign ownership levels.

Self-Reliance as a Political Goal

Ottawa, in drafting its new energy strategy in 1976, found that not only was Canada rapidly running out of conventional oil but the main alternative sources of oil (and gas) were associated with high economic and political costs and risks. This not only applies to oil imports and the tar sands but also to frontier oil and gas.

Another important factor prompting the new federal realism and which affected Ottawa's future supply options were the changed resource forecasts. In response to the NEB's forecasts of 1974-75 which predicted that Canada was

relative share of energy consumption declined in the period 1973-79, from 44.6% in 1973 to 41.2% in 1979, the decline started before the federal conservation measures were taken.

32 Ottawa paid $300 million for a 15% share of the project, Alberta provided $200 for a 10% share and Ontario contributed $100 for a 5% share. See Pratt, L: The Tar Sands: Syncrude and the Politics of Oil (Edmonton: Hurtig, 1976), p.175.

33 ibid., p.180.

34 See Part Two of this thesis.
rapidly running out of low-cost supplies of oil and gas, Ottawa started stressing the "need-to-know." Only a clear understanding of the physical and economic characteristics of Canada's resource base would enable Ottawa to develop a coherent energy policy. EMR's ability to evaluate the physical extent and economic viability of the resource base was still limited. An intrinsic part of this emphasis on the "need-to-know" was therefore to shore up the federal government's ability to plan and control petroleum development in Canada. This would catapult Ottawa into a more prominent role in Canadian resource development. It would also enable Ottawa to strike a better balance between economic and political concerns.

An important target under the heading of self-reliance was to increase exploration and development in the Canada Lands. The intention, as set out in the White Paper was:

To double, at a minimum, exploration and development activity in the frontier regions of Canada over the next three years, under acceptable social and environmental conditions.

Decisions that must be taken with regard to future energy supply require an adequate understanding of the various options. This understanding depends critically on the extent of our knowledge about ultimate recoverable energy resources in Canada - their magnitude, location and anticipated costs. 35

This target, EMR estimated, would require exploration and development expenditures of $10 billion (in 1975 dollars) over the period 1976-80. This meant annual investments of roughly $2 billion, of which EMR estimated 70% would be for exploration. 36 The actual bringing to production of these areas would require a much larger investment than the $10 billion cited above, however. EMR notes that a "a reasonable exploration and development program


36 Helliwell et al.,(1987), in comparison, estimate total frontier exploration expenditures at $696.9 million in 1976. Actual industry exploration expenditures for the period 1976-80 amounted to $4396.8 million, of a predicted $7 billion, a shortfall of roughly $2.6 billion or 37%. Of this, figures presented by Helliwell et al. indicate that the corporate contribution was $800.1 million or 18%. See Helliwell et al., 1987, op.cit. Tables 9.3 and 9.4. Thus the federal government's actual contribution to frontier exploration was roughly 82% in foregone tax revenues and grants.
would require about $40 billion, measured in dollars of 1975 purchasing power, over the next 15 years." Therefore, in terms of oil, Ottawa’s main emphasis was to encourage exploration.

Ottawa’s emphasis on channelling industry activity to the Canada Lands, was motivated by the need to reduce future import dependence and increase Ottawa’s future policy options. This strategy was not internally consistent and could evolve from the "need-to-know" to the "need-to-develop". Such a development would make Ottawa’s task of controlling industry activities all the more difficult. In the following pages of Part Three it will be revealed that the structure and operation of Ottawa’s existing policy instruments, the Ottawa-Alberta conflict and the evolving jurisdictional conflicts on Canada’s East Coast, a supply-oriented federal adjustment strategy, and the pattern of industry influence, served to complicate Ottawa’s already difficult balancing act. From this it will be seen that Ottawa not only faced the difficult task of finding an appropriate balance between the economic and political costs of import dependence; the problem was three-dimensional rather than two-dimensional because the jurisdictional concerns of governments interfered and altered the weights on both sides of the scale, and at times even rendered this balancing act largely irrelevant.

Canadianization

An intrinsic part of Ottawa’s new energy policy framework was a commitment to Canadianization. EMR noted that "the Government of Canada is committed to higher levels of Canadian content and participation in resource development". Now Ottawa embraced Canadianization as a more explicit federal objective than it had done during 1973-75. In the oil and gas field, the measures to ensure Canadianization were:

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38 ibid., p.146.
- legislation concerning Canadian oil and gas land regulations to be introduced to Parliament shortly which will facilitate greater Canadian participation in exploration and development of Canada Lands;

- the entry of Petro-Canada into exploration and development;

- guidelines with regard to Canadian content in resource-related activities on Canada Lands, particularly with respect to engineering and project management at the development stage.\(^39\)

The White Paper revealed a federal resolve to strengthen its entrepreneur and landlord roles in the Canada Lands. After years with promises of reform, a firm commitment was given to reform the system of rights issuance and land management in the Canada Lands. The White Paper did not specify the exact timing of the proposed legislation, its main provisions, and whether it would encourage public or private-sector ownership and control. In fact, from the White Paper it was not clear whether the main thrust was ownership and control over companies or of the resource-base. While the report expressed the need to establish Canadian content guidelines, it did not specify their magnitude, nor did it make any mention of whether such criteria would be competitively based.

The White Paper expressed a strong commitment to Canadianization and listed policy instruments linked to this, but did not provide clear guidelines for the specific role of these instruments and how they would fulfill Ottawa's objective. Therefore, while it is undoubtedly true that Ottawa, in emphasizing Canadianization, sought to reduce the power of the oil MNCs, the exact size or magnitude of the challenge was not specified in the White Paper. Rather, the status and relative importance of Canadianization as a federal objective may be determined through the analysis of the key instruments established by Ottawa to ensure this objective. The analysis of federal policy measures is the topic of the next chapter of this thesis.

Revenue Distribution

Ottawa's objectives in terms of revenue distribution were also made explicit in the White Paper published by EMR in 1976:

\(^{39}\) ibid.
The fiscal changes that were introduced were intended to achieve a distribution of the unanticipated revenues arising from higher price that would: first, leave the industry with a competitive rate of return and with sufficient cash flow to meet its financial obligations and to undertake the exploration and development Canadians require and expect; second, allow an appropriate return to the producing provinces in recognition of both their rights of ownership and the depleting nature of their resources; and third, preserve a reasonable share of the resource revenues generated by a healthy and mature petroleum industry for the federal government on behalf of all Canadians.  

Ottawa retained the existing tax and fiscal system in the areas that were under provincial jurisdiction. Ottawa in this period sought to fine-tune the system it had at its disposal, to avoid new disruptive effects, rather than establish a new Canada-wide system.

But Ottawa introduced new measures in the Canada Lands to alter future federal-industry distribution patterns. A new and more generous exploration incentive system was established in the Canada Lands, to attract more Canadian investment and increase the rate of exploration. As part of a changed land management regime, a new and more stringent royalty and taxation system in the Canada Lands was planned. Therefore, while Ottawa reduced the front-end loading, it intended to recapture and benefit from its investment through significantly increased future royalty and tax returns from oil and gas production in the Canada Lands.

Ottawa’s new incentive strategy signalled a certain federal emphasis on the need to distinguish between different sources of supply, and the main distinguishing factor here was whether the resources were under federal or provincial jurisdiction. This change could have important future intergovernmental redistributive effects, if and when the Canada Lands began to produce oil and gas.

In terms of the distribution pattern between consumers and producers, Ottawa retained the export tax in order to utilize the export charge as "a transfer payment from exporters of Canadian oil to importers of oil in

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40 ibid.
41 ibid., pp.37-38.
Canada. The decision to move Canadian oil prices closer to world market levels indicated a federal commitment to reduce the subsidies to consumers generated by the price differential. But Ottawa's main justification for moving the oil price closer to world levels was developmental in nature:

With regard to frontier exploration, it is the view of the federal government that the current price does not afford sufficient incentive for the level of activity that will be necessary to assess adequately the magnitude and location of frontier resources, and to develop them. The great bulk of our potential frontier resources cannot be discovered, produced and delivered to markets and yield a commercially attractive rate of return at current Canadian prices. The basic incentive problem with regard to frontier production ... is not one which can be corrected by fiscal modifications. What is required is a market price sufficient to cover high-risk, high-cost exploration and development.

Ottawa, in the new energy strategy, placed more emphasis on the need for development than had been done earlier. This included attempts to redirect federal interventionist means such as price regulation, from concern with distribution to development, use Petro-Canada for development, put in place new generous drilling incentives, and introduce a new land management system to spur frontier development. Apart from expanding Ottawa's presence in resource development in Canada, the effects of these measures on the political context of federal-industry relations will be established through the analysis of the instruments and their operation. That is the topic of the next chapter.

Chapter Conclusion

Ottawa introduced a new energy policy framework for Canada in 1976. The new federal energy policy reiterated Ottawa's commitment to the development of indigenous oil and gas resources, expanded Ottawa's Canadianization programme, and attempted to increase the federal share of oil and gas revenues. The new policy framework outlined more explicitly Ottawa's energy objectives than before and listed a set of policy measures to address these concerns.

In the aftermath of the heated intergovernmental exchanges of the period

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42 ibid. p.41.  
43 ibid. p.38.
1973-75, Ottawa sought to patch up some of the damage that was done while also responding to an altered international and domestic context. Compared to Ottawa's energy policy framework of 1973-75, the new federal policy program was more sector-specific and energy-oriented. Ottawa attempted to downplay the role of intergovernmental and jurisdictional concerns and instead focus more clearly on energy-specific ones. While far from ignoring its concerns in the intergovernmental arena, the main goal of the new federal energy policy was to ensure the security of Canada's future supplies through the development of additional domestic supply capacity. Ottawa's developmental concerns were combined with a strengthened federal commitment to Canadianization and a continued emphasis on distribution. Whether Ottawa would succeed in attaining its objectives is the subject of the two remaining chapters of Part Three.
CHAPTER EIGHT: OTTAWA'S POLICY MEASURES

Chapter Introduction

The federal government adopted a number of policy measures in order to fulfil the goals set out in the new energy strategy. In Chapter Seven it was shown that the goal of self-reliance entailed a federal commitment to increase the federal government's control over and economic take from oil and gas development in Canada. The measures adopted by Ottawa included a mix of incentives or subsidies, and a number of measures more directly associated with federal control over resource development. In addition, the new framework was intended to ensure increased Canadianization and expand Ottawa's share of resource rents and revenues.

The following discussion will centre on the federal government's development strategy and in particular the tension that existed between what may be termed a "development-orientation", which entailed continued reliance on private-sector actors to determine the rate and location of oil and gas development, and a more clearly focused "control-orientation" that emphasized the federal government's role in determining the rate and location of development. The two strategies are ideal types and denote different state-society configurations in the energy field. The choice between the two strategies would not be determined simply by economic calculations or political concerns with oil industry dominance. Rather the choice of strategy, as well as its implementation, would be coloured by other factors such as the jurisdictional concerns facing governmental actors at the time.

The new energy framework included the following policy areas:

- appropriate energy pricing;
- energy conservation;
- increased exploration and development;
- increased resource information;
- interfuel substitution;
- new delivery systems;
- emergency preparedness;
- increased research and development; and
- greater Canadian content and participation

Before discussing the most important of the measures listed above, it is necessary to shed light on important developments in federal policy-making and planning capacity.

Federal Administrative and Institutional Capacity

Part Two of this thesis revealed that the federal policy instruments in place at times obstructed the effective use of new measures in response to the OPEC oil embargo. Although less apparent at the time, another important obstacle to an effective crisis response was the relative lack of policy-making and administrative capacity within the federal energy bureaucracy. Federal officials found, when framing medium and long term responses to the OPEC oil crisis, a glaring lack of relevant resource information and data on industry operations within EMR that hampered a rational government response to the changing international and domestic context.

The federal department of Energy, Mines and Resources, whose responsibility it was to "maintain up-to-date data and provide policy advice on the subject [of energy] to the Government of Canada" possessed inadequate

44 See EMR: An Energy Strategy, ibid., p.6. See also pp.126-146 for a more detailed elaboration of these initiatives.

45 See EMR: Annual Report 1974-75, p.2. Although EMR formally was designated as the most important energy policy-maker in the federal government, prior to the mid-1970s, the National Energy Board, whose task it was to assess the resource potential of Canada and to license pipelines and exports of oil and gas, had played a dominant role in the formulation and operation of federal energy policy. The NEB played such an important role partly because it produced the resource information and based its licensing decisions on these resource
policy-making and planning capacity. Doern notes that:

(I)n the early 1970s it was becoming increasingly obvious that EMR's policy and economic capability as the government's chief energy advisor did have to be strengthened. The department was excessively dependent upon the National Energy Board, the AECB, the AECL and, especially, the multinational companies for financial and technical information and advice. Doern attributes the decision to create Petro-Canada as a "window" on the industry to the same deep-felt need for financial and technical information and advice. The establishment of other agents of information - to the extent that these in fact also did function as such - is important in itself but even more to the extent that they alleviated some of the inherent deficiencies within EMR.

The federal government, in placing more emphasis on energy issues from 1973 onwards, also contributed to an important bureaucratic re-orientation which benefitted EMR's importance and status within the departmental structure. This had the effect of placing EMR at the centre of energy-policy making in Ottawa in 1980, thus completely outmaneuvering both the NEB and DIAND (and the NEP was almost exclusively conceived of within the walls of EMR). The growth in EMR's departmental influence is not evidenced if measured in person-years, because between 1971 and 1981, the growth in the department's number of person-

evaluations (combined with hearings in which the industry played the main role). From the mid-1970s its regulatory powers were increasingly circumscribed by the growing importance of EMR. The NEB was criticized for its close links to the industry and its resource evaluation policies. See Part Two for further details. The development within EMR of more reliable in-house forecasting techniques also increasingly placed the NEB on the side-lines of energy decision-making in Ottawa.


47 ibid., p.69 For reserve figures and data on Alberta, Ottawa also relied on the Alberta Energy Resources Conservation Board (AERCB).

48 ibid.

years was far from spectacular.\textsuperscript{50} Instead, the most important change that took place in EMR's role between 1970 and 1980 was a reorientation of EMR from an essentially commodity-oriented and technical department to a structure much more capable of generating policy-relevant data and policy advice to the federal government.\textsuperscript{51} This transition is revealed not in terms of the aggregate number of employees but rather in the relative importance of the policy sector, the increased importance of energy as opposed to minerals, and an increased administrative specialization within the department's energy sector. The department's growing political power in the 1970s and early 1980s generated or at least reinforced a centripetal trend in which all other federal energy agents were subsumed under the aegis of EMR.

The main problem facing EMR in the very early 1970s was not one of absence of expertise and data on reserves and resources of oil and gas as such, but rather inability to assess the policy-significance of the data that was available. Bell\textsuperscript{52} noted that EMR, when he joined the department in 1972, possessed large amounts of data, but the data was neither policy-oriented nor had it been collected with a specific policy-making purpose in mind.\textsuperscript{53} This notion of EMR as a "commodity-oriented" department was also confirmed in interviews with current EMR officials who emphasized the department's strong focus on commodities in the early 1970s.\textsuperscript{54} Such a focus largely precluded a clearer policy orientation and reduced the department's role in generating

\textsuperscript{50} During this period, EMR's staff increased from 3207 person-years to 3762 person-years. See Doern, op.cit., p.71

\textsuperscript{51} EMR, as seen most clearly in the introduction of the NEP, not only provided policy advice, but also formulated policies and implemented them. Further, the department played a central role as the centre focus of a large number of other newly established energy agencies.

\textsuperscript{52} Joel Bell was instrumental in the writing of EMR's 1973 discussion paper entitled: "An Energy Policy for Canada, Phase I", and in the cabinet memorandum from then Energy Minister Donald Macdonald in October 1973 (and referred to in Part Two). In 1976 the Harvard-trained resource economist (and lawyer) joined Petro-Canada.

\textsuperscript{53} Interview with Joel Bell, March 1988.

\textsuperscript{54} Interview with EMR officials, March 1988.
energy policy. The energy development sector was also under-represented as compared to the other sectors within the department. The small energy sector combined all energy-related activities, including nuclear energy, an aspect of energy in which the federal government was much more strongly involved than in oil and gas. EMR’s dual responsibility for energy and minerals underlines the limited policy-making expertise EMR possessed and the low status of energy policy making in the very early 1970s.

The first important change in EMR’s policy role occurred in the early 1970s when Jack Austin, Bill Hopper and Joel Bell joined EMR. From then on EMR’s status gradually rose as the department attracted increased policy expertise and became the centre focal point for an expanded federal energy presence represented by a number of semi-autonomous energy agencies.

The second change in departmental orientation took place around 1978. This was the year that a number of ambitious officials from the Finance Department joined EMR. The most important ones were Marshall Cohen, Ed Clark, Ian Stewart, George Tough and Len Good. This new influx of highly educated economists (Cohen and Tough were not economists but had worked in the Department of Finance) from the Department of Finance and the Privy Council

55 In 1974-75, after the OPEC oil embargo, the energy sector counted 177.2 man-years. The mineral sector counted 165.2 man-years whereas the science and technology sector accounted for 2,956.5 man-years. Source: EMR: Annual Report 1974-75, p.20-21. Few of the technical personnel were involved in energy matters.


58 Dr.Ed Clark became assistant deputy minister of EMR in the fall of 1978 after having held a directorship in the Long-Range and Structural Analysis Division in the Department of Finance. Ian Stewart came to EMR from the Privy Council Office where he had served as economic advisor. George Tough entered EMR in early 1979 as director-general of Energy Strategy, from his earlier position as assistant director of Resource Programs at the Department of Finance. Dr.Len Good left his position in the Long Range and Structural Analysis Division at the Department of Finance to work under Clark in EMR. ibid. pp.73-79.
Office both provided EMR with a greatly strengthened capacity for financial analysis and planning, and also served to link EMR closer to the centre of decision-making power in Ottawa. Together with this stronger emphasis on EMR's policy-making and evaluating role, an increased administrative specialization took place within the department.59

Monitoring Petroleum Corporations

In terms of financial data and not data on oil and gas reserves, EMR, as Doern has indicated60, lacked adequate industry cost data. Without proper monitoring of industry cash-flows, transfer-payments and industry exploration expenditures, it was very difficult to assess the actual effects of federal tax, pricing and incentive schemes on industry activity levels. The passage of Bill C-12, the Petroleum Corporations Monitoring Act in early 1978 - before the main influx of new personnel to EMR - and the establishment of the Petroleum Monitoring Agency, serve as clear evidence of the federal government’s emphasis on obtaining this kind of information.

A voluntary monitoring system was established in 1975.61 The first report was issued in 1977 and covered the years 1971-76, inclusive. The introduction of new legislation to establish a comprehensive and compulsory industry monitoring system emerged after a number of companies failed to provide EMR

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59 In 1978 a total of 631 person-years was allocated to the energy-sector, of which 161 man-years were allocated to energy sources (supply, demand and substitution), 25 MY to energy conservation, 313 MY to energy research and technology development, 77 MY to economic and social impact, 3 MY to oil import compensation and 52 MY to the management of non-renewable resources under federal lands. Clearly, the increased number of spending categories listed by the Treasury Board also reveals an increased degree of administrative specialization. This is further indicated by the establishment of an office for energy conservation in 1974, the singling out of the economic and social impact section as an independent spending post in the Treasury Board spending estimates, and the allocation of 77 man-years to this, a full third of the whole energy development sector in 1974-75.

60 See Doern, G.B.: EMR, op.cit.

61 See statement by MP Harvey Andre to the House of Commons, Standing Committee on Natural Resources and Public Works, 22-6-1978, p. 40:20. This survey involved 35 companies. ibid. p. 40:7.
with cost data on a voluntary basis. As EMR-Minister Gillespie noted, such information could not be obtained by the companies’ annual reports or from other company publications:

(I)n the case of a large integrated company such as Imperial Oil, published annual reports and, for that matter, submissions to Taxation Canada or Statistics Canada do not show on a consolidated basis the cash flow and capital expenditure allocations between upstream and downstream functions, nor do they provide an indication of the cash generation arising from energy-related activities which may be directed into other corporate ventures.

Gillespie also noted that even if the companies had provided the information to the government, certain confidentiality requirements in the Statistics Act and the Tax Act would have prohibited EMR from gaining access to these data. An important institutional obstacle thus prevented EMR from obtaining the needed data.

Bill C-12 was intended to provide the federal government with a standard method of reporting the sources and uses of funds by all petroleum corporations in Canada, above a certain specified level of revenue and assets, and including Crown corporations. The initial threshold level of $10 million in annual revenue and $5 million in assets, according to EMR officials, would ensure that over 90% of the petroleum industry in Canada reported these data to EMR.

Bill C-12 would fill an important information gap that hitherto had existed in EMR. The financial information to be provided by industry on a semi-annual basis would enable Ottawa to pursue more enlightened pricing and revenue policies. Further, by means of this information the government could keep a much closer tab on the investment policies of individual oil companies, and

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62 After the bill was introduced in Parliament as many as five of the major companies had ceased to provide information on a voluntary basis, thus making the passage of the bill more important for the federal government. See statement by MP Maine, ibid., 21-6-78, p. 39:13.


64 The information that the companies did provide Revenue Canada and Statistics Canada was incomplete, however. ibid. p.12:7.

65 This bill would only provide the government with industry cost data; no information on oil, gas and natural gas liquid production would be made available to the federal government through this legislation.
more easily take measures to align individual company behaviour with federal objectives. In this perspective it is less important what enforcement powers this specific act provided the federal government than the fact that from 1978 onwards Ottawa actually possessed the necessary information to enable it to use other kinds of measures to regulate individual companies, certain groups or segments of the industry, or the industry as a whole.

**PRICE REGULATION**

In terms of oil and gas pricing, the specific target of the new federal energy strategy was to "move domestic oil prices towards international levels; and to move domestic prices for natural gas to an appropriate competitive relationship with oil over the next 2-4 years." The basic rationale for this was as follows:

The policy of keeping oil prices to Canadian domestic consumers below the price of alternative supplies cannot be maintained for very long; and if it were pursued as a medium-term objective, it could serve to delay needed energy-conserving technological change, hasten the depletion of existing reserves, delay the provision of supplements and alternatives, lower the potential volume of savings, and perhaps foster abortive development of energy-intensive industries dependent upon the hidden subsidy for cheap oil and gas.

EMR revealed that it considered the price regulation measures taken thus far capable of producing a number of undesirable effects, in particular hampering the development of oil and gas, and producing disincentives to energy conservation. Further, the White Paper presented by EMR acknowledged the important link that existed between self-sufficiency and price regulation. Strictly speaking, Canada could only retain oil prices below international levels as long as the country remained technically self-sufficient. Once import levels exceeded exports, and price levels were kept below world levels, Canada would face a rapidly deteriorating balance-of-payments situation. The fact that

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67 ibid. pp.126-27
Canada had regulated oil prices below world levels had also contributed to her increased oil import dependence.

The White Paper emphasized that although higher prices were necessary, no immediate need existed for adopting world oil prices. The commitment expressed in the White Paper was to move domestic oil prices towards international oil prices in staged increases. The principle established by Prime Minister Trudeau in December 1973 was reiterated:

'It is the federal government's objective to see domestic oil prices increase to a level sufficient to bring on new Canadian supplies.'

The White Paper, however, did not establish fixed price increases, nor did it reveal the criteria to be used in fixing prices. This was done in 1977. After negotiations were held with the producing provinces in early 1977, a decision was reached to raise domestic oil prices $1.00 per barrel every six months. This decision, although still leaving oil price fixing in the realm of politics, clearly served to reduce the uncertainty that had existed about the future development of Canadian oil prices. Apart from ruling out much of the uncertainty that had existed over future oil price levels in Canada, the new pricing agreement signalled a stronger federal commitment to oil and gas development. The uncertainty surrounding price regulation prior to 1977 was due to the altered international situation and the ad hoc and essentially political nature of oil price fixing in Canada. In the absence of appropriate industry cost data, price regulation on a largely ad hoc basis only helped maintain the uncertainty surrounding international oil prices which the OPEC oil embargo had initially created. Substituting international uncertainty with domestic

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68 ibid., p.127

69 In the period 1975 to January 1980, Canadian oil prices increased in the following fashion: In July 1975 the price was $8.00 per/bbl., in July 1976 the price was $9.05/bbl., in January 1977 the oil price had increased to $9.75/bbl. After that the international oil price rose by steady increments of $1.00 per six months so that it reached $14.75/bbl. in January 1980. The difference between Western Canadian crude and the international price of oil was (in US $) $4.61 in 1975, in 1976 it was $5.05, in 1977 it was $4.36, in 1978 it was $3.66 and in 1979 it was $8.36. It was the revolution in Iran that caused the significant discrepancy in 1979.
uncertainty does little to provide a stable environment for resource-developers. The pricing agreement, however, could only be effective as long as the international oil scene remained calm.

**TAX AND FISCAL MEASURES**

Apart from its essential role in revenue distribution, both between state and industry and different parts of the state, income tax legislation constitutes an important means for governments in regulating resource development. The level of taxation is an important consideration in the industry's calculations as to whether to push ahead with exploration and development. The industry's tax burden will affect the extent and location of exploration and development once a positive decision has been made. Therefore, the higher the tax burden the less likely it is that the industry will undertake efforts that do not offer early paybacks. Similarly, the farther away from production a prospect is the more likely it is that various kinds of federal incentives will be needed for exploration to occur.70

In terms of resource management or the federal government's role in controlling resource development, tax measures play two different functions. In the first instance, tax measures are intended to ensure both the owner of the resource and the developer of the resource, adequate returns. It was along these distributional lines of conflict - with the federal government upholding its Constitutional prerogative to tax resource companies even though it was not the owner of the resources in question - that federal tax policies were primarily oriented during 1973-75.71

70 Other factors such as field size, producibility, reservoir rock porosity, transportation costs, resource characteristics - such as sulphur content and viscosity - and the environmental problems facing development, also affect the industry's calculations as to whether to develop.

71 As early as 1976 Ottawa introduced measures to alleviate some of the pressures the industry felt from the federal tax changes in 1974. The federal government (effective Jan. 1, 1976) instituted the Resource Allowance, which
The tax system can also be used directly as an incentive system. By providing tax rebates and tax write-offs, governments attempt to ensure that industry actors invest a certain portion of their production revenues in continued exploration and development. The importance of the tax and fiscal system as an incentive system was clearly recognized by the federal government:

The revenue sharing arrangements in place for the oil and gas sector are intended to serve as more than a cash generation mechanism... (The) reinvestment provisions are exceptionally powerful tools with which to affect investment decisions by the industry, in terms of what it does and where it does it. As such, these provisions play a key role in energy policy. There are also major spillover effects on the general pattern of domestic investment. For example, there are significant tax and royalty incentives which are available to firms without resource production and may act to potentially discourage major new potential sources of investment capital. Implicitly the taxpayer with resource income can reduce his effective upfront cost of resource investments resulting in a time-value benefit not available to other investors. This feature tends to encourage the reinvestment of funds in the industry, but at the same time, it tends to reinforce concentration tendencies in an industry which is dominated both in ownership and control by non-Canadians.\textsuperscript{72}

This statement also confirms the importance of tax systems as incentive systems from a political perspective. Tax systems as incentive systems affect the rate or pace of resource development. Tax systems used as incentive systems - and which are intended to induce industry behaviour - entail foregone tax revenues on the part of the government. Therefore, incentive systems subsidize industry activities. The magnitude of such subsidies, from a political perspective, is linked to the importance the federal government attaches to a particular goal and to the industry’s ability to extract concessions from the government. Subsidies of various kinds may also ease the acceptance of other forms of federal intervention such as direct federal participation through Petro-Canada and the federal land management system.\textsuperscript{73} Such concessions at the early stage can be made up for through increased taxation of production, however, when the

\textsuperscript{72} ibid. p.7.

\textsuperscript{73} The incentive system may be viewed as the "carrot" whereas the land management regime (and to some extent Petro-Canada) may be seen as the "stick".

\textsuperscript{72}\textsuperscript{73} was a tax deduction equal to 25% of production profits. At the standard corporate tax rate of 36%, this means that the effective rate of federal tax on resource income was lowered to 27%. See EMR: Taxation and Revenue Sharing, November 1979, p.4.
private developers have invested large sums of capital.

Tax incentives often have important distributional effects, because they tend to favour certain companies over others. The large multinational oil companies which had resource profits and paid taxes were favoured by the incentive system in place. Thus, companies such as Dome which basically reinvested all revenues, but did not pay taxes, were discriminated against because they did not benefit from these incentives as did tax-paying companies. Further, the incentive system, as the White Paper also noted, could promote certain regions and discriminate against other regions or parts of the country. The latter was particularly salient in Canada because the two main petroleum regions of the country were within provincial and federal jurisdictional bounds, respectively.

Finally, tax systems as incentive systems have a very low political visibility which often makes them more attractive than highly visible ones such as grant-based incentive systems.

The Federal Budget of 1977

In contrast to the two federal budgets of 1974, the federal budgets of 1977 and 1978 sought to use tax measures to influence industry behaviour. Although the two budgets differed considerably, both in terms of the segments of the industry they supported and in terms of which regions of Canada they favoured, both were clearly intended to induce the industry to increase its upstream efforts, and new provisions in the proposed system of rights issuance and land management were designed to ensure Ottawa a larger share of the proceeds from production of oil and gas from the Canada Lands.

The budget measures taken in 1977 emphasized frontier exploration whereas the measures introduced in the 1978 budget favoured enhanced recovery and heavy oil development in the provinces.
The new budget measures introduced in the 1977 budget\textsuperscript{74} were (a) the investment tax credit of 5 percent which was introduced in June 1975, was to be extended for another 3 years,\textsuperscript{75} and (b) drilling costs in excess of $5 million for an exploratory well in Canada (including the continental shelf), were to become eligible for a further earned depletion allowance of 66.67%, on top of the original depletion allowance introduced in the 1974 budget.\textsuperscript{76} This measure was to be in effect until April 1, 1980. Further, such drilling costs could be deducted against income "by any taxpayer from any source".\textsuperscript{77}

The first main effect of this budget measure was to increase significantly the magnitude of federal subsidization of the industry in Northern Canada. Helliwell et al. have estimated that in the period 1965 to 1976, out of a total of $4.74 billion (1985-dollars) spent on frontier exploration,\textsuperscript{78} foregone federal tax revenues to support industry exploration were $2.08 billion (1985-dollars) or 44%. Interestingly enough, in the period 1965 to 1973 the industry's share of total exploration expenses was roughly 66%. In the period 1974-76, this share fell to roughly 40%, but with the introduction of the so-called "super-depletion" or the frontier exploration allowance, the industry's share of total exploration expenses in the Northern areas of Canada dropped to 12.7%.\textsuperscript{79} In the areas offshore Eastern Canada, the

\textsuperscript{74} While stressing the vicissitudes of inflation and unemployment, Finance Minister Macdonald in his 1977 budget speech, also placed strong emphasis on energy development and conservation. See Budget Speech delivered by the Honourable Donald S. Macdonald, Minister of Finance in the House of Commons, March 31, 1977, p.8.

\textsuperscript{75} This tax credit would be extended to include R & D expenses and increased from 5% to 7.5% and 10% in certain regions of Canada.

\textsuperscript{76} This earned depletion allowance was 33.33% and it replaced the automatic depletion allowance.


\textsuperscript{78} The estimates only include the Northern areas - including offshore - but did not cover the East coast offshore.

\textsuperscript{79} During the period 1974-75, federal exploration expenditures amounted to $970 million. The industry spent $2892.6 million. For the period 1977-79, a total of $1974.3 million was spent, and the industry's share was $250.1 million (1985 dollars). In 1978, which was the year of the greatest percentage
percentages for the period are roughly similar, although the amounts are significantly lower. Thus, after 1976 the federal government in effect paid for the bulk of the industry's exploration efforts in Northern Canada and on Canada's East Coast. Ottawa's generous subsidy was clearly linked with the pipeline moratorium following the Berger hearings in 1977, because the moratorium reduced the likelihood of early frontier gas production. Ottawa's subsidy of industry activities in the frontiers was also part of the price for increased federal jurisdictional autonomy vis-a-vis the oil producing provinces in Canada.

The frontier exploration allowance actually only benefitted a handful of companies, namely companies that drilled wells costing more than $5 million. In fact, the main benefactor was Dome Petroleum. This budget measure was also dubbed "the Gallagher Amendment" and the budget itself was termed the "Dome Budget." Dome Petroleum was the most active explorer in the Beaufort Sea subsidization, the industry's share dropped to 6.9%. Super depletion accounted for $422.2 or 24.4%. The remainder of the federal contribution was made up of earned depletion and a number of other federal tax regulations. See Helliwell et.al. (1987), p.217-18.

Exploration expenditures on Canada's East Coast in the period 1977-79 amounted to a total of $588.7 million. The corporate contribution here was $70.4 million or 11.9%. Super-depletion's share of total federal subsidies was $133.1 or 25.7%. ibid. Table 9.4, p.223.


See Foster, P.: Other People's Money: The Banks, The Government and DOME. (Toronto: Collins, 1983), p.55. Foster notes that "Somewhat paradoxically, Dome itself was not in a position to benefit from super-depletion because it was in a non-taxable position, having consistently reinvested all its profits and built up tax allowances it would be able to use in the far future. Nevertheless, it used this position brilliantly in a tax manoeuvre thought up by Richards' tax team to "sell" super-depletion to other companies and individuals. Since super-depletion only applied to the amount spent after the first $5 million on a well, that $5 million - attracting fewer tax allowances - was relatively more expensive, so Dome volunteered to pick it up. The tax authorities ruled that this was permissible and that tax allowances could be split horizontally," meaning that those who only invested funds over the $5-million mark could claim all three allowances, CEE, EDA and FEA." [CEE refers to the Canadian Exploration Expense, EDA to the Earned Depletion Allowance and FEA to the Frontier Exploration Allowance, also termed super-depletion] See Foster, ibid. p.56.
where drilling costs were the highest in Canada.  

<table>
<thead>
<tr>
<th>Year</th>
<th>North</th>
<th>Offshore East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>10.025</td>
<td>4.280</td>
<td>0.127</td>
</tr>
<tr>
<td>1977</td>
<td>15.439</td>
<td>11.900</td>
<td>0.174</td>
</tr>
<tr>
<td>1978</td>
<td>37.400</td>
<td>9.943</td>
<td>0.255</td>
</tr>
<tr>
<td>1979</td>
<td>23.344</td>
<td>34.033</td>
<td>0.430</td>
</tr>
</tbody>
</table>

Table III.1 reveals that drilling costs were significantly higher in the frontiers than in Western Canada. Therefore, the $5 million lower limit effectively excluded Western Canada from benefitting from this discriminatory measure. Further, from the drilling cost estimates, it is clear that the companies that operated in Northern Canada would benefit disproportionately from this budget measure because no upper limit on these federal tax subsidies existed - all costs above $5 million would be deductible. Needless to say, this budget measure constituted a very generous subsidy to its benefactors. The budget provision also created considerable resentment in the oil industry. Foster notes:

When this new measure, known as super-depletion, was combined with

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83 Drilling operations in the Beaufort Sea started in 1976. The Beaufort Sea resembled an "inland sea" which required its own technology and was not connected to other operating areas of the world, in contrast to Canada’s East Coast. Source: Interview with senior DIAND official. Bill Richards, (Dome Petroleum’s President) noted that Dome’s total expenditures in the Arctic region between 1960 and 1981 were $809 million. See statement by Bill Richards to the House of Commons Standing Committee on National Resources and Public Works, 1-4-1981, p.43:2.

84 See Helliwell et al. 1987, op.cit. Table 9.2

85 On Canada’s East Coast a total of $148.2 million were provided through the super-depletion allowance whereas in Northern Canada the equivalent amount was $536.8 million for the duration of the program (1977-1980). Total foregone tax revenues for all of Canada through the super-depletion program therefore constituted $685 million.
provisions allowing individuals to write off petroleum exploration expenses against private income, it was to create a more than generous tax allowance. In certain cases, it became possible for high-bracket taxpayers to make money out of financing the drilling of dry holes. Needless to say, these provisions aroused resentment in the rest of the industry, and led to dark mutterings about Dome being the "second national oil company." That accusation, in turn, was none too popular with the first national oil company, PetroCan, and went part of the way to explaining PetroCan’s lack of enthusiasm both for the Beaufort and for Dome.

Foster here raises the spectre of the federal government "grooming" Dome as another "national oil company". This allegation is supported by evidence of the strong influence Dome officials had on the federal government in adopting this budgetary measure. Underlying Dome’s promotional campaign for the frontiers was a strong conviction of the resource potential of the frontiers and in particular the Beaufort Sea. Evidence of Dome’s frontier optimism was found in statements by Dome’s Senior Vice-President of Finance, Peter Breyfogle:

The remaining existing proven conventional reserves are 8 billion barrels. Total annual demand is presently running at 0.7 billion barrels and the total demand over the next 25 years is estimated to be 20 billion barrels. But the potential in Canada is a total of 378 billion barrels. In other words, the total estimated potential is over 500 years of supply at current rates of consumption. Of these, the tar sands represent 250 billion, the heavy oil reserves 30 billion and the potential conventional reserves another 90 billion. Even if heavy oil and tar sands are excluded, potential conventional reserves are eleven times the existing proven reserves. By way of contrast, today’s proven reserves in the Mid East are approximately 370 billion barrels.

These resource estimates, which were taken from a Geological Survey of Canada 1975 estimate, were clearly misleading in terms of the amount that could be

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86 See Foster, P.: Other People’s Money..., op.cit. p.55-56.

87 Foster contends that this was particularly the case with then deputy minister of finance, Tommy Shoyama. Shoyama had earlier served as deputy minister of energy under Donald Macdonald, and according to Foster, shared Jack Gallagher’s (Gallagher was Dome’s chairman) optimism about the resource potential of the Beaufort Sea.


89 A number of terminological problems have plagued Canadian reserves forecasting. A consensus has emerged in using the term "reserves" for established reserves and "resources" for not yet proven or potential sources of oil. Breyfogle equates unproven resources with reserves, which is erroneous.
produced at an acceptable economic cost and with available technology.\footnote{An EMR study published in 1977 and which also based its resource estimates on a GSC 1975 study, estimates that total conventional oil resources in Canada (in accessible regions and excluding the tar sands and heavy oils) at a "low" or 10\% probability were 43 billion barrels. See EMR: \textit{Oil and Natural Gas Resources of Canada, 1976}, Table 3, p.39. The figures presented by Dome, in rough comparison, were 137 billion barrels. The EMR study listed 25 billion barrels of oil at a "high" or 90\% probability.} Dome's equating Canada's oil resources with those of OPEC was completely meaningless.\footnote{A more recent GSC study from 1983 estimates Canada's potential recoverable oil resources from the Mackenzie Valley/Beaufort Sea as ranging between 307 million cubic metres or 1,931 mill.bbl. (in the high confidence estimate, 1347 mill. cubic metres or 8,472 mill.bbl., (in the average expectation estimate, and 2962 mill. cubic metres or 18,631 mill. bbl. (in the speculative estimate). Proven reserves were 117 mill. cubic metres or 735.9 mill.bbl. (This was before the large Amauligak field which was discovered in 1985 and is estimated to contain over 1,000 mill.bbl.) See Procter, R.M. G.C. Taylor and J.A.Wade: \textit{Oil and Natural Gas Resources of Canada, 1983}, The Geological Survey of Canada, Paper 83-31, Table XIII, p.53. These figures deviate considerably from the estimates provided by the industry in the early 1970s and Dome's 1979 projections. The figures for ultimate resource potential have not changed as much as the assessments of producibility.}

Again, as was the case in the early 1970s, we see that oil companies used aggregate resource estimates with little or no relation to the actual amount of oil that could be produced, in order to pursue policies that supported their own interests.\footnote{In Dome's case this is doubly ironic because Dome's heavy frontier involvement was an important factor in its subsequent financial collapse.} Ottawa accepted, due partly to its disposition to favour the areas that were under its own jurisdiction.

From a policy perspective many doubts were raised about the rationale of the federal policy measure. Helliwell provided a scathing critique of the so-called super-depletion budget provision. He noted:

The argument in favour of special tax treatment for the frontier is, on the one hand, that exploration there provides knowledge that is worth more in total than can be captured by the successful explorer (so-called "external effects"), and, on the other hand, that northern exploration and development is more expensive than elsewhere.

The first point has some limited validity (which may of course be more than offset by the "external diseconomies" of pollution risks in the Arctic), and is the basis of any rationale there is for the ordinary depletion allowance. The second point raises once again the link between taxation policy and energy pricing. If eventual production of frontier crude is near world prices, with or without a "security premium", then
there is no case for tax subsidies based on higher frontier costs. If development there cannot take place at costs less than the expected world price of crude oil, it is too costly to be part of Canada's least-cost plan of self-sufficiency, and obviously does not provide the basis for profitable exports. Now that world oil prices have taken a new large jump upwards, frontier oil developments must be able to stand on their own profitability if the push to the frontier is not to leap over less costly alternatives. Frontier natural gas developments are even less worthy of special tax treatment, as there have always been actual and potential stocks of much less expensive nonfrontier gas more than sufficient to meet Canadian requirements until the end of the century. Thus, if frontier natural gas has any early prospect, it is as an export commodity, and there is no efficiency argument in favour of tax subsidies for energy exports.\(^3\)

Helliwell delivered a serious blow to the federal government's budget measure on economic grounds, emphasizing the likely effect of this policy measure encouraging the "jumping over" of less costly sources of oil and gas. His argument underscores the essentially political nature of frontier oil and gas development. Ottawa's frontier emphasis, as revealed in the federal budget of 1977, involved stimulating the activities of Canadian-owned, rather than foreign-owned oil companies. But it is equally clear that Ottawa's frontier strategy was yet another federal response to the jurisdictional conflicts facing Ottawa at the time.

The Federal Budget of 1978

The federal government's own resource estimates, Petro-Canada's actions and subsequent federal budgetary means - introduced in the 1978 federal budget - indicate that a certain re-orientation within the federal government was underway with regard to which sources of supply were the most attractive. This should not be read as the federal government abandoning its frontier emphasis, but should rather be viewed as Ottawa adopting a more nuanced view of the various supply options available to Canada, in particular in the short run.

The federal budget measures that were introduced in 1978 were, (a)

upgrading plants that processed heavy oil were to be treated as manufacturing facilities and were eligible for a two-year write-off and a reduced corporate tax rate, (b) the depletion allowance for enhanced recovery would be increased from 33.3% to 50%, and (c) the maximum level of 25% of an oil company's income that could be invested in non-conventional oil projects eligible for the depletion allowance was to be raised to 50%.  

These measures which stimulated both conventional oil development in Alberta and heavy oil development in Saskatchewan were important means for providing Canada with increased short-term supplies of oil and gas. Real investment in oil and gas in Western Canada rose significantly in the period 1976-80, from $635 million in 1975 to $2412 million in 1980. This increase started before the federal budget measures were introduced, making it difficult to assess the effect the budget measures had on industry investment patterns.

The level and amount of subsidies granted the companies in the 1978 federal budget were significantly lower than those of the frontier exploration allowance introduced in 1977. The most important federal incentives in this period, in terms of federal outlays, but not in terms of the amount of resources actually produced, were the measures taken to stimulate frontier exploration. Helliwell's study, cited above, has thrown considerable doubt on the economic rationale of this strategy.

Other important reasons for the federal government's adoption of the frontier exploration allowance would include the federal government's pro-development orientation which can both be ascribed to the historically close government-industry relations and the deeply held belief by key federal decision-makers that huge resources indeed could be found in the frontiers. These factors help explain the federal government's vulnerability to industry

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94 See Friedenberg, W.B. et.al.: Government Incentives ... op.cit., p.41.  
95 See Helliwell et.al., 1987, op.cit., p. 342-43.
pressure, in this instance in particular from Dome. Dome was treated favourably in Ottawa, it should be noted, in particular because it was willing to pursue a strategy that diverged from that of the largest oil MNCs.

Ottawa's neomercantilist and largely defensive adjustment strategy was directly linked to the federal price regulation scheme. Both placed strong pressure on an active federal government role in promoting resource development. Ottawa's price regulation policy formed an intrinsic part of the jurisdictional struggle between the two levels of government. The poisonous relations between Ottawa and Alberta therefore also served as an important underlying factor in Ottawa's state-led Canada Lands or frontier development strategy. The jurisdictional struggle on Canada's East Coast was directly linked to the adoption of the so-called "super-depletion" measure. Ottawa's generous subsidy was introduced only a few months after the conflict unfolded and helped reduce the negative effects of this dispute on industry activities. The two jurisdictional conflicts, one overt and the other covert, therefore interacted to produce an economically irrational strategy which can be understood mainly because the Canada Lands were under federal jurisdiction.

The next year, when the conflict had receded, the need for additional measures was less apparent. Ottawa then also adopted policies that were more in tune with the resource forecasts and the views of energy analysts. This is another example of how jurisdictional conflicts tend to influence issues and governmental concerns from being directly related to the energy context to become focused on the jurisdictional concerns of governments. The process of intergovernmental interaction in Canada in this period was also an important factor in providing industry actors with generous federal concessions.

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96 The federal government was dependent on a high degree of industry cooperation in order to succeed in promoting frontier development. This type of dependence Ottawa sought to reduce by encouraging the growth of "alternative" oil companies such as Dome and Petro-Canada. The frontier exploration allowance was also a subtle means of encouraging an industry restructuring.

97 The Albertan government also provided the industry with very generous incentive schemes and royalty holidays.
THE FEDERAL LAND MANAGEMENT REGIME

Systems of land management and rights issuance are important because, if used to the full, they enable states to regulate the industry's access to land and resources; introduce state participation; regulate exploration and production rates; issue work requirements; establish rental fees and royalty rates; and establish rules regarding national sourcing and other nationality requirements.

The evolution, structure and operation of the land management system in the areas under federal jurisdiction reveal something about the federal government's relative capacity to regulate industry activities and the federal government's regulatory intentions. Studies that discuss the role of the state as producer, emphasizing how the adoption of an NOC affects state-society relations, but do not include the system of rights issuance and land management, fail to see how important this system is for the functioning of the NOC. The state, by means of the system of rights issuance and land management, can equip the NOC with preferential rights to land and oil and gas production. Further, the land management regime, by regulating the rate and location of development, affects the activities of the NOC and the private companies. As such, the regime can be so structured and used, as to foster managerial practices that actively discriminate in favour of NOCs and can also be used to regulate the activities of NOCs.

An important aspect of the new federal energy policy was Ottawa's commitment to introduce a new land management system in the areas under direct federal jurisdiction, the Canada Lands.\(^9^8\) As noted in Part Two, the Canada Oil and Gas Land Regulations of 1961 provided the federal government with very little meaningful control over the operations of the oil and gas industry.

\(^9^8\) The "Canada Lands" include all areas North of 60° and all offshore areas. This thesis will not address developments on the West Coast of Canada because a moratorium on oil and gas exploration was imposed in the Straits of Georgia and Juan de Fuca in January 1971 and extended to cover all areas of the West Coast in March 1972. See Plourde: Oil and Gas in Canada: A Chronology, op.cit. p.85. The moratorium has been in effect since then.
Further, the fact that the regulations had not been submitted to Parliament also meant that the federal government had deprived itself of one important means of change, namely legislative change. Barring legislative change, Ottawa was in a weak legal position vis-a-vis the oil industry, because it could be argued that the COGL of 1961 did confer certain vested rights upon the industry. The problem facing Ottawa was by no means unique to Canada. Rather, it could be considered a fundamental problem concerning the use of licensing as a policy instrument. Cameron notes that:

the significance of licensing is that it is a legal process which has one major shortcoming. Once licences are awarded it is extremely difficult to change the terms they contain. Yet, at the time of the award little will be known about the territory on offer. To attract companies, licences must therefore contain a discount. In the event of a successful discovery, these earlier terms may seem to constitute a 'give-away'. However, remedial actions will raise a number of questions about legality, since most, if not all, petroleum licences have one special characteristic. (sic.) Unlike all other kinds of licence, they contain a combination of contractual and regulatory elements, and appear to transfer something very similar to rights of property. Whatever the differences among various licence regimes, this peculiar feature places obstacles in the path of amendment of terms at a later date...

Altering a licence regime may not be directly concerned with money. Changing the tax environment in favour of the state will certainly meet with opposition from the oil companies, but few would question the state's right to do it (unless, of course, the effect was to take away the substance of the contractual rights granted by the licence). It is also largely a domestic matter. By contrast, any changes in the terms of licences already awarded may lead to compensation claims supported by a body of international law. To the extent that licence rights resemble property rights, their reduction or appropriation by the state may constitute a nationalization, and lead to the involvement of other governments. An impression is also given of a lack of respect for the principle of *pacta sunt servanda* and the idea of the Rule of Law.  

Cameron thus formulates the basic problem facing Ottawa in drafting new legislation for the Canada Lands. A change of system was possible but could be perceived as expropriation and might involve other governments. Refraining from introducing a new system meant avoiding the legal problems but little room for changes in the system existing. The future success of the changes would hinge on a number of other factors, related to the nature of the resource base, international oil market developments, the actions of other governmental actors in Canada (and without), and the response of the oil industry.

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The need for change, ironically, was compounded by the very uncertainty surrounding the system in place. Ottawa's announcement in 1970 of its intention to rewrite the system, its subsequent efforts to alter the COGL between 1970 and 1976 - including the land freeze introduced in 1972 - created uncertainty in industry circles and elsewhere about the federal government's intentions in the Canada Lands.\(^{100}\)

Another aspect that reinforced the uncertainty of the Canada Lands land management system was the fact that the five Eastern provinces had consistently challenged the federal government's jurisdiction over the East-coast offshore areas. This was particularly the case with Newfoundland.\(^{101}\)

The White Paper issued by EMR in 1976 announced a federal commitment to "introduce to Parliament new legislation concerning Canadian oil and gas land regulations".\(^{102}\) New legislation was eventually tabled in Parliament in December 1977, but Bill C-20 lapsed in the House of Commons after first reading. Instead, temporary regulations were first introduced in May 1976 in the proposed Petroleum and Natural Gas Act, and were later somewhat revised in June 1977. These temporary regulations, issued jointly by EMR and DIAND, presented the industry with important signals as to what the federal government emphasized and wanted but, by incorporating the basic features of the COGL of 1961, also clearly demonstrated how the scope of federal policies were being constrained and hampered by the context of yesterday's policies. In the following pages the changes to the COGL in the May 1976 proposed Petroleum and Natural Gas Act and the subsequent June 1977 changes will be analyzed. Since


\(^{101}\) Newfoundland dropped out of the negotiations between the four Atlantic provinces, Quebec and Ottawa that went on during 1972 and 1974, "after concluding that the federal government was not prepared to give up any ultimate control of the offshore resources." See address by Leo Barry in Patton, et.al.: The Future of the Offshore: Legal Developments and Canadian Business, A Conference sponsored by the Centre for International Business Studies, Dalhousie University, Halifax, N.S., 1978, p.21.

\(^{102}\) See EMR: An Energy Strategy, op.cit. p.133
Bill C-20 died after first reading, it will not be subjected to a detailed analysis here.\textsuperscript{103}

The Proposed Petroleum and Natural Gas Act of 1976: Objectives

The proposed PNGA would regulate oil and gas exploration, development and production in the Canada Lands and was intended to help double frontier exploration activities within the next three years.\textsuperscript{104} Ottawa also intended to ensure itself increased "control over the rate and direction"\textsuperscript{105} of activities on the Canada Lands. The proposal was meant to ensure that Canada receive a fair return from the development of frontier resources. Finally, the May 1976 proposal was intended to "enhance the opportunity for Canadian participation".\textsuperscript{106}

The four objectives listed above were not of equal significance to the federal government. Ottawa’s main concern was to increase its control over resource development in the federal areas. In terms of Ottawa’s first two

\textsuperscript{103} Gault finds that the COGL of 1961 and 1977 were in the same style as the U.S. regulations; whereas Bill C-48 was more similar to the current European licencing systems. See testimony by I.T. Gault in H.C.S.C.: National Resources and Public Works, 5-2-81, p.23-6. The defunct Bill C-20 incorporated aspects of both of these very different orientations.

\textsuperscript{104} See EMR: An Energy Strategy, op.cit., p.133.

\textsuperscript{105} See EMR: Annual Report 1975-76, p.15

\textsuperscript{106} ibid. NORTH of 60, published by DIAND, provided a more elaborate statement on this. It noted: "In accordance with the National Energy Strategy, announced in April 1976, the new regime is designed to stimulate increased exploration in order to furnish the necessary information on which an early estimate of Canada’s hydrocarbon reserves can be made. The legislative elements include fiscal and land holding incentives, combined with provisions for increased governmental control over the timing, direction, and the rate and level of exploration, development and production activities. The legislation will also provide increased benefits for and participation by Canadian firms, including Petro-Canada, engaged in development of Canada’s resources. In addition, the Statement provides for the introduction of a Progressive Incremental Royalty system, supplementary to basic production royalties, in order to ensure a fair economic return to the Canadian people from resource development. The legislation continues not only the accepted principle of minimizing front end loading charges but also a unitary development concept whereby the industry is assured of rights to produce all of the hydrocarbon reserves within its development areas." See DIAND: North of 60: Oil and Gas Activities 1976, (Ottawa: Minister of Supply and Services, 1976), p.25.
objectives a position paper published by EMR and entitled "Statement of Policy: Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations", noted:

This new legislation is designed to promote the early assessment of Canada’s frontier oil and gas resources through incentives to explore, and disincentives to allow land to remain idle, and by granting the necessary authority to require a certain pace in exploration activity as a condition of holding exploration permits. This is in accordance with the goal of self-reliance and the elements of the National Energy Strategy announced in late April [1976]. Given the desirability of reducing our dependence on foreign oil there is an essential "need to know" associated with the early delineation of Canada’s resource base with a view to developing a secure supply of hydrocarbons for our future needs. Should it become evident that the reserves are not there, the sooner we know the better, so that other options available to Canada based on non-petroleum sources of supply can be proceeded with.\footnote{See EMR: \textit{Statement of Policy: Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations}, (Ottawa: Minister of Supply and Services, 1976) p.1}

Ottawa clearly emphasized the need for increased federal control over resource development in Canada. It stressed the "need-to-know", but the above statement is ambiguous as to whether potential resources were to be developed immediately or not. If the regulations would enable companies operating in the Canada Lands to produce the oil and gas they found, Ottawa’s role would simply be to encourage an early development of the Canada Lands, with very little federal control over the rate of development. From a political point of view, this means that the oil MNCs - the dominant actors in all of Canada’s frontier areas - would retain their dominance\footnote{Their land-holding position, their near-monopoly on advanced technology needed for frontier development, their technical expertise and their tremendous financial muscle made the oil MNCs the most important actors in the Canada Lands.} and even enhance it through whatever federal exploration and development subsidies became available. Therefore, in order to alter this MNC dominance, it was crucial to change the land holding structure in the Canadian frontiers. Further, if Ottawa was going to be able to regulate the rate and location of development, measures had to be taken to regulate the rate of exploration, the conversion from exploration to production, and the rate and location of production. Although Ottawa possessed alternate means by
which it could halt development, these measures could stop development, but not
regulate industry operations.\textsuperscript{109}

The new rights structure abolished the free entry system and instead
introduced a system of bonus bidding, effectively installing a system of entry-
regulation which would enable it to introduce all sorts of "terms and
conditions prior to sale, specifying the form of bid, area, duration of rights,
work requirements and use of Canadian goods and services."\textsuperscript{110} Thus, Ottawa
ensured itself of a significant increase in control at the entry stage of the
system. But, since Ottawa refrained from violating the contractual rights of
the industry, the new system introduced a novel procedure for allocating
exploration and production rights in areas not subject to existing rights,\textsuperscript{111}
while retaining essential parts of the old system in the areas currently under
permit. This effectively meant that it would take a long time until the new
system could be introduced for all of Canada Lands.

In the areas covered by existing permits, it was found that the COGL of
1961 did provide a means by which some terms could be changed so as to apply
to existing permits without raising any sound legal basis for arguments of
interference with vested rights. This applied to companies that had held their
permits for the maximum period of 12 years. The options available to a company

\textsuperscript{109} The issue of federal control over development not only involved the land
management system but also a number of other regulatory instruments such as the
NEB (which was granted the authority to licence pipelines) and legislative
measures such as the Navigable Waters Protection Act, the Arctic Waters
Pollution Prevention Act, the Canada Shipping Act, the Canada Wildlife Act, the
Fisheries Act, the Northern Inland Waters Act, and the Migratory Birds
Convention Act. All these measures could to various degrees be used to affect
the location and pace of petroleum development. See Lucas, A.R., D. MacLeod and
R.S. Miller: Regulation of High Arctic Development, in Marine Transportation
and High Arctic Development: Policy Framework and Priorities, Symposium
Proceedings from a Conference held on 21-23 March, 1979 in Montebello, Quebec
by the Canadian Arctic Resources Committee (CARC).

\textsuperscript{110} See also Crommelin: Oil and Gas in Canada, op.cit. p.2.

\textsuperscript{111} The new system consisted of a three-stage allocation process. The three
stages were the exploratory permit, the provisional lease and the production
licence. The exploratory permit of the COGL of 1961 was essentially kept
unchanged. The permits in place prior to the issuance of the new regulations
were destined to expire in 1984. It was anticipated that more than 50\% of
existing permits (covering 500 million acres in 1975) would expire by mid-1979.
that had held the permit for the maximum period were either to seek a renewal of the permit or go to lease. A lease was available to a permittee as of right.\textsuperscript{112} If going to lease the company was required to relinquish half of the acreage.\textsuperscript{113} As Harrison notes:

\begin{quote}
In 1977, the areas covered by federal permits had not been explored nearly enough to enable an informed lease selection to be made in most cases and, therefore, the leasing alternative was not an attractive one at all for many permittees.\textsuperscript{114}
\end{quote}

Therefore, private companies faced important disincentives to take up leases. The federal government, provided the companies were unwilling to go to lease, could impose "new conditions as a term of any permit renewal that was sought after a permittee had exhausted his renewals as of right."\textsuperscript{115} Rather than forcing companies to make a choice, Ottawa chose a third option, namely "voluntary" acceptance of the proposed new regime. This is the function of the "special renewal permit for such term and subject to such conditions ... as the Minister may determine." The special renewal permit thus spared the federal government from a confrontation with industry over contractual rights. Crommelin notes, in terms of the retention of the exploration permit, that:

\begin{quote}
(I)t clearly provides an opportunity for the government to encourage additional exploration of areas rather than force the private operator to choose between relinquishment and conversion to lease.\textsuperscript{116}
\end{quote}

The introduction of special renewal permits clearly demonstrates that the federal government sought to avoid a needed \textit{change of system} by instituting changes in the system.

The third objective, that of ensuring adequate economic returns to the federal government, conflicted with the first objective of increasing

\textsuperscript{112} See (S.55(1)) in the COGL of 1961.

\textsuperscript{113} See (S.56(2)) in the COGL of 1961.

\textsuperscript{114} See Harrison, op.cit., p.513.

\textsuperscript{115} ibid.

exploration rates, because industry incentives entailed considerable economic costs and affected the economic returns available to Ottawa. As noted, the May 1976 proposed legislation introduced new financial conditions for industry. In place of the old royalty which established a 5% royalty rate for the first year and 10% thereafter, a new royalty rate of 10% of the wellhead value of production was to be applied throughout the life of a field. Also, new work commitments and a new royalty, the Progressive Incremental Royalty (PIR), were introduced. The PIR was a levy of 40% of production revenues after a number of deductions were made. Crommelin finds that the PIR was far too generous to the private investors. Ottawa introduced a three-year "holiday" in respect of all discoveries made on or before 30 June 1980, thus exempting these discoveries from the PIR and rendering the PIR irrelevant for several years. Since the incentive system was a tax-based and not a grant-based system, the sacrifice for the federal government would be foregone revenues. The proposed royalty-holiday for fields discovered prior to 1980 clearly reveals that Ottawa was willing to forego not only current tax revenues through tax-writeoffs for exploration and development, but also future revenues, in the form of extensive royalty holidays. Thus, the federal government sacrificed the potential for high financial returns for an acceleration of discoveries and development of the Canada Lands. An important reason for why Ottawa backed down

117 There are ways in which these costs can be minimized. Minimizing front-end loading means that the companies pay little for their initial exploration efforts. The government can then later, recover the subsidies from higher production royalties. This was clearly the philosophy adopted with reference to the Progressive Incremental Royalty (PIR) introduced in the May 1976 regulations. Yet, it seems unreasonable to assume that the oil companies in their profitability assessments of future production would fail to take the whole package into account, which includes exploration, field development, and production costs.

118 Crommelin emphasizes several aspects of the PIR. First is the notion of the "ring-fence" which was to be drawn around each producing field: only those expenses incurred within the fence were to be deductible. Second, the PIR was also consistent with the objective of "no front end load" which meant that the government would defer its return until most, if not all, of the private capital had been recovered, together with a return thereof. See Crommelin, Oil and Gas, op.cit. p.3

119 ibid.
from instituting more stringent financial conditions relates to the legal status of the royalty provisions in the COGL of 1961. Harrison notes that "(t)he back of the permit set out the royalty provisions of the regulations. Clearly the royalty could only be changed by retroactive legislation."120 Thus, in the absence of new legislation, made retroactive in nature, Ottawa could not change the royalty rates without facing legal challenges. The system in place then represented the past controlling the present and placing significant constraints on future actions. A change of system could have detrimental effects on Ottawa because it could drive the private industry away from the frontiers altogether. With very small quantities of oil and gas proven up and little knowledge of the resource base, Ottawa’s bargaining leverage, in resource terms, was weak.

The nationality requirements in the May 1976 proposal encompassed four different aspects of the rights allocation process. First, nationality requirements were introduced in the allocation of new rights. Crosby notes:

In the future, when the Minister issues new oil and gas permits, the terms and conditions of these will be essentially as he orders them to be. The terms and conditions will not be set out in a detailed manner as in the existing Regulations, but rather will be designed in the light of what appears desirable, in accordance with what the traffic will bear. This means that they will be very flexible.121

The discretion available in the regulations would enable a determined minister to pursue a program of increased Canadianization. The nature and strictness of the criteria would hinge on a number of factors, and not least the relative attractiveness of the resource base. Ottawa’s policy of speeding up the mapping of the resource potential in the frontiers would, if the frontiers indeed were as attractive as most federal officials thought, enable it to impose stricter terms and conditions on the industry.

At the production stage the proposed legislation would enable the

120 See Harrison: The Legal Character, op.cit., p.512.

minister to refuse any bid when the Canadian participation level was below 25%.

Second, nationality requirements were to be included in the supply of goods and services "where possible and practical." The application would be subject to ministerial discretion.

Third, there were nationality requirements in the marketing of production. The federal government could direct production into domestic oil and gas markets at prevailing wellhead prices notwithstanding the existence of private export contracts. Crosby noted that "if the authorities in their judgment believe that the reserves discovered should be used in Canada, then regardless of any previous contractual relationships it can be ordered into a Canadian market."

Finally, Petro-Canada would be granted preferential access to land. In the areas not currently under permit, Petro-Canada was granted the right to select available Crown reserve lands. The rights granted Petro-Canada to select any areas not under permit in 1976 enabled Petro-Canada to accumulate a very considerable acreage. The acreage obtained through this preferential right was considered the most marginal by the industry because the industry had been allowed in the past to pick and retain large parts of the most attractive acreage. But this right granted Petro-Canada was significant, because Petro-Canada could be given large and contiguous areas. Concern was voiced in

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122 See Crommelin: Oil and Gas Rights, op.cit. p.4.


125 For one year after the new regulations became effective, Petro-Canada could select any areas not under private tenure. The company had to pay for future obligations itself (and farmouts to private industry were subject to ministerial approval). For up to seven years after the new regulations became operative, Petro-Canada could select up to 25 percent of all surrendered areas. See Crommelin: Oil and Gas, op.cit. p.4.

126 These areas, consisting of fractions of blocks that were scattered about, were not attractive to the companies unless they could be combined into larger, contiguous areas.
industry circles of Petro-Canada acquiring vast areas and becoming the main land-owner on the Canada Lands.  

In areas currently under permit, Petro-Canada was granted the following rights or privileges. As part of the so-called "challenge system", Petro-Canada could be used to drill exploratory wells that the holder of the rights to a prospect had refused to drill. Crosby says about the challenge system:

(I)f it is thought that a particular exploration prospect should be tested by drilling, regardless of whether or not the holder of the rights to that prospect has met his obligations otherwise, there will be legislative authority to say he must drill it. This is an implementation of the "need-to-know" concept. If the rights holder does not drill the prospect, Petro-Canada may drill it and thereby wind up with at least a fifty percent interest in the prospect, indeed an entire interest if the party who holds the rights does not choose to go along with Petro-Canada on a working interest basis.  

Petro-Canada’s participation did not exclude the rights holder from further activities. In evaluating the challenge system Crosby admitted that it did represent a form of expropriation. Yet, he further noted that:

Personally, I doubt very much if it would ever be used. The mere fact that this power will be there will likely ensure that wells will be drilled on exploration prospects by the holders of the rights.

This preferential right granted Petro-Canada serves as added confirmation of the political nature of Petro-Canada’s catalyst function.

The second preference granted Petro-Canada in the areas under permit or the so-called "old rights structure", and also the most controversial

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127 Petro-Canada’s preferred rights to Crown reserves enabled the company to pick up a very large continuous area in the Mackenzie Valley. This enormous continuous area granted Petro-Canada was different from the fragmented ownership structure in the remainder of the areas North of 60° and that were administered by DIAND. DIAND officials found this to threaten the traditional land management techniques used by it because the change represented an element of a "concession-based" North-Sea-like approach to land management. The latter increasingly became the approach favoured by EMR. Source: Interviews with officials from DIAND and EMR/COGLA.

128 See Address by Crosby, in Patton, op.cit., p.32.

129 The holder of the rights could come back in after such a well had been drilled. He could then obtain up to a maximum 50% interest, but had to pay a penalty of four times his share of the well costs to Petro-Canada. After a second well he would have to pay six times his share and after the third well he would have to pay eight times his share which was the final chance. ibid.

130 ibid.
preference, was the so-called back-in right of Petro-Canada. Crosby notes:

Under this provision, Petro-Canada will be able to back-in on any exploration acreage that has gone past its term of tenure and in respect of which the rights holder requests a special renewal or goes to another form of terminable grant under the new Regulations. Petro-Canada will be able to back-in up to twenty-five percent without pay-back of any of the past expenditures on the acreage made by the rights holder.\(^{131}\)

In exercising its option to back-in Petro-Canada would not offer compensation but would become liable for its share of whatever future costs were incurred. This preference granted Petro-Canada was important because it challenged the prominent role of the MNCs in the most attractive areas. The magnitude of the challenge hinges on how extensive the right was.\(^{132}\) Crommelin notes that where a private operator had made a discovery during the ordinary term of a permit, no option to back-in was extended to Petro-Canada, thus essentially making the exercise of the back-in contingent on private-sector activities. This aspect of the regulations was clearly an important incentive for the private-sector operators to prove up reserves prior to the expiration of their permits in order to prevent Petro-Canada from gaining a foot-hold on their acreage. Viewed in this light, even the back-in provision could be considered an incentive for early exploration of the Canada Lands. Petro-Canada was not granted a majority position in any field, nor did the regulations at any point in time provide for this. The question of whether Petro-Canada would exercise the back-in option rather than use other avenues of expansion such as farm-ins and acquisitions also must be determined if the true effectiveness of the back-in right is to be assessed.\(^{133}\) This will be discussed in the next section on Petro-Canada.

From the above there is no doubt that the rights granted Petro-Canada

\(^{131}\) ibid. p.34.

\(^{132}\) The question also refers to whether the back-in option would apply to companies opting for lease instead of having their special renewal permits extended. The back-in option only applied to the exploration stage. But, companies that chose the lease option were subject to the 50% relinquishment rule. And Petro-Canada was eligible to select up to 25% of the surrendered acreage.

\(^{133}\) Petro-Canada had to express its wish to exercise the back-in, and the corporation could refrain from doing so if it saw fit. And, it had to exercise its back-in option within a fixed time-limit. See Section 120 (5), (6) of the COGL, amendment, Canada Gazette Part II, Vol.III, No.16, 28 July, 1977.
were significant and represented a clearcut attempt by Ottawa to reduce the oil industry's power and influence in the Canada Lands.

The proposed legislation said little about the specific application of many of the above mentioned nationality requirements. Thus, Ottawa could use discretion to ensure itself of more direct federal control and also of an increased private-sector Canadian presence in the Canada Lands. But the discretionary power available in the new proposed regulations could also increase uncertainty about the future effects of the regulations. The uncertainty surrounding the regulations was particularly problematic in the East-coast offshore areas where a jurisdictional conflict was unfolding. An Agreement was reached between Ottawa and Nova Scotia, PEI and New Brunswick, on February 1, 1977. These areas were to be managed jointly, by a Federal-Provincial Maritime Offshore Resources Board,\(^{134}\) with Ottawa retaining ultimate jurisdictional and managerial powers. Newfoundland opted out of the process and the agreement was never put into effect. Instead Newfoundland instituted its own set of regulations. The ministerial discretion available in the COGL of 1976 combined with the uncertainty of Newfoundland's role also made this an uncertain and unpredictable regulatory regime.\(^{135}\)

The COGL of 1977

On June 1977 the Honourable Alastair Gillespie announced some important changes in the federal government's position since the issuance of the

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\(^{134}\) The Board would consist of three federal and three provincial representatives, with possible dead-locks solved by the Minister of Energy, Mines and Resources. See address by Senator Jack Austin, in Patton, op.cit. p.111.

\(^{135}\) See addresses by Arne Nielsen (President of Mobil Oil), Stanley G. Pearson (Vice-President of Gulf Canada), and Denny Duff (Manager of Total Eastcan Exploration), ibid.
Statement of Policy in May 1976.\textsuperscript{136} The extent of the Petro-Canada "back-in" option was reduced. In a submission to the House of Commons, Standing Committee on National Resources and Public Works, Dome notes that the change was the result of an "understanding reached between industry and the Government in July 1977."\textsuperscript{137} This reversal of the federal position occurred after considerable pressure had been exerted on the government by the industry. In addition, Ottawa was pressured by the provincial governments. Alberta pressured it directly on the pricing issue and indirectly on the generous incentive schemes that it devised and which attracted the industry back to Alberta. The province of Newfoundland pressured Ottawa by issuing licensing regulations which conflicted with the federal ones on important points.\textsuperscript{138} All these factors contributed to pressuring Ottawa to give concessions to industry so that the industry could resume operations in the Canada Lands.

In the May 1976 policy statement Petro-Canada was granted a flat rate of 25%. The new changes made the rate vary with the degree of Canadian private industry participation. Crommelin notes:

\begin{quote}
The 25 percent maximum will continue to apply when the private Canadian interest is 10 percent or less; thereafter the option will diminish by one percentage point with each corresponding increase in private Canadian participation, until participation is 25 percent, at which stage the Petro-Canada option will remain at the level of 10 percent while private Canadian participation ranges between 25 percent and 34 percent, after which stage the option will no longer apply.\textsuperscript{139}
\end{quote}

The change reduced the magnitude of Petro-Canada's rights when some Canadian private participation was present. When companies with a Canadian Ownership Rate above 34% were involved, Petro-Canada would no longer have any option to

\textsuperscript{136} The land freeze established in 1972 was lifted before the new legislation and regulations were in operation. This means that the government resorted to temporary regulations, using existing statutory authority to implement the fundamentals of the new regulations. See Oilweek, June 27, 1977, p.7.

\textsuperscript{137} See H.C.S.C. on National Resources and Public Works, 1-4-1981, 43 A:3.

\textsuperscript{138} See Chapter Nine for details.

\textsuperscript{139} See Crommelin, M.: Oil and Gas Rights... op.cit.,p.5.
"back-in". Ottawa, it seems, reduced the public-sector presence to the advantage of private Canadian companies. Although the concession was only granted a segment of the private sector, the Canadian-owned companies, the MNCs could bypass it. Foreign-owned companies could join with other companies that had higher COR-rates and effectively shut out Petro-Canada. This provision, while weakening Petro-Canada's formal position, was made less important due to the lack of suitable private-sector Canadian partners to the oil MNCs. Ottawa retained its commitment to increase Canadianization, but reduced the magnitude of ministerial discretion available, because all terms and conditions associated with each exploration agreement would be advertised prior to the acceptance of bids. This was clearly done to reduce the uncertainty that emanated from the existence of two sets of regulations.

The second change introduced in 1977 was to extend the Progressive Incremental Royalty (PIR) "holiday" another period of two years, to all discoveries made before 31 October 1982. Thus, Ottawa pushed further into the future and reduced the size of the expected returns from frontier development.

Finally, Ottawa, by retaining most aspects of the COGL of 1961 failed to introduce any of the proposed changes in the May 1976 regulations related to the regulation of production. But the regulations, by introducing a

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140 Imperial which - if it let Panarctic Oils which was considered 95.5% Canadian-owned - take a 10% working interest in production of a field along with Imperial, this would bring the Canadian content rate up to 26%, thus effectively shutting out Petro-Canada.

141 See Section 30(4) of SOR/77-666, in Canada Gazette Part II, Vol.111, No.16, p.3853.

142 The holder of a permit, provided he fulfilled certain criteria, would be granted a lease. Apart from the restrictions on lease selection and lease area, the 1961 COGL did not include any other regulations that would enable the federal government to regulate the conversion from exploration to production. Also, the COGL of 1961 did not specify any limits on quantities that could be produced nor did they include powers for the minister to halt production. The drilling and production regulations contained a clause on prorationing that conferred certain powers on the Minister "to regulate the production and allowable from all wells or pools in order to effect economic production and the conservation of oil and gas." See "Regulations Respecting the Drilling and Production of Oil and Gas Belonging to Her Majesty in Right of Canada Under All Lands Forming Part of Canada But Not Within Any Province" and also cited as the "Canada Oil and Gas Drilling and Production Regulations" in Canada Gazette Part II, Vol.94, No.9, May 11, 1960. Section 48. Such regulation had to be justified
"significant discovery" clause, 143 enabled the Minister to "order the drilling of a well in relation to that significant discovery." 144 This demonstrates that the federal government retained its intention to spur exploration but placed less emphasis on distinguishing between the exploration and production phases. 145

Industry Response/Reaction

In terms of the industry's reaction, Oilweek reports that it was basically positive to the new regulations:

Some spokesmen gave the government credit for displaying a sense of urgency about frontier exploration. Imperial Oil and Gulf Canada said they were willing to try to work under the new rules - Imperial's spokesman expressed "cautious optimism." 146

The introduction of the temporary regulations in 1977 must be seen in connection with Ottawa's emphasis on developing new future alternatives of supply. The jurisdictional dispute off the East Coast had effectively halted activity off the province of Newfoundland. Clearly, after the agreement was struck with the Maritime provinces, Ottawa displayed a sense of urgency to get industry back into the areas where the disputes had been settled. But this also means that Ottawa was willing to settle for terms and conditions that were less than satisfactory, when compared with the changes proposed in May 1976. The jurisdictional conflict had pressured industry actors by generating uncertainty about the future status of the areas and through the introduction of federal and provincial regulations which differed considerably. Attempting to patch up on those grounds solely, however.

See Section 124.1 of SOR/77-666, op.cit. p.3862.

ibid.

This aspect of regulating production, however, is only one of the means that the federal government actually had available. Another powerful means of regulating the conversion from exploration to production was the federal government's powers vested in the NEB to approve the building or construction of pipelines. But the NEB could not be used to regulate production rates.

the damage done, governments granted concessions to industry. The COGL of 1977 represented a step backwards from Ottawa's intentions, as announced in 1976. But it should be viewed as a strategic retreat, rather than an absolute defeat, in anticipation of new legislative changes, and as a means of retaining industry interest in the frontiers in the interim. But there is no doubt that the new temporary framework was strongly geared towards rapid development of the Canada Lands, and with less assurance of proper control over the rate and location of development in the future than Ottawa had intended.147

In sum, Ottawa's concern was to expand federal control over industry activities in the Canada Lands. The federal strategy that was adopted was a strategy to increase oil and gas development, it was not a strategy to maximize federal control over resource development in the Canada Lands. The political ramifications of this conclusion are strikingly obvious.

Why did Ottawa fail in its attempts at introducing a new land management system? While the influence of the oil industry, and in particular that of the oil MNCs, on the formulation and implementation of federal policies must be taken into account, a number of other factors related to international pressure, interdepartmental rivalries within the federal government, the nature of intergovernmental relations, and the nature of the system in place played a critical role.

U.S. pressure has been mentioned as an important reason for why Ottawa

147 Ottawa retained its traditional policy of enabling the industry to operate in all parts and aspects of the Canada Lands. The fact that the regulations did not make any distinctions between various areas also suggests that Ottawa was not overly concerned with environmental issues or native land claims, because if it were, these areas would have been excluded or different regulations would have been set down here. The 10-year moratorium on pipeline development in the Mackenzie Valley following the Berger hearings reveals an increased sensitivity to environmental issues. Yet, much of the opposition to development emerged from outside the federal government. In addition, elected officials such as the Minister of DIAND were more sympathetic to moratoriums on drilling than were the federal land managers in DIAND, partly because the moratorium would complicate land management in Northern Canada. Source: Interviews with senior DIAND official, energy consultant Francois Bregha and John Merritt (CARC), March 1988. Ottawa sought to negotiate the land-claims in the areas that were most attractive in resource terms first.
failed to proceed with Bill C-20. Such pressure was more effective in the late 1970s than it was with the NEP, for a number of reasons. The world oil market was calm in 1977. Relatively few people were involved in the change process in Ottawa in the 1970s, making land management changes a less politicized issue than in the NEP framework. EMR's bureaucratic status was lower than in 1980. EMR and DIAND differed in their views on the industry's influence, and this difference was reflected in the land management philosophies of the two federal departments.

Further, it is important to note that if the legislation had been carried through, the conflict between Ottawa and Newfoundland would clearly have politicized further the issue of jurisdictional rights. The absence of any agreement with the province of Newfoundland, the province's introduction of its own set of regulations which were more stringent than the federal ones and tailored to a slower rate of development, made Ottawa adopt more lenient regulations. This was done both to ensure continued resource development but also to force the province, through industry pressure, to accept a higher rate of development. The uncertain nature of the resource base also acted as a

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148 Interview with former official involved in the process of developing a new system in the 1970s. Section 58 of Bill C-20 which would terminate all acquired rights without compensation clearly generated considerable resistance in many quarters.

149 After 1974 a split emerged between the two departments that involved both departmental objectives and philosophies, as well as the actual managerial practices of each department. In terms of objectives, DIAND viewed its main role as one of pursuing "province-building" in the territories under its jurisdiction. Source: Interview with senior official in DIAND who used this term. And northern resource development was perceived as a key vehicle for realizing this objective. EMR, on the other hand, was primarily interested in the energy aspects of development, such as security of supply, for the country as a whole. EMR's approach was therefore more clearly energy-specific and sector-oriented than was DIAND's. Further, EMR favoured much more state intervention in the activities of the oil industry than did DIAND. The differences in departmental objectives and perceived roles identified above were also evidenced in the land management practices of DIAND and EMR. The differences in management philosophies and practices between the two departments clearly affected the federal government's ability to regulate the industry's activities. This is particularly the case in Northern Canada because DIAND's land management practices were far more permissive and flexible and aligned with the industry's interests than were EMR's land management practices.
strong obstacle to a more stringent regulatory framework.\textsuperscript{150}

The strong rights basis of the old regulations made them inherently inflexible and served as an important constraint on Ottawa's ability to change the industry's terms of operation.\textsuperscript{151} Ottawa tried to inject more flexibility into the regulations, as evidenced in the much higher degree of ministerial discretion inherent in the May 1976 proposal, and it also tried to increase its bargaining position vis-a-vis the oil MNCs by encouraging exploration of the Canada Lands.

Faced with a number of constraints that for instance the North Sea countries did not face, related to the nature and status of the resource base, the federal-provincial division of power, the structure of the old land management system and the dominant role of the oil MNCs operating in Canada, Ottawa's inability to effect change is quite predictable.

The fact that Bill C-20 lapsed left the federal government with statutory regulations for the remainder of the 1970s. It was only with the introduction of the NEP and the land management regime set out in Bill C-48 and administered by COGLA that a comprehensive new set of legislation was put in place.

\textbf{PETRO-CANADA}

Petro-Canada commenced its operations in January 1976 with 4 employees\textsuperscript{152} and a total of $1.5 billion in funds for its first five to seven years of

\textsuperscript{150} It is not only the physical characteristics of the resource base that matter but also the ability of a government to take advantage of positive resource base changes. The resource base is not a fixed entity, it "emerges" as a product of exploration, technological changes and shifting economic conditions.

\textsuperscript{151} One of the key features of the Norwegian system, for instance, was its inherent flexibility, which enabled the government to adapt its regulations and policies to the changing circumstances, also to the evolution of the changing geological prospects and the resource base.

\textsuperscript{152} At the end of 1976 Petro-Canada had 320 employees. See Petro-Canada Annual Report 1980, p.44.
operations. At the end of 1979 the corporation had assets of $3,411 million, revenue of $751 million, had acquired ARCAN for $342.4 million and Pacific Petroleums for $1,496 million and had 2246 employees. Petro-Canada's daily production from oil and gas wells at the end of 1979 was 11,100 cubic metres/day or roughly 69,800 bbl/day. In the late 1970s, the corporation was still relatively small compared to the largest oil MNCs. While Petro-Canada had entered the downstream, it was not a fully integrated company.

This section, analyzing the operations of Petro-Canada in the period 1976-79, sheds light on the role assigned Petro-Canada by the federal government in this period because, as noted in Part Two, there is no assurance that Ottawa would have the same priorities or perhaps not even quite the same entity in mind in 1976 as it had in 1973. This section also provides a brief examination of the corporation's own assessment of its role, because this tells us something about the degree of conformity between federal and corporate objectives. The study of the intentions of the most important actors associated with Petro-Canada forms the backdrop for the analysis of the company's emerging size and investment decisions. Corporate expansion and scope of operations say something about Petro-Canada's capacity to pursue federal objectives.

153 Of this amount, $500 million was in common shares and $1 billion would become available in preferred shares and loans (to be advanced without fixed dividend obligations). See Pratt, L.: "Petro-Canada ..." op.cit. p.123.


155 This constituted an annual production of 25,483,900 barrels which was approximately 5.0% of total annual oil production from Western Canada. See Petro-Canada Annual Report 1979, ibid. and Helliwell et al. 1987, op.cit., p.343. Petro-Canada's daily production of natural gas was 11.5 million cubic metres. Petro-Canada also produced 1,200 barrels/day of synthetic crude oil and the corporation's overseas oil production was zero. Petro-Canada's proven reserves of oil and natural gas liquids were 48.8 million cubic metres and the corporation also had 107.5 billions of cubic metres of natural gas. Finally, Petro-Canada's overseas reserves were 1.0 million cubic metres or 6.29 million bbls of crude oil and natural gas liquids.

156 Such capacity has to include a measure of the corporation's impact on Canadian oil and gas operations as well as an assessment of whether this impact was consistent with federal objectives.
Petro-Canada: Objectives

Petro-Canada, as the main vehicle of the federal government's entrepreneurial drive in energy, constituted an important federal policy measure. The White Paper published by EMR in 1976 listed three main functions of Petro-Canada as an instrument of federal energy policy. These priorities were all related to the federal government's emphasis on increased exploration and development of the frontier regions of Canada. The White Paper published by EMR in 1976 noted that:

With regard to petroleum and natural gas, new steps have been taken to accelerate the delineation of our frontier resource base through the creation of a national oil company. Petro-Canada will participate actively in frontier exploration. It will be able to mobilize capital on an important scale, even by the standards of those large private enterprises which characterize the Canadian petroleum industry. The initial capitalization of $500 million can be supplemented by debt financing up to $1 billion.

Petro-Canada is not expected to replace private corporations engaged in the search for Canadian oil and gas reserves. Rather it is intended to act as a catalyst and to supplement private sector activity in Canada's frontier areas. Exploration and development of Canadian frontier resources will require capital on a scale not normally available to most Canadian-owned companies. Petro-Canada can play an important role in facilitating the participation of such companies in the search for new Canadian oil and natural gas supplies. In the process it will increase the overall level of exploration activity, expand the number of companies taking part in such activity, increase Canadian participation in the development of Canadian resources and provide an invaluable source of knowledge and insight into both the operation of the petroleum industry in Canada and the future prospects for Canadian oil and gas reserves.\(^{157}\)

The basic role of Petro-Canada, according to this document, was to increase frontier activities. In so doing, however, the corporation was also intended to fulfill a number of other and related concerns. Such concerns were first to increase resource information and enhance the evaluation of the resource base. Second, it was to increase Canadian participation in the industry, both by means of its own operations and by cooperation with Canadian companies. In so doing, it would increase the number of players in the frontiers.

Although Ottawa emphasized security of supply, state-to-state deals were

\(^{157}\) See EMR: "An Energy Strategy... " op.cit. p.27.
not listed as an important aspect of Petro-Canada’s role in the White Paper.\textsuperscript{158} The Petro-Canada PEMEX agreement, signed in January 1979, entailed deliveries of 100,000 bbl/day of Mexican crude.\textsuperscript{159} The agreement with Mexico was an agreement that was negotiated by representatives of the two governments and Petro-Canada’s role was a secondary one, namely to work out technical matters with PEMEX.\textsuperscript{160} Another agreement to procure Venezuelan oil was being negotiated in the period March - June 1979 but the negotiations fell apart and no deal was concluded.\textsuperscript{161} The state-to-state agreement that was signed between Canada and Mexico reveals how the federal government could define new tasks for Petro-Canada whenever it felt this was necessary. This also demonstrates the limited utility of policy documents as explicit guidelines to understand Petro-Canada’s role. Having said that, there is no doubt that Petro-Canada’s main role was in frontier development.

How consistent were the priorities set out by EMR in the White Paper with the corporation’s own assessment of its priorities and intended role? The tendency of NOCs to take on a life of their own is a feature that is at least as prevalent with NOCs as it is for regulatory boards or agencies within the federal government.\textsuperscript{162} When NOCs take on a life of their own or become

\textsuperscript{158} As noted in Part Two, the White Paper published by EMR in 1976 said that such measures were not very relevant from an emergency point of view because of the restraints imposed upon Canada by its membership in the International Energy Agency (IEA). Even though the White Paper does not discuss this, it is clear that long-term supply contracts could serve to bridge the projected shortfall between Canada’s predicted future production capacity and projected future oil demand.

\textsuperscript{159} The contracted quantity was later reduced by over 50%. See Plourde, Oil and Gas in Canada, op.cit., p.150.

\textsuperscript{160} See U.S. General Accounting Office: \textit{Petro-Canada: The National Oil Company As a Tool Of Canadian Energy Policy}, EMD-82-5, October 15, 1981, p.38. This study also noted that state-to-state deals did not require NOCs.

\textsuperscript{161} Plourde, op.cit.

\textsuperscript{162} The tendency for NOCs to escape from central government control is by Noreng partly ascribed to the different dynamic of NOCs as compared with government departments. The two types of institutions, with departments and government agencies operating in a stable non-market-oriented climate whereas NOCs experience the pulls and pushes of constantly changing international and
instruments of their respective managements, they often adopt the same priorities as those of the oil industry. For a government whose main priority was to control the private oil industry, this was clearly an undesirable feature, in particular when federal objectives conflicted with or diverged from those of the private oil industry.

Petro-Canada's 1976 Annual Report lists three main corporate priorities:

The major priority has been to become established in conventional exploration activities, especially in frontier areas, where costs are high, risks are substantial and development timing is long, but where the potential is significant and the need to determine the presence and costs of any resource is crucial to the public interest. In 1976, the focus of the exploration program was in the frontier regions where additional or renewed investment support was required...

The second major priority of Petro-Canada was to take responsibility for various investments by the Government of Canada in the energy industry ... The transfer of these holdings is an indication of Petro-Canada's role as the effective instrument to operate these Government interests in the energy sector. These activities contribute to expanding Canada's knowledge of its frontier resources, to furthering the economic development of conventional energy sources, to developing the technical expertise for increasing hydrocarbon supplies and to advancing the delivery of frontier and non-conventional sources of energy to market.

A further early priority was to gain an operating capacity and develop a cash flow from existing Canadian production to support a substantial commitment.

The corporation sought to balance its frontier role with a substantial commitment in the provinces. From a corporate point of view this makes a lot of sense because it provides the corporate structure with needed cash from domestic markets, develop different priorities and client-orientations over time. See Noreng, O.: The Oil Industry and Government Strategy in the North Sea, (London: Croom Helm, 1981)

In the literature this is normally referred to as "managerial autonomy". See Grayson: National Oil Companies, op.cit. for this term.

The most extreme case of this is when NOCs fail to perform the tasks assigned to them by their respective government overseers or refuse to take on certain tasks of importance assigned to them by their respective governments. Feigenbaum demonstrates how this has been the case in a number of instances in France. See Feigenbaum, op.cit.

Petro-Canada became a participant in the Polar Gas Project. The company took over the federal government's 15% share of the Syncrude Canada project and it acquired the federal government's investment in Panarctic Oils.

operations\textsuperscript{167} which can be readily placed in high-risk and late-return frontier activities. Yet, from a policy point of view, an overemphasis on conventional oil development in the provinces could similarly reduce the corporation’s frontier activities. Therefore, the relative balance of frontier versus provincial activities was important from a policy point of view.\textsuperscript{168} This balancing was also politically salient because Petro-Canada’s balancing of the frontiers versus the provinces reveals the extent to which it adopted priorities similar to those of the rest of the oil industry, in particular when the private operators left the frontiers.\textsuperscript{169}

Petro-Canada clearly viewed itself as a means of “advancing the delivery of frontier and non-conventional sources to market.”\textsuperscript{170} Thus, Petro-Canada saw little meaning in only enhancing the knowledge of the resource-base, the corporation was equally interested in actually producing whatever it could find.

From Ottawa’s point of view, Petro-Canada was viewed not only as a means of increasing exploration and development in the frontiers, but also as a means of increasing its control over oil and gas activities in Canada, both through the channelling of industry activities to the frontiers and through the corporation’s role in ensuring the federal government an increased measure of control over activities in the frontiers. This included Petro-Canada’s role in providing Ottawa with an appropriate evaluation of the resource prospects of

\textsuperscript{167} The capacity of the oil industry and in particular its foreign segment in Canada to generate funds from operations was an important characteristic of the oil industry which enabled it to operate in such a high-cost and high-risk industry as the petroleum industry was and is.

\textsuperscript{168} This argument is well-developed in Pratt, Petro-Canada, (1981), op.cit.

\textsuperscript{169} The increased divergence of federal state and industry priorities in the importance attached to the frontiers was exacerbated by the pipeline moratorium in the Mackenzie Valley in Northern Canada which served to reduce the attractiveness of Northern Canada from the industry’s point of view because of the problems associated with developing adequate transportation facilities and the settling of native land claims. The industry, operating in the frontiers, no longer had the assurance of early returns on its investments.

\textsuperscript{170} Petro-Canada: Annual Report, 1976, op.cit. p.5-6.
the frontiers and Petro-Canada's role as a supplement to the industry by the corporation both adding new capital and by the corporation undertaking activities that industry actors refrained from doing.

Finally, Ottawa viewed Petro-Canada as an important source of industry financial information. The U.S. GAO study discusses the relative merits of this role of Petro-Canada and finds that:

A national oil company cannot act as an effective "yardstick" for determining the true costs of exploring for and producing oil, and thereby serving as a measure against which the Canadian Government can judge private companies' performance. It can, however, act as an effective "window on the industry" to provide the Government with more general industry information, specific information for those projects in which it participates as a joint venture partner, and to supply the Government with operating expertise to help it interpret and evaluate information on industry trends and activities.\(^{171}\)

Petro-Canada's alleged "yardstick" role, as already noted in this chapter, was filled not by Petro-Canada but instead by the establishment of the Petroleum Monitoring Agency in 1978. In terms of Petro-Canada's "financial window" role, as defined in the U.S. GAO study, the relative success of Petro-Canada would depend largely on the number of industry plays that the corporation participated in. The more plays Petro-Canada operated in, the more important would its role as a "geological window", be. Thus, an essential requirement for Petro-Canada to fulfil this window role was for the corporation to obtain a significant land-holding position, not only in aggregate acreage terms but also in terms of the resource prospects of the land.

**Petro-Canada's Operations**

Two sets of variables will be discussed here. The corporation's size will be examined. Further, Petro-Canada's investment decisions will be analyzed - as they relate to the corporation's relative balancing of the provinces versus the frontiers.

\(^{171}\) See U.S. GAO, op.cit. p.ii.
Rather than examining all aspects of its size, including degree of vertical integration - which will be done in (Part Four) Chapter Twelve - this section focuses on the corporation's control over land, including the various strategies available for acquisition of land. This enables us not only to analyze the corporation's land position but also the importance of the preferences granted Petro-Canada in the COGL of 1977. The corporation's management could determine the extent to which it chose to exercise its preferential rights - subject to certain restrictions in the regulations. Clearly, whether Petro-Canada chose to use its preferential rights to land would affect its relationship with the oil industry. Further, the more land that Petro-Canada could obtain without having to pay for it, the more resources would the company have by which to increase Canadian participation (by inducing and possibly subsidizing the participation of Canadian-owned and controlled companies). The more Petro-Canada had to rely on established industry means for acquiring land, the more it would have to pay for its involvement. Entering into farm-ins would also normally mean that it involved itself in joint ventures with the MNCs (because the largest share of the land had to be acquired from the MNCs). Such ventures could be termed subsidization but were important to Ottawa to the extent that Petro-Canada communicated its experience in dealing with the oil MNCs to its bosses in Ottawa. While the nature, extent and effects of such informal communication are very hard to determine, there is little doubt that it existed.

Petro-Canada's Size/Control over land

Petro-Canada, at the start of its activities, had no acreage or land. A strong land-holding position was a prerequisite for an effective company not only in the present, but also in the future, because so little drilling had taken place in the frontiers. In addition, almost all prospective areas were
held under permit by oil companies. Petro-Canada, as a long-term policy measure, could only be effective if it had a strong land-holding position. The size of its land-holdings says something about the relative strength of the corporation in comparison with the private oil companies. The more land it had in the prospective areas, the better placed it would be for the future. Thus, a strong land-holding position was important. But even more important was a strong presence in the most attractive oil and gas lands, both where reserves had been found, and in promising areas where no reserves had been proven up. Therefore, the size of the holdings mattered but the resource potential mattered even more.

Three means existed by which Petro-Canada could acquire a land-holding position. The corporation acquired land through acquisitions of existing companies. Second, the corporation earned an interest in land by farming-in on the companies already holding land in permits or leases. Third, the corporation was granted preferential access to land. Acquisitions and farm-ins were accepted industry practices, whereas preferential rights involved governmental interference with the rights of the private oil companies. Further, through the granting of preferential rights, Ottawa determined the corporation's land-holdings, whereas in the other two practices, Petro-Canada had much more direct say in the size and composition of its land-holdings.

In the absence of preferential access to Crown reserves and acreage held by the industry, the corporation in its first year of operations found that it needed to allocate considerable financial resources to the acquisition of land. The corporation lobbied the federal government hard for preferential access to land. Although such rights were announced as early as May 1976 they were not

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172 This terminology applies to the period prior to the new COGL of 1977.

173 Petro-Canada did not have power of expropriation. See Bill C-8, The Petro-Canada Act.
Farm-ins involved considerable costs because they required both effort and money in order for the corporation to earn a working interest in a piece of land. This means of acquiring land was therefore clearly restricted by the funds available to the corporation and the willingness of the federal government to grant it additional funds. Farm-ins were not closely monitored by Ottawa, at least not in Northern Canada. Petro-Canada, in acquiring land by means of farm-ins, could be restricted in this by the industry because it was totally dependent on the industry allowing the company to earn an interest. Thus, for Petro-Canada, land through farm-ins was available but access was dependent on industry willingness and the corporation having sufficient capital to finance its participation. Further, farm-ins only provided the farmee with a certain percentage and very rarely did the other participants enable Petro-Canada to earn a majority working interest. Finally, farm-ins provided the farmee with a working interest in, rather than direct control over, a piece of land. Therefore, all decisions were taken jointly by the companies operating in the joint venture.

Petro-Canada was not granted the power of expropriation. The corporation had to acquire companies by ordinary takeovers, which means it depended on there being companies to buy. Further, Petro-Canada was limited by the willingness of the shareholders and/or owners to sell to it. As the case of Petro-Canada’s Husky take-over attempt revealed, this limitation proved to be

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174 Bell noted that the corporation lobbied hard for preferential rights. Interview with Joel Bell.

175 This is due partly to political and to practical reasons. The political aspect emanates from the sheer magnitude of farm-ins and farm-outs. The oil industry, faced with high risks and uncertain pay-offs in the early stages of exploration, has traditionally formed joint ventures to avoid or minimize such risks. Farm-ins form an intrinsic part of joint ventures and government attempts at regulating this were bound to restrict industry activities and lead to strong industry reactions. The two main segments of the Canada Lands differed in industry configurations. In the provinces and in the Mackenzie Delta, hundreds of companies, small and large, were operating. On the East Coast, only a handful of very large companies were operative. This affected the degree to which the government could regulate industry farm-ins and farm-outs. But in the NEP farm-ins and farm-outs were tightly regulated because of the PIP-grants and the fear of "leakage" of PIP-grants to non-Canadian companies.
more constrictive than the availability of companies to acquire. Large differences existed among the various companies in terms of the size, composition and geological prospect of their acreage, making some companies much more attractive than others. Further, Petro-Canada was clearly limited or constrained by the availability of capital to finance acquisitions. Finally, Petro-Canada was limited by the federal government because of the need for prior government consent for every take-over. This was particularly the case with publicly traded shares because the corporation needed government approval in principle, even before it approached a company whose shares were publicly traded. In overall terms, acquisitions were an important means of acquiring acreage but were subject to certain restrictions.

In terms of preferential rights, Petro-Canada, and not EMR or DIAND, determined the extent to which it would exercise its rights. Petro-Canada decided the extent to which it would use farm-ins, acquisitions and preferential rights in the acquisition of acreage. In doing so, the corporation had to weigh the obvious political costs of each of these strategies. Clearly, for a corporation that was both newly established and had a high political profile, it was important to avoid the so-called "moose pasture" syndrome, i.e. selecting acreage that was worthless from a resource point-of-view. Further, the corporation also had to weigh the resource benefits of the exercise of its preferential rights against the possible political costs of losing joint-venture partners or being excluded from important plays.


177 Interview with Joel Bell.
Table III.2 Petro-Canada's Landholdings, Dec. 1980 (in gross acres), 178

<table>
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<tr>
<th>Preferential Rights 179</th>
<th>Acquisitions*</th>
<th>Farm-ins</th>
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<tr>
<td>Subtotal</td>
<td>23.6</td>
<td>22.3</td>
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* data obtained from Petro-Canada: Annual Reports

In terms of the overall composition of Petro-Canada's acreage, we see from Table III.2 that the largest share of Petro-Canada's landholdings, in gross acreage terms, was obtained through farm-ins. Petro-Canada's preferential access to Crown reserves provided the corporation with a 21.3% share of the total acreage obtained or to be obtained by Petro-Canada between 1977 and 1981. This was also the least known acreage and was therefore the one most prone to the so-called moose-pasture syndrome. The back-in clause accounted for 7.7% of the total acreage obtained by Petro-Canada. In overall terms, the preferential rights granted Petro-Canada in the 1977 regulations accounted for 29% of Petro-Canada's gross acreage as opposed to 71% acquired through normal industry means. But Petro-Canada did not refrain from exercising its preferential rights to the full.

The size of Petro-Canada's landholdings is much less significant than

178 For these figures, see presentation by R.A. Meneley to the House of Commons, Standing Committee on National Resources and Public Works, 12-2-1981, p.26:1 and Petro-Canada: Annual Report, op.cit. various years. Meneley's figures for acreage obtained through acquisitions are much lower than those provided in Petro-Canada's Annual Reports.

Gross acreage is defined as "The total acreage in which a company has an interest or has the right to earn an interest under farm-in agreements. Net acreage, on the other hand, is defined as acreage: "Obtained by multiplying gross acres by the percentage working interest therein owned or to be owned by a company." Source: Canadian Oil and Gas Handbook, 1983-84, p.310-311. Clearly, when assessing landholdings from a political point of view, as a crucial resource, the most interesting notion is the notion of net acreage. Most of the available data are on gross rather than net acreage, however.

179 The back-in rights emanated from Sections 120 and 121 of the COGL of 1977 and applied to areas already under permit. The 37.3 million acres obtained through Petro-Canada's other preferential rights originated from Section 33 of the 1977 regulations and were Crown reserves.
the actual location of its holdings. Petro-Canada exercised its back-in on two areas; first, in Mobil’s holdings on the East Coast and second, in Esso’s holdings in the Arctic Islands area. The back-in on Mobil’s acreage gave Petro-Canada a 25% interest in the very promising Hibernia field. Petro-Canada’s back-in on Esso’s acreage provided it with a strong land position in the Mackenzie Delta, both onshore and offshore. Petro-Canada’s exercise of the back-in option thus provided the corporation with roughly 2.4 million net acres in two very promising areas. In particular in terms of Hibernia, the nature of the back-in was such that Petro-Canada had a 25% working interest in all the areas for which Mobil took out special renewal permits. Petro-Canada’s back-in option thus provided the corporation with a strong foothold in two of the most attractive petroleum regions in the Canadian geographical frontiers.

By means of its preferential right to Crown reserves not currently under permit, the corporation acquired about 17 million acres in the Mackenzie Valley. Petro-Canada also obtained Crown reserves in the Davies Strait/Baffin Island area, the size of which was approximately 20 million acres. Petro-Canada’s selection of Crown lands, especially the acreage taken in the Mackenzie Valley, added little acreage of geological prospect. In fact, Petro-Canada failed to select or overlooked some prospective areas.

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180 Mobil Canada was a wholly-owned subsidiary of the US-based Mobil Oil, a fact that enabled Petro-Canada to back in with the full 25%. Esso, on the other hand, had some Canadian ownership, which effectively reduced Petro-Canada’s share to 14.2%. This figure was obtained from a COGLA and former DIAND official. See also presentation by Meneley, op.cit. p.26:1

181 Petro-Canada’s working interest constituted 25% of an area of 16700 square kilometres, which in effect provided Petro-Canada with 1.031 million net acres. See Petro-Canada, Annual Report, 1979, p.5.

182 Petro-Canada’s share in the Esso lands was 14.2% of Esso’s roughly 10 million acres.

183 Interview with COGLA and former DIAND official, op.cit. This adds up to the 37 million acres listed by Meneley, op.cit. Petro-Canada later surrendered most of the acreage it obtained in the Mackenzie Valley because it turned out to be unattractive.

184 Interview with COGLA official, March 1988.
Petro-Canada obtained 23.6 million gross or 10.6 million net acres through the Arcan takeover, and 22.3 million gross or 9.5 million net acres through the Pacific purchase.\textsuperscript{185} The Arcan acquisition provided Petro-Canada with a significant presence in the provinces, especially in Alberta (3.2 million or 2.1 million net acres). Arcan was an important oil and gas producer in Alberta so adding this acreage had an immediate effect on Petro-Canada's operational capacity.\textsuperscript{186} The Arcan acquisition was also the main source of Petro-Canada's acreage prior to the Pacific purchase (in net acreage terms), although it did not provide Petro-Canada with any acreage on the East Coast of Canada.

Through the Pacific purchase, Petro-Canada acquired more frontier acreage and it also got a very significant position in the Western sedimentary basin, in particular in the conventional areas.\textsuperscript{187} Although the corporation acquired more acreage in the frontiers than in the provinces, this is somewhat misleading because the petroleum prospective areas are much smaller in the Western sedimentary basin than in the frontiers. Therefore, in relative terms, the acreage obtained in the provinces was quite significant.\textsuperscript{188} The West Pembina oil discovery, in which Petro-Canada got a share through the Pacific

\textsuperscript{185} These figures are taken from Petro-Canada's Annual Reports and do not correspond with the figures presented by Meneley. The location of the Arcan acreage consisted of 5.1 million gross or 2.9 million net acres (this includes .5 million net acres in the tar sands of Alberta) in the provinces and 18.5 million gross or 7.7 million net acres in the frontiers. The frontier acreage consisted of 7.8 million gross or 2.8 million net acres in the Hudson Bay and 10.7 million gross acres or 4.9 million net acres in the high Arctic and the Northwest Territories. See Petro-Canada, Annual Report, 1976, p. 11.

\textsuperscript{186} Arcan was renamed Petro-Canada Exploration and became the company's main upstream arm prior to the Pacific purchase.

\textsuperscript{187} Of the total 9.5 million net acres obtained in this purchase, 3.5 million net acres were located in the provinces and 5.8 million net acres were in the Arctic, the Northwest Territories, the Yukon and on the East Coast of Canada. Further, the purchase of Pacific provided Petro-Canada with 243,000 net acres in other countries. Source: The Financial Post Survey of Oils, 1977, p.115. The numbers listed here were Pacific's holdings prior to the take-over by Petro-Canada. Petro-Canada itself does not list the exact acreage obtained from Pacific. It is unlikely however that the figures presented here will deviate much from the actual acreage obtained by Petro-Canada.

\textsuperscript{188} See Petro-Canada Annual Report, 1978, p. 11.
purchase, was the most important oil discovery in Canada since Leduc in 1947. Further, most of the acreage obtained was in Alberta which was the dominant oil-bearing province. The acreage acquired in Alberta was also primarily in the conventional producing areas and not in the tar sands. Petro-Canada thus obtained a very strong reserve base in the best producing areas of Canada through this purchase.

The largest portion of Petro-Canada’s acreage (in gross terms) was obtained through farm-ins. In terms of activities on the Scotian Shelf, and prior to the Arcan acquisition in 1976, Petro-Canada farmed in on Shell’s and Mobil’s acreage on the Scotian Shelf. The Mobil farm-in also resulted in the 1979 discovery of gas at Venture D-23.

Petro-Canada also farmed-in on two different structures on the Newfoundland/Labrador Shelf. Before these drilling commitments were completed, however, the jurisdictional dispute between the federal government and the province of Newfoundland effectively stopped drilling here until 1979. Both of these two farm-ins eventually proved to be unsuccessful. In 1979, Petro-Canada participated in a major farm-in program in the Labrador group, operated by Total Eastcan Explo. Early in 1980 Petro-Canada assumed operatorship of the Labrador Group.

Petro-Canada’s involvement in the Arctic Islands/NWT was very extensive. Petro-Canada was a major shareholder in Panarctic Oils, and it was a landholder

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189 Total net acreage obtained in the provinces up until the end of 1979 was 5.9 million net acres, of which 3.4 million net acres were in Alberta, 1.8 million acres were in B.C. and .7 million net acres were in the tar sands. See Petro-Canada’s Annual Report, 1979, p.8 (square kilometres have here been converted to acres).

190 See Petro-Canada Annual Report, 1979, p. 4. Of the four wells drilled in the delineation program, one was successful (Thebaud I-94), two had minor shows of gas and one was unsuccessful.


192 In this venture, Petro-Canada was to earn a working interest in about 100,000 square kilometres of exploratory licences by spending 35% of the overall $125 million exploration budget in 1979 and 1980. Petro-Canada’s option was to acquire 4.94 million acres of the total 24.7 million acres.
in its own right. Petro-Canada participated with an 18% share in the Arctic Islands Exploration Group.\(^{193}\) In the Mackenzie Delta/Beaufort Sea, Petro-Canada’s Annual Report 1977 noted that no further drilling was planned there until 1979.

Summing up the discussion of Petro-Canada’s attempts at gaining a strong land-holding position and thus acquiring control over oil and gas resources, Petro-Canada essentially had three options. The most frequently used approach was to farm-in on the acreage held by the private oil companies. The strong emphasis on farm-ins clearly strapped the corporation for cash, made it enter into joint-ventures with the MNCs and therefore also precluded Petro-Canada from enhancing the participation of privately owned Canadian companies. The fact that most of the farm-ins were with the MNCs is important also in terms of Petro-Canada’s function as a partial subsidy of industry activities. Petro-Canada, in acquiring acreage, paid part of the exploration expenses which the MNCs would otherwise have incurred. This means of acquiring land was very costly, and as Pratt notes\(^ {194}\), within Petro-Canada’s management there were often discussions as to the relative weight of the frontiers as opposed to the provinces.\(^ {195}\) While farm-ins can be viewed as a sophisticated subsidy of the oil MNCs by Petro-Canada, this argument ignores the important lessons the corporation could provide Ottawa with from its interactions with the oil MNCs. The vast size of the Canada Lands effectively precluded any single company from exploring the areas alone.

Take-overs of existing companies were important because they provided Petro-Canada with a large acreage position in the frontiers but even more so

\(^{193}\) The participants were Petro-Canada with 18%, Panarctic with 22%, Gulf 25% and Imperial 35%. Source: Petro-Canada Annual Report, 1979, p.6.

\(^{194}\) See Pratt, Petro-Canada, op.cit. p.135. This financial aspect was certainly not the only motivation behind these discussions but it was an important contributing cause.

\(^{195}\) This choice did not involve the tar sands because these resources were proven up. The problem involved with the tar sands was in the developmental stage, namely to develop an adequate in situ extraction technique.
in the provinces and earned Petro-Canada excellent producing properties.\(^{196}\)

Petro-Canada’s preferential rights enabled the corporation to acquire part of the most attractive acreage. Petro-Canada also exercised the back-in whenever it had the option to do so. Since the back-in was contingent on industry behaviour, the location of Petro-Canada’s rights depended on the industry’s actions. But the back-in placed Petro-Canada in a central position to benefit from future developments in the Canada Lands and clearly demonstrates that Petro-Canada was not intended to subsidize industry activities.

Corporate Investment Decisions

The acquisition of Pacific signified an important change in Petro-Canada’s corporate priorities, from the frontiers to a stronger emphasis on conventional oil production in the provinces.\(^{197}\) After Strong’s departure as Chairman of the corporation, a marked shift in the corporation’s activities to the provinces took place.\(^{198}\) Petro-Canada’s acquisitions were the main source of this strong land position in the provinces. The shift in corporate priorities to the provinces was evidenced not only in the corporation’s land-

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\(^{196}\) By obtaining this large provincial acreage through acquisitions of existing companies, Petro-Canada avoided involvement in the many "land-plays" that were taking place in Alberta in this period. Total land payments in Western Canada (in million 1971$) rose from a low of $163 million in 1974 to an all-time high (figures include the period 1951-85) of $713 million in 1979. The Albertan system of bonus-bidding provides a good indicator of industry interest in land. The higher the industry’s interest in land, the higher would provincial land revenues be. The federal licensing system, on the other hand, was essentially a work-commitment system and did not include any bidding mechanism. Thompson and Crommelin argue that federal land revenues would have been considerably larger had Ottawa installed a bonus bidding system instead of the COGL of 1961. See Thompson and Crommelin: (1973) op.cit. p.23.

\(^{197}\) Pratt links this with the change in management, from Strong to Hopper. See Pratt: Petro-Canada, op.cit., p.135.

\(^{198}\) In acreage terms the provinces accounted for 6.17 million net acres whereas the frontiers accounted for 23.39 million net acres. See Petro-Canada Annual Report, 1979.
position but also in its investment behaviour, and in the policy advice the corporation provided the federal government. Petro-Canada urged Ottawa to place more emphasis on the Western Sedimentary Basin, because of favourable oil and gas economics, and because Petro-Canada’s management felt that the federal government had underestimated the immediate and medium-term supply potential of this region. This policy recommendation conflicted with the federal government’s stated priorities. Petro-Canada also recommended that the federal government allow the price of natural gas from Western Canada to rise. This would reduce the need for imported oil through increased inter-fuel substitution.

Petro-Canada’s reorientation took place long before the election of the Clark Conservative government. A strong position in the petroleum producing provinces would provide the corporation with internally generated funds which

199 In 1976, Petro-Canada allocated $28 million, out of a total amount of $35 million on the frontiers, or 80% In 1977 this share had fallen to 63%. In 1978, it fell to 44% and in 1979 Petro-Canada spent $77 million of a total $ 253 million spent on exploration and development in Canada, or 30.4%. In 1976, in response to a written policy directive, the corporation took over the federal government’s interest in Syncrude. This directive saddled Petro-Canada with a payment of $170 million in 1976, $89 million in 1977 and $79 million in 1978. In 1979, Petro-Canada’s oilsands expenditures fell to a total of $17 million and the relative share of oilsands expenditures has continued to fall in relative terms since then. See Halpern et.al., op.cit. Table 2-2, p.16.

200 Petro-Canada’s remark that the federal government had underestimated the potential for continued conventional oil production in the Western Sedimentary Basin, is supported by more recent resource estimates produced by EMR. See EMR: Oil and Natural Gas Resources of Canada 1976, Report EP 77-1. Highlights of this report are, first, that the bulk of Canada’s hydrocarbon potential is to be found in Canada’s frontier regions. Most of this is gas and not oil, however. Second, "(f)or the frontier regions, the bulk of the potential is likely to occur in offshore areas with very hostile environments and attendant cost risks, logistical problems, and environmental risks. This potential is considered unlikely to add materially to the short-and medium-term supply." Third, the report notes that significant undiscovered resources are still to be found in the Western Sedimentary Basin. Finally, the report finds that the estimates produced by EMR in 1973 have been reduced by a third. The main reasons for this are first that the EMR report included areas that were inaccessible with current technology and secondly from "the new and predominantly disappointing flow of information that has been generated by exploration in the interim period. Certain of the changes in estimates have resulted from an increased capability to process information and improvements in methodology." EP 77-1, p.4.

could be used to fuel corporate growth. A higher percentage of internally generated funds would make Petro-Canada less dependent on Ottawa,\textsuperscript{202} and therefore also render Petro-Canada less vulnerable to criticisms from the Finance Department and the Treasury.\textsuperscript{203}

Another interpretation which also stresses Petro-Canada's corporate interest and dynamic as the main factor in its reorientation sees take-overs as the recruitment of a new cadre of industry expertise whose basic orientation was towards the bottom-line. These people had grown accustomed to bottom-line thinking which increasingly became the dominant organizational culture of the company.\textsuperscript{204}

Petro-Canada's reorientation also demonstrates that the corporation shared the industry's enthusiasm for the Western Sedimentary Basin and the generous drilling incentives provided by the Albertan government. Even more, Petro-Canada's reorientation represented a discrepancy between the corporation's own definition of its mandate, as evidenced in Petro-Canada's

\textsuperscript{202} Halpern et.al note that "Alastair Gillespie, then Minister of Energy, Mines and Resources, stated that Pacific's acquisition by Petro-Canada had been a commercial transaction whose main objective had been to reduce the Crown corporation's reliance on the federal government as a source of equity-financing for its investments in various projects. The cash-flow generated by the Pacific assets, mainly as a result of conventional oil and gas production, would provide a source of internally generated funds with which Petro-Canada would primarily finance its frontier exploration projects." Halpern et.al. op.cit., p.20.

\textsuperscript{203} These are closely involved with the supervision of Petro-Canada. An interview with an ex-EMR official who was directly involved with the supervision of Petro-Canada's annual budgets and corporate plans, revealed that Petro-Canada always submitted its corporate plans and budgets well in advance and sent copies to the Treasury and to the Finance department.

\textsuperscript{204} Bell confirmed that there were tensions within Petro-Canada between a management that had a well-developed sense of Petro-Canada's policy orientation and of the political landscape surrounding the corporation on the one hand and industry-recruited personnel who emphasized the bottom-line on the other. Bell however did not draw clear lines between the two and also noted that there were prominent senior people within Petro-Canada who were recruited from the industry who also managed this adaptation very well. Source: interview with Joel Bell, March 1988, op.cit.
Annual Reports, and the corporation’s subsequent actions.205

Petro-Canada’s corporate reorientation is less an indication of Petro-Canada as somehow having escaped from the federal government’s immediate control, as it is a reflection of the different and at times conflicting concerns facing federal officials, attempting to reconcile energy concerns with both financial and jurisdictional ones.206

In the late 1970s Ottawa faced different priorities, not only within the energy sector, but also between energy security and financial concerns. Thus, it allowed Petro-Canada to emphasize the provinces in order for Ottawa to avoid the political costs of increased federal spending at a time when a prime political consideration was to reduce inflation and a related villain, the federal deficit.207 The federal government sought to increase its control over Crown corporations, and in particular the spending aspect of their activities, as was seen in the review of Crown corporation activities undertaken in the late 1970s. By enabling Petro-Canada to take over established oil companies with good production prospects, the federal government could reduce the future need for public cash infusions into Petro-Canada. Petro-Canada’s increased emphasis on the provinces emerged naturally from such take-overs and took place.

205 This point is methodologically different from the approach taken by Halpern et al. who compare Petro-Canada’s activities over time with a representation of federal goals at one specific point in time, namely the statements made by key decision-makers at the time Petro-Canada was formed. The approach taken here compares Petro-Canada’s own definition of its role over time, compares this to federal goals, and relates both to Petro-Canada’s and Ottawa’s actions.

206 Petro-Canada’s reorientation was linked to, if not caused by the Pacific take-over. Since Pacific was a publicly traded company, Petro-Canada had to obtain approval-in-principle from Ottawa even before it approached Pacific’s management, thus demonstrating that Ottawa sanctioned the transaction.

207 In his presentation of the Federal Budget of 1978 to the House of Commons, then Minister of Finance, Jean Chretien, noted:
"By the fall of 1975 it was clear that strong economic action had to be taken. The anti-inflation program launched at that time has made a major contribution to turning the situation around. The expenditures of all levels of government in Canada have since been brought under better control. In our own case we have cut back the growth in our total outlays from 26 per cent in 1974-75 to 18 per cent in 1975-76 to 10 per cent or less since then."
See publication entitled "The Budget" presented by the Honourable Jean Chretien Minister of Finance in the House of Commons, April 10, 1978, Department of Finance, p.6.
with Ottawa's blessings, but it was a different part of Ottawa that gave its blessings than had hitherto placed the imprint on the corporation's activities.

Finally, Petro-Canada's reorientation was also a response to the ongoing jurisdictional struggles. According to Oilweek, Petro-Canada officials expressed regrets that Total Eastcan cancelled the drilling program and noted that "we wanted to continue ... but weren't able to reach a satisfactory arrangement with our partners." Petro-Canada's reorientation towards the provinces, would make the corporation less exposed to such struggles that affected all parties the corporation interacted with. But Petro-Canada's stronger provincial presence must be seen more as a short-term practical adjustment than as a significant change in the corporation's role. Petro-Canada's preferential rights and farm-ins provided it with a very significant presence on Canada's east coast. This strengthened presence was clearly related to the jurisdictional disagreements between Ottawa and Newfoundland. Newfoundland would not give up its claim to offshore jurisdiction and in May 1977 issued a new set of petroleum regulations that heightened the level of intergovernmental conflict and uncertainty about the future development of the offshore.

In sum, Petro-Canada, as revealed by its intended role and actual functions, contained elements of both industry subsidization and attempts to reduce the industry's influence. The corporation had considerable leverage in defining its working relationship with the industry, and Petro-Canada's management often opted for choices that were congruent with those of industry. Although Ottawa clearly possessed the means to reverse this, the federal government, itself torn, tended to support the corporation's evaluations, even if it conflicted with its own stated goals. Ottawa was no stranger to such goal conflicts, they had occurred before, and were often associated with jurisdictional conflicts. The conflict on Canada's east coast between Ottawa and Newfoundland heightened the political salience of a direct federal

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208 See Oilweek, April 4, 1977, p.4.
operational presence on the East Coast of Canada. Somewhat ironically, the unfolding federal-provincial conflict also inadvertently made Petro-Canada emphasize a stronger corporate presence in the western producing provinces because Petro-Canada’s partners left the areas offshore Newfoundland.

Chapter Conclusion

The federal government adopted a number of policy measures in order to fulfil the goals set out in the new energy strategy. Ottawa’s new policy-measures were clearly more focused on the development of Canada’s oil and gas resources than the measures adopted in the period 1973-75. Ottawa’s main concern was to increase the development of indigenous oil and gas resources, in particular in the Canada Lands.

Ottawa’s goal of self-reliance entailed a significant commitment to increased federal control over oil and gas development in Canada. This desire to control had to be reconciled with Ottawa’s strong pro-development stance. The measures adopted by Ottawa included an interesting mix of incentives or subsidies, and a number of measures more amenable to direct federal control over resource development. In addition, the new framework was intended to ensure increased Canadianization and protect Ottawa’s share of resource rents and revenues.

This chapter, in analyzing Ottawa’s key policy measures, has revealed that the federal government was not overly successful in obtaining its stated energy policy objectives in the period. Instead, a number of factors interfered to weaken its attempts to control the oil industry, Canadianize the oil industry and expand federal revenue shares.
CHAPTER NINE: THE EFFECTS OF FEDERAL POLICIES

This chapter provides a brief summary of some of the events in the period 1976-79 and provides a brief assessment of the effects of Ottawa's policies in this period.

Self-Reliance

Ottawa adopted the goal of self-reliance which entailed obtaining a balance between the political risks of import-dependence and the economic costs associated with autarchy. Rather than a real change in objectives, the adoption of self-reliance signalled a more realistic and informed federal assessment of Canada's energy situation. This goal was no less salient politically than self-sufficiency had been; both goals were essentially blue-prints for increased federal control over energy development in Canada. An essential ingredient of self-reliance as in self-sufficiency was the importance attached to the Canada Lands.

The Role of the Frontiers

An important factor which affected activities on Canada's East Coast in this period was the ongoing jurisdictional dispute between Ottawa and the provinces on the East Coast of Canada. As early as 1965 Premier Smallwood of Newfoundland passed a Petroleum and Natural Gas Act which enabled him to issue provincial permits for the areas off the East Coast.209 Thus, the industry

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209 The White Paper issued by the province of Newfoundland in May 1977, notes: "The basic Act under which the Province regulates offshore petroleum operations is The Petroleum and Natural Gas Act of 1965. Section 9 of that Act gives the Lieutenant-Governor-in-Council wide powers to make regulations governing offshore petroleum operations. Section 8 of the 1965 Act prohibited the drilling of any offshore well without a licence, permit or lease issued pursuant to the regulations. Section 8 of the Act was amended in 1966 to allow drilling to take place under an interim permit issued by the Lieutenant Governor-in-Council, pending the promulgation of Regulations. Pursuant to this provision, any company wishing to undertake an offshore drilling program had to first obtain a provincial interim permit." See Province of Newfoundland,
operating offshore the province of Newfoundland had to obtain permission from both levels of government. Throughout the 1960s and early 1970s, according to House, neither level of government was concerned enough with offshore resources to work out a policy for East Coast petroleum development.\footnote{210} After a review of the rights structure was undertaken in 1972, which confirmed the granting of interim provincial permits to a number of oil companies, the province in September 1973 submitted a detailed written proposal, which included draft legislation, to Ottawa in order to fill what the province considered as major gaps in the federal system of land management and rights issuance (the COGL of 1961).\footnote{211} Ottawa rejected the offer because it was not willing to grant the province anything more than an advisory role.\footnote{212} The issue did not die down after that. The White Paper published by the Province of Newfoundland noted:

By the Spring of 1976, it seemed obvious that a Reference to the Supreme Court of Canada would be necessary to resolve the ownership and jurisdictional question. As long as the possibility of a political settlement existed, the Province, so as not to cloud the issue, has refrained from passing a comprehensive set of oil and gas regulations, depending instead on the interim permit mechanism to regulate drilling. But with the court case imminent, it was obvious that oil companies holding federal exploration and production rights but just Provincial exploration rights, would be under a great deal of uncertainty as to their title to the offshore lands they were exploring and as to their right to produce any oil or gas found, given a Provincial victory. This applied particularly to the Eastcan Group, who had made a number of promising gas discoveries and were beginning to commit to large-scale expenditures. It is important that these companies be free to go forward with their drilling programs while the matter is before the courts and for that they need Provincial exploration and production rights.

Moreover, comprehensive set of oil and gas regulations were necessary so that a start could be made on working towards the Province's various offshore objectives. It was felt that a start in this regard could not be delayed until the outcome of the court case.\footnote{213}
Ottawa was more interested in reaching a negotiated agreement with the east coast provinces. In February 1977 an agreement between the Maritime provinces and Ottawa over revenue-sharing and joint jurisdiction was concluded but this agreement was never implemented. Newfoundland went its own way. Instead, the province in May 1977 introduced a provincial petroleum licencing act and provincial regulations. The province then started issuing permits in areas that were already or which were later to be licenced by the federal government. Gault wrote in 1983 that:

there is a rather curious spectacle of some East Coast licensees holding duplicate exploration permits from both the Federal and provincial governments, pending a resolution of the dispute.\(^{214}\)

The oil industry was thus confronted with a dual set of regulations that differed and whose solution, it was becoming increasingly clear, had to be settled in the courts. Gault, in addressing the question of why Canada did not have any offshore oil production, notes that

Some twenty-eight countries are currently [in 1983] producing petroleum from the continental shelf. Canada, with an extensive and viable petroleum industry and one of the largest offshore areas pertaining to any coastal state is not yet of their number. Extensive deposits of oil and natural gas have been found offshore; promising finds in the Arctic are also reported... The United Kingdom and Norway, for example have built up viable offshore petroleum industries from almost nothing in seventeen years. The two states have also evolved sophisticated regimes for regulatory offshore pipeline construction and operation, transportation of oil by tanker, environmental protection (including operational debris), the activity of supply vessels, fishing and navigation in the vicinity of installations, and safe practices and worker safety on offshore installations.

The continuing Federal-provincial dispute concerning jurisdiction over offshore mineral resources is not necessarily the sole cause of Canada's present position, but must be a major factor contributing to it. In addition, the way in which the dispute has been handled by the protagonists, its longevity, and role in the Federal-provincial political process raise important questions of public policy.

This conclusion emerges with stark clarity when one surveys the remainder of the juridical framework within which offshore development currently takes place. For example, it is nothing short of incredible that Canada has not made legislative provisions for the general application of civil and criminal law on offshore facilities, or for extending the jurisdiction of the courts....

The point is, the word "jurisdiction" has been all too narrowly defined in Canada. The protagonists in the offshore resources dispute, while concerned with safeguarding their rights, have perhaps neglected areas of traditional government responsibility, and the failure to

provide adequate regulation of safety on installations on the Canadian continental shelf is only one example.\textsuperscript{215}

The jurisdictional conflict thus effectively precluded the introduction of a stable offshore regulatory regime which was a clear precondition for development. Further, the existence of two sets of regulations meant that the industry faced the prospect of paying royalties to both levels of government. This fact in itself was a major deterrent to an active industry role.

Both levels of government were interested in offshore development, but the province's new oil and gas regulations were clearly intended to align industry activities with provincial objectives. The announcement of new provincial regulations clearly had the effect of stalling industry activities rather than maintaining or enhancing them. Oilweek noted that Total Eastcan which was the operator for the Labrador group,\textsuperscript{216} announced in late March 1977 that drilling would be suspended because the company had not received assurance from the province of Newfoundland that the province would honour its 28 million permit acreage.\textsuperscript{217} The Shell - Petro-Canada program on the Scotian Shelf was also terminated.\textsuperscript{218} There is little doubt that Total Eastcan cancelled its drilling program in protest against the new provincial regulations. In response to Total Eastcan's actions, Newfoundland Energy Minister Brian Peckford noted that the regulations sent to Total Eastcan were only draft regulations which would be changed if it was shown that they would render development uneconomic. Yet, according to Oilweek, Peckford also noted that:

\textsuperscript{215} ibid. p.97-98.

\textsuperscript{216} This group of oil companies consisted of Amerada Minerals Corp. of Canada, Aquitaine Co. of Canada, Agip Canada, Gulf Oil Canada and Sun Oil. See Oilweek, April 4, 1977, p. 8.

\textsuperscript{217} The group had planned to spend up to 60 million dollars in 1977. This was cancelled. ibid.

\textsuperscript{218} According to Oilweek, Petro-Canada expressed regrets that the program had ended and noted that "we wanted to continue ... but weren't able to reach a satisfactory arrangement with our partners." See Oilweek, ibid. Petro-Canada's 1977 Annual Report also noted that: "No exploratory drilling took place off Newfoundland and Labrador in 1977 due to a jurisdictional dispute between Newfoundland and the federal government." See Petro-Canada: Annual Report, 1977, p.10.
(I)t is of the utmost importance that we do not trade minor short term benefits at the expense of our long term objectives. The decision by Eastcan ... must be placed squarely in the context of the overall struggle to ensure the resources are developed for the benefit of the province.\footnote{Oilweek, ibid.}

Thus, for Newfoundland, the main underlying issue was provincial control over oil and gas development. Although this issue clearly involved industry-province relations, it became increasingly defined along federal-provincial lines of conflict. The main reason for this was because this jurisdictional conflict involved both jurisdiction over the offshore and the question of who was to control oil and gas development, in particular the rate of development. Provincial control was a vital requirement for a "province-first" strategy and formed an essential building block in the province-building efforts of provincial elites. The province sought to achieve its objectives by being the first governmental actor in North America to introduce the North Sea model of resource management.

The importance attached to provincial control over the rate of development is clearly evidenced in the White Paper published by the province in 1977. In this document the main provincial objectives relating to offshore oil and gas development were as follows:

1) - the appropriate disposition of rights. This objective refers to the provincial government deciding "when, where, to whom and under what conditions exploration and production rights should be granted."\footnote{See the Province of Newfoundland: A White Paper, op.cit. pp. 13-14.} In the provincial government's view it had the sole right to determine the rate of development.

2) - early offshore activities. The provincial government considered a rapid rate of exploration and the start-up of a moderate rate of production, to be in the interest of the province. An important priority for the province was to establish a predictable regulatory framework that encouraged a high, yet
controlled, rate of exploration.\textsuperscript{221}

3) - maximum government revenues. The regulations were intended to maximize provincial revenue not only from the most attractive fields but also from economically marginal fields.\textsuperscript{222}

4) - encouragement of the use of local labour, goods and services and further processing within the province. This objective of the regulations would require the companies to (a) give priority to local labour, goods and services when these were competitive; (b) land oil or gas in the province if the government so required; (c) "give priority to Provincial consumption, processing and storage needs before petroleum can be removed from the Province"\textsuperscript{223}; (d) spend minimum amounts of R & D and training related to oil and gas activities within the province; (e) "establish headquarters-type activities within the Province"; and finally, enable the province to take in kind its royalty and participation share. The latter requirement would be limited to provincial consumption, processing and storage needs, however.

5) - prevention of an inflationary and socially disruptive rate of development. A vital provincial concern was to tailor the rate of petroleum development to the absorptive capacity of the province. The means by which this would be attained, according to the White Paper, was "to limit the acreage offered from time to time to that which would result in an acceptable rate of development.

\textsuperscript{221} This would be done by issuing new draft regulations, by imposing certain work requirements on the companies, by channeling industry activities to the areas where federal permittees had drilled (or had planned to drill) and by providing economic incentives for exploration and production.

\textsuperscript{222} The province proposed a strong emphasis on government participation - which was considered a very flexible revenue-generating mechanism - instead of rigid mechanisms such as cash bonus, rentals and royalties, in order to maximize its overall revenues. The White Paper therefore proposed to establish a Crown corporation, the Newfoundland and Labrador Petroleum Board (NLPB), to hold the Province's participation rights. ibid. pp. 16-17.

\textsuperscript{223} ibid. p.17.
This step-by-step approach would normally result in a fairly controlled rate of resource development."\textsuperscript{224} The White Paper also criticized the federal government's practice of giving out permits in a "wholesale fashion" which effectively limited the province's flexibility in regulating exploration and development.

6) - environmental protection.\textsuperscript{225}

7) - local involvement in the planning of offshore activity.\textsuperscript{226}

8) - application of the province's social and fiscal legislation. This regulation effectively extended provincial fiscal and social legislation to operate on all offshore development related activities within the 200 mile economic zone.

9) - proper administration.\textsuperscript{227}

\textsuperscript{224} ibid. p. 18.

\textsuperscript{225} The new regulations required that a full examination and also a public hearing were needed before an area would be opened up for drilling. Further, the regulations also enabled the province to make the development plan for each field the topic of scrutiny in a public hearing. The federal permits that had already been issued would be exempted from the first of these two provincial requirements, however. These two requirements would reduce dramatically the scope for ministerial discretion because such discretion if exercised would be subject to public scrutiny.

\textsuperscript{226} This would be ensured first, by means of public hearings to be held both prior to the opening up of any new area and prior to the approval of any development plan, and second, permits granted would be tabled in the House for a designated period of time. This requirement would effectively politicize industry activities by enabling all interested parties to keep a close watch on the operations of the oil industry.

\textsuperscript{227} The provincial regulations, the White Paper argued, had a number of advantages over the federal regulations. These advantages were related to financial certainty for a lease-holder over the whole life-time of a lease. Further, the regulations provided the industry with a low degree of ministerial discretion. Third, where discretion had been exercised, the industry had recourse to an arbitration procedure, and finally, the provincial regulations would require a smaller bureaucracy than would the administration of the federal regulations.
In addition to this, the province introduced state participation. Section 94 of the regulations stated that

It shall be deemed a condition of every lease that the lessee shall transfer to the Newfoundland and Labrador Petroleum Board (NLPB) within 1 year after the start of the term of the lease, an undivided 40 per cent working interest in his lease.\textsuperscript{224}

In addition to the high degree of state participation, the NLPB would also be granted a 40 per cent representation on every management or operating committee. This would ensure the provincial government a very strong influence on all field development and production decisions of the oil companies. A case could also be made for viewing Petro-Canada's strong East Coast presence, bolstered by preferential rights issuances both in 1977 and 1980, as an attempt by Ottawa to safeguard a federal presence in these contentious areas. This is further indicative of the politicized nature of Petro-Canada's role, in the context of ongoing jurisdictional conflicts.

The provincial regulations were intended to ensure the province of Newfoundland a large degree of control over the rate and location of industry activities. The province's stance on control of oil and gas development challenged the interests of both the federal government and of the oil industry. The provincial initiatives, if adopted, would lead to a lower rate of oil and gas development than Ottawa wanted, and, it was thought in Ottawa, would seriously jeopardize federal supply objectives. The conflict that emerged from each level of government actively pursuing its goals had clear and tangible effects on the industry's activities. The conflict effectively stopped all drilling offshore Newfoundland during 1977. Drilling activities were resumed in 1978, although at a lower level than before and heavily subsidized by Ottawa.\textsuperscript{229} The combined effect of the 10-year moratorium on pipeline


\textsuperscript{229} The number of wells drilled offshore Eastern Canada declined to 2 in 1977, from a high of 30 in 1973. In 1978, 7 wells were drilled, and in 1979, 6 wells were drilled. Industry exploration expenditure levels offshore Canada fell from a high of $73.8 million in 1973 to $23.8 million in 1977. Between 1977 and
development through the Mackenzie Valley following the Berger inquiry, and the
jurisdictional conflict on Canada’s East Coast contributed to reduced industry
activity in Canada’s frontiers, in particular when compared with provincial
activity levels.

Industry Activity Levels

Ottawa’s new energy strategy placed considerable emphasis on increased
exploration activity in the frontiers. The frontier exploration allowance
introduced in 1977 helped sustain frontier exploration efforts during 1976-79.
Industry exploration expenditures rose from $686 million on Canada’s East Coast
in the period 1973-76 to $717.4 million in the period 1976-79. Industry
expenditures in Northern Canada fell from $ 2551.1 million in the period 1973-
76 to $ 2542.5 million during 1976-79. In terms of wells drilled in the
Canadian frontiers, the number of exploration wells declined from 107 in 1973
to 28 in 1976. In 1977 a total of 20 exploration wells were drilled in the
Canadian frontiers. In 1978 17 wells were drilled, and in 1979 22
exploration wells were drilled. The low number of wells must be viewed in light
of the very high and rapidly rising drilling costs in Canada’s frontiers. Industry
activities declined sharply in 1977/78 but picked up somewhat in 1979.

1979, industry exploration expenditures rose from roughly $ 23 million in 1977
to $ 204 million in 1979, reflecting the rapid increase in drilling costs. Another
measure of relative industry interest in offshore East Coast exploration is the relative share of wells drilled and expenditures used. Between 1976 and 1979, the number of wells drilled offshore Canada’s East Coast was 25. In Western Canada, the same number was 9081. This is a ratio of 1:363. In the period 1973 to 1975, the same ratio was 1:86. See Oilweek, December 4/78, p.29, Dec.3/79, p.36, Dec.8/80, p.36, and Dec. 7/81, p.34.

Industry exploration expenditures offshore Eastern Canada in 1977 were only
$ 77.8 million, and in 1978 it was $ 156.6. This low level, in particular when
compared to $ 496.5 million being spent in 1980, is clearly related to the
jurisdictional dispute on Canada’s East Coast in 1977. The very high figures
for 1980 can, among other reasons, be linked to the discovery of the giant oil
field Hibernia offshore Newfoundland in 1979. See Helliwell, et.al.(1987),
Table 9.4, p.223.

In this year only 2 wells were drilled on the east Coast of Canada. Source:
Yet, both in relative and absolute terms, industry activity levels in Western Canada rose much more than frontier activities. The number of wells drilled in Western Canada rose from 1687 in 1976 to 2885 in 1979, an increase of 71\%\textsuperscript{232}. The same trend can be seen for exploration expenditures which rose from $897 million in 1976 to $1806 million in 1979\textsuperscript{233}. Thus, the industry trend to emphasize conventional oil production in the provinces, which started in the mid 1970s\textsuperscript{234}, continued in the late 1970s\textsuperscript{235}. The very generous federal budget measures therefore basically served to maintain mid-1970s exploration levels in the face of rapidly rising drilling costs and political events. Viewed in this light Ottawa’s new energy strategy failed to spark increased frontier exploration.

**Canadianization and Revenue Distribution**

Ironically, Ottawa largely failed in its developmental objective even though it provided very generous incentives and did not introduce the Proposed Petroleum and Natural Gas Act. The failure to introduce new legislation in the Canada Lands also meant that Ottawa’s goal of Canadianization suffered. While the temporary regulations enabled Ottawa to include Canadian sourcing requirements, and Canadian ownership regulations pertaining to the granting of production licences, the criteria were made public prior to the bidding process started and little discretionary power was available. In terms of direct public-sector involvement, Ottawa was left with a watered down version of the initial preferences granted Petro-Canada. Petro-Canada, however, used these preferences to the full which enabled it to establish a strong land-holding

\textsuperscript{232} Oilweek, ibid.

\textsuperscript{233} See Helliwell et al. op.cit., pp. 341-343.

\textsuperscript{234} See Part Two of this thesis.

\textsuperscript{235} Clearly, a number of small companies were not able to undertake operations in the frontiers because of their small scale, lack of financial resources and technology.
position in the Canada Lands. The federal concessions were intended to benefit Canadian-owned companies or companies more responsive to Ottawa’s interests rather than foreign-owned ones. Ottawa’s Canadianization policy in this period, entailed an increased public-sector presence and also attempts, while faint, at encouraging a certain industry restructuring.

A number of factors served to frustrate Ottawa’s attempts at updating the system of rights issuance and land management which was a regulatory system that long ago had been rendered irrelevant by events. Such factors have been found to be international pressure, the nature of the rights granted industry – in particular pertaining to royalty rates – internal struggles within Ottawa, industry pressure, the uncertain nature of the resource base, the pipeline moratorium, and the jurisdictional conflict between Ottawa and Newfoundland. In addition, Alberta’s generous incentives also pulled industry actors away from the frontiers. Ottawa, in attempting to introduce a new land management system, had to wedge its proposal in between a generous and predictable Albertan system and a highly interventionist Newfoundland regulatory regime based on a lower level of development than what Ottawa wanted. Introducing a highly interventionist regime in the Canada Lands in this period would have meant not only magnifying the jurisdictional conflict and uncertainty that already existed but also accelerating further the industry’s retreat back to the provinces. Ottawa chose to promote exploration and development. The price was loss of control, considerable financial outlays in incentives, and foregone future revenues.
PART THREE: CONCLUSION

In Part Three federal energy policy in the period 1976-79 has been analyzed. This period was the time between the introduction of the Liberal government’s new energy strategy in 1976 and the election of a new Conservative minority government in May 1979. As has been pointed out in this part, the federal government adopted a more comprehensive and coherent energy policy framework, in response to the international and domestic disruptions of the period 1973-74. Ottawa, in adopting a neo-mercantilist response to the international oil market disruptions, chose a producer-oriented approach, emphasizing the federal government’s role as producer and entrepreneur. Petro-Canada began operations in 1976 and set out to develop an operative capacity and increase the evaluation and development of indigenous oil and gas resources and reserves. Ottawa also introduced a number of other measures to enhance its control over the activities of the largely foreign-owned oil and gas industry in Canada. The federal policy framework consisted of tax concessions and write-offs, price regulation, a new industry cash monitoring system, changes in the system of rights issuance and land management in the Canada Lands, and Petro-Canada.

The federal government, in attempting to reconcile the tension between a "development-orientation", and a more clearly focused "control-orientation", introduced policy measures that emphasized each and largely failed in its attempts to control the activities of the oil industry. Instead, federal instruments were increasingly becoming oriented towards development with little federal control of industry activities. But economic concerns did not dominate political ones – because Ottawa’s frontier or Canada Lands strategy was hardly rational from an economic point of view. Neither is it clear that private-sector interests triumphed over state interests. Instead, another type of concerns interfered to produce the outcomes, namely the jurisdictional concerns of governments. Ottawa, faced with provinces pursuing "province-first"
strategies, sought to increase federal control over oil activities in Canada by promoting oil and gas development in the areas under federal jurisdiction.

The federal government’s state-led and -sponsored Canada Lands strategy most clearly seen in the NEP actually emerged in the mid 1970s. It had its roots in the federal-provincial conflict that arose in 1973, following the OPEC oil embargo, because Ottawa then became increasingly concerned with ensuring future oil and gas supplies. This was exacerbated by Ottawa’s defensive adjustment strategy which required a high level of self-sufficiency in order to work. Ottawa’s Canada Lands thrust much also be related to the assertiveness of the provinces on Canada’s East Coast. A strong federal presence was deemed necessary to assert Ottawa’s jurisdictional claim to these areas. The net upshot of this was for Ottawa actively to encourage the development of two increasingly competing petroleum regions in Canada, one under provincial and the other under federal jurisdiction.

Once the resource potential of these areas was established, more effective measures could be introduced to ensure federal control over industry activities. This strategy, in its very nature, is contradictory because Ottawa had to give first in order to take later. The more that is given initially, the more difficult it is to take it back later. The state-led Canada Lands strategy therefore also had the effect of placing the large oil industry players in a strong bargaining position to obtain various types of concessions from both levels of governments.

Ottawa was also hampered by the rigid and permissive nature of the old COGL, inadequate policy-making and evaluating capacity within the federal energy bureaucracy, and interdepartmental rivalries. These aspects of inadequate federal capacity strengthened further the industry’s bargaining position.

In this period, as well as during 1973-75, energy issues were still closely associated with the jurisdictional interests and concerns of governmental actors. The orientation of the conflict along intrastate lines of conflict was less obvious during 1976-79 than it had been in the period 1973-
75, partly as a result of the lower immediate economic stakes that were involved and the more stable international environment of this period - prior to the Iran crisis. But the strong imprint that the intergovernmental conflicts of 1973-75 had left on the federal and provincial regulatory systems and on the experiences of state elites was not eliminated. Instead, the increased aggressiveness and assertiveness of the provinces on Canada’s East Coast, and in particular the province of Newfoundland, kept intergovernmental conflicts and concerns alive also in this period. Intergovernmental tensions would again flare and reach almost crisis proportions at the onslaught of the second OPEC oil crisis. The events of the second OPEC oil shock form the topic of Part Four of this thesis.
PART FOUR: FEDERAL INTERVENTION, 1980-1984
The main focus of Part Four is the introduction and subsequent decline of the Liberal government’s National Energy Program, during the period 1980-84. The NEP must be viewed as a response to important changes on the world oil scene following the Iranian revolution and the Iran-Iraq war. International oil market uncertainties and concern with foreign ownership and control of the economy, coincided in prompting Ottawa to increase its intervention in the domestic economy to ensure federal control over industry access to oil and gas resources, control the rate and location of industry operations, and ensure Ottawa of adequate economic returns from oil and gas development.

As Chapters Ten and Eleven will reveal, the Liberal government’s comprehensive energy policy package was based on a deterministic interpretation of the future of the world oil market. Liberal energy policy was based on the vision of an increasingly state-centred oil market which ensured continued OPEC market dominance and artificially high oil prices. From this, Ottawa concluded that OPEC’s increased market influence would threaten the integrity of the oil MNCs as international oil suppliers. Further, as the intermediary role of the international oil companies declined, a widening discrepancy was seen to emerge between the role of the oil MNCs on the international stage and in Canada. This could enhance the value and importance of Canada’s oil and gas resources in the global strategies of the companies, and would likely increase the share of the Canadian energy sector (not only oil and gas) owned and controlled by foreign interests. Since Ottawa predicted that the world oil market would continue to be strongly politicized, Canada’s oil imports would remain vulnerable to sudden international price and supply interruptions. Ottawa, as the senior level of

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1 The most often cited reference here was for Canada as a store-house of energy for these companies in the 1990s, as their other international resources of oil and gas would be used up. Also, since Canada was rich in almost all types of energy, an increased degree of horizontal integration on the part of these companies would be a very likely outcome which would further serve to reestablish their dominance within the energy sector.
government, was concerned with ensuring order and control in the light of an uncertain world environment. But world oil market developments would not only generate increased future uncertainty, in Ottawa’s assessment, the future of the world oil market would continue to favour oil producers. This meant that the perceived fiscal imbalance in Canada would grow, not decline. It would also favour the oil and gas producing provinces - and in particular the province of Alberta with its province-first strategy - within the Canadian federation.

While the NEP was clearly a response to important international changes, Part Four will also reveal the influence that domestic factors had on the nature and direction of the policy. Of particular importance here is the role of the aggregate Canadian state.

Ottawa found, on the basis of the assessment presented above, that the future held a tremendous challenge as well as an important opportunity for the future role of the federal government in Canada’s energy policy. Since the international oil market was perceived as increasingly favouring oil producers, Ottawa’s influence on the Canadian energy scene would increase in line with Ottawa’s ability to establish itself as an oil and gas producing government. Thus, a strong incentive existed for Ottawa to promote the development of the oil and gas resources that were under federal jurisdiction. If, on the other hand, the fiscal strains on the federal treasury from federal oil import subsidization payments and mounting equalization expenditures could not be dealt with, Ottawa would experience a serious erosion of the federal tax and fiscal base. This would seriously undermine Ottawa’s ability to meet ongoing as well as future commitments and influence industry activities in the producing provinces. Somewhat ironically, it is clear that if Ottawa was not able to arrest the erosion of the federal tax and fiscal base, its ability to promote resource development and capture potential future benefits of oil and gas development would be lost.

Ottawa’s narrow view of the direction that international events were taking was highlighted in the NEP and blended in with Ottawa’s domestic concerns to produce a very comprehensive and coherent policy program. Part Four
will reveal how the structure of the overall Canadian state fed into and reinforced Ottawa’s interpretation of the future of the international oil market. The federal-provincial dimension of the aggregate Canadian state with both levels of government defending and expanding their jurisdictional rights played a key role. Federal and provincial elites had, over time, developed a situational outlook that reflected their increasingly diverging experiences of the last decade - experiences from domestic and international events and from dealings with the elites at the other level of government. The nature of the learning and the lessons drawn were also influenced by the fact that it was the same set of leaders that held office in Alberta and in Ottawa in 1980 as had held office in 1973 during the first OPEC oil shock. The importance of different objectives and learning experiences in Ottawa and Alberta was heightened by the existence of organizational structures which promoted these goals in an environment congenial to administrative expansion. Other aspects of the overall Canadian state that affected outcomes were the structure of resource ownership in Canada, the nature of the Constitutional division of powers between the federal and provincial levels of government, the structure and operation of the fiscal equalization scheme and the nature and operation of federal and provincial policies and policy instruments. The dynamic interaction among these factors within a framework of structured interdependence, served to redefine the issue-context from one primarily concerned with state-society or rather federal state - oil industry relations, to becoming increasingly concerned with federal-provincial relations.

Part Four will also reveal how both Ottawa’s previous policies as well as the nature and operation of the new measures introduced in the NEP presented Ottawa with certain obstacles to increasing its control over industry operations. Thus, as the international assumptions upon which the NEP was based rapidly deteriorated, the dynamic of federal-provincial relations within the narrow framework of the assumptions on which the NEP was based served to generate a number of concessions to the industry and render Ottawa’s intervention, intended to control industry operations, largely irrelevant.
Although no single answer can ever explain the decline of a complex and comprehensive policy package such as the NEP, this thesis attributes the failure of the federal state's intervention to international changes whose negative effects were greatly enhanced by the structure of the aggregate Canadian state.
CHAPTER TEN: INTERNATIONAL OIL MARKET CHANGES

The political and economic foundations of the Western world were shaken in the 1970s by an upheaval in international petroleum markets. A group of small, oil-producing nations in the Middle East engineered two momentous price shocks, in 1973-74 and 1979. To many observers at the time the rise of the Organization of Petroleum Exporting Countries, and the economic turmoil that surrounded it, marked a turning point in postwar history. The remarkable postwar expansion of the advanced industrial economies was at an end; no longer could governments promise unlimited economic growth. Nor could they retain exclusive control over the management of the world economy; developing countries, particularly those rich in resources, had to be brought into the system. Most important, American postwar leadership, already perceived to be on the wane, looked to have been dealt another, decisive blow. An era was ending. The shape of the new one remained to be negotiated.

G. John Ikenberry, 1988, 2

The late 1970s heralded a time of enormous changes on the international oil market. The Iranian revolution in 1978-79 was the most visible catalyst for the second international oil shock. The Iran-Iraq war that broke out shortly after the fall of the shah, reinforced and cemented the perception of crisis. Parallel with, and partly as a consequence of these events, important structural changes were taking place in the bargaining relations between oil exporting states on the one hand and international oil companies and oil importing states on the other. The changes taking place on the international oil market in the late 1970s and early 1980s point to an increasingly state-centred international oil market. The consequences of an increasingly state-centred oil market were, according to most analysts, a continued strengthening of OPEC’s role, a steady decline in the role of the oil MNCs and increased dependence on OPEC oil in importing industrialized and developing states.

The Iranian revolution and the Iran-Iraq war demonstrate the fragile and volatile nature of the international oil market and the vulnerability of OPEC to events within and between member states. The Iranian revolution and the

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Iran-Iraq war support the notion of OPEC as a group of loosely structured individual member states which - when confronted with a major challenge - act to protect their individual interests first. Rather than strengthening OPEC, developments within and among member states combined with other events on the world oil market from 1982 to heighten tensions within OPEC and reduce the organization's ability to control output and pricing. A stepped-up and largely state-sponsored search for non-OPEC oil has proved up high-cost reserves of oil in the North Sea, Alaska and other parts of the world and has served to reduce OPEC's share of oil exports.

These events have coincided with a significant reduction in oil consumption in most industrialized importing countries - largely as a result of the first OPEC oil crisis - thus further reducing the need for OPEC oil. The result was first temporary and later longer lasting oil gluts, which produced a strong downward pressure on international oil prices, and forced OPEC countries to reduce prices in order to retain their market share. The deregulation of oil and gas prices in the United States reduced U.S. demand for OPEC oil. The net effect of these events has been to weaken severely the role of OPEC in the mid-1980s. From these events we can conclude that although a structural transformation can be found to have taken place on the international oil market, its effects were far less wide-reaching than most analysts had believed and predicted. A number of countries have also taken measures to roll

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Teece classifies OPEC countries in three different groups, according to absorptive capacity. He defines absorptive capacity as "the amount of investment that can be made at some acceptable threshold rate of return, with the supply of complementary factors considered as given. What is involved is a decline in the marginal productivity of capital resulting from the inability to augment the human factors of production as far as the capital stock. The result is "a kind of inevitable decreasing returns to the scale of investment and a backward bending supply curve for crude oil."" See Teece, D.J.: "OPEC Behavior: An Alternative View", in Griffin, J.M. and D.J. Teece: OPEC Behavior and World Oil Prices, (London: Allen & Unwin, 1982), Table 3.2, p.67. The countries in the low absorptive capacity category are Saudi Arabia, Libya, Kuwait, Qatar and the United Arab Emirates. Countries with medium absorptive capacity are Iran, Venezuela, Iraq and Algeria. And the high absorptive capacity group consists of Nigeria and Indonesia. The different absorptive capacities of various OPEC countries led to important differences in the output and pricing decisions of each group of member states. ibid. p.70.
back the state’s intervention.⁴

The most stunning aspect of these developments is the extreme speed with which the world oil market has changed, from a highly politicized and increasingly state-centred oil market to an increasingly competitive and private-sector dominated market.⁵ The speed of this transition indicates not only that the structural transformation was less severe than anticipated but also that the nature and dynamics of the second international oil shock were not well understood.

For the purpose of this analysis it is important to note that the perception of an increasingly state-centred world oil market combined with a more dominant OPEC role served to reinforce an already existing ideological climate favourable to state intervention. Rather than focusing on the fragility of OPEC’s hold on the world oil market, Canadian decision-makers shared the fear of most decision-makers in the industrialized world of the dangers of OPEC dominance. State intervention was therefore viewed in Canada as a vital means of ensuring indigenous oil and gas development, to lessen Canada’s dependence on (a) OPEC oil imports, (b) the marketing network of the international oil MNCs and (c) the role played by the subsidiaries of the oil MNCs in the development of Canada’s indigenous oil and gas resources.

In this chapter the nature of the second oil crisis and important structural market changes that were favourable to state intervention will be discussed. The most important factors that caused the significant market changes in the mid-1980s will be presented. The chapter provides an essential backdrop or frame of reference for a detailed analysis of the NEP. As such the chapter is intended to shed light on the international forces that helped generate the NEP, both the decision to intervene and the specific nature of the

⁴ The most obvious example is Great Britain which has privatized BNOC and sold off most of its holdings in BP.

⁵ Some analysts also view this as a temporary change and predict an increased OPEC prominence in the next decade.
intervention. Chapter Ten helps understand the role played by international forces in the decline of the NEP and the subsequent rolling back of federal intervention. From this we can understand more clearly the intentions of the framers of the NEP, the structure and thrust of the program and its subsequent fate. A proper understanding of the Canadian state’s intervention in 1980, it seems, requires a clear demarcation to be made between international and domestic factors, in particular because the relative weight of international and domestic factors may vary considerably between the time of the formation and the decline of the NEP. In fact, it is the argument of the thesis that while the international oil market changes of the late 1970s were a necessary condition for the NEP, important domestic factors relating specifically to the structure of the Canadian state served to give the energy program its specific structure and thrust. The decline of the NEP, on the other hand, must be viewed as the result of an increased gap between the structure and thrust of the NEP and the subsequent decline of international oil prices and the depoliticization of the world oil market. The federal response to the second OPEC oil embargo is partly a function of the problems facing Ottawa, problems related to the future status and current structure of the Canadian state. This thesis places more emphasis on the contribution of the Canadian state in the decline of the NEP than as a function of the power of private-sector actors such as the oil MNCs.

The Second Oil Crisis: A Brief Description

The Iranian revolution started in September 1978 and resulted in the fall of the shah in January 1979. When Iranian oil workers went on strike on

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6 Since the thesis only deals with the Liberal government’s tenure, it is beyond the scope of this analysis to account for the whole range of forces that led to the dismantling of the NEP and the deregulation of oil and gas markets in Canada.

7 In January 1979 the Shah left Iran for an "extended vacation" and shortly afterwards Ayatollah Khomeini arrived in Iran. On February 5, 1979 Khomeini announced Mehdi Bazargan as his choice for Prime Minister of a provisional
October 31, 1978 Iranian oil production declined from 5.8 mill. bbl/day to 1.1 mill. bbl/day in one week. In late December 1978, Iranian oil production reached a low of 300,000 bbl/day and remained well below 1 mill. bbl/day until March 1979, when it rose to 2.2 mill. bbl/day. The Gulf war between Iran and Iraq had a significant impact on the flow of crude oil from the Middle East. As a consequence of the hostilities, Iran and Iraq, on September 24, 1980, halted all their oil shipments through the Gulf. Iraq further suspended all its oil exports between September 26 and November 20, 1980. From then on, Iraq started pumping smaller quantities of oil by pipeline to the Mediterranean. The two events, in sparking price increases and supply interruptions, fuelled and maintained a perception of crisis which made state officials in all exposed countries prone to use the powers of the state to ensure order and control.

The Iranian revolution and the Iran-Iraq war had major effects on the world oil market. First, the Iranian revolution and the Iran-Iraq war created a significant shortfall in oil supplies. This shortfall was first somewhat compensated for by increased Saudi (and Iraqi) production but the Saudi production increase was neither large enough nor lasting enough to make up for the shortfall. Maximum Saudi sustainable production capacity, Teece argues, Islamic government. On December 2, 1979 Iranian voters approved a draft Constitution prepared by the Revolutionary Council. See Peterson, J.E.: The Politics of Middle Eastern Oil. (Washington, D.C.: Middle East Institute, 1983), Appendix E: The Iranian Revolution: A Chronology, pp.463-474.

Prior to 1979, Iran's market share of OPEC crude oil production had ranged between 17 and 19.1%. In 1979, Iran's share of OPEC oil production dropped to 9.5% and in 1980 it fell to 6.2%. See Griffin and Teece, op.cit. Table 1.3, p.13. Iraqi production was raised from 8.7% of OPEC production or 2.6 mill. bbl/day in 1978, to 11.3% or 3.5 mill. bbl/day in 1979, in order to compensate for the decline in Iranian exports. But it returned to its previous level around 2.7 mill. bbl/day in 1980. As a consequence of the Iran-Iraq war, however, Iraqi crude oil production declined to 0.9 mill. bbl/day in 1981, which left Iraq with a 3.9% share of OPEC crude oil production. Iraqi production remained at this low level until 1983.

Average Saudi production was 8.2 million bbl/day in the period 1973-77. In 1978, Saudi production rose from a low of 7.2 mill. bbl/day in August to a peak of 10.4 million bbl/day in December 1978. In the period January to March 1979, Saudi production ran at 9.8 mill. bbl/d. and between April and June 1979, it ran at 8.8 mill. bbl/d. Between July 1979 and December 1981, Saudi crude oil production ranged between 9.5 mill. bbl/day and 9.9 mill. bbl/day. See Lieber, R.J.: The Oil Decade: Conflict and Cooperation in the West, (Praeger, 1983), Table 2.6., p.28.
was only 9.5 mill. bbl/day which means that the Saudis would not be able to do much to compensate for the shortfall in Iranian production.\textsuperscript{10} This argument has been strongly debated among analysts. Adelman says:

(T)he Iranian revolution ... did not produce any crisis. In the first quarter of 1979, oil consumption exceeded production by hardly more than the usual seasonal rundown of stocks, within the range of variation which normal inventories cover. After March, production always exceeded consumption. Also, there were several million daily barrels of unused productive capacity. But these were not to be used. On 20 January 1979 - a day to remember - Saudi Arabia cut production from 10.4 mbd to 8 mbd. The cut was only partly restored to 9.5 mbd in February, and by mid-February the spot price was over $31...

Aiming at the "nice tight" market, they achieved the crisis.\textsuperscript{11}

Adelman thus argues that the second oil shock was partly the unforeseen consequence of attempts by the Saudis - acting as a swing producer - to retain a seller's market, in the face of an increasingly glutted oil market.\textsuperscript{12}

Although he emphasizes the important role of unreliable production figures, Adelman also acknowledges that political factors played an important role in generating the crisis, as the main aim of the producing nations was "to maintain a chronic small deficit."\textsuperscript{13} Other analysts\textsuperscript{14} place more emphasis on

\textsuperscript{10} "Maximum sustainable production" is defined as: "the maximum production rate that can be sustained for several months; it considers the experience of operating the whole system and is generally some 90-95 percent of installed capacity. The capacity concept does not necessarily reflect the maximum production rate sustainable without damage to the fields." In contrast, maximum installed Saudi production capacity was 12.5 mill. bbl/day. See Teece, op.cit., Table 3.3, p.72. Tetreault, op.cit., lists 10.0 mill. bbl/day as Saudi sustainable oil production capacity for 1979 and Schneider, S.A.: The Oil Price Revolution (Baltimore: The Johns Hopkins University Press, 1983), Table 13.1, p.437 lists 10.7 mill. bbl/day as estimated Saudi production capacity. This indicates that there is no consensus as to the actual level of Saudi maximum sustainable production from a technical and resource point-of-view.


\textsuperscript{12} Adelman bases his argument largely on the lack of up-to-date information on supply and demand, a fact that effectively would preclude the cartel members from fine-tuning the oil market by fixing output-levels in advance. ibid., p.20.

\textsuperscript{13} ibid. p.20.

\textsuperscript{14} See for instance Moran, T.: "OPEC Behavior and World Oil Prices", in Griffin and Teece, op.cit., pp.109-111.
the Saudis' own political motivations to reduce production and the decision
coincided with the cutbacks facing other major producers such as Iran (and
later Iraq).\textsuperscript{15}

\textsuperscript{15} OPEC oil production declined from 30.9 mill. bbl/day in 1979 to 26.9 mill.
bbl/day in 1980. It further declined to 22.6 mill. bbl/day in 1981. In 1982 it
fell to 19.0 mill. bbl/day and in 1983 it declined to 17.6 mill. bbl/day. See
Tetreault, op.cit. Table 16, p.77. OPEC exports also declined between 1979 and
1980, from 28.8 mill. bbl/day to 24.7 mill. bbl/day in 1980. OPEC’s share of
world (excluding centrally planned economies) oil production declined from
62.8\% in 1977 to 57.9\% in 1978. In 1979 OPEC’s share rose to 60.1\% and in 1980
it dropped to 55.1\%. It fell further in 1981, to 51.1\% and in 1982 it fell
below the half-mark, to 44.3\%. See Teece, ibid.
### Table IV.1 OPEC/NON-OPEC Oil Exports (Mill. Metric Tonnes)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
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<tr>
<td>North America</td>
<td>33.3</td>
<td>34.4</td>
<td>19.7</td>
<td>16.2</td>
<td>20.3</td>
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<tr>
<td>-United States</td>
<td>0.7</td>
<td>1.1</td>
<td>4.8</td>
<td>3.5</td>
<td>3.8</td>
</tr>
<tr>
<td>-Canada</td>
<td>32.6</td>
<td>33.3</td>
<td>14.9</td>
<td>12.7</td>
<td>16.5</td>
</tr>
<tr>
<td>South America</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Venezuela*</td>
<td>127.6</td>
<td>76.7</td>
<td>67.5</td>
<td>65.9</td>
<td>55.1</td>
</tr>
<tr>
<td>-Mexico</td>
<td>--</td>
<td>4.8</td>
<td>41.3</td>
<td>54.8</td>
<td>74.1</td>
</tr>
<tr>
<td>-Ecuador*</td>
<td>0.0</td>
<td>7.3</td>
<td>5.5</td>
<td>6.3</td>
<td>5.4</td>
</tr>
<tr>
<td>Middle East</td>
<td>607.1</td>
<td>887.4</td>
<td>816.8</td>
<td>678.5</td>
<td>511.4</td>
</tr>
<tr>
<td>-UAE*</td>
<td>37.7</td>
<td>82.1</td>
<td>82.1</td>
<td>70.6</td>
<td>57.3</td>
</tr>
<tr>
<td>-Saudi Arabia*</td>
<td>159.5</td>
<td>328.2</td>
<td>461.9</td>
<td>449.8</td>
<td>281.3</td>
</tr>
<tr>
<td>-Iraq*</td>
<td>73.3</td>
<td>101.9</td>
<td>120.9</td>
<td>36.6</td>
<td>39.8</td>
</tr>
<tr>
<td>-Iran*</td>
<td>165.1</td>
<td>233.7</td>
<td>40.2</td>
<td>36.0</td>
<td>81.8</td>
</tr>
<tr>
<td>-Kuwait*</td>
<td>129.4</td>
<td>90.9</td>
<td>63.8</td>
<td>42.9</td>
<td>19.4</td>
</tr>
<tr>
<td>-Qatar*</td>
<td>17.4</td>
<td>20.7</td>
<td>22.5</td>
<td>19.0</td>
<td>15.7</td>
</tr>
<tr>
<td>Africa</td>
<td>283.7</td>
<td>224.0</td>
<td>244.0</td>
<td>180.2</td>
<td>143.6</td>
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<td>-Algeria*</td>
<td>46.4</td>
<td>40.6</td>
<td>33.3</td>
<td>34.6</td>
<td>15.2</td>
</tr>
<tr>
<td>-Gabon*</td>
<td>4.5</td>
<td>10.4</td>
<td>7.7</td>
<td>6.0</td>
<td>5.7</td>
</tr>
<tr>
<td>-Libya*</td>
<td>159.5</td>
<td>69.2</td>
<td>81.8</td>
<td>48.5</td>
<td>45.6</td>
</tr>
<tr>
<td>-Nigeria*</td>
<td>51.2</td>
<td>84.9</td>
<td>96.8</td>
<td>64.4</td>
<td>51.5</td>
</tr>
<tr>
<td>-Egypt</td>
<td>14.7</td>
<td>5.2</td>
<td>8.0</td>
<td>10.0</td>
<td></td>
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<td>Western Europe</td>
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<td>12.9</td>
<td>68.8</td>
<td>77.0</td>
<td>94.1</td>
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<td>0.8</td>
<td>38.5</td>
<td>51.0</td>
<td>60.2</td>
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<td>-Norway</td>
<td>0.6</td>
<td>7.8</td>
<td>20.4</td>
<td>18.9</td>
<td>19.2</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td>67.8</td>
<td>94.5</td>
<td>123.5</td>
<td>120.8</td>
<td>129.8</td>
</tr>
<tr>
<td>-USSR</td>
<td>66.8</td>
<td>93.1</td>
<td>122.0</td>
<td>116.0</td>
<td>119.0</td>
</tr>
<tr>
<td>Asia/Oceania</td>
<td>43.1</td>
<td>72.2</td>
<td>89.4</td>
<td>88.4</td>
<td>79.8</td>
</tr>
<tr>
<td>-China</td>
<td>--</td>
<td>8.3</td>
<td>13.1</td>
<td>14.5</td>
<td></td>
</tr>
<tr>
<td>-Indonesia*</td>
<td>29.9</td>
<td>52.5</td>
<td>50.9</td>
<td>50.1</td>
<td>41.6</td>
</tr>
<tr>
<td>OPEC (%share)</td>
<td>86%</td>
<td>84.5%</td>
<td>76.7%</td>
<td>71.9%</td>
<td>63.8%</td>
</tr>
</tbody>
</table>

While the Iranian revolution was the catalyst for the second oil shock, the Iran-Iraq war was the single most important factor in terms of reducing supply, because the shortfall in Iranian production was largely made up for by increased production in the other OPEC member countries in 1979. While Saudi-

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* denotes OPEC member. Note that Ecuador became a member of OPEC in 1973 and Gabon joined the organization in 1975.
Arabia's ability to operate as a balancer may be debated, other factors interfered to exaggerate the impact of the second international oil shock.

The issue of real supply shortages aside, probably the most important effect of the revolution in Iran (and the Saudi decision to keep a "tight" market) was a significant oil price increase. This increase occurred first in the spot price market and later was translated into official posted OPEC prices. The two sets of events interacted to produce considerable fear and upheaval in oil-importing countries.

Table IV.2 Spot Prices for Selected OPEC Crudes, 1979-83. ($US)\(^{17}\)

<table>
<thead>
<tr>
<th>Year</th>
<th>Alger. Sahara</th>
<th>Iran. Light</th>
<th>Kuwait Export</th>
<th>Libyan Brega</th>
<th>Niger. Bonny</th>
<th>Arab. Saharan Light</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>18.41</td>
<td>17.15</td>
<td>15.06</td>
<td>18.05</td>
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<td>16.24</td>
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<tr>
<td>J</td>
<td>37.63</td>
<td>33.13</td>
<td>31.88</td>
<td>36.38</td>
<td>36.13</td>
<td>33.13</td>
</tr>
<tr>
<td>O</td>
<td>41.20</td>
<td>38.00</td>
<td>36.00</td>
<td>40.40</td>
<td>40.40</td>
<td>38.00</td>
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<td>1980</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>41.50</td>
<td>38.13</td>
<td>36.88</td>
<td>41.00</td>
<td>41.00</td>
<td>38.13</td>
</tr>
<tr>
<td>A</td>
<td>38.67</td>
<td>35.82</td>
<td>34.08</td>
<td>38.17</td>
<td>38.42</td>
<td>35.67</td>
</tr>
<tr>
<td>J</td>
<td>36.85</td>
<td>34.60</td>
<td>33.70</td>
<td>36.40</td>
<td>36.50</td>
<td>34.60</td>
</tr>
<tr>
<td>O</td>
<td>39.05</td>
<td>38.00</td>
<td>37.10</td>
<td>38.50</td>
<td>38.90</td>
<td>38.00</td>
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<td>1981</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>40.94</td>
<td>39.81</td>
<td>38.75</td>
<td>40.69</td>
<td>40.81</td>
<td>39.79</td>
</tr>
<tr>
<td>O</td>
<td>37.21</td>
<td>33.56</td>
<td>34.44</td>
<td>36.81</td>
<td>37.15</td>
<td>33.31</td>
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<td>1982</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>35.91</td>
<td>34.05</td>
<td>31.75</td>
<td>35.66</td>
<td>35.85</td>
<td>34.05</td>
</tr>
<tr>
<td>O</td>
<td>35.29</td>
<td>33.00</td>
<td>32.19</td>
<td>34.10</td>
<td>35.29</td>
<td>33.41</td>
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<td>1983</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>J</td>
<td>32.19</td>
<td>30.94</td>
<td>30.19</td>
<td>31.19</td>
<td>32.19</td>
<td>31.00</td>
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<tr>
<td>O</td>
<td>30.00</td>
<td>28.18</td>
<td>27.43</td>
<td>29.48</td>
<td>30.03</td>
<td>28.56</td>
</tr>
</tbody>
</table>

Table IV.2 shows that spot prices rose dramatically in 1979. As the difference between spot prices and posted prices increased, the relatively low volume of

crude oil traded on the spot market notwithstanding, developments on the spot market exerted considerable upward pressure on posted prices. Exporting countries, for instance, made smaller volumes of oil available for contract-sales and instead introduced them on the spot market, increasing the upward pressure on oil prices. The spot market was rife with speculators, eager to make a quick profit on sales to customers who were willing to buy at almost any price. Finally, the magnitude of the price differential in itself served to pressure producers to increase their posted prices.

Table IV.3 Official Prices for Some OPEC Crudes, 1979-83, (US$)  

<table>
<thead>
<tr>
<th>Year</th>
<th>Alger. Sahara</th>
<th>Iran. Light</th>
<th>Kuwait Export</th>
<th>Libyan Brega</th>
<th>Niger. Bonny</th>
<th>Arabian Light</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1980</td>
<td>33.00</td>
<td>30.37</td>
<td>27.50</td>
<td>34.67</td>
<td>29.99</td>
<td>26.00</td>
</tr>
<tr>
<td>1/1981</td>
<td>40.00</td>
<td>37.00</td>
<td>35.50</td>
<td>41.00</td>
<td>40.02</td>
<td>32.00</td>
</tr>
<tr>
<td>1/1982</td>
<td>37.00</td>
<td>34.20</td>
<td>32.30</td>
<td>37.00</td>
<td>36.52</td>
<td>34.00</td>
</tr>
<tr>
<td>1/1983</td>
<td>35.50</td>
<td>31.20</td>
<td>32.30</td>
<td>35.50</td>
<td>35.52</td>
<td>34.00</td>
</tr>
<tr>
<td>4/1983</td>
<td>30.50</td>
<td>28.00</td>
<td>27.30</td>
<td>30.40</td>
<td>30.02</td>
<td>29.00</td>
</tr>
</tbody>
</table>

Table IV.4 Diff. Between Spot and Official Prices, (US$/bbl)  

<table>
<thead>
<tr>
<th>Crude Type</th>
<th>Jan 79</th>
<th>Jan 80</th>
<th>Jan 81</th>
<th>Jan 82</th>
<th>Jan 83</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alger. Sahara</td>
<td>3.61</td>
<td>8.50</td>
<td>0.94</td>
<td>(1.09)</td>
<td>(3.31)</td>
</tr>
<tr>
<td>Libyan Brega</td>
<td>3.36</td>
<td>6.40</td>
<td>(0.31)</td>
<td>(1.34)</td>
<td>(4.31)</td>
</tr>
<tr>
<td>Kuwait Export</td>
<td>2.23</td>
<td>9.38</td>
<td>3.25</td>
<td>(0.55)</td>
<td>(2.11)</td>
</tr>
<tr>
<td>Arabian Light</td>
<td>2.90</td>
<td>12.13</td>
<td>7.79</td>
<td>0.05</td>
<td>(3.00)</td>
</tr>
</tbody>
</table>

As Table IV.4 clearly reveals, a significant difference between spot prices and official OPEC posted prices emerged in 1979 and 1980. The average aggregate

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18 Prior to 1979, 3-5% of the world's oil trade went through the spot market. During the 1979 Iran crisis, somewhere between 15 and 25% of the oil traded went through the spot market. See Plummer, J.L. (ed): Energy Vulnerability, (Cambridge, Mass: Ballinger, 1982), p.267. Many new buyers with little prior experience entered the spot market during the 1979 crisis, which served to exacerbate the panic.

19 See Tetreault, op.cit. Table 6, p.62.

20 ibid. Table 9, p.65.
difference between selected spot prices and selected official OPEC prices in January 1979 was $3.19 whereas in January 1980, the average aggregate difference was $9.20. This differential between the two price structures contributed to pulling the posted price of crude oil up. In January 1981 this difference had fallen to $2.55 and in 1982 posted prices had risen above spot prices, creating a weak downward pressure on posted prices.

A similar price increase did not occur following the outbreak of the Iran-Iraq war. The supply shortfall generated panic that spread and fuelled the perception of a continued shortage, a perception enforced by important structural changes taking place on the international oil market. These changes seemed to reinforce the notion of OPEC as a leading market actor, both at the time and in the future. Ironically, OPEC's increased market share, which was achieved through increased oil production in the late 1970s, was also a main factor in generating a situation of excess supply.

Factors Perceived to Strengthen the Role of OPEC

The changing role of the spot market in the late 1970s and early 1980s was intimately linked to the ongoing structural transformation of the international oil market, from a market dominated by the major integrated oil companies to a situation in which oil-exporting and oil-importing countries increasingly dealt with each other directly. The reduced role of the oil MNCs as middle-men also enabled oil-exporting countries to introduce destination restrictions.²²

²¹ Saudi Arabia sold its Arabian Light at a price significantly below the spot prices, thus producing large windfall profits for the four Aramco partners. The large discrepancy between Saudi Arabian Light, which had served as the marker crude for the OPEC oil pricing system, and the other OPEC crudes shows that Saudi Arabia no longer was the price setter of OPEC oil but rather tried to act as a stabilizing factor and serve as a brake on a price increase that could not be sustained for very long, in particular because OPEC's market share was declining.

which entailed a strong politicization of the oil market. Tetreault notes, in terms of the market transformation:

The ownership of crude oil by OPEC nations increased during this phase as nationalization and participation effected a transfer of equity holdings from companies to OPEC governments. In 1973, OPEC members owned 20 percent of their crude oil. By 1978, this proportion had increased to 75 percent. Changes in trading patterns occurred over the same period as the proportion of crude oil available to major oil companies under long-term contracts fell from 90 percent in 1973 to only 50 percent in 1978. This decreased the size of the cushion between the amount of crude needed for downstream operations and the amount guaranteed to be available. The shrinking margin of excess crude was translated into reduced supplies available from the majors for third-party buyers, such as independent oil companies. As this margin became negative for some companies in 1979, majors as well as independents were forced to go to the spot market to make up the shortfall.

The changing pattern of control over crude oil between producing and exporting countries and oil companies can be summarized in tabular form:

23 Mohnfeld contends that the underlying strategy of the oil-producing countries in involving themselves more directly in oil activities was "to ensure a smooth transition to the post-oil age. This process has proved to be more difficult than anticipated. Therefore, the oil countries do not want to rely solely on the investment from the private sector but rather to attract governments of industrialized countries to participate actively in their economic development." See Mohnfeld, ibid.

24 See Tetreault, op.cit. p.54.
Table IV.5 Changing Patterns of Crude Oil Control

<table>
<thead>
<tr>
<th></th>
<th>1973</th>
<th>1978</th>
<th>1979</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent of OPEC oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>owned by producing</td>
<td>20%</td>
<td>75%</td>
<td>80%</td>
</tr>
<tr>
<td>governments</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of OPEC oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>marketed by OPEC NOCs</td>
<td>5%</td>
<td>36%</td>
<td>46%</td>
</tr>
<tr>
<td>Crude available to Majors</td>
<td>30.0*</td>
<td>21.3*</td>
<td>19.5*</td>
</tr>
<tr>
<td>under long-term contracts,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of which outside OPEC</td>
<td>25.0*</td>
<td>16.9*</td>
<td>14.5*</td>
</tr>
<tr>
<td>sources MBD</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majors' share of intern-</td>
<td>90%</td>
<td>50%</td>
<td>42%</td>
</tr>
<tr>
<td>nationally traded crude</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majors' third party</td>
<td>6-7*</td>
<td>3.7*</td>
<td>1.5*</td>
</tr>
<tr>
<td>sales, MBD</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* MBD denotes million bbl/day

From Table IV.5 we see that the Iranian crisis hastened the breakdown of the vertical structure of the international oil industry, because the crisis reduced the amount of crude available to the oil MNCs and reinforced related aspects of the structural transformation in the field of international oil.

The OPEC cartel’s increased market dominance, rather than generating doubts about the ability of the cartel to hold the line, served to reinforce the interpretation of the direction of the international oil market changes, as becoming increasingly dominated by the producing and exporting countries and their policy-instruments within and without the framework of OPEC. Such an interpretation of the world oil market served as a vital factor in Canada’s short and medium term energy policy, in particular in the determination of the degree to which Canada would continue to depend on the international oil market. It also fuelled federal concerns with order and control of an increasingly uncertain world oil scene.

Canada had a significant leverage in the making of these decisions because

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25 See Mohnfeld, op.cit., Table 1 and 2, p.329. Data taken from OPEC Statistical Yearbooks. The figures for the majors’ third party sales are based on long-term contracts.
of its large indigenous sources of oil and gas. Therefore, the decisions would revolve around whether and/or to what degree Canada would develop its large but extremely costly resources of oil and gas, both in the frontiers and the tar sands. Further, since this would be a political as much as an economic decision, based on the interpretation of world market developments and the ability of OPEC to manipulate this market, it would also involve decisions as to the magnitude of state intervention needed to attain whatever goals were chosen.

It is in this light that the international events must be viewed, first, in terms of how the international changes affected Canada, that is, what constraints and opportunities Canada was presented with. Second, international events form an important backdrop against which the perceptions of Canadian decision-makers must be seen. The manner in which key Canadian decision-makers viewed future market events sheds light on how these actors viewed the constraints and opportunities available to them. As will be seen later, Canadian federal decision-makers envisaged an international oil market in which OPEC played a more dominant role, a market in which producing countries were perceived as becoming central international actors.

Factors Undermining OPEC's Influence

Other events on the international oil market that were important in generating the second oil shock were not very much discussed in Canada. These factors relate directly to the structure and operation of the international oil market and to the response by oil-importing countries to events in the Middle East.

One such factor which served to dampen the effects of the Iranian crisis was the increase in non-OPEC oil production and the willingness of non-OPEC sellers to undercut the OPEC price in order to move their own crudes. The most aggressive countries were the Soviet Union and the United Kingdom. The USSR
which was the largest oil producer in the world\textsuperscript{26} entered the spot market and started undercutting its competitors.\textsuperscript{27} The entrance of a number of non-OPEC producers on the world oil scene, all of whom relied strongly on state intervention and NOCs, although contributing to an increasingly state-centred world oil market, also clearly hastened the process of OPEC's decline.

OPEC's actions to weaken the role of the international oil companies also prompted these companies to increase their search for oil outside of OPEC.

Table IV.6 Worldwide Oil Exploration, 1973-78,\textsuperscript{28}

<table>
<thead>
<tr>
<th>Wells Drilled</th>
<th>%Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1973</td>
</tr>
<tr>
<td>United States</td>
<td>27,602</td>
</tr>
<tr>
<td>Canada</td>
<td>4,621</td>
</tr>
<tr>
<td>Other dev. nations</td>
<td>522</td>
</tr>
<tr>
<td>OPEC</td>
<td>1,925</td>
</tr>
<tr>
<td>Non-OPEC LDCs</td>
<td>1,916</td>
</tr>
</tbody>
</table>

* excluding Iraq

Table IV.6 reveals that the oil industry clearly sought to reallocate its exploration efforts from OPEC countries to countries outside of OPEC, particularly focusing on developed nations.\textsuperscript{29} Although the oil MNCs met with considerable resistance in a number of non-OPEC countries, non-OPEC oil producing states and oil MNCs shared a common interest in focusing on petroleum development outside of OPEC. Non-OPEC producing states took advantage of this and enforced harsher terms of operation on the oil MNCs and established their

\textsuperscript{26} Tetreault, op.cit. p.80.

\textsuperscript{27} Table IV.1 reveals that oil exports from the USSR rose from 93.1 million metric tonnes in 1975 to 122 million metric tonnes in 1980.

\textsuperscript{28} Schneider, op.cit., Table 11-3, p.358

Efforts by oil-importing nations to substitute other energy sources for oil and increase oil conservation were greatly stimulated by increased oil prices in the 1970s. Within OECD, total oil requirements declined from a peak of 1954.4 Mtoe in 1978 to 1564.7 in 1983. In the same period OECD oil imports declined from 1535.8 Mtoe to 1148.3 Mtoe,\(^\text{30}\) thus further reducing OPEC's share of the oil market. U.S. oil imports in the same period declined from a high of 461 Mtoe in 1977 to 259.2 Mtoe in 1983.\(^\text{31}\) The decision by the United States to deregulate domestic oil and gas prices in 1980 clearly contributed to increased indigenous oil production and reduced oil imports.

Actions taken by the industrialized countries to deal with the initial supply interruptions from the Iranian revolution and the Iran-Iraq war actually served to exacerbate the crisis in the short-term. The considerable stock-piling that took place in the industrialized countries added to the supply problems, by placing added pressure on already scarce crude oil availability.

![Table IV.7 Petroleum Stocks in the OECD (mill. bbl.)\(^\text{32}\)](image)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>%Diff (prev. year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>3185</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td>3097</td>
<td>-2.8</td>
</tr>
<tr>
<td>1979</td>
<td>3375</td>
<td>8.9</td>
</tr>
<tr>
<td>1980</td>
<td>3587</td>
<td>6.3</td>
</tr>
<tr>
<td>1981(avg.)</td>
<td>3530</td>
<td>-1.6</td>
</tr>
<tr>
<td>1982(avg.)</td>
<td>3297</td>
<td>-6.6</td>
</tr>
<tr>
<td>1983(avg.)</td>
<td>3223</td>
<td>-2/2</td>
</tr>
</tbody>
</table>

As Table IV.7 reveals, a significant increase in stock-piling occurred in 1979 and 1980. The difference in petroleum stocks in the countries belonging to the OECD between 1978 and 1980 was 15.8% whereas the reduction in stock-piles

\(^{30}\) ibid.

\(^{31}\) ibid. pp.525-541.

\(^{32}\) Tetreault, op.cit., Table 8, p.64.
between 1980 and 1983 was 10.1\%.''}^{33}

The Iranian revolution and the Iran-Iraq war accelerated the process of structural change taking place on the international oil market between producing and exporting states, on the one hand, and multinational oil companies, on the other. Whereas this structural transformation initially favoured all producing states, the competition among them, combined with other factors, caused the price of oil to collapse. With the benefit of hindsight, one of the most interesting points about the late 1970s and early 1980s is the eagerness of analysts and decision-makers to pinpoint OPEC as the winner.

Any study of politics sensitive to the historical context needs to take into account the perceptions and cognitive biases of decision-makers. Therefore, in order to understand the NEP and the federal government's reaction to the oil market disruptions of the late 1970s and early 1980s, we need to look at the interpretation of international changes that prevailed among federal decision-makers. This chapter has argued that the strong emphasis placed on an increased future OPEC role among analysts and decision-makers at the time means that the net upshot of the second oil price revolution of the 1970s was to place the issue of security of supply and self-sufficiency in oil and gas as the main concern and challenge facing industrialized and resource-rich nations such as Canada.

The inclusion, or elevation, of oil\(^{34}\) politics into the realm of "high politics", was used not only to justify measures that were not economic but even more, served as a powerful rationale for an increased state presence in the economy. The main targets of this increased state intervention were the actors considered to be the root of the problem, namely the multinational oil companies and their weakened international system of oil production and

\(^{33}\) ibid.

\(^{34}\) The politics of natural gas supplies were not surrounded by the same tension because the global pattern of distribution of natural gas supplies differed from that of oil and also because there was not an international market for natural gas.
distribution. An increased state presence, in turn, could be used to reduce the absolute size of the oil MNCs, and the influence they wielded on policy-making. As noted above, states could also introduce measures to rewrite the terms of operation of these companies. States could (a) introduce new market actors, (b) restrict companies' access to oil and gas resources, (c) influence the location of company operations, (d) regulate the rate of exploration, development and production of oil and gas, (e) ensure spin-offs to the domestic economy from oil and gas development, and (f) alter the pattern of rent distribution between companies and states and in Canada also between governments. It is in this context that the adoption of specific instruments by various types of states becomes important, both in empirical and theoretical terms.

States increasingly adopted strategies to reduce the role and importance of the oil MNCs. This was done, first, by means of policies to stimulate the domestic or indigenous oil and gas industry, where one existed. The second strategy, which was most often complementary to the first, was a strategy in which states, both in oil-producing exporting states as well as in oil-importing states, increasingly resorted to direct intervention by means of national oil companies. Clearly, the adoption of NOCs reduced the numerical market share of the oil MNCs. Such direct state presence also provided states with a vehicle by which to rewrite the terms of operation of the oil MNCs, through policy functions assigned and preferential treatment granted the NOCs. Third, this entrepreneurial state role was normally backed up by an increased state landlord role, in particular in cases where public ownership was present (which was the case for all areas offshore). Finally, states took measures to prevent oil MNCs from capturing windfall profits through increased oil and gas prices. This distributional aspect is important both because it tells us something about the relative ability of different states to capture added revenues, but also because the winner could collect the huge sums involved and wield considerable influence on future state-society relations and inter-industry relations.

To conclude, the assessment of the sudden supply shortfall and the resultant
price increase on the world oil market emphasizes the uncertain basis of the OPEC oil price increase rather than creates the impression that this was a situation that was going to last. Therefore, as late as 1990, these two events have had less long-term effect on the international oil market than was anticipated in the late 1970s and early 1980s. As will be revealed in the case of Canada, the prevailing view among Canadian analysts and decision-makers was to think that world oil prices would continue to rise for a long time in the future. The NEP was clearly based on such deterministic assumptions about the future of the world oil market and placed these assumptions in the framework of a very comprehensive and coherent regulatory structure. The net effect was to make the NEP an inherently rigid and inflexible regulatory framework. The federal objectives and concerns that entered into the NEP reveal a deep-felt concern with international events, a concern that was neatly combined with the profound importance attached to central domestic issues. The important role played by domestic concerns in the framing of the NEP also points to a profound irony inherent in the NEP, namely that this policy which was explicitly aimed at rendering Canada independent of the international oil market, in many ways made Canada even more vulnerable to international oil market changes. This thesis argues that this vulnerability of the NEP must be attributed to the structure of the Canadian state, rather than to societal factors. Thus, while international oil market changes precipitated the NEP, the domestic concerns facing federal decision-makers and the structure of the overall Canadian state rendered it highly vulnerable to subsequent international oil market changes. Such vulnerability refers to the policy and political implications of a severe drop in the world price of oil. The picture that emerges is of a state that in responding in a relatively autonomous fashion to an international trauma, channels the intervention along domestic as much as international lines of conflict. This was not intended but was rather a largely unforeseen consequence of the historical and ongoing struggles facing the Canadian state at the time. The net result was ineffective and largely unsuccessful federal intervention and a state that was more vulnerable to industry pressures and demands.
This chapter addresses the federal government's reaction to the second international oil shock. In so doing it gives first a brief summary of the Clark Conservative government's handling of the crisis. But the main focus is on the Trudeau Liberal government's introduction of the National Energy Program in October 1980. The chapter presents the basic assumptions in the NEP with regard to events and trends on the international oil market and discusses the main objectives of the NEP which were labelled self-sufficiency, Canadianization and fairness.

The NEP was aimed at addressing the international oil market upheavals associated with the Iranian revolution and the Iran-Iraq war. The program sought to establish Canadian self-sufficiency in oil. This was to be achieved through increased oil conservation, conversion from oil to other energy sources, and through generous incentives to oil and gas producers. The NEP's emphasis on self-sufficiency - from a political perspective - also entailed an increased federal presence in the energy sector and increased federal control over the operations of the oil industry, including a strengthened federal influence on the regulation of the rate and location of oil and gas development. Ottawa instituted a number of policies to promote the development of Canada's high-cost resources of oil, in particular the resources in the Canada Lands. The chapter discusses this Canada Lands or frontier thrust of the NEP and concludes that it was partly politically motivated, namely to promote the areas under federal jurisdiction. The forces generating this frontier thrust were related to the federal objective of reducing oil MNC dominance, the structure of the Canadian state - in particular the federal-provincial division of power and the context of federal-provincial relations - and the distribution of oil and gas resources within Canada. The political motivations of federal elected officials in the NEP became fused with the federal energy officials'
interpretation of the size and distribution of Canada's oil and gas reserves and resources.

The NEP's goal of self-sufficiency was intimately linked with the other two objectives in the NEP. The NEP repeated and expanded upon the federal government's long-expressed commitment to Canadianize the oil and gas industry. This commitment entailed an increased public- and private-sector Canadian industry presence, increased Canadian ownership and control of oil and gas resources, and increased industrial benefits from oil and gas development.

Ottawa's objective labelled fairness related to its concern with a reduction in the federal government's fiscal base and produced a set of policies directly aimed at strengthening the fiscal capacity of the federal government. While principally aimed at the oil producing provinces, the policy measures were also intended to increase Ottawa's take from important segments of the oil industry.

The NEP was a coherent and very comprehensive program clearly aimed at strengthening the federal government's role in the energy sector. As such, it was aimed at reducing the role and importance of both the oil MNCs and the oil-producing provinces.

The program not only responded to international oil market changes and a perceived oil MNC and producing-province dominance in Canada's energy sector, it also emerged as a critical reaction to the inability of federal energy policy to realize federal energy policy objectives up until then. Explicating and expanding the scope of federal energy policy objectives, the NEP introduced a set of new energy policy instruments and combined them with existing ones, to construct a coherent and comprehensive program, the sum of which was clearly larger than its constituent parts. The NEP was a clear attempt at ensuring intrajurisdictional coordination through a sophisticated combination and orchestration of existing and new policies into a regulatory framework that was much more internally consistent than previous federal energy policy. The comprehensive energy framework set out in the NEP not only was intended to
ensure the federal government's energy objectives but also incorporated the lessons that elected and non-elected federal officials had drawn from a near-decade of uncertainty and strife in the international and domestic energy sectors. The lessons were not only drawn from the energy field but also related to the fusion of energy issues with jurisdictional concerns. As such the NEP was the product of the learning experiences of federal officials in both the state-society and the intergovernmental arenas.

This chapter will reveal that while the NEP represented the establishment of a coherent and comprehensive regulatory structure, it could also backfire on Ottawa and render the program vulnerable to international oil market changes, such as a sudden drop in the price of oil, because the international assumptions upon which the comprehensive regulatory structure was based were very narrow. The wide range of concerns addressed in the NEP meant that the problem of instrument overload still existed.

The Conservative Interlude: Change vs. Continuity

This section, dealing with the Canadian reaction to the so-called second OPEC oil shock, will first briefly address the Clark Conservative interlude between May 1979 and February 1980. Including a brief account of the Conservative proposals will shed some light on the role of partisan change and politics in the framing of the crisis responses. The world oil market crisis, it will be argued here, rendered partisan differences less important.

The role of partisan and ideological differences in this period is also complicated by the different learning processes that Liberals and Conservatives underwent in the 1970s. The Liberals' stay in office during the early 1970s provided them with a number of lessons that shaped their attitudes and behaviour and set them apart from the Conservatives who had been in opposition since 1963. The importance of incumbency in shaping the attitudes of state elites is heightened, rather than reduced, in times of crisis. Thus, while the
Conservative interlude may shed some light on the extent to which the NEP was motivated by Liberal priorities rather than other factors, the differences that existed between Conservatives and Liberals may relate to different learning processes as much as to partisan factors. If over time the Conservative and Liberal responses became more similar, factors other than partisan ideology may have been the dominant ones.

Energy was not a major issue in the May 1979 federal election campaign which produced a minority Conservative government.\(^{35}\) As the Iranian revolution unfolded and spot market prices rose dramatically between April and June, energy issues took on added political importance. Responding to the initial crisis, the Conservative government launched a number of new policy measures but was defeated in Parliament on the federal budget in December 1979.

The Conservative Government’s Policy Instruments

While more firmly committed to international oil prices than its Liberal predecessors, the Clark Conservative government found itself caught amidst different regional priorities in 1979. In August 1979 the Ontario government expressed its opposition to letting Canadian prices rise to world levels.\(^{36}\) Pressured by the producing provinces to increase oil and gas prices whilst simultaneously under pressure to resist price increases from the consuming provinces, Ottawa decided in October 1979 not to tie Canadian oil prices rigidly to world prices.\(^{37}\) Canadian prices were to be linked to world prices but would remain considerably lower than international ones. Helliwell et al. note, in terms of the Clark Conservative government’s stand on pricing:

The newly elected minority Progressive Conservative government in Ottawa was successful in negotiating a partial pricing agreement with the government of Alberta in late 1979. Under the terms of the agreement, all synthetic oil production would receive the world price, and all

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35 See Doern and Toner, (1985) op.cit. p.103.


conventional production 75% of the Chicago or world price (whichever was less) until the end of 1983 when the parity rate would be increased to 85%. This proposal, which marked the first time that conventional oil prices were directly linked to international prices since the start of regulated pricing, was incorporated in the federal budget that led to the defeat of the Progressive Conservative government in the House of Commons and subsequently in a general election.39

Clark's agreement with Alberta was only a partial agreement. When the federal-provincial negotiations started, Clark offered Alberta very generous terms at the outset of negotiations but still faced considerable difficulties in reaching an agreement. The need to produce a federal budget and Clark's eagerness to reach an agreement with Alberta were important factors in his accepting a partial agreement.

Helliwell et al. overstate somewhat the difference between Liberal and Conservative pricing policy, because as early as 1976 Ottawa committed itself "(t)o move domestic oil prices towards international levels"39, without necessarily reaching international prices. Thus, the principle of relating Canadian prices to the international price was in force even before the Conservative party came to power. The novel element introduced by the Clark government, however, was to retain Canadian prices at a certain percentage level below international prices. This meant that Canadian prices would follow international price fluctuations rather than go through staged increases as they had done up until then. Yet, in practice, at least for the first few years, there is probably less of a difference between the two types of price regulation, because the Conservative government would also raise domestic prices by staged increases.

When confronted with reports of a declining federal fiscal base,40 the

38 Helliwell et al. 1987, op.cit. p.53.
40 See for example EMR: Taxation and Revenue Sharing, November 1979 which expressed concern with the relative federal revenue share, and EMR: Background to a New Energy Strategy, (Ottawa: Minister of Supply and Services, November 1979) (a) which addressed the problems Ottawa's pricing policy created for the federal revenue base. The report predicted that in 1985 Ottawa's net revenues from the petroleum sector would constitute a net federal loss of over $2 billion. See EMR, Background... Table 8, p.19.
Clark government took several measures to prevent further fiscal
deterioration. Simpson notes:

When the Conservatives discovered in their energy negotiations with
Alberta that the federal government would not receive adequate revenues
from the proposed $6-per-barrel oil-price increases, Ottawa dropped the
yearly increases to $4 and $4.50 per barrel. But this lower increase
would produce a smaller impact on demand and generate less revenue for
the federal government. So the excise tax, first discussed as a fallback
position, acquired a life of its own.

This means that the annual price increases, if averaged at $4-$4.50, in fact
were lower than the average increase in conventional oil prices in the NEP.

One of the main differences between Conservative and Liberal (NEP) pricing
policy was that the Liberals would retain current pricing policy until 1985.

This would generate an average annual oil price increase of $2.95. After 1985
the price of conventional oil was scheduled to rise dramatically, at an average
annual rate of $6.75. Conservative energy policy, on the other hand, would

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41 The Conservative government introduced a $.30/gallon excise tax on gasoline
in its budget proposal. Ottawa's decision to impose this excise tax was
motivated by the need to reduce oil consumption and provide the federal
treasury with an added $3.5 billion in federal revenues. See Simpson, J.:
Discipline of Power: The Conservative Interlude and the Liberal Restoration,
revealed a willingness to shift a larger share of the burden of oil
compensation from the federal government to the consumers of gasoline.

42 Simpson, ibid.

43 The average annual conventional oil price increase in the NEP between 1980
and 1990 was supposed to be $4.85. The average annual oil sands reference price
increase was $4.63 and average annual tertiary recovery oil price increase was
$3.57. The price projections included in the NEP were higher than those
presented by EMR in November 1979. If the NEP's Oil Sands Reference Price is
taken as the projected international oil price, the NEP's projection of
international oil prices in 1990 was $17.87 higher than the figures presented
by EMR in November 1979. See EMR, 1979(a) ibid. Table 6, p.16. See also NEP,
p.26. In terms of the magnitude of the annual price increase, the 1979 EMR
report projected an annual increase of $4.62 for the Toronto gate price of
November 1979 to reach the international (CIF Montreal) price in 1990.

44 Current policy refers to the Liberal pricing policy that was in place for
conventional oil prior to the international crisis. This is found by comparing
the pricing scheme for conventional oil in EMR, 1979(a) ibid. which refers to
a continuation of current policy, with the pricing scheme introduced in the
NEP.
introduce annual increases of approximately $4 for the whole period. One of the main differences between Conservative and Liberal pricing policy, then, was the steepness of the gradient of the price increase in each formula.

Early in January 1980 the federal government considered invoking the "force majeure" provisions in the agreements with the relevant synthetic crude producers in order to terminate the extension of world-equivalent prices to synthetic oil production. Later in the month the federal government decided to back down. Although eventually backing down, the fact that the government contemplated using this extreme measure is a good demonstration of the gravity with which Ottawa viewed the situation. The Conservative government's pricing policy demonstrates considerable continuity with the past. Further, it reveals that even though the Conservatives were strongly committed to the principle of world-oil prices, a number of factors militated against this. The Liberal government's new pricing policy in the NEP, as will be revealed in Chapter Twelve, differed in important ways from that of the Conservative government, although analysts may have overplayed the differences.

While strongly committed to the principle of curtailing government intervention, the Clark Conservative government was largely unsuccessful in reducing federal intervention in the economy. The Conservative government's commitment to dismantle Petro-Canada is a case in point. Determined to dismantle and later to privatize the Crown corporation, the Clark minority government, faced with strong Parliamentary criticism and an election campaign in which energy security had become a major issue, made an about-face and

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45 Using the data provided in EMR, November 1979(a) ibid., we find that in order to operate within the 75 and 85% levels of world price, Canadian oil prices would have to increase at an average annual rate of $3.70. The Conservative government's pricing policy therefore was more willing to accept rapid price increases than was the Liberal government. If the oil sands reference price can be regarded as the international price, and at its projected 1990 level of $79.65 it is hard to think that it would be much lower, then conventional oil priced at $63.25 would constitute 79 % of the world oil price.

introduced a program for broadening Petro-Canada’s role. Simpson sums up the changes in the Conservative government’s position on Petro-Canada:

With Hnatyshyn’s statement [in the Globe and Mail in mid-August 1979], the Conservatives had changed direction completely since their days in Opposition: they had gone from arguing that PetroCanada was unnecessary (1975), to allowing that PetroCanada was necessary but better off entirely in private hands (1978), to conceding that PetroCanada would be only partially sold off (1979), to deciding that PetroCanada would remain largely intact.

The Conservative government introduced a program intended to widen Petro-Canada’s policy role, by enabling or encouraging the corporation to expand into all aspects of energy, while selling off and giving away the majority of shares in the corporation. The main point, however, was that the federal government would still retain a sizeable proportion of Petro-Canada’s shares and would be able to use the corporation as a policy instrument to negotiate state-to-state contracts, undertake frontier exploration, and involve itself in energy research and development.

As Simpson points out, the Conservative government’s initial opposition to Petro-Canada grew out of the Conservative government’s concern with the growth of the public sector. The opposition was based on philosophical and ideological concerns over state intervention and state expansion, rather than Petro-Canada’s role in the energy sector. Important members of the Conservative party, including prominent Cabinet members, faced with the new reality on the world oil scene, began to favour retaining Petro-Canada. Petro-Canada could be viewed as an important cushion against international oil shocks. Thus, the Clark government’s initial ideological opposition to Petro-Canada was downplayed and federal attention shifted to the imperatives facing Canada in the energy sector. After adopting a more energy-specific orientation to the Petro-Canada problem, federal decision-makers found it relatively easy to accept a

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47 See Pratt, Petro-Canada, op.cit. p.140. Pratt notes that the Conservative government would retain the company also as a policy instrument. Simpson attributes the about-face on the Petro-Canada issue to rivalry between different factions within the Conservative party. Simpson, op.cit., p.166.

48 Simpson, ibid.

49 ibid.
continued important role for Petro-Canada.

The Clark Progressive Conservative government was quite interventionist. The difference between Conservative and Liberal energy policy was probably more closely related to the shape of the federal government's intervention than to the magnitude of intervention. The Clark government sought to shift the weight of federal intervention from direct forms of intervention to more indirect ones. The Conservative government, as the Liberals before, was concerned with maintaining the federal government's financial and tax base and with ensuring that the industry did not garner windfall profits from oil price increases, and introduced measures to realize these objectives.

Although Clark's notion of Canada as a "community of communities" entailed a decentralized view of Canada, Clark's role in dealing with the crisis imposed by changes in the international oil market required a measure of decisive federal action which could not be attained without the federal government retaining some muscle to deal with the international oil market and the oil MNCs that dominated the Canadian energy scene. The imperatives of the situation were largely incompatible with Clark's philosophical notion of Canada. There is little doubt that the Clark government had to pay electorally for this apparent inconsistency between thought and action.

The most important observation in terms of the above is that in spite of different notions of how and how much to intervene between the Conservatives and the Liberals, there was little disagreement about the need for a significant federal presence. This fact reduces the salience of partisan differences in generating state intervention. In spite of his ideological and partisan commitment to a more decentralized Canadian state, when faced with the issue of a major erosion of the tax and fiscal base of the federal state, Clark took measures to arrest the decline in federal power. The fact that some of the

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50 See confidential memo from Finance Minister John Crosbie to the Conservative caucus, quoted in Doern and Toner, op.cit. p.103.
pressure emerged from Central Canada is less significant because the measures were aimed at strengthening or at least retaining federal power. Clark's ideological commitment to a reduced state role is clearly found in the different emphasis the Conservative party placed on the composition of policy measures. When faced with a rapidly deteriorating situation, circumstances almost worsening from day to day, the Conservative government showed a clear willingness to compromise ideological purity and consistency for increased intervention. Although no conclusive statements can be made as to the resultant magnitude of the federal intervention, had indeed the Conservative government survived, it is reasonable to assume that the federal government's role in the energy sector would have been larger than it was in 1979.

The dynamic of federal-provincial relations served as an important factor in prompting both parties to intervene in the economy to ensure a continued, and in fact, increased federal role. The international pressures placed upon the federal government forced Clark to take stronger interventionist measures than he had intended. While the two main parties pursued different policies, such differences relate to different learning experiences as well as to different partisan ideologies and visions of Canada. Partisan differences also fade when the pressures facing office-holders are taken into account.

SETTING THE GOALS: THE NATIONAL ENERGY PROGRAM

The National Energy Program was introduced on October 28, 1980 after the Liberals had won the federal election on February 8, 1980. The NEP built on the policies announced by Pierre Trudeau in his Halifax speech in January 1980. The NEP was a unilateral measure introduced by the federal government, following several unsuccessful federal-provincial energy negotiation rounds,\textsuperscript{51} including

\textsuperscript{51} Three rounds of price negotiations took place between March 18 and July 25, 1980.
an "Energy Package" proposal announced by the Albertan government on July 25, 1980. Ottawa’s initial position was quite flexible, although Ottawa was not willing to accept terms as generous as those in the partial agreement reached between Clark and Lougheed. While Alberta was also willing to provide concessions, the two positions were far apart. Actions and statements by each level of government during the process of negotiations only served to heighten tensions. In the Spring of 1980 Alberta took several measures to strengthen its powers in relation to Ottawa. Helliwell et al. note that:

In April 1980, the approved-purchaser system was discontinued. All private contracts between producers and buyers on the eligibility list were abrogated, and the APMC became the sole purchaser of crude produced from Crown lands in Alberta. It took over the marketing and handling roles that had previously been undertaken by private agents and offered to do the same for production from freehold lands. It set prices, decided upon buyers, took possession of the crude at the wellhead, and made all the arrangements for its transfer to the buyers. Alberta thus expanded the powers vested in the APMC in its preparation for a showdown with Ottawa. Aside from the exploration stage, Alberta exercised direct control over both the upstream and downstream stages of oil development in the province. This was necessary for the next step which came in May when Merv Leitch, the Albertan Energy Minister, introduced a bill which would limit oil production when the provincial cabinet "considers it in the public interest to do so." This would enable Alberta to withhold oil supplies to other parts of Canada whenever it saw fit. Alberta thus was in a position to curb oil production and create artificial shortages in the rest of Canada whenever the provincial cabinet saw the need for such. Ottawa’s subsequent proposal to tax natural gas exports did not serve to reduce the level of intergovernmental tensions because Alberta found natural gas export taxes strongly offensive and

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52 Alberta unilaterally announced a $2 per barrel increase (to $16.75) in the wellhead price of crude oil produced from Crown lands. Alberta also announced that it would enact legislation to ensure that wellhead gas prices would continue to track crude oil prices. See Plourde, 1986, op.cit. p.167.

53 See Helliwell et al.: Oil and Gas... published version, p.43.

considered such an intrusion on provincial jurisdictional rights. At that point in time intergovernmental tensions in Canada were almost on par with the tensions between oil exporting and oil importing countries on the international stage. At this point the intergovernmental conflict had generated a dynamic of its own that helped fuel future actions.

In this period, prior to the introduction of the NEP, both levels of government developed definitions of their jurisdictional rights that overlapped. Further, they either initiated policies oriented along jurisdictional lines, to maximize their jurisdictional rights, or considered doing this. This reveals how ineffective the constitutional framework had become in curtailing the expansionist thrusts of individual state actors. Intimately linked with this was a reduced respect for the constitution in guarding the bounds of federal and provincial powers. The net effect was a greatly heightened insecurity of governments on the domestic stage, an insecurity that was further enhanced by the rapid evolution of traumatic and critical events on the international stage.

Notwithstanding events on the domestic stage, the NEP clearly sought to address the problems created by the second international oil shock described in Chapter Ten. As will be pointed out later, the interpretation of the future of the world oil market in the NEP rendered Ottawa’s policy program highly vulnerable to international and domestic events. This vulnerability related to the manner in which the structure of the aggregate Canadian state helped shape and channel the attitudes and the learning experiences of federal and provincial elites to revolve around jurisdictional concerns along intrastate lines of conflict.

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56 See Cairns, The Other Crisis... op.cit.
The NEP brought together a number of different philosophical strands that had emerged throughout the late 1960s and 1970s in Canada and elsewhere in the world. It was the most comprehensive energy policy ever orchestrated in Canada. As such, it was the first major energy policy in Canada that explicitly stressed the need for increased oil conservation. The emphasis on conservation emerged from the perceived need to reduce oil import vulnerability and from the recognition by most resource economists of the exhaustibility of fossil fuels. The recognition of fossil fuel exhaustibility in the near future served to change the perception of oil and gas among economists and policy makers. Resource economists and policy-makers ceased to talk of oil as a normal commodity and instead emphasized the uniqueness of oil as a fuel source. Therefore, oil had to be treated differently from other energy sources. These important value changes relating to the fuel source also coincided with broader philosophical changes in Canada, of which the emphasis on Canadian ownership and control, the merits of public planning and problem-solving, the belief among economists in the need for state intervention to handle market externalities, and the growing recognition of the need for a significant state role in resource development, were the most important.

These important value changes coincided with the decline in the power and role of the major international oil companies and the emerging role of oil-producing and exporting states. The important philosophical or value changes that took place in Canada, all of which clearly could be used in the service of the state, therefore coincided with a significant restructuring of the international oil market, which was seen to produce an increasingly state-centred world oil scene.

The NEP: Assumptions About the Future of the World Oil Scene

Before proceeding to the analysis of the goals and instruments in the NEP, the assumptions on which the policy was based must be spelled out. Since the NEP was touted as a response to an increasingly state-centred international
oil market, the analysis will first point out the assumptions in the NEP as to
the future of this market. As noted in Chapter Ten, the NEP's underlying
assumptions relating to the international oil market shed light on the relative
"fit" between the actual situation and the federal government's interpretation
of it.

The many domestic concerns facing Canada in this period affected Ottawa's
response to the world oil crisis. Once it was clear that the crisis could
exacerbate problems associated with Quebec's status in the federation, the
federal fiscal drain, and the different views on the rights and
responsibilities of the federal and provincial entities, such concerns had an
impact on Ottawa's crisis response. The world oil crisis itself was not a fixed
sum or a given, rather, its very definition would be the result of a complex
mix of fears and concerns of both domestic and international origin. The
definition of the situation would also relate to Ottawa's assessment of the
opportunities and constraints posed by existing institutional and structural
arrangements and the policy instruments available. Thus there need not be
anything sinister about this. Rather, decision-makers often combine different
sets of concerns and take measures aimed at rectifying the perceived problems.
Thus it is that an interpretation or a definition of an international crisis
may indirectly mirror a host of concerns and itself become such defined as to
offer solutions to these concerns as well.

As events unfold, the policy measures involved send signals to other
actors as to what types of concerns went into their introduction. When many
actors get involved, the stakes are high, and the main actors are locked into
a web or network of structural interdependence as were the 11 governmental
actors in Canada, concerns other than those directly related to the world oil
crisis may become involved and affect outcomes.

Basically, three main assumptions relating to the international oil

57 The assumptions in the NEP relating to indigenous resources and other
important domestic factors will be dealt with later.
market can be found in the NEP. First, the NEP was premised on the assumption that world oil market developments would favour OPEC’s role in regulating supply and pricing. The NEP report noted that:

By the mid-1970s the large multinational oil companies had lost their dominance over world oil production, and a new force emerged: the Organization of Petroleum Exporting Countries (OPEC), a cartel formed to obtain higher returns for its oil through supply management and decree. The cartel has succeeded...

OPEC’s effectiveness was proved by events after the 1978 Iranian revolution. There was more than enough oil available in the months following the revolution to meet the world’s needs. Yet the price of world oil more than doubled, due to OPEC’s determination to raise prices — even if it meant restrained production, and panic buying by consumers fearing real shortages.

Today OPEC is more strongly than ever in control of the world oil market.\textsuperscript{58}

The NEP was clearly based on the assumption that OPEC was the dominant force on the international oil scene. Thus, it assumed that the bargaining relations would favour oil-producing and exporting states rather than oil-consuming and importing ones. The main criteria on which the NEP based this assumption were: (a) the organization’s ability to raise prices and keep prices high even in situations of slack demand, (b) the increased incidence of state-to-state deals, (c) the reduced role of the oil MNCs in handling non-Communist oil production and, (d) OAPEC’s\textsuperscript{59} declaration to “use oil as a broad political and economic weapon.”\textsuperscript{60}

The second assumption underlying the NEP was the belief that the world oil market was becoming increasingly state-centred, as a consequence of the declining role of the oil MNCs and the formation of NOCs in exporting and importing countries. This assumption was very widely held among academics and policy-makers alike. An academic account representative of the dominant interpretation of the future of the oil market notes that:

The direction of change in this vital industry is centrifugal — from multinational to national oil; from a closely knit, highly integrated structure based on global profit maximization to a loosely organized,

\textsuperscript{58} NEP 1980, op.cit. p.3

\textsuperscript{59} Organization of Arab Petroleum Exporting Countries. OAPEC is a subunit of OPEC and consists of OPEC’s Arab nations.

\textsuperscript{60} NEP, 1980 op.cit. p.3
Somewhat ironically, this presumption served to reinforce the first assumption presented above, because OPEC, although formally an international organization, was viewed first and foremost as a collection of individual states.

Closely related to the first two assumptions was the NEP’s prediction that international oil prices would continue their sharp increase. The notion of a sharp international oil price increase stemmed from the analysis of the future of the global political environment rather than from assessments of the ultimate size of global oil and gas resources. The NEP was clear on this point. Therefore, the assumption adopted in the NEP was that political events, and indeed the structure of the international oil market, would generate a strong upward pressure on international oil prices.

A brief examination of these basic assumptions – viewed in light of the analysis of the international oil scene presented in Chapter Ten – reveals that the federal government clearly overestimated the ability of OPEC to regulate oil prices, withhold supplies and maintain its market share of world oil exports. The analysis presented in Chapter Ten has shown that although OPEC succeeded in tightening supply and increasing prices after the Iranian revolution, there were many more factors involved in causing the price increase. Some of these factors also worked against a continued OPEC dominance. Therefore, although there was ample evidence to back up the case presented by the NEP, in retrospect, the analysis of the changing market structure presented in the NEP was too narrow in scope and was biased, because it did not include the factors that only temporarily aided OPEC. Further, the NEP overemphasized the importance of states. This is interesting because two of the main underlying assumptions in the NEP were far from compatible, namely the belief

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in the importance of OPEC and the notion of an increasingly state-centred oil market. Even though it was recognized that the oil market was becoming increasingly state-centred, this in itself provides little or no guarantee of an increased role for OPEC. The point is that OPEC had been continuously torn by internal strife, incompatibilities and radically different needs which all affected the ability of the organization to operate as a cartel. With an increasingly state-centred oil market, the stakes would be raised and the likelihood of internal conflicts would increase, not fall. A number of analysts as early as 1980 raised serious doubts of OPEC really functioning as a cartel. In fact, some analysts contended that OPEC had never worked as a cartel. If OPEC was unable to function as a cartel, then its role in price and supply determination was overstated. There is evidence of such doubts being present in the Canadian petroleum sector, but this does not mean that it was known by Canadian federal decision-makers. The basic problem underlying the NEP, as we shall see, is not the interpretation of international oil market trends, because most analysts at the time would have agreed with EMR’s energy analysts. Instead, the basic problem is the deterministic nature of this interpretation and the fact that the NEP’s pricing projections and price regulation scheme served as the basic building-block or foundation upon which a very complicated and comprehensive policy-structure was founded. Canada, in regulating oil prices and introducing price differentiation among different sources of oil, distinguishes herself sharply from all other nations in the world in how the crisis was dealt with. When Canada adopted a complicated price regulation structure, the United States took the lead to deregulate oil and gas markets. Ironically, Ottawa’s decision to regulate prices made the NEP very vulnerable to international oil market changes.

Ottawa’s analysis of the future of the international oil market was clearly a worst-case scenario, a scenario which could lead to serious

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62 Griffin and Teece, op.cit. p. 208. The main proponent was Professor Teece.

64 See Mead, in Oilweek, November 3, 1980, p.
disruptions inside Canada. It is obvious that the adoption of this scenario—combined with the policy measures taken—was motivated partly as a response to the ongoing conflictual relations between Ottawa and the producing provinces, in particular Alberta. In that sense, the federal-provincial conflict clearly affected Ottawa's view of the future. Yet, it is impossible to ascribe Ottawa's vision of the future to the dynamics of domestic Canadian politics and the perceptions of Canadian decision-makers alone. Most analysts shared the opinions of the future of the world market held by federal decision-makers. The main effect of the federal-provincial dimension lies not in the formulation of the assumptions as such but rather in the manner in which Ottawa translated these assumptions into policies. Ottawa's perception of the future of the world scene was blended in with Ottawa's explicit domestic concerns to produce the NEP. The federal-provincial conflict informed the development of an energy policy response that was explicitly intended to render Canada independent of international oil market changes but which, in so doing, ended up making Canada extremely vulnerable to international changes.

Although the linkages are more subtle and less apparent than one may wish them to be in order to demonstrate a major point, Ottawa's interpretation of the future of the world oil market reinforced its concern with the need to reverse a perceived current and future decline in relative positional advantage in its dealings with the oil producing provinces and the oil and gas industry, in particular the dominant foreign segment.

The NEP: Basic Objectives

The basic goals of the National Energy Program were as follows:

It must establish the basis for Canadians to seize the control of their own energy future through security of supply and ultimate independence from the world oil market. It must offer to Canadians, all Canadians, the real opportunity to participate in the energy industry in general and the petroleum industry in particular, and to share in the benefits of industry expansion. It must establish a petroleum pricing and revenue-sharing regime that recognizes the requirement of fairness to all
Canadians no matter where they live. The NEP must be viewed as a measure to increase the control by the federal government of all aspects of energy in Canada. Being a highly interventionist measure, the NEP placed the federal government at loggerheads with both the provinces and the oil industry, although the actual actor constellations are much more complex than that. On the following pages the specific objectives of the NEP will be outlined and discussed.

**Security of Supply/Self-Sufficiency**

The NEP's stated objective was to achieve energy security within the span of a decade. The federal government, in introducing the NEP, abandoned its previous policy of energy self-reliance. As will be recalled, energy self-reliance entailed accepting a certain measure of import dependence. In introducing the NEP, Ottawa re-introduced its 1973 objective of self-sufficiency and independence from the world oil market. The notion of self-sufficiency adopted by Ottawa in the NEP was to "balance domestic oil supplies with domestic demand by 1990". Although re-introducing the notion of self-sufficiency, the NEP differed from the previous policy in its demand-side emphasis. In previous chapters of this thesis, it has been noted that federal energy policy throughout the 1970s was clearly biased in favour of supply-side measures, in particular oil supply enhancement, and provided little scope for energy conservation and interfuel substitution. The NEP was clearly intended to correct this imbalance, while still providing support for supply-enhancement:

(T)he National Energy Program does not assume a "supply solution" to the nation’s oil import problem.... While providing strong support to new oil

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66 ibid. p.113
67 ibid. p.2, 23 and 113
68 ibid., p.23
supply, the National Energy Program makes a massive, unprecedented commitment to improving the demand side of the equation. The centre-piece of the National Energy Program is a drive to reduce oil consumption, through conservation efforts and the use of more plentiful fuels in place of oil.69

Two important observations emerge from the above. First, the NEP represented an attempt by Ottawa to make a major change in energy policy direction, by altering the context of Canadian energy policy from almost exclusively supply-oriented, to placing more emphasis on demand. Implicitly, then, the NEP launched a scathing critique against previous federal energy policy. Second, the NEP continued to emphasize the political dimensions of energy, in particular the political aspect of scarcity. In doing so, the NEP more than any other previous energy policy, singled out oil as Canada’s main concern.

While underlining the importance of demand-based measures to solve Canada’s energy problems, the NEP placed the federal government in an important role as a resource developer, directly through changes in the regime governing the Canada Lands and indirectly through measures taken to affect the development of resources in the provinces. Toner notes:

The Trudeau Liberals aggressively asserted federal ownership of and jurisdiction over the eastern Canadian offshore in the NEP and through the Canada Oil and Gas Act, a position eventually confirmed by the Supreme Court Decision in March 1984. In the Canadian federal system, ownership is fundamentally important in that it confers the authority to determine the terms of exploration and development and establishes the capacity to generate revenues from oil and gas production. The NEP vigorously portrayed the north and the offshore as the long-term key to Canada’s energy security and put in place an aggressive exploration incentive system to ensure that these “Canada Lands” were explored. The ostensible objective was the desire to strengthen security of supply through the development of additional reserves, and at the same time satisfy the “need to know” the scope of oil and gas reserves in the Canada Lands. Equally important, however, given the previous decade of poisonous relations between Ottawa and the producing provinces, was the determination on behalf of the Trudeau Liberals to ensure that the federal government retained fundamental decision rights over the mode and pace of offshore development. The last thing the Liberals wanted to do was to create “another Alberta” in Nova Scotia or Newfoundland.70

69 ibid., p.98-99.

As part of this policy was a renewed and considerably strengthened commitment to Canadianize the oil industry. The NEP’s security of supply, Canadianization and fairness concerns were clearly related. The NEP report noted that:

(T)he Government believes that its Canadianization objectives, far from conflicting with its security and fairness goals, are integral to them. A more fully Canadian industry is likely in the long run to build a more dynamic energy sector, more responsive to Canada’s goals.  

The strongest linkage among these objectives is found under the scenario described by Toner where Ottawa actively promoted development in the Canada Lands. From a political perspective such promotion entails an increased degree of federal control over oil and gas development in Canada. The larger the share of the frontiers in Canada’s future oil and gas supply, the more important would Ottawa’s role be in managing the resources. In promoting the frontiers, Ottawa could wield far more control over the rate, location and access to oil and gas in Canada, than if a province-based oil and gas development strategy had been adopted. Thus, if the Canada Lands became important in Canada’s future oil (and gas) supply picture, Ottawa’s control over industry operations would increase greatly. If Toner’s contention is correct, then the NEPs self-sufficiency and Canadianization objectives would converge in Ottawa’s promotion of the frontiers. Second, if Ottawa promoted the frontiers and also discriminated against oil and gas development in the provinces, it would not only force the provinces to provide the industry with added incentives in order to retain industry activity levels but would also generate added federal revenues or subsidize consumers, depending on the manner in which the discriminatory measures were devised.

If Ottawa promoted the frontiers and simultaneously discriminated against existing oil and gas producing regions, Canada’s ability to attain oil self-sufficiency, at least in the short to medium term, would be affected. The discussion in this section will focus on the extent to which Ottawa sought to

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71 NEP 1980, op.cit. p.48-49

72 The producing provinces and large segments of the oil industry claimed that the NEP discriminated against conventional oil development in the provinces.
promote the frontiers and, if so, what its rationale could be.

Basically, the following three sets of issues will be addressed in examining Toner's contention. First, was the NEP primarily a supply-based or a demand-based policy? Although espousing a strong commitment to conservation, several key features of the NEP raise doubts as to its overall conservation thrust. If the NEP was demand-based, little future need would exist for frontier oil and gas. Under a demand-based scenario, a federal frontier emphasis could be interpreted as Ottawa promoting the mapping of Canada's oil and gas resources, without committing itself to the development of these. If the NEP's basic thrust was supply-based, Ottawa promoting the frontiers would mean that these resources were to be exploited. Second, did the NEP establish a discriminatory structure, i.e., did it discriminate against certain regions or energy sources in Canada? Finally, was the NEP's resource development strategy politically oriented rather than resource oriented; in other words, would the resource development decisions flowing from the NEP be politically motivated or would they relate to problems such as physical scarcity? Addressing these three questions will help clarify Toner's contention about the NEP's frontier thrust and Ottawa's possible motivations behind it.

Addressing Ottawa's demand-side orientation, we find that it was primarily or almost exclusively, oriented toward oil rather than the wider spectre of energy sources in Canada. The NEP report noted:

This country already produces more energy than it consumes. We have surpluses of natural gas, electricity, and other forms of energy, and the challenge now is to use them effectively to displace as much oil as possible, ending our reliance on foreign sources of petroleum.

While the program includes massive stimulus to new oil and gas exploration and development, it recognizes the reality of declining conventional oil supplies in Western Canada and the potential folly of striking national policy on the basis of a promise, no matter how

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73 The two positions are not incompatible. A policy can have important elements of both. What we are interested in here is the relative importance of each because it tells something about the basic direction of the government's intentions.

74 This is akin to Ottawa's continued emphasis on the "need-to-know", of which Petro-Canada played an important part.
encouraging, of new supplies.

In such circumstances, the sensible policy is to reduce oil demand through both conversion and conservation, and to base this approach on the enlightened self-interest of every consumer.\textsuperscript{75}

The NEP’s strong emphasis on conservation and interfuel substitution was evident in the projections of future Canadian oil supply and demand.

| Table IV.8 Oil Consumption (Mb/d),\textsuperscript{76} |
|-----------------|-----|-----|-----|
|                 | 1979 | 1985 | 1990 |
| Previous Policy | 1,823 | 1,905 | 1,809 |
| National Energy Program Reduction | 1,615 | 1,475 | 290 |
| Total Reduction | 290 | 334 |

| Table IV.9 Oil Demand and Supply Outlook (Mb/d)\textsuperscript{77} |
|-----------------|-----|-----|-----|
|                 | 1979 | 1985 | 1990 |
| Production      | 1,608 | 1,355 | 1,520 |
| Demand          | 1,823 | 1,615 | 1,475 |
| Net imports (net exports) | 215 | 260 | (45) |

As revealed in Tables IV.8 and 9, oil consumption under the NEP was projected to decline by 19\% between 1979 and 1990. Further, evidence of the NEP as a demand-oriented policy can be found in net projected savings believed to accrue from the NEP. These savings, in 1990, were estimated to be 18\% of Canada’s 1979 oil consumption. The NEP predicted that by 1990, domestic oil production would surpass domestic demand, producing a net positive supply/demand balance.\textsuperscript{78}

\textsuperscript{75} NEP, 1980, op.cit. p.113
\textsuperscript{76} ibid., p.99
\textsuperscript{77} ibid.
\textsuperscript{78} The figures used in the NEP also reveal that this positive supply/demand balance would not have occurred under the previous policy. If we use the demand figures for the previous policy, and combine these with the NEP’s predicted production figures, a shortfall in supply from domestic sources of 289 Mb/d would still exist in 1990. This would represent a net import dependence of 16\% in 1990.
Reduced oil consumption would lead to a significant decline in oil’s share of the market, the NEP predicted.\(^9\) Meanwhile, the market share for natural gas was projected to rise from 18% in 1979 to 22.7% in 1990. The total share held by oil and gas, then, was predicted to decline from 60.6% in 1979 to 49.4% in 1990. The main oil savings were planned to come from the residential, commercial, and industrial sectors of the economy.\(^6\)

From a political point of view, reducing oil’s share would lessen the influence of the oil industry in the Canadian economy and deprive the industry of some of its political clout. A policy program that emphasizes the development of additional supply, on the other hand, renders the government more vulnerable to industry pressure for concessions to obtain its cooperation.\(^8\) As a corollary to the above, it could be argued that since the provincial and federal governments were deeply involved in energy sources other than oil, reducing the importance of the oil sector could also have the effect of enhancing the role of the two levels of government in the energy sector, overall. A large government involvement in sectors other than oil could act as a deterrent or barrier to oil company diversification within the energy sector.

Interfuel substitution or conversion from oil to gas, from a political point of view, could recompense the industry, at least partially, for the reduced importance of oil development, because many of the same companies were involved in both oil and gas development. Yet, important differences existed between oil and gas in terms of political salience. An international market for natural gas has never really existed\(^8\) and no international shortage of gas comparable to

\(^9\) Oil’s share of total primary energy demands was projected to decline from 42.6% in 1979 to 26.7% in 1990.

\(^6\) These three categories of oil usages were predicted to decline from 553 Mb/d in 1979 to 210 Mb/d in 1990. See NEP, p.99 The transportation sector, on the other hand, was projected to require the same magnitude of oil production in 1990 as it had in 1979, namely approximately 870 Mb/d.

\(^8\) This is contingent on the oil industry not being overly diversified. Clearly, the more the oil industry has diversified its operations into other fuel sources, the less effective, in relative terms, the measures intended to conserve oil would be in reducing industry influence.

\(^8\) See Adelman, in Tempest, 1982, op.cit. p.15.
oil shortages has ever occurred. OPEC's influence (past, current and future) was much smaller in natural gas than in oil production and trade. OPEC had far less influence over gas than over oil pricing and supply. In relative terms, North America's gas reserves were much larger than the region's conventional oil reserves, which made North America less vulnerable to political pressure and also reduced the political salience of gas, as compared to oil.

Summing up this far, considerable evidence exists of the NEP's oil conservation thrust. By instituting measures to reduce oil consumption, the NEP sought to shift the focus of Canadian energy development from politically important commodities in scarce supply to relatively abundant sources of supply of less political salience. The NEP would shift the focus of future energy development in Canada to sectors of the energy economy in which the two levels of the Canadian state had a more prominent role. This was particularly the case in electricity and nuclear energy. Finally, the NEP sought to shift the focus of Canadian energy development from import-dependent to export-oriented sectors. This would alter the balance-of-payment problems which had emerged as a result of the two OPEC oil shocks of the 1970s and the federal government's price regulation policies.

Although the NEP was intended to initiate significant changes in the structure and composition of the energy sector, in policy terms the program's emphasis on the development of future sources of supply was as strong as its commitment to reduce demand. The reduction of oil's share would lead to a sharp overall decline in oil and gas production's share of total energy production in Canada, but would retain current production levels of oil and stimulate increased gas development. The measures taken to convert from oil to gas would count more in b/d terms than the measures initiated to conserve oil.\textsuperscript{83} The

\textsuperscript{83} The NEP projected that measures taken to conserve oil would reduce oil's share from 1,823,800 b/d in 1979 to 1,475,100 b/d in 1990. See NEP, ibid. p.99 Meanwhile, natural gas production was predicted to increase from 774,000 b/d of oil equivalent in 1979 to 1,203,100 b/d of oil equivalent in 1990. Thus, in numerical terms, even though the NEP predicted that its conservation measures would reduce oil consumption by 20% between 1979 and 1990, substitution from oil to gas would have an even greater effect, because conservation would reduce oil consumption by 416,700 b/d whereas substitution would produce an added 429,100 b/d of oil equivalent. Figures for natural gas production have been
increased importance of natural gas production and consumption, combined with
the fact that total energy consumption was predicted to rise from 4,300,000 b/d
of oil equivalent in 1979 to 5,300,000 b/d of oil equivalent in 1990, an
increase of 23.3%, serve to testify that the NEP combined its demand-side
thrust with important supply-side measures. This conclusion is reinforced by
the structure of financing presented in the NEP, where the means taken to
enhance the supply of oil, as well as other sources of energy, would receive
a far larger share of funds than would demand-side measures. Comparing the
projected magnitude of incentives to increase oil and gas development with the
amounts to be spent on conservation measures, we find that the incentive
portion is more than twice the size of the conservation portion. If we add the
projected expenditures of oil substitution programs, most of which would
involve conversion from oil to gas, we find that federal measures intended to
increase oil and gas supply accounted for 3.6 times as much, or over $3 billion
more of projected federal expenditures than did conservation and renewable expenditures. In expenditure terms, the NEP was more of a supply-oriented
than a demand-oriented policy package. A similar argument can be applied to
Ottawa's pricing policy. Ottawa's policy of regulating oil and gas prices below
world levels was clearly anti-conservationist. Viewed in isolation, Ottawa's
pricing policy contributed to increased import-dependence, because price
regulation below world levels created both supply- and demand-side
calculated from data provided on pp.99-100 in the NEP report.

"ibid. pp.89-91.

inefficiencies which would increase the need for continued imports.86

The NEP's supply-orientation is further demonstrated by the fact that the program contained measures to arrest a steep projected decline in conventional oil production.

Table IV.10 Projected Oil Production,87

<table>
<thead>
<tr>
<th></th>
<th>1979</th>
<th>1985</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional</td>
<td>1,388</td>
<td>914</td>
<td>713</td>
</tr>
<tr>
<td>Non-conventional</td>
<td>102</td>
<td>326</td>
<td>733</td>
</tr>
<tr>
<td>Pentanes plus</td>
<td>118</td>
<td>114</td>
<td>73</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,608</td>
<td>1,354</td>
<td>1,519</td>
</tr>
</tbody>
</table>

From Table IV.10, we note that conventional oil production was predicted to decline from 1,388 Mb/d in 1979 to 713 Mb/d in 1990. This forecast resembled the one presented in the White Paper published by EMR in 1976, although the 1976 White Paper had predicted that conventional production would remain higher for a longer period than what the NEP report had forecasted.88 The two reports, however, cited the same production figure for 1990. This means that the NEP predicted a much sharper decline in production from the conventional areas in the early part of the 1980s than did the 1976 White Paper. The NEP's forecast, when compared with the 1976 forecast, had the effect of underlining the

86 Daniel and Goldberg note that: "Total domestic demand for oil and gas is decreased by 13 per cent under world pricing as opposed to that under the NEP. The major portion of this difference is in the demand for natural gas. If only the price effects of the NEP were considered, then there would be approximately a 12 per cent decrease in oil demand also but, assuming that the non-price incentives in the NEP are effective, there is a shift in demand from oil to gas". See Daniel, T.E. and H.M. Goldberg: "Moving Towards World Pricing for Oil and Gas", Canadian Public Policy, VII, 1, (Winter 1982):3-13.

87 Source NEP 1980, op.cit. p.94

88 The 1976 White Paper entitled "An Energy Strategy for Canada" (ibid.) predicted that production from established areas in the provinces would range between 1126 and 1136 Mb/d in 1985, whereas the NEP projected production from the established areas to fall to 914 Mb/d in 1985. See EMR, 1976, op.cit., Table 8, p.65.
immediacy of the supply problem. Was this pessimistic supply prediction for the producing areas consistent with the potential for reserve additions from the conventional areas or did the NEP exaggerate the immediacy of the problem? Comparing the NEP's forecasts with the NEB forecasts of 1978, it is clear that the NEP was more optimistic in its assessment of the production potential of the conventional areas than was the NEB. If we on the other hand look at actual reserve additions, we find that the NEP was also too pessimistic in its estimates of the potential for further conventional oil development in the provinces. No direct evidence is available to indicate that the NEP's pessimism regarding conventional oil development in the provinces was deliberate, however.

The NEP's assessment, although later found to be too pessimistic, was consistent with EMR and NEB reports, and was also indirectly supported by data provided by the industry. The CPA in its annual update of Canada's self-sufficiency requirements, noted that Canada:

would need 2,050,000 barrels of oil a day in order to be self-sufficient in 1990. A minimum of 500,000 barrels a day of frontier oil would be necessary, in addition to a continued high level of exploration and development in the established areas, enhanced recovery, heavy oil and oil sands and restraint

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90 Still, the figures presented in the NEP 1980 were more optimistic in terms of future Canadian oil production potential than were the NEB figures presented in EMR: Canadian Oil and Gas Supply/Demand Overview, (Ottawa: November, 1979(b)), Table 3, p.22 For instance, the NEB figures projected a net import dependence of 803 Mb/d in 1990, whereas the NEP report projected net oil exports of 45 Mb/d by 1990.

91 Helliwell et al. (1987), op.cit. p.342. show that during 1977-79 a net increase of 692 mill bbl. of oil was found in Western Canada. This is the equivalent of the size of the Hibernia field offshore Newfoundland.

92 The data provided in the NEP on projected oil and gas production were consistent with the figures provided in EMR 1979(b): Canadian Oil and Gas Supply/Demand Overview, op.cit. p.78.

93 The NEB, by then, had a history of underestimating conventional oil reserves in the provinces. See Helliwell (1970s articles) for several scathing critiques of the NEB's oil and gas forecasting techniques.

94 See Bradley, P.: Petroleum Supply: Lessons of the 1980s, draft copy, 1988, pp.12-13. Bradley shows that reserve additions from the conventional areas accounted for 59.8% of total reserves added in the period 1974-80, and further accounted for 30.7% of all reserves added in the period 1981-86.
The major oil companies' interest organization, and the petroleum industry's main information generating agency, thus predicted a serious shortfall in Canada's supply capacity by 1990. Note that the supply figures presented by the CPA are much higher than those in the NEP. The CPA's projections were much more oriented toward increased development of supply than were the projections presented in the NEP. The CPA, or the major industry actors, stressed the need for accelerated frontier development.

The NEP projected 1990 oil production to equal 1979 production levels. Therefore, the NEP did not project a reduction in domestic oil production; the program was intended to eliminate oil imports without actually reducing domestic oil production. From a political perspective, the NEP's demand figures being much lower than those provided by the industry would render Ottawa less dependent on industry co-operation to attain future self-sufficiency.

Summing up this far, the NEP was more demand-based than previous policies, but almost exclusively in terms of oil. This feature of the program coincided with the conditional nature of the program's incentive grants, the new and much more interventionist Canada Lands system of rights issuance and land management, and an expanded Petro-Canada presence to present a host of measures intended to increase federal control of the activities of the oil MNCs. The frontier thrust of the program and the NEP's supply orientation which is here found to be stronger than expected reflect the problems facing Ottawa in attempting to increase federal control over industry activities. The incentive portion of the NEP was particularly favourable at the exploration stage which reflects Ottawa's emphasis on mapping the resource base in the Canada Lands and increasing the range of future supply options available to Canada. The mapping of the resources in the Canada Lands, over time, had to be reconciled with the NEP's strong thrust on conversion from oil to natural gas which required

increased future natural gas production. Mapping the resource base while stimulating gas development could heighten the tension between the federal emphasis on the need to control the rate of oil development and the need to ensure a more rapid rate of gas development. This tension was a function of Ottawa's attempt to establish itself as a supplier of oil and gas in Canada, and the nature of the measures and their application reflect the problems Ottawa faced in doing so due to the jurisdictional division of power and the physical distribution of resources in Canada, rather than Ottawa responding to oil industry demands.

The second question to be discussed in connection with Toner's contention about the NEP promoting the Canada Lands relates to the extent to which the NEP was intended to discriminate against certain regions and resources. The NEP's prediction of a sharp reduction in conventional oil production in the early 1980s makes it important to find out from where the additional sources of oil were to come. In Canada, the answer to this would not simply be an economic one but would have clear political overtones because of related concerns such as regional development, control, rent distribution etc. The NEP's projected oil production schedule, it should be recalled, did not specify any frontier production. Thus, the NEP did not appear to share the industry's emphasis on the importance of the frontiers. For the 1980s, the NEP predicted that the largest increase in oil production would come from non-conventional sources of oil. What will become apparent later, however, when discussing the specific policy measures introduced in the NEP, is that the basic thrust of these measures was to develop the frontier areas of Canada. The federal government introduced a policy package that clearly discriminated against conventional oil development in the provinces. 95 The resource reasoning behind this was that the conventional areas in the provinces would not produce large reserve additions. The remaining reserves needed few incentives to be produced and instead would

95 This will be revealed when discussing the NEP's policy measures. See Chapter Twelve.
generate significant economic rents, part of which should accrue to Ottawa.\textsuperscript{96}

The NEP, although it did not discriminate against the development of the tar sands, had as its basic focus the geographical frontiers of Canada. At first glance it seems somewhat surprising that Ottawa would emphasize the Canada Lands when these areas were not projected to provide any contribution towards Ottawa's goal of self-sufficiency by 1990. Yet, it is clear that the NEP continued the trend of the 1970s which saw Ottawa seeking to promote frontier oil and gas development. Ottawa's emphasis on the frontiers could be viewed as Ottawa placing as much emphasis on counteracting the importance of the producing provinces as in counteracting the influence of the oil MNCs. A significant industry presence in the Canada Lands, however, was a precondition for increased federal control of the oil MNCs. While the oil MNCs were interested in developing the frontiers, they would not do it under all circumstances. The specific terms of industry operations must therefore be examined. This will be done in Chapter Twelve. The industry would not only consider the terms and conditions in the Canada lands but would also compare them with the terms in the provinces and in other countries.

Ottawa's promotion of the geographical frontiers is particularly noteworthy when looking at the natural gas supply situation. The NEP report noted that natural gas was not needed from the frontiers in the foreseeable future.\textsuperscript{97} Thus, Ottawa's goal of self-sufficiency could be met by natural gas sources located solely in the provinces. This is hardly a novelty or an astonishing revelation in itself, but it becomes more interesting when we find that the means by which Ottawa sought to attain this goal included measures that openly and directly discriminated against those very provinces whose collaboration Ottawa's strategy depended on. Further, in terms of oil, an adequate development of the tar sands plants also required considerable provincial cooperation and good-will, which at that time, was not easy to come by.


\textsuperscript{97} NEP op.cit., p. 44 and 101.
Although not officially relying on frontier (Canada Lands) oil and gas resources to meet the NEP's stated objective of achieving oil self-sufficiency by the end of the decade, the NEP revealed a strong optimism towards frontier development:

The Canada Lands are increasingly attractive. Important discoveries have already been made, and numerous promising geological structures remain to be tested.\(^98\)

The optimism stemmed primarily from the discovery of the giant Hibernia field by Chevron in 1979,\(^99\) and from important oil and gas discoveries in the Beaufort Sea.\(^100\) These finds, combined with significant gas (and some oil) discoveries on the Scotian Shelf\(^101\) and in the Canadian Arctic Archipelago,\(^102\)

\(^98\) NEP, ibid. p. 45-47.

\(^99\) Chevron Standard and partners discovered the Hibernia oil field on May 27, 1979, when the first well, Hibernia P-15 was spudded. The field which was projected by the Petroleum Directorate of the Government of Newfoundland and Labrador to contain between a low estimate of 500 mill. bbl. of oil and a high estimate of 1500 mill. bbl. constituted the largest oil find in North America since the 1960s, proved that oil (and gas) were to be found on the East Coast of North America, and "with an estimated flow potential of more than 20,000 barrels of oil per day ... has the greatest potential flow rate of any well drilled in Canada to date." See Government of Newfoundland and Labrador: Economic Analysis of the Hibernia Development, Petroleum Directorate Special Report PD 80-1, September, 1980, p.4

\(^100\) Oil (and mixed oil and gas) discoveries in the Beaufort Sea in the period 1970-74 include the following: Atkinson (IOE), 1970; Mayogilak (IOE), 1971; Ivik (Imperial), 1972-73; Kugpik (Shell), 1973; Kumak (Shell), 1974; and Adgo (Esso), 1974. During the period, 1975-79, the following oil (and oil and gas) discoveries were made: Niglintgak (Shell), 1975; Garry (Sun), 1976; Kamik (Gulf, Mobil), 1976; Nektoralik (Dome, Hunt), 1977; and Kopanor (Dome), 1979. During the period, 1970-79, the following gas discoveries were made: Taglu (Esso), 1971, 72, 73 and 1977; Mallik (Imperial), 1972; Parsons (Gulf, Mobil), 1972-77; Ya Ya S (Gulf, Mobil), 1973; Reindeer (Gulf, Imperial), 1973; Ya Ya N (Gulf, Mobil), 1974; Titalik (Gulf), 1973; Netserk (Esso), 1976; Ukalerk (Dome, Hunt), 1977-78; and Isserk (Esso), 1978. Source: Department of Indian and Northern Affairs: Beaufort Sea Hydrocarbon Exploration - A Federal Perspective, (Ottawa: Minister of Supply and Services, 1983), figure 10.

\(^101\) In May, 1979, the Venture D-23 well, located approximately 7 miles east of Sable Island, revealed a significant gas show. Other promising structures on the Scotian Shelf were Thebaut, Cohasset, Primrose, West Sable, Bluenose, Citnalta, Onondaga, and Penobscot. Source: Province of Nova Scotia, Department of Mines and Energy: Offshore Oil and Gas: A Chance for Nova Scotians, July, 1980, pp.9-10.

\(^102\) Recoverable proved and probable reserves of gas discovered up until 1982 in the Canadian Arctic Archipelago constituted more than 16 TCF. These discoveries were found in 15 oil and gas pools. See Hamilton and Varney, in Cutler, op.cit. p.5.
served to generate or rather underline a long established optimism in EMR about the resource potential of the Canada Lands.\textsuperscript{103} This optimism was shared with officials and elected representatives of the two Atlantic provinces of Canada located next to the offshore oil and gas finds, Nova Scotia and Newfoundland. These two provinces, and in particular the province of Newfoundland, had long fought for the principle of provincial ownership of Canada’s offshore oil and gas resources.\textsuperscript{104}

The NEP report outlined the continuity in the federal government’s frontier or Canada Lands strategy in the following manner:

In *An Energy Strategy for Canada*, published in 1976, the Government of Canada announced a desire to accelerate exploration in Canada’s north. Knowledge of the resource potential of the north was inadequate. There was a compelling "need to know" about this potential. Production of these resources will not come for some years, and the economics of exploration from a company’s point of view are, for the most part, unattractive compared with opportunities in southern Canada. Accordingly, the federal government put in place new incentives (such as the frontier depletion allowance), fostered involvement by Canadian companies (through the Panarctic consortium) and deployed new institutions (Petro-Canada), all of which saw the Canadian taxpayer finance the lion’s share of the cost of northern exploration.

It remains necessary to provide a strong incentive for northern exploration. The energy world is uncertain. While in the long run the oil problem will only be solved by the world getting off oil, the need to find new petroleum supplies is still urgent. Canada may not need its resources in the north for domestic markets until the 1990s, but there may be merit in using Arctic oil in Canada, should viable deposits be developed, to relieve the pressure on Alberta’s reserves. In the case of natural gas, the need for Arctic gas in Canadian markets may not arise for many years. Yet we should press ahead with exploration, so that Canadians will know that a secure

\textsuperscript{103} See Foster, *The Sorcerer’s Apprentices...*, op.cit., for details on the optimism that prevailed among key federal officials about the resource potential of the Canada Lands. This has also been dealt with in Part Three.

\textsuperscript{104} Newfoundland’s Premier Brian Peckford formulated the provincial position in the following manner: "(F)rom the beginning of our participation in discussions on constitutional change, Newfoundland has been guided by our belief that, as a matter of principle, the Canadian Constitution must reflect the juridical equality of provinces and the equality of opportunity for them to develop their societies... Starting from this principle, it follows naturally that the resources of all provinces regardless of whether these resources are land or forests, minerals or water power; regardless of whether they exist in mountains or valleys, on the surface or beneath it, are covered by air or water; must be accorded the same constitutional treatment. This means very simply that the legislative competence and the attendant proprietary rights to those resources must be the same for all resources of the same kind regardless of province." See The Honourable A. Brian Peckford: *Notes for a Statement on Offshore Resources*, presented at the Federal-Provincial Conference of First Ministers on the Constitution, Ottawa, September 8-12, 1980.
source of oil and gas is available as our "safety net" for the future.\textsuperscript{105} It is important to note that the federal government's rationale for emphasizing the frontiers was couched in terms of Ottawa's "need-to-know" the resource basis of the frontiers. Such knowledge, it can be presumed, would enable Ottawa to take more enlightened resource development decisions in the future. One such decision would be to "relieve the pressure on Alberta's reserves". Yet, it is interesting to note that the wording of the report is very ambiguous when it comes to the role of the frontiers in Canada's energy future. The ambiguous wording used to describe the role of the frontiers in the above quote runs through the whole NEP report,\textsuperscript{106} which indicates that considerable tension existed between what the report said, and what it actually proposed to do. The ambiguity found in the NEP report as to the appropriate future role of the Canada Lands is particularly strange when Ottawa's large-scale efforts to develop the frontiers introduced in the NEP, or expanded upon in the program, are taken into consideration. This clearly suggests that motives other than resource development played a role in the federal government's strategy. The official rationale in the NEP for promoting frontier development was to relieve the pressure on Alberta's resources. This suggests that frontier development would \textit{supplement} provincial oil and gas development, rather than \textit{supplant} conventional oil development in the provinces with frontier development. This thesis will argue that the tax, pricing, and fiscal structure established in the NEP was clearly discriminatory, in that it favoured the frontiers, at the expense of conventional oil and gas development in the provinces. The structure of the NEP as such did not discriminate against the tar sands. Rather, it is important to note that it was the Albertan (and later industry) \textit{reaction} to the NEP that greatly reduced the prospects for rapid tar sands development. From

\textsuperscript{105} NEP 1980, op.cit. p.44.

\textsuperscript{106} Another example of the NEP's ambiguous wording in terms of the frontiers is found on page 93 in the NEP report. The document notes that: "As for the frontier, there is encouraging evidence of major deposits, but the contribution to be made in the short term is likely to be relatively modest. Certainly, it would be premature and unwise to count on the frontier to solve the oil supply problem."
this we note that the NEP was less discriminatory than what for instance Milne contends.\(^{107}\) Milne fails to distinguish between the initial structure of the NEP and the reaction to the program which also means that he ignores the dynamic interactions among actors that took place after the program had been instituted.\(^{108}\)

Ottawa’s channelling of activities to the frontiers or Canada Lands was motivated by Ottawa’s emphasis on increasing federal control over resource development in Canada, by devising a structure that would enable Ottawa to wield more direct control over the activities of the oil MNCs. The fact that this coincided with an opportunity for Ottawa both to increase the federal government’s role in future Canadian energy development and its share of the economic rents from oil and gas development in the provinces only served to make it more attractive.\(^{109}\) The NEP’s concern with an increased federal energy presence, both in relation to the oil industry and the oil producing provinces, coincided in the NEP.

Ottawa’s concern with controlling the rate and location of oil and gas development, made urgent by Ottawa’s interpretation of the future of the international oil market and Ottawa’s preoccupation with security of supply, also coincided with its concern about regulating access to oil and gas resources in Canada. As the Canada Lands constituted the only petrolific region in Canada in which Ottawa could exercise any control over access, it was natural for Ottawa to channel oil industry activities to this area. Yet, as will be seen, channelling oil industry activities to the frontiers, while simultaneously attempting to increase federal control over oil industry activities, could easily backfire on Ottawa.

\(^{107}\) See Milne, D, op.cit.,

\(^{108}\) ibid., p. 88-89.

\(^{109}\) As will be argued later, however, the federal government’s increased economic share of the rents was intended to be channelled back into the oil and gas sector which means that Ottawa’s main benefit would be increased control and not increased funds.
The third variable refers to the motivations underlying Ottawa's Canada Lands thrust. Were they resource-based or rather politically motivated? Clearly, there were different means for Canada to acquire oil self-sufficiency. The first option entailed the one presented in Ottawa's projections and emphasized the importance of developing provincial sources of oil, both conventional and non-conventional. This approach would emphasize the importance of combining all possible oil sources together. As has been widely discussed in energy circles in the last few years, such a combined or multiple approach that basically relies on the market forces to determine the size and composition of each oil source, requires far less government intervention than one that effectively discriminates against certain sources of oil and emphasizes others. The first approach to security of supply can therefore be termed "a resource-based strategy". The second approach could be termed "a control-based strategy" and is instead based on the need to maximize federal government control. An explanation which emphasizes the peculiar size and composition of oil and gas resources in Canada as justifying Ottawa's intervention, rather than political reasons, presupposes the existence and availability of the very resource data that the NEP was intended to produce. Clearly, the NEP is correct in its assertion that no energy policy can (or should) be built on a potential resource base that has not yet been proven. The NEP was clearly intended to explore the frontiers even though this may not have much impact on Canada's short-term or medium-term energy security. As a long-term strategy, the NEP could be viewed as an attempt at providing Canada with adequate available resources of oil and gas in order to avoid future supply problems. But the very

110 This has been discussed in particular in connection with the numerous Energy Options conferences initiated by current Energy Minister Marcel Masse.

111 Although tentatively described and very clearly promoted as such in the context of the policy measures adopted by Ottawa in the NEP, as containing the "bridge fuel" between Canada's current reliance on rapidly declining conventional oil from the provinces, and Canada's more distant future in which oil no longer was needed, the status of the Canada Lands was so uncertain at that point that these areas cannot be viewed as providing an adequate bridge into the future.
time-frame of this went beyond the targets specified in the NEP. In that sense, the frontier strategy which was one of the center-pieces of the NEP was a post-NEP strategy. Ottawa's intervention in favour of the Canada Lands was a politically oriented resource development strategy. The political nature of the notion of self-sufficiency provides added support to this contention. Self-sufficiency refers to the political imperatives facing nations and bears little direct relevance to the resource-base of each country. Instead, the explanation for Ottawa's emphasis on the frontiers must emerge from Ottawa's deep-felt desire to increase federal control\(^{112}\) over resource development in Canada.\(^{113}\)

The large incentive payments Ottawa was willing to provide must be viewed as necessary concessions for retaining industry interest in high-cost, high-risk oil and gas resources; as the price to be paid for the introduction of a much more stringent regulatory regime in the Canada Lands; and as a means of encouraging industry restructuring. Ottawa's frontier strategy also makes more sense when seen in direct conjunction with Ottawa's revenue objectives.

**Canadianization**

The NEP reaffirmed Ottawa's commitment to Canadianize the oil and gas industry. Although this had been a federal objective since the early 1960s, it was only in the aftermath of the OPEC oil embargo of 1973 that Ottawa went beyond paying lip-service to this goal. The initial decision in 1973 to establish Petro-Canada is the best indication of a change in federal

\(^{112}\) Although clearly intended to increase Ottawa's control over resource development in Canada, the notion of control adopted by the federal government was not without considerable ambiguities. For instance, there is considerable irony surrounding the notion of the "safety net." This concept, which referred to increased federal control over oil and gas development, could also lead to development proceeding at a rate higher than planned and in a direction (towards exports) which was not intended. Thus, increased exploration can lead to increased pressure for development, and thus reduce federal control.

\(^{113}\) See Doern and Toner, op.cit. p.371-73, where they emphasize Ottawa's quest for control.
priorities. The launching in 1976 of a new federal energy policy meant that Canadianization concerns became an even more integral and explicit part of federal energy policy.\textsuperscript{114}

The oil sector was a sector in which foreign ownership and control was particularly predominant. Further, even though public ownership of land existed in all parts of Canada, Ottawa readily admitted that this was not converted into an effective public management of Canada's resources. The NEP noted that:

The significant fact today remains that the foreign companies control most of Canada's oil and gas industry, and of its revenues. Foreign-controlled firms control the future through their control of the land in which exploration takes place....

If this pattern were left undisturbed, foreign-controlled companies would account for a large part of the future energy supplies in Canada. The reinvestment of the cash flow earned by the foreign companies on their current production will help increase the size and influence of these companies.

The rapid growth that is inevitable for the energy sector in Canada over the next decade or two would strengthen further the position of these foreign oil companies, giving them even greater power in the Canadian economy than they have today. Foreign control over the total Canadian economy would be increased, and the management of the pace and priority of Canadian energy projects would be left largely in the hands of the foreign major oil companies.\textsuperscript{115}

The physical location of Canada's resource base and the constitutional division of power between the two levels of government in Canada ensuring provincial ownership of oil and gas resources produced important obstacles to Ottawa's ability to encourage increased Canadian ownership and control as well as federal control over the rate and location of Canada's future energy development. Since the present energy scene was dominated by Alberta and the future most likely would be divided between the Western provinces and the Canada Lands, Ottawa's ability to influence the industry's activities was severely constrained. The extent to which Ottawa alone could wield effective influence on Canada's energy future would depend on the resource base of the Canada Lands and the extent to which this resource base was actively and

\textsuperscript{114} See EMR: An Energy Strategy, op.cit. The federal government in 1976 reaffirmed its commitment to Petro-Canada by granting the corporation preferential access to land and resources in the Canada Lands. Ottawa also committed itself to establishing a new frontier land management regime and an industry monitoring system.

\textsuperscript{115} NEP, 1980, op.cit. p.21-22.
exclusively developed by the major oil companies. This fact in itself provided the industry with a tremendous structural source of power and influence because the industry could wring concessions from each level of government, both of which were eager to develop the resources under their jurisdiction.

The NEP’s Canadianization objective was clearly linked to the federal government’s other two main objectives outlined in the NEP. In terms of the linkage between security of supply and Canadianization, an increased federal presence, both directly and indirectly in the oil and gas industry, was seen to enable Ottawa to prevent the dual evils of underdevelopment and overdevelopment of Canada’s oil and gas resources. Underdevelopment meant that Canada would continue to be dependent on oil imports and thus remain vulnerable to the vagaries of the world oil market. The industry obviously shared this concern with Ottawa. Overdevelopment, on the other hand, would generate considerable pressure for oil and gas exports, and therefore reduce the longevity of Canada’s future self-sufficiency. On this issue there was considerable disagreement between Ottawa and the oil industry. Essentially, the oil industry’s position was to promote a continentalist pattern of oil and gas trade whereas Ottawa’s stated position was to develop a national market for oil and gas. Although the lines are not wholly clearcut, after 1973 Ottawa’s and the industry’s preferred rate of development had begun to diverge.

The federal government’s goal of Canadianization was also related to Ottawa’s concern with revenue-sharing, because an increased foreign presence in the economy could reduce federal revenues and worsen Canada’s current account balance.

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116 Environmental concerns, native land claims, federal-provincial relations (in particular the struggle between Ottawa and Newfoundland over resource ownership and the rate of development) and conservation were related concerns here.

117 Federal revenues would be lost due to alleged oil company transfer pricing. The foreign procurement policies of the oil MNCs would effectively rob Ottawa of increased tax revenues accruing from increased industrial spin-offs from oil activities. The ability of the oil MNCs to relocate their operations to other countries could slow down the rate of operations which would also lead to reduced federal revenues.
Table IV.11 reveals that although the percentage of foreign ownership of the Canadian economy had fallen between 1972 and 1980, the relative foreign share of GNP had increased much more. The increased share held by foreigners created considerable fear of foreign companies gaining increased control over the petroleum sector and other sectors.

Another factor important in making Ottawa emphasize Canadianization was the structure of the existing incentive system. EMR notes, in terms of the incentive system in place prior to the NEP:

(N)ew companies, i.e., those without taxable income, are at a substantial disadvantage. The existing firm, with the ability to make an immediate tax write-off, can afford to make a higher bonus bid than a potential new entrant, and thus it tends to retain and strengthen its land position.

It can also afford to offer better terms on a farm-in, since its after tax exploration cost is lower. Such entry into the industry as does take place, is most effectively done by buying existing production, usually in the form of an entire company. The overall tendency thus is to promote an intensification of the current industry structure and ownership pattern. All other things being equal, the current system favours the large, established company. In the Canadian context, this means -- for the most part -- the foreign-controlled element of the industry.

The structure of the existing incentive system had not only discriminated against Canadian-owned companies, this system could also increase concentration

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119 The GNP had grown by 56%, whereas the share of GNP controlled by foreigners had increased by 310% in the same period.

120 EMR, Taxation and Revenue Sharing 1979, op.cit. p.8-9.
in the oil and gas industry in the future.\textsuperscript{121} The system in place further promoted the diversification efforts of the oil MNCs. Thus, the NEP’s Canadianization measures were intended to arrest an MNC influence that had become institutionalized in the structure of some of the federal government’s policy instruments.

Finally, Canadianization was an important objective from a largely symbolic point of view. It had an immediate and largely emotional appeal which made it an objective in itself. Another and more tangible aspect of Canadianization was the tremendous appeal it had in the province of Quebec. Caught in the throes of the international oil crisis, Quebeckers turned their attention to Ottawa, in the hope that the national government could act as their protector against a highly volatile international oil scene which threatened, through increased oil prices, to undermine the province’s fragile industrial structure.\textsuperscript{122}

Canadianization, actively propounded by the newly elected Trudeau government, and visibly present in the guise of Petro-Canada, could be held up as a banner to demonstrate the tangible benefits of Confederation to Quebeckers.\textsuperscript{123} Clearly, Canadianization as an expressed federal objective could also benefit Ottawa by swaying Quebeckers to vote no in the May 20 referendum. This serves to remind us of how closely energy policy was tied in with the larger context of the ongoing struggle over the role of Quebec in Canada and the future of the Canadian Confederation. Ottawa’s concerns with ensuring order and control in a highly unstable international environment were heightened by domestic

\textsuperscript{121} ibid. p.16. The oil and gas industry grew in size as compared with the rest of the industrial sector. In 1974 petroleum companies’ assets increased from 12\% of total industry assets to 19\% in 1978. This was an increase of $ 14.4 billion. In the same period the industry’s share of net income rose from 17\% to 27\%.

\textsuperscript{122} Quebeckers, when asked in the Fall of 1983, were far more positive about the effects of the NEP than respondents in any other region of Canada. See Johnston, Table 5-37, p.177.

\textsuperscript{123} The Trudeau Liberal government reaffirmed its commitment to the objective of Canadianization in the Throne Speech in April 1980, only a month before the Quebec referendum. Quebeckers were also among the strongest supporters of the NEP’s Canadianization program. The support was strongest in the Winter of 1980 when 72\% of Quebeckers supported such measures. ibid., p. 176.
challenges to the very unity of the federation.

From the above we see that Ottawa’s Canadianization objective related to a number of concerns. Canadianization, referring to Ottawa’s energy-related concerns, had as its main objective to increase Canadian ownership and control of the oil and gas industry.

The fact that prior to the NEP a very large portion of the most attractive acreage in the Canada Lands were held in permits and leases by the oil MNCs also meant that increased Canadian ownership of oil companies would not necessarily ensure access to the most attractive and promising fields unless something was done to the land management system. As will be recalled from Part Three, even though the Canada Lands were publicly owned, the structure of the existing system of land management and rights issuance essentially had conferred upon industry contractual rights. Therefore, Ottawa’s Canadianization program was also intended to increase Canadian control and management of the resource-base. An explicit goal in the NEP was to achieve “at least 50 per cent Canadian ownership of oil and gas production by 1990”. In addition, the NEP was intended to alter the structure and pattern of land-holdings and provide for an increased public-sector presence through the 25% Crown share, reducing the tenure of exploration agreements and production licenses, ensuring increased control over farm-ins and farm-outs, and improving Ottawa’s ability to manage oil and gas activities in the Canada Lands and elsewhere.

It is important to note that increased control over industry operations through a strengthened land management system, control over farm-ins and farm-outs, and tight regulation of industry incentives also significantly increased Ottawa’s ability to control Petro-Canada’s activities.

Although a strengthened federal landlord role was intended to benefit private Canadian companies as well as Ottawa, Chapter Twelve will show that the main thrust of the NEP was to increase Ottawa’s ability to control and regulate industry operations rather than provide private Canadian companies with access

124 NEP 1980, op.cit., p.49.
to Canada's resource base.

Finally, Canadianization was related to increasing industrial benefits or spin-offs from oil and gas development.\textsuperscript{125} This objective, although in principle applicable to all of Canada, was primarily relevant to the Canada Lands because Ottawa had only limited influence on provincial resource management objectives and policies. This objective can also be seen as an attempt by Ottawa to promote the development of an industry segment much more dependent on it.

Although proposing to step up the role of FIRA, in practice, the NEP led to few changes here.\textsuperscript{126} Ottawa sought to devise a policy framework that reduced the level of foreign ownership and control, and which provided Canadians with an opportunity to participate in the oil and gas industry, while still ensuring a high level of foreign investment. The new tax measures introduced in the NEP, as will be revealed later, were intended to prevent industry earnings from being transferred out of the oil and gas sector. The NEP, rather than providing generous inducements for the oil MNCs to invest, as the case had been in the past, represented an attempt at coercing the oil MNCs to invest more of their funds in Canada. Further, the new tax measures would compel foreign companies that wanted to expand their activities in Canada to rely less on internally generated funds and procure more of needed investment capital from abroad. Federal decision-makers recognized that although something had to be done with the dominant role of the oil MNCs in Canada, Canada would still be dependent

\textsuperscript{125} ibid., p. 47.

\textsuperscript{126} G.H. Dewhirst (former Director General for the Policy, Research and Communications Branch of FIRA), notes in terms of FIRA: "This act requires the federal government to review, that is, to screen foreign takeovers of Canadian business above a certain threshold size. It similarly provides for screening of investments from abroad to set up new businesses in Canada. In addition, the diversification of established foreign controlled businesses into unrelated lines of activity is also subject to review under the act. The law does not provide for the review of the expansion of a business already carried on in Canada by a foreign investor... Our policies were never intended to discourage foreign investment." See Dewhirst, G.H.: The Canadian Federal Government's Policy Towards Foreign Direct Investment, in Fry, E.H. and L.H. Radebaugh (eds): Regulation of Foreign Direct Investment in Canada and the United States, (Provo: Brigham Young University, 1983), pp.23-28.
on foreign investments. Strict investment controls, it was recognized, could easily jeopardize Ottawa's goal of self-sufficiency.

Since existing investment controls were not upgraded, the thrust of Ottawa's Canadianization objective was to increase federal control over the activities of the foreign-owned companies' oil and gas development activities. This was done, as will be pointed out in more detail later, by regulating the companies' access to oil and gas reserves, by regulating the rate and location of exploration, development and production, and by requiring that Canadian industry capture more of the industrial spin-offs from oil and gas activities. Thus, the NEP's objective of Canadianization entered into a complex and tenuous marriage with Ottawa's goal of security of supply. As will be discussed in more detail later, the success of this fragile marriage depended on a number of factors, one being the federal government's ability to exercise the amount of influence and power over the industry that was needed to fuse these reluctant marriage partners.

The NEP, in promoting the goal of Canadianization, introduced two principally different sets of mechanisms in order to increase Canadian ownership and control over the oil and gas industry. First, to expand the role of the federal state, the NEP introduced measures to shore up the role of Petro-Canada. The NEP noted that:

The Government believes that a larger national public sector presence in oil and gas is the only equitable way to meet quickly our goal of increased Canadian ownership. Judging from the results achieved to date by Petro-Canada, it is also an effective way of encouraging the rapid energy development necessary to meet our security needs.¹⁷

Such increased public sector participation, the NEP noted, would not solely benefit Petro-Canada but could lead to the creation of several NOCs.¹²⁸ The NEP introduced a Canadian Ownership Account, financed through charges levied on oil and gas consumption in Canada, to increase public ownership in the energy

¹²⁷ NEP 1980, op.cit. p.51
¹²⁸ ibid., p.52.
sector. A more indirect, yet also important aspect of the NEP's Canadianization thrust, was the introduction of measures to expand and increase Ottawa's knowledge and monitoring of the oil and gas industry. Such measures included the continued operation of the Foreign Investment Review Agency through the Foreign Investment Review Act (FIRA), and the establishment of the Petroleum Monitoring Agency, to carry out the duties and tasks established by the Petroleum Corporations Monitoring Act. Finally, the new Canada Lands management regime was also intended to increase federal control over the activities of the oil and gas industry. The NEP report noted that:

In developing an energy program designed to ensure greater Canadian participation, the federal government must ensure that Canadians play an active role in the lands under its own control. For this reason, the new legislation for the Canada Lands will require a 50 per cent ownership test at the production stage in the Canada Lands. Control over the land on which exploration takes place is critical to the ultimate ownership of new production.130

The new land management system also introduced rules to increase industry work commitments, monitor industry activities, and regulate the rate and location of oil and gas development.

The NEP was also intended to increase the role and importance of private Canadian businesses and individuals. The most important such measure was the new incentive system, represented by the Petroleum Incentive Program. The NEP further declared a commitment to favour Canadian ownership in the NEB's granting of export licenses.131 This second aspect of the NEP entailed a government-sponsored and government-led or directed industry restructuring that also, at least indirectly, would benefit the Canadian state, because Ottawa would be dealing with smaller and conceivably more dependent actors than the case had been before. Both sets of measures, therefore, can be viewed as increasing the federal state's role. The statist literature lists both sets of

129 ibid.
130 ibid., p.50
131 ibid.
measures as important state means to shore up state capacities. These two sets of measures differ in their effects on state power and influence. Measures taken to enhance state power directly can readily be assessed both in terms of their relative success and in terms of their relative failure. Measures taken to restructure the industry, however, depend on a number of factors over which the state has less control, and are therefore not as reliable as indices of state power. This methodological aspect forms part of the rationale for emphasizing measures intended to strengthen the state's role directly. The other reason for emphasizing direct state intervention is that it being largely independent of industry actors, at least in principle, enables the state to substitute its own objectives for those of industry. Therefore, this type of state intervention, it is presumed, is of a different magnitude than are measures that depend on industry co-operation.

It is somewhat ironic that the National Energy Program, on the one hand, argued very strongly for the need to devise policies to get Canada off oil; yet, on the other hand, the NEP also argued equally persuasively for the need to Canadianize the oil industry. Surely, if oil receded in importance, would it really be necessary or even desirable to Canadianize the oil industry? The NEP's response, was as follows:

It is time that more of the considerable increase in the value of Canada's petroleum reserves, occasioned by international events, accrued to Canadians. The industrial spin-off to which the anticipated investments in oil and gas exploration, development and transportation give rise must likewise be made to occur in Canada. It would be a serious error to miss the broader opportunities that the Canadian energy resource boom, already well underway, should support.

This statement provides further evidence of Ottawa's view of the world oil market as favouring oil producers. The NEP thus emerged as an Ottawa-led economic strategy that would take advantage of an altered international oil market and which simultaneously ensured Canada of independence from the throes

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133 NEP, op.cit., p.48
of this world oil market.

Summing up, it is clear that the National Energy Program not only reaffirmed Ottawa's commitment to Canadianization but also greatly expanded the role and importance of the measures in place and introduced new ones. As such, the NEP was an attempt at establishing a new and more coherent policy framework for dealing with a dominant and growing foreign-sector influence on Canada's energy policy. The NEP, in reaffirming and strengthening an existing commitment, was clearly rooted in the policies of the recent past and represented an attempt at coordinating these policies within a federal framework. A number of policy measures dealing with Ottawa's Canadianization concerns were in place prior to the introduction of the NEP. The NEP expanded upon and fused these into a coherent framework, a framework whose objectives were explicated much more clearly than had been the case in the past.

**Fairness/Redistribution**

An important problem facing Ottawa after the second OPEC oil shock was a rapid erosion of the federal tax and fiscal base. The main challenge came from the oil and gas sector. This erosion was a consequence of, first, the structure of the current incentive system. Under the existing incentive system, EMR noted that with specific reference to an oil sands mining project, "at high enough discount rates the value of future tax receipts can be less than the tax savings provided to the project".\(^{134}\) This not only applied to the tar sands but also to conventional oil. EMR found that "while the industry's revenues increased substantially from 1977 and 1978, corporate income tax payments actually fell".\(^{135}\)

Second, the recent increases in the world oil price dramatically increased federal oil import compensation payments. Helliwell et al. point out that:

\(^{134}\) EMR, Taxation and Revenue Sharing 1979, op.cit., p.10.

\(^{135}\) ibid. p.19.
Since export tax revenues had declined because of cutbacks in export volumes, the federal government had become increasingly dependent on general revenues for financing the Oil Import Compensation Program and thus had strong incentives to raise domestic oil prices in order to reduce the costs of the program. The second OPEC shock drastically increased the costs of the import subsidy, while at the same time heightening the political pressures for protecting domestic consumers.\textsuperscript{136}

The increased fiscal drain from oil import compensation occurred at the same time as Ottawa experienced reduced revenues from the oil export tax. With increased future world oil prices threatening to drive up oil import compensation costs, the need for urgent actions to address these issues was not lost on federal decision-makers, politicians and bureaucrats, alike.

Third, the revenue sharing system in place was seen to favour the producing provinces, consumers and industry, at the expense of Ottawa.\textsuperscript{137}

Table IV.12 Comparison of Historical Revenue Projections,\textsuperscript{138}

<table>
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<tr>
<td>net operating revenue</td>
<td>18.0 (26.5)</td>
<td>95.3 (125.4)</td>
</tr>
<tr>
<td>producers' share</td>
<td>8.7 (13.5)</td>
<td>45.0 (62.0)</td>
</tr>
<tr>
<td>provincial share</td>
<td>6.6 (9.8)</td>
<td>36.2 (47.5)</td>
</tr>
<tr>
<td>federal share</td>
<td>2.6 (3.2)</td>
<td>14.0 (15.0)</td>
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Table IV.12 reveals revenue projections in actual dollar terms. Calculating the percentage shares from this table reveals that for 1985 the federal share which was 14.4% under the 1977 pricing projections, would decline to 12.1% under the 1979 pricing projections. For the period 1980-85, the relative federal share would deteriorate from 14.7% under 1977 projections to 11.9% under 1979 pricing projections. Whereas the federal government's share would decline, the

\textsuperscript{136} Helliwell et al., 1987, op.cit. p.53.

\textsuperscript{137} See EMR, Taxation and Revenue Sharing, 1979 op.cit., pp.18-19.

\textsuperscript{138} ibid., Table 4, p.20. The figures are based on revenue projections from 1977. Figures presented in parenthesis are based on projections from 1979.
producing provinces' share would remain constant at 37.9% and the industry's share would rise from 47.2 to 50.2%. On the basis of these data, the federal share would decline relative to both the provinces and to the oil industry. For Ottawa the projected decline in federal revenue shares was particularly alarming because it confirmed and strengthened what was perceived to be an ongoing trend in the 1970s. Energy Minister Lalonde noted that provincial governments in the 1970s had experienced faster growth than had the federal government. He said:

This trend has been accompanied by a growing gap between the federal government’s ability to collect revenue, and its responsibility regarding its expenditure.... Fairness in the Canadian situation ... should be judged in terms of the practicalities of the Canadian situation, which is that we have a federal government that keeps only 33 per cent of total revenues collected by all governments, but has the responsibility for 50 per cent of expenditures, including transfers.

This imbalance has been aggravated by the explosion in Alberta's oil and gas revenues since 1973. As prices have risen, the federal burden of larger equalization and other payments has grown much faster than its share of the revenues. Recently, I have talked about the need for more federal revenues to help offset the effect of rising energy prices on the economies of the nonproducing provinces. This is an extension of the central government's broader need to have the economic clout necessary to maintain a strong confederation.  

Lalonde attributed the federal government's deteriorating fiscal role not only to explicit energy policy measures but also to the nature of the fiscal equalization system. EMR predicted in 1979 that with a continuation of the pre-NEP pricing strategy, net federal oil and gas revenues would be negative throughout the 1980s.  

From the above we see that the NEP's revenue distribution objective emerged partly as a reaction to the revenue distribution system in place and the federal policies that had framed this. Recognizing this, the NEP found that a

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140 The shortfall in 1980 was projected to be $28 mill. In 1985, it would be $1672 mill. and in 1990, it would be $683 mill. The main expenditures were oil import compensation and equalization payments. Import compensation would account for 65.6% of projected federal expenditures in 1980, 71.1% in 1985 and 70.2% in 1990. See EMR, Taxation ... 1979, op.cit. Table 2, p.24.
shoring up of the federal government's capacity to deal with energy issues was clearly needed:

The current fiscal system concentrates petroleum wealth within Canada to a highly undesirable extent, and leaves the federal government seriously short of the revenue it requires to manage the Canadian economy, reduce regional disparities, and develop an effective national energy policy. Therefore, although the NEP was first and foremost an energy policy, it was also a program to shore up the role of the federal state, and the policy measures instituted by Ottawa were clearly tailored to meet both these ends. This problem was exacerbated by provinces pursuing province-first allocation strategies.

Since the NEP was a policy intended to rectify a serious fiscal imbalance, it is important to find out what the program identified as the main causes involved. EMR notes, in terms of the federal government's objective of obtaining a fairer revenue distribution system in Canada:

One of the objectives of the federal government in the development of the National Energy Program, and in its negotiations with producing provinces, was to secure a larger share of the revenues from oil and gas production, and to have in place a system which afforded the federal government a significant share of the upside revenue potential. The federal government emphasized, however, that it was not its intention to improve its share solely, or even substantially, at the expense of the industry. The government believed, and still does, that there was some room for higher taxes on industry revenues, but made clear that the principal issue was the disposition of revenues between the two levels of government.

According to EMR, the NEP's redistributive thrust was against the producing provinces, and not the oil and gas industry. Yet, the report also notes that in terms of the predicted effects on the industry, some industry segments would benefit and other would suffer. Clearly, the NEP was designed to disfavour companies that produced oil and that did not reinvest their earnings in exploration. In terms of the direction of the NEP's revenue distribution thrust, it is clear that if the NEP came down too hard on the industry, the

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142 See EMR, Financial and Fiscal Analysis Branch: Do Governments Take Too Much? - An Examination of Pre and Post NEP Fiscal Regimes, December 13, 1982, p.1
143 Doern and Toner, (1985) note that a prime case here was Texaco. op.cit. p.214.
program's energy security objectives would be placed in jeopardy because the relative success of these objectives depended on industry cooperation. As discussed above, Ottawa's strong emphasis on rapid frontier exploration rendered it more vulnerable to industry pressure than if Ottawa had followed a strategy more clearly focused on oil conservation. Ottawa's future demand estimates presented in the 1980 NEP report indicated that frontier oil would not be needed in the next decade. On the other hand, the more important the frontiers became in Canada's oil and gas supply picture, the more control Ottawa could wield over Canadian oil and gas development through its own instruments. Transferring a larger share of the revenues from the producing provinces to the federal government would clearly facilitate this process. Thus, Ottawa, in attaining a larger revenue share, could simultaneously ensure itself increased control over the activities of the oil and gas industry. Therefore, Ottawa's goal of fairness was fused with Ottawa's concern with the role and operation of the oil and gas industry. Ottawa sought, within the context of the NEP, to have an altered federal-provincial revenue distribution scheme benefit Ottawa's other pressing objectives, rather than thwart these goals. The NEP explicated and incorporated Ottawa's revenue-distribution objectives and, as such, further politicized energy policy. The change represented by the NEP was not quite as momentous as Milne contends. The fact that Ottawa's objectives had not been so clearly articulated nor so well incorporated into federal policy prior to 1980 does not mean that these objectives were not important also then. But even though the NEP was much more comprehensive, this did not make it immune from a possible redefinition along lines similar to those during 1973-75.

Chapter Conclusion

This chapter has discussed Ottawa's reaction to the second international oil shock. The main focus of the chapter was the Trudeau Liberal government's

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144 See Milne, op.cit. pp.69-71.
National Energy Program which was introduced in October 1980.

The NEP was aimed at addressing the international oil market upheavals associated with the Iranian revolution and the Iran-Iraq war. The program sought to establish Canadian self-sufficiency in oil. This was to be achieved through increased oil conservation, conversion from oil to other energy sources, and through generous incentives to oil and gas producers. The NEP's emphasis on self-sufficiency - from a political perspective - also entailed an increased federal presence in the energy sector and increased federal control over the operations of the oil industry which included a strengthened federal influence on the regulation of the rate and location of oil and gas development in Canada. In the NEP a number of policies to promote the development of Canada's high-cost resources of oil were introduced, in particular the resources in the Canada Lands. The chapter has found that this Canada Lands or frontier thrust of the NEP was partly motivated by political concerns, namely to promote the areas under federal jurisdiction. The forces generating this frontier thrust related to the structure of the Canadian state - the federal-provincial division of power and the context of federal-provincial relations - and to the distribution of oil and gas resources within Canada. In the NEP the political motivations of federal elected officials became fused with the perceptions federal energy officials held on the size and distribution of Canada's oil and gas resources.

The NEP also expressed a federal commitment to Canadianize the oil and gas industry. This referred to an increased public- and private-sector Canadian industry presence, increased Canadian ownership and control of oil and gas resources, and increased industrial benefits from oil and gas development.

Ottawa's fairness objective related to the concerns of federal officials with a declining federal fiscal base. The NEP introduced a set of policies directly aimed at strengthening the fiscal capacity of the federal government. While principally aimed at the oil producing provinces, the policy measures were also intended to increase Ottawa's take from important segments of the oil industry.
The NEP was a coherent and very comprehensive program which was clearly aimed at strengthening the federal government’s role in the energy sector through a program of intrajurisdictional policy coordination. The program not only responded to international oil market changes and a perceived oil MNC and producing-province dominance in Canada’s energy sector, it was also a critical reaction to the perceived failings of federal energy policy up until then. Explicating and expanding the scope of federal energy policy objectives, the NEP both introduced new energy policy instruments and combined these with existing ones, to construct a coherent and comprehensive program, the sum of which was clearly larger than its constituent parts. It was also a remarkable attempt at comprehensive intrajurisdictional policy coordination. The comprehensive energy framework set out in the NEP incorporated the lessons that elected and non-elected federal officials had drawn from a near-decade of uncertainty and strife in the international and domestic energy sectors. These lessons were not simply of an energy kind but related instead to how federal (and provincial) officials viewed energy issues as intrinsically linked with their jurisdictional concerns.

This chapter has pointed out that while the NEP established a coherent and comprehensive regulatory structure, this structure could also backfire on Ottawa and render federal energy policy vulnerable to international oil market changes, because the international assumptions upon which the comprehensive regulatory structure was based were very narrow.
CHAPTER TWELVE: OTTAWA'S POLICY MEASURES

Chapter Introduction

The main policy measures introduced in the National Energy Program and related to oil and gas development were as follows:
1) pricing measures
2) energy taxes and incentives
3) the new land management regime for the Canada Lands
4) an increased role for Petro-Canada

Price regulation, tax measures and incentives were nation-wide in character and application, in contrast to the new federal land management regime which only applied to the Canada Lands. Indirect interventionist measures such as price regulation, tax and fiscal measures differed from the land management system and direct federal intervention through Petro-Canada, in the degree of direct control over industry activities afforded the federal government. As Doern and Toner note, tax, fiscal, and incentive schemes are all demand-driven and depend on private-sector willingness and compliance to be effective. The land management regime, as a policy instrument, could provide the federal government with direct control over industry operations, because Ottawa could specify conditions which had to be met for the companies to obtain access to the various stages of development. National oil companies also are policy instruments that provide their respective governments with direct control over resource development. This chapter will present the main policy instruments introduced in the NEP. These instruments will be analyzed to elucidate further Ottawa's intentions in relation to the oil industry and the provinces. Thus, the policy instruments presented in the NEP will be evaluated in terms of their effects on federal-industry relations, i.e., the influence and control they provide Ottawa over industry operations.

The NEP - evaluated as an administrative system and as a policy package -
was the most comprehensive and consistent policy package ever introduced in the energy sector in Canada. It linked a number of different measures that hitherto had been separate and largely un-coordinated. As such the NEP also was a clear attempt at intrajurisdictional policy coordination. The NEP apparatus was also the most interventionist policy package ever introduced in Canada. The NEP more than any other previous federal policy program, entailed a dramatic administrative build-up or strengthening of the federal government's planning and policy-making capacity.\(^{145}\) This capacity build-up, although most clearly manifested in the administrative changes brought about in the NEP, had its roots in the late 1970s when a number of highly skilled and dynamic people entered EMR, primarily from the Department of Finance. At that time the importance of EMR within the administrative system saw a dramatic increase.\(^{146}\)

**PRICE REGULATION**

This section addresses the oil and gas pricing scheme introduced in the NEP. The NEP report noted, in terms of pricing, that:

The development of principles to govern oil pricing in Canada has been a matter of national debate since the Arab oil embargo of 1973-74. The position of the Government of Canada is based on a commitment to a single price for crude oil in Canada, subject to transportation differences, and gradual increases in that price in order to foster the development of new supplies and encourage conservation while allowing Canadian consumers time to adjust.

A central issue has been the relationship between the price of oil in Canada and the world price. Some have argued that Canada ought to tie its domestic prices to the world price. This would be a mistake. Under such a policy, Canadian prices would reflect uncertain and erratic movements in world oil prices. Canadian economic performance would be even more vulnerable to the economic repercussions of the world oil


\(^{146}\) Doern, ibid. and Foster ibid. See also Part Three.
situation.147

The basic principles underlying the federal government's price regulation strategy were as follows. The NEP acknowledged the need for domestic oil prices to rise, although the program also pointed out the importance of keeping domestic prices below international ones. The blended oil pricing regime introduced in the NEP was designed to ensure that the "Made-in-Canada price will rise over the decade and will never be allowed to exceed 85 per cent of the price of imported oil or the price of oil in the United States whichever is lower".148 This aspect of Ottawa's price regulation scheme relates specifically to the distributive aspects of the NEP, to Ottawa's objective of fairness, because increased oil prices would generate added revenues for the producing provinces and the oil industry, at the expense of Ottawa and oil consumers. There is little doubt that price regulation was one of, if not the most important mechanism, for redistribution introduced in the NEP.

The following principles underlying Ottawa's price regulation strategy refer to Ottawa's objective of regulating oil and gas development. Domestic oil prices were to be stable, in order to maximize predictability.149 Prices needed to be high enough to encourage conservation. Yet, a rapid price increase to encourage conservation, it was thought, would be less efficient and more destructive than other measures intended to increase oil conservation. Domestic oil prices should reflect Canadian costs of production and should not be linked to what was seen as arbitrary international oil prices. Domestic gas prices should not be linked to international oil prices. The NEP clearly stated the need to retain gas prices below oil prices in order to encourage substitution

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147 NEP (1980), op.cit. p.23


149 NEP, op.cit. p.24
An important issue would be the magnitude of the difference between domestic oil and natural gas prices. The NEP opted for an increased differential between oil and gas prices in Canada. Finally, the NEP retained the principle of a uniform price of oil for Canada.

The NEP report clearly acknowledged the need for separating Canadian oil prices from international oil prices. An important underlying assumption was the belief that OPEC would be able to maintain its control over international oil prices. Further, the report also clearly acknowledged the important role of pricing as a policy instrument. Price regulation, the NEP noted, was a powerful means of altering the relative distribution of income between consumers and governments, and among governments. The NEP found that this decision should not be left in the hands of a foreign cartel. As a policy instrument, price regulation also could be used to influence the rate of resource development and energy conservation. The NEP in coining the term "incentive prices", explicitly referred to price regulation as an incentive

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150 The NEP noted that it was important to strike a proper balance between the need for providing incentives to gas producers, on the one hand, and the need to encourage consumers to switch from oil to gas, on the other. The NEP report argued that since domestic gas prices had risen faster than oil prices since the mid-1970s, and this had increased producer netbacks from 8 cents a thousand cubic feet (Mcf) in 1970 to 37 cents in 1975 and 94 cents in 1979, this price increase provided adequate incentives to producers. See NEP, op.cit. p.31

One important problem of natural gas in Canada was excess production capacity. The existence of excess production capacity, combined with generally higher U.S. gas prices, had served as powerful drives for Canadian gas producers to increase their exports of gas. The NEP, by seeking to channel gas production to domestic markets would not help the problem of excess production capacity unless Canadian consumers started using much more gas, and unless a pipeline network which could reach all parts of Canada was developed. Clearly, from the point of view of the gas producers, the principle of retaining gas prices below oil prices was less than ideal.

151 Historically, since 1970, natural gas prices had ranged between 52% (1974) and 83% (1976-78) of oil prices. For the period 1970-1980, the average price of natural gas was 73% of the price of oil. Under the National Energy Program, during the period 1981-83, the price of gas would decline to an average 68% of the new blended oil price. See NEP, p.32

152 ibid. p.24
scheme in its own right.\textsuperscript{153} Price differentials between different supply sources were intended to ensure a relatively rapid transition to a future of high-cost oil. Attempts at attaining all these objectives simultaneously could easily lead to "instrument overload" because of the many and very different requirements placed upon price regulation as a policy instrument.

The NEP established price regulation as an explicit policy instrument in the service of the federal government. Earlier policy statements and policy papers had also relied on price regulation as an actual policy measure, but were never as explicit as was the NEP in this usage.\textsuperscript{154}

It is interesting to note that although price regulation was an essential policy instrument, its role or rather flexibility of application was much more circumscribed than what appeared at the outset. This was due to the fact that price regulation was implicitly tied to the development of world oil prices, because Ottawa's price regulation policy was based on the assumption that world oil prices would continue to increase in the future and follow, if not exactly the pattern set out in the NEP, at least a pattern of relatively steady increases.\textsuperscript{155} Therefore, federal price regulation could only function as an effective policy instrument in Canada as long as Canadian prices were regulated below international oil prices, and world oil prices were rising.\textsuperscript{156} If world oil prices did not rise in roughly the manner prescribed by Ottawa, then price could not be used as an incentive to ensure the conversion to a high-cost

\textsuperscript{153} ibid., p.29. and Honourable Allan J. MacEachern: \textit{The Budget}, op.cit., p.7 for this term.


\textsuperscript{155} As will be discussed below, all the different price schedules introduced in the NEP were based on this underlying assumption.

\textsuperscript{156} This fact was not clear or explicated at the time of the introduction of the NEP but became very clear when world oil prices started to decline in 1983.
future of oil for Canada.\footnote{For instance, if world oil prices suddenly rose much more slowly than was projected, the blended oil price structure would collapse when world prices fell far behind the schedules set out in the NEP, and the industry would have few incentives to continue pursuing the development of Canada’s high-cost oil and gas resources.} This problem was exacerbated because price regulation was very closely incorporated in the whole tax and fiscal structure in the NEP, by Ottawa attempting to maximize its economic take from conventional oil in the provinces while simultaneously seeking to ensure a transition to a future of high-cost oil. Ottawa’s deterministic vision of the future of the international oil market was incorporated into and formed an intrinsic part of the basic structure of the NEP and made the program highly vulnerable to declining international oil prices.

The Structure of the NEP’s Price Regulation Scheme

The new pricing arrangement introduced in the National Energy Program was termed a "Blended Price System":

The Government of Canada has decided to establish a new schedule of prices for domestic oil production, and a new price system to blend the costs of different sources of oil into one weighted-average price to consumers.\footnote{NEP, op.cit., p.25}

This blended price structure was to be administered by the newly established Petroleum Incentives Board (PIB).\footnote{The Petroleum Incentives Board was to consist of up to 9 members, all of whom were EMR officials. The PIB was established to perform the following functions: - assume the role of the Petroleum Compensation Board, collect the Petroleum Compensation Charge, and operate the Oil Import Compensation Program - collect new charges levied to increase Canadian public ownership in the oil and gas industry - administer the Petroleum Incentive Program (PIP). ibid.} The new pricing structure distinguished between conventional oil produced in the provinces, and higher cost oil encompassing enhanced recovery oil, heavy oil, tar sands oil, and frontier oil. The blended price structure introduced in the NEP was intended to remain below 85\% of the international price or the average price of oil in the United States.
Table IV.13 NEP: Wellhead Oil Prices, ($/bbl)

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For conventional oil, the NEP prescribed a gradual escalation of the wellhead price for a barrel of conventional oil. Between January 1981 and January 1984, the price of conventional crude oil was scheduled to increase $1 every 6 months. Between January 1985 and January 1986, it would rise $2.25 every 6 months, and from January 1986, it was scheduled to rise $3.50 every 6 months. This pricing schedule produced a slow initial price increase which would subsequently be escalated, until approximate oil source price parity was reached, i.e. the price of conventional oil approximated that of tertiary recovery oil. Tar sands oil still would be considerably higher. Ottawa

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The blended oil price would be achieved first by including the price of imported oil into the price paid by all consumers. In order to finance this, the Petroleum Compensation Charge was introduced. The PCC was a charge levied on all refiners, and this charge would be used to pay importing refiners the differential. When the blended price structure was fully operational, the costs of oil imports would be borne by the oil consumers, but before the system became fully operational, the operating expenses had to be covered by federal funds.

161 Data were taken from the National Energy Program, p.26
considered this pricing schedule an incentive for the industry to discover the projected 3 billion barrels of oil still to be found in Western Canada and even more to convert to a future of high-cost oil.

The price structure for conventional oil, however, by increasing slowly at the outset and then rising rapidly later on, served to encourage the industry to wait with developing additional projected discoveries in Western Canada rather than develop them at the initial low price. Price regulation, therefore, was clearly not devised to maximize increased domestic production of oil from the conventional areas of Canada, in particular not in the short to medium term. Instead, this aspect of Ottawa's price regulation policy reflected Ottawa's view that little additional conventional oil could be found in the provinces. Existing production from the provinces therefore was not critically needed to fund further conventional development in the provinces and, given the price differential between the cost of production and the value of the commodity, represented excess profit or economic rent which Ottawa was entitled to an increased share of. While this could be viewed as motivated by resource-related concerns, there is little doubt that Ottawa was highly concerned with extracting as much of the economic rent as possible and prevent the projected revenues from ending up in provincial and industry coffers.

In terms of higher cost oil, it is important to recall that price incentives were in place even prior to the introduction of the NEP. The most important such incentive was the so-called "Syncrude Levy". The NEP altered the Syncrude levy by establishing a reference price for synthetic crude from the

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162 The NEP report however cites no reference as to where it got these data from and the reliability of these data.

163 This effect would not be offset by any of Ottawa's other policy measures, such as the tax measures and the incentives provided in the NEP.


165 This levy which extended the world price of oil to all production of "eligible" non-conventional oil (e.g. Syncrude and GCOS production) was intended to be an incentive to increased domestic production. The levy was financed through a special tax levied on all refiners of crude oil in Canada. See EMR, 1979: Canadian Oil and Gas Supply/Demand Overview, p.15.
oil sands. This reference price was not directly tied to the international oil price, which the Syncrude levy had been. The NEP thus delinked the oil sands reference price from the international oil price. By disconnecting the oil sands reference price from the international oil price, the federal government could exercise much more control over price as an incentive system for various sources of oil. Further, by regulating the price of each individual source of oil, the federal government could seriously alter the relative composition of oil supply sources available to Canadians in the future, and thus affect the distribution of economic rent among producers, consumers and governments.\(^{166}\)

With regard to frontier oil prices, the NEP noted that:

A reference price for specified frontier oil and other domestic sources may be established when more is known about the costs of bringing these new supplies on stream, and the timing of production.\(^{167}\)

The NEP did not specify a pricing structure for frontier oil, thus creating considerable uncertainty in industry circles as to the magnitude of this powerful policy instrument. This is quite remarkable when it is viewed in light of the emphasis inherent in the incentive system for frontier oil.\(^{168}\) The NEP said nothing about whether a uniform structure for frontier oil would be established, or whether Ottawa would revert back to its old strategy of granting prices on a case-by-case basis.\(^{169}\) Nor did the NEP specify where the price of frontier oil would rank in comparison with other types of oil specified in the NEP. This means, first, that Ottawa, at least in principle, could determine prices when supplies became available, rather than committing itself to a certain price structure at the outset. Since the royalty regime was

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\(^{167}\) See NEP, 1980, p.29

\(^{168}\) See in particular the section in this chapter dealing with the Petroleum Incentives Program (PIP).

\(^{169}\) Since the Canada Lands were under federal jurisdiction and price regulation was a clear federal prerogative, Ottawa could establish whatever price it wanted for frontier oil. Thus, it is also conceivable that it would grant different prices for different finds. The frontier tax structure, as will be revealed later in this chapter, differentiated fields on the basis of size and profitability.
tailored to the price level, this made it very difficult to assess Ottawa's share of the rents. Ottawa's failure to specify a pricing scheme for frontier oil tended to magnify the uncertainty and speculation surrounding the effects on the industry of the changes in the new Canada Lands regime. From this it can be deduced that the federal government sought to keep the issue of frontier oil pricing open in order to provide itself with as high a degree of flexibility as possible. Yet, this emphasis on flexibility could also backfire on Ottawa, because it would increase the considerable uncertainty that already surrounded frontier development.

The NEP did not introduce any changes in natural gas pricing, and instead continued the current practice of raising the producer price by 15 cents per 1000 cubic feet for every $1 per barrel increase in the wellhead price of conventional oil. Gas prices were kept well below oil prices which would prevent producing provinces from reaping windfall benefits and enable Ottawa to ensure a higher revenue share.

The NEP did not introduce any distinction between the price of natural gas from the provinces and the frontiers. The failure to make such a distinction could slow down the process of substituting gas for oil in the long run, because a non-discriminatory natural gas pricing structure could discourage rather than encourage rapid frontier natural gas development. Therefore, the NEP did not explicitly utilize natural gas price regulation as a means of promoting the frontier areas.

The price schedule for tertiary recovery of oil, which included enhanced recovery and heavy oil, was considerably lower than it was for tar sands plants. This fact would serve to reinforce the notion of Ottawa placing little emphasis on certain important provincial oil sources. Further, it also demonstrates that Ottawa wanted to shift a larger share of the burden of industry incentives in the provinces from itself to the provincial governments.

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170 The point is that frontier natural gas development would be considerably more costly than provincial gas because of the enormous transportation costs involved in frontier gas (and oil) development.
This explanation, therefore, is consistent with Ottawa seeking to maximize its share of rents in relation to the provinces and the industry rather than maximizing its objective of self-sufficiency in the short-to-medium term. Although this clearly indicates that Ottawa at various times placed different emphasis on its many objectives, it does not mean that self-sufficiency was unimportant, because Ottawa could use frontier price regulation to ensure future self-sufficiency.

Price Regulation and Federal Priorities: An Evaluation

In discussing the underlying assumptions of the federal government's pricing policy and the likely effects of this policy, the following remarks are of particular importance. Watkins notes, in terms of the price regulation schemes introduced in the NEP:

In the NEP, the main function of the pricing mechanism to act as an arbiter of economic efficiency in resource allocation has been emasculated. Instead, pricing tends to be seen more as a vehicle for revenue sharing between governments.\(^1\)

The most interesting point in relation to Ottawa's price regulation policy, according to Watkins, was not that price regulation was explicitly used as a policy instrument but rather that price regulation was used to ensure revenue sharing rather than resource development.

Watkins does concede, however, that the blended oil pricing scheme introduced in the NEP represented an improvement over the old system. With reference to price regulation as a means of supply development, Watkins notes that:

In terms of stimulating supply, heavy reliance is to be placed on discriminatory pricing, with government administrators judging what price is needed to entice new supplies. New supplies of conventional oil other than tertiary recovery mechanisms will not qualify for favourable treatment. Tertiary recovery, oil sands and possibly frontier oil will be rewarded. In other words, some new supplies are to be more equal than others. This sort of price discrimination will engender economic losses to the economy by discouraging development of certain types of supply. Some resources will be lost, other developments may be deferred, perhaps indefinitely. The timing

of resource additions may be less than optimal.\textsuperscript{172}

It is something of an overstatement to intimate, as Watkins does, that the NEP introduced price discrimination in Canada. As early as 1973, Canadian oil prices were regulated below world oil prices. Further, Ottawa’s granting the Syncrude and Suncor projects world oil prices was equivalent to the introduction of a discriminatory price structure. The main difference between the NEP and previous policies, then, was that the NEP provided a comprehensive system of price regulation that encompassed all sources of crude oil and which also specified future price levels for these types.\textsuperscript{173} Second, the NEP removed (or rather severed) the linkage to world oil prices from tar sands oil, although tar sands oil was granted the highest domestic price.

The pricing structure introduced in the NEP was therefore a comprehensive and predictable price structure, as opposed to the previous structure that was basically ad hoc with distinctions between the various types of oil emerging on a case-by-case basis, rather than as part of a comprehensive policy framework.

Watkins, in criticising the supply aspects of the NEP only addresses one part of the problem complex, however. Bradley presents a more comprehensive account of the assumptions underlying Ottawa’s supply and pricing policy:

The assumptions underlying government policy as it related to supply - specifically, reserves creation - can now be inferred. Future additions to reserves of conventional crude from established producing areas would be relatively insignificant, except perhaps from enhanced oil recovery (EOR) utilizing advanced technology. If the supply curve of new reserves from traditional sources was inelastic, price incentive was inconsequential, exception being made for high tech EOR. This implied that net returns accruing to the traditional sources were economic rents, and that, for all practical purposes, these sources were exhausted.\textsuperscript{174}

Thus, according to Bradley’s analysis of the supply assumptions in the NEP, conventional oil reserves in the Western sedimentary basin, of which all were located in the province of Alberta, would not add much to Canada’s future

\textsuperscript{172} ibid. p.71

\textsuperscript{173} As noted, the price structure of frontier oil was not specified.

\textsuperscript{174} See Bradley, op.cit., pp.9-10
security of supply. Instead, these sources of oil were perceived by Ottawa, first and foremost, as a source of financing for the conversion from the current low-cost oil scenario, to a future of high-cost oil supplies. Therefore, the underlying motivation for Ottawa's price differentiation was, according to Bradley:

New sources of potential reserves had been identified.... (T)hey were the frontier areas and the oil sands. In a sense, these were different resources - the reserves they promised would bear a cost distinctly higher than the level associated with conventional reserves. However, the government could construct an incentive structure so that investment would be appropriately targeted. This would allow an attack on the cross-over problem while minimizing conflict with other policy goals - redistribution of income in Canada in favor of consumers and the non-oil producing regions of the country as well as the Canadianization of the petroleum industry.

Differentiating among different oil supply sources was an intrinsic feature of the new and comprehensive incentive system devised by the NEP. The specific pricing structure introduced in the NEP, as Bradley notes, was one that discriminated against conventional sources of oil in order to encourage development of high-cost resources of oil. Therefore, according to Bradley, the pricing structure of the NEP sought to reconcile developmental objectives with discriminatory and redistributive ones. In addressing the cross-over problem identified by Bradley, however, it is important to note that this was not a problem first and foremost related to resource depletion and resource exhaustibility, which Bradley sees it as. Rather, it was a political problem, directly linked to the federal government's commitment to establish Canadian self-sufficiency and independence from the vagaries of the world oil market. Ottawa's prime concern was not with depletion; if it had been, how could a discriminatory structure that militated against the optimal development of conventional oil sources in the medium term and which created considerable uncertainties in the long-run, be justified? As revealed above, Ottawa's price

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175 See the projected supply forecasts in the NEP 1980, p. 94 and also in EMR: Canadian Oil and Gas Supply, November 1979, op.cit., Table 3, p.22. The latter is a NEB projection from 1978.

176 Bradley, op.cit., p.10. The cross-over problem marked the point in time in which Canada ceased to be self-sufficient, "that point in time when Canadian supply can no longer meet Canadian demand." See Bradley, p.4 for this definition.
regulation scheme for the period 1980-85 provided conventional oil producers in the provinces few incentives to ensure Canadian self-sufficiency in oil. Further, if Ottawa was truly concerned with depletion, an even stronger conservation effort would be needed. Finally, if Ottawa’s main concern was with depletion, then surely a certain degree of import dependence would have to be tolerated in order to retain domestic production for as long as possible.

Instead, Ottawa’s main concern was with self-sufficiency and independence from the world oil market. From this concern with self-sufficiency emerged Ottawa’s emphasis on controlling the rate of exploration and development. There was no doubt in Ottawa that in order to eliminate Canada’s import dependence, Canada’s high-cost resources of oil had to be developed. The re-distributive aspect of the NEP, as evidenced by price differentiation, was combined with developmental concerns, namely to ensure that adequate funds were available for the development of Canada’s high-cost resources. This strategy underlines the fact that Ottawa’s strategy was not only resource-oriented but also had important underlying political motivations. Ottawa’s strategy was designed to accommodate political and resource development concerns. As Bradley indicates, the federal government’s emphasis on the development of Canada’s high-cost sources of oil and gas was beneficial first and foremost because it could be reconciled with other and less directly resource-related aspects of the NEP. One prime concern was for Ottawa to shore up its revenues and obtain a revenue distribution that was much more favourable to itself than before.

Channelling Canada’s energy future into high-cost resources also placed Ottawa in a much more prominent position as a resource developer. A more prominent federal role in the development of Canada’s oil and gas resources would, over time, increase the likelihood that Ottawa’s other goals, related to Canadianization and revenue-distribution, could be obtained. Herein also lies another part of the political motivations behind Ottawa’s strategy, namely to promote the areas under its own jurisdiction.

Watkins’ point about the optimal timing of supply must be addressed because frontier and tar sands development had very long lead times which made these
sources of supply less reliable as direct substitutes for oil production in the conventional areas. Arguably, this is more than simply a question of optimal timing of supply additions. As noted above and as Helliwell et al. and Watkins and Bradley\textsuperscript{177} have pointed out, Ottawa’s pricing scheme was designed to produce disincentives to companies trying to maximize the supply potential of conventional oil in the provinces. Apart from providing disincentives to certain supply sources, the NEP must be viewed as an attempt by Ottawa to force the producing provinces to foot a larger share of the bill for resource development in the provinces. The NEP noted at several instances that the provinces would have to take increased responsibility for oil industry activity levels.\textsuperscript{178} The apparent irony of such a federal policy, however, is that the provinces, devising even more generous incentive schemes for the industry to develop relatively inexpensive conventional sources of oil and gas would produce incentives for the industry to revert back to the provinces. This could put more pressure on Ottawa to devise generous incentives, which again could tilt the balance among Ottawa’s policy measures in favour of inducements rather than measures to compel industry behaviour. Thus, in effect, this strategy could backfire on Ottawa because, after all, Ottawa had the least attractive petroleum areas.

Finally, the NEP devising a strategy that discriminated against some oil sources in the provinces, while not discriminating against all sources of oil, still ran a high political risk of a provincial backlash that could render federal priorities even more vulnerable to industry reactions and international changes.

An alternative explanation of the structure of Ottawa’s pricing policy which places less emphasis on the self-sufficiency aspect would argue that Ottawa considered self-sufficiency a less important goal than Canadianization or fairness. Ottawa’s pricing policy, when combined with the new federal taxes,


\textsuperscript{178} See NEP 1980, op.cit. p.38.
by discouraging the development of all readily available sources of conventional oil, failed to maximize the total amount of economic rent available.\textsuperscript{179} The reason for this stems from Ottawa’s concern with oil consumers. The NEP was not only concerned with expanding the federal government’s role in the Canadian energy sector, the policy was also very favourable to oil and gas consumers. The assumptions of world market trends which the NEP was based on projected that oil and gas producers would benefit in the future. Barring federal intervention to the contrary, Ottawa claimed, oil and gas consumers would suffer.

Summing up this section on the NEP’s price regulation scheme, we have found that one of the basic thrusts of the NEP was to make Canada independent of the world oil market. Although Canada was not unique in committing itself to this objective, Canada was unique in adopting a rigid oil price regulation scheme which was tied to a deterministic prediction of the future of the world oil market.\textsuperscript{180} At the same time as Canada launched the NEP, major countries such as the United States had made firm commitments to deregulate oil and gas prices.

The argument set forth here is that the price regulation scheme in the NEP was devised to address concerns generated by the structure of the Canadian

\textsuperscript{179} Helliwell notes that "the total economic rents to crude oil are decreased by $6 billion as one moves from Case 3 (federal pricing and petroleum compensation) to Case 5 (full federal budget), adding the natural gas tax and the PGRT." The full effect of those two taxes, therefore, would be a loss of $6 billion in economic rent. See Helliwell, J.F.: "An Economic Evaluation of the National Energy Program", in the Canadian Tax Foundation: Report of Proceedings of the Thirty-second Tax Conference, 1980 Conference Report, Montreal, November 24,25,26, 1980, p.648

\textsuperscript{180} The pricing schedule introduced in the NEP envisaged international oil prices increasing by over 100\% in only 6 years. It also projected a linear price increase with no setbacks, both assumptions that had not been proven valid in the period prior to 1980. International oil prices declined relatively in the 1960s. In the aftermath of the OPEC oil embargo they quadrupled. Between 1974 and 1979 they failed to keep pace with inflation. Between 1978 and 1980 they more than doubled. From this we see that there is no predictable pricing pattern to be discerned. The most accurate historical observation of international oil prices is the degree to which these have been subject to fluctuations.
state, in particular but far from exclusively, the nature of federal-provincial relations. Faced with an anticipated future of increased economic revenues from oil and gas production, all governmental actors in Canada with the ability to benefit from this sought to do so. The competitive nature of this interaction had its roots in the early 1970s. In a larger perspective this was less of a deliberate act than is normally assumed. Rather, it was the result of interventionist governments pursuing a large number of often incompatible objectives. The wide range of objectives was also incompatible with the more narrowly based range of policy instruments available to each level of government from the constitutional division of powers. Faced with "instrument overload" and an over-reliance on fragile and volatile policy instruments, each level of government set out to devise new and more innovative policy schemes that interacted with, imposed on and increasingly overlapped with the powers of the other level of government. This is not to deny the political nature of the objectives and the poisonous relations among many of the actors but points out how the behaviour of the actors was conditioned and shaped by the structural context within which they operated.

Regulating prices as such could hardly create or generate the problems later experienced by Ottawa. Rather, it was the central role that price regulation played in the whole NEP edifice that was the basic problem because the NEP's tax and fiscal measures were tied in directly with the pricing scheme. Price regulation was assigned a number of divergent functions, acting as a revenue distribution device, an incentive scheme, and as a means of regulating resource development. Price regulation played a central role in intergovernmental revenue distribution, both alone and combined with a wide new array of taxes. Since price regulation below world market prices was motivated by intergovernmental distributional rather than developmental concerns and the conversion to future oil sources depended on vastly increased oil prices, federal-provincial concerns which were so important in shaping the NEP were also instrumental in rendering federal policies ineffective when world prices declined.
TAX MEASURES

Ottawa, in pursuing the objectives set out in the NEP and in response to acknowledged excesses of the old system, restructured the tax system from a dual-function to a more clearly single-function system. The old system had integrated revenue generation and incentive functions, whereas the new tax system was largely focused on revenue generation. In this sense, the NEP simplified the tax system by reducing the possibility for conflict between the two sets of functions. Yet, in overall terms, the imposition of a range of new taxes in the NEP served to make the system more, rather than less, complex. The new incentive system provided the industry with incentives through a system of cash grants, rather than tax exemptions. Its main component was the Petroleum Incentive Program. This will be discussed in the next section of this chapter.

The NEP introduced a number of new oil and gas taxes in order to deal with perceived shortcomings of the old tax and revenue-sharing system. Although the old system had been designed and retained by various Liberal administrations throughout the 1970s, the Liberal government's NEP was strongly critical of it. First, the NEP report found that the tax and fiscal system in place was too generous and would leave the industry with more future cash than was needed in order to bring additional supplies on stream. Second, the system in place encouraged natural gas producers to export natural gas, because producers would get higher returns on exports of gas than from sales to domestic consumers. Third, the NEP noted that the existing system was unfair because it taxed oil

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181 The federal tax system introduced in the NEP differed in the provinces and the Canada Lands. The tax and royalty system introduced in the Canada Lands included a number of different taxes and royalties. The structure of this system will be discussed in more detail in the section on the new land management regime in the Canada Lands in this part of the thesis.

182 NEP 1980, op.cit. p.32
exports, without taxing gas exports or exports of any other energy commodities.\textsuperscript{183} This was part of a larger problem associated with the old tax system, the NEP noted, because the system in place tended to encourage a strong industry orientation towards the export market. Finally, it was claimed that the federal tax and revenue-sharing system was unfair to the federal government, effectively depriving Ottawa of its fiscal capacity to manage the mounting energy problems facing Canada.

The NEP's Tax Measures: Principles

The principles underlying the new system introduced in the NEP were, first, to ensure an adequate level of exploration and development, without enabling the industry to garner windfall gains. Second, the new tax system was intended to produce a revenue-sharing system that balanced the distribution of excess industry profits between the two levels of government. An explicit federal objective was to use the tax system to reverse the trend of the declining federal share of projected rapidly increasing economic rents. Third, the NEP professed a commitment to allow exports only to the extent that Canadian needs were not jeopardized. The tax system could here be used to prevent producers from earning more from exporting energy than from serving Canadian needs. Finally, the new tax measures were intended to encourage substitution of imported fuels with abundant indigenous sources of energy.\textsuperscript{184}

In order to attain the above listed objectives, a number of new taxes were introduced:
- The Petroleum and Gas Revenue Tax (PGRT)
- The Natural Gas and Gas Liquids Tax (NGGLT)
- The Petroleum Compensation Charge (PCC)

\textsuperscript{183} ibid. p.32-33
\textsuperscript{184} ibid. p.34
- New federal royalties on production from the Canada Lands\textsuperscript{185}
- The Canadian Ownership Account\textsuperscript{186}

The NEP also contained important changes in the existing tax system. Most of the depletion allowances in the Income Tax Act were scheduled to be eliminated and the 25% resource allowance rules were to be changed. The export tax on oil was to be retained in its current form. Ottawa would share the proceeds of this tax with the oil producing provinces.\textsuperscript{187}

A report published by Price Waterhouse,\textsuperscript{188} noted that the tax changes in the NEP evolved through three distinctive stages. The first stage consisted of the October 1980 NEP and the budget proposals. The second stage included changes between October 29, 1980 and September 1, 1981. The third stage consisted of the proposals in the Canada-Alberta energy agreement and the agreements with the other producing provinces. In this section only the October 28, 1980 proposals will be dealt with, because they set the stage for the subsequent changes. Later changes were conditioned on the structure and thrust of these proposals, and the Canada-Alberta agreement, if anything, represented an attempt at establishing these taxes as part of the basic framework for Canada's future energy policy. The Canada-Alberta agreement will be discussed in Chapter Thirteen.

The Structure of Ottawa's Tax Measures

Dealing first with the Petroleum Compensation Charge (PCC), the PCC was a charge levied on domestic refiners to cover the cost of the federal government's program to compensate oil importers. As such, the PCC was an

\textsuperscript{185} These royalties will be discussed in more detail in the section dealing with the new land management system established for the Canada Lands.

\textsuperscript{186} See the section on Petro-Canada in this chapter for further details on this tax.

\textsuperscript{187} See NEP 1980, op.cit. p.37.

intrinsic part of the federal government's commitment to a uniform price of oil in Canada. The PCC replaced the oil import compensation program which had reduced the cost of imported oil to refiners to the same price as refiners using Canadian oil were paying. The PCC differed from the oil import compensation program in several important respects. First, whereas the oil import compensation program had been paid out of general federal funds and therefore was covered by all Canadian taxpayers, the PCC was intended to shift the burden of the subsidy from the taxpayers at large to the oil consumers. The PCC was levied on domestic refiners at a rate of $2.55/bbl. at the end of 1980, and was scheduled to increase by $2.50/bbl. each year, starting in 1981.\(^{189}\)

Second, although the PCC was intended to offset the higher costs of imported oil, it could also serve as a possible new source of revenue for Ottawa.\(^{190}\) The PCC freed the federal government from the heavy burden of oil imports; the costs of which at that time were running into billions of dollars, because the PCC shifted the burden of the subsidy to the oil consumers. From Chapter Eleven it can be recalled that oil import compensation payments in 1979 were predicted to constitute the largest future federal energy expenditure and were therefore a major factor in the alleged federal fiscal drain.

The structure of the PCC is another indication of how closely linked Ottawa's price regulation scheme was with its tax system. The PCC could be used both to eliminate the differential between Canadian and international prices and, aside from that, also as a means of collecting additional federal revenues.

The second new tax introduced in the NEP was the Petroleum and Gas Revenue Tax (PGRT).\(^{191}\) The PGRT\(^{192}\) was probably one of, if not the most, controversial

\(^{189}\) ibid. p.17

\(^{190}\) NEP 1980, op.cit. p.35 The document refers to the PCC as a potential new source of revenue for the federal government. This makes the PCC very different from the old oil compensation system.

\(^{191}\) Bill C-57, to enact the Petroleum and Gas Revenue Tax Act, received Royal assent in July, 1981. The PGRT was to be imposed in two parts, the first part consisted of a production revenue tax and the second was a resource royalty tax. See Price Waterhouse, op.cit. Nov. 1981, p.13
measure introduced in the 1980 NEP. This tax was projected to bring in $5.5 billion in the period 1981-1984. The PGRT was introduced for two reasons, according to the NEP. First, it was intended to alleviate the effects of an incentive system that was thought to be overly generous to the oil and gas industry. In this sense the PGRT was intended to redress a perceived imbalance in the NEP in favour of benefits accruing to the industry. As such, the federal government conceded that its previous policies, in particular the super depletion allowance, when viewed in conjunction with provincial incentives available, had, in overall terms, been too generous to the industry. The previous tax incentives, it was conceded in the NEP report, had been so generous that "some large and profitable petroleum producers [were] in a position where they [paid] no federal income tax at all. This degree of incentive is unnecessary, and unfair to the average taxpayer." Second, the PGRT was viewed as an essential means of ensuring adequate revenue to finance the new and comprehensive incentives introduced in the NEP. The PGRT was introduced as an alternative to reduce the federal government’s incentives and, it may be added, assist the federal government in its tailoring of the incentive system to support the Canadian-owned and Canadian-controlled segment of the oil and gas industry. In fact, the PGRT must be viewed as an important mechanism in ensuring adequate federal funds for financing the new and generous incentives. The NEP report notes, in terms of the PGRT:

This tax, in combination with other federal and provincial taxes and royalties, will produce a high marginal tax rate for firms that reinvest little of their cash flow. This is consistent with the thrust of the Program — to secure from non-investing firms the revenue to support cash incentives to more aggressive companies and individuals. There will, however, be situations where firms are exposed to hardship due to provincial royalty rates in excess of 50 per cent. In such cases, it would seem reasonable to expect the province in question to adjust its royalties.  

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194 NEP 1980, op.cit. p.37

195 ibid. p.38
In addressing the above listed concerns, the federal government introduced the PGRT as a tax on net oil and gas production revenue. The PGRT was not an income tax, because it applied to production and was levied at the wellhead. As such it had a direct effect on provincial royalty rates, as the above quote clearly states. The PGRT thus must be viewed as an attempt by Ottawa to revise the revenue sharing formula, both in relation to the provinces and the oil industry. Since the tax applied directly to the wellhead, it could be viewed as a federal intrusion on the jurisdictional rights of the province. The PGRT also enabled Ottawa to extract revenues from provincial Crown corporations such as Saskoil.

The specific details of the PGRT were as follows, according to the NEP:

Initially, the tax will be set at the rate of 8 per cent of net operating revenues related to the production of oil and gas, including income from oil and gas royalty interests. Deductions such as those for exploration and development expenditures, capital cost allowances, and interest, will not be allowed. As oil and gas prices rise faster than $1 a barrel every six months, the role of the tax will be reviewed.

The tax will be general in its application. It will apply to individuals, private business firms, and to public sector business enterprises that derive income from oil and gas production. The tax itself will not be deductible for income tax purposes. It will come into effect on January 1, 1981 and thereafter.

The PGRT was an upstream based tax and did not apply to transporting or

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197 Saskoil notes that "From Saskoil’s standpoint, a constitutional issue of taxation of one level of government by another arose. In the National Energy Program and the subsequent energy agreements, the federal government introduced new wellhead taxes. Until the taxation-of-the-crown issue is resolved Saskoil will remit to the federal government equivalent grants in lieu of taxes." See Saskoil, Annual Report, 1981, p.7. In the period 1981-84, Saskoil paid over $36.8 million to Ottawa in such 'grants'. See Saskoil, Annual Report, various years.

198 ibid. The quote fails to note that the PGRT consisted of two parts. The first part was a tax of 8% on petroleum and gas production revenues. The second part was an 8% tax on amounts received as, on account of, or instead of resource royalties. The overall tax rate thus would depend on the relevant royalty rate. See Carten, M.A.: Taxation and Royalty Problems: Canadian Oil and Gas Operations - An Analysis of the Fiscal Environment, Energy Law 1981, Volume II, p.191.
transmitting oil or gas; nor did it apply to oil refining or gas processing. It is important to recognize that the PGRT enabled the oil companies to write off operating expenses, but provincial royalties were not deductible. Thus, the PGRT reintroduced the principle of non-deductibility of provincial royalties. In that sense the PGRT was similar to the one in the so-called Turner budget of 1974. This means that the PGRT also indirectly impinged upon the provincial right to collect resource rents. The PGRT must be viewed as an imposition on important segments of the industry as well as on the producing provinces. In fact, it can be argued that the tax was designed to prevent the producer from passing it on. The PGRT represented a federal imposition that, at worst, would force the provinces to make changes to the existing royalty structure or that at least would generate considerable industry pressure for such changes. Scarfe notes, in terms of the PGRT:

This tax was the major factor which seriously eroded oil company netbacks between 1980 and 1981, and thereby discouraged new exploration and development.

Helliwell, in modelling the effects of the NEP and the 1980 federal budget, and comparing this to Alberta’s proposals, finds that:

(1)he imposition of royalty-type taxes that reduce the net wellhead price has the effect of reducing both the pace of drilling activity and the size of the ultimately recoverable stocks of conventional oil and natural gas. This means that some economically recoverable oil and gas that would have been developed without the new taxes will be left in the ground instead. In the model, the supply responses for conventional crude oil gradually increase, leading by 1987 to a production flow that is 120,000 barrels per day less with the full budget than it would be under the Alberta proposals.


201 See Part Two of this thesis.

202 See report by Price Waterhouse, op.cit. p. 13. which notes that "Since the payment of this tax is not deductible for income tax purposes, and because of the fixed selling price for oil and gas, the full impact of this tax will be borne by the producer."

203 See Scarfe, op.cit. p.11

204 See Helliwell, An Economic Evaluation of the National Energy Program (1980) op.cit. p.648
Thus, it is clear that the PGRT (and the NGGLT) would have important negative consequences for Canada's short-to-medium-term energy security.\(^{205}\) Since this tax served to reduce production of oil and also negatively affected the economically recoverable resource-base, it made the goal of self-sufficiency and ultimate independence from the world oil market more dependent on higher-cost sources of oil from tertiary recovery, the tar sands and the frontiers. Since it was uncertain how long it would take to develop these resources, and the federal government only had limited influence on these decisions anyway, it could be said that the most important tax measures introduced in the NEP had the effect of not only jeopardizing Ottawa's goal of self-sufficiency but also committing Ottawa to a future of mega-projects whose success, it has been historically shown, was dependent on federal (and provincial) financial support and other concessions.\(^{206}\) Thus, it could be argued that Ottawa's taxes in fact could make the federal government more dependent on the oil MNCs - which had the expertise, capital and technology - to undertake projects of such magnitude as was required to fulfil Ottawa's goal of self-sufficiency.\(^{207}\)

The above argument of the NEP's taxes as potentially making Ottawa more dependent on the oil MNCs could be further extended by the observation that the National Energy Program, according to Doern and Toner, affected the Canadian

\(^{205}\) Industry spokesmen also noted that the PGRT had "hidden" impacts on the industry. Since the PGRT was a wellhead tax, it reduced producer revenues. By decreasing the producers' revenue base, the tax also reduced the magnitude of resource tax credits available to producers. See Doern and Toner, op.cit. p.209. The authors refer to remarks by J.G. Livingstone, President of Imperial Oil.

\(^{206}\) The Syncrude project is the most obvious example. See Pratt, L.: The Tar Sands: Syncrude and the Politics of Oil, (Edmonton: Hurtig, 1976)

\(^{207}\) Texaco Canada had calculated the effects of the 8% PGRT and found that the tax would reduce cash flow at the wellhead by approximately 25 per cent. This would be the case because royalty payments to the relevant government were not deductible in determining the levy. Further, the PGRT, as already noted, was not deductible for income tax purposes. Texaco also noted that it was subject to double taxation which produced a very negative investment climate for the company. Yet, Doern and Toner note that throughout the period Texaco's financial position was healthy, because between 1978 and 1982, the corporation had spent only 8.7% of its cash flow on exploration, as compared with over 23% by the other MNCs. Doern and Toner, op.cit. p.213. The authors got their figures from Financial Times, March 5, 1984, p.1 and Oilweek, July 4, 1983, pp.14-16.
Juniors even more than it affected the oil MNCs:

With respect to taxation, the two new taxes introduced in the NEP (the PGRT and the NGGLT) and the removal of the incentive program from the tax system had direct consequences for the cash flow of the juniors. Because upstream revenues are usually their only source of revenue, the fact that the PGRT was imposed at the wellhead and allowed for no write-offs affected the juniors even more than the integrated majors which had revenues generated from other links of the integrated chain.\textsuperscript{208}

Further, Doern and Toner also note that the Juniors suffered from these two new tax measures because of two factors. First, the Canadian Juniors normally raised capital on foreign exchange markets and would therefore not meet the 75\% COR requirement needed for maximum PIP payments. Second, since very few of the Canadian Juniors operated in the frontiers, and instead focused their activities in the provinces, these companies as a group did not benefit much from the generous cash grants available in the PIP.\textsuperscript{209} The Canadian Juniors also criticized the NEP for writing off the provinces prematurely.

The third new tax introduced in the NEP was the Natural Gas and Gas Liquids Tax (NGGLT). The initial tax rate would be 30 cents per Mcf, effective November 1, 1980. Thereafter the tax was scheduled to increase by 15 cents biannually throughout 1982. The tax was projected to provide Ottawa with $6.6 billion over the period until 1984.\textsuperscript{210} The NGGLT included an export tax component because it applied to all natural gas, i.e., gas for both the domestic and the international market. The export tax component of this tax was scheduled to come into effect later than the tax on domestically used gas because of an agreement with the United States which required Canada to give 90 days' notice of price changes.\textsuperscript{211} The export tax section of the NGGLT, however, was struck down by a 1981 Supreme Court of Canada judgement, because it was found that the export component was in contravention of section 125 of the Constitution Act,

\textsuperscript{208} See Doern and Toner, op.cit. p.247
\textsuperscript{209} ibid. pp.245-251.
\textsuperscript{210} See Honourable J.A. MacEachern, op.cit. p.9
\textsuperscript{211} NEP 1980, p.35.
In summary, the new tax measures introduced by Ottawa sought to increase federal revenues at the expense of both the industry and the oil-producing provinces. From a political perspective, the most controversial measure was the PGRT. This tax measure both sought to undercut or at least delimit the producing provinces’ ability to charge provincial revenues while simultaneously increasing industry taxes. As had happened in 1973-74, Ottawa squeezed the industry to put pressure on the producing provinces to reduce or at least not increase provincial levies. In addition, the PGRT was designed to affect the provincial revenue share directly.

While demonstrating how Ottawa sought to establish a new and much more favourable revenue-sharing system for itself, this section has also demonstrated how closely linked with price regulation Ottawa’s tax measures were.

Although primarily intended to increase federal revenues, Ottawa’s tax measures were directly related to other federal concerns such as self-sufficiency and Canadianization. The wide scope of federal objectives could not easily be reconciled with the instruments available. Instrument overload was the result as was the generation of an increasingly complex web of federal-provincial policy interdependence that helped generate or at least perpetuate conflicts.

THE INCENTIVE SYSTEM

The new incentive structure in the NEP differed considerably from previous federal policies. The NEP represented a major effort at redirecting the thrust of the federal incentive system from a tax-based to a grant-based incentive system. The main reason for this was that:

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212 See Lacasse, op.cit. p.75.
The major incentives available to date for exploration have been delivered through the income tax system. Thus only taxpaying firms and individuals have been able to make immediate use of those incentives. A new system is required to provide incentives not only to those, but to other Canadian investors. Moreover, the Government of Canada has promised to provide a replacement for the former "super-depletion" allowance for frontier exploration, which expired on April 1, 1980.

The National Energy Program will, therefore, use new federal revenues from the oil and gas sector to provide generous direct incentives for oil and gas development. These will more than compensate, in many cases, for the reduction of earned depletion incentives. Moreover, unlike earned depletion, which tends to favour the larger, foreign-owned firms, they have been structured to encourage investment by Canadian companies and individuals.213

In line with the principles presented above, the NEP set out to restructure the federal incentive system. The new federal incentive system was intended to ensure continued development of Canada’s resources, in order to attain the objective of self-sufficiency and independence from the world oil market. Further, the new incentive system was structured to accommodate Ottawa’s developmental objective with the NEP’s thrust towards Canadianization of the oil and gas industry. The PIP-program was clearly intended to reduce the role of the oil MNCs in Canada’s future energy policy.

The Structure of the PIP

The magnitude of PIP payments depended on a number of factors which formed the structure of the PIP incentive scheme. A report published by Price Waterhouse summarized these as follows:

- The Canadian Ownership Rate ("COR") of the applicant
- The Canadian-control status of the applicant
- The location of the land, whether Canada Lands or Provincial Lands where the work is carried on
- The nature of the expenditure (whether it is on account of exploration, development or eligible assets)
- The year in which the expenditures are incurred.214

The basic features of the new federal incentive system introduced in the NEP...

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213 NEP 1980, op.cit. p.39
214 Price Waterhouse, op.cit. p.27.
were as follows. First, the incentive system was grant-based rather than tax-based. As such it was politically much more visible than the previous incentive system had been. Second, the incentive system presented in the NEP was more focused on the exploration stage than previous systems. The main reason for this is the reduction in the depletion allowance. The incentive system in the NEP thus distinguished more clearly between the various stages of oil and gas development than previous federal policies. In terms of exploration, the Earned Depletion Allowance (EDA) would be retained for 1981, but after that it would be phased out for domestic exploration expenditures outside the Canada Lands.215 The depletion allowance on conventional oil and gas development would be eliminated. In terms of integrated oil sands projects, enhanced recovery projects, and heavy crude oil upgraders, the depletion allowance would remain in function, and would apply at a rate of 33.1/3% of qualifying expenditures.216 The depletion allowance would be subject to a ceiling of 25% of resource income. The depletion allowance, it should also be noted, would no longer be claimable by individuals. The NEP thus significantly reduced the importance of the depletion allowance which until then had been one of Ottawa's most important incentives.

Third, the system introduced in the NEP was tailored to suit the needs and requirements of one segment of the oil and gas industry, namely the Canadian-owned and controlled companies. Ottawa conceded that federal policies until then had failed to provide these companies with adequate incentives. Accordingly, the size of PIP payments was directly linked to the Canadian Ownership Rate (COR-rate) of each applicant.

Fourth, the incentive system clearly favoured certain oil and gas resources

215 ibid. p.38. The phasing out of the earned depletion allowance in all areas but the frontiers would take place between 1982 and 1984. In 1982, the rate would be reduced to 20 per cent, in 1983 it would be 10 per cent, and in 1984, it would be zero.

216 ibid. p.39. Qualifying expenditures would exclude certain administrative and overhead costs. The definition of eligibility for the Canadian Exploration Expense was narrowed. This proposed change, however, was later postponed for two years. See Doern and Toner, op.cit. p.330
over others. In terms of the magnitude of federal outlays, the system clearly favoured the Canada Lands. The PIP payments available for frontier exploration were significantly larger than those available for the provinces. The incentive structure in the NEP was intended to increase the federal government's control over oil and gas development in Canada. Doern and Toner demonstrate how the incentive system related to the federal government's emphasis on controlling resource development in Canada:

"(K)ey parts of the expenditure package, in particular the Petroleum Incentive Program (PIP), were intended to make the oil industry more visibly dependent on Ottawa as well as allow Ottawa to target incentives on Canadian-owned firms and encourage and or force activity from Alberta and onto the Canada Lands which Ottawa controlled."

The incentive system, therefore, was intended to increase Ottawa's control over the oil industry's access to petroleum resources, because it clearly favoured Canadian-owned and controlled companies. Further, the incentive system was also intended and designed to increase Ottawa's control over the rate and location of petroleum exploration and development in Canada.

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217 Doern and Toner, ibid. pp.371-373
Table IV.14 Oil and Gas Incentives Under the NEP,

<table>
<thead>
<tr>
<th>Year</th>
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<td></td>
<td>Non-conventional and tertiary oil projects, and crude oil upgraders</td>
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Canada Lands

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See NEP, op.cit. p.40
Doern and Toner, in discussing the incentive system in terms of federal control, conclude that this placed Ottawa in a curious paradox of control, because the expenditure elements by which Ottawa sought to ensure control were demand-driven and dependent on private-sector behaviour. Ottawa had few assurances that the grants would lead to development because the focus of the PIP was on exploration, not development. Thus, since companies with high enough COR-rates could have almost all of their exploration expenditures covered, the companies did not need to risk own or borrowed funds in order to start exploration. But this also means that Ottawa had little assurance of actual development of these resources, because development was far more costly and would require additional funds. Thus, from the structure of the PIP-system we find that active explorers could also seek to obtain additional concessions from Ottawa to develop the resources because of the large amount of federal money invested in the exploration stage and from the high political visibility of the program. This political visibility could easily become a curse for Ottawa because the perceived magnitude of federal investments would generate considerable political pressure for early returns on investments. Thus, in spite of the fact that the structure of the PIP, by encouraging exploration primarily, can be viewed as a means of furthering Ottawa's "need-to-know" objective, Ottawa's ability to control development could be further compromised as a consequence of the very same structure of the incentive system.

The incentive system of the NEP was intimately linked with the structure and operation of the new land management system for the Canada Lands. These linkages will be discussed in detail later in this chapter.

In sum, the PIP-grants constituted Ottawa's prime incentive mechanism. The PIP-grants were not the only major incentives included in the NEP, however. Price regulation was also presented as a powerful incentive in the NEP, because high-cost sources of oil were granted much higher prices than were

\[219\] See Doern and Toner, op.cit., p.373.
conventional, low-cost sources of oil. But, since the NEP kept the price of conventional oil and also gas prices down, the PIP-grants must be viewed as a means of compensating explorers for the effects that price regulation/discrimination would have on supply additions. The PIP, however, far more than previous policy instruments, conveyed Ottawa's political priorities as much as Ottawa's resource development objectives because it discriminated among explorers on the basis of Canadian ownership criteria. Perhaps the most important characteristic of the PIP is that it, as so many of the other policy measures introduced in the NEP, had a number of intended functions. First, it was intended to enhance self-sufficiency in the sense of providing some support to the development of conventional oil in the provinces. Second, it was intended to ensure adequate future supplies by promoting frontier sources of oil and gas. The former strategy must be viewed as a short-term whereas the latter must be seen as a long-term one.

The PIP had a clear redistributive objective, first in that it deliberately favoured the frontiers and second in that it discriminated against the foreign industry segment. The PIP revealed and probably also exacerbated the tension that existed between Ottawa's frontier promotion which includes rapid production and Ottawa's objective of controlling the rate of development in the Canada Lands.
THE FEDERAL LAND MANAGEMENT REGIME

The introduction of a new land management system in the areas under federal jurisdiction, the Canada Lands, constituted a vital part of the federal government's commitment to increased federal control over oil and gas development in Canada. This regime, of which Bill C-48, the Canada Oil and Gas Act (COGA), formed the main legislative instrument, emerged as a response to the important international oil market restructuring that was found to be taking place between international oil companies and oil producing and exporting states. The new Canada Lands regime was clearly influenced by the legal and political measures introduced by the British and Norwegian governments to maximize financial returns and increase the two states' control over all aspects of offshore oil and gas development. Bill C-48 therefore represents an important departure from the previous federal land management regimes which had all been based on the systems in the producing provinces in Western Canada. The introduction of Bill C-48 represented a change from an

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220 Interviews with federal officials from both DIAND and COGLA confirmed the similarity between the two systems. Norwegian government officials were invited and appeared at the deliberations on Bill C-48 by the House of Commons, Standing Committee on National Resources and Public Works. Noreng claims that the systems that emerged in Britain and Norway constitute a separate model, which he terms the North Sea Model. This system which clearly resembles the structure established in Bill C-48, differs from the concession systems in the Middle East and North Africa. See Noreng, (1980), op.cit p. 32-34.

221 See statement by Dr. D.Crosby to the House of Commons Standing Committee on National Resources and Public Works, 21-1-1981, p.17:2. Crosby noted that Bill C-48 was intended to enable the installation and furtherance of a new regime. Bill C-48 was primarily concerned with land management, which constituted one of the two main categories of resource management. The second category of resource management is the operational aspect of resource management. In Canada this latter aspect was regulated by the articles of the 1970 Oil and Gas Production and Conservation Act. Bill C-48 included some amendments to this act but the main thrust of Bill C-48 was to establish a new land management regime. See Crosby's statement. ibid. p.20:3-4. Bill C-48 did not represent a complete break with the past. Some of the key provisions of Bill C-48 had appeared in the new proposals introduced in the late 1970s, both in the proposed Act of 1976 and in the defunct Bill C-20. This applies to the concept of the exploration agreement and to the Progressive Incremental Royalty.

222 The difference is particularly salient in terms of rights issuance.
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auction-based to a concession-based system of rights issuance.\textsuperscript{223}

The new Canada Lands regime also constituted a critical response to the land management systems that had existed in the areas under federal jurisdiction prior to 1980.\textsuperscript{224} As this study has argued, and as other analysts have pointed out, the COGL of 1961 and the temporary regulations introduced in 1977, failed to provide Ottawa with adequate control over the rate and location of oil and gas development in the Canada Lands. Although some changes were made in the 1970s to the extremely permissive COGL of 1961, the regime in place in 1979 represented a regulatory structure that first and foremost served the interests of the oil industry. From Ottawa's point of view, it was seen to create an increasing discrepancy between the federal government's stated objectives and its capacity to attain these goals. The effect on Ottawa's priorities of the permissive licensing system, combined with the generous tax and incentive system in the Canada Lands prior to 1980, was for Ottawa to sacrifice control in order to spur development of the oil and gas resources that were believed to exist in these areas.

Bill C-48 emerged out of the defunct Bill C-20 of 1977. This means that Bill C-48 had its roots in the unsuccessful attempts of the late 1970s to establish a more stringent regulatory framework. Bill C-48 as action represented a big change, but as idea it was not that much of a change. Bill C-48 as other parts of the NEP, also incorporated a number of ideas and policy measures which hitherto had only been loosely connected.

This section, dealing with the new federal land management regime, is divided in three parts. The first part identifies the basic federal goals associated with the establishment of this regime. The second part outlines the structure and administration of the new land management regime and discusses it in terms of federal capacities to control resource development in Canada.

\textsuperscript{223} EMR: Canada's Energy Frontiers, (Ottawa: Minister of Supply and Services, 1985), pp.8-9.

The third and final part sheds light on the industry's reaction to the new land management regime, with particular emphasis on the role of Bill C-48. This structure is chosen to highlight the federal state's objectives and to provide an assessment of the federal state's capacity to fulfil its objectives by means of the instruments chosen, and in light of considerable industry pressure and resistance.

The new land management regime for the Canada Lands represents one of the most dramatic departures from previous policy introduced in the NEP. Bill C-48 provided Ottawa with a legislative basis for the restructuring of future government-industry relations in the Canada Lands, by Ottawa drastically altering the industry's access to land and resources and its terms of operations. Bill C-48 offered Ottawa an invaluable means of rewriting and dramatically reducing existing contractual terms. Thus, in most industry quarters, Bill C-48 was perceived as an outright confiscation of the industry's vested rights and interests. Section 61 of the Act which dealt with the replacement of rights, provided opponents of the Act with considerable ammunition. This section stated that:

(1) The interests and rights provided by this Act replace all oil and gas interests and rights or prospects thereof acquired or vested in relation to Canada lands prior to the coming into force of this Act.

(2) No person shall have any right to claim or receive any compensation, damages, indemnity or other form of relief from Her Majesty in right of Canada or from any servant or agent thereof for any acquired, vested or future interest or right or any prospect thereof that is replaced or otherwise affected by this Act or for any duty or liability imposed by this Act.

Although this section formed the topic of considerable legal debate in Canada and elsewhere, there was little doubt that Ottawa in fact could introduce

225 Dr. D. Crosby noted that the bulk of the prospective areas in the Canada Lands were covered by permits, so a new regime required change in the terms and conditions of the rights that existed at the time. At the end of 1981 approximately 300 million acres were outstanding. ibid. p.17:10.

legislation that revoked the statutory rights of the industry.\textsuperscript{227} Thompson notes that the Canadian Constitution does not include a due process clause for the entrenchment of property rights.\textsuperscript{228} This opened the way for a sovereign Parliament to "destroy the rights acquired under a tenure agreement with the State."\textsuperscript{229} Thus, in introducing Bill C-48, Ottawa revealed that it was willing to employ a measure of power hitherto not exercised in the field of energy in Canada. Bill C-48, therefore, represents not only a dramatic departure from Ottawa's previous land management systems, but it also demonstrates beyond any doubt that Ottawa in 1980 was willing to challenge the industry's notion of vested rights and interests in order to impose its priorities upon the industry. The absence of industry consultation prior to the introduction of Bill C-48 only serves to underline how Ottawa sought to establish a new regime that would enable the federal government to wield more effective control over the operations of the industry.\textsuperscript{230} If the political history of industry-government relations can be summarized as a conflict over land use, the two contending claims have centred on the industry's claim to property rights versus the sovereign rights of the government. The federal regulations prior to 1980 had stressed property rights. Bill C-48, however, placed the emphasis on the sovereign rights of Parliament to determine and alter the terms and operations of the industry. Bill C-48 therefore represented the implementation or most visible manifestation of an important philosophical change in industry-

\textsuperscript{227} See Harrison, The Legal Character op.cit. See also Thompson, A.R: An Overview of Oil, Gas, and Mineral Disposition Systems in Canada, unpublished version. This article was later published in the Rocky Mountain Law Review, and Lucas, A.R.: "Acquisition of Natural Resource Interests by the State: Canada", Journal of Energy and Natural Resources Law, (December 1987), Supplement, p.28

\textsuperscript{228} Thompson, ibid. p. 3-24.

\textsuperscript{229} ibid. p.3-25. The Canadian Parliament thus has recourse to actions that the U.S. government, for instance, has not.

\textsuperscript{230} The new rights structure introduced in Bill C-48 was far more limited than the previous structure had been. The wide discretionary powers in the Bill also enabled the minister to alter the companies' terms of operation from one company or agreement to another, or at various stages in the rights allocation process.
government relations in Canada.\(^\text{231}\)

Bill C-48 also impacted directly on relations between Ottawa and Newfoundland. The Bill applied to

those submarine areas adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater.\(^\text{232}\)

But since the Act did not contain a vesting clause in favour of Ottawa, it enabled a province to adopt the Act. This would amount to accepting federal management of the offshore, but without compromising the claim to offshore jurisdiction that a province had.\(^\text{233}\) Ottawa, acting in consistence with its goal of self-sufficiency, sought to avoid the loss in time and the political costs of a court ruling on offshore jurisdictional rights and instead put in place legislation that Newfoundland also could adopt. The province of Newfoundland, however, found no consolation in this. Instead, the province retained its legislation and would not compromise on its claim to both ownership and management of the offshore.

The Federal Land Management Regime: Principal Objectives

The principal objectives of the new land management regime were as follows:

1) Ensure active development of oil and gas rights.
2) Reserve to the Crown a 25 per cent interest in every right on Canada Lands.
3) Increase Canadian ownership.
4) Ensure that a high level of Canadian goods and services is employed in oil and gas activities carried out on Canada Lands.

\(^{231}\) This terminology is taken from Cameron, (1983) op.cit.

\(^{232}\) See Bill C-48, Section 2(b).

\(^{233}\) See Gault (1983), op.cit. p.106. for this point.
5) Ensure that Canada receives a fair share of the economic rent.\(^{234}\)

Essentially, the objectives listed above can be summarized under the three headings used in the NEP report. These objectives were to ensure oil and gas self-sufficiency, Canadianization and fairness. An active development of oil and gas rights was intended to ensure that Canada would be able to identify its oil and gas resource base and, on the basis of this information, federal decision-makers would be able to establish a rate of development which was commensurate with Canada’s oil and gas needs over time. The 25% Crown interest would also enable Ottawa to wield more direct control over Canada’s resource base and therefore harmonize oil and gas development with Canada’s needs. The Crown share provision, the measures taken to increase Canadian ownership, and the commitment to capture an increased share of the industrial spin-offs from oil and gas development were all intended to spur Canadianization. Finally, the third major federal objective was to ensure that the federal government would receive a fair share of the economic rents accruing from oil and gas development.

The objectives listed above differ in terms of the role and direction of state intervention required for their fulfilment. As such, they place divergent requirements on the policy instruments available to and used by Ottawa. An important task for the researcher concerned with identifying the main intentions underlying Ottawa’s intervention is to attempt to rank order the objectives in terms of their relative importance for the federal government. For a proper ranking to be made, the first approach that comes to mind is to analyze the relevant statements by key federal officials. Since discrepancies often occur between stated objectives and the objectives that decision-makers actually pursue, goal discrepancies provide useful data for the identification of the objectives that actually guide decision-makers. The point is that when obvious goal discrepancies exist, federal policy-makers and officials are forced to choose between objectives. The outcomes of such choices are evident in the structure and operations of the regime. This approach will be used to

\(^{234}\) See NEP, p.45-47.
shed light on Ottawa’s objectives in relation to the new federal land management regime. Although the regime encompassed a whole range of related policy measures, the emphasis in this thesis will be on Bill C-48 which constituted the legal underpinnings and the centre-piece of the new regime. In terms of Bill C-48, energy minister Lalonde stated:

Bill C-48 represents a vital element in the process of aggressively seeking the energy sources and solutions that will meet the needs of our country. We must proceed with determination toward a secure energy future for all Canadians. It is essential to this process that we realize the oil and gas potential of our vast frontier regions, the Territories and the Offshore. The new Canada Oil and Gas Act will bring all frontier oil and gas rights under a new regime, in a manner so as to ensure that the holders of such rights must either pursue rigorous and sustained exploration and development efforts, or relinquish their holdings and make way for others who will do so.

For too long now, the regime governing the issuance and management of oil and gas rights in Canada’s frontier regions has been wanting in respect of establishing a level of exploration and development activity commensurate with the oil and gas promise of these regions. The new modernized regime under the Canada Oil and Gas Act will govern not only those oil and gas rights to be made available for development in the future, it will also apply to existing rights, those that have already been issued in the frontier regions....

The new act will, therefore, not only govern all future rights, it will provide for the conversion of existing rights to the new regime, and will provide for doing so within one year after passage of the act.\(^\text{235}\)

If increased oil and gas development had been Ottawa’s only concern, the optimal solution, according to the industry, was for Ottawa to develop a tax, pricing, and royalty regime that would favour development, without tampering with the rights structure. The new federal land management regime, by relying heavily on federal intervention to spur development, could thwart development rather than stimulate it, according to statements by prominent industry officials.\(^\text{236}\) The new federal regime, by alienating a vital segment of the industry, was not only intended to spur frontier development. Instead, the new regime represented an attempt to increase the rate of oil and gas development

\(^{235}\) H.of C.: Standing Committee on National Resources and Public Works, 20/1/81, p.16:2. In Appendix "Ress-7" there is further justification for the need for the new legislation.

\(^{236}\) See for instance submission by C.W. Best (Member of the Board of Governors and Chairman of the General Committee on Exploration of the Canadian Petroleum Association and Vice-President, Natural Resources, BP Canada) to the House of Commons, Standing Committee on National Resources and Public Works, 26-3-1981, p.40:1.
in the Canada Lands in a setting clearly dominated by Ottawa. The structure of the previous system drastically reduced the options available to Ottawa. Bill C-48 was first and foremost a clear-cut attempt by Ottawa to wrestle control over oil and gas operations from the large industry players and enable the relevant ministers to make the key decisions related to development. Contrary to the industry's contention of federal intervention and power-abuse, Ottawa's intention was to reach such decisions within a framework of detailed government-industry negotiations. The legislation clearly specified that should such negotiations fail, the final say rested with Ottawa, however.

Ottawa's goal of Canadianization was related to the self-sufficiency objective, because Canadianization would increase Ottawa's influence over the industry's access to land and petroleum resources. Further, by specifying the level of goods and services to be provided by Canadians, Ottawa could influence the commercial transactions of the oil companies and avoid the oft-cited problem of transfer-pricing. The Canadianization requirements introduced in Bill C-48, it should be recalled, were intended to ensure increased federal control over industry operations rather than maximize the rate of oil and gas development, because they actively discriminated against the dominant landholders. Further, the higher and more strictly enforced the requirement of Canadian goods and services, the lower the rate of development, because Canadian suppliers would not be able to provide all the necessary equipment. Therefore, at least in the short run, the more stringent the Canadianization requirements, both in terms of Canadian ownership and control over the resource base and in terms of spin-offs, the more the overall rate of development would suffer. This argument is somewhat modified by the fact that the PIP was tailored towards frontier exploration and, as such, was intended to address the problem of under-investment. Yet, the process of replacing one segment of the

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237 See Bertrand, R.J., Director of Investigation and Research, Combines Investigation Act: The State of Competition in the Canadian Petroleum Industry, 7 vols. (Ottawa: Minister of Supply and Services, 1981) The Bertrand report makes countless allegations of the oil MNCs as having been engaged in transfer-pricing.
industry with another would take considerable time, and the rate of development
would fall in the interim.

In terms of revenue distribution, Ottawa, in its quest for fairness,
introduced a number of new taxes in order to increase its share of the rent.
The basic objectives of the new tax regime were as follows. First, it was
intended to leave the producer with a competitive return. Second, it was
intended to "reward the highly successful explorer by recognizing the elephant-
hunting philosophy."238 Finally, the system was meant to allow flexibility in
the government's efforts to foster industry investment.239

In addressing the above listed objectives, Bill C-48 represented an
attempt at reorienting the tax system in the Canada Lands from a volume-based
to a profit-sensitive system.240 Such a re-orientation was intended to enable
Ottawa to share in the potential excess profits that would be generated from
oil and gas development, without creating disincentives to development of
large, yet economically marginal fields.241 Further, the new system
reintroduced the principle of no front-end loading, which meant that the
industry would be able to recover investments in the production phase before
paying taxes and royalties. As such, the new tax and fiscal system for the

238 "Elephant-hunting" refers to the industry's emphasis on finding and
developing very large fields, so-called elephants. Elephant-hunting was an
activity effectively restricted to the largest industry players because of the
large risks involved in exploring in these remote and desolate areas. Further,
if finds were made, development would require enormous capital investments,
both in terms of field development and in terms of developing a viable
transportation system. Also, oil and/or gas production from the Canada Lands
would necessitate the development of a largely new and unproven technology.
Elephant-hunting was an industry term and represented an industry priority.
The Act therefore sought to accommodate the industry's priorities. On this
point there was no divergence between the government and the industry.

239 See Appendix "Ress-12": Statement of Dr. T.S. Tuschak, Director General,
Operations, Petroleum Prices and Compensation Programs, Department of Energy,
Mines and Resources on the design of an integrated fiscal package, to the House
of Commons, Standing Committee on National Resources and Public Works, 10-2-

240 See statement by Dr. Tuschak to the House of Commons, Standing Committee on
National Resources and Public Works, 10-2-1981, p.24:17-18. Dr. Tuschak was one
of the architects of the new Canada Lands tax and royalty regime.

241 See Tuschak, in House of Commons, Standing Committee, op.cit. 10-2-1981,
p.24:17
Canada Lands was intended to help restructure the oil industry while also ensuring a rapid development of Canada's oil and gas resources.

The new tax and royalty regime for the Canada Lands consisted of the following measures:
- a basic royalty of 10 per cent, to be collected at the wellhead. This royalty could be collected either in kind or in money. The application of this measure was subject entirely to the discretion of the minister.
- the Progressive Incremental Royalty (PIR). The PIR was to be specified at a maximum rate of 40% of net profit for each year. The PIR, as the name indicates, was a variable levy, related to field profitability and size. Tuschak notes, in terms of Ottawa's intentions in re-introducing the PIR:
  (T)he objective was not to produce revenue, but to share in excess revenues ... If there should be a real large find, a very rich and highly profitable find, it would allow the Crown to share in that revenue. When there is no such find, it is meant to allow the producer to take a minimal income without the government sharing in the revenue so that the development can go forward.

The PIR was also subject to a number of deductions. Companies could deduct the basic royalty, operating expenses, income tax payments (subject to certain conditions), 25% of total eligible investment, the PGRT, and a capital

242 See COGA, Section 40.(1)
243 See COGA, 1980, Section 40(7). Valid reasons for suspension of payment of this royalty would include cases in which the Governor in Council determined that such suspension "would enable the licence holder to commence producing oil or gas, continue production for a longer period or facilitate the implementation of conservation measures."
244 See COGA, Section 41.(1) For deductions, see 41.(2)
245 Statement by Dr. T.S. Tuschak to the House of Commons, Standing Committee on National Resources and Public Works, 10-2-1981, p.24:11.
246 There was clearly some confusion as to the relation between PIR and PGRT. Whereas Tuschak noted to the House of Commons, Standing Committee on National Resources and Public Works that the PGRT was deductible, industry officials made several comments to the contrary. See Palmer in Fry, op.cit., p.84. The CPA notes in its submission to the House of Commons, Standing Committee on National Resources and Public Works, Appendix "Ress-31", 26-3-1981, p.40A:9, that "It appears that the Petroleum and Gas Revenue Tax (PGRT) is deductible in determining the profit for the PIR calculation. However, the point should
allowance not exceeding 1/6 of the eligible investment from the PIR payments.\textsuperscript{247} Further, clean-up of environmental damage that would create extra costs to the producer was also deductible for PIR purposes.\textsuperscript{248} This large number of deductions clearly served to reduce the importance of the PIR as a revenue generating measure for Ottawa.

- the Petroleum and Gas Revenue Tax.\textsuperscript{249} This tax was deductible from the PIR.
- the corporation income tax.\textsuperscript{250} This tax was also deductible from the PIR.

An assessment of the federal government's goal of increasing its economic take from oil and gas development on the Canada Lands would include the following three sets of variables. First, the anticipated effects of the new system as compared with the old must be analyzed. Tuschak noted that only in terms of very profitable fields would the new system generate more revenues than the previous regime. For marginal fields, the new system was clearly more favourable to the industry. Industry spokesmen, on the other hand, argued that the new tax, fiscal and price regime could lead to "non-development of smaller fields and a lower level of investment".\textsuperscript{251} Tuschak argued that the new system have been clearly stated." The fact that the PGRT was deductible also means that the analysis of the joint effects of the PIR and PGRT presented in the review of federal energy policy published by the Economic Council of Canada in 1985 and entitled \textit{Connections: An Energy Strategy for the Future}, p. 141, is somewhat misleading. The report is correct in noting that there is no need for the PGRT in the Canada Lands, but the report in its assessment of the negative effects of these measures is clearly overly sympathetic with the industry's point of view.

\textsuperscript{247} All these deductions applied only within the so-called ring fence which means that company expenses not directly related to exploration, development and transportation could not be deducted from the PIR. This would exclude such expenses as overhead, for instance. See statement by Dr.T.S. Tuschak to the House of Commons, Standing Committee on National Resources and Public Works, 10-2-1981, p.24:12.


\textsuperscript{249} See section on this tax for details.

\textsuperscript{250} The effective rate of the federal income tax was 37.8\%. See Price Waterhouse: \textit{The National Energy Program}, Second Edition, November 1981, p.10

\textsuperscript{251} ibid. Statement by E.D. Best, 26-3-1981, p.40:5.
in overall terms was more favourable to the industry than the old one. Since the new system was based upon very different pricing assumptions, and therefore assumptions about the overall value of the oil and gas resource base, even a regime that extracts a higher government share from the industry may still leave the industry better off in absolute terms. Thus, Tuschak is probably correct in his assertion that the industry would be better off under the new regime in relation to new fields, (with the proviso that the oil is classified as high-cost and the NEP's pricing projections apply).

The second variable relates to generated revenues versus foregone revenues. The federal government, when comparing the new and old systems, stressed the need to look at the tax and royalty system in the Canada Lands in connection with the federal government's incentive scheme, in particular the PIP, to understand the magnitude of net revenues accruing to Ottawa. The PIP, as noted, provided Canadian-owned companies with very generous grants to facilitate development. Discounting for Ottawa’s PIP grants therefore would reduce significantly Ottawa’s overall industry take. Further, the adoption of the unitary development concept meant that no corridor lands would exist any longer, thus increasing overall resources available to the industry and increasing the industry’s potential revenue basis. Finally, the fact that Ottawa did not introduce an auction system, demonstrates that Ottawa’s main concern was not to maximize federal revenues. Concession systems are chosen,

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252 Using the example of a one billion barrel arctic oil field, Tuschak argues that the effective tax rate would be between 13 to 16% of net operating income, in PIR and PGRT payments. Under the old corridor concept, the rates would be 20 to 25 per cent. See statement by Dr. T. S. Tuschak to the House of Commons, Standing Committee on National Resources and Public Works, 10-2-1981, p.24:14.

253 The PIP grants were extremely generous to Canadian companies, which meant that Ottawa essentially financed the exploration expenditures incurred by these companies. Also, since there was considerable "leakage" this subsidization in fact also trickled down to include the oil MNCs.

254 Tuschak argued that the elimination of the corridor lands concept would, on average, increase the industry's returns by ca. 20%. This would happen because in the old system the lease holders were required to return 50% of the acreage within a specified time limit. Tuschak argues that this relinquishment rule would, on average, deprive the industry of 20 to 25 per cent of gross income, a share that would belong to the Crown. ibid. p.24:15. This saving, then, would probably compensate somewhat for the introduction of the 25% Crown share.
it should be noted, because they enable governments to maximize control rather than revenue.\textsuperscript{255} Ottawa, in introducing Bill C-48 chose exactly that. The NDP opposed Bill C-48. The NDP’s dislike of the Act was due to the fact that the tax rates were much lower than those of the United Kingdom and Norway, which both had adopted concessionary systems.\textsuperscript{256} Ottawa’s adoption of a highly interventionist system demonstrates that the federal government emphasized control of development over and above economic rent.

The third variable refers to the industry’s response to the new tax and royalty regime. In industry submissions, there were few, if any, negative complaints about the new tax and royalty regime for the Canada Lands.\textsuperscript{257} This is somewhat remarkable when recalling the industry’s vociferous critique of Bill C-48.\textsuperscript{258} The industry’s submissions used unusually harsh language to express their apparent frustration with other aspects of this Bill.

An important variable which would affect not only the federal government’s revenue stream but also the rate of development, was the price of frontier oil.\textsuperscript{259} The initial NEP report, interestingly enough, did not establish a price structure for frontier oil. Since oil price regulation was entirely within Ottawa’s jurisdiction, an important strategic gain could be had from Ottawa not committing itself to establish any fixed frontier oil price structure. In leaving the price structure open, Ottawa could influence the industry’s decisions as to which sources of high-cost oil to develop first, as well as the magnitude of such development. The cost of such a strategy,

\textsuperscript{255} See EMR: Canada’s Energy Frontiers, (Ottawa: Minister of Supply and Services, 1985), pp.8-9.

\textsuperscript{256} See Memorandum from Ian Waddell to the NDP Caucus, Ottawa, May 7, 1981.

\textsuperscript{257} Complaints related to the overall thrust of the NEP rather than to the regime as set out in Bill C-48.

\textsuperscript{258} Chevron, although highly critical to the Act said nothing negative about the tax and fiscal regime. Submission entitled RESS-29 to the House of Commons, Standing Committee on National Resources and Public Works, 24-3-1981, pp.39A:1-15.

\textsuperscript{259} The NEP did not distinguish between frontier and non-frontier gas prices. The price of gas was tied to the blended price of oil.
however, was to produce considerable uncertainty in industry circles as to the exact effects of the tax and fiscal system in the Canada Lands. The later inclusion of frontier oil into the NORP scheme demonstrates that frontier oil was considered a high-price source of oil.

From the above, we find that Ottawa's main objective in introducing the new federal land management regime was not first and foremost to increase oil and gas development on the Canada Lands. Neither was Ottawa's prime objective to maximize economic rents. Instead, the prime purpose of the introduction of the new land management regime on the Canada Lands was to enable Ottawa to control the industry's access to oil and gas resources and the rate and location of oil and gas development, in order to attain its dual objective of self-sufficiency and a strong Canadian industry (both public and private) presence in these remote regions of the country. Ottawa, in introducing a strongly interventionist land management regime, calculated that although the introduction of this regime would offer considerable industry resistance over time, once established, the regime would enable Ottawa to increase the rate of development, in accordance with its own definition of when such an increase was needed. A vital mechanism in this calculation was a stepped-up Petro-Canada role. Further, by grooming a number of Canadian companies, such as Dome, as heirs apparent to the MNCs, Ottawa could ensure itself of a loyal and dependent industry segment that was sensitive to federal goals.

The structure of the Federal Land Management Regime

The new land management regime was based on a two-step rights allocation process. The first step consisted of the exploration agreement, and the second step constituted the production licence. The rights conferred on the holder of an exploration agreement were as follows:

The holder of an exploration agreement may enter on and use any lands

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260 Thus, Bill C-48 abolished the three-stage allocation process by no longer providing an instrument similar to the exploration licence (of COGL 1961 and COGL, 1977), and the exploration permit of Bill C-20.
described in the agreement for the purpose of exploring for oil or gas, has the exclusive right to drill for oil or gas and to develop the lands in order to produce oil or gas, and has the exclusive right, if he qualifies under section 19, to obtain a production licence.\textsuperscript{261}

Thus, the exploration agreement conferred upon the holder certain exclusive rights, including the \textit{right to drill}. The second step of the rights allocation process, the production licence, conferred upon the holder "the exclusive right to produce oil or gas from the lands under the licence."\textsuperscript{262}

In terms of the industry's access to land and oil and gas resources, Bill C-48 introduced a number of changes. The main variables to be discussed in terms of \textit{access} relate to the restrictions in the Bill for companies seeking to acquire an exploration agreement and a production licence; the tenure of exploration agreements and production licences; area size; the 25% Crown interest; transfer of interests; and rules regulating the conversion from exploration to production. The aspects of the Bill most relevant to the federal government's ability to \textit{control industry operations} refer to the work requirements specified in the Act and to the provisions relating to voting on the operating committees. This section, dealing with the structure and specific provisions of Bill C-48, will first address the federal government's ability to use Bill C-48 to control and regulate the industry's access to land and resources. Second, it will discuss Ottawa's ability to regulate the industry's operations by means of this Act.

The Bill introduced certain nationality requirements for companies seeking to obtain an exploration agreement and a production licence. The licensee, if an individual, had to be a Canadian citizen or a landed resident. If a corporation, the licensee had to be incorporated in Canada. In addition, in order to obtain a production licence, \textit{a minimum Canadian ownership rate of

\textsuperscript{261} Bill C-48, Section 9.

\textsuperscript{262} Bill C-48, Section 17.
fifty per cent was required.²⁶³ The Minister had the power to determine whether the COR-rate was sufficient. This ownership requirement applied to the aggregate COR-rate of the companies that took out the production licence. Therefore, it encouraged foreign-owned firms to enter into joint ventures with Canadian-owned companies. The 50% ownership requirement, it should be recalled, did not ensure Canadian-owned companies control over field development because the system allowed for a company composition in which the oil MNCs retained a majority role. In a hypothetical example presented by Waddell, Imperial would have a majority role even though the aggregate COR-rate was 51%.²⁶⁴ Thus, the legislation stopped short of depriving the oil MNCs of control over field development by direct means. Still, the combined effect of the Crown share provision being granted to Petro-Canada and the corporation using its PIP-grants and other funds to acquire acreage through farm-ins could enable Petro-Canada to acquire a majority share of certain fields.²⁶⁵ This is further confirmation of the legislation first and foremost favouring an increased public-sector presence rather than an increased Canadian private-sector presence in the Canada Lands.

In terms of the application procedure, the Bill provided the government with a range of new powers. First, the Minister was not bound to select any

²⁶³ Bill C-48, Section 19.(1)(a),(b). Crosby noted that this requirement applied to the right to produce, first and foremost, rather than to the licence. See statement by Dr. D.C.Crosby to the House of Commons, Standing Committee on National Resources and Public Works, 22-1-1981, p.18:14.

²⁶⁴ Waddell provides the following example where Imperial and Petro-Canada jointly develop a field. If Imperial’s share was 70 per cent and Petro-Canada’s 30 per cent, it would qualify for a production licence. This is the case because of the particular COR-rates of the two companies. House of Commons, Debates, Vol. 124, no.112, Thursday 11 December 1980.

²⁶⁵ Petro-Canada’s share of the Hibernia field was 25%. Its share of Ben Nevis, Hebron, Nautilus and South Tempest was also 25%. The corporation’s share of Terra Nova was 75%. Petro-Canada’s share of the total oil reserves from these fields was 40.8%. On the Scotian Shelf, Petro-Canada’s share of the Venture field was 30%, its share of Glenelg was 45% and its Alma share was 45%. Petro-Canada’s share of the estimated gas reserves in these fields was 37.5%. See Dominion Securities Pitfield: Petro-Canada, An Examination of its Position in the Canadian Oil Industry, September 29 1984, p.17.
proposal submitted.\textsuperscript{266} Thus, after considering the first round of bids, the Minister could send all bidders back to the drawing board to improve their bids. This provision in the Bill thus provided the Minister with considerable bargaining leverage, because concessions could be obtained in each round of negotiations with prospective bidders. Also, in the final round, since the Minister was neither required by the Act to select any of the bids submitted and had recourse to other avenues of land allocation, the Act provided a zealous Minister with a great opportunity for extracting important industry concessions. Further, the Bill enabled the Minister to enter into exploration agreements without calling for public tenders.\textsuperscript{267} Thus, the Minister could enter into private deals with individual companies, although the application of this ministerial power was circumscribed in the Bill.\textsuperscript{268}

The initial term of an exploration agreement was 5 years. An expired exploration agreement could be renegotiated for successive terms not exceeding 5 years each.\textsuperscript{269} The tenure of an exploration agreement was open-ended, because the legislation did not specify the number of renewals available. The renewal of an exploration agreement was no longer a matter of right but was subject to the Minister’s discretion.\textsuperscript{270} In its submission to the House of Commons, Standing Committee on National Resources and Public Works, the Canadian Petroleum Association claimed that since exploration agreements were not automatically renewed, the Minister could, in principle, refuse to grant a

\textsuperscript{266} COGA, Section 14.

\textsuperscript{267} Bill C-48, Section 12.

\textsuperscript{268} Section 12 specifies the criteria for its application which are in cases of limited land available, are due to the location of the land, or "to the need to act expeditiously".

\textsuperscript{269} Section 16. (1), (2), (3). See also statement by Dr. D.C.Crosby to the House of Commons, Standing Committee on National Resources and Public Works, 22-1-1981, p.18:1.

\textsuperscript{270} Section 16. (1) of Bill C-48 states that "failing such renegotiation the lands under the exploration agreement, subject to subsection (3) and section 66, are deemed to be surrendered and become Crown reserve lands."
The tenure of a production licence was 10 years. In the old regulations the initial term had been 21 years. The holder of a production licence could renew it for successive terms subject to field productive capacity and COR requirements. Since the productive period of a field is normally around 20 years, the holders of a production licence were required to apply for a renewal when the field was producing at full capacity. By limiting the initial industry tenure at both the exploration and production stages, and specifying certain criteria for renewals, Bill C-48 provided the relevant Minister with the legislative base for increased control over the industry’s operations. This applies in particular to the production stage.

With regard to the area size available to the industry, Bill C-48 introduced the concept of a 25% Crown share and therefore reduced the overall area and potential resources available to the industry by up to 25%. The Crown share concept applied to all the Canada Lands, including existing rights, with one very minor exception. The Crown share, it should be recalled, was a percentage interest and as such did not refer to any one specific piece of land. In this sense the new Crown share concept resembles the one introduced in the COGL of 1977. Yet, the new Crown share was of universal application whereas the 1977 back-in only applied to some areas. Bill C-48 also differs from the COGL of 1977 in that the Crown share was not automatically assigned.

271 See submission by the CPA to the House of Commons, Standing Committee on National Resources and Public Works, 26-3-1981, p.40A:4. The CPA was referring to Section 18 of Bill C-48.

272 Bill C-48, Section 25(1) and (2).

273 Section 28 states that: "No Crown share vests in respect of a former lease under which oil or gas was first produced, other than for test purposes, on or before January 1, 1976 or in respect of any interest that succeeds that former lease." This effectively only applied to the Norman Wells oilfield, operated by Imperial.

274 The 1977 Back-in applied only to the old rights structure. Further, as noted in part III, the size or magnitude of the back-in was contingent upon the behaviour of the private-sector companies, whereas the carried interest concept introduced in Bill C-48 was universal and was not related to industry performance.
to Petro-Canada, but to whichever Crown corporation that the Minister chose to designate. The 25% Crown share was a so-called "carried interest" which means that the Crown would not pay its share of exploration expenses until the Crown share was converted into a working interest. The legislation gave whomever the Minister had designated as agent of the Crown the right to determine when to convert the interest, prior to the production stage. Such a conversion had to take place at the latest 30 days after the Minister's declaration of intent to authorize a production system for the relevant areas. The elimination of corridor lands was intended to compensate somewhat for the introduction of the universal Crown share concept. The PIP-grants were considered as another form of compensation for the carried interest concept.

The Act also significantly increased the federal government's ability to regulate the transfer of interests, or farm-ins and farm-outs. The industry had strong objections against this because it reduced the flexibility of industry operations.

The final aspect of access regulation to be addressed is the federal government's regulation of the conversion from exploration to production. The key instruments here were the declarations of significant and commercial discovery.

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275 The legislation specifically designated the Crown share to a Crown corporation. See Bill C-48, Section 30.

276 Section 33.(2) of Bill C-48 states that "Neither Her Majesty in right of Canada nor any designated Crown corporation to which the Crown share may be transferred under this Act is liable for any expense incurred prior to the conversion under subsection (1) in relation to the exploration for oil or gas on any relevant Canada lands or the development of those lands in order to produce oil or gas." See also Kenneth Dam for the carried interest concept.

277 If the conversion took place when entering the production stage, in principle, the Crown would not pay any exploration expenses occurred.

278 See Section 33.(1)

279 As will be recalled, the PIP applied to all explorers at the rate of 25%.

280 Apart from ensuring itself of control over the transfers of land, Ottawa's rationale for such tight control was linked to the structure of the PIP-grant system. Without tight control over transfers of interest, a significant "leakage" of PIP-funds could occur.
A production licence was granted subject to the declaration of a commercial discovery. The area covered by a production licence was limited to the extent of the commercial discovery. The area could be expanded if the Minister was satisfied that it formed part of the productive area at the time the application for the licence or renewal was made.\textsuperscript{281} If the minister decided the lands could not be included in the production licence, they would become Crown reserves.\textsuperscript{282} Thus, it was up to the Minister to decide what constituted a productive field.

The Act provided the federal government with considerable powers to control the operations of the oil and gas industry. First, Bill C-48 enabled the Minister in certain cases to order production to commence.

Second, Section 38(1) of the Bill enabled the Minister to designate Petro-Canada or another Crown corporation to act as operator of the lands in question. Such an order would apply whether an operating agreement was in force or not.\textsuperscript{283} This clause provided Ottawa with considerable potential influence over future petroleum developments because Section 39 of the Act gave Petro-Canada or any designated Crown corporation participation rights and the right to vote in every operating committee that the relevant corporation was in. The general application of the Crown share concept enabled Ottawa, through Petro-Canada or any other designated Crown agent, not only to participate but also to vote in every operating committee on Canada Lands.\textsuperscript{284} In this way, Ottawa, through its various agents, could wield considerable influence on the specifics of field development and oil and gas development in general in the Canada Lands. It is worth noting that if the Crown share had been doubled, and voting

\textsuperscript{281} Bill C-48, Section 24(1)

\textsuperscript{282} Bill C-48, Section 24(2) and (3)

\textsuperscript{283} Bill C-48, Section 38(1), (2) and (3) Where an operating agreement was in force, Petro-Canada would replace the existing operator.

\textsuperscript{284} This applied whether the Crown share had been converted or not.
rights were accorded on a straight percentage basis, Ottawa could, in principle, have determined the nature and direction of all development in the Canada Lands.\(^{285}\) The right to participate and vote extended to the cases in which the Crown share had not been converted to a working share. Thus, the holder of the Crown share could affect projects in which it itself had no financial investment.\(^{286}\) To the extent that Petro-Canada became the Crown’s designated agent, these regulations entailed a vastly expanded role for Petro-Canada in the Canada Lands.

The third aspect of the legislation that enabled the federal government to increase its control over industry operations relates to industry work requirements. The terms of the exploration agreement were specified in the legislation in the following manner:

An exploration agreement shall require the holder to complete specified work programs within specified periods, leading to and including the drilling of one or more wells within the terms of the agreement, and may provide for any other relevant matter including
(a) the effective date and term of the agreement and any rental payable;
(b) payment, disposition and return of deposits;
(c) reporting/disclosure of information;
(d) equity participation by Canadians and government participation; and
(e) surrender, cancellation and transfer of interests under the agreement.\(^{287}\)

In the exploration agreement introduced in Bill C-48, an important distinction between fixed and variable terms was introduced. From the above quote, we find that apart from the drilling requirement, all other conditions were subject to the Minister’s discretion. As already pointed out, this includes the tenure of the exploration agreement. The introduction in Bill C-48 of firm drilling requirements represents an important break with the past, because at no time prior to the introduction of Bill C-48 had this been an explicit requirement. Hunt notes that:

The essence of the E.A. system ... is one in which almost total

\(^{285}\) The Norwegian system entitled the state to a majority voting share in fields developed after 1974 and therefore a dominant say in field developments etc. See St.Meld.30, 1973-74.

\(^{286}\) See Palmer in Fry, op.cit. p.117.

\(^{287}\) Source: Bill C-48, Section 10(2). Author’s emphasis.
discretion is given to the Crown in determining both the rights and obligations of the interest holder.\textsuperscript{288}

The flexibility and large amount of ministerial power form the very essence of the concession system. This system enables decision-makers to alter the terms of industry operations from one part of the Canada Lands to another and over time. The system is therefore sufficiently flexible to enable decision-makers to alter the terms of industry operations without changing the nature and structure of the regulations. The flexibility inherent in the Act filled the industry with fears of possible differential treatment and arbitrariness in administration and implementation of the Act.

Since Bill C-48 was designed to establish a new regime and the legislation provided few guidelines for the specific operation of the regime, the actual responsibility for achieving the government's objectives often came to rest with the administrators. Administration of the new regime was the prime responsibility of the newly established Canada Oil and Gas Lands Administration (COGLA).

The Administration Of The New Land Management Regime

The introduction of the NEP with Bill C-48 and PIP led to the creation of considerably more administrative capacity in Ottawa. Although Bill C-48 provided the federal state with a much larger presence, it was only one part of the new management regime. A new agency was set up to administer Bill C-48. This agency, which was termed the Canada Oil and Gas Lands Administration and which has no basis in any legal statute, emerged as a result of a memorandum of understanding between EMR and DIAND signed in December 1981. COGLA was intended as an independent agency with the following mandate:

COGLA's prime responsibility is to regulate the exploration for and the development and production of oil and gas on Canada's frontier lands in

a manner that ensures safety of the worker, effective resource conservation, protection of the environment and full and fair access by Canadians to the benefits arising from the development of hydrocarbon resources.\textsuperscript{289}

The basic rationale for creating COGLA was the perceived need to gather all the relevant oil and gas land management expertise in EMR and DIAND together in order to avoid overlaps and duplication of services. Prior to this, both departments had considerable expertise that managed their respective areas. COGLA succeeded in bringing this expertise together in one agency. The agency grew rapidly in size to approximately 230 persons.

A second reason for the establishment of COGLA relates to the different land management philosophies and practices of the two federal departments, EMR and DIAND. Such a split had gradually emerged from around 1974. The industry was clearly interested in a uniform and consistent land management regime for all the Canada Lands. This concern gained importance as the industry actors were increasingly the same operating in all parts of the Canada Lands. The establishment of COGLA thus can be considered a step in the direction of creating a more homogeneous and standardized land management regime. COGLA, although an independent agency, clearly represented EMR’s philosophy and land management practices. Although attempts were made to reconcile these differences, and the establishment of the Policy Review Committee was a case in point, the agency never escaped this bias.

Industry Reaction To Bill C-48

In terms of Bill C-48, the industry reacted to three major aspects of the Bill. First, the 25% Crown share concept evoked strong industry reaction. The industry considered this a form of expropriation. Imperial’s chairman Jack Armstrong noted that:

\begin{quotation}
\textsuperscript{289} See COGLA: \textit{Annual Report 1986}, first page.
\end{quotation}
Although Imperial supports many of the changes included in Bill C-48, we are concerned about some of the aspects of the bill. We are particularly concerned about the clauses of the bill which vest in the Crown a 25 per cent interest in Canada lands under permit, lease or agreement. At present, the industry is operating under regulations that already provide Petro-Canada with the right to "back-in" on permits held by private companies. To add to this existing "back-in" provision the right to exercise a further 25 per cent interest, as proposed by Bill C-48, truly amounts to "double-dipping."²⁹⁰

The industry reacted not only against the retroactive nature of this provision but also against the fact that it could alter contractual arrangements. Thompson notes that:

Any operating or like agreement in force at the time of the transfer had to be varied to provide for the new shareholder. Additionally, the Minister had the authority to name Petro-Canada as the operator of the interest. Therefore, the Minister was once again empowered, under the Act, to alter contractual relationships between private parties.²⁹¹

As Thompson notes, the legislation enabled the federal government to enlarge its share and alter the operations of the industry, even by interfering with contractual agreements between private parties.

Second, the industry reacted to the very large amount of ministerial discretion inherent in Bill C-48. Thompson identifies two aspects of this as particularly offensive to the industry. The oil and gas industry was highly critical of the process of negotiating an exploration agreement. Since the Minister was not required by the Act to state the criteria that would be used in selecting bids, "the process of negotiating an exploration agreement came to be characterized as discriminatory, non-competitive, and uncertain".²⁹² The outcome of this process, it seemed, would depend on the role played by the

²⁹⁰ See statement by Mr. Jack Armstrong, Chairman and CEO of Imperial Oil Ltd to the House of Commons, Standing Committee on National Resources and Public Works, 17-2-1981, p.27:1-2 The COGL of 1977 differed from COGA because while the 1977 regulations granted the 25% back-in to Petro-Canada, Bill C-48 introduced a Crown share which could be granted to whomever the Crown chose to designate. Therefore it would only be double-dipping if the Crown decided to designate Petro-Canada as its agent.


²⁹² Thompson, ibid. p.3-29.
administrators of the Act. COGLA officials emphasized that they sought to treat all industry players equally, in order to avoid this kind of criticism. This is also confirmed by the following example, provided by Doern and Toner:

Mobil steadfastly refused offers, principally from Petro-Canada, for farm-ins that would delineate Hebron and Ben Nevis. Petro-Canada pressured COGLA to force the pace, but COGLA refused. Petro-Canada took the view that COGLA's job was precisely to force the pace. COGLA's refusal could be attributed to any number of reasons, especially given the then strong U.S. criticism of the NEP; greater trust in Mobil's expertise; and a desire to use the COGLA lever to keep Petro-Canada "in its place" given that its entree into other aspects of the NEP had given it more than its share of NEP largesse. In the final analysis, senior COGLA officials saw their role as brokers rather than "musclers" of the industry.

The industry also reacted strongly against the powers granted the Minister to issue drilling and production orders. The power to issue drilling orders was a function of a declaration of a significant or commercial discovery. Following the declaration of a significant discovery the Minister was empowered to order the drilling of up to three wells in the significant discovery area within one year of the order. The industry objected to this aspect of ministerial power both because it felt the definition of significant discovery was too broad and because it resented the drilling provisions. The industry's objection thus referred to the notion of the government setting the pace of frontier exploration and development, not economic concerns or industry interests. Thompson concludes, in terms of the drilling and production orders:

Obviously, the intention of these provisions was to hasten the pace of exploration and development. In practice, however, it was possible that they could discourage development if an interest holder was not prepared to commit to a more extensive drilling program. A further production inhibitor could also be found in the provisions that authorized the Minister, subject to a review procedure, to order any interest holder who the Minister felt was capable of commencing petroleum production, to commence production in specified quantities, and to deliver it to specified persons at specified times, places, and prices, for use in

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293 Interview with COGLA officials, March, 1988.

294 Doern and Toner, op.cit. pp.413

295 Chevron in its submission noted that the definition of a significant discovery was so broad that the minister could declare any discovery no matter how small, a significant discovery. No reference was made to the economics of the field or to the costs of drilling the wells. See "RESS-29 to the House of Commons, Standing Committee on National Resources and Public Works, 24-3-1981, p.39A:10."
This demonstrates not only how difficult it was for the federal government to devise a regulatory framework consistent with federal objectives. It also reveals the problems facing governments that seek to increase industry activity levels by means of state intervention. It is widely recognized that states can much more easily devise intervention to restrict industry activities and production levels than it can increase these. Any attempt to increase activities is ultimately dependent on the cooperation of the industry.

The third industry complaint related to the Canadian ownership requirements in the Act, and specifically to production licences. If a consortium applied for a production licence and did not have a COR-rate of 50, the share of the production licence equal to the difference between the 50% and the actual COR rate of the licensees (potential or actual), would be transferred to the Crown. This applied to the COR-rate before a licence had been granted and when a licence was in force, as well. The provision also applied to companies with a COR-rate of 100% and affected private-sector Canadian and foreign companies, alike. At this stage, an increased Crown share would mean the Crown acquiring additional oil/gas reserves, because the 50% COR-rate provision applied to potentially or actually producing fields. The rights holders therefore viewed this as another imposition upon their contractual rights. This can be countered by noting that the legislation simply placed the onus upon the companies to make sure that the COR-rate was sufficiently high. However, the fact that companies normally operated in partnerships means that the other companies had to deal with whatever problems would occur if a partner suddenly withdrew.

In May 1981 the federal government announced modifications to the proposed Canada Oil and Gas Act after it had been introduced in Parliament in

296 Thompson, A.R., op.cit. p.3-30.

297 The tenure of a production licence was only 10 years which meant that Ottawa at the least could review the COR-rates prior to granting companies a renewal.
December 1980. The main changes related to the 25% Crown back-in provisions on all production licenses issued for the Canada Lands. The original proposals did not provide for any payment by the Crown for the acquisition of such production rights. The new proposals provided for a payment, to be determined in relation to the exploration expenditures incurred by the private firms. Other changes included modifications in the progressive incremental royalty (PIR).298

Summing up this section on the federal land management regime, the following three conclusions emerge. First, the new federal land management regime was intended to ensure federal control rather than maximize federal revenues. Second, the Crown share concept and the power assigned the minister to introduce and reinforce nationality requirements, deny companies access, favour certain companies, and determine the criteria under which the industry was to operate, demonstrate clearly that the thrust of Ottawa's intervention was to increase federal control over industry access and industry operations rather than private Canadian access and control. The case of Bill C-48 therefore militates against Pratt's contention of the NEP as primarily favouring private Canadian capital.299 Third, the legislation provided Ottawa with a vastly increased measure of control as compared with the previous regulations. Finally, the legislation placed the areas under federal control under a much more stringent regulatory regime than existed in the remainder of Canada. This fact and the uncertainty relating to the resource base in the Canada Lands rendered this regime very vulnerable to market changes and industry actions. Doern and Toner attribute much of this to what they term the demand-driven nature of the NEP. The higher the level of development desired by Ottawa the more vulnerable would Ottawa be to demands for concessions and alterations in the regime. Ottawa's own priorities, fuelled by the nature of the federal-provincial conflict, therefore could undermine much of the efforts

298 Source: Plourde, (1986), p.177

299 Pratt, Energy, op.cit., p.29 and 57.
made by Ottawa to tighten its grip on industry operations and ensure an adequate level of development.

PETRO-CANADA

The NEP affirmed the Liberal government’s commitment to retain and significantly strengthen Petro-Canada as an instrument of federal energy policy. Petro-Canada, in the context of the NEP, was portrayed as one of the main instruments of Ottawa’s Canadianization program. Although Petro-Canada since its inception had been depicted as a vehicle for Canadianizing the oil industry, the corporation had essentially functioned as a resource developer. Within the framework of the NEP, Petro-Canada had to combine or rather reconcile its historical role as a vehicle for energy development with a greatly expanded role in Canadianizing the oil and gas industry. Canadianization had become both a vital federal objective in itself, as well as an important aspect of security of supply. From a political perspective, the NEP’s Canadianization thrust represented a much stronger and more focused challenge to the dominant role of the oil MNCs than any other energy policy Ottawa had formulated. It was through its Canadianization function, first and foremost, that Petro-Canada could be used as a powerful instrument for Ottawa to reduce the power and influence of the oil and gas industry.

In the overall context of federal energy policy, and Ottawa’s concern with establishing itself as a producing government, Petro-Canada’s central Canada Lands role in the NEP can also be viewed as an act of ‘policy

Prior to the NEP the thrust of Ottawa’s program of Canadianization had focused on control over land and oil and gas resources rather than on control over companies. The NEP on the other hand spanned a much wider range of objectives relating to Canadianization.

See Part Four, Chapter Eleven for this. Also clearly stated in the NEP.
mobilization' in that the corporation was pulled into and was used as a means in the ongoing federal-provincial conflicts. Further, Ottawa's increased ability in the NEP to regulate the industry's activities in the Canada Lands also meant that it could control Petro-Canada's activities more closely than before. Thus the NEP's highly interventionist thrust also had the effect of reducing the likelihood of Petro-Canada escaping federal control.

While the NEP sought to expand Petro-Canada's mandate, the analysis of the operations of Petro-Canada will reveal that it still acted first and foremost as a resource developer in Canada. In so doing, Petro-Canada went beyond its designated role as window and catalyst. It not only promoted rapid frontier development, it also lobbied for the subsequent export of Canada's gas and oil resources. Thus, the corporation jeopardized the federal government's objective of self-sufficiency and a federally controlled rate of resource development in Canada. The reasons for this stemmed from the inner dynamics and needs of the corporation and even more from the changing priorities and pressures facing the federal government in the period 1980-84. Ottawa's industrial strategy which neatly combined energy development and Canadianization collapsed amidst the dual pressures of falling oil prices and economic recession. The world-wide economic recession that struck Canada was closely linked with rapidly increasing oil prices. (The recession helped create oil gluts and drive oil prices down again). The federal government's priority when faced with the economic downturn in 1981 was to combat the recession by reducing the triple evils of inflation, unemployment, and a rapidly mounting federal deficit. Petro-Canada's downstream and increased bottom-line orientation were consistent with this, because Petro-Canada would become less dependent on federal funds, increase its ability to finance projects out of its own internally generated funds, and spur frontier development.

Petro-Canada's emphasis on developing the frontiers was also a product of the NEP's thrust to render Ottawa less dependent on Alberta's oil and gas resources. Alberta, in responding to the NEP, reduced oil production and
refused to approve two tar sands plants. From Ottawa’s perspective, the provincial actions severely constrained the federal government’s ability to influence future supply options in Canada and made the frontiers much more important in Canada’s medium term or even short term energy future.

Petro-Canada clearly experienced the pressures from the ongoing federal-provincial conflicts, and the corporation’s actions and priorities were clearly influenced by this. Partly independent of, and partly in response to the conflictual nature of federal-provincial relations, Petro-Canada stressed bottom-line considerations and rapid frontier development. Thus, the corporation almost inadvertently adopted objectives and priorities that were incompatible with Ottawa’s initial objective of controlling the rate of development.

The NEP’s view of world oil market developments increasingly fell out of step with events as the economic recession hit Canada. One obvious victim was important parts of Ottawa’s Canadianization program. Declining world oil prices, Ottawa’s shifting priorities, the federal-provincial struggle, and Petro-Canada pursuing its own corporate interests served to undermine Ottawa’s objective of long-term self-sufficiency through a regulated rate of development.

The NEP and Petro-Canada’s Objectives

Energy Minister Lalonde, in introducing Bill C-101, An Act to Amend the Petro-Canada Act to the House of Commons in 1982, emphasized four objectives of Petro-Canada in Canada’s energy future. These were first, to secure Canada’s energy future by finding and developing major new sources of oil and gas in Canada. Second, Petro-Canada was intended to encourage the oil and gas industry to explore and develop the Canada Lands.

Third, the corporation would encourage increased Canadian involvement in oil and gas development, in particular in the frontier regions. The Energy Minister’s depiction of this aspect of Petro-Canada’s role was somewhat more
limited than the description in the NEP. As noted in the NEP document, Petro-Canada was touted as an important instrument in the federal government’s Canadianization program. Petro-Canada could be used as a vehicle for ensuring that the three most central aspects of the federal government’s goal of Canadianization would be carried out. As the federal government’s inroad into the energy sector, Petro-Canada was intended to serve as the prime vehicle for the expansion of public-sector involvement in the oil and gas sector through the acquisition of "several of the large oil and gas firms". This function was not solely assigned to Petro-Canada, however. The establishment of the Canadian Ownership Account which was levied on oil and gas consumption would be used solely to finance such increased public sector ownership. The $5.5 billion increase in Petro-Canada’s capitalization provided a second source of funds for acquisitions.

Petro-Canada was also intended to function as a vehicle for encouraging Canadian participation. Petro-Canada, as a wholly-owned Canadian enterprise qualified for maximum PIP-grants and was therefore an attractive partner for companies with lower COR-rates. The federal government’s increased ability to regulate transfers of interest among industry players indirectly benefitted Petro-Canada because Ottawa would hardly discriminate against the corporation, and Petro-Canada had considerable ability to finance joint venture projects.

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302 The Energy Minister’s comments cannot be taken as adequate evidence of a reduced federal commitment to Canadianization. Too often studies take statements by officials and decision-makers to indicate proof of intent and results without properly examining structural and operational manifestations of such alleged purposes. A case in point is the allegation by Halpern et al. that it was Petro-Canada itself that initiated the moves to become vertically integrated. See Halpern et al. op.cit., p.1.

303 See NEP, pp. 48-52

304 ibid., p.51.

305 ibid. p.52.


307 Bill C-48 introduced strict rules for transfer of interest.
Petro-Canada, through acquisitions of existing companies, farm-ins with foreign-owned majors and by means of the 25% back-in right, could also be used to increase the federal government's control over and revenue from a significant portion of Canada's future resources of oil and gas. The generous PIP-grants provided the corporation with another mechanism that could be used to enhance Petro-Canada's landholding position. Petro-Canada, therefore, must be viewed as a vital instrument in Ottawa's transformation, begun in 1973, from passive landlord to active developer and entrepreneur of Canada's oil and gas resources. The combination of landlord-entrepreneur meant that Ottawa could use Petro-Canada to compensate for possible weaknesses in the land management regime and vice versa. Clearly, the step from passive landlord to active landlord-entrepreneur entailed a qualitative change in the state's role and influence in the energy sector, as a number of official documents and academic studies in various countries have revealed.

The fourth and final objective of Petro-Canada listed by Energy Minister Lalonde was:

to provide Canadians with a significant and direct stake in the development of their oil and gas resources.... Although its spending in the frontier region is not expected to yield significant amounts of revenue until the latter part of this decade, Petro-Canada is facing the high risks of these frontier investments, knowing that when the time comes it will have the experience and talent, to the benefit of all Canadians, to develop the huge oil and gas reserves.

The energy minister stressed the importance of Petro-Canada as a vehicle in proving up Canada's "huge" frontier resources. Less was said about the specific rate at which these resources were to be developed. Since the Canada Lands were relatively unexplored it was probably not necessary for the minister to pinpoint where Petro-Canada's efforts had to be concentrated for the corporation to constitute a "window on Canada's resource base". An important difference exists between this aspect of the corporation's window role, which amongst other things was related to the mapping of Canada's oil and gas

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resource base, and the corporation as resource developer. Petro-Canada was both intended to prove up commercial deposits of oil and gas in the Canada Lands and help undertake a more comprehensive mapping of the entire Canadian oil and gas resource base. Petro-Canada acting as a catalyst, on the other hand, was related to its window on the resource base role in the sense that Petro-Canada could encourage industry efforts by exploring areas that the industry would not otherwise have explored. But the corporation acting as a catalyst could also lead to rapid development of Canada’s frontier resources because the industry would not undertake much work unless rapid payback through development would result. When Petro-Canada participated with private-sector oil companies in the proving up of Canada’s most attractive frontier deposits, a strong temptation existed to promote rapid production of whatever reserves were proven up. But this could limit Ottawa’s future options of which resources and where to develop. An important part of the corporation’s “window” role had been to assist Ottawa in expanding the scope of future energy supply options. Petro-Canada’s role increasingly became one of spokesman for the rapid development of the frontiers rather than mapping Canada’s resource base. Further, Petro-Canada also lobbied for increased exports of natural gas, which also helped undermine Ottawa’s commitment to self-sufficiency within the context of a

310 Source: Pratt, Petro-Canada, op.cit. p.128.

311 Petro-Canada’s window role was to provide the government with its views and information. A U.S. Government study on Petro-Canada defined its window role as follows: "The Government frequently seeks the company’s viewpoint because of its practical experience and its technical expertise, and because Petro-Canada is more forthcoming and cooperative than are many private firms. Petro-Canada has access to technical information, the ability to assess and interpret this information, and the ability to educate policymakers who normally would have little understanding of technical matters and their implications. The importance of this function in the decision-making process is evident." See U.S. GAO: Petro-Canada, op.cit. pp.19-20.

312 Clearly, we are here talking about a very fine line for Petro-Canada to walk, because if the corporation operated as a window in the true sense, it would come up with many dry holes and considerable pressure for increased federal funds. And, if Petro-Canada was not active in the most attractive areas, the corporation would not be able to challenge the dominant land-holding position of the oil MNCs. But there is an important analytical and practical political distinction between a Crown corporation acting as an agent for mapping Canada’s energy resources on the one hand, and a Crown corporation promoting development and exports on the other.
national market.\(^{313}\)

The basic thrust of the minister's remarks was Petro-Canada's role in exploring for and developing oil and gas in the Canada Lands. All four objectives listed above touched upon this aspect of Petro-Canada's role. Energy Minister Lalonde, even more than his predecessors, emphasized Petro-Canada's role in the geographical frontiers. The Energy Minister said nothing about the corporation's role in developing (conventional and synthetic) oil and natural gas from the provinces. State-to-state deals, which had been considered an important function for Petro-Canada earlier, were not emphasized in the context of the NEP.\(^ {314}\)

The NEP also included a number of related objectives for Petro-Canada. These were clearly subsidiary goals that had been added onto the corporation's mandate. These new policy roles would not alter the basic thrust of the corporation's field and scope of operations. The first of these subsidiary themes was Petro-Canada's role in developing renewable energy resources and enhancing conservation measures. Bill C-101 provided for the establishment of a new subsidiary of Petro-Canada, Canertech. Energy Minister Lalonde characterized the role of Canertech as follows:

Based in Winnipeg, Canertech is dedicated to helping commercialize conservation and renewable energy technologies. There are three ways that this mandate can be carried out: first, Canertech can invest in or participate in joint ventures involved in demonstration, production, distribution and marketing. Second, it can take a leading role in producing, distributing and marketing these technologies. And third, the Crown corporation can engage in research and development projects.

Canertech can promote real progress in meeting public policy objectives in conservation and renewable energy. In this regard, it will act as a catalyst and provide management and financial assistance to an infant Canadian industry that is in many cases hampered by the lack of managerial or financial strength.\(^ {315}\)

Canertech's original capitalization was $20 million and Bill C-101 provided the corporation with an additional $35 million.


Second, Petro-Canada was, within the context of the NEP, perceived as a vehicle for helping developing countries exploit their energy resources. Bill C-101 provided for the establishment of Petro-Canada International Assistance Corporation as a wholly-owned subsidiary of Petro-Canada. This subsidiary was created to fulfil Canada’s commitment to assist developing countries in becoming less dependent on costly imported oil. Energy Minister Lalonde noted, in terms of this measure:

The subsidiary is to provide various forms of assistance to developing countries, including, for instance, participation in oil and gas exploration in these countries and studies and preliminary studies on oil and gas exploration. Finally, Petro-Canada will be able to provide technical assistance and training in the exploration, development and production of oil and gas.316

Petro-Canada International Assistance Corporation could be viewed as another means of reducing the importance of OPEC and the oil MNCs, by Canada providing developing countries with direct assistance and expertise in the development of discovered and undiscovered oil and gas resources. Yet, Petro-Canada’s role here was very limited. The projects that were undertaken between Petro-Canada International Assistance Corporation and developing countries were all financed by the federal government as part of its commitment to aid developing countries. Petro-Canada’s role was that of a contract service operator, and Petro-Canada neither funded projects nor did the corporation benefit economically from them.317

The NEP thus provided for an extended role for Petro-Canada. From having been primarily involved with upstream oil and gas development, the corporation was now also to be used as a vehicle for interfuel substitution and energy conservation. Petro-Canada had taken a number of steps prior to the introduction of the NEP, through its acquisitions of retail outlets and refineries, to become vertically integrated. Bill C-101 provided for Petro-Canada to expand its operations horizontally as well. Further, the NEP and its

316 ibid. p.16208.
implementing legislation provided for a larger international presence of Petro-
Canada. The increased role of Petro-Canada all pointed to measures to reduce
the domestic and international importance of OPEC and the oil MNCs.

The stepped-up federal involvement in Canadianizing the oil and gas
industry forced Petro-Canada to seek to achieve a balance between its
Canadianization and self-sufficiency functions in the context of the NEP. Pratt
contends that these two prime objectives of Petro-Canada could undermine Petro-
Canada’s commercial viability by requiring the corporation to perform numerous
and often conflicting roles.318 His argument is that the NEP’s requirement for
Petro-Canada to increase the spin-offs of oil and gas development to Canadian
industry made Petro-Canada act as an instrument of Ottawa’s regional
development policies and programs, rather than as a resource developer. The
effects of this would be to increase the number of political masters to which
Petro-Canada had to cater and therefore confuse the pattern of corporate
accountability and control. Also, if carried far enough, Pratt mused, it could
alter the nature of the corporation from an energy company to a company
primarily concerned with regional development.

Ottawa’s commitment to large-scale and high-cost energy projects, it
should be noted, stemmed from Ottawa’s dual concern with Canadian benefits and
security of supply. Ottawa clearly equated the two objectives in its mega-
project strategy, whereas Pratt and most economists have tended to view them
as separate. Pratt’s main concern, however, was with the threat to the
corporation’s financial viability because, according to Pratt, the corporation
would not itself be allowed to determine whether to pursue such projects or
not. Further, once involved, it would not be easy for Petro-Canada to walk away
from such projects should they prove to be financial liabilities. This made
Pratt argue for more corporate autonomy for the corporation in its dealings
with the federal government.

318 Pratt, Petro-Canada: Tool for Energy Security or Instrument of Economic
Development, op.cit., p.105.
It will be argued here that Pratt overstated his case for goal-conflict between the two goals of Canadianization and self-sufficiency. The reasons for this must be found not in Petro-Canada's actions but instead in important changes in the context within which the corporation was operating. This became apparent when Energy Minister Lalonde, in introducing Bill C-101, down-played the Canadianization thrust of Petro-Canada and instead emphasized Petro-Canada's role as frontier developer. Further evidence for this is found in the following developments, all of which were beyond Petro-Canada's control. First, Ottawa increasingly played down its emphasis on increased public sector expansion, especially in the upstream. In his budget speech 1982, the Minister of Finance noted that:

(W)e are ahead of our Canadianization goals. The 50-per-cent target for 1990 remains, but we do not need, and do not intend, to press the pace of Canadianization of foreign holdings in the years immediately ahead.\(^{319}\)

From this we note that Ottawa had postponed, or at least scaled down, its commitment to Canadianize the oil and gas industry. Further, since Petro-Canada was not given the right to expropriate companies, it had to take over companies that were for sale. This limited the overall number of eligible companies to be acquired. Also, Petro-Canada had to pay fair market value for the companies it acquired, which in itself limited the number of eligible takeover candidates. As the financial conditions worsened, it was becoming increasingly unlikely that Ottawa would be willing to channel public funds into Petro-Canada.

Second, Canadian Ownership Account funds were also, at a later stage, channelled into the federal government's general revenues rather than earmarked for Petro-Canada's expansion.\(^{320}\) This confirms Ottawa's increased reluctance to channel public funds into Petro-Canada. The Finance Minister noted in his 1983 Budget Speech:


\(^{320}\) In September 1982, Ottawa decided to apply the levy to the proposed $500 million Dome bail-out package. Toronto Star, March 12, 1983, p.D8.
The Canadian Ownership Special Charge has already made a sizeable contribution to increasing public ownership in the oil and gas industry. The government remains strongly committed to the objective of oil self-sufficiency through raising Canadian ownership of oil and gas resources by increasing exploration and development of new reserves. It is the government's intention to maintain the Canadian Ownership Special Charge at its current level and use the revenues in support of this objective.\(^{321}\)

The Minister of Finance altered the application of these funds from being earmarked for acquisitions of existing companies to funding resource development. Thus, the funds from the COSC could now also for instance be used to finance PIP-grants.\(^{322}\)

Third, a number of megaprojects were scrapped in 1981 and 1982. Alberta in its response to the introduction of the NEP, decided to keep the approval of two tar sands plants in abeyance. Alberta's decision and the subsequent recession made the oil industry players involved scrap these projects.\(^{323}\) This chain of events reduced significantly the importance of Petro-Canada's spin-off role.

Fourth, Petro-Canada, although increasing its participation with Canadian companies, continued to participate with oil MNCs as well.\(^{324}\)

In sum, Ottawa's concern with Canadianization had to compete with a number of other concerns facing Ottawa. The relative down-playing of Ottawa's Canadianization objectives clearly affected Petro-Canada's role. Therefore,

\(^{321}\) Minister of Finance: Budget Speech, 1983, p. ...

\(^{322}\) Doern and Toner note that by 1984 these funds were channelled into Ottawa's general revenues. See Doern and Toner, (1985) op.cit. p.391.

\(^{323}\) On July 8, 1981, Imperial announced that the $12 billion Cold Lake Oil Sands project was to be shelved. Following the decision by Amoco and Chevron in January 1982 to withdraw from the Alsands consortium, on April 30, 1982 this $13 billion project was cancelled. See CPA Review, August 1981, vol.5, No.08, p.3.

\(^{324}\) On the Grand Banks, Petro-Canada farmed into Mobil's Ben Nevis permits and enabled a number of Canadian-owned companies such as Bow Valley, Husky and Canterra to farm-in on its acreage. On the Scotian Shelf Petro-Canada participated with Mobil at Venture and Shell on Glenelg. In the Mackenzie Delta/Beaufort Sea, Petro-Canada worked together with Imperial Oil. Although Petro-Canada operated with both MNCs and Canadian-owned companies, Petro-Canada's most important partners undoubtedly were the oil MNCs.
Petro-Canada became less of a challenge to the industry than had been intended in the NEP and which was shown in Ottawa’s policies towards Petro-Canada. Petro-Canada had been assigned other policy functions that could reduce the power of the oil MNCs. One such function was Petro-Canada’s window role. As a measure for evaluating Canada’s oil and gas resources, the corporation could improve Ottawa’s ability to regulate the rate and location of oil and gas development in Canada, a role which clearly conflicted with the industry’s interests. Petro-Canada’s lobbying for rapid development of the frontiers would reduce Ottawa’s ability to make such decisions and generate tremendous pressures for exports, thus end up serving the industry’s interest. An overly rapid development of the frontiers would most likely jeopardize Canada’s long-term self-sufficiency. Therefore, if Petro-Canada promoted rapid frontier production and export, the corporation would promote its own corporate interest and that of the industry rather than promoting Ottawa’s initial objective of controlling oil and gas development.

But Petro-Canada promoting frontier production is not necessarily the same as saying that Petro-Canada wanted or initiated this. Ottawa had important means of ensuring that Petro-Canada’s behaviour would conform with federal objectives. Ottawa had other and less resource-related reasons for promoting a rapid development of the Canada Lands. Ottawa’s embarking upon a policy of a very rapid development of the Canada Lands would not be motivated by its concern with ensuring Canada’s future self-sufficiency but would be of a distributional and even jurisdictional nature, namely to counteract the importance of the province of Alberta in Canada’s energy supply. It would also help protect and expand the federal government’s tax and fiscal base in the long-run. When Petro-Canada became an instrument for Ottawa not only to shift activities from the provinces to the frontiers, but also to promote rapid frontier development, the corporation became an intrinsic part of the jurisdictional struggles that were unfolding in the 1970s and early 1980s. In a larger perspective, this would be a case of the federal-provincial conflict clearly overtaking the state-industry one.
Petro-Canada's Operations

A brief examination of some central aspects of Petro-Canada's operations will help shed light on the corporation's role in the larger context of the federal government's energy strategy and Petro-Canada's relation to the oil and gas industry. Further, it will help us understand from where Petro-Canada's actions were generated, i.e., from within the corporation or from Ottawa. The literature on Petro-Canada differs on this point. Halpern et al. argue that Ottawa's controls were inadequate and that much of the corporation's expansion was generated by Petro-Canada itself. Pratt, on the other hand, argues that Petro-Canada was so closely linked to Ottawa that its actions were essentially driven by Ottawa.

The basic aspects of Petro-Canada that will be assessed are the size of the corporation; its investment behaviour; and vertical integration. These aspects of the corporation relate to its role in relation to the industry and focus attention on the aspects of the corporation that are most relevant for the corporation as a federal policy instrument in reducing the power of the oil MNCs. These criteria therefore are useful for the analysis of the operations of Petro-Canada in the larger context of state-society relations in Canada.

Petro-Canada's Size

The most important indicators of size that have been selected are assets, revenues and personnel; oil and gas production and reserves; and landholdings. These will be examined and compared to the rest of the industry. In terms of Petro-Canada's size, Table IV.15 reveals a rapid growth in Petro-Canada's assets, revenue and personnel following the introduction of the NEP. This
growth is first and foremost the result of the corporation’s acquisitions. Petro-Canada, in terms of assets and revenue, constituted one of Canada’s largest oil and gas companies. Petro-Canada also had acquired a very large team of highly competent personnel with experience in both conventional and non-conventional oil and gas development, in the provinces, the Canada Lands, and internationally.

Table IV.15 Petro-Canada’s Size,

<table>
<thead>
<tr>
<th>Year</th>
<th>Assets ($000)</th>
<th>Revenue ($000)</th>
<th>Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>878,696</td>
<td>92,693</td>
<td>649</td>
</tr>
<tr>
<td>1978</td>
<td>3,348,913</td>
<td>205,095</td>
<td>2038</td>
</tr>
<tr>
<td>1979</td>
<td>3,411,321</td>
<td>766,295</td>
<td>2246</td>
</tr>
<tr>
<td>1980</td>
<td>3,766,766</td>
<td>1,023,398</td>
<td>2823</td>
</tr>
<tr>
<td>1981</td>
<td>6,612,533</td>
<td>2,674,603</td>
<td>5801</td>
</tr>
<tr>
<td>1982</td>
<td>7,552,115</td>
<td>2,788,136</td>
<td>6166</td>
</tr>
<tr>
<td>1983</td>
<td>8,239,025</td>
<td>4,172,343</td>
<td>6601</td>
</tr>
<tr>
<td>1984</td>
<td>9,055,282</td>
<td>4,991,425</td>
<td>6697</td>
</tr>
</tbody>
</table>

325 Petro-Canada acquired Petrofina Canada in 1981 for $1600.5 million. Petrofina was an integrated oil company with a substantial downstream involvement. In the same year, the corporation acquired Merit Oil Co. which had a number of retail stations in Western Canada. In 1982 Petro-Canada obtained a 49% interest in Gulf’s refinery in Port Moody, B.C. In 1983, Petro-Canada purchased BP Canada’s refining and marketing assets.

326 See Petro-Canada: Annual Report, various issues
Petro-Canada's reserve base saw a significant increase until 1981. From then on Petro-Canada's reserves started declining. The inclusion of the corporation's synthetic crude oil reserves did not alter this fact. The decline in Petro-Canada's conventional, low-cost oil reserves has been somewhat faster, but the decline can hardly be said to be dramatic. The R/P-ratio of Petro-Canada's conventional oil reserves declined from 13.1 years in 1981 to 12.4 years in 1985. Petro-Canada ranked 6 out of 21 of Canada's major energy companies in terms of oil reserve life index. The corporation thus formed no exception from the industry average in terms of reserves and reserve-life index.

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Table IV.16 Petro-Canada's Oil Reserves (mill bbl.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Canada</th>
<th>Int.</th>
<th>R/P-Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>151.5</td>
<td>--</td>
<td>15.8</td>
</tr>
<tr>
<td>1978</td>
<td>317.3</td>
<td>6.3</td>
<td>12.7</td>
</tr>
<tr>
<td>1979</td>
<td>316.5</td>
<td>6.3</td>
<td>12.4</td>
</tr>
<tr>
<td>1980</td>
<td>434.6</td>
<td>6.3</td>
<td>13.7</td>
</tr>
<tr>
<td>1981</td>
<td>524.4</td>
<td>6.9</td>
<td>14.3</td>
</tr>
<tr>
<td>1982</td>
<td>516.2</td>
<td>5.7</td>
<td>14.2</td>
</tr>
<tr>
<td>1983</td>
<td>494.2</td>
<td>5.7</td>
<td>12.9</td>
</tr>
<tr>
<td>1984</td>
<td>503.7</td>
<td>5.0</td>
<td>12.9</td>
</tr>
<tr>
<td>1985</td>
<td>530.3</td>
<td>5.0</td>
<td>12.7</td>
</tr>
</tbody>
</table>

---


Table IV.17 Petro-Canada's Natural Gas Reserves (bill. cf.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Canada</th>
<th>Int.</th>
<th>R/P-Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>816.5</td>
<td>--</td>
<td>25.4</td>
</tr>
<tr>
<td>1978</td>
<td>4,190.2</td>
<td>--</td>
<td>30.4</td>
</tr>
<tr>
<td>1979</td>
<td>3,806.7</td>
<td>--</td>
<td>25.7</td>
</tr>
<tr>
<td>1980</td>
<td>4,074.8</td>
<td>17.1</td>
<td>34.1</td>
</tr>
<tr>
<td>1981</td>
<td>4,846.9</td>
<td>15.2</td>
<td>35.3</td>
</tr>
<tr>
<td>1982</td>
<td>4,795.1</td>
<td>--</td>
<td>35.1</td>
</tr>
<tr>
<td>1983</td>
<td>4,742.1</td>
<td></td>
<td>36.8</td>
</tr>
<tr>
<td>1984</td>
<td>4,251.3</td>
<td></td>
<td>30.5</td>
</tr>
<tr>
<td>1985</td>
<td>3,489.4</td>
<td></td>
<td>23.4</td>
</tr>
</tbody>
</table>

In terms of Petro-Canada's gas reserves, a significant decline set in in 1984. This decline is much larger than the quantities produced and must mean that reassessments have taken place in the corporation's reserve base. Even more striking is the fact that this happened in spite of the fact that Petro-Canada had acquired a very significant landholding position in the Western provinces. This indicates that the corporation's Western Canada involvement did not provide returns commensurate with efforts. Late market entrants, such as Petro-Canada, most often find themselves faced with much higher costs of acquiring land than the early entrants. Further, early entrants normally obtain the most attractive resources, leaving more marginal fields behind. Petro-Canada's acquisition of existing companies alleviated this problem somewhat. With reference to the life-index of the corporation's natural gas reserves, Petro-Canada ranked 4 out of 20 major natural gas companies.

The main point to note is that Petro-Canada had significant oil and gas reserves in Western Canada. The corporation, a late market entrant, did not differ from the remainder of the industry in terms of its reserve-to-production ratio and therefore did not have any unique motivation for promoting frontier development from a resource point-of-view.

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329 Source: Petro-Canada's Annual Report, various issues. A variation of 7% for the 1981 data is found when comparing the figures presented in Petro-Canada's 1981 and 1984 reports.

330 See Dominion Securities Pitfield, op.cit., p.10
Table IV.18 Petro-Canada’s Landholdings (mill. acres)  

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Canada</th>
<th>Frontiers</th>
<th>Western Canada</th>
<th>Alberta*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gross Acres</td>
<td>Net Acres</td>
<td>All Areas*</td>
<td>East</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Coast*</td>
</tr>
<tr>
<td>1976</td>
<td>88.0</td>
<td>10.8</td>
<td>7.9</td>
<td>0.2</td>
</tr>
<tr>
<td>1977</td>
<td>92.6</td>
<td>15.3</td>
<td>12.4</td>
<td>4.9</td>
</tr>
<tr>
<td>1978</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1979</td>
<td>102.1</td>
<td>29.6</td>
<td>23.4</td>
<td>14.9</td>
</tr>
<tr>
<td>1980</td>
<td>154.1</td>
<td>92.6</td>
<td>86.5</td>
<td>N/A</td>
</tr>
<tr>
<td>1981</td>
<td>159.6</td>
<td>80.2</td>
<td>70.8</td>
<td>47.0</td>
</tr>
<tr>
<td>1982</td>
<td>149.5</td>
<td>66.4</td>
<td>57.5</td>
<td>36.1</td>
</tr>
<tr>
<td>1983</td>
<td>145.6</td>
<td>64.3</td>
<td>56.0</td>
<td>33.2</td>
</tr>
<tr>
<td>1984</td>
<td>111.1</td>
<td>51.5</td>
<td>44.8</td>
<td>22.5</td>
</tr>
</tbody>
</table>

* Net acres

Petro-Canada’s near-absence in the Beaufort Sea is somewhat remarkable, because this was one of the most promising oil regions in Canada. Yet, Petro-Canada’s very large East Coast involvement demonstrates the corporation’s strong interest in developing the frontiers and which coincided with Ottawa’s emphasis on retaining a strong federal presence on the East Coast, in light of the Ottawa-Newfoundland conflict. There is little doubt, in particular in light of the Mackenzie Valley pipeline moratorium, that the East Coast was the petroleum region of Canada that would be developed first. The structure of the Canadian oil supply system also encouraged East Coast oil development. From a geological point of view the East Coast of Canada has the largest potentially recoverable oil resources in Canada.

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331 Source: Petro-Canada: Annual Report, various issues. All decimals above .05 have been rounded upward. Figures do not include international acreage nor acreage held on the West Coast of Canada. Petro-Canada’s 18.2 million acres in the Beaufort/NWT were located on the mainland in the Northwest Territory and reveals Petro-Canada’s weak acreage position in the Beaufort Sea.

332 The NEP Update 1982 notes that the Canadian oil supply system was designed on the basis of some oil imports. It notes that "Some refiners in eastern Canada have no access to a pipeline providing Canadian crude.... Crude oil from Hibernia will likely be available by the end of the decade to serve eastern Canada. When this occurs, imports will be easily backed out." NEP Update 1982, pp.51-52.

333 Source: a recent GSC report found that the East Coast had much larger oil resources than the Beaufort Sea. See Procter, Taylor and Wade: Oil and Natural Gas Resources of Canada, 1983, GSC Paper 83-31.
Table IV.19  Principal Frontier Landholders, 1983 (mill.acres)\textsuperscript{334}

<table>
<thead>
<tr>
<th>Company</th>
<th>East Coast</th>
<th>Arctic Islands</th>
<th>Beaufort/ NWT</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Petro-Canada</td>
<td>33.2</td>
<td>2.3</td>
<td>20.5</td>
<td>5.8</td>
<td>61.8</td>
</tr>
<tr>
<td>2. Dome</td>
<td>5.4</td>
<td>11.1</td>
<td>9.5</td>
<td>--</td>
<td>26.0</td>
</tr>
<tr>
<td>3. Gulf Canada*</td>
<td>13.6</td>
<td>2.7</td>
<td>3.2</td>
<td>--</td>
<td>19.5</td>
</tr>
<tr>
<td>4. Imperial Oil*</td>
<td>8.9</td>
<td>2.2</td>
<td>7.2</td>
<td>--</td>
<td>18.3</td>
</tr>
<tr>
<td>5. Shell Canada*</td>
<td>9.6</td>
<td>--</td>
<td>0.6</td>
<td>6.5</td>
<td>16.7</td>
</tr>
<tr>
<td>6. Chevron Canada*</td>
<td>6.1</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>14.2</td>
</tr>
<tr>
<td>7. Mobil Canada*</td>
<td>8.3</td>
<td>--</td>
<td>0.4</td>
<td>--</td>
<td>8.7</td>
</tr>
<tr>
<td>8. Texaco Canada*</td>
<td>6.8</td>
<td>--</td>
<td>0.4</td>
<td>0.3</td>
<td>7.5</td>
</tr>
<tr>
<td>9. CDC</td>
<td>5.0</td>
<td>0.2</td>
<td>1.2</td>
<td>--</td>
<td>6.4</td>
</tr>
<tr>
<td>10. Suncor</td>
<td>2.3</td>
<td>3.4</td>
<td>0.4</td>
<td>--</td>
<td>6.1</td>
</tr>
<tr>
<td>11. BP Canada*</td>
<td>5.9</td>
<td>--</td>
<td>--</td>
<td>0.1</td>
<td>6.0</td>
</tr>
<tr>
<td>12. Amoco Canada*</td>
<td>1.5</td>
<td>--</td>
<td>1.8</td>
<td>--</td>
<td>3.3</td>
</tr>
</tbody>
</table>

* Denotes integrated foreign major

As revealed in Table IV.19, Petro-Canada had the largest frontier acreage, almost two and a half times the size of Dome’s. Petro-Canada’s holdings were also very much concentrated on the East Coast of Canada. Petro-Canada’s frontier holdings were also more attractive from a resource point-of-view than were the corporation’s provincial holdings. This is particularly the case for the corporation’s East Coast holdings, the most attractive of which were acquired through the preferential rights granted Petro-Canada in 1977 and 1980.

\textsuperscript{334} Source: Dominion Securities, op.cit., Table 12, p.16. Petro-Canada and Dome’s 11.9 million acre interest in Panarctic Oil has not been included in the table. The category "other" refers mainly to the companies’ West Coast offshore acreage.
Table IV.20 Principal Provincial Landholders, 1983 (000 acres)

<table>
<thead>
<tr>
<th>Company</th>
<th>Gross Acres</th>
<th>Net Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dome Petroleum</td>
<td>25,772</td>
<td>11,213</td>
</tr>
<tr>
<td>Petro-Canada</td>
<td>16,983</td>
<td>8,316</td>
</tr>
<tr>
<td>PanCanadian</td>
<td>9,430</td>
<td>7,664</td>
</tr>
<tr>
<td>Canterra Energy</td>
<td>6,901</td>
<td>5,500</td>
</tr>
<tr>
<td>Gulf Canada*</td>
<td>7,904</td>
<td>4,940</td>
</tr>
<tr>
<td>Shell Canada*</td>
<td>7,361</td>
<td>4,747</td>
</tr>
<tr>
<td>Imperial Oil*</td>
<td>13,338</td>
<td>4,199</td>
</tr>
<tr>
<td>Canadian Superior</td>
<td>5,420</td>
<td>3,361</td>
</tr>
<tr>
<td>Canadian Occidental</td>
<td>5,888</td>
<td>2,980</td>
</tr>
<tr>
<td>Hiram Walker Res.</td>
<td>7,929</td>
<td>2,889</td>
</tr>
<tr>
<td>Alberta Energy</td>
<td>5,600</td>
<td>2,800</td>
</tr>
<tr>
<td>Norcen Energy</td>
<td>6,650</td>
<td>2,487</td>
</tr>
<tr>
<td>Texaco Canada*</td>
<td>3,259</td>
<td>2,088</td>
</tr>
<tr>
<td>Husky Oil</td>
<td>2,509</td>
<td>1,632</td>
</tr>
<tr>
<td>BP Resources*</td>
<td>3,703</td>
<td>1,568</td>
</tr>
</tbody>
</table>

* Denotes integrated major.

Table IV.20 shows that both Dome and Petro-Canada had a very strong landholding position in the provinces in Canada. For both companies this must be attributed, first and foremost, to the acquisitions made by the two companies in the late 1970s and early 1980s. Yet, Table IV.20 is somewhat misleading in terms of the resource base and production potential of the acreage, because both Dome and Petro-Canada were late-comers to the game. The best acreage had been acquired long before Petro-Canada became active in the provinces, and, as seen if acreage-position is compared with actual production, Petro-Canada's large acreage position did not translate directly into production potential. Therefore, rather than an indication of the two companies' resource base and production potential, the large provincial landholdings of the two companies denote how important the establishment of a strong foothold has been for each company. The fact that the efforts did not lead to an equally high production return serves to remind us of the problems that newcomers have in establishing themselves as significant players. The relative difference in the attractiveness of the corporation's provincial and frontier acreage does indicate that Petro-Canada had an incentive in pushing ahead with frontier

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335 ibid., Table 8, p.13.
development. This may be viewed as an opportunity rather than as a necessity, however.

Petro-Canada’s Investment Decisions

This aspect of Petro-Canada’s operations relates to the location of the corporation’s drilling activities. Further, it relates to Petro-Canada’s window and catalyst role. Finally, it refers to the corporation’s balancing of its policy role with its bottom-line concerns.

Table IV.21 Petro-Canada’s Drilling Activities,336

Wells Drilled (Gross/Net)

<table>
<thead>
<tr>
<th>Year</th>
<th>Provinces</th>
<th>Explo.</th>
<th>Dev.</th>
<th>Frontiers/Int.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Explo. and Dev.</td>
</tr>
<tr>
<td>1980</td>
<td>177/84</td>
<td>285/151</td>
<td>13/3</td>
<td>475/238</td>
<td></td>
</tr>
<tr>
<td>1981</td>
<td>172/84</td>
<td>193/103</td>
<td>17/3</td>
<td>382/190</td>
<td></td>
</tr>
<tr>
<td>1982</td>
<td>128/83</td>
<td>316/185</td>
<td>19/4</td>
<td>463/272</td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td>133/94</td>
<td>174/101</td>
<td>25/8</td>
<td>332/203</td>
<td></td>
</tr>
<tr>
<td>1984</td>
<td>164/103</td>
<td>384/149</td>
<td>41/11</td>
<td>589/263</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>774/448</td>
<td>1352/689</td>
<td>115/29</td>
<td>2241/1166</td>
<td></td>
</tr>
</tbody>
</table>

336 Source: Petro-Canada: Annual Report, various issues. Gross number of wells refers to all the wells that Petro-Canada has participated in drilling. Net refers to all the wells that Petro-Canada has drilled alone.
From Table IV.21 we find that although Petro-Canada’s exploration activities, in net terms, increased both in the provinces and in the frontiers throughout the whole period, industry exploration fell dramatically in Western Canada. The upsurge in drilling activity from 1983 onwards in Western Canada, as revealed in Table IV.22 happened in development drilling and not in exploration. In 1983 when exploration activity reached its lowest level in Western Canada, frontier drilling activities kept rising. Between 1982 and 1983, Canada Lands’ share of drilling expenditures rose from 44.8% or $1615 mill. to 51.1% or $2158 mill. This was the highest share ever allocated to frontier drilling efforts. When viewed in conjunction with the specific location of frontier drilling, we find that exploration activities were first concentrated in the Northern parts of Canada and then later increasingly moved to the East Coast offshore. This means that Petro-Canada’s relative importance in the frontiers increased after 1982. Petro-Canada’s share of frontier wells was, in gross terms, 51.3% and in net terms 12.9%. Clearly, Petro-Canada was a vital frontier player. Petro-Canada’s share of Western Canada wells was 5.6% in gross

Table IV.22 Industry Drilling Activities,

<table>
<thead>
<tr>
<th>Year</th>
<th>Non-frontier</th>
<th>Frontiers</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>3694</td>
<td>5155</td>
<td>25</td>
</tr>
<tr>
<td>1981</td>
<td>3063</td>
<td>3828</td>
<td>22</td>
</tr>
<tr>
<td>1982</td>
<td>2276</td>
<td>3989</td>
<td>27</td>
</tr>
<tr>
<td>1983</td>
<td>1962</td>
<td>4752</td>
<td>63</td>
</tr>
<tr>
<td>1984</td>
<td>2939</td>
<td>6376</td>
<td>87</td>
</tr>
<tr>
<td>Total</td>
<td>13934</td>
<td>24100</td>
<td>224</td>
</tr>
</tbody>
</table>

Source: Oilweek, various issues. Figures for 1984 totals do not correspond with the figures presented in Oilweek because of a summation error in Oilweek’s total. The figures only include wells drilled in Canada. Wells drilled internationally and in Ontario, Quebec and onshore in the Atlantic provinces have not been included, in order to facilitate the comparison between Western Canadian activities and frontier activities.


terms and 2.9% in net terms. Thus, it is clear that Petro-Canada was less risk-averse than the remainder of the Canadian oil industry, with the possible exception of Dome Petroleum.

Table IV.23 Petro-Canada’s Capital Expenditures ($mill.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Exploration/Development</th>
<th>Oilsands</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frontiers</td>
<td>Provinces</td>
</tr>
<tr>
<td>1976</td>
<td>28</td>
<td>7</td>
</tr>
<tr>
<td>1977</td>
<td>49</td>
<td>29</td>
</tr>
<tr>
<td>1978</td>
<td>59</td>
<td>74</td>
</tr>
<tr>
<td>1979</td>
<td>77</td>
<td>176</td>
</tr>
<tr>
<td>1980</td>
<td>119</td>
<td>221</td>
</tr>
<tr>
<td>1981</td>
<td>207</td>
<td>224</td>
</tr>
<tr>
<td>1982</td>
<td>371</td>
<td>299</td>
</tr>
<tr>
<td>1983</td>
<td>581</td>
<td>250</td>
</tr>
<tr>
<td>1984</td>
<td>602</td>
<td>232</td>
</tr>
<tr>
<td>1985</td>
<td>443</td>
<td>311</td>
</tr>
</tbody>
</table>

From Table IV.23 we find that Petro-Canada’s frontier expenditures rose significantly throughout the whole period under study. The corporation’s emphasis on the provinces declined from a 65% share in 1980 to a 27.8% share in 1984. The corporation’s commitment to oil sands development was, predictably, much smaller. These figures confirm that Petro-Canada in its spending pattern was a conventional oil company. Helliwell et al. note, in terms of Petro-Canada’s frontier role:

The role played by Petro-Canada in the push to the geographical frontier should not be underestimated. Since the introduction of the PIP in 1981, the Crown firm has accounted for about 21% of (undiscounted) real exploration and development expenditures on the Canada Lands. Given that, it should not be surprising to learn that Petro-Canada and its subsidiaries received about 22% of all federal PIP grants made during that time.

340 Source: Halpern et al. Table 2-2, p.16. The figures do not include international upstream expenditures. These figures include PIP grants.

341 The corporation’s provincial expenditures (excluding the tar sands) for the period 1976-85 were 44.7%.

342 See Helliwell et al., 1987, p.222
Table IV.24 Petro-Canada’s PIP-Grants, 1981-84,\textsuperscript{343}

\begin{tabular}{|c|c|c|}
\hline Year & PIP-Grants ($000) & \%Increase from prev. year \\
\hline 1981 & 138,764 & n.a. \\
1982 & 299,892 & 116.1 \\
1983 & 468,488 & 56.0 \\
1984 & 380,304 & -18.8 \\
\hline Total & 1,287,448 & \\
\hline
\end{tabular}

Table IV.25 Petro-Canada’s NET Frontier Expenditures*\textsuperscript{344}

\begin{tabular}{|c|c|c|c|}
\hline Year & Frontier Spending & Anticipated Frontier Share of PIPs & Estimated Net Frontier Spending \\
\hline 1981 & 207 & 91 & 116 \\
1982 & 371 & 228 & 143 \\
1983 & 581 & 381 & 200 \\
1984 & 602 & 307 & 295 \\
\hline
\end{tabular}

* excluding PIP grants

Comparing Petro-Canada’s share of frontier activities with its relative share of industry revenues, the notion of Petro-Canada as a risk-taker is further confirmed. Petro-Canada operating as a very active frontier player, increasingly tailored its activities to and lobbied hard for rapid development of the frontiers. Pratt noted, in a later article that:

Petro-Canada’s frontier exploration spending appears to be a great deal higher than would be justified on domestic self-sufficiency grounds - that is, if the corporate objective were only to get Canada to a position where petroleum supply/demand were roughly in balance by the early 1990s. Petro-Canada is no longer simply acting as a "catalyst" in the frontiers. Hibernia plus government incentives have stimulated a large increase in industry activity which would continue without Petro-Canada, though perhaps at a reduced level. Despite this Petro-Canada appears to be accelerating the activity off the East Coast in anticipation of oil exports and earnings in

\textsuperscript{343} Source: Petro-Canada, Annual Report 1984, p.48.

\textsuperscript{344} The figures for Petro-Canada’s frontier expenditures are taken from Halpern et al. op.cit. p.16. Anticipated frontier share of PIP’s has been calculated by multiplying the ratio of aggregate PIP-funds accruing to the Canada Lands with figures on Petro-Canada’s PIP grants. See PMA, Monitoring Survey, 1982, p.2-3 and 1984, p.2-3. for the breakdown of PIP-funds to the Canada Lands and the provinces.
the next decade.\textsuperscript{345} Pratt thus finds that Petro-Canada no longer acted simply as a catalyst but actively sought to promote frontier oil and gas production and exports.\textsuperscript{346} Pratt underestimates the importance of Petro-Canada’s role in promoting frontier development, however. Petro-Canada participated in 51% and drilled 13% of the frontier wells itself. Petro-Canada took part in almost all the wells drilled on Canada’s East Coast.\textsuperscript{347} Further, Petro-Canada was one of, if not the single largest recipient of Ottawa’s PIP-grants, without which activity levels would have declined dramatically. Petro-Canada therefore played a much larger role than what Pratt finds.

The interesting question to ask is why this happened. Two explanations will be discussed, the first stressing Petro-Canada in initiating this, and the second emphasizing rapid frontier development as a result of Ottawa’s own policies. Petro-Canada in the driver’s seat would mean that Ottawa’s objective of long-term self-sufficiency could be undermined by Petro-Canada’s actions. This explanation would consider Petro-Canada as developing a commonality of interest with the industry and as acting as a spearhead for the industry in promoting frontier development. The explanations for the corporation’s behaviour would relate to specific aspects of the corporation itself and its interaction with the oil and gas industry. More specifically, an explanation emphasizing Petro-Canada’s own importance in promoting rapid frontier development would emphasize how the corporation’s management altered corporate priorities and placed increased emphasis on bottom-line considerations in the new and hostile economic climate that emerged in 1981. Petro-Canada’s Annual Report, 1983 notes that:

\begin{quote}
Funds from operations increased approximately 35 per cent to $676 million, the highest level in the Corporation’s eight-year history.... Internally
\end{quote}

\textsuperscript{345} Pratt, L. in Doern, 1982, p.107.

\textsuperscript{346} On December 7, 1984 Petro-Canada concluded an agreement to export 2.5 million cm/day of natural gas from the Venture field. Petro-Canada: Annual Report, 1984, p.13.

\textsuperscript{347} Halpern et al. op.cit. Chart 2-1, p.17.
generated funds will increasingly become the major source of funds for reinvestment with government equity injections becoming less significant as the Corporation matures. The programs instituted in 1982 to control operating expenses and staff levels were continued and re-emphasized this year and have yielded clear benefits in terms of improved efficiency and financial returns.  

Petro-Canada, in response to the economic recession, underwent an important corporate restructuring; scrapped a number of high-risk, high-cost projects; and established a new management team composed of senior management personnel recruited from the largest oil companies operating in Canada. These changes clearly made the corporation more similar to the oil MNCs in structure, outlook and operations. In this light, Petro-Canada's frontier promotion must be viewed as an attempt to ensure rapid pay-offs of the corporation's inordinately high frontier investments and establish an alternative to its declining oil reserves in Western Canada. An example of Petro-Canada's bottom-line orientation can be found in Hopper's unwillingness to go ahead with a tar sands operation unless the federal government could offer it and its partners guarantees on price and fiscal incentives. According to Hopper, such guarantees were needed for Petro-Canada to go ahead with the project because without such guarantees the private-sector partners would not join in. Hopper noted that if Petro-Canada had to go it alone the corporation

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349 In early 1983 Petro-Canada changed from 4 to 2 main business groups. The old structure consisted of (a) an offshore and international division, (b) a mainland Canada division, (c) a refining division, and (d) a special projects division. This was changed to an exploration/development division concerned with upstream affairs and a downstream division entitled Petro-Canada Products. In conjunction with this restructuring, Petro-Canada cut staff by 1400 by layoffs, voluntary severance and early retirement. Source: Petro-Canada: Annual Report 1983 and Calgary Herald, 17 November 1983, p.F1.

350 In 1982/83 Petro-Canada discontinued the Rim Gas Project, a joint venture to ship liquefied gas to Japan. (Globe and Mail, 17/4-1984, p.B6) The corporation ended the Labrador Shelf exploration program, of which Petro-Canada was the operator. Petro-Canada deferred the Arctic Pilot Project indefinitely. See Petro-Canada: Annual Report, 1983, p.5.

351 13 of the corporation's 32 senior executives were hired in 1982/83. Most of these were from Esso and Gulf. It is noteworthy that all 5 senior executives of the newly established products division were new recruits.
could get wiped out. This demonstrates how willing Petro-Canada had become to lobby for concessions on par with the industry. But it also reveals how the very magnitude of the projects tended to reduce Petro-Canada’s ability to go ahead with development should industry cooperation fail.

The second explanation, stressing Ottawa’s role in making Petro-Canada promote the Canada Lands emphasizes how the energy segments of the federal government prompted Petro-Canada to increase its activities in the Canada Lands and how other sectors of the federal government later introduced operational and budget constraints on Petro-Canada that forced the corporation to seek to maximize its financial returns, streamline its operations and become independent of public equity infusions. In the period prior to 1982, the main thrust of Ottawa’s actions was to push for increased frontier activity. An explanation emphasizing the federal government’s own role in pushing for rapid frontier development would stress how Ottawa, and in particular EMR, sought to use Petro-Canada to countervail the increased power of Alberta. This is another example of Ottawa’s policy instruments being increasingly channelled or oriented along federal-provincial lines of conflict rather than along federal-industry lines. In so doing, Ottawa undermined its policy of regulating the rate of resource development, by pushing Petro-Canada to develop the frontiers. The double irony in the case of Petro-Canada was that this played into the hands of the oil industry because Petro-Canada came to serve as a spearhead for the industry in its continued quest for increased exports of oil and gas.

In light of the altered economic situation, the priorities of other segments of the federal government became increasingly visible. The thrust of federal policy was then to ensure increased Crown corporation financial accountability and efficiency. As part of this thrust towards a leaner and more efficient Crown corporation sector, federal allotments to Petro-Canada shrank by $100

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353 As part of this commitment the federal government introduced on 30 June 1982 The 1982 Government Organization Bill (Bill C-123). Part V of this Bill was directly concerned with Crown corporations.
million in 1983, down to $367 million. In 1984, federal funds to Petro-Canada were planned to decrease a further $150 million, to $217 million.\textsuperscript{354}

Within the federal government, increased pressure for corporate autonomy and efficiency from 1982 onwards emanated from the PMO, the Auditor General’s Office and the Department of Finance. Similar pressure also emerged from the oil industry, the opposition Conservative party’s caucus and important parts of the media.

The conclusion here is that it was the combination of factors that led to the change in Petro-Canada’s emphasis. This effectively undermined Ottawa’s objective of controlling the rate of resource development and played into the hands of the oil and gas industry. Available data do not enable us to state conclusively whether Petro-Canada or Ottawa or the changing economic context caused this. Clearly, considerable consensus existed between important parts of Ottawa and Petro-Canada’s management. The economic recession reduced Petro-Canada’s Canadianization thrust but not its promotion of the frontiers because Petro-Canada’s net (net of PIP-grants) frontier spending increased after the economic recession struck. Yet, in the final analysis it is Ottawa’s policies and not those of Petro-Canada that were responsible because of the basic structure and thrust of the NEP and the strict controls on Petro-Canada available to Ottawa. This includes control of operations through the land management system and the regulation of farm-ins and farm-outs through the granting of PIPs. The premises underlying the NEP rendered the policy program vulnerable to rapid international oil market changes, and the frontier thrust of the NEP also made the policy program particularly vulnerable to reduced oil prices. The ongoing federal-provincial conflict, both between Ottawa and the producing provinces in Western Canada and between Ottawa and the provinces on Canada’s East Coast, affected Petro-Canada’s operations, because the corporation was made to play such an important role in the Canada Lands.

Petro-Canada and Vertical Integration

One of the most important changes in Petro-Canada’s role in the Canadian energy sector in the early 1980s was the corporation’s large downstream expansion. Petro-Canada’s share of retail gasoline sales rose from 1.7% in 1979 to 14.3% in 1983 and the corporation’s share of light oil products sales increased from 1.8% in 1979 to 13.9% in 1983. With 2,625 branded stations in 1983, Petro-Canada ranked fourth in Canada in terms of number of market outlets.

From a political perspective, vertical integration has been emphasized as an integral part of states’ attempts at controlling industry operations. Basically, from the international literature on NOCs and the Canadian literature on Petro-Canada, three explanations for Petro-Canada’s downstream expansion as viewed in this perspective, can be set forth. A fourth set of explanations emphasizing the corporation’s management’s stress on corporate expansion and governmental pressure for efficiency and self-financing will also be discussed.

In terms of the first explanation, Klapp notes that:

The greater the share and extent of vertical investment, the greater will be the ability of the state to manage the national economy.

Klapp thus views vertical integration as a means for the state to improve its ability to plan and control the economy. Yet, Klapp’s definition prescribes a much larger presence in the economy for Petro-Canada than was ever intended of it. It should also be noted that vertical integration, as defined by Klapp, would only improve the state’s effectiveness if the state intended to manage the economy and took steps to ensure such control. The Canadian state did not

355 Source: Dominion Pitfield, op.cit. Table 16, p.23.
356 ibid., Table 18, p.24.
357 Klapp: The Sovereign Entrepreneur, op.cit., p.46
358 Federal decision-makers always were careful to emphasize that Petro-Canada was a supplement to the private oil industry, never a substitute for it.
have an industrial policy of such magnitude and comprehensiveness during the period of study. Further, federal officials at various times had noted that Petro-Canada's prime purpose was in the upstream and not in the downstream. Finally, Ottawa's ability to plan and manage the economy was also greatly circumscribed by the power each province had to formulate and implement tax and fiscal policies.

Second, Pratt notes that vertical integration could reduce the high barriers to entry that existed in the downstream sector of the international oil industry. Evidence supporting Pratt's contention for Canada is provided by Energy Minister Lalonde who noted that he had received a number of representations from independent distributors and retailers who complained about the difficulties they had in getting supply from the refineries that were controlled by the oil MNCs. Lalonde notes:

I did receive at that time very strong representations to the effect that the independent distributors wanted Petro-Canada to engage in the refining business, to act as a kind of supplier of last resort, at least, or first resort, depending on the needs of the independent distributors.

The Bertrand report quite clearly indicated the problem that resulted from the fact that practically all the distribution, or the large majority of the distribution, was in the hands of a very small number of multinationals in this country. The fact is that neither the provincial governments nor the federal government had much knowledge of what was happening in that sector.

Available data do not support Pratt's contention of Petro-Canada as reducing the barriers to entry into the downstream sector. Concentration in the retail sector increased following Petro-Canada's entry. This happened because Petro-Canada did not acquire the retail outlets of any of the largest retailers. Only by acquiring the retail outlets of the largest refiners and


361 The five largest retailers increased the number of marketing outlets from 13951 in 1982 to 15081 in 1983. Source: Globe and Mail, 24 April, 1984, p. ..
selling these off to private Canadian retailers would Petro-Canada lower the barriers to entry. Petro-Canada also acquired a small Canadian-owned retail outlet, Merit Oil, thus increasing concentration further in British Columbia. Therefore, Petro-Canada represented the addition of another very large retailer and as such reduced the dominant role of the oil MNCs. This did not lead to reduced barriers to entry for other private-owned Canadian companies, however. Further, even though Petro-Canada reduced the relative size of the MNCs’ involvement in the retail sector, it still remains to be seen whether Petro-Canada’s entrance into the downstream sector altered the terms of the industry’s operations and addressed the problems Lalonde pointed out above.

The third explanation for Petro-Canada’s increased downstream presence was put forth by Bell, who claimed that Petro-Canada, in order to function as a real window on the industry, needed to be involved in many if not all aspects of oil industry operations. This certainly included the downstream sector. Bell’s notion of Petro-Canada’s window role corresponds with the latter part of Lalonde’s statement, quoted above, and relates to Petro-Canada as a means of influencing the operations of the industry. Petro-Canada’s influence on the operations of other companies in the downstream cannot be answered here, because we do not have the relevant data. However, a number of indirect indicators can be employed. Petro-Canada entering the retail sector did not lead to reduced oil prices, which means that if collusion existed, it did not end with Petro-Canada’s entry into the retail sector. The fact that Petro-Canada acquired a number of senior officials from the oil majors operating in Canada and they dominated Petro-Canada’s downstream or Products Division is a further indication of the corporation not representing any fundamental change.

The arguments presented above all point to a politically salient role for Petro-Canada in the downstream. The available evidence does not enable us to draw firm conclusions about the importance of this aspect of the corporation’s operations, however. More circumstantial evidence indicates that this role is more limited than the above authors contend. Thus other reasons for Petro-Canada’s downstream involvement must be sought.
Fourth, Petro-Canada itself was driven by the logic of vertical integration. This is the main argument of Halpern et al. With very little available evidence, these authors emphasize how the corporation circumvented its own mandate and itself initiated its downstream involvement. Although a number of federal officials in the Parliamentary deliberations on Bill C-8, the Petro-Canada Act, emphasized that Petro-Canada’s main role was in the upstream, the Act did not preclude Petro-Canada from entering into the downstream. Further, this study has also stressed how public enterprises such as Petro-Canada are inherently flexible entities. Governments often promote this flexibility because it enables them to use the corporate form to promote different objectives over time or different aspects of the same objectives. Further, Crown corporation flexibility renders governments less vulnerable to industry and public criticisms. Thus, in the extension of this, it can be argued that Petro-Canada’s increased degree of vertical integration was one aspect of the corporation’s activities that was quietly supported by numerous federal officials. The so-called Maple Leaf effect was one such factor. Further, federal decision-makers concerned about public spending and increased Crown corporation efficiency sought to increase the corporation’s degree of self-financing and reduce the need for future public equity infusions. This concern replaced the previous emphasis on Petro-Canada as an instrument for increased federal control over oil industry operations, a concern whose relative political weight in Ottawa declined in light of the deteriorating economic situation. Finally, the controls on Petro-Canada would enable a determined federal government to uphold any action or corporate initiative that was not

362 The Maple Leaf effect refers to Petro-Canada increasing its gasoline sales at times when the remainder of the industry faced declining sales. Between 1981 and 1982, Petro-Canada’s gasoline sales increased by 11 per cent in Eastern Canada and 4 per cent nationally. In the same period, sales dropped by nine per cent and seven per cent respectively for the remainder of the industry. Petro-Canada’s market share rose from 6.4 per cent in 1981 to 8.7 per cent in 1982. See Petro-Canada, Annual Report 1982, p.21.
There is no doubt that Petro-Canada's management also had a strong interest in vertical integration. Vertical integration would enable Petro-Canada to increase its degree of self-financing and thus enable the corporation's management to pursue a more independent line from Ottawa. With an increased degree of self-financing and less dependence on public infusions of capital the corporation would also be less exposed to criticism from various quarters such as the Auditor General, the Conservative party's caucus and large segments of the press. Increased vertical integration would also make it more difficult to dismantle Petro-Canada because of the corporation's large size. If changes to its current status were to be made, Petro-Canada's large size would indicate that privatization would be easier than dismantling. \(^{364}\)

Summing up this section on the role of Petro-Canada we have found that Ottawa in the context of the NEP envisaged a greatly expanded role for Petro-Canada in the context of Canadian energy policy. Petro-Canada's main role was to fulfil certain policy objectives with very clear and important political overtones. Petro-Canada was perceived as a means of reducing the access of the oil MNCs to Canada's future oil and gas resources and as a means of increasing Ottawa's control over the operations of the oil and gas industry. The analysis of Petro-Canada's operations during the period 1980-84 has revealed that although Petro-Canada expanded very rapidly and obtained a large share of Canada's frontier oil and gas resources, Ottawa did not succeed through Petro-

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\(^{363}\) Bell noted that if Petro-Canada wanted to acquire a publicly traded company, the corporation was required to contact Ottawa first in order to obtain permission to contact the company in question. Thus, Petro-Canada could never bypass federal officials here. All companies acquired by Petro-Canada with the exception of ARCO(1976) were publicly traded companies. Interview with Joel Bell, March, 1988.

\(^{364}\) Hopper has always been ambivalent about public enterprise. It should come as no surprise that important segments within Petro-Canada's own management would have few objections to privatization. It is less likely that these same people would see much benefit in a dismantling of a structure they have invested over a decade in constructing. For the most recent report, see Globe and Mail, 22 February 1990.
Canada in significantly increasing its control over industry operations. The reasons for this emanate from the nature of Ottawa's goals and policies and the changing economic context as much as from Petro-Canada's own actions. The net upshot of this is that Petro-Canada has increasingly shed its policy role and adopted interests and behaviour on par with the main actors in the oil sector, the oil MNCs.

From a larger political perspective, it is clear that Petro-Canada's promoting rapid frontier development served the interests of the oil MNCs. Through its easy access to generous PIP-grants and its willingness to take on the oil MNCs as joint venture partners, Petro-Canada provided the oil MNCs with an effective inroad into the frontiers without them having to pay much for it. In fact, as has been noted elsewhere, by farming out parts of their acreage to more aggressive Canadian-controlled and owned firms, the oil MNCs had other companies work their land while they themselves waited for an opportune time to involve themselves. Their internal time-schedule, recently confirmed by Texaco's decision to launch a frontier drilling program after a ten-year long virtual absence from the Canadian frontiers, was to "save" Canada's frontiers until the 1990s when the world oil market again was predicted to become more tight. Ottawa's strong frontier development thrust in the NEP, although intended to increase federal control, collided with the goals of the province of Newfoundland and served to encourage the oil MNCs to withhold drilling funds and thus rendered the policy program highly vulnerable to economic downturns and international oil price changes. This inadvertently played into the hands of the oil MNCs. It should be recalled that the basic causal factors underlying the decline of the NEP were not primarily related to the power of the oil MNCs but related instead to international oil market changes mainly produced by states. The assumptions in the NEP of an increasingly state-centred world oil market and a strengthened OPEC role proved to be much more incompatible than what federal officials had thought. The increase in oil supplies and the falling oil prices that resulted from these international changes undermined the NEP. The NEP, and in large part the story of Petro-Canada, must be told in
terms of how federal-provincial conflicts intervened with and helped reshape federal intervention intended to increase federal control over the oil industry, in a manner that rendered such control ineffective. It is in this larger context that the important realignment of the objectives of Petro-Canada and those of important federal decision-makers must be viewed as becoming increasingly compatible with the basic interests of the dominant players in the oil industry. This explanation does not ignore the importance of the changing economic context but it emphasizes that the high taxes and strong emphasis on high-cost oil sources made the NEP particularly vulnerable to economic downturns that reduced oil prices and oil consumption.

Chapter Conclusion

This chapter has presented the main policy instruments introduced in the NEP. The NEP’s policy instruments have been viewed as means by which we can obtain further insight into Ottawa’s intentions in relation to the oil industry and the provinces.

The main policy measures introduced in the National Energy Program and related to oil and gas development were pricing measures, energy taxes and incentives, a new land management regime for the Canada Lands, and an increased role for Petro-Canada. Price regulation, tax measures and incentives were nation-wide in character and application, in contrast to the new federal land management regime which only applied to the Canada Lands. Indirect interventionist measures such as price regulation, tax and fiscal measures clearly differed from the land management system and direct federal intervention through Petro-Canada in the degree of direct control over industry activities which these measures could afford the federal government. Although tax, fiscal, and incentive schemes were all demand-driven and dependent on private-sector willingness and compliance to be effective, in the case of Canada, the distinction between direct and indirect interventionist means may not have been as politically salient as we expected it to be. While the land
management regime contained the legislative and regulatory clout to provide the federal government with direct control over industry operations, the effectiveness of this instrument depended on industry willingness and ability to operate in the Canada Lands.

National oil companies are also policy instruments that are normally intended to provide their respective governments with direct control over resource development. But as revealed in the section on Petro-Canada, for a host of different reasons, such control may prove to be more illusory than originally anticipated.

In Chapter Thirteen, dealing with the period 1981-84, the policy instruments presented in the NEP will be evaluated in terms of, first, their effects on federal-industry relations, i.e., the influence and control that they provided Ottawa with over the operations of the industry. Second, since we are interested in the role and influence of the overall Canadian state on the evolution of Canadian energy policy, Ottawa's policy instruments will be evaluated in terms of the degree to which they became channelled along federal-provincial lines of conflict. The assumption is that since Ottawa sought to restructure both its relations with the industry and the provinces, a mobilization along one of the two dimensions to the detriment of the other will have important effects on the federal government's relations with both sets of actors. Chapter Thirteen will argue that Ottawa's policy instruments, whether so intended or not, were increasingly oriented along federal-provincial lines of conflict, rather than along federal-industry lines. Ironically, this ensuing mobilization of a state-centred and state-generated bias rendered Ottawa's policies highly vulnerable to industry actions and international events.
CHAPTER THIRTEEN: THE EFFECTS OF THE NEP

Chapter Introduction

This chapter assesses the effects of the National Energy Program in terms of the federal government’s relative success in attaining its stated objectives. More specifically, we are interested in the relative capacity of the federal state both to impose its priorities upon the dominant societal segment as well as its ability to induce societal interests to pursue federal objectives. Rather than simply discussing whether Ottawa’s objectives in the NEP were reached, this chapter examines how these objectives would impinge on state-society relations. Clearly, any study dealing with topics such as state autonomy and state capacities must demonstrate the nature and extent of change in state-society relations that the intervention was intended to achieve. Chapter Eleven analyzed federal objectives in the NEP. Chapter Twelve has shown how Ottawa’s expanded bureaucratic capacity and the introduction of a new and more comprehensive federal policy framework greatly expanded the federal state’s ability to determine Canadian energy policy and derive economic benefits from oil and gas activities. But even a greatly expanded federal energy presence need not generate results that would be commensurate with the efforts that had been made.

In tracking the evolution of the NEP in the period 1981-1984, the chapter will demonstrate a widening discrepancy between the federal government’s original energy objectives and the outcome of events along all three sets of federal objectives. The chapter will reveal that the NEP failed in producing expected results. This happened late in the Liberal government’s tenure. The reasons for the failure of the NEP, therefore, can be tracked back to this period rather than to the Conservative government’s subsequent dismantling of the program. The assessment of the basic causes underlying the failure of the NEP to restructure relations between the federal state and dominant oil industry players places the emphasis on international oil market changes and
the nature and dynamics of the Canadian state rather than the influence of the oil industry or other important societal actors. The story of the NEP, therefore, is the story of state intervention to reduce oil industry influence which, in attempting to do so, got tangled up in the complex web of intergovernmental relations and the intricate workings of the aggregate Canadian state. The intricate dynamics of these intra-state relations, combined with a radically changed international context to render the intervention ineffective and increased the industry's ability to wring concessions from both levels of the state.

The Evolution of the NEP, 1981-84.

The response to the NEP was very harsh, both from the producing provinces and from the oil industry. This chapter, briefly tracking the evolution of the NEP through the period 1981-84, will first shed light on the most important provincial and industry responses to the NEP. In the next section, a brief presentation of the subsequent alterations to the NEP will be presented. The third section of this chapter discusses whether the NEP was a success or a failure by examining the program's basic objectives. In the final section, the basic causes for what here will be termed the failure of the NEP will be discussed. This discussion is explicitly cast in the framework of state-society relations and will therefore not provide a complete assessment of the causes of the failure of the NEP.

Provincial Responses to the NEP

The main features of the NEP which the Alberta Government found objectionable were first, that oil prices at the wellhead were to be fixed unilaterally by the federal government at less than half of the international
market value for several years. The staged increases in conventional crude oil prices would not even keep pace with inflation. Second, domestic natural gas prices would be kept at a lower level of BTU equivalency with crude oil than what Alberta had proposed. Third, the proposed federal export tax on natural gas would reduce the market potential of Canadian gas in the United States. Fourth, Alberta opposed the federal production tax on oil and gas. Finally, Alberta opposed the NEP on the grounds that the program would discourage resource exploration and development on provincial lands.  

Doern and Toner note that the Alberta government:

rejected both the policy thrust and the political motivation of the NEP, and in its response highlighted both the federal-provincial and interregional dimensions of Canadian energy politics.

Alberta portrayed the NEP as a ploy by the federal government to alter fundamentally the nature of Canadian federalism, while simultaneously arguing that one of the basic motivations of Ottawa was to cater to the interests of Central Canada, in particular the province of Ontario. The government of Alberta also attacked Ottawa’s Canadianization program by claiming that it was a badly concealed attempt at ensuring federal control over the industry. Alberta thus claimed that federal control and direction over the oil and gas industry would undermine provincial ownership and control over natural resources.

Based on the objections presented above, Premier Lougheed of Alberta announced a number of measures intended to ensure provincial natural resource ownership rights. The dynamics of the conflict thus immediately came to centre on the question of provincial ownership and control, a definition of the conflict which would maximize the province’s bargaining position in relation to Ottawa. This is not surprising as Ottawa, in framing the NEP, sought to establish a policy structure that not only promoted and accommodated its basic


367 See Lacasse, op.cit. p.74.
objectives but also represented an attempt at maximizing federal bargaining power in relation to the industry and the producing provinces. In responding to the introduction of the NEP in October 1980, Premier Lougheed announced that Alberta would cut back crude oil production to 85 per cent of capacity or a maximum of 180,000 barrels per day. The cutbacks would take place in three stages of 60,000 barrels each. The province gave ninety days notice before the first cutback began on March 1, 1981. Premier Lougheed noted that the cutbacks would end if a serious shortage occurred or if the federal government negotiated a fair agreement with Alberta.

Second, two oil sands plants projected to cost approximately $10-12 billion each would be held in abeyance pending an agreement between Ottawa and Alberta on energy. This announcement had potential disastrous effects on Ottawa’s supply projections from the areas under provincial jurisdiction. These actions raised significant doubts as to Ottawa’s ability to ensure Canadian self-sufficiency and achieve its other objectives as well.

Third, Premier Lougheed announced that the legality of the federal natural gas export tax would be challenged in the courts. In March 1981, the Alberta Court of Appeal ruled unanimously that the portion of the federal tax on natural gas that applied to exports was void.\(^{366}\) The export tax was eliminated shortly after. The provincial government of Alberta thus took a number of measures to regulate the rate of production for explicit political reasons, against what it considered as federal incursions into areas of provincial jurisdiction. The province thus adopted measures whose gravity were on par with those taken by OPEC at several instances. The net effect of the cutbacks in Albertan oil production was to increase the level of imports. Another important effect was to render Ottawa’s policies much more vulnerable to industry pressure. Doern and Toner note:

Approval for Cold Lake and the Alsands tarsands project had been withheld by Alberta as part of its retaliation against the NEP. Imperial tried to influence the outcome of the post-NEP federal-Alberta negotiations by continuously arguing that unless the new oil pricing and taxation agreement provided a 20 percent discounted cash-flow return for Cold

\(^{366}\) Government of Alberta, op.cit.
Lake, it would have to be abandoned. Imperial was aware that the NEP anticipated that the tarsands and heavy oil projects would make a contribution to Canadian oil supply by 1990, and therefore felt they were in a strong position to demand such a high return.\(^{369}\)

This is another obvious example of how federal-provincial interaction served to generate and focus issues along intergovernmental lines of conflict rather than state-industry. As the conflict unfolded, central industry players gained an improved bargaining position in relation to each level of government. The dynamic of the conflict emerged from the inter-governmental interaction and not from industry pressure, it must be stressed.

The province of Newfoundland also reacted negatively to the NEP. House notes that while the Newfoundland and Labrador Petroleum Board only existed on paper it was brought into the jurisdictional dispute in 1981. "When the federal government moved unilaterally to give out new permits in the Hibernia region, Newfoundland countered by assigning provincial permits in the same area to the NLPB."\(^{370}\) Not only were there still two different regulatory systems offshore Newfoundland, but each level of government, through direct state participation, was becoming much more directly involved. Since the jurisdictional status of these areas had still not been decided, the competitive introduction of state participation rights would clearly heighten the uncertainty as to the nature of the industry’s future rights in this area. This was obviously an important deterrent to offshore resource development. Gault, in comparing Canada with other countries with offshore oil resources, asked in 1983 why no development of Canada’s offshore resources had taken place and concluded that the development of Hibernia had been stalled "largely because of the jurisdictional dispute."\(^{371}\) Another important effect of the jurisdictional dispute was to obstruct the process of establishing a clear and relatively stable legal administrative regime for offshore resource development in Canada.\(^{372}\)

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\(^{369}\) Doern and Toner, op.cit. p.209.

\(^{370}\) See House, op.cit. p.80.

\(^{371}\) See Gault, op.cit. p.111.

\(^{372}\) ibid. p.112-13.
absence of such it is easy to understand the hesitancy of private-sector actors to commit large funds to development and this also helps explain why the public-sector share of funding offshore activities has been so high. A similar argument about the jurisdictional uncertainties affecting resource development could even be applied to Northern Canada where "the government of the Northwest Territories appears to consider that it has the right to tax artificial islands in the Beaufort Sea as if they were "land".373

Industry Reactions To The NEP.

There is little doubt that the NEP represented the most obvious and deep-felt federal incursion into the oil industry ever undertaken in Canada. As a consequence, most private-sector industry players were opposed to the NEP. But, as Doern and Toner note,374 since the NEP clearly distinguished between segments of the industry, its effects differed and the actual responses of industry actors varied accordingly. Since the main targets in the NEP were the oil MNCs, and these companies dominated the Canadian oil scene, it is their reaction to the program that will be highlighted here. These companies were also the ones that launched the harshest critique against the NEP.

As part of its assault on the NEP, the Canadian Petroleum Association demanded a hearing by the National Energy Board in February 1981, in order to have future supply and demand requirements established by "an independent body".375 The CPA released a submission to the NEB which outlined the CPA's assessment of the effects of the NEP. The CPA's submission found that the supply and demand effects of the NEP would be as follows:

1) - productive capacity from established oil reserves in the conventional areas of Canada would be reduced by 24 per cent in 1985 or 214,000

373 ibid. p.112.
374 ibid., pp.200-253.
barrels per day. In 1990, productive capacity would decline by 18 per cent, or 94,000 barrels per day.

2) - discovery and development of new oil reserves in the conventional areas would decline by 33 per cent, or 25,000 barrels per day in 1985, and by 44,000 per day in 1990.

3) - the productive capacity of tertiary oil projects would fall by 80 per cent or 25,000 barrels per day by 1985, and by 26 per cent or 31,000 barrels per day in 1990.

4) - oil sands production would fall by 60 per cent by 1990, or 320,000 barrels per day.

5) - frontier production estimates would be reduced from 63,000 barrels per day in 1985 and by 500,000 barrels per day in 1990, to zero in both cases.

6) - the cost to Canadians for additional foreign oil would increase by $182 billion for the 10-year period.

7) - industry investment would fall by 18 per cent in 1981, as compared with 1980, and would decline by at least 35 per cent, as compared with the initial forecasts for 1981.

8) - company cash flow would be reduced by 25 to 40 per cent, and the ability of companies to reinvest would decline proportionately.

9) - the economics of many projects would be reduced, in particular in terms of tertiary recovery and oil sands.

10) - over 120 drilling rigs owned predominantly by independent Canadian investors would be forced to leave Canada because of reduced work demand.

11) - international and Canadian investor confidence would be reduced.

12) - a substantial drain of experienced persons from Canada would take place.\(^\text{376}\)

Another CPA estimate indicated that the NEP would result in a decrease in forecast Canadian crude oil capacity in the neighbourhood of 158,000 cubic metres (990,000 barrels) per day by 1990. Canada, according to the CPA would therefore only be 55 per cent self-sufficient. In terms of the overall response to the NEP, CPA Review notes that the CPA emphasized the need for modifying the NEP in the following areas:

- change the pricing and fiscal policies to increase industry netbacks;
- resolve immediately the oil sands deadlock;
- provide clear indication that the government is planning early frontier oil production, resolve jurisdictional disputes, and provide a pricing regime and unhindered production;
- encourage exploration to develop the full potential of the Western

\(^{376}\) ibid. Vol.5 No.02 February 1981, p.2
Basin;
- ameliorate the impact of the Petroleum and Gas Revenue Tax to prevent premature abandonment or shutting-in of existing production.\(^{377}\)

The oil and gas industry, in linking these concerns directly to oil self-sufficiency, recommended that policies to stimulate the development of all four main oil supply sources, conventional oil from Western Canada, oil sands and heavy oil, oil from frontier areas, and oil from enhanced recovery, be dramatically stepped up. Further, the CPA also recommended that:

Serious energy conservation measures must be employed and domestic consumption of crude oil must be reduced by substitution of other energy forms.\(^{378}\)

The oil and gas industry recommendations, if followed, could easily lead to a significant over-supply of oil and gas, in particular when the pattern of Canadian oil consumption is kept in mind. Therefore, the industry's strategy and recommendations would generate, not only actual self-sufficiency, but also strong pressures for oil exports. This would lead to a much more rapid depletion of Canada's oil resources than what the federal government had considered to be in Canada's interest, and would be sub-optimal for Canada's self-sufficiency in the long run. The industry's strategy was therefore tailored to suit its own interests.

Rather than withdrawing from any part of Canada, the reaction of the oil MNCs was to slash their planned exploration budgets for 1981.\(^{379}\) CPA Review notes that the exploration budgets of 16 major Canadian oil and gas companies were reduced by an average 35%, or $1.7 billion.\(^{380}\) Specific examples among the majors consisted of Mobil Oil which reduced its budget by $164 million. Imperial Oil responded with a 4-year, 25% budget decrease, representing $2.5 billion. IPAC also reported that Canadian-owned oil and gas companies would cut

\(^{377}\) ibid. Vol.5 No.01, January 1981, p.1

\(^{378}\) ibid., Vol.5 No.02 February 1981, p.3

\(^{379}\) See Doern and Toner, op.cit. p.206

\(^{380}\) See CPA Review, Vol.5 No.02 February 1981, p.7 The data were taken from a Greenshields Inc. Survey.
their capital budgets by 23% in 1981. In 1984 this decrease would rise to 41 per cent. Simultaneously, the above cited companies would increase their foreign spending by 47 per cent in 1981, a figure that was projected to rise to 88 per cent in 1983. Yet, the picture of industry responses is somewhat more complex than what has been indicated above.

For instance, as Doern and Toner point out, in terms of Imperial Oil, the company (a) maintained its exploration program in the Beaufort Sea, (b) decided, in late 1983, to reactivate the Cold Lake project, although on a smaller scale, (c) farmed out parts of its holdings to Canadian-controlled firms eligible for high PIP grants, and (d) was very sensitive to the federal government’s Canadianization programme, in particular in terms of the spin-off aspects of this project. Texaco, with 91% foreign ownership and one of the most tightly controlled subsidiaries in Canada, was also known to be very conservative and prone to reinvest little of its cash. As Doern and Toner note, Texaco initially concentrated its efforts on criticizing the NEP’s Canadianization thrust and Petro-Canada’s preferential role, but later increasingly focused the attention on the fiscal regime in the NEP, and in particular the role of the PGRT. The company thus shifted its opposition from a principled stand to a more pragmatic and practical opposition to the NEP.

Gulf’s stand on the NEP was more mixed. The company essentially endorsed most of the program’s objectives but opposed many of the policy measures that were introduced. Gulf, although hostile to the NEP, maintained its Beaufort Sea exploration program. Thus, we have seen that although the oil MNCs reacted very negatively to the NEP, they did not withdraw from Canada. Rather, they

[381] ibid.
[383] ibid., p.211-214
[384] See Chapter Twelve for further details.
chose to demonstrate their dislike of the program by reducing their planned commitments. If events had developed the way Ottawa had foreseen, it could be argued whether this rather passive MNCs response might have been dealt with adequately by the measures introduced in the NEP, such as public equity infusions, the operations of public-sector and private-sector Canadian-owned companies.

The effects of the NEP on the oil MNCs, it could be argued, are more difficult to assess than what appears at the face of it. Doern and Toner note, in terms of the effects of the NEP:

For the foreign majors, as a whole, there is no doubt that the first two post-NEP years, in combination with their own tactical responses as well as other important factors such as the recession and the permanent effects of conservation and off-oil incentives, produced reduced earnings. Imperial Oil reported a doubling of taxes from $1.1 billion in 1980 to over 2 billion in 1982 and with earnings decreasing about 52% over the same period. Texaco reported a 13% decrease from 1981 to 1982 and Gulf Canada and Shell Canada were down by 32.7% and 43.6% respectively in the same period. Most of the majors, however, attributed the strong decline primarily to what were increasingly regarded as permanent reductions in the level of downstream sales. This led to the closing of seven refineries, and paralleled twenty-seven such closings in the United States and twenty-eight in Europe. It also meant significant staff cuts, including 1200 at Gulf Canada and 800 at Imperial.  

Market changes and restructuring, Doern and Toner hold, had a stronger effect on the oil MNCs than did the NEP. Thus, it can be argued that the effects on the MNCs of Ottawa's indirect policy measures were probably less than what the industry and many critics of the NEP claimed. The effects of Ottawa's direct policy measures were also less ominous than initially thought. As has been revealed in Chapter Twelve, the reasons for this must be sought primarily in the nature and operation of the measures themselves and the structure of the aggregate Canadian state.

The Canada-Alberta Energy Agreement of 1981

A new Energy Agreement between Ottawa and Alberta was introduced on

\[\text{ibid. p.220}\]
September 1, 1981. This agreement, relating specifically to matters of energy pricing and taxation, introduced important modifications in the measures put forth in the NEP of 1980. In terms of oil pricing, the agreement produced a set of new pricing schedules, all of which were higher than those introduced in the 1980 NEP. Conventional oil prices were targeted to increase to 75% of the forecasted international oil price by 1986. The energy agreement also produced a much steeper increase in reference prices than had the 1980 NEP. The energy agreement with Alberta produced a new category of oil, "conventional new oil", which was subject to a New Oil Reference Price (NORP), and which encompassed conventional new oil in Alberta, synthetic oil (including existing Suncor and Syncrude production) and oil from Canada Lands. The pricing schedule of conventional new oil was as follows:

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<td>Montreal</td>
<td>47.30</td>
<td>54.50</td>
<td>61.70</td>
<td>68.40</td>
<td>75.70</td>
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<tr>
<td>Estimated</td>
<td></td>
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<tr>
<td>Wellhead</td>
<td>45.92</td>
<td>53.06</td>
<td>60.18</td>
<td>66.83</td>
<td>74.08</td>
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The energy agreement was the result of renewed federal-provincial negotiations in May 1981, after the first round had originally broken off in October 1980. The agreement was scheduled to expire on December 31, 1986. See Memorandum of Agreement between the Government of Canada and the Government of Alberta relating to Energy Pricing and Taxation, September 1, 1981, p.1

Conventional new oil in Alberta was defined as:
- oil from pools initially discovered after December 31, 1980;
- "incremental oil", which was defined as: "oil, as determined by the fixed ratio method, recovered from pools or portions of pools subject to enhanced recovery schemes (other than waterflood schemes) commencing operation after December 31, 1980; and
- crude bitumen that was to be obtained from experimental and non-integrated oil sands projects commencing operation after December 31, 1980. Old oil" was defined as oil recovered from a pool initially discovered prior to January 1, 1981. This category did not include incremental oil. ibid., p.3.

ibid., Table 2, p.4
Field prices of conventional old oil were scheduled to increase from a base price of $21.25 in October 1981, to $57.75 in July 1986. The differential between old oil and NORP oil was then over $20 which was the same numerical difference as the original NEP had for 1986.

The NORP pricing schedule was intended to reach parity with the international oil price. The NORP would not be allowed to exceed the international oil price, however. The new oil price ceiling was now clearly the international oil price. The NORP now also included frontier oil and thus removed the uncertainty in the original NEP about frontier oil.

The new pricing schedule was higher and had a steeper gradient than the previous one. In retrospect, this decision tied future Canadian oil prices to an even more unrealistic oil market outlook. It is interesting to note that the new and higher pricing schedule was introduced at a time when the world oil market was glutted and spot prices declined. The new and higher pricing schedule is clearly indicative of the important role of oil pricing in the intergovernmental bargaining over revenue shares. It could also be argued that it rendered the NEP's pricing scheme even less flexible, because by extending the NORP to more categories of oils it also meant that larger segments of the NEP scheme would be affected should the international oil price decline. Since the tax structure was so closely tied to price regulation, and Ottawa's objective of self-sufficiency was based on high-cost oil, the whole structure of the NEP became even more vulnerable to international market developments.

The new agreement introduced important changes to the PIP. The Government of Alberta would administer and pay the incentives under the program for activities within Alberta. What is particularly interesting to note is the

390 The pricing schedule for old oil was planned to increase by $4.50 in 1982, and after that by $8 each year until July 1986. ibid., p.2
391 Spot prices fell by over 10% between January and October 1981. See Chapter Ten, Table IV.2.
392 This further underlines the earlier contention of the NEP as stimulating a dual-structured energy policy context in Canada.
new division of responsibility between the Government of Canada and the Government of Alberta\footnote{393} in terms of the rules and operations of the PIP. Apart from specifying areas of individual responsibility (and opportunity) pertaining to each level of government, the agreement also specified areas of shared authority between the two levels of government. Ottawa retained its ability to make and amend the rules relating to the PIP incentive rates schedule, including the determination of Canadian Ownership (COR) and Canadian Control Status (CCS) rules and also the definition of what constituted eligible costs and expenditures to be covered by the program. The most important aspect of this shared authority was the following requirement:

\textit{Notwithstanding the fiscal undertakings in this Agreement, any change in PIP incentive rates as specified in the National Energy Program \ldots for activities on provincial lands will require agreement between the Government of Alberta and the Government of Canada.}\footnote{394}

The requirement for provincial agreement extended to Ottawa’s concern with so-called "leakage-rules" which referred to the transfer of program benefits from companies with high COR-rates to companies with low COR-rates.\footnote{395} Ottawa was concerned that companies with low COR-rates and therefore not eligible for the highest grants, could farm-out their land to companies with high COR-rates, on unfavourable terms. In that case, the relevant government would end up paying for the exploration work that the low-COR company ended up benefitting from. Further, Ottawa retained a say in the incentive rates in provincial lands, thus attempting to ensure itself that no "incentive bidding war" would start between the two levels of government. This is also indicative of how the 'two competing

\footnote{393} The agreement stated that the Government of Alberta may make and amend its own rules with respect to the administrative aspects of the Alberta portion of the PIP, such as:
- time limits for applying
- frequency of application
- forecasts of eligible costs and expenses
- design and preparation of forms and other program documents
- enforcement rules and penalties
- requirements for the submission of information by applicants
- confidentiality of and access to information obtained under the program

\footnote{394} See Memorandum of Agreement, op.cit. p.18

\footnote{395} ibid.
petroleum regions' philosophy influenced federal officials. Finally, the reallocation of PIP responsibility reveals that the intergovernmental interaction served to cement the structure of the NEP and render it less easy to change.

Scarfe notes that Alberta paid a heavy price for retaining its jurisdictional control over the PIPs. He says, in terms of the PIP:

This reallocation of responsibility for PIPs still does not alter the fact that the incentives for exploration and development on federal lands, principally in the Arctic and off-shore on the East coast, will be higher than those in the conventional oil and gas producing areas. In effect, higher cost frontier resource developments are being encouraged at the expense of potentially lower cost ones in the western Canadian sedimentary basin, a situation which makes little sense from the point of view of the optimal timing of exploration and development of potential oil and gas pools. From this perspective, one might interpret the $5.4 billion of Alberta incentives, including both drilling incentives and royalty relief, partly as an attempt to redress this imbalance while also shoring up industry revenues more generally. Indeed, this may be exactly what Ottawa had hoped would occur.

Alberta's emphasis on jurisdictional control over the PIP grants is further evidence of the degree to which governmental actors in this period pursued policies to ensure their jurisdictional rights, even if such was costly economically and entailed making concessions to private-sector actors.

The $5.4 billion provincial incentive program was introduced in 1982. The introduction of this incentive program, if we follow Scarfe's logic, is another indication of how a conflictual intergovernmental setting structured relations between each level of government and the oil and gas industry. In this case Ottawa, concerned with the province of Alberta footing a higher portion of industry incentives, pressured the province to provide the industry with concessions. This is indicative of how the intergovernmental interaction and actions by one or the other level of government to preserve or strengthen its powers ends up producing concessions to industry actors.

In terms of taxation's role in the energy agreement between Ottawa and Alberta, the following points were the most important. First, Ottawa agreed to set the PCC to a level commensurate with, but not in excess of, the amount needed to finance oil import compensation. Thus, it reneged on its initial plea

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396 See Scarfe: The National Energy Program After Three Years, op.cit., p.16
to collect additional revenues from the PCC.

Second, the PGRT would be set at a rate of 16%, effective January 1, 1982, which entailed an increase from the initial 1980 rate of 8%. The new PGRT, however, was to be combined with a 25 percent resource allowance for an effective rate of 12 per cent. The PGRT on the Alsands and Cold Lake synthetic oil projects would be reduced from 16% to 10.67% until each particular project had achieved payout. The PGRT was to be removed from the wellhead. The PGRT was retained as a tax on oil and gas production revenue. Since the price of oil was increased, the PGRT had to be raised in order to capture additional expected economic returns. This further demonstrates the strong linkage that existed between the NEP's tax and price components. Although Ottawa in this agreement sought to improve its relations with industry, the decision to raise the PGRT to 16% was not exactly welcomed by the industry. The federal concessions associated with the increase in the PGRT indicate the extent to which the tax structure of the NEP was driven by price changes rather than deliberate intentions to increase federal revenue shares from the industry.

Third, Ottawa introduced an Incremental Oil Revenue Tax (IORT) effective January 1, 1982 to be applied at a rate of 50% on incremental oil revenues. The tax would be applied after related Crown royalties had been deducted, however.

Fourth, the NGGLT was to be set to zero for exports of natural gas and natural gas liquids following the Albertan challenge and the Court decision which disallowed this tax (this did not apply to exports of propane and butane, the export of which would continue to be taxed) throughout the term of the

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397 See Doern and Toner, op.cit. p.328

398 See Government of Alberta, Department of Federal and Intergovernmental Affairs: Ninth Annual Report to March 31, 1982, p.20

399 ibid. p.10
Fifth, certain income tax changes were also introduced in the agreement. The resource allowance in the Income Tax Act was to be restructured and applied to total production profits before the deduction of royalties, unless such royalty income was liable for non-deductible provincial levies. Earned depletion in the Canada lands was to be phased out after 1984. This was an important point because it placed the provinces on a more equal footing with the Canada Lands. Clearly, this move was a concession to the province of Alberta. If Ottawa after this wanted to promote frontier development, more generous concessions would have to be granted the industry. Such moves would also further undermine the interventionist thrust of the land management regime in the Canada Lands. This concession, then, is another example of how the intergovernmental interaction served to undermine and render impotent federal measures intended to control industry activities and fulfill federal objectives.

The agreement, according to some observers, also was another clear indication of the degree to which energy policy-making in Canada had become oriented along intergovernmental lines. Scarfe observes that the NEA:

Basically... was an arrangement whereby the Alberta government acknowledged the federal government's ability to collect substantial new forms of tax revenues from the provincial oil and gas sector in exchange for substantially higher producer prices for oil and natural gas than those contained in the NEP. Thus, the NEA does go a considerable way to rectify the pricing problems created by the NEP. Although the first priority in any compromise solution should have been to re-establish an appropriate fiscal framework for the industry, and only after accomplishing this should one have worried about the distribution of public-sector revenues between governments, in retrospect it is pretty clear that this was not really achieved.

Scarfe here confirms an important part of the logic of intergovernmental interaction, in particular during and after the two oil crises. Governmental actors were very concerned with the overall size of resource revenues,

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400 Ottawa explicitly stated in the agreement that this did not reduce or at all affect the federal government's ability and legal basis for instituting such a tax. See Memorandum of Agreement, op.cit. p.9

401 The earned depletion would be phased out according to the following schedule: 33% in 1982, 20% in 1983, 10% in 1984 and zero thereafter. ibid., p.11.

402 See Scarfe, op.cit. p.7
following each price increase. They then instituted actions partly to prevent the other level from maximizing its returns and in order to increase own share as much as possible.

In terms of the structure of the Alberta-Ottawa energy agreement of 1981, the following observations are of particular importance. First, it is important to note that in terms of taxation, pricing and incentives, the energy agreement included several clauses that precluded one level of government from introducing changes unilaterally. These clauses, viewed in light of the complex policy package that had emerged, served not only to encourage or rather enforce intergovernmental cooperation, but it also cemented the structure that had emerged. It is clear that the energy agreement not only made it more difficult for each level of government to initiate policies unilaterally but it is equally clear that the two levels of government, within the context of a significantly increased interventionist framework, had developed a network of policy interdependence that tied their hands both in the near and the more distant future. The most important part of this complex policy interdependence is its relation to the industry. Helliwell et al. note, with application not only to this agreement but also to later agreements, that:

The energy agreements constrain both levels of government from altering taxes and royalties in a manner which would significantly reduce the aggregate revenue flow either to the oil and natural gas producing industry or to the other level of government. However, both levels of government are free to make changes that have the reverse effect, and both Alberta and the federal government introduced changes in 1982 that served to improve the position of the producing industry.

The agreement reflected Alberta’s very strong resentment against unilateral changes, in particular when such changes spur further intergovernmental competition and conflict. It was important to make sure that no such further actions would take place. The governmental actors thus recognized how upsetting the competitive setting had been. But they did this not by walking away from the NEP but by retaining the program almost intact.

403 See Memorandum of Agreement, op. cit. pp.11-20.

In terms of the projected effects of the Canada-Alberta agreement, considerable disagreement can be found among analysts. A study by Price Waterhouse predicted revenue shares as follows:

Table IV.27. Estimated Netbacks From Old Oil($/bbl)\textsuperscript{405}

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<thead>
<tr>
<th></th>
<th>Pre-NEP Based on Federal/Alberta Agreement</th>
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<tr>
<td>Avg. wellhead price</td>
<td>15.58</td>
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<tr>
<td>Operating costs</td>
<td>1.56</td>
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<td>Alberta royalties</td>
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</tr>
<tr>
<td>Netbacks (gross)\textsuperscript{406}</td>
<td>6.64</td>
</tr>
<tr>
<td>Taxation - Federal</td>
<td>7.38</td>
</tr>
<tr>
<td>- Alberta</td>
<td>0.81</td>
</tr>
<tr>
<td>Netbacks to prod.</td>
<td>2.78</td>
</tr>
</tbody>
</table>

Netbacks under NEP, as originally proposed N/A 2.01 2.12 2.39 2.74 3.01

Table IV.28. Estimated Netbacks From New Oil($/bbl)\textsuperscript{407}

<table>
<thead>
<tr>
<th></th>
<th>Pre-NEP Based on Federal/Alberta Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avg. wellhead price</td>
<td>15.58</td>
</tr>
<tr>
<td>Operating costs</td>
<td>1.56</td>
</tr>
<tr>
<td>Alberta royalties</td>
<td>14.02</td>
</tr>
<tr>
<td>Netbacks (gross)\textsuperscript{406}</td>
<td>6.64</td>
</tr>
<tr>
<td>Taxation - Federal</td>
<td>7.38</td>
</tr>
<tr>
<td>- Alberta</td>
<td>0.81</td>
</tr>
<tr>
<td>Netbacks to prod.</td>
<td>2.78</td>
</tr>
</tbody>
</table>

Netbacks under NEP as originally proposed N/A 2.01 2.12 2.39 2.74 3.01


\textsuperscript{406} "Gross" here refers to netbacks before other taxation.

\textsuperscript{407} See Price Waterhouse: The National Energy Program, op.cit. Exhibit 9, p.14
According to the data presented by Price Waterhouse, the Canada-Alberta agreement led to an increase in producers' netbacks, as compared with the original NEP. As revealed in Tables IV.27 and 28, this applied to both old and new oil. Pratt characterized the Ottawa-Alberta agreement, as follows:

In essence, Alberta and the federal government each made concessions to achieve an outcome that permits the province to protect its jurisdiction, Ottawa to extend its Canadianization program and both sides to collect more revenues (at the expense of energy consumers). The petroleum industry appeared to improve its position slightly.\(^\text{408}\)

The agreement not only extended the federal Canadianization program, it also maintained Ottawa's expanded jurisdictional role which was backed up by a web of policy instruments introduced in the NEP.

A study by Helliwell and McRae essentially confirms Pratt’s statement of the distribution of revenue among the actors involved, although in relative terms the industry was the largest beneficiary.\(^\text{409}\) The oil MNCs responded negatively to the Canada-Alberta agreement of 1981. Doern and Toner note:

When it became clear that the September 1981 Canada-Alberta Agreement would not provide the sorts of improvements in their fiscal arrangements that they had hoped for, the foreign majors responded by maintaining their exploration budget cutbacks. Arguing that they could not go ahead with the mega-projects given the inadequate returns they could expect (specifically, less than a 20 percent discounted rate of return), Imperial Oil abandoned the Cold Lake heavy oil project in the fall of 1981, and Shell cancelled the Alsands project in April 1982. When it became apparent that the NEP would for the most part remain intact, a number of the foreign majors decided to hedge their bets and decrease their costs by farming out sections of the Canada Lands leases to Canadian-controlled firms eligible for PIP grants.\(^\text{410}\)

Agreements with the other producing (or potentially producing) provinces were

\(^\text{408}\) See Pratt: Energy: Roots of National Policy, op.cit. p.56.

\(^\text{409}\) See Helliwell, J.F. and R.N. McRae: Resolving the Energy Conflict: From the National Energy Program to the Energy Agreements, in Canadian Public Policy, VIII:1, pp. 14-23. Compared with the NEP, the industry’s share of economic rents (net of all costs, taxes, royalties, land payments, operating costs, depreciation and a 7% real after-tax return on the replacement value of capital investment) was $15.4 billion. This was an increase of 42.6% in comparison to the NEP. The share of Canadian energy users was $97.5 billion, or a reduction of 11.8% from the NEP. The federal government’s share was $37 billion, an increase of 20% over the NEP. The share of the producing provinces was $129.2 billion or an increase of 4.5% over the NEP.

\(^\text{410}\) See Doern and Toner, op.cit. p.207
also reached; with B.C. on September 24, 1981, with Saskatchewan on October 26, 1981 and with Nova Scotia on March 2, 1982.

On April 13, 1982, Alberta introduced its Oil and Gas Activity Program (OGAP). The province provided the industry with $5.4 billion in royalty relief and drilling incentives. This move clearly made the conventional reserves in the provinces much more attractive to develop.

At the end of May 1982, Ottawa introduced its NEP Update. This included a $2 billion assistance plan designed primarily to aid the Canadian junior oil companies. Further, the NEP Update announced the reduction or suspension of a number of federal taxes. These were:

a) The rate of the PGRT was reduced from 16% to 14.67% for the period June 1, 1982 until the end of May 1983. This meant that the effective tax on production revenue would be 11% after the resource allowance had been deducted. This measure was estimated to benefit all oil and gas producers, by adding $200 million to their revenue stream. \(^{411}\)

b) The IORT was reduced to nil on conventional oil for the same period. This move was estimated to save the industry players that re-invested their funds an additional $250 million. \(^{412}\)

c) A special price for oil discovered after 1973 was granted producers. \(^{413}\)

d) Small producers were granted an annual credit of up to $250,000 against their PGRT liability. This applied to all companies and was estimated to save the industry $900 million.

e) Existing tertiary recovery projects, experimental projects and suspended wells were granted NORP.

f) The NEP Update introduced a reduction in the rate of PGRT for synthetic oil production from oil sands plants. The effective rate of PGRT on production was

\(^{411}\) See NEP Update 1982, p.73.

\(^{412}\) ibid. p.74.

\(^{413}\) ibid.
to be reduced from 12% to 8% for the period January 1, 1983 to the end of 1984. This move would save the industry $125 million.
g) Enhanced recovery projects were granted earned depletion.
The NEP Update estimated that the total value of the measures introduced in this package would exceed $2 billion until 1986.\textsuperscript{414} The program was so structured as to deliver roughly half of this amount in the period 1982-83 when additional industry cash-flow was most needed.

<table>
<thead>
<tr>
<th></th>
<th>Sept.1981</th>
<th>May 1982</th>
<th>$Change</th>
<th>%Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fed. govt.</td>
<td>61</td>
<td>36</td>
<td>-25</td>
<td>49</td>
</tr>
<tr>
<td>Provinces</td>
<td>75</td>
<td>53</td>
<td>-22</td>
<td>43</td>
</tr>
<tr>
<td>Industry*</td>
<td>78</td>
<td>74</td>
<td>-4</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>214</td>
<td>163</td>
<td>-51</td>
<td>100</td>
</tr>
</tbody>
</table>

* Net of operating costs.

These measures enhanced the industry’s cash-flow and reveal Ottawa’s willingness, if grudgingly, to restore or improve the industry’s financial position in light of the significant economic downturn of the early 1980s. Clearly, the biggest loser was Ottawa.

In June 1983, another set of amendments were made to the 1981 agreements.\textsuperscript{416} In this amendment the NGGLT was reduced to zero effective February 1, 1984. This amendment was predicted to cause a drop in federal revenues from this tax measure from $760 million in 1983 to $30 million in 1984.\textsuperscript{417} Thus, the period 1981-83 witnessed a number of federal and provincial initiatives to lessen the

\textsuperscript{414} ibid. p.75.

\textsuperscript{415} ibid., p.77. The table incorporates both Albertan and federal measures introduced in 1982.


\textsuperscript{417} Source: PMA: Monitoring Survey, 1984, p.5-3.
industry's burden. As already noted, such concessions were readily made within the very detailed framework established by the Canada-Alberta Agreement of 1981. Helliwell et al. note that between 1981 and 1983, when world oil prices dropped by 25%, federal revenues declined by more than $10 billion, provincial revenues declined $6 billion and the industry's share was practically the same due to the Albertan and federal measures in 1982. Thus, the two levels of government have carried by far the largest part of the revenue losses.

The Demise Of The NEP

In spite of the many changes made to the NEP of 1980, there is little doubt that in 1984, a general consensus had emerged stressing the need for a wide-ranging change in Canada's energy policy. Toner notes:

(T)he Business Council on National Issues (BCNI) had, over several months in 1983 and 1984, convened a series of secret summit meetings involving oil executives, industrialists and bankers, as well as federal energy minister Jean Chretien and Premiers Lougheed and Davis and their energy ministers. The objective of these meetings, given the new international energy environment, was to forge a consensus among the often conflicting producer and consumer interests represented by these corporate and political leaders in order to hammer out a new energy framework which would form the basis for a new energy policy after the 1984 election. This new era of cooperation and civility was reflected by the fact that an informal agreement was reached that ensured that the private sector participants and the Premiers would not embarrass federal politicians by raising energy issues during the election campaign.

The basic reasons for a dramatic change in the NEP emerged from abroad, however, as the world oil price declined from a peak of $35 in 1981 to $26 in 1984. The decline in the world price of oil, although not dramatic until 1986, was sufficient to offset all the projections on which the NEP was built. The widening discrepancy between the international oil price and the price projections in the NEP undermined not only the price regulation scheme of the NEP but also the tax and incentive systems of the program. These developments

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also affected Ottawa’s other interventionist means whose effect was largely undercut. A brief examination of the NEP’s objectives and their subsequent fate will shed light on these events in a larger context of state-society relations.

Assessing The NEP: Success Or Failure?

Canadianization

Assessing the relative success of the NEP’s objective of Canadianization, Table IV.30, reveals that the NEP led to a significant increase in Canadian ownership and control.

<table>
<thead>
<tr>
<th>Year</th>
<th>Canadian Ownership</th>
<th>Canadian Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>26.1</td>
<td>18.7</td>
</tr>
<tr>
<td>1981</td>
<td>32.8</td>
<td>25.9</td>
</tr>
<tr>
<td>1982</td>
<td>34.7</td>
<td>25.5</td>
</tr>
<tr>
<td>1983</td>
<td>38.9</td>
<td>29.6</td>
</tr>
<tr>
<td>1984</td>
<td>40.4</td>
<td>32.0</td>
</tr>
</tbody>
</table>

Provided the rapid increase in Canadian ownership and control throughout the early 1980s had continued, the federal government’s objective of 50% Canadian ownership by 1990 would probably have been reached. There is little doubt that the increase in Canadian ownership and control represented a success for the Liberal government’s commitment to Canadianize the oil and gas industry. But was this a success in substantive or largely in symbolic terms? Increased Canadian ownership, both private and public, would reduce the role of foreigners in the shaping of federal energy policy. The public’s share of total Canadian petroleum industry ownership was 12.3% whereas the private share was

The public share was significant but not large enough to present a challenge to the private Canadian industry or to its dominant foreign segment. The political importance of Canadianization as increased private-sector ownership and control is a matter of debate rather than a foregone conclusion because it assumes that private-sector behaviour will follow national bounds and priorities. Ottawa's promotion of private-sector Canadian companies, it is important to note, differed in that it was clearly related to increasing the presence of smaller companies with a strong Canada Lands presence— which due to their small size and limited mobility— would be much more dependent on the resource prospects of the Canada Lands and responsive to the federal government's regulatory instruments.

Declining oil prices made the Canada Lands far less attractive from the private companies' point of view, not only in the short term but also in the medium term. The fact that the oil MNCs moved their exploration activities back to the provinces combined with the reduced economic prospects of the Canada Lands to render the new Canada Lands regime a far less effective regulatory instrument than it was intended to be. With fewer bidders and the economic prospects of Canada Lands development less attractive than anticipated, the ability of Ottawa to use the ministerial discretion available in COGA to influence industry activities declined significantly. When viewed in isolation, individual requirements such as the 50% Canadian ownership requirement for obtaining a production licence did not represent a serious obstacle to a continued MNC dominance.

Ottawa's generous incentives to the industry also looked much more like subsidization when they no longer could be combined with the regulatory powers available in the Canada Lands regime. Many of the subsidies granted to companies such as Dome eventually ended up benefitting much more risk-averse players, such as Amoco. Also, considerable "leakage" existed with federal PIP grants. Pratt was highly critical of this aspect of the NEP. He notes, in terms

Source: PMA: 1984 Monitoring Survey, Table 13, p.6-2. The level of Canadian ownership listed in this report was 39.5% for 1984 whereas the figure presented in Table IV.30 was 40.4%. 

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of the PIP:

that the multinational oil companies have adapted successfully to the N.E.P. regime, particularly through frontier exploration ventures, and are now in a much stronger position than the Canadian-owned oil companies to adjust to a greatly changed world oil structure. Adaptation to economic nationalism and state intervention is part of the international companies' stock-in-trade. As an example of nationalist policy, the N.E.P. has been a costly, divisive failure.\(^{422}\)

Clearly, this was not the federal government's intention when introducing the NEP. Pratt underscores the fact that Petro-Canada, through farm-ins paid for by PIP-grants, also accumulated additional acreage on top of its preferential land grants.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Payments</th>
<th>Can. Contr.</th>
<th>Foreign Contr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>715</td>
<td>608</td>
<td>107</td>
</tr>
<tr>
<td>1982</td>
<td>1297</td>
<td>1201</td>
<td>96</td>
</tr>
<tr>
<td>1983</td>
<td>1539</td>
<td>1418</td>
<td>121</td>
</tr>
<tr>
<td>1984</td>
<td>1721</td>
<td>1616</td>
<td>105</td>
</tr>
<tr>
<td>Total</td>
<td>5272</td>
<td>4843</td>
<td>429</td>
</tr>
</tbody>
</table>

In overall terms, as revealed in Table IV.31, PIP payments clearly benefitted Canadian companies. But the program only benefitted a handful of Canadian companies.\(^{424}\) While Pratt may be correct in observing that the oil MNCs were able to adapt to the NEP, the basic reasons for an increased oil MNC role must be sought not in the power of the oil MNCs but rather as an un-intended consequence of state actions. The NEP's projected rapid transition to a future of high-cost oil and gas failed to materialize. This was not due to the actions

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\(^{423}\) Source: PMA: *Monitoring Survey*, various issues.

\(^{424}\) The largest single PIP beneficiary was Petro-Canada which obtained 24% of all grants. Dome Petroleum and its subsidiaries received approximately 17.5% of total federal PIP grants. No other single corporate entity collected more than 10% of all federal grants made between 1981 and 1985. Petro-Canada and Dome thus received roughly 40 per cent of all federal PIP grants in the 1981-85 period. The four top recipients of PIP grants accounted for more than 55% of all federal grants made.
by the oil MNCs in Canada or even the oil MNCs on the international stage but was instead a complex result of a host of international and domestic factors. Federalism, as noted, played a critical role in shaping the NEP. Federalism further interacted with other structural factors to channel conflicts along intrastate lines, fuelling conflicts between Ottawa and Alberta and between Ottawa and Newfoundland. Federalism acted as an important factor in shaping events in the period after the NEP and is therefore a critical factor in understanding the subsequent decline of the program.

Table IV.32  Principal Canadian Oil Producers (% share)\textsuperscript{425}

<table>
<thead>
<tr>
<th>Company</th>
<th>1978</th>
<th>1982</th>
<th>COR-rate(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Imperial+</td>
<td>15.0</td>
<td>13.2(1)</td>
<td>25.3</td>
</tr>
<tr>
<td>2. Texaco+</td>
<td>8.0</td>
<td>11.8(2)</td>
<td>21.1</td>
</tr>
<tr>
<td>3. Gulf+</td>
<td>7.3</td>
<td>9.4(3)</td>
<td>44.3</td>
</tr>
<tr>
<td>4. Mobil+</td>
<td>7.0</td>
<td>6.9(6)</td>
<td>0.0</td>
</tr>
<tr>
<td>5. Amoco+</td>
<td>5.5</td>
<td>5.9(8)</td>
<td>0.0</td>
</tr>
<tr>
<td>6. Chevron+</td>
<td>4.9</td>
<td>7.3(5)</td>
<td>0.0</td>
</tr>
<tr>
<td>7. HBOG</td>
<td>4.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Shell+</td>
<td>4.3</td>
<td>5.1(9)</td>
<td>25.3</td>
</tr>
<tr>
<td>9. Petro-Canada</td>
<td>4.2</td>
<td>6.7(7)</td>
<td>100.0</td>
</tr>
<tr>
<td>10. GCOS/Sun</td>
<td>3.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Petrofina</td>
<td>3.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Dome</td>
<td>2.8</td>
<td>9.4(3)</td>
<td>44.3</td>
</tr>
<tr>
<td>13. Canadian Superior</td>
<td>2.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. PanCanadian</td>
<td>2.4</td>
<td>4.8</td>
<td>80.0</td>
</tr>
<tr>
<td>15. Home Oil</td>
<td>2.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total share:</strong></td>
<td>77.3</td>
<td>80.5</td>
<td></td>
</tr>
</tbody>
</table>

* COR-rates are from 1985.
+ Subsidiaries of the major international oil companies.

The continued importance of the oil MNCs is seen in the relative composition of oil producers in Canada. Using 40% Canadian ownership as a benchmark criterion, oil production by companies with COR-rates of 40% and above, rose from 6.9% of total Canadian oil production in 1978 to 28.3% of Canadian oil production in 1982.

production in 1982.\footnote{426} This is a significant change. Yet, it is also interesting to note that the oil MNCs' share of production rose between 1978 and 1982. In 1978 it was 52% and in 1982 it had risen to 59.6\%.\footnote{427} The increased MNC share of oil production must be attributed to the relative inability of Ottawa to affect the pattern of industry production and land-ownership in the areas under provincial jurisdiction and underscores how dependent Ottawa's strategy to increase federal control over the oil MNCs was on the Canada Lands.

A similar pattern is found in terms of frontier landholdings. Although Petro-Canada and Dome made significant inroads into the dominant land-holdings of the oil MNCs, Tables IV.19 and 20 reveal that the oil MNCs were still, in aggregate terms, the dominant land-holders.\footnote{428} Over time, however, if the NEP had survived, this aspect of oil MNC dominance would have been sharply reduced.

Finally, the economic downturn, reduced energy prices, and Alberta's initial response to the NEP - and later reinforced by the actions of the oil MNCs - essentially undermined the NEP's objective of ensuring increased spin-offs to Canadian industries.

From the above, it is clear that while the NEP led to an increase in private-sector Canadian ownership and control, this increase did not weaken the oil MNCs much. In overall terms, in this period the NEP's Canadianization thrust failed to produce the anticipated results.

\footnote{426} The COR-rate for 1978 was not found so the companies' COR-rating for 1985 was used. This means that the production figures for Canadian-owned companies are probably grossly exaggerated for 1978. Therefore, a significant improvement did take place.

\footnote{427} This was before the takeover of Gulf by the Reichmanns which of course altered the production figures significantly.

\footnote{428} See Table IV.19, in Chapter Twelve.
Self-Sufficiency

Ottawa's second objective was to ensure oil self-sufficiency by 1990. The decision by the province of Alberta in 1980 to hold up the construction of two oil sands plants until a new energy agreement had been reached between Alberta and Ottawa effectively undermined one aspect of Ottawa's self-sufficiency objective. The second part of Ottawa's de facto energy strategy withered away when the major oil companies decided to curtail their frontier investments. Helliwell et al. note that:

(S)ince the early 1970s, Canadian energy and tax policy has not only sought to encourage frontier megaprojects which displayed, at best, EX ANTE economics, but also encouraged a shift in the focus of exploration activity from lower cost regions in Western Canada to higher-cost ones on the geographical frontier. Based on the evidence presented above, it can be argued that these have been expensive experiments, and ones which have thus far produced disappointing results.

From the private sector's perspective a key implication of the policy thrust since the early 1970s has been a re-allocation towards the public sector of the risks involved in frontier projects. This trend, begun by the first two mineable oil sands projects, was basically extended to the geographical frontier and institutionalized by the advent of super depletion and its subsequent replacement by the PIP.429

Helliwell et al. thus point out an important continuity in federal energy policy since the time of the first OPEC oil shock in 1973. In this sense, the NEP was a continuation of previous policies. Yet, the NEP also represented an important change, because the NEP introduced a much more stringent federal land management regime. The problem was that the main industry players, especially the oil MNCs, moved their exploration activities back to the provinces or reduced their activities in the frontiers, leaving it to Ottawa to provide funds to pick up the slack. Thus, the NEP essentially failed to ensure Ottawa increased control over industry activities, not by the main industry players challenging Ottawa's intervention but by them simply withdrawing from the Canada Lands. The complex dynamics of these events can not simply be attributed to the industry's influence but must rather be viewed as a result of the complex Canadian oil scene, a scene in which at that time two distinct petroleum regions existed. Superimposed upon this geographical fact was a

429 Helliwell et al. (1987), op.cit. p.228-29.
constitutional division of power and the existence of two governments whose objectives were similar, namely to attract industry activities to the areas under their jurisdiction. Ottawa’s increased focus on the Canada Lands also heightened conflicts between Ottawa and Newfoundland. The competitive nature of Ottawa-Alberta relations and the uncertainty surrounding the East Coast, placed the industry in a very favourable position to extract concessions from each level of government. Viewed in this light, Ottawa’s imposition of a much tougher land management regime in the Canada Lands was ironic because it helped render the federal state’s policies very vulnerable to industry reactions.

Table IV.33 Exploration Expenditures in Canada,* By Location.430

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Provinces</td>
<td>2,689</td>
<td>1,934</td>
<td>2,084</td>
<td>2,551</td>
</tr>
<tr>
<td>Canada Lands</td>
<td>1,159</td>
<td>1,626</td>
<td>2,196</td>
<td>2,299</td>
</tr>
<tr>
<td>-Beaufort Sea</td>
<td>570</td>
<td>773</td>
<td>781</td>
<td>751</td>
</tr>
<tr>
<td>-Labrador Shelf</td>
<td>366</td>
<td>377</td>
<td>671</td>
<td>792</td>
</tr>
<tr>
<td>-Sverdrup Basin</td>
<td>46</td>
<td>70</td>
<td>597</td>
<td>594</td>
</tr>
<tr>
<td>-Atlantic(South)</td>
<td>137</td>
<td>329</td>
<td>147</td>
<td>162</td>
</tr>
<tr>
<td>Total</td>
<td>3,847</td>
<td>3,560</td>
<td>4,280</td>
<td>4,850</td>
</tr>
</tbody>
</table>

* Includes PIP payments and capitalized overhead.

Table IV.33 reveals a sharp decline in exploration between 1981 and 1982 in the western provinces, including Alberta. In the Canada Lands, on the other hand, a significant increase in industry investments took place. As late as 1984 drilling still increased.

430 Source: PMA: Monitoring Survey, various years. Data on industry expenditures presented in Oilweek’s December 1983 and 1986 drilling reports vary somewhat from the figures presented by PMA. The variation is not large enough to alter any of the observations presented here.
Table IV.34 reveals that the large amounts spent on the frontier were not converted into many wells because drilling expenditures were so high. The few wells also means that frontier drilling activities may only involve a few firms.

Between 1981 and 1982, exploration spending declined dramatically in the provinces. In the frontiers, the opposite happened, namely exploration spending rose from $1,159 million in 1981 to $1,626 million in 1982. This is an increase of $467 million. In the same period, PIP grant payouts rose by $582 million. In the frontiers alone, the increase was $518 million. This means that the increase in frontier exploration activity between 1981 and 1982 was financed out of PIP funds to active frontier explorers. Privately financed exploration declined in the same period. This clearly supports the position taken by Helliwell et al. of frontier exploration as being essentially financed out of the public purse.

Table IV.35 PIP Payments ($mill.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Frontiers</th>
<th>Provinces</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>715</td>
<td>469</td>
<td>246</td>
</tr>
<tr>
<td>1982</td>
<td>1297</td>
<td>987</td>
<td>310</td>
</tr>
<tr>
<td>1983</td>
<td>1539</td>
<td>1252</td>
<td>287</td>
</tr>
<tr>
<td>1984</td>
<td>1721</td>
<td>1393</td>
<td>328</td>
</tr>
<tr>
<td>Total</td>
<td>5272</td>
<td>4101</td>
<td>1171</td>
</tr>
</tbody>
</table>


432 Source: PMA: Monitoring Survey, various years.
Table IV.36 PIP Payments' Share of Explo. Expenditures (in %)

<table>
<thead>
<tr>
<th>Year</th>
<th>PIP's share of total explo.</th>
<th>PIP's share of prov. explo.</th>
<th>PIP's share of frontier explo.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>18.6%</td>
<td>9.1%</td>
<td>40.5%</td>
</tr>
<tr>
<td>1982</td>
<td>36.4%</td>
<td>16.0%</td>
<td>60.7%</td>
</tr>
<tr>
<td>1983</td>
<td>35.9%</td>
<td>13.8%</td>
<td>57.0%</td>
</tr>
<tr>
<td>1984</td>
<td>35.5%</td>
<td>12.9%</td>
<td>60.6%</td>
</tr>
</tbody>
</table>

Table IV.36 confirms the dominant public role in frontier exploration. This becomes even more clear when Petro-Canada’s role is taken into account because Petro-Canada was one of if not the most active frontier explorer in this period.

Table IV.37 Federal/Provincial Share of PIP Outlays

<table>
<thead>
<tr>
<th>Year</th>
<th>Fed. Share</th>
<th>Prov. Share</th>
<th>Total PIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>469</td>
<td>246</td>
<td>715</td>
</tr>
<tr>
<td>1982</td>
<td>987</td>
<td>310</td>
<td>1297</td>
</tr>
<tr>
<td>1983</td>
<td>1252</td>
<td>287</td>
<td>1539</td>
</tr>
<tr>
<td>1984</td>
<td>1393</td>
<td>328</td>
<td>1721</td>
</tr>
<tr>
<td>Total</td>
<td>4101 (77.8%)</td>
<td>1171 (22.2%)</td>
<td>5272</td>
</tr>
</tbody>
</table>

Table IV.38 Petro-Canada’s PIP-Receipts, 1981-1984.

<table>
<thead>
<tr>
<th>Year</th>
<th>P.C.’s share ($mill.)</th>
<th>%share of total PIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>138.7</td>
<td>19.4</td>
</tr>
<tr>
<td>1982</td>
<td>299.9</td>
<td>23.1</td>
</tr>
<tr>
<td>1983</td>
<td>468.4</td>
<td>30.4</td>
</tr>
<tr>
<td>1984</td>
<td>380.3</td>
<td>22.1</td>
</tr>
<tr>
<td>Total</td>
<td>1288.0</td>
<td>24.4</td>
</tr>
</tbody>
</table>

433 Calculated from data provided by PMA: Monitoring Survey, 1982, Table 8, p.B-8 and Table 5, p.2-3 and PMA, 1984, p.A-9 and Table 8, p.2-3.


Finally, Petro-Canada's frontier strategy, as revealed in Chapter Twelve, was changed from basically exploration to map Canada's resource base to promotion of rapid oil and gas production and export. As Pratt has argued, Petro-Canada's strong emphasis on the most attractive frontier areas would undermine Ottawa's ability to control the future rate and location of oil and gas development in Canada because it could commit Ottawa to the rapid production of known frontier reserves without a proper resource mapping having been done. This would commit Ottawa very strongly to frontier development with less future federal ability to choose among fuel sources.

Rent Distribution/Fairness

This chapter has already dealt at length with the revenue distribution effects of the NEP. In aggregate terms, Table IV.39 reveals that although the industry experienced a significant drop in net income between 1980 and 1984, the largest decrease happened in the downstream rather than in the upstream. Also, since the small companies basically fared worse than the oil MNCs, the oil MNCs did not lose much in the upstream. Further, as has been noted above, in the period 1981-84, the largest losses resulting from the international oil price decrease were carried by governments, not the oil industry.

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436 A large-scale federal frontier effort, at that time, could also have generated additional pressure in the provinces to launch a counter-strategy, which could easily have developed into a bidding war, in which the industry would end up the main beneficiary.

437 This could also lead to Ottawa's policy "jumping over" less costly fuel sources.
Table IV.39 Industry: Five-Year Operating Summary: 1980-1984 ($bill.)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operations</td>
<td>44.2</td>
<td>54.8</td>
<td>58.9</td>
<td>60.2</td>
<td>64.2</td>
</tr>
<tr>
<td>Upstream</td>
<td>16.1</td>
<td>17.2</td>
<td>20.8</td>
<td>23.5</td>
<td>26.0</td>
</tr>
<tr>
<td>Downstream</td>
<td>24.8</td>
<td>32.5</td>
<td>33.4</td>
<td>32.2</td>
<td>33.4</td>
</tr>
<tr>
<td><strong>Net Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operations</td>
<td>4.7</td>
<td>3.2</td>
<td>1.7</td>
<td>1.5</td>
<td>3.7</td>
</tr>
<tr>
<td>Upstream</td>
<td>2.9</td>
<td>1.6</td>
<td>1.9</td>
<td>2.5</td>
<td>3.1</td>
</tr>
<tr>
<td>Downstream</td>
<td>1.5</td>
<td>1.4</td>
<td>0.4</td>
<td>(0.1)</td>
<td>0.4</td>
</tr>
<tr>
<td><strong>Internal Cash Flow</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operations</td>
<td>9.6</td>
<td>8.3</td>
<td>7.3</td>
<td>8.5</td>
<td>10.4</td>
</tr>
<tr>
<td>Upstream</td>
<td>6.7</td>
<td>5.1</td>
<td>5.7</td>
<td>7.2</td>
<td>8.2</td>
</tr>
<tr>
<td>Downstream</td>
<td>2.2</td>
<td>2.1</td>
<td>1.3</td>
<td>0.8</td>
<td>1.1</td>
</tr>
<tr>
<td><strong>Capital Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upstream</td>
<td>6.9</td>
<td>6.8</td>
<td>6.3</td>
<td>6.6</td>
<td>7.5</td>
</tr>
<tr>
<td>Downstream</td>
<td>0.8</td>
<td>2.0</td>
<td>2.5</td>
<td>1.7</td>
<td>1.1</td>
</tr>
<tr>
<td>Other</td>
<td>0.6</td>
<td>1.3</td>
<td>1.6</td>
<td>1.1</td>
<td>0.8</td>
</tr>
<tr>
<td>Total in Canada</td>
<td>8.3</td>
<td>10.1</td>
<td>10.4</td>
<td>9.4</td>
<td>9.4</td>
</tr>
<tr>
<td>Exp. Abroad</td>
<td>1.1</td>
<td>1.8</td>
<td>1.1</td>
<td>0.8</td>
<td>0.6</td>
</tr>
<tr>
<td><strong>Dividend payments</strong></td>
<td>1.0</td>
<td>1.2</td>
<td>1.1</td>
<td>1.2</td>
<td>1.3</td>
</tr>
<tr>
<td>Upstream Reinvestment Ratio</td>
<td>103.1</td>
<td>116.1</td>
<td>85.8</td>
<td>69.6</td>
<td>70.3</td>
</tr>
</tbody>
</table>

The basic conclusion to be drawn from this brief discussion of the NEP's objectives is that the NEP essentially failed to enhance the federal government's power in relation to the oil industry, including its foreign segment.

Causes Of The NEP's Failure

Although the fate of such a large and comprehensive policy program as the NEP can not be traced back to any one single factor, the researcher in his quest for parsimony attempts to single out factors that can be shown to have been of particular importance. Factors such as the physical distribution of resources

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in Canada and the nature of Canada’s resource-base obviously played an important part in the establishment and evolution of policies at either level of government. But while resource considerations always had been important, in this period, resource issues were intimately linked with vital political issues and concerns which heightened their importance considerably. This thesis has demonstrated that political factors were so important that they merit attention in themselves. State-industry relations, both internationally and domestically, were critical determinants in shaping energy outcomes in this period.

As revealed in Chapter Ten, international oil market developments had a profound impact on Ottawa’s decision to intervene in the energy sector. But while international factors were critical determinants in prompting states to intervene in this period, the wide range of different state responses to the two OPEC oil crises suggests the need to look at domestic factors in order to comprehend the nature and direction of the federal state’s intervention. The structure of the overall Canadian state, this thesis has argued, interacted with a number of other problems and challenges facing federal and provincial governmental elites to produce a policy response that became increasingly oriented along intrastate lines of conflict rather than state-society ones. Over time, this peculiar feature of the NEP had the effect of generating an increased gap between the structure and assumptions of the NEP and events on the world oil market. The NEP which was intended to make Canada independent of the world oil market inadvertently made Canadian energy policy highly vulnerable to international oil market changes. The rapid decline in world oil prices was a critical factor in the subsequent decline of the federal government’s intervention but factors related to the structure of the overall Canadian state exacerbated the effect of these changes on Canada. The strong emphasis on the jurisdictional rights of actors and their preoccupation with ensuring economic rent produced an energy policy package that effectively ‘jumped over’ the cheaper oil and gas sources in the provinces and instead sought to ensure the conversion to a high-cost energy future by establishing a complex pricing formula for different oil sources. As part of the transition
to a high-cost future of oil was the development of two increasingly competing petroleum regions in Canada. This complex scheme which was so strongly geared onto high-cost sources was rendered increasingly irrelevant by a world oil market in which prices dropped significantly.

The most important factors that triggered oil gluts and the subsequent decline in the price of oil related to the actions by individual oil exporting and importing states and their interaction rather than the power of the oil MNCs. Thus, we are faced with the profound irony that state intervention carries within itself the seeds of its own destruction or at least irrelevance. The domestic Canadian context, in a curious way, seems to parallel this international sequence of events.

In the following pages a brief discussion of the works of other analysts will be provided to shed light on the decline of the NEP in the Liberal energy regime. Jenkins used the NEP as a test case for examining Vernon's theory of the "obsolescing bargain" and found that:

The initial assumption of the theory - that in periods of economic growth the government will eventually resent its lack of economic rent and move to increase its tax revenues - proved to be true. Thereafter the argument collapses. First, the MNCs were hardly held hostage by their investments in the Canadian oil industry. Those who chose to moved drilling rigs elsewhere and cancelled projects that had involved years of planning and renegotiated major investments in stages to avoid being held captive by large capital outlays. Second, the oil companies made ample use of the power of home governments to ensure that their interests were accommodated by the Canadian government. Third, local allies proved to be a potent source of lobbying power vis-a-vis the host government. Domestic political and economic actors impeded the state's efforts to control MNCs. Fourth, events in the international economy (world recession, falling oil prices, and declining demands for oil) severely weakened the Canadian government's bargaining position. Also, although the government did increase its income, it did so at the expense of the provinces not the MNCs. The MNCs were able to make use of extenuating circumstances to alter a policy they deemed unduly interventionist.

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439 Vernon's theory, according to Jenkins, states that host countries, for a variety of reasons, over time manage to extract concessions from MNCs. Thus, the initial lucrative bargain which was struck between the host government and the MNCs tends to obsolesce, enabling the host country to wield increased power over MNC activities and extract additional economic returns.

440 Jenkins, op.cit. p.165.
A brief critique of Jenkins' thesis would include the following remarks. First is Jenkins' contention that the oil MNCs were not held hostage by their investments in Canada. An examination of this contention requires a clarification of where in Canada this was said to apply. Jenkins uses the Alberta tar sands plants as examples. But the magnitude of the oil companies' investment in the planning stages of these projects was small in relation to the cost of developing the plants. Therefore, when faced with declining oil prices and a world over-supply of oil, it made little economic sense for the oil companies to push ahead with large scale investments that would offer at best marginal economic returns. The Albertan cancellation of the projects in response to the NEP reminded everyone involved of the potential of governmental actors to use such projects as pawns in their larger political and jurisdictional strategies. Jenkins’ example of Imperial’s initial Cold Lake investment later becoming divided into a project of six independent stages reveals that Imperial incorporated the new and more uncertain world oil price prospects into its corporate strategy. Faced with possible declining world oil prices it made little economic sense to embark on a large-scale prospect that displayed marginal economics and whose short to medium term future economic prospects were becoming increasingly uncertain. This is less an example of how the oil MNCs were being held hostage by their investments as it reveals how the changing economic prospects affected the corporate strategies of the companies.

The oil MNCs in this period scaled down their high-risk involvement, both in the provinces and in the Canada Lands. Their dominant role as oil producers in the provinces, as revealed in Table IV.33, increased in this period. Their mobility within Canada was greatly enhanced by the physical distribution of resources and the location of Canada’s future oil and gas resources within different jurisdictional bounds. The oil MNCs could sit on their producing properties in the provinces and wait for conditions to improve, through world oil price increases or improved tax and fiscal terms. Ottawa could not do much to affect the dominant role the oil MNCs had in conventional oil production in
the provinces. In the context of the NEP and the highly conflictual federal-provincial relations, Ottawa increasingly sought to establish the Canada Lands as a petroleum producing region in Canada which means that in this period Canada saw the emergence of two competing petroleum regions, with each level of government overseeing its own. Ottawa at that time with no significant producing properties within its jurisdiction, a much more interventionist land management regime, and dependent on increased future oil prices, was clearly the weaker actor.

Jenkins is correct in stating that the oil MNCs were not held hostage by their investments in Canada’s high-cost sources of oil and gas. But this is due to other factors, more closely related to international changes and the nature of intergovernmental relations in Canada than to the bargaining strength of the oil MNCs. Concluding that the obsolescing bargain thesis does not hold in the case of Canada amounts to largely ignoring two central aspects of international and domestic energy politics at the time. The obsolescing bargain thesis in Canada cannot be fully tested without including both levels of government because the oil MNCs faced two host governments rather than one. Ottawa, without the powers of a landlord in the producing areas, was barred from wielding direct influence on the actions in the conventional areas in the provinces where the oil MNCs could be held hostage by their investments. Further, the decline in the international oil price and OPEC’s reduced role served to depoliticize oil matters and as such reduced the amount of economic rent available to governments.

This thesis has argued that the dynamic of the federal-provincial interaction in a setting of closely tied policy interdependence drove the triangular relations among the federal government, the producing provinces and the oil

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41 The concessions granted the industry in areas subject to federal control can be attributed to the considerable difference that existed between the land management regimes in federal and provincial areas, which enabled the oil industry to play one level of government against the other. This discrepancy in the nature of land management regimes was exacerbated at the introduction in 1982 of Alberta’s new incentive scheme, OGAP. Therefore, the intergovernmental dynamic accounted much more for the industry’s increased bargaining power than the oil industry’s ability to lobby for concessions.
industry. The industry, while often caught in the middle, could wait for each level of government to offer new concessions to attract the oil industry to expand its activities in the areas under the jurisdiction of each respective level of government.

Jenkins' second argument related to the MNCs making use of their home governments to influence their host countries. The vitriolic American reaction to the NEP seems to lend support to this argument. Although the Reagan administration was strongly opposed to the NEP, its rhetorical effort was not matched with effectiveness in obtaining concessions. Wonder argues that the American opposition to the NEP was diffused and diluted in the complex workings of the American political system. Whether the reasons for this inability stems from the internal workings of the American political system or from the Canadian defense of the NEP is less important. The main point is that Ottawa, in introducing and implementing the NEP, ended up making only very minor concessions to the U.S.

The third variable Jenkins discusses refers to domestic political and economic actors and their role as important allies to the oil MNCs. Jenkins, as noted above, does not place much emphasis on the fact that the most vocal and influential domestic actors were actually part of the Canadian state. These actors also actively sought to use their powers to undermine the NEP. Jenkins' definition of the host government therefore is too narrow because it does not allow for the inclusion of the important role of provincial government actors. If the relative overall influence of governmental versus non-governmental actors in the decline of the NEP in Canada is assessed, governmental actors dominated.

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443 See Clarkson, S.: Canada and the Reagan Challenge, (Toronto: Lorimer, for the Canadian Institute for Economic Policy, 1985). The American opposition was more effective in the area of foreign investment.
Finally, Jenkins attributed the demise of the NEP to declining oil prices and other events in the international economy. As shown in Chapter Ten, it was primarily factors related to states and OPEC that led to the decline in the international oil price, not the power of the oil MNCs. Therefore, international factors benefitted the oil MNCs but were not caused by the oil companies. Further, this thesis has argued that the structure of the overall Canadian state helped produce an energy policy package that was overly dependent on a very narrow view of international oil price developments. This made the NEP vulnerable to international oil market changes. Therefore, although the oil MNCs emerged relatively unscathed from the NEP, neither the Canadian subsidiaries nor their parent companies caused the program to collapse. The role and influence of the oil MNCs in the decline of OPEC and in the decline of the NEP has probably been overstated in both cases.

In the above the role of the aggregate Canadian state itself in the emergence and decay of the intervention has been highlighted. In Part Five, the concluding part of the thesis, the specific role of the overall Canadian state and its interaction with other factors will be summarized and highlighted.

Chapter Conclusion

In tracking the evolution of the NEP in the period 1981-1984, the chapter has demonstrated a widening discrepancy between the federal government's objectives and the actual outcome of events along all three sets of objectives, i.e., self-sufficiency, Canadianization and fairness. The chapter revealed that the failure of the NEP in elevating federal power happened late in the Liberal government's tenure, and the reasons for its failure, therefore, can be tracked back to this period rather than to the Conservative government's subsequent dismantling of the program. The assessment of the basic causes underlying the failure of the NEP to restructure relations between the federal state and dominant industry players places the emphasis on the nature and dynamics of the
Canadian state rather than on the influence of the industry or other important societal actors. The story of the NEP, therefore, is the story of state intervention to reduce industry influence which, in attempting to do so, gets tangled up in the complex web of intergovernmental relations and the intricate workings of the Canadian state. The intricate dynamics of these intra-state relations, combined with a radically changed international context, to render the intervention ineffective and increase the industry’s ability to wring concessions from the state.
Part Four of this thesis has analyzed the introduction and subsequent decline of the Liberal government’s National Energy Program, during the period 1980-84. The NEP was a response to important changes on the world oil scene following the Iranian revolution and the Iran-Iraq war. World oil market uncertainties and concern with foreign ownership and control of the economy coincided in prompting Ottawa to increase federal intervention in the domestic economy to ensure control over industry access to oil and gas resources, control the rate and location of industry operations, and ensure the federal government of adequate economic returns from oil and gas development.

As revealed in Chapters Ten and Eleven, the Liberal government’s comprehensive energy policy package was based on a deterministic interpretation of future world oil market events. Liberal energy policy was based on the vision of an increasingly state-centred oil market which ensured a continued OPEC market dominance and artificially high oil prices. From this, Ottawa concluded that OPEC’s increased market influence would threaten the integrity of the oil MNCs as international oil suppliers. Further, as the intermediary role of the large international oil majors declined, a widening discrepancy was perceived to emerge between the role of the oil MNCs on the international stage and in Canada. This could enhance the value and importance of Canada’s oil and gas resources in the global strategies of the companies, and would likely increase the share of the Canadian energy sector (not only oil and gas) owned and controlled by foreign interests. The most often cited reference here was for Canada as a store-house of energy for these companies in the 1990s, as their other international resources of oil and gas would be used up. Also, since Canada was rich in almost all types of energy, an increased degree of horizontal integration on the part of these companies would be a very likely outcome which would further serve to reestablish their dominance within the energy sector.

Since Ottawa predicted a strongly politicized world oil market, Canada’s oil imports would remain vulnerable to sudden international price and supply interruptions. As the senior level of government, Ottawa was clearly concerned with ensuring order and control in the
light of an uncertain world environment. But in Ottawa’s view, the world oil market would not only be more uncertain in the future, in Ottawa’s assessment, the world oil market would continue to favour oil producers. This meant that the perceived fiscal imbalance in Canada would grow, not decline. World oil market events would also favour the oil and gas producing provinces — and in particular the province of Alberta with its province-first strategy — within the Canadian federation.

The NEP was clearly a response to important international changes, but Part Four has also revealed the influence of domestic factors on the nature and direction of the policy. Of particular importance was the role of the overall Canadian state.

Ottawa found that the future held a tremendous challenge as well as an important opportunity for the future role of the federal government in Canada’s energy policy. Since the world oil market was seen as increasingly favouring oil producers, Ottawa’s influence on the Canadian energy scene would increase in line with its ability to establish itself as an oil and gas producing government. Thus, a strong incentive existed for Ottawa to promote the development of the oil and gas resources in the Canada Lands. But if the fiscal strains on the federal treasury from federal oil import subsidization payments and mounting equalization expenditures could not be dealt with, Ottawa would experience a serious erosion of the federal tax and fiscal base. This would seriously undermine Ottawa’s ability to meet ongoing as well as future commitments and influence industry activities in the producing provinces. Somewhat ironically, it became increasingly clear to federal decision-makers that if Ottawa was not able to arrest the erosion of the federal tax and fiscal base, its ability to promote resource development and capture potential future benefits of oil and gas development would be lost.

Ottawa’s narrow view of the direction that international events were taking was highlighted in the NEP and blended in with Ottawa’s domestic concerns. The result was a very comprehensive and coherent policy program. Part Four has revealed how the structure of the aggregate Canadian state fed into and
reinforced Ottawa’s interpretation of the future of the world oil market. The federal-provincial dimension of the overall Canadian state with both levels of government defending and expanding their jurisdictional rights played a key role. Federal and provincial elites had developed a situational outlook that reflected their increasingly diverging experiences of the last decade—lessons from domestic and international events and from dealings with the other level of government. The nature of the learning and the lessons drawn were also coloured by the presence of the same set of leaders in Alberta and in Ottawa in 1980 as had held office in 1973 during the first OPEC oil shock. The important role of different objectives and learning experiences in Ottawa and Alberta was exaggerated by an organizational structure which supported and promoted these objectives and a political environment that was congenial to administrative expansion. Other aspects of the Canadian state that affected outcomes were the structure of resource ownership in Canada, the nature of the Constitutional division of powers between the federal and provincial levels of government, the structure and operation of the fiscal equalization scheme, and the nature and operation of federal and provincial policies and policy instruments. The dynamic interaction among these factors within a framework of structured interdependence, served to redefine the issue-context from primarily concerned with state-society or rather federal state—oil industry relations, to becoming increasingly concerned with federal-provincial or intrastate relations.

In addition to the role played by the redefinition of the issue-context, Part Four has also revealed how Ottawa’s pre-NEP policies and even some of the new measures introduced in the NEP had the effect of hampering Ottawa’s attempts at increasing its control over the oil industry. As the international assumptions upon which the NEP was based rapidly deteriorated, the dynamic of federal-provincial relations within the narrow framework of the NEP’s assumptions and its comprehensive structure served to generate a number of concessions to the industry and render Ottawa’s attempts to control industry operations ineffective and somewhat irrelevant. This thesis has attributed the
failure of the federal state's intervention to international changes whose negative effects were greatly enhanced by the structure of the aggregate Canadian state.
PART FIVE: CONCLUSION

The conclusion consists of two sections. First is a brief summary of the general argument of the thesis. The second section presents the highlights of the study from bringing the two perspectives, federalism and statism together, in a particular policy area that was heavily influenced by international developments. This includes a brief summary of the main theoretical insights and some of the energy policy insights that this study has produced.

Brief Summary of the Argument

The argument of this thesis is that important developments on the international oil market prompted the state to intervene in the oil and gas sector, but the nature and direction of the federal government’s intervention were determined first and foremost by the structure of the overall Canadian state. Other factors relating to the nature of the resource base, the power of the oil industry, the role of oil and gas consumers, and the electoral concerns of elected officials, also helped shape the intervention, but the most important single cause was the aggregate Canadian state itself.

Federal intervention in the period 1973-84, and most clearly the introduction of the National Energy Program in 1980, represents attempts by the federal state to act independently of societal actors. Such attempts at independent action were manifested in the federal government’s goals which diverged from those of the dominant oil industry players. Ottawa instituted policies that reflected these objectives.

Independent state action was also found in the process of policy-making, where inter-governmental interaction squeezed out or excluded societal interests. Federal energy policy was subsequently driven not by the logic of Ottawa’s energy policy concerns but by the structural logic of the aggregate Canadian state.

When one level of government sought to become more independent of
dominant societal actors, such as the oil industry, the intervention, whether so intended or not, increasingly was channelled along inter-governmental lines of conflict, rather than along state-society lines of conflict. The nature of the issues also changed as distributional problems became subsumed under and were driven by the jurisdictional concerns of governments. This increased the policy interdependence between the two levels of government, squeezed out industry interests from intergovernmental deliberations, and generated intervention aimed directly at curtailing the power of the other level of government. This intervention which at first rendered the aggregate state less dependent on the oil industry by for example the creation of Petro-Canada, and later by the NEP, ultimately backfired on the state, at both levels. Important world oil market changes, intergovernmental conflicts and stalemates, deteriorating economic performance, industry reactions, and other mounting economic and political problems undermined the federal government’s intervention and led to concessions to the industry. Such concessions were therefore the product of an increasingly irrelevant regulatory framework rather than purely a reflection of the power of the oil industry as such.

The Canadian case, this thesis has found, mirrors the events on the international oil market in this period, where an enhanced OPEC influence first served to generate an increasingly state-centred world oil market. But rather than mutually re-enforcing each other, an increased OPEC influence and a state-centred oil market proved to be largely incompatible trends, because of tensions among OPEC member states, with the result that OPEC’s hold on the world market severely weakened. Then a reverse redefinition took place in Canada as a less politicized world oil market helped reduce the salience of jurisdictional conflicts and attention was deflected from intrastate to state-society conflicts. The less conflictual world oil scene combined with the actors’ heightened recognition of the negative effects of the intergovernmental conflict and stalemate to produce a domestic setting of reduced conflict and tension in both intergovernmental and state-society arenas. The net upshot was a considerably reduced federal presence in the conduct of Canadian energy
policy.

Statism and Federalism Combined

In the following section, highlights of the study from bringing the two perspectives, statism and federalism, together will be provided. The bringing together of these two perspectives emphasizes how federalism, the state as actor and structure, and international factors generated and shaped outcomes. In the following pages these factors will be outlined in greater detail.

International factors

International oil market changes placed the issue of security of supply and price on the agenda of every nation. In this period oil issues were elevated to rank among the high politics concerns of import-dependent states such as Canada.

International oil market changes altered bargaining relations among state actors in the Canadian federation in a sudden fashion and were instrumental in bringing the jurisdictional concerns of state actors to the fore as the various state actors struggled to capture new benefits and defend established rights and privileges. International changes were therefore critical factors in prompting state actors to intervene. Such international changes also had the effect of increasing the insecurity of governments in Canada as the stakes involved in their interaction were altered and expanded. Sudden international crises which require state action in Canada, this suggests, heighten the insecurity of governments and set in motion programs of jurisdictional defence and expansion.

Closely related to this is that rapid international oil price increases were seen to threaten the industrial base in central Canada, erode the federal government’s revenue base, undermine the weak financial base of Canada’s
Atlantic provinces, and fuel Quebec separatism.

Rapid international oil market changes were undoubtedly critical determinants in prompting Ottawa to act. The federal government’s narrow interpretation of the future of the world oil market was not out of step with the views of energy analysts at the time. But the nature of the federal government’s crisis reaction and the manner in which this interpretation was converted into a comprehensive policy framework were clearly reflective of domestic concerns.

The objectives of central state actors

Several analysts have emphasized Trudeau’s centralist notion of Canadian federalism as an important factor in shaping the NEP. Doern further notes how Liberal priorities and larger concerns made energy an intrinsic part of a larger Liberal approach.¹ There is little doubt that central federal officials and their concerns played an important factor in generating the NEP. As will be further discussed below, state elites in Canada possess considerable power to formulate comprehensive policy schemes and face few institutional obstacles to policy formulation. While analysts such as Pratt view the NEP as federal intervention “on behalf of Canadian capital”² this thesis supports the more widely held view that the NEP was shaped by state officials acting relatively independent of societal actors.

An important factor that clearly helped shape the perceptions of the Trudeau Liberals was the learning process they underwent in the 1970s.³ This study has found that state elites in Canada go through at least two parallel

¹ See Doern, 1981, op.cit.

² See Pratt, L.: Energy... op.cit. p.29.

³ A number of statist scholars have emphasized the state’s ability to learn. See for instance Heclo, H.: Modern Social Politics in Britain and Sweden (New Haven, Conn.: Yale University Press, 1974)
but closely related learning processes, one in the intergovernmental arena and the other in their dealings with various societal actors and substantive concerns and issues. The influence of both these learning processes was clearly evident in the NEP, as federal officials took a number of steps to avoid the mistakes that had been made in the past. When faced with unsuccessful federal-provincial bargaining results, federal officials acted unilaterally by instituting the NEP. Federal officials, in introducing the NEP, sought to avoid two of the mistakes that had been made in the federal government's response to the first OPEC oil shock.

Federal officials, by unilaterally introducing a whole new energy policy package in conjunction with the budget, prevented the producing provinces from gaining the initiative and greatly benefitting from the international oil market changes. In response to the first OPEC oil shock the producing provinces had been quick to introduce comprehensive new interventionist measures. In 1980 Ottawa introduced a comprehensive policy package rather than responding in a more ad hoc fashion to events, as had been done during 1973-75.

The newly elected Trudeau Liberal government in 1980 also drew a number of important lessons from the experience of the short-lived Conservative government of Joe Clark. The Liberal opposition to Clark's vision of Canada as a "community of communities" was confirmed when Clark failed to reach an oil pricing agreement with Alberta before his government was defeated in Parliament in December 1979. The Liberal government's lesson was not simply that Clark failed to reach an agreement with Alberta but he failed to reach such an agreement even after he had proved willing to provide significant concessions at the outset to speed up the process of negotiations.4 The fact that Clark was a Conservative from Alberta with a strong electoral base in the province was of little significance.5

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5 Simpson notes that "Clark learned a lesson that a more experienced Prime Minister would have understood. In federal-provincial relations, premiers are colour-blind when the vital interests of their provinces are at stake; in fact it is often easier politically for them to have a federal government of a
The Trudeau government presented a vision of a more centralized federation with considerable federal powers over the economy. Another important lesson the Liberals drew from their previous experience and that of the Clark government, was that if the federal government wanted to increase its powers over the oil industry, while ensuring increased future supplies of oil, it had to take measures that would impinge on the producing provinces.

The fact that many of the federal decision makers from 1973 were around in the second oil crisis and faced the same actors in Alberta in 1980 as in 1973 also aggravated the federal-provincial conflict as both sets of leaders had fresh and bitter memories of the 1973 conflict. Traumatic historical memories provide a fertile learning ground for state elites.

In introducing the NEP, Ottawa revealed that it had learnt from the first OPEC oil shock and now addressed jurisdictional concerns up front in the energy package. The NEP therefore combined energy concerns with jurisdictional concerns. Phrased differently, the NEP was an instrument for rewriting Ottawa's relations along both intergovernmental and state-society lines. This study has revealed in considerable detail how the NEP was aimed at reducing the role and importance of the oil MNCs in the conduct of Canadian energy policy. Almost immediately after the NEP was introduced, however, intergovernmental conflict highlighting the jurisdictional concerns of governments took precedence over energy concerns and federal-industry relations. Thus, a change in the direction of the conflict occurred, from concerning both intergovernmental and state-society relations, to being oriented along intergovernmental lines, and correspondingly, the elevation of issues most closely associated with the federal-provincial conflict to centre stage.

Learning is also an institutional phenomenon. Learning occurred as decision-makers struggled to incorporate insights into the institutional

different political stripe to blame at provincial election time." ibid. p.204.

6 This process could also facilitate redefinition when the learning process revolved around jurisdictional concerns and issues.
apparatus by means of administrative changes and changes in policies and policy instruments. The emergence of EMR as a central bureaucratic player in the energy arena in the 1970s led to the build-up and concentration of considerable expertise in energy policy-making. This meant that much more relevant information and analysis was available to decision-makers about past events, present status and future trends. This increased state capacity facilitated the learning process by making lessons from the past more readily available and by linking the lessons of the past to assessments of the current and the future.

In Canada in this period, decision-makers in Ottawa and in the provinces underwent two parallel learning processes, one in the intergovernmental arena and the other in the state-society one. In this period the high level of intergovernmental conflict tended to underlie the importance of the lessons made in the intergovernmental arena, sometimes even at the expense of lessons made in dealing with substantive concerns.

State Structure

While acknowledging the important role of federal officials in generating complex federal intervention such as the NEP, conditioned by personal and institutional learning, individuals are caught up in a much larger setting and are constrained by the requirements of office, situation, and other actors. Facing the federal government in the 1970s were a number of oil and gas producing provinces each with a Premier who had both clearly developed views and high ambitions for the future of his province in the Canadian federation. In the west Alberta had the most ambitious province-building strategy, directly linked to oil. On the east coast, Newfoundland was the most aggressive province whose economic strategy was directly linked to oil. In addition, British Columbia, Saskatchewan and Nova Scotia also had objectives in the field of oil and gas that differed from those of Ottawa. The consuming provinces also had and pursued their own objectives.
What the above demonstrates is that it is not sufficient simply to view events of the 1970s and early 1980s as a move in either a centralist or a decentralist direction but rather to conceive of Canada as a federalism of eleven separate governments, each capable of and actively involved in pursuing its objectives. Whereas an increased federal assertiveness was presented as a means of both strengthening the national government and as a means of building bridges to ordinary citizens, independent of provincial governments, this is only part of the reality. The manner in which the federal government strengthens its presence is important in order to understand its role in the federation and its relation to other governmental actors. In the context of the NEP there are four factors that make us emphasize Ottawa’s intervention as strengthening the federal government as government or state actor rather than as central or national government. First is the comprehensive nature of the NEP and its high degree of intrajurisdictional coordination. This was underlined by a second factor, namely the unilateral manner of its introduction. Third is the Canada Lands which promised to provide Ottawa in the future with an independent and federally-owned resource base. Fourth is the introduction of legislation in both Alberta and Newfoundland to control oil production in accordance with provincial objectives. The NEP therefore, while a relatively aggressive act, was also, in a longer time-frame, a defensive strategy to defend the federal government against encroachments by other governmental actors and heighten federal independence in the federation. It was in the field of energy that the external threats were most visible and it was also here that Ottawa had considerable capacity to increase federal independence, partly through its possession of the Canada Lands.

Viewing the NEP as a statist impulse means stressing the relative ease with which federal officials could translate their objectives into actions and identifying aspects of the overall Canadian state that encouraged this type of statist impulse on the part of Ottawa. In addition, this impulse was also a logical extension of and a response to the province-building efforts that were

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7 See Cairns, The Other Crisis, op.cit.
undertaken by provincial governments to capture maximum benefits from the changes on the world oil market. These efforts involved both currently producing and potential future oil and gas producing provinces, namely British Columbia, Alberta, Saskatchewan, Prince Edward Island, Nova Scotia, and Newfoundland. In 1980 Ottawa responded in a very similar manner with the NEP, which was designed both to capture a larger federal government share of economic benefits and to establish Ottawa as an independent oil producing government. This makes us emphasize how a number of structural features of the overall Canadian state helped shape outcomes in this period.

A structural property of the Canadian state that enabled state elites to introduce strong state interventionist measures relates to the fact that the Canadian Constitution does not include a due process clause for the entrenchment of property rights. This enables a sovereign parliament to alter or "destroy the rights acquired under a tenure agreement with the State." In Canada Parliament was not as in the United States constrained by legal obstacles that would prevent it from changing licenses once they had been awarded. The federal government was thus in 1980 able to introduce a new and much more interventionist system of rights issuance and land management in the Canada Lands. This could be done even though legal experts had found that the old system of leases did confer certain vested rights upon the industry. This is a further indication of the power of parliament and the powers available to the central decision-makers in the Canadian Constitution. Ottawa thus had the powers available to it to institute a much more stringent federal landlord role in the Canada Lands.

Institutional factors, or factors associated with the structure of the Canadian state related to the existence in Canada of the Westminster model of parliamentary democracy at both levels of the state. The imposition of the Westminster model of parliamentary government upon a federal structure concentrates power in the hands of the Prime Minister at the federal level and in the hands of each individual Premier at the provincial level. Thus, this

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* See Thompson, An Overview, op.cit. p.3-25.*
particular structure of government enables a determined governmental elite with a majority in parliament and strong party discipline to pursue its objectives. This heightens the role and importance of the Prime Minister and his close associates in policy formation. The duplication of this model at both levels of government enables provincial Premiers to formulate clear objectives and provides provincial leaders with a ready apparatus to pursue their objectives, as well.

Thus, each of the eleven governments in Canada has considerable autonomy in goal and policy formulation. This structural aspect tends to encourage competitive goal formulation and provides little room for cooperation in the policy process. Chandler and Bakvis in a recent study note that "it is the particular intersection of parliamentary institutions with federalism that results in the economic problems currently faced by Canada."\(^9\) They elaborate:

> By emphasizing one-party majority rule and by concentrating power in the hands of the prime minister/premier, this model has helped to create eleven strong governments with little interest in such forms of cooperative concertation [as are found in European federalisms].... (T)he Westminster tradition also involves a broader matrix of legal and social institutions and practices (e.g. the courts, collective bargaining), all premised on adversarial relationships. What the structure of the Canadian federal system has wrought is the concentration of these adversarial forces among a limited number of political actors and within a limited number of arenas. The number of actors is sufficiently small that each has a meaningful share of power, but not small enough to facilitate cooperation. Consensus among the eleven governments is a very elusive commodity. All have strong incentives to intervene directly in their economic environments. In doing so, they invariably come into conflict with one another.\(^10\)

In the oil sector, with the divisions as clearly drawn as they were between producing and consuming provinces, intergovernmental conflicts were inescapable. The Westminster model ensured that the level of conflict also was heightened, rather than reduced. The imposition of the Westminster model upon a federal structure, according to Chandler and Bakvis, essentially entails the existence of two different "rules of the game" for the conduct of politics in


\(^10\) Ibid. p.75.
Canada.\textsuperscript{11} One set of rules applies to the making of policy by normally majority governments, within individual jurisdictions; the second rule applies to the central role of power sharing in federal systems.\textsuperscript{12} All eleven governments had means by which to curtail the actions of other governmental actors and experienced few institutional obstacles to doing so as well. The net effect was to generate policy stalemates and intervention aimed at curtailing the power of other governmental actors.

Another important factor in influencing outcomes in this period was the nature of the Constitutional division of power in Canada. Cairns notes that:

\begin{quote}
The nature of the federal system, with its fuzzy lines of jurisdictional demarcation and extensive overlapping of the potential for government response, means that in innumerable fields there is, in fact an intergovernmental competition to occupy the field, and slackness by one level of government provides the occasion for a pre-emptive strike by the other.\textsuperscript{13}
\end{quote}

From this it is clear that while the parliamentary system of democracy in Canada favoured competitive goal formulation at each level of government, this was further encouraged by the constitutional framework which also encouraged state intervention.

The considerable overlap in constitutional powers not only served to generate a certain expansionist dynamic but also increased the uncertainty of governments. In the oil sector there is evidence of a number of interventionist measures that either had been in place for a lengthy period of time or that were recently adopted, and whose actions would impinge on the jurisdictional rights of the other level of government. Such examples are first the Albertan system of prorating.\textsuperscript{14} Second is the Alberta Petroleum Marketing Commission. Third is the Saskatchewan interventionist package in 1974 which ended in the

\begin{footnotes}
\footnotetext{11}{ibid. p.76.}
\footnotetext{12}{ibid. p.76.}
\footnotetext{13}{Cairns, The Other Crisis, op.cit. p.185.}
\footnotetext{14}{See Thring op.cit. p.82. See also p.64 of this thesis. It may be noted that the argument presented here relates to the prorating scheme as potentially impinging on the federal trade and commerce power. No assessment is made here, however, as to whether this scheme was intended to curtail federal powers.}
\end{footnotes}
CIGOL court case. Fourth was the federal government's decision in 1974 not to allow provincial royalties to be deducted for federal tax purposes. Fifth were the federal and provincial systems of rights issuance and land management on Canada's East Coast which generated a dual set of land management regulations, in the absence of a Supreme Court ruling on ownership rights. Sixth was the federal natural gas export tax in the NEP. Seventh was the PGRT which in effect enabled Ottawa to tax provincial Crown corporations. Eighth was the Alberta government's legislation to regulate oil production according to provincial needs. These measures contributed to the "insecurity of governments" because each of these measures encroached upon the rights of the other level of government and undermined the authority of the constitution as a proper device for dividing federal and provincial powers. Further, and perhaps equally important is the uncertainty emanating from the fact that each actor had large and sometimes critical parts of their regulatory systems on an uncertain constitutional footing which at any time could be subjected to a challenge by industry or the other level of government in the courts.

The increased willingness of governmental actors to initiate legislation that could impinge on the rights of the other level of government testifies to the diminution of respect for the Constitution in this period which further enhanced the insecurity of governments. The insecurity of governments also produced and increased the salience of rule, order and control problems inside Canada, between governments. Cairns wrote in 1979 before the introduction of the NEP that:

The diminution of respect for those constitutional procedures and rules of the game capable of policing the boundaries of federal and provincial jurisdiction adds to the insecurity of governments. The security and certainty of jurisdictional responsibilities that cannot be gained by reference to the constitution are sought by the exercise of sheer power, the staking of claims for popular support by the manufacturing of constituencies of allegiance tied to free-wheeling policies and expenditures to a government seeking to maintain its position. The insecurity of governments in Canada was clearly heightened by external

\[15\] ibid.

\[16\] ibid., p.185.
shocks that threatened to revise the existing fragile balance of power that had emerged between the actors on the domestic scene. International factors served as vital triggers to set in motion processes of jurisdictional defence and expansion that often included unilateral actions. This had the obvious result of producing recurrent claims for constitutional change from the provinces. Ottawa thus found itself confronted with both an expanding crisis in the natural resource field and also with the issue of Quebec separation after the electoral victory of the Parti Quebecois in 1976. International and domestic tensions fused to exacerbate conflicts in Canada in this period.

It is also important to note that the institutional context within which state elites operate influences the learning process that they undergo. The insecurity of governments in Canada clearly affected the learning processes of state elites. From this it is reasonable to assume that the weightier the jurisdictional and intergovernmental concerns are in shaping policy substance, the larger the role of the intergovernmental arena in shaping the attitudes of state elites.

Other factors that also affected the perceptions and actions of federal and provincial officials in this period relate to public ownership of land which facilitated the efforts by each level of government to place legislation on its strongest Constitutional footing in order to prevent what was seen as encroachments by the other level of government. The province of Alberta took the most extreme position here. With 85% of Alberta’s oil located in Crown Lands, the province could introduce legislative changes to set the legislation pertaining to Crown Lands on its strongest Constitutional footing without affecting the property rights of private-sector actors.

In addition, Alberta claimed that the schedules (s.1 of the Constitution Act, 1930) that transferred resources to the province "have the force of law 'notwithstanding anything in the British North America Act, 1867...'." This

17 See Part Two, Chapter Four of this thesis for further details. See also Bankes et.al. op.cit.
18 ibid. p.65.
is another example of how state actors in Canada sought to use constitutional arguments of limited validity to forward their own interests. This both testifies to the limited respect for the constitutional framework and the high level of tension that existed in the intergovernmental arena in this period.

The wide extent of public ownership of land in Canada was of particular political salience because Ottawa had certain geographic areas, the Canada Lands, under its own jurisdiction. Ottawa not only possessed the powers ascribed to the federal level in the division of powers, but also in effect had powers similar to those of the oil producing provinces to influence oil and gas activities in Canadian territory under direct federal control. Since the resource prospects of the Canada Lands were considered to be quite promising, this unique feature of the Canadian Constitution helped produce energy policy effects that differed from what could be expected in cases of overlapping jurisdiction. Ottawa could act both as a direct competitor to the province of Alberta by channelling federal intervention to the Canada Lands while also playing the role of federal counterpart to Alberta, using its unique federal government powers, thus influencing activities within the province. This structural property of the Canadian federation created a strong temptation for Ottawa to favour the Canada Lands. The NEP is the clearest example of Ottawa favouring the Canada Lands. In doing this Ottawa simultaneously pursued and yet distorted some of its nation-wide responsibilities as a federal government and its role as a national balancer, as it entered into direct competition with the oil producing provinces.

The 1967 Offshore Reference established the principle of federal ownership of offshore mineral rights on the West Coast of Canada. But as revealed in the Georgia Strait Reference by the British Columbia Court of Appeal of 1977, upheld by the Supreme Court ruling of May 1984, this did not apply to the lands underlying the Strait of Juan de Fuca, the Strait of Georgia, Johnstone Strait, and Queen Charlotte Strait which were held to belong to the province of British Columbia.\(^\text{19}\) Thus, the general implications of the

\(^{19}\) ibid., p.59.
1967 Offshore Reference, while essentially favouring the federal government, were somewhat unclear. The ambiguous nature of this reference heightened uncertainty about offshore ownership on Canada’s East Coast. While Ottawa was confident that the ownership issue would be settled in its favour, in the absence of a Supreme Court ruling, the provinces on Canada’s East Coast could introduce their own systems of rights issuance and land management. Agreements were reached between Ottawa and the Maritime provinces, Nova Scotia, New Brunswick and Prince Edward Island in 1977 but Newfoundland refused to come to a settlement. Industry actors were therefore subjected to two different sets of regulations that guided their activities in the areas offshore Newfoundland. Ottawa, concerned that the rate of development that the province wanted would be too low to serve Canada as a whole, lessened its regulatory measures to attract industry attention and to put pressure on the province. This is another example of how expansionist governments, facing uncertainty about the rules of their interaction, introduced measures that heightened uncertainty and conflict. This made it easier for oil industry actors to get concessions and helped stall Ottawa’s attempt in 1977 to introduce a more stringent regulatory regime in the Canada Lands.

The failure of the federal government’s intervention related to the heightened level of conflict that Ottawa’s actions in the NEP generated in the intergovernmental setting. As such, Ottawa’s actions ran up against not only other governmental actors but were also conditioned by important structural characteristics of the Canadian federation. Findings pertaining to federal policy instruments will shed added light on the outcome of Ottawa’s intervention.

State Capacities and Policy Instruments

The analysis of policy instruments in Canada has had to recognize two basic facts. First is the impact on policy of a Constitutional structure that
establishes parliamentary government at both levels. This provides policymakers with considerable capacity to intervene and locates the intervention of each governmental actor in a competitive intergovernmental setting. The large scope of intervention available to each governmental actor, in a setting of overlapping federal-provincial jurisdiction also generates different sets of policy instruments which are interdependent. Second is the recognition that this type of policy interdependence may both encourage further intervention by each level of government and may also exacerbate intergovernmental conflicts.

This thesis has provided six main observations that relate directly to the federal government's policy instruments and its interaction with the policies and policy instruments of other governmental actors in Canada. First, is the finding that the policy instruments that were in place interacted with a host of other factors to generate additional intervention. Ottawa's policy of regulating oil prices below world levels generated pressure both in industry quarters and in Ottawa for additional policy measures to ensure a certain level of industry investment and rate of development. Price regulation and various concessions to the industry also helped drive Ottawa to adopt a stronger Canada Lands thrust.

The fact that Canada's future resources of oil and gas were high-cost ones, whose development depended on favourable international oil price prospects, was a crucial variable. When price regulation was a function of intergovernmental agreement, uncertainty always existed as to the future level of prices. Further, the promotion of future sources of supply was tied up with the intergovernmental competition which exacerbated the potential for "stepping over" cheaper sources of oil and gas and also made governmental actors promote large-scale projects whose future was uncertain. Some of these projects were so large that they would tie up very large financial resources of a single

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20 The notion of policy network is useful to understand linkages between state and societal actors. For a definition of this term see Katzenstein, P.J. (ed.): Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States, (Madison: The University of Wisconsin Press, 1978), p.19, 308. In Canada this has to include the networks that emerge among multiple governmental actors and societal actors.
company or even a consortium of companies, tie the companies to an uncertain future, and reduce their future flexibility of action. It is important to note that this is not the same as accepting the industry’s claims in these regards as being justifiable, but rather to point out that concessions at times were granted in order to make the industry do not simply what it wanted but also what Ottawa or Alberta wanted, for reasons of their own.

A second finding relates to what may be termed ‘instrument overload’. Ottawa, in pursuing a wide range of objectives that pertained to both the state-society and the intergovernmental arenas, tended to saddle many of its policy instruments with a wide range of tasks and roles. The federal government’s objectives were often incompatible. When single instruments were made to fulfil a wide range of sometimes incompatible goals contradictions, uncertainties and inefficiencies occurred. Price regulation was for instance intended to ensure both intergovernmental redistribution and resource development. Tax measures were used to redistribute revenues between levels of government and between the government and the oil industry, while simultaneously encouraging resource development. The ensuing policy overload expanded the process of redefinition and amplified its effects. The policy instruments which were tailored to secure both jurisdictional concerns in the intergovernmental arena and substantive concerns in the energy arena, became oriented towards addressing jurisdictional concerns which exacerbated the jurisdictional conflict while discouraging the solution of the substantive concerns. Herein also lies some of the oil industry’s power in a situation of intergovernmental competition. The uncertainties created by rapid and frequent changes in comprehensive regulatory, tax and fiscal systems designed to cover several jurisdictions and devised to ensure intergovernmental agreement across a range of concerns, could be utilized by industry actors to extract benefits and concessions because of the high political capital invested by governments and the high political visibility of governmental commitments and actions.

The intergovernmental competition also helped undermine the effectiveness
of Ottawa's strongest interventionist measures because the direct measures available to Ottawa could only be used in the Canada Lands. In order to strengthen its position vis-à-vis the oil industry, as well as in relation to the producing provinces, Ottawa had to favour the Canada Lands. But if this was done before a viable resource base had been proven up, little 'room' for stricter regulations was available.

A third observation at the level of federal policy related to the need for policy coordination. At the federal level this also produced effects that had an impact on the level and intensity of intergovernmental conflicts. Policy coordination was the result of a complex process involving multiple federal objectives and concerns, the learning experiences of state elites, and the numerous unanticipated and undesired effects that previous policies had produced. Another source of policy coordination stemmed from the emergence of 'political federalism' which had the effect of centralizing effective decision-making capacity in the hands of politicians and bureaucrats with jurisdiction-wide concerns.21

Comprehensive intrajurisdictional coordination of policy had the effect of exacerbating interjurisdictional conflicts. The efforts made at intrajurisdictional harmonization took place at the expense of flexibility and harmony in interjurisdictional relations.22 This was most clearly evidenced in the NEP which brought together a wide range of federal objectives, lessons from the past, and responses to previous policies and serves as an excellent example of how comprehensive intrajurisdictional policy coordination tends to exacerbate interjurisdictional conflicts. The net upshot was an intergovernmental stalemate which in turn exacerbated the need for concessions to the oil industry.

21 See Cairns, Governments... op.cit. p. 168.

22 This finding was inspired by the following remark by Cairns who notes that "there will be a tendency for intrajurisdictional clashes to be controlled or moderated at the expense of flexibility in handling interjurisdictional concerns." ibid. p.168.
Another feature of intrajurisdictional policy coordination is that it may generate different regulatory systems which may heighten intergovernmental competition and render intervention vulnerable to international events and changes, interest group influence, and pressure to undo the regulation. The best example here is the introduction of a new federal land management system in the Canada Lands in 1980 which diverged considerably from the systems in the provinces. Since this system was much more interventionist than the systems in Western Canada, it also created a stronger need for federal funds to make up for the differential, since the verdict on the size and nature of the resource base was still not in. This differential was made up for by PIP-grants. But whenever negative changes occurred in the resource prospects of the Canada Lands, or economic profitability forecasts were lowered, or international oil prices declined, pressure mounted for regulatory uniformity across Canada.23

The fourth observation pertains to the effects the intergovernmental competition had on the salience of pricing and revenue distribution. Faced with sudden increases in the value of oil and gas, both levels of government, possessed with powers to extract the wealth and good reasons for doing so, were concerned with ensuring 'their' share of the pie. The competitive setting made governments emphasize the distribution of current and anticipated future wealth. The size of the pie however would largely depend on the industry's ability and willingness to extract the resources. The competitive context made both levels of government attempt to extract higher tax returns from the industry while simultaneously showing considerable willingness to grant concessions in order for development to proceed. The industry, therefore, could

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23 The current legislation guiding activities in the Canada Lands, the Canada Petroleum Resources Act, represents a change back to a land management system that is much more similar to the systems in Western Canada than was the previous regime. It reduced the amount of ministerial discretion available, eliminated the 25% Crown share, and Canadian benefits could be applied only to the extent that these were competitive. See EMR: Canada's Energy Frontiers, (Ottawa: Minister of Supply and Services, 1985) and Fossum, J.E.: Policy Change and Political Change: A Study of the Evolution of Land Management Regimes in the Canada Lands, 1980-86. Paper presented to the Annual Meeting of the Canadian Political Science Association, Quebec City, June, 1989.
utilize the intergovernmental competition to its own advantage.

The fifth observation pertaining to policy instruments may be termed 'policy mobilization'. This observation also relates to the effects of the intergovernmental conflict on individual policy instruments rather than the reverse. Intensive intergovernmental conflicts pulled into their orbit policy instruments that were of less direct relevance in the intergovernmental arena. One example is Petro-Canada which was pulled into the intergovernmental struggle. Petro-Canada was given the right to back-in on Hibernia in 1977 which placed it in the midst of the conflict on Canada's East Coast. It was, both prior to the NEP and in the NEP, perceived as one of Ottawa's most important instruments in the Canada Lands, and its active promotion of production of oil and gas rather than resource mapping in the Canada Lands can be viewed partly as an extension of the federal Canada Lands strategy. This kind of policy mobilization therefore also tended to thwart the federal government's initial energy policy objectives.

Finally, the actions taken by a number of provinces and Ottawa to strengthen their landlord roles also tended to exacerbate intergovernmental conflicts. Ottawa and Newfoundland both adopted the North Sea model. Newfoundland's regulations were even more interventionist than were the federal ones because the province required 40% state participation. The adoption of the North Sea model enabled these two governments to regulate the oil industry's access to land and resources; introduce state participation; regulate exploration and production rates; issue work requirements and rental fees and set royalty rates; and include national sourcing requirements. The intervention was far less effective in producing outcomes than may have been anticipated. The two governments, while making several attempts, were not able to reach an agreement on resource management until the issue of jurisdiction of the offshore had been resolved. The lack of intergovernmental agreement represented a serious obstacle to offshore production. Further, it could also be argued
that the existence of two sets of regulations pertaining to the same area, each with considerable ministerial discretion and state participation, tended to heighten the uncertainty about future oil and gas developments on Canada’s East Coast.

The federal (in the NEP) and Newfoundland concession-based systems were much more interventionist than were the auction-based systems that existed in Western Canada. But in Western Canada, the provinces also took a range of measures that increased their land management and entrepreneurial roles. Alberta introduced the APMC in 1973 and in 1980 introduced legislation to regulate oil production. Saskatchewan nationalized all free-hold oil in the province but granted the former owners leases and tried to force them to continue production. These provincial actions were aimed explicitly against Ottawa, however. This demonstrates the degree to which the expanded landlord roles of state actors in this period were oriented at other governmental actors even more than at the oil industry.

In the above pages the basic argument of this thesis about the important role of structural factors in influencing outcomes has been made explicit. In a general context favourable to state intervention, structural aspects of the Canadian state, both related to federalism and to individual state actors, helped produce comprehensive interventionist programs. Such factors also served to channel intervention and conflicts along intergovernmental lines, and some of the factors listed above at times had the effect of strengthening the oil industry’s bargaining position.

By combining the statist and federalist perspectives, this study offers several theoretical insights to supplement those in the existing literature. Elaborating on Berry’s two first propositions, this thesis has revealed that expansionist state actors faced with a crisis situation developed goals that were oriented along both state-society and intra-state lines of conflict. A
mobilization along intrastate lines then occurred as the jurisdictional concerns of state actors entered centre stage. This process produced a number of effects. It politicized and mobilized societal actors. Throughout the period under study it has been shown that oil industry interests at times were at least partly successful in preventing state actors from instituting new and sweeping initiatives. Industry pressure interacted with other factors to prevent the proposed Bill C-20 from being passed in Parliament in 1977. Industry actors also at times were able to avoid state interventionist thrusts by withdrawing from Canada, moving from one jurisdiction to another or by cancelling projects. Industry actors also at times obtained concessions after intervention had been instituted which weakened the interventionist thrust. Thus there is no doubt that oil industry actors were important political actors.

But this thesis has also found that industry mobilization and pressure is too narrow an explanation to explain outcomes even after each crisis had receded. While industry pressure was important in generating concessions, when placed in the larger context, industry pressure is only one among several important factors. The initial mobilization of a conflict along intrastate lines heightened intrastate tensions and produced more long-term effects. One such effect was for the federal government to favour the Canada Lands. This generated the equivalent of an intergovernmental bidding-war for the industry's presence in the areas under federal and provincial jurisdiction, respectively. The bidding war produced considerable tax and other concessions to keep up industry activities. The competitive setting was kept alive as the governments on Canada's East Coast became more involved and challenged federal ascendancy in the Canada Lands.

The intergovernmental conflict, on balance, ultimately weakened the willingness and ability of each governmental actor to contend with the influence of the oil industry. This is seen in the largely publicly financed Canada Lands thrust. It is evident in concessions to industry actors after each intergovernmental conflict, to restore investor confidence. The
intergovernmental conflict, by focusing on jurisdictional and distributional issues, had a negative impact on the concerns of governments with controlling resource development and may have contributed to an overemphasis on supply enhancement. Both levels of government were cognizant of the need for continued development of oil and gas. The federal government's defensive adjustment strategy presupposed a high level of indigenous resource development. Both the federal government's revenue projections and those of the provinces depended on a high level of indigenous resource development. An intergovernmental conflictual setting also made it more important for a governmental actor at times to ally with the industry in order to strengthen its bargaining position in relation to other governmental actors. The net effect was to place Ottawa in a weak bargaining position in relation to the oil industry. Thus attempts by state actors to reduce the power of societal actors not only must contend with the power of these societal actors but also with other governmental actors. The opposition to Ottawa from other governmental actors was not simply the result of the pressures exerted on the provinces by powerful societal actors but reflected the self-interested behaviour of the state elites in each province. The views and perceptions of state elites, both federal and provincial, were shaped and conditioned by important structural characteristics of the Canadian state.

Addressing the issue of whether this case study enables us to consider Canada a strong or a weak state, it is clear that as opposed to other federal systems such as the United States, in Canada individual state actors face few structural barriers to comprehensive intervention. At the level of policy formulation state elites in Canada have very considerable leverage in translating their preferences into policies. But the federal nature of the overall state also tended to favour intrastate conflicts over state-society ones, thus placing constraints on the ability of state actors to fulfil their interventionist objectives, both in relation to other governmental actors and in relation to powerful societal groups. The effectiveness of each state actor
to solve the policy problems at hand was thus much lower than may be assumed from the magnitude of intervention that was instituted. This confirms in general terms Ikenberry's finding that an inverse relationship exists between the degree and magnitude of intervention and the effectiveness of the state's intervention. Evans et al. and also Ikenberry see this most clearly in relation to NOCs, that is in the propensity of NOCs to evade state control schemes and to undermine centralized state control.

In Canada the opposite change also helped exacerbate conflicts, namely the efforts by governments to shore up their capabilities as corporate actors and the emergence of "political federalism" which saw decision-making becoming centralized within each government, in the hands of decision-makers with jurisdiction-wide concerns. The ensuing process of intrajurisdictional policy coordination not only tended to exacerbate conflicts but also served to orient the emerging policy instruments along intergovernmental lines. Another contributing factor was the learning process that decision-makers underwent in the intergovernmental arena. In addition, 'policy mobilization' in the NEP served to link Petro-Canada closer to the political objectives of federal elites. Therefore, while the effects are the same in Canada, the process is almost the reverse of the one described by Evans and Ikenberry. Evans and Ikenberry see ineffective state intervention largely as the product of state actors mobilizing societal actors and state and societal actors becoming more closely linked. This study supplements the statist literature by noting that the attempts of a number of interventionist governmental actors to introduce comprehensive and more independent interventionist strategies heightened conflicts, generated inefficiencies and essentially caused the intervention to fail.

From the above it is clear that this thesis essentially confirms Chandler and Bakvis' contention of the strong state/weak state distinction as not being very applicable to Canada. All state actors and in particular the federal state were able to introduce comprehensive intervention. While not barred from

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24 See Ikenberry, op.cit.
introducing comprehensive policies - in fact the structure of each actor and several aspects of the constitution to some extent encouraged it - the nature of federalism also largely precluded individual state actors from obtaining their goals.

The statist literature has placed considerable emphasis on the learning processes that state elites undergo. As such, learning may be seen as linked to state autonomy and state capacities. Learning occurs as a result of autonomy and goals and learning normally increases state capacity. This study supplements the statist position by pointing out that when state elites become preoccupied with concerns in the intergovernmental arena, they may take actions that increase their capacity to curtail the powers of other state actors, even if this is detrimental to solving the substantive issues and to curtailing industry influence.

This study also supplements the statist view on policy instruments because it has pointed out that policy instruments in Canada tend to link societal actors with multiple governmental actors. In addition this study has revealed that when intergovernmental conflicts arise, policy instruments become increasingly oriented along intergovernmental lines. This process tends to increase uncertainty and reduce the effectiveness of the policy instruments to grapple with substantive concerns. In addition, it makes it more difficult to develop stable regulatory systems, as the many policy and regulatory changes in this period have revealed.

In terms of Ikenberry's classification of national adjustment strategies, this thesis has considered the Canadian strategy to be a neo-mercantilist one. But the Canadian scene was much more complex than the French. In France, the national state played the role as producer. In Canada the producing provinces shored up their producer roles while Ottawa and the provinces on the East Coast sought to do the same. The net result was a competitive intergovernmental setting which placed disincentives to resource development and offshore oil
Ikenberry, as noted, viewed a NOC as an important instrument in a neo-mercantilist strategy. Ikenberry and also Evans further linked ineffective state intervention with the propensity of NOCs to escape control and develop a commonality of interest with private-sector actors. Petro-Canada, this thesis has pointed out, also faced the same pressure for corporate autonomy as all other NOCs. But this thesis has also found that the conflictual intergovernmental setting in Canada in this period also affected the corporate autonomy of the corporation. The introduction of the NEP placed Petro-Canada under firm federal government control and elevated the corporation to the centre stage of Canadian energy politics - with an expanded mandate and a more highly politicized role in Canadian energy relations. Through an expanded federal landlord role, the federal incentive system, and other provisions, Ottawa ensured itself of a strong Petro-Canada presence in the Canada Lands. In overall terms, therefore, it may be argued that Petro-Canada's management experienced less autonomy from Ottawa than did most other NOCs that are comparable with it. This was due to the highly politicized setting in Canada and the political nature of Ottawa's objectives in the energy field more than to the specific system of controls on the corporation, however.

While the evidence is admittedly somewhat mixed, this thesis does not consider Petro-Canada as having evaded federal control. Rather, Petro-Canada's actions can be seen largely as responses to changing federal priorities. Nor has this thesis found that a movement from the state as landlord to the state as entrepreneur took place in Canada in this period. While Petro-Canada was granted preferential rights, Petro-Canada was never seen as a substitute to the private oil sector. Therefore, if a transition from the state as landlord to the state as entrepreneur requires the NOC to become a monopolist or at least to reduce competition significantly, no change from the state as landlord to the state as entrepreneur took place. Further, since no production took place, Petro-Canada was only an explorer in the Canada Lands and got no financial benefits from its preferential rights. Instead, a very high proportion of the
corporation's capital was invested in high-risk frontier exploration. While the corporation through various means was able to shore up production in the provinces and become vertically integrated, it could get no advantages or preferential rights here. Klapp also views NOCs as an independent source of profits. But Petro-Canada's profits were more than outweighed by the generous federal subsidies available to explorers.

Since no change from landlord to entrepreneur took place, this suggests that in Canada the federal state's role as landlord mattered most. But even Ottawa's landlord role may have been less salient than has been normally assumed from the legislation. While the federal government in the NEP sought to shore up both its landlord and entrepreneur roles, the jurisdictional division of powers, with two different (and competing) petroleum regions and the jurisdictional conflict on Canada's East Coast effectively limited the federal state's ability to act as entrepreneur. Even more, the benefits to Ottawa of combining the landlord and entrepreneurial roles were available only in the Canada Lands. But with no production on stream in the Canada Lands, even the highly interventionist regime was extremely dependent on international oil market changes, changing resource predictions and the actions by other jurisdictions. Further, intervention to spur development, this indicates, necessitates a very significant public-sector presence. In Canada a strong public-sector presence was made even more important due to the jurisdictional conflicts and the uncertain nature of the regulatory systems and the rights basis of industry actors.

Any effort by the federal state in this period to strengthen its entrepreneurial role would heighten Petro-Canada's salience in the federal-provincial conflict, and affect the corporation's actions and priorities.

The Canadian case reveals that the existence of different jurisdictions that regulate a nation's petroleum resources would tend to increase the relative importance of the state's landlord role as compared with the entrepreneurial role because of the potential for competition between the two jurisdictions. This means that an increased state landlord role could yield not
only an increased absolute share of the economic proceeds and control available but also an increased relative share to the state actor that was most capable of establishing its region as the dominant one.

Finally, in Canada over time, the existence of different and competing jurisdictions may tend to force a harmonization of different regulatory systems such as land management systems. It is very difficult for any single jurisdiction to take strong regulatory measures and sustain them over time unless other jurisdictions also do so. The competitive nature of Canadian federalism made joint and cooperative efforts difficult to achieve. In Canada, therefore, it could be argued that structural barriers operate on single state actors that attempt to strengthen their landlord and entrepreneurial roles.

This study has shed light on the role of state structure in influencing outcomes. It has noted how federalism in Canada tends to favour conflicts of a territorial kind. The peculiar structure of the Canadian state not only favours conflicts of a territorial kind but in doing so also undercuts the attempts by individual state actors to launch comprehensive interventionist programs. The dynamics of this process are not found in federalism alone but were rather a function of the interaction of two different principles of structure in Canada, namely parliamentary government and federalism. While parliamentary government enabled state elites to initiate comprehensive policy programs, the duplication of parliamentary government at both levels, encouraged competitive goal formulation. Federalism produced not only a division of powers which overlapped and where the divisions were not clearly drawn but also provided a setting in which interdependent governmental actors had considerable powers to influence and stall the actions of each other.

This suggests that while the two notions of state in the statist perspective are analytically complementary, the structure of the aggregate state often hampers or undercuts the actions of individual state actors. Thus, in Canada the analysis of state structure needs to include both the structure
of each individual actor and the structure of the aggregate state.

The above discussion has pointed out how the integration of the two perspectives, statism and federalism, has generated new theoretical insights. On balance, it seems that the integration of the two perspectives has produced more insights of benefit to the statist perspective than to the federalist perspective. This is perhaps indicative of how state-centred federalist thinking has become in Canada. The statist perspective clearly benefits from paying more attention to the very comprehensive federalist literature that exists in Canada.


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