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FROM TOMORROW TO TODAY:
THE CANADIAN COUNCIL OF MINISTERS OF THE
ENVIRONMENT
AND CANADIAN ENVIRONMENTAL POLICY

by

Dwight S. Hillyard

A Thesis
Submitted to the Faculty of Graduate Studies and Research
through the Department of Political Science
in Partial Fulfillment of the Requirements for
the Degree of Master of Arts at the
University of Windsor

Windsor, Ontario, Canada

1995

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ABSTRACT

The Canadian Council of Ministers of the Environment, the CCME, is an intergovernmental organization devoted to promoting the harmonization of federal-provincial environmental policies and regulations. The CCME is one of many institutional responses to the growing public concern over the environment. The importance of the CCME in the Canadian environmental policy community has risen and fallen in parallel with the importance of the environment as a public policy agenda issue.

The CCME, after a decline in the 1970's, experienced a renaissance in importance after 1988. Since then, the Council has been involved in many environmental policy initiatives ranging from the management of waste to harmonizing environmental assessment regimes. Many CCME initiatives, however, have been heavily influenced by an institutional tendency to place a strong prerequisite on intergovernmental cooperation. Maintaining collegial and cooperative relations has, on occasion, impeded the CCME's other objective of promoting sustainable development across Canada. In some cases, the CCME has either ignored or limited its action in certain spheres of environmental policy. In other cases, CCME policies have produced strictly voluntary sets of guidelines and codes of practice; guidelines that are usually unenforceable and infrequently monitored.

In retrospect, the success of the CCME is still debateable. The CCME, overall, is still unequipped to prevent the general retreat of government from important sustainable development principles. While the importance of the CCME as an actor in the Canadian environmental policy community seems assured for the time being, and is likely to be expanded, the furthering of many sustainable development and environmental protection policies is much less certain.
To my Mother and Father
and my Sister
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Writing a thesis involves a share of laughter and friendship which I was so lucky to experience in Windsor. Thank you to Pat and Bob Collins and family for their unbounded kindness and generosity. Thanks, also, to the Simeon Club (you know who you are!).

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Introduction

Environmental policy-making in Canada is a difficult endeavour. The state of environmental policy is confused by the lack of a clear delineation of environmental authority or responsibility between the Canadian federal and provincial governments. An organization called the Canadian Council of Ministers of the Environment (CCME) represents an institutional response to this dilemma. Since the Canadian constitution does not specifically give the right to legislate on environmental matters wholly to one government, both governments claim and assume responsibility for making policy. The role of the CCME is to facilitate the environmental policy-making between the different government jurisdictions.

The CCME is a member of a small, unique group of organizations on the Canadian political landscape. It is one of the few intergovernmental institutions that exists in the country with an established office, staffed with its own independent advisors, operating on a permanent basis. The CCME, unlike several other intergovernmental councils (eg: the Council of Maritime Premiers or the Canadian Council of Education Ministers) represents all governments.

The CCME, as an intergovernmental environmental institution, has two roles. Its first is to advise
governments on environmental policy decision-making and its second is to promote cooperative relationships between participating governments. The CCME’s advisory role and its emphasis on promoting and maintaining cooperative relations have not always contributed to the development of effective environmental policy. For students of environmental politics, this thesis presents an excellent opportunity to look at how environmental policies are shaped by intergovernmental relations. For students of federal-provincial relations, this thesis is an interesting case study of how intergovernmental institutions affect public policy issues in areas of concurrent jurisdiction.

This thesis is divided into six chapters. Chapter one looks at the institutionalist approach to the study of public policy and discusses why the study of institutions is an important part of political and environmental policy analysis in Canada. It also reviews the literature on institutional analysis, policy communities, environmental policy and the CCME. The concluding section of chapter one outlines several questions that provide the analytical focus for this paper. The questions raised deal specifically with the CCME’s ability to positively influence the shape of environmental policy.

Chapter two is a review and discussion of the issues and politics surrounding Canadian environmental policy and sustainable development. Part one of the chapter reviews the rise of environmentalism in the late 1960’s and early 1970’s,
and the policy responses of government. The second part of the chapter studies the evolution of environmental issues since 1984 and the rise of sustainable development as an environmental policy objective in Canada. Part three discusses the current policy and institutional responses of government since the release of the World Commission on Environment and Development report, *Our Common Future*. The concluding section of this chapter, like the previous chapter, raises several questions relevant to determining the effective of the CCME.

Chapter three is an in-depth analysis of the CCME. It reviews the history of the CCME from 1961 to 1971, when it was known as the Canadian Council of Resource Ministers (CCRM), and from 1971 to 1988, when it was called the Canadian Council of Resource and Environment Ministers (CCREM). Much of the chapter will concentrate on the period after the publication of the 1987 CCREM National Task Force on the Environment and Economy report; a report which set the stage for a greater role for the Council in national environmental policy decision making. Chapter three will also analyze the organizational structure, function and activities of the modern CCME.

Chapter four is the first of a two part analysis on the activities of the CCME since the 1987 National Task Force on the Environment and Economy report. Chapter four looks at the two frameworks for action that have guided the Council since 1987. The first section looks at the first framework, the
National Task Force on the Environment and Economy report and what the CCME has done in designing conservation strategies, interacting with round tables on the environment and economy, and developing consistent State of the Environment reporting guidelines. The second part of chapter four will study the second CCME framework for action, the 1992 Strategic Overview, and the issues surrounding environment and economic integration, aboriginal environmental issues, and international environmental issues. Chapter five consists of two in-depth case studies on CCME activity. The first is an analysis of CCME environmental impact assessment initiatives. The second is an analysis of CCME initiatives to harmonize environmental protection regulations and policies.

Chapter six studies the CCME in a federal state. Part one of this chapter is a brief overview of the history of Canadian federalism. Part two analyzes the effects of cooperative federalism on environmental policy and the CCME. The conclusion of this thesis will review the main arguments of the thesis and assess the future prospects of the CCME and environmental protection and sustainable development in Canada.
CHAPTER ONE

THE STUDY OF ENVIRONMENTAL POLICY AND THE CCME

Environmental policy in Canada is influenced by different individuals and groups; politicians, interest groups, bureaucrats, the academic community, businesspeople, workers and individual citizens. Each have different interests and environmental policy agendas. As a result, they all compete for attention in numerous places; at organizational meetings, in government departments, in cabinet and at intergovernmental conferences. These places, or institutions, receive a great deal of attention from environmental policy analysts because of their impact on environmental policy in Canada.

Institutions, like other public policy concepts, are open to numerous interpretations. Michael Atkinson defines institutions as networks containing organized assemblies of human, material and information resources deployed "according to rules and norms that structure individual participation, govern appropriate behaviour, and limit the range of acceptable outcomes." Examples fitting Atkinson's definition of institutions would include organizations like Environment Canada.

Institutions need not, however, be conceptualized so conservatively. Richard Simeon, for example, defines

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institutions broadly as the rules and regulations of political systems.² Institutions, in this sense, can refer to more than just organizations; they could also refer to governing arrangements like federalism. Institutions such as parliament, cabinet, the bureaucracy, the judiciary and intergovernmental conferences are also places where decisions are made. These institutions can empower or constrain participant actions according to certain rules, regulations, and established norms. As Doern and Phidd suggest, institutions house the ideas and beliefs that shape public policy processes and outcomes.³

"Do Institutions Matter?"

Is the perspective of institutional analysis appropriate for the study of public policy? If so, is it relevant to the study of environment policy? John Redekop suggests that the shape and function of institutions are commonly used in the development of explanatory models for Canadian politics. Institutional characterizations, for example, are important parts of economic, geographic and historical explanations of Canadian politics.⁴ Similarly, different ideological


perspectives of Canadian politics and public policy are usually based on how institutions are used to advance particular interests (e.g., capitalists, bureaucrats, etc.).

Institutions affect policy outcomes in several ways. Institutions, first of all, are able to facilitate or impede the adjustment of goals and strategies in a particular policy area. Institutions are capable of changing the dialogue and direction of policy; what gets discussed and what gets done. Third, institutions "rule out", or lessen, the likelihood that particular policy options will be pursued. In addition, a lack or resources, or similar constraint, limits the pursuit of certain goals and initiatives. Finally, institutions control participation and input into the policy making process. This affects the number type, and degree of influence different actors have on policy outcomes."

The institutional approach, Guy Peters notes, accepts institutions to be a central, if not the central, influence in the policy making process." Institutions, however, are not the only things that matter and the institutional approach, by itself, does not always illuminate the dynamics of policy processes. If political processes and arrangements are viewed in a static and rigid manner, public policy would seem

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"Ibid., 160-61.

"Ibid., 23-25, 39-42.

fatalistic and appear to be nothing more than standard output from an institutional factory. Redekop contends that institutionalist perspectives may underemphasize the impact of personalities in policy decision making. Simeon suggests other variables such as geography, ideology, and power can offer competing and complimentary explanations of public policy decisions and outcomes. Other analytical frameworks are important in the study of public policy because they can compliment the institutional approach.

Some of the danger of a narrow institutional focus can be avoided by a liberal use of different explanatory frameworks. An increasingly popular framework being used by a number of policy analysts in the study of Canadian public policy is the policy community/policy network approach. Canadian political scientists including Pross, Coleman, and Skogstad have developed, used, and refined this approach in examining a diverse range of public policy fields ranging from industrial policy to environmental policy within Canada. Coleman and Skogstad define policy communities as "those actors or potential actors with a direct or indirect interest in a policy area or function who share a common 'policy focus' and who, with varying degrees of influence shape policy

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Redekop, *Approaches to Canadian Politics*, 164.

Richard Simeon, "Studying Public Policy", 566.
outcomes over the long run."\textsuperscript{10} Policy networks "characterize the relationships among the particular set of actors that forms round an issue of importance to the policy community."\textsuperscript{11}

It is also difficult to separate interest groups or organizations from policy communities/policy networks since they are the members of policy communities. Some analysts, especially Pross, emphasize the importance of interest groups and interest intermediation in the formation of public policy. Most interest groups function either as lobbyists or policy decision-makers in a given policy community. Indeed, much of the negotiation and tension that takes place in a policy area like pollution control, for example, results from the interaction of different interest groups. An interest group's capacity to influence policy, according to Pross, depends on factors such as its knowledge and capacity, its ability to mobilize resources, to form coalitions with other institutions and interest groups, and its position as either an advocate or participant in a policy community.\textsuperscript{12} Interest groups are important to the policy process because they are sources of information to and from government, they legitimize policy


\textsuperscript{11}Ibid., 26.

community outputs, and they instigate change in the policy community through debate, lobbying, and conflict.\textsuperscript{13}

Environmental policy is affected by a large number of interest groups, associations and organizations all trying to influence the policy process. Coleman and Skogstad acknowledge that institutional factors, (ie: the "rules of the game" and "belief systems"), must be given specific attention. They believe that policy communities are institutions composed of one or more policy networks.\textsuperscript{14} This conceptualization of policy communities and policy networks is used by Atkinson in his definition of institutions. Consequently, the influence of an organization like the CCME in one policy community, given the different dynamics of different policy networks, might differ from its influence in another policy community.

Institutions do seem to matter in the study of environmental policy in Canada. Environment policy analysts, from MacNeill in 1971 to Boardman et al in 1992, all focus on the importance of institutions. In some cases, their work concentrates on the study of organizational institutions like government departments of the environment. In many other cases, analysts concentrate on the impact of institutions such as federalism. Most analysts using an institutional approach usually look at each different type of institutions: governing

\textsuperscript{13} \textit{Ibid}, 234-8.

\textsuperscript{14} Coleman and Skogstad, \textit{Policy Communities}, 29.
arrangements and the systematic division of powers (eg: federalism); institutions where specific policies are made and interpreted (eg: parliament, the bureaucracy, the judiciary, etc.); and institutions, or organizations, where specific, like-minded interests coalesce and form strategies and alliances (eg: a political party, an interest groups, or a specific government department, etc).

Institutionalist Perspectives and Environment Policy Analysis

One of the earliest comprehensive analyses of the state of the environment and environmental policy in Canada was completed by Jim MacNeill in 1971 for the Canadian Privy Council Office. MacNeill discovered that the growing concern over the environment and the need for government to address environmental problems was complicated by jurisdictional uncertainty over who exactly was responsible for the environment - the provinces or the federal government. He suggested that each level of government; municipal, provincial and federal, had a role to play in effective environmental management. MacNeill believed that the role of the federal government was especially important in environment policy. The federal government would ultimately be responsible for problems other levels of government could not, or refused to handle, and those beyond the capacities of intergovernmental

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Notes:

arrangements. The federal government would also meet its international environmental management obligations with help from provincial government institutions. The effectiveness of this approach would depend, however, on the "evolving structure of federal-provincial institutions".\textsuperscript{16}

MacNeill states that effective environmental management requires comprehensive planning, regulatory, financial, and research strategies along with highly capable information systems. In air and water pollution prevention and resource management, problems are almost never confined to a single source or jurisdiction. The Canadian state, MacNeill argues, has not allocated responsibility for managing these areas. MacNeill suggests that intergovernmental structures with the federal government playing a leading role are necessary in dealing with these and other types of environmental management questions.\textsuperscript{17} By carefully examining the institution of federalism, MacNeill concludes that there is "an overwhelming need for intergovernmental cooperation in the urgent tasks in environmental management" in Canada.\textsuperscript{18}

The growing importance of environmental issues through the early 1970's coincided with a growing interest in the study of environmental policy, much of it focused on institutions. As with MacNeill, there were frequent

\textsuperscript{16}Ibid, 57.
\textsuperscript{17}Ibid, 170-1.
\textsuperscript{18}Ibid, 183.
references regarding the impact of federalism on Canadian environmental policy. Micheal Whittington, for example, discussed how Canada’s federal system created a sense of jurisdictional ambiguity in the environmental policy field.\textsuperscript{16} Dale Gibson described how the federal system’s division of power between the federal and provincial governments in different policy areas (e.g., agriculture, resource management, pollution control) affected both legislative initiatives and the choices of instruments that governments use to implement policies.\textsuperscript{20}

Environmental analysts discussed and debated the impact of governing institutions on environment policy. Dwivedi talked about the power and importance of parliament in setting policy\textsuperscript{21} while Whittington inquired into the effect various government bureaucracies have on environment policies.\textsuperscript{22} Dave Estrin reviewed the role and ability of another generic


\textsuperscript{22} See Whittington, Issues in Canadian Public Policy.
institution, the judiciary, to influence environmental policy. Finally, environment policy analysts such as Whittington and Dwivedi started to take notice of the growing importance of the federal-provincial ministers conference as an institution where environment policy was affected.

The discussions of these and other environmental policy analysts in the 1970's focused, as well, on organization-specific institutions like political parties and government departments. Many analysts concentrated on explaining how government departments of the environment influenced environmental policy decision-making. Others, like Dwivedi, analyzed the impact of political parties on the formation and implementation of environmental policy. The growing environmental movement of the late 1960's and early 1970's was a fascinating area for other analysts. Interest groups during this time began to emerge as important institutions in the field of environmental policy. Wilkinson, for example, believed individual environmental interest groups collectively represented, from an institutionalist standpoint, the aggregation of a wider, more public interest in the

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24See Dwivedi, Protecting the Environment. See also Whittington, Issues in Canadian Public Policy.
environment. 25

Much of the early work done in the environmental policy field established institutional frameworks as legitimate methods for analyzing environmental policy. In Canada, as in many other parts of the world however, the importance of environmental issues faded throughout the remainder of the late 1970’s. When a new wave of environmental concern and environmentalism hit in the mid-to-late 1980’s, environmental policy analysts, within and outside of government, continued to use institutionalist perspectives of analysis.

Major government initiatives in Canada during the late 1980’s and 1990’s were preceded by several extensive reviews of the condition of the environment, and environmental policy making. The Royal Commission on the Economic Union and Development Prospects for Canada (the MacDonald Commission) was the first major political review of environmental policy in Canada in the 1980’s. In 1985 and 1986, the Conservative government of Brian Mulroney began a review of environmental policies and programs under the auspices of the Neilsen Task-Force on Program Review. In 1990, the federal government released Canada’s Green Plan for A Healthy Environment which outlined a national environmental policy agenda for the 1990’s.

The Neilsen Task Force Report in 1985 and a Follow-Up report released a year later were ostensibly institutionalist in their approaches to the study of the programs and operations of the federal Department of the Environment. The Neilsen Task Force discussed federal-provincial relations and analyzed the jurisdictional problems caused by the nature of Canadian federalism. The second follow-up report, the Environmental Quality Strategic Review, discussed how initiatives such as new national advisory council on the environment, for example, could assist in activities like reporting environmental data and defining environmental issues under debate. The follow-up report recommended that the federal government consolidate and rationalize its different environmental protection acts (e.g., the Clean Air Act, Clean Water Act, etc.) under one piece of legislation. It also advocated the establishment of new independent national accountability regimens and the development of a national environmental policy, and it reemphasized the importance of federal-provincial cooperation in policy development.

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28Ibid, 9, 22-3.
The Green Plan and Green Plan Consultations also focused on the significance of institutions in environmental policy-making. Both emphasized the importance of including environmental, industry and other interest groups in the environmental planning process through multilateral forums and building partnerships. The Green Plan discussed the roles all federal government departments had towards promoting sound environmental practices (eg: Health and Welfare Canada, Agriculture, the Department of Fisheries and Oceans, etc.).

The Green Plan also advocated strengthening international institutions like the United Nations Environment Program. On the domestic front, the Green Plan discussed the implications of the constitutional division of powers between the federal and provincial government, and the need for meaningful intergovernmental environmental partnerships.

The study of environment policy in the 1980's and 1990's continues to emphasize the importance of institutions to the

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31Canada, Canada's Green Plan for a Healthy Environment, 21-2.

32Ibid, 131-3.
policy process. Both Hoberg, and Skogstad and Kopas, have analyzed the effect federalism and intergovernmental relations have on policy. Other analysts, like Ted Schrecker, and Duncan and Vanderzwaag have looked at the evolving role of judicial institutions in environment policy. The works of Robert Paehlke and Douglas Torgerson, G. Bruce Doern, Peter Nemitz, and M. Paul Brown talked about the ever pervasive influence of the bureaucracy on environment policy. Jeremy Wilson has studied the effects of pressure groups, Vaughan Lyon has studied political parties, and Fletcher and Stahlbrand have studied media institutions.\textsuperscript{34}

The Canadian Council of Ministers of the Environment

The section above illustrates the importance of institutions to the study of environment policy. Current and past literature on environmental policy in Canada highlights the impact of federal-provincial relations and negotiations on environment policy outcomes. The institution responsible for accommodating differing intergovernmental environmental interests is the Canadian Council of Ministers of the


Environment, the CCME. Despite the importance of federal-provincial environment relations, however, much of the literature on the CCME is brief and descriptive. This analysis will delve more deeply into the CCME's institutional structure and present-day activities.

Whittington's article on environmental policy in 1974, for example, characterized federal-provincial relations and interjurisdictional structures during the 1970s as generally ad hoc and regionally focused. One exception, however, was the CCREM. The CCREM, at this time, was composed of senior bureaucrats from the environmental departments of each level of government. Federal and provincial ministers of the environment met each year to discuss general environmental issues and review technical studies and research being carried out by lower level bureaucrats. The principle strengths of the CCREM, according to its Secretary-General, Christian de Last, was its ability to provide a flexible framework to carry out communication between the different environment departments across Canada. The CCREM, in Whittington's view, provided an "institutional milieu" where "senior ministers, officials, and experts" could talk about environmental issues in private. The CCREM tried to discourage public disagreements and political grandstanding by its members and emphasized quiet, collegial working relationships between

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35The Canadian Council of Resource and Environment Ministers, the CCREM, 1971-1988; and the Canadian Council of Resources Ministers, the CCRM, 1961-1971.
members.\textsuperscript{16} Whittington's only concern about the CCREM was whether or not it was actually having any direct influence on the final shape of national environment policy since he was unable to establish direct causal relationships between CCREM activities and federal and provincial policies.\textsuperscript{37}

Michael Jenkins's analysis of the CCREM of the 1970s reiterated some of the themes developed by Whittington four years earlier. Like Whittington, Jenkins observed that the CCREM's permanent secretariat enabled liberal dialogue on general environmental issues. Participants did appear liberated from having to concentrate on the concerns of their own governments and regions and were thus able to approach problems from a national perspective. Jenkins discussed the role of the CCREM as a bridge builder between environmental officials through the receiving and dispensing of information to different parties and establishing common priorities and environmental objectives.\textsuperscript{38}

The CCREM's influence on environmental policy in the 1970s reached its zenith at the 1973 CCREM sponsored Man and Resources Conference. According to Jenkins, the political implications of the CCREM became a public forum for policy debate and scrutiny disturbed some government officials. The


\textsuperscript{37} \textit{Ibid} 218-20.

growth of the CCREM's institutional capabilities worried some provinces who felt the organization's growth was taxing their individual department's budgets. Other issues during the 1970's were also having detrimental effects on the CCREM; the decline of environmental issues, staff turnover and reductions, and the departure of the organization's Secretary-General. The CCREM, thus weakened, focused its remaining resources on logistical support for only subsequent ministerial meetings on the environment and moved away from a path of policy development and review.  

The CCREM's almost non-existent role in intergovernmental environmental policy began to change after the mid 1980s in response to several new developments in the policy field. It began with the Nielsen Task Force rescuing the CCREM from virtual obscurity by recommending a revitalization of the organization in federal-provincial environmental relations. The Task Force report argued that federal-provincial cooperation on environmental matters, rather than "contested legal efforts" was a more appropriate way of resolving jurisdictional questions. The report proposed that the CCREM should be used to accomplish this task based on its past achievements and given the fact that it was not currently being used to its full potential.  

Ibid, 122-3.

Canada, Programs of the Minister of the Environment, 25.
CCREM being used as an intergovernmental forum on environmental policy were later espoused by senior officials of the federal Department of the Environment.  

The Brundtland Commission’s visit to Canada in 1986 presented the CCREM with another opportunity to become actively involved in shaping the environmental policy process. It was in response to the Commission’s call for an integration of environmental and economic planning that the CCREM established a National Task Force on the Environment and the Economy, the NTFEE. The NTFEE commenced operations in October 1986 with a mandate to find ways to "foster and promote environmentally sound economic development." It tabled its final report in September 1987.  

One of the NTFEE’s recommendations called for more intergovernmental cooperation and environmental policy harmonization between different jurisdictions. Another recommendation called for the creation of new institutions; multi-stakeholder forums on the environment to be called Round Tables on the Environment and the Economy. These round tables would be created at both the federal and provincial levels and

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43 Ibid, 8.
would consist of: "government; industry, both large and small; environmental organizations; labour; academia; and aboriginal peoples." The Task Force also called on the CCREM to work closely with government departments of the environment, to assist the development of conservation strategies for ecological resources, and to become involved in forums on environment and economic integration. It was shortly after the National Task Force report that the CCREM, in order to focus more intensely on environmental issues, changed its name to the Canadian Council of Ministers of the Environment.

Three years later, the Green Plan Consultations lent its support to a more open decision-making process involving the Roundtables on the Environment and the Economy. The Green Plan Consultations also gave its support to a role for the CCME in developing the national environmental action plan and establishing linkages and partnerships between different interests and institutions. The Green Plan Consultations felt the CCME could help "resolve federal/provincial roles and responsibilities", "co-ordinate environmental efforts to resolve jurisdictional problems in the next 6 to 12 months", and "apply national standards to be adopted equally by all jurisdictions".47

44Ibid, 10-11.
46Canada, Green Plan Consultations, 32.
Most environmental policy critics have applauded the achievements of the CCME since its rejuvenation in the late 1980’s. VanderZwaag and Duncan highlighted the CCME’s ability to promote co-operative arrangements between the federal and provincial governments, and help develop comprehensive federal-provincial management plans to control nitrous oxide (NOx) and volatile organic compound (VOC) emissions. Kopas and Skogstad suggest the effectiveness of the CCME in providing an intergovernmental forum for environmental policy discussions can be attributed to the feelings of equality shared among the participating governments. All governments share the cost of operating the organization with the chair rotating annually amongst provincial and federal environment ministers. Kopas and Skogstad also mention that the CCME has helped to effectively manage intergovernmental conflict by lessening federal provincial tensions. In 1989, the CCME established "a permanent and enlarged secretariat in Winnipeg to enhance its ability to formulate policy." This has assisted the CCME in increasing intergovernmental consultation


Ibid, 54-5.
at both the senior and technical bureaucratic levels and in establishing concrete policy objectives such as the Statement on Interjurisdictional Cooperation on Environmental Matters in 1989.

A Theoretical Framework Towards An Analysis of the CCME

The purpose of this chapter was to: justify the institutionalist approach to the study of environmental policy; document the past and present uses of an institution-conscious study of environmental policy; and, introduce the CCME as a recognized (and underrecognized) institution within the environmental policy community. The remainder of this chapter will outline the analytical framework on which this thesis's evaluation of the CCME is based.

The analytical framework of this paper is, first of all, based upon the premise, as outlined by Lundqvist in his paper on air pollution, that there is a close relationship between policy and structure. The reason, Lundqvist argues, is that policy becomes public policy only when adopted, implemented, and enforced through government institutions. Lundqvist suggests that the arrangement of government institutions "may have an important impact on the way in which demands for certain policies are channelled into the political process" and "the determination of what activities are considered and
selected.\textsuperscript{51} The evaluation of the CCME in this thesis will pay close attention to the CCME's policy process; the issues it chooses to address and courses of action it recommends.

A second important characteristic of institutions, according to analysts such as March and Olsen, is the way "collective histories of organizations and institutions serve as guides for action for the current members of the organization".\textsuperscript{52} This suggests organizational culture plays an important role in the direction of policy and the policy process and raises the following questions. First, what kinds of costs do any institutional tendencies towards stability, security and the status quo impose on the CCME? Is there a persistence of policy and organizational process within the CCME that is difficult to change and is it capable of change? Finally, is there a likelihood that the CCME could expand its normal role if such an expansion can be justified? This paper will pay close attention to the organizational culture and the institutional milieu of the CCME.\textsuperscript{53}

To answer these questions effectively, a concrete basis

\textsuperscript{51}L. J. Lundqvist, "Do Political Structures Matter in Environmental Politics: The Case of Air Pollution Control in Canada, Sweden and the United States", \textit{Canadian Public Administration}, 17:1 (Spring 1974), 120-121.


\textsuperscript{53}These questions are derived from B. Guy Peters's analysis of institutions. Peters, "An Institutionalist Perspective", 176-178.
for analysis is necessary. Defining and operationalizing what is meant by effective environmental policy is difficult and problematic in Canada’s ever-changing environmental policy community. In 1989, when the CCME was enjoying a renaissance in interest and activity, the Council released a policy document in which it outlined its objectives for the future.\textsuperscript{54} The policy document, \textit{The Statement of Interjurisdictional Cooperation on Environmental Matters}, designed to facilitate joint government action on the environment, is used in this paper as an approximate list of evaluative criteria. The Statement recognizes the need for governments, through the CCME, to:

* harmonize environmental legislation, policies and programs,

* develop national environmental objectives and standards to ensure that a consistent level of environmental quality is maintained across the country,

* ensure that consistent strategies are developed to address emerging environmental issues of national, international and global importance,

* improve the linkages between domestic and international policies and programs on environmental matters; and,

* harmonize environmental assessment and review procedures.\textsuperscript{55}

\textsuperscript{54} These objectives received widespread report upon their release and were later incorporated into the federal government’s Green Plan. See Canada, \textit{Canada’s Green Plan}, 132.

The conclusion of this paper will, on the basis of CCME activity in most of these areas, be used to evaluate the CCME as an agent for environmental improvement and sustainable development.
CHAPTER TWO

THE ENVIRONMENT IN CANADA: ISSUES, POLICY, AND CONCEPTS

The evolution of the Canadian Council of Resource Ministers (CCRM) into the Canadian Council of Ministers of the Environment (CCME), parallels the evolution of the environment as a public policy issue. The CCRM was created in 1961 to meet the challenges of resource development facing Canada in the 1960's. In order to deal with resource management concerns, the CCRM found itself becoming increasingly involved in environmental issues related to the polluting activities of industry and the deterioration of air, water, and land resources.

By 1970, environmental awareness and concern had increased enough throughout Canada to become a major public policy issue. The CCRM, given the saliency of environmental issues and its own work on pollution and environmental regulation, expanded its mandate to "reflect the need for correlation of resource and environment policy" and changed its name to become the Canadian Council of Resource and Environment Ministers, the CCREM. A period of structural and role readjustment occupied the CCREM for the 1970's and early 1980's after the Council's decline in 1973.

Throughout the 1980's, the CCREM had become increasingly

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more focused on environmental issues such as PCB disposal and hazardous waste management. In 1986 the World Commission on Environment and Development (the Brundtland Commission) visited Canada and met with CCREM officials in Edmonton, Alberta to promote the concept of sustainable development. After the Edmonton meeting, the CCREM commissioned a National Taskforce on the Environment and the Economy to prepare a report in conjunction with the work being done by the Brundtland Commission on sustainable development. Then, in 1988, less than a year after receiving the National Task Force’s report, the CCREM agreed to change its name, dropping the word "resource", to become the Canadian Council of Ministers of the Environment, the CCME. The CCME’s first annual report said the change was designed to reflect the organization’s primary objectives of promoting environmental management and sustainable development.1

The events that occurred in 1988, as in 1971, happened at a time when environmental issues and concerns were near the top of the Canadian public policy agenda. The first two sections of this chapter will briefly outline and discuss the history of environmental issues and governments’ responses to those issues. Section three will analyze the origins and philosophies of sustainable development. The concluding section will consider how we can critically analyze the CCME

\footnote{Ibid. 4.}

\footnote{Ibid.}
based on both the evolution of Canadian environmental policy and the concept of sustainable development.

Environment in the 1960's and 1970's

The earliest examples of environmental concern in Canada occurred soon after confederation in the 1880's when efforts were made by private and public officials to set areas of protected wilderness space. The desire to protect the natural beauty of specific locales led Sir John A. Mcdonald's government to establish Canada's first national conservation park in Banff, Alberta in 1885. Earlier in this century, Canadian and American concerns about the management of the Great Lakes watershed led to the creation of the International Joint Commission in 1909 to monitor pollution and other problems. Most environmental problems, however, focused primarily on local concerns and remained, with some exceptions, at the bottom of the national public policy agenda.

The increased concern and politicization of environmental issues occurred in the wake of several worldwide and national

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environmental disasters and the steady deterioration of many North American ecosystems. Highly publicized accidents in the late 1960's and early 1970's underscored the devastating impact human activities were having on the environment. These included a major oil spill in California, the wreck of the oil tanker Arrow in Nova Scotia in 1970, a river fire in Ohio in 1968, and a massive fish kill in Newfoundland several years later. Even before these accidents happened, there was a growing awareness among scientists, academe, and public policy specialists that the environment was in serious decline. Rachel Carson's Silent Spring was one of several studies on the condition of the environment in North America that stirred public opinion and forced policy makers to take notice of increasing ecological destruction.

Institutions like the CCRM were also beginning to realize that the pollution of the atmosphere, water and land could seriously threaten peoples' health and ability to survive. CCRM president Christian de Laet linked pollution problems to urbanization, industrialization and poor environmental management. His theory that public concern about the environment was based more on dramatic environmental catastrophes than on routine, day-to-day aspects of

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environmental degradation is insightful since it foreshadowed the decline of environmental issues on the public policy agenda once other dramatic issues replaced them.

The issues and concerns that emerged during this period seemed to fall into two categories. Society at large and politicians at the close of the 1960's appeared most concerned about the consequences of aquatic pollution its threat to drinking water and fishing, the health effects of air pollution, and the disposal of household and hazardous wastes. A growing body of concerned citizens, ecologists and recently organized environmentalist groups, however, were also concerned about environmental issues of larger significance. These included how decisions affecting the environment were made (the need for public hearings on environmental issues) and how the impact of these decisions on the environment was measured (the need for some kind of environmental impact assessment).

Government Responses

The first milestone in Canadian environmental politics occurred in 1968 when environmental problems were finally being debated as a serious national public policy issue. In November 1969, the newly elected Liberal government of Pierre Trudeau introduced its first piece of national environmental legislation - the Canada Water Bill. A second major piece of federal environment legislation, the Clean Air Act, was passed
in 1971. The Trudeau government also passed the Arctic Waters Pollution Act, the National Inland Waters Act, as well as amendments to the Canadian Shipping and Fisheries Act to strengthen pollution control and environmental protection. In 1975, the Liberal government passed the Environmental Contaminants Act to control hazardous substances. Legislative activity also increased at the provincial level during this period as Ontario and Alberta, for example, each passed Clean Air, Clean Water and other environmental protection Acts.

Federal and provincial governments have attempted to address environmental concerns through various institutional initiatives. In November 1970, the federal government created a Department of the Environment to coordinate environmental policy throughout government. This new department, an amalgam of different branches and sectors of previous and existing departments and agencies, was assigned responsibility for policies related to renewable resources, and the preservation and enhancement of air, water, and soil quality. (These responsibilities were later consolidated under the

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Environmental Protection Act of 1988). Some provinces, like Manitoba and Nova Scotia for example, also created semi-autonomous environmental commissions designed to help independently administer environmental protection legislation. Finally, the federal government, along with some provinces, established environmental advisory councils made up of non-government experts to advise public officials on environmental issues.\(^{11}\)

There was also increased pressure on both the federal and provincial governments to implement new environmental assessment processes based on rational planning, analysis, and some form of public participation. In December 1973, the federal cabinet established an Environmental Assessment and Review Process (EARP) to be carried out by all federal government departments and agencies.\(^{12}\) By the end of 1975, almost all provinces had some similar form of environmental impact assessment in place.\(^{13}\) The federal government, in cooperation with various provincial governments, also


\(^{12}\) The EARP, however, was not a legislated act. It was designed to operate within existing departmental administrative policies and procedures under the auspices of the Federal Environmental Assessment and Review Office (FEARO). Reg Lang, "Environmental Impact Assessment: Reform or Rhetoric" *Ecology versus Politics in Canada*, ed. William Leiss (Toronto: University of Toronto Press, 1979), 238.

financed several environmental projects designed to curb pollution. The federal government has taken advantage of its fiscal position to finance numerous projects with environmental significance.\textsuperscript{14} At the international level, the environmental problems plaguing the Great Lakes led Canada and the United States to sign The Great Lakes Water Quality Agreement in 1972 to improve the Lakes' conditions. Canada also participated in the first international conference on the environment in Stockholm in 1972 and later supported the creation of the United Nations Environmental Program that began in 1975.

\textbf{Early Critiques}

Many individuals felt these new initiatives would not, or could not, substantially alter the downward spiral towards further environmental degradation. The federal government’s Clean Air and Water Acts, for example, chose standards that allowed the federal government to avoid conflicts with industry and the provinces while maintaining the appearance of taking action against deteriorating air and water conditions.\textsuperscript{15} The early results of Canadian environmental

\textsuperscript{14} The federal government in 1971, for example, contributed a $167 million loan to Ontario to combat pollution problems in the Great Lakes region. Dwivedi, \textit{Protecting the Environment}, 181.

\textsuperscript{15} Lennart Lundqvist, \textit{Canadian Public Administration}, 17:1, 134-135.

The Clean Air Act, for example, allowed the federal government to set non-binding air quality standards. The
legislation under the Clean Air and Water Acts were also characterized by a record of inadequate enforcement caused by a lack of time, expertise and other institutional resources. There was also a fear on the federal government's part of igniting a federal-provincial confrontation. Rolf and Thompson add that both the federal and provincial governments were reluctant to take action against organizations guilty of continual non-compliance with environmental regulations. It also seems that the penalties for non-compliance were considered little more than the normal cost of doing business and in some cases it was more advantageous to continue polluting than to install pollution abatement equipment.

The second component of the federal and provincial governments' environmental campaign concentrated on institutional reform. However, the federal Department of the Environment was rather weak compared to other more established and traditional departments. The Department's peripheral status became evident soon after its creation when other


departments, rather than the Department of Environment, were responsible for carrying out their own environmental assessment processes. The capacity of the federal government to regulate environmental activity was also weakened by the decentralization of regulative authority across departments and among provincial governments.

Estrin argued that environmental decision-making at both levels of government was neither effective nor independent as weak government bureaucracies faced powerful industrial lobbyists. Most of the new environmental legislation being passed at the time by both levels of government lacked the necessary regulations and guidelines to be immediately enforced. It was usually the responsibility of government bureaucrats and civil servants to create guidelines and to see to it that they were properly enforced. In most cases, the development of regulatory frameworks was carried out in close consultation with industry and out of the public's view. The participation of concerned citizens and environmentalists in the decision-making processes was limited at best.

Environmental impact assessment (EIA) programs of the

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19For a further description of see Hoberg, Governing Canada: Institutions and Public Policy, 315.

federal and provincial governments were also objects of criticism. The problem with most EIA processes, first of all, was a lack of systematic and rational application and the tendency of governments to approve projects in some instances before assessments were completed. In Ontario, for example, a number of projects were exempted from EIAs. Public hearings and public participation in many EIA programs were not automatically guaranteed while the private sector at the time seemed unconcerned with the EIA process. Governments were also criticized for exempting large megaprojects with political as well as environmental implications from undergoing complete EIAs.  

Issues in the 1980’s

As Canada approached the 1980’s, the environment ceased to remain a central public policy issue. Except for the “energy crisis” in the 1970’s, the nuclear power debate, and the growing concern over acid rain, the Canadian political agenda was dominated by the problems of inflation, recession,  

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21 Bruce Mitchell and Richard Turkheim, Managing Canada’s Renewable Resources, 62.


and the rise of Quebec separatism. In the mid-1980’s, however, several alarming environmental events took place throughout the world and in Canada. These events included a PCB fire in Quebec, the discovery of an ozone hole in the Antarctic, a toxic discharge in Lake St. Clair, the Chernobyle reactor explosion, the 1988 heat wave in western Canada and Ontario, and the Exxon Valdez oil spill.\textsuperscript{24} By the end of the 1980’s, after many of these and other events, interest in environmental issues surged, once again, to the top of the environmental agenda.

These environmental concerns were a complex combination of old and new problems. Added to the problems of acid rain and ground level ozone (smog) were other atmospheric issues such as carbon dioxide and CFCs emissions. Each was recognized as a serious environmental problem largely because of the growing scientific evidence that CFCs were contributing to stratospheric ozone destruction and that carbon dioxide emissions were leading to global warming. Many people agreed that the use of CFC’s and other ozone depleting substances had to end and substitutes found as quickly as possible. An agreement on the need to establish reduction targets for carbon dioxide and other greenhouse gases, however, has been a very contentious issue.\textsuperscript{25}

Water and land management constituted a second group of

\textsuperscript{24}Hoberg, \textit{Governing Canada}, 312-313.

\textsuperscript{25}Canada, \textit{Green Plan Consultations}, 69, 76-77.
environmental concerns. In Ontario, for example, the toxic contamination of the Great Lakes Water system continues to aggravate environmental groups. In different parts of the country there has been concern and apprehension over the supply, quality, management and possible export of water resources. The presence of chlorine in rivers, lakes, and water supplies exemplifies the nature of the debate over the management of water resources in Canada. Indeed, throughout the 1980's and into the 1990's, the use of chlorine in drinking water and industrial discharges of organochlorines has been one of the most controversial issues in environmental policy. Groups like Pollution Probe, Greenpeace and the International Joint Commission have disagreed with city planners and engineers, and different industry associations' claims that chlorine is not an environmental or health threat.\textsuperscript{26}

Land management issues also received a significant amount of attention during the 1980's, particularly in the wake of the unusually hot summer of 1988. The drought conditions in Ontario and especially Western Canada, reminiscent of the "dirty thirties", forcefully reemphasized the importance of proper soil management and conservation. The direct relationship between agriculture and land management led to increased public concern about the impact of chemicals and

\textsuperscript{26}Macdonald, \textit{Politics of Pollution}, 112-113.
phosphate fertilizers on food products, drinking water, rivers and the land itself.\textsuperscript{27} In some provinces, the designation of land for resource harvesting and preservation, particularly the forest industry in British Columbia, became one the most explosive issues ever in Canadian environmental politics.

Toxic pollutants, along with hazardous and consumer wastes were a third series of important issues on the environmental policy agenda throughout the 1980’s. The uneasiness surrounding the existence of PCBs and PCB contaminated materials quickly turned to anger when individuals and communities were unexpectedly exposed to these substances.\textsuperscript{28} The fear and outrage expressed towards PCBs was reminiscent of the public reaction to DDT two decades earlier. A PCB spill on the TransCanada Highway and a fire at a storage facility in St. Basil, Quebec, heightened the concern over hazardous wastes. Meanwhile, the growing amount of household waste and shrinking landfill capacity increased the public’s desire to reduce, and where possible reuse and recycle, things that would otherwise pollute and contaminate the environment.\textsuperscript{29}

A series of federal government consultations in 1990 discovered that many Canadians felt that public participation in environmental decision making was inadequate and


\textsuperscript{28}Macdonald, \textit{Politics of Pollution}, 65-66.

\textsuperscript{29}Canada, \textit{Green Plan Consultations}, 51, 56, 64.
ineffective. Participants were dismayed, first of all, by the government's poor record of environmental enforcement. They wanted "clear and enforced regulations, rather than guidelines, codes of practice or voluntary standards." Participants also said environmental decision-making needed to include all stakeholders in an environmental issue and apply environmental assessment procedures across a wider range of environmental issues based on fairness and minimum national standards. Some concerned individuals and groups lobbied for an environmental "bill of rights" that would empower citizens with the legal wherewithal to prosecute acts endangering the environment.

The upsurge in environmental interest also coincided with the changing expectations and roles of aboriginal people in public policy and politics. Some aboriginal groups, the Cree in Quebec and the Paigan Indians of Alberta for example, were very concerned about the environmental impacts of Canadian industrial development on the territories they inhabited. In both these examples, concern turned into legal action and

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10 Ibid, 22.
11 Ibid, 32.

13 Hoberg, Governing Canada, 307.
protest. After the mid-1980's, there were more discussions about the rights and responsibilities of aboriginals to benefit from a healthy environment. Aboriginal groups demanded a greater role and more participation in environmental decision-making in recognition of their stewardship of environmental resources. Others felt aboriginal groups were equally as capable of environmental degradation as anyone else and that they should not be exempt from laws and regulations designed to protect and preserve the environment, especially threatened species of flora and fauna.

The Concept of Sustainable Development

There is a sense of both continuity and change in the environmental issues that have faced Canada since the late 1960's. One of the biggest distinguishing features of the first wave of environmentalism (1970's) in Canada from the second (1980's) is the perception of how environmental problems relate to larger socio-economic issues. Early analysts tended to argue that environmental problems were the trade-off for industrialization and modern economic growth. This perception changed in the mid-1980’s with the advent of

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Vanderzwaag and Duncan, Canadian Environmental Policy, 18-20.
the concept of sustainable development.

The idea of sustainable development was popularized by the World Commission on Environment and Development through its famous report on the earth's environmental condition entitled Our Common Future. Despite its worldwide popularity, the concept of sustainable development is still an abstract and frequently debated topic. In order to understand sustainable development, it is important to return to a time when environmental issues were first beginning to emerge on the global political agenda in the early 1970's and review the first study of the earth's environmental problems entitled Limits to Growth.

Limits to Growth was written prior to the first world conference on environment held in Stockholm in 1972 for an organization called the Club of Rome. The team of individuals engaged in the project examined several factors that limit human growth on the planet: population, food production, industrial production, availability of resources, and pollution.\textsuperscript{15} The study concluded that the limits to growth on the earth, based on a study of the five factors above, would be reached within a hundred years. It also suggested, however, that unsustainable growth patterns could be altered if higher productivity, rather than economic growth, could be substituted as the primary method for improving living

standards."

Participants in the Limits to Growth exercise anticipated that public reaction to its pessimistic forecasts would be highly critical. They were correct for two reasons. First, the methodology of the report, which was highly dependent on computer generated models and predictions, was not considered valid by many analysts. A second, and perhaps more serious accusation levelled at the report, was the perception that Limits to Growth advocated "zero growth". Developing countries feared zero growth would condemn their nations to permanent poverty and underdevelopment. As time passed, the Club of Rome and Limits to Growth's association with "zero growth" increased. The development-environment debate polarized as economic development and environmental protection continued to be seen as competing goals. These events seemed to neutralize any impact the Limits to Growth study might have had in bringing about policy and attitudinal changes.

The environment versus development impasse was breached with the publication of the WECID report in 1986. The general theme and direction of the Brundtland Commission is outlined in the first chapter of Our Common Future:

\[\text{Ibid, 178,182.}\]

\[\text{These criticisms are not completely justified given that the report does not explicitly mention the phrase "zero growth" and that it endorses improving the relative and absolute well-being of developing countries relative to developed western states. See Eduard Pestel, Beyond the Limits to Growth, (New York, Universe Books, 1989), 29-32.}\]
"Our report, Our Common Future, is not a prediction of ever increasing environmental decay, poverty and hardship in an ever more polluted world among ever decreasing resources. We see instead the possibility for a new era of economic growth, one that must be based on policies that sustain and expand the environmental resource base. (p. 1)

Just as in Limits to Growth, the Brundtland report noted that the concepts of environment and development are "inexorably linked" and that policies towards one invariably affect outcomes in the other. What was required was a reorientation in thinking and a new paradigm; a strategy of development "that meets the needs of the present without compromising the ability of future generations to meet their own needs" without destroying the environment in the process; a strategy the Brundtland Commission called sustainable development."

The Brundtland Commission attempted to define sustainable development in the following broad terms; setting ecological limits on growth, recognizing sustainable yields for renewable resources, minimizing consumption of non-renewable resources, and minimizing damage to air, water, flora and fauna. From an environmentalist perspective, the Commission argued that by protecting the environment we sustain future potential for economic development, whereas environmental degradation creates economic, social and political problems. Many environmental problems such as soil deterioration, acid rain,

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40 Ibid, 45-46.
and water pollution, for example, are interrelated. Other environmental problems, like global warming, transcend political boundaries and government institutions in both their scope and magnitude.

*Our Common Future* and the idea of sustainable development inspired a new movement and a new way of thinking about the environment\(^1\) leading to the United Nations Conference on Environment and Development (the Rio Summit) in 1992. Two years prior to the publication of the Brundtland report, a Royal Commission chaired by Donald MacDonald finished a study on the economic union and development prospects for Canada. The MacDonald Commission's conclusions about the long-term interrelationship of environment and economic development appeared to foreshadow the conclusions made in *Our Common Future*.\(^2\) The direction and tone of the MacDonald Commission's findings were an early indication that the sustainable development philosophy would play a substantial role in the shape of subsequent Canadian environmental policy.

**Sustainable Development and Canadian Environment Policy**

The philosophy of sustainable development has had an impact on Canadian environmental policy at both the legislative and institutional levels. The development of

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Canada's Green Plan is one example. As the centrepiece of the Mulroney government's environmental strategy, the three billion dollar Green Plan was based on the sustainable development philosophies put forth in Our Common Future. 43 The Green Plan encouraged environmental protection (e.g., air, water, land) and resource management (forestry, fisheries, agriculture) guided by sustainable development principles. In forest management, for example, the Green Plan called for sustainable development practices based on the "ability to manage our forests without prejudice to its future productivity, ecological diversity and capacity for regeneration." 44

The announcement of the Green Plan in the House of Commons in December 1990 was greeted with mixed reviews. Critics of the Green Plan felt it was long on environmental platitudes and short on meaningful action. Some critics feared the federal government had abdicated too much environmental responsibility to the provinces thus jeopardizing the attainment of national environmental standards. The plan was also criticized for failing to adequately reduce the discharge of toxic pollutants. 45

43 "Sustainable development is what we want to achieve. The Green Plan is how we are going to achieve it together in the years to come." Canada, Canada's Green Plan, 4-5.

44 Ibid, 61.

45 Canada. Standing Committee on the Environment, Minutes of the Proceedings and Evidence of the Standing Committee on Environment, no. 60, (Ottawa: Queen's Printer, 1990), 33.
in place, the plan was later attacked for reducing its prior allocated budget spending.\textsuperscript{46}

The battle to get the Green Plan off the ground did not end with cabinet approval in 1990. Instead, conflicts flared up at the departmental level as other federal government departments resisted Green Plan initiatives to carry out internal environment assessments.\textsuperscript{47} To officials and observers both inside and outside of the Department of Environment, the Green Plan seemed fated to succumb to adverse political, fiscal and bureaucratic realities.

One objective of the Green Plan was the "virtual elimination" of discharges of persistent toxic substances into the environment. A step towards this goal had been taken with the passage of the Canadian Environmental Protection Act (CEPA) in 1988. The purpose of the CEPA was to establish objectives, guidelines and codes of practice for the release of potentially harmful substances into the environment, for activities affecting the environment, and for the "conservation of natural resources and sustainable development (emphasis mine)."\textsuperscript{48} The CEPA dealt primarily with managing and controlling the manufacture, use, import, export, and release of designated toxic substances within Canada. It also

\textsuperscript{46}Calgary Herald, December 11, 1992, D18.

\textsuperscript{47}Financial Post Daily, 4:178, (December 11, 1991), 12.

prescribed penalties for negligence, misinformation, and fraud in respect to the Act including fines up to $1 million and jail sentences for up to six months. The CEPA also addressed the problems of ocean dumping and transboundary air pollution, with action on the latter subject to prior consultation with provincial governments affected.\footnote{Ibid, Sec. 8.2(d), 133(p), 122(a).}

Despite the improvements of the new environmental protection act, especially in comparison to the previous Environmental Contaminants Act,\footnote{For a Comparison of the two pieces of legislation see Cynthia McGovern, "Mcmillan’s New Environmental Protection Act Disappoints Environmentalists", Alternatives, 15:1, 1987, 62.} a number of weaknesses were identified in the legislation. First, it was argued that the requirement of provincial consultation would impede the development of regulatory regimes and prevent the federal government from acting quickly and unilaterally on serious issues (eg: international air pollution). The CEPA also failed to incorporate existing pieces of legislation that gave the federal government wide ranging powers to control pollution (eg: section 33 of the Fisheries Act), nor did it establish a national, legally enforceable national environmental bill of rights.\footnote{Ibid, 61.} Ross Hume, a former member of Canadian Environmental Advisory Council, argues that the CEPA focuses too much on regulating rather than eliminating certain chemical substances from the environment. Hume also
says that the scientific methodology used to regulate and schedule toxic substances is inappropriate given the existence of over 60,000 different chemicals present in the environment and many of these dangerous chemicals are left unregulated.\textsuperscript{52} Three years after the CEPA was passed, Environment Canada still had not managed to establish regulations for a priority list of 44 toxic substances as promised in the Green Plan.\textsuperscript{53} Finally, the promise of tougher penalties for environmental offenses in the CEPA would be meaningless unless the continuing and habitual non-enforcement of laws in the past changed substantially.\textsuperscript{54}

A persistent problem in Canadian environmental policy since the early 1970's has been the demand for increased application and public participation in environmental assessment. The 1992 Canadian Environmental Assessment Act (CEAA) was passed by the federal government to improve environmental decision-making in accordance with the principles of sustainable development outlined by the Brundtland Commission. The new environmental assessment legislation, tabled in parliament during the summer of 1990, was to replace the 1973 Federal Environmental Assessment and Review Act of 1973 and the 1984 Order-in-Council Guidelines.


\textsuperscript{54}Macdonald, \textit{The Politics of Pollution}, 178-184.
The CEAA encourages responsible authorities to pursue activities that promote sustainable development and to ensure the environmental effects of projects receive careful consideration and public input.⁵⁵ To facilitate the assessment process, the Federal Environmental Assessment and Review Office (FEARO) was replaced by the Canadian Environmental Assessment Agency.⁵⁶

While this piece of legislation has been in place only a short time, critics see several problems. Though the new legislation was passed by parliament in 1992, a year later the legislation was still without the regulations necessary to give it legal stature.⁵⁷ The bill was criticized for weakening the power of the courts to enforce environmental assessments by leaving final decision in the hands of the Minister of the Environment.⁵⁸ Though the Minister of Environment has the power to initiate a public review, the department responsible for initiating a project decides whether or not it will finally go ahead. This situation has caused confusion during testimony at some standing committee

⁵⁵Canada, Canadian Environmental Assessment Act, Sec. 4.

⁵⁶Ibid, Sec. 62.


⁵⁸An original draft of the bill had left wide discretionary powers in the hands of department officials. This as reduced as a result of strong lobbying from environmentalist groups. See George Hoberg, Governing Canada, 327.
hearings on environmental assessment and review legislation. During the standing committee proceedings, it was unclear how much power the Department of Environment had to trigger a full environmental review and assessment process, even in policy areas within the Department's jurisdiction.\textsuperscript{53}

\textbf{Institutional Change}

The changing direction of environmental policy since the 1980's and the influence of sustainable development can be found in several of the institutional changes that have accompanied legislative changes. The most publicized institutional initiative has been the creation of national, provincial, municipal, and local roundtables on the environment. According to Ronald Doering, executive director of the National Roundtable on the Environment and the Economy, the purpose of the roundtables is to "promote principles and practices of sustainable development."\textsuperscript{52} The National Roundtable on the Environment and Economy was organized and had its first meeting in 1989 with individuals from business, government, academia, and environmentalist groups in attendance. The impact of roundtables on environmental policy

\textsuperscript{53}Canada, Minutes of the Proceedings and Evidence of the Standing Committee on Environment, no. 60, (November 1990), 33.

\textsuperscript{52}Canada. Legislative Committee on Bill C-72, Minutes of Proceedings and Evidence of the Legislative Committee on Bill C-72: An Act to Establish a National Roundtable on the Environment and the Economy, (Ottawa: Queen's Printer, 1993), 13.
is discussed in greater depth in chapter four.

In another move to increase the priority of the environment in federal government decision-making, the Mulroney government established a Cabinet Committee on the Environment (CCE), chaired by the minister of the Environment. Ministries participating in the CCE included the Departments of Health and Welfare, Forestry, Transportation, Energy and Mines, Fisheries, Agriculture. The Mulroney administration took other steps to increase the relative power of the Department of Environment. After the 1988 election, Prime Minister Mulroney appointed prominent Quebec MP Lucien Bouchard to the environment portfolio and gave the ministry the responsibility for designing and implementing the Green Plan. As alluded to above, the difficulty of the Department of the Environment in developing, implementing, and enforcing policies and regulations, even with a prominent minister like Lucien Bouchard, remained a particularly troublesome problem indicative of the persistent weakness of the department.

After defeating the Conservatives in the 1993 election, the new Liberal government commenced several institutional initiatives of its own. Like the Conservatives, the Liberals appointed a prominent politician, Deputy Prime Minister Sheila Copps, to head the Department of the Environment. The Liberals also created a new parliamentary standing committee

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"Brown, Environmental Policy in Canada, 37-40."
on environment and sustainable development. One of the current issues being discussed by the standing committee is the creation of an environmental auditor-general; a major Liberal campaign promise in the last election. Recently, the standing committee has moved away from an environmental auditor-general and more towards creating a less power agency designed to promote sustainable development with an environmental commissioner instead to be complimented by a staff of 45, and a five million dollar budget. Like the Conservatives before them, the Liberals, in principle, appear to heartily support the principle of sustainable development. And like the Conservatives, they have continued to cut deeply into the federal environment department’s budget and resources.

CONCLUSION

The purpose of this chapter was to review environmental issues and policies in Canada and illustrate how these issues and policies have been influenced by the philosophy of sustainable development. Trying to cope with changing environmental issues and philosophies like sustainable development is challenging and problematic for an organization like the CCME. Sustainable development is both an abstract environmental and political concept, and like other abstract political terminologies, it is not easily definable. The

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trouble many environmental and non-environmental analysts have with sustainable development is the general vagueness of the concept. Does sustainable development merely refer to the balancing of environmental concerns with economic growth or does it refer to a radical reorientation of societal activity? The danger, according to environmental and resource professor Robert Gibson, is that such uncertainty serves the interests of those who seek to maintain the economic status quo without sacrificing growth for the sake of the environment.

This review of sustainable development and environmental policy in Canada is also useful because it helps to further substantiate our criteria for analyzing the CCME. It is important to determining whether or not the CCME has been able to follow up on its own agenda, The Statement of Interjurisdictional Cooperation on Environmental Matters. Over the course of this paper, we will study the issues related to environmental protection and sustainable development and what the CCME has and has not done. These include harmonizing environmental regulations and assessment, addressing global environmental concerns, aiding the integration of environmental and economic decision-making,


expanding the environmental policy-making process to give a voice to all concerns within the national environmental policy community, facilitating intersectoral and interorganization cooperation, and improving the state of environmental planning and monitoring.

The sustainable development debate in Canada focuses on the merging of environmental and economic decision-making. A measure of the CCME’s effectiveness depends on whether or not they can transform the debate into concrete action. Can the CCME, for example, overcome the fragmentation in policy-making cited by Brundtland as being responsible for environmental decline? Can they incorporate public participation in decision-making? Will projects with significant environmental impact undergo rigorous assessment? These are just a few of the tasks the CCME must be prepared to address if it hopes to put substance into the theory of sustainable development. The subsequent chapters of this thesis deal with all the issues and questions raised above. The next chapter will take a closer look at CCME’s past and present activities, its structure, and its planning processes.

"World Commission on Environment and Development, Our Common Future, 62-64."
CHAPTER 3

THE CANADIAN COUNCIL OF MINISTERS OF THE ENVIRONMENT
HISTORY AND STRUCTURE

The CCME and its predecessors have been involved in Canadian Environmental policy for almost 30 years, yet surprisingly, it has one of the lowest public profiles of any Canadian environmental institution. Though the organization was originally conceived of as a council of resource ministers in 1961, it immediately became involved in environmental issues like pollution control. The Council has changed its name twice, in 1971 and 1988, organized numerous conferences and seminars on environmental issues, and has published over 50 articles on environmental policies and regulatory guidelines. Yet, its history and structure are still a mystery to most of the environmental policy community.

The form and function of the CCME today has been shaped by several important events: major conferences in the 1960’s and 1970’s, a national task force study in the 1980’s and two relocations of the Council’s permanent staff (from Montreal to Toronto, and later, to Winnipeg). For many organizations, change is frequently instigated by a combination of internal and external forces and events. The CCME is no different and what the Council looks like today has been largely affected by events in its organizational history and culture.

The CCME is now a larger and more organized institution than it was in the past. Today, the CCME has a much larger permanent secretariat and it plays a more important role in
coordinating Council activity and providing administrative support. The purpose of this chapter is to look at the history and structure of the CCME. The first section of this chapter reviews the evolution of the CCME from its beginnings as a council of resource ministers in 1961. The evolution and expansion of the CCRM is traced up to 1971, when it became the Canadian Council of Resource and Environment Ministers (CCREM), and then to 1973 and the Man and Resources Conference. Part Two reviews the renaissance of CCREM in the mid-to-late 1980’s and the major restructuring of the Council that took place when the Council was renamed the Canadian Council of Environment Ministers. The final section of this chapter looks at the CCME’s current organizational structure.

The CCRM and the CCREM: 1961-1973

Canada is a nation endowed with an abundance of natural resources. This fact has influenced the governance, and the study of the governance of Canada. Canada’s first prairie Prime Minister, John Diefenbaker, was well aware of this fact. His Progressive Conservative government of the late 1950’s and early 1960’s enthusiastically pursued the development of Canada’s natural resources through initiatives like the Agricultural and Rural Development Agreement and the Roads to Resources Program.

In order to accomplish his development objectives, Diefenbaker enlisted the help of the provincial governments
who, by virtue of their constitutional position, controlled resource development. In late October 1961, provincial and federal government officials met in Montreal to discuss resource development and conservation. While the week-long meetings focused more on the development aspects of resource policy, there were also discussions about the rising levels of air and water pollution. These "environmental" issues would become increasingly important in later meetings and intergovernmental consultations between ministers as public concern about pollution grew.

The attendance of approximately 700 delegates at the Resources for Tomorrow Conference made it one of the largest intergovernmental conferences ever held on resource policy. On the first night of the conference, October 23, 1961, guest speaker Prime Minister Diefenbaker proposed the creation of a national resource council to assist in the development, renewal, and conservation of Canadian natural resources.1 Diefenbaker's proposal for this council included the creation of a permanent, national secretariat to stimulate and co-ordinate resource development policies. The council would promote and publicize the conservation aims of member governments (the federal government and the ten provinces) and promote intergovernmental and regional co-operation on resource related issues.

Those who participated in the Resources for Tomorrow

1Globe and Mail, October 24, 1961.
Conference considered the meeting a big success. A spirit of consensus emerged during discussions on many of the issues between both levels of government making the conference a textbook case of co-operative federalism in action (discussed in chapter 6). When the conference itself ended, senior government officials and conference organizers began work on creating a council of resource ministers. A proposal was completed in February 1962 and the Council's first meeting was scheduled to be held in Toronto the following September. Finally, on March 5, 1964, the Council was formally incorporated as the Canadian Council of Resource Ministers (the CCRM).\(^2\)

The outcome of the early negotiations and the first meeting of the CCRM established the basic rules of participation and operation that remain in effect for the CCME today. Members of the Council would be the government ministers responsible for natural resources (now the environment) in their respective jurisdictions. The presidency of the Council would rotate among its members annually. Finally, all decision-making would rely on consensus from all members. These ground rules were accepted in order to reflect the need for appropriate and meaningful representation on the council with the rotating presidency and consensus requirements ensuring that each government had equal

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influence within the Council.

Organizational Structure

Figure 1 illustrates the organizational design of the CCRM as it evolved through the 1960's. The Council, as mentioned above, consisted of 10 provincial resource ministers and one federal minister. Cabinet shuffles and elections meant the Council would experience a high turnover rate of ministers. Only two of the eleven ministers who sat on the Council in 1969, for example, were still there in 1971. In order to provide some sense of continuity on the Council, a board of directors was created consisting of the current council president, the next scheduled president (who held the position of vice-president), and the previous year’s president (who held the position of past-president).

Since the ministers met only once or twice a year, most of the planning, operation, and other work of the Council was carried out by the coordinating committee and the secretariat. The coordinating committee was established as a permanent intergovernmental committee consisting of at least one member of each participating government. The committee’s two main functions were "advising and receiving ministers’ views on the priorities for Council activities" and "co-ordinating all Council programs including liaisons with other government departments and agencies". The CCRM’s secretariat, the other

\(^{3}\text{Ibid.}, 13.\)
FIGURE 1: CCRM Organizational Structure

permanent Council body, was created to handle the day-to-day, administrative duties of the organization. The pre-eminent position within the CCRM during its early years, was that of Secretary-General. This appointed position was held by Christian de Laet from 1964 until 1973.

Growth and Expansion

By 1970, the CCRM had expanded in both size and scope. This was evident in the creation of several new intergovernmental steering committees, most of which were created after 1968. Meanwhile, the secretariat, under the guidance of Secretary-General de Laet, expanded its activities from purely administrative functions to the study of major Council issues (eg: intergovernmental relations, human resources, and information dissemination). The growth of the CCRM up to 1971 is attributable to the following circumstances: first, the emergence of pollution and environmental management as a CCRM issue; second, the realization by politicians that the CCRM could be an active player in the policy making process; and third, the guidance and direction of Secretary-General de Laet.

The issue of environmental management, especially pollution control, made its way onto the CCRM agenda through a CCRM organized conference in October 1966 called Pollution and Our Environment. The CCRM justified its concern about

Ibid, 14.
these matters by stating that pollution control was becoming an increasingly important component in resource management capable of affecting all aspects of Canadian life.\textsuperscript{5} The conference was designed to address the economic, ecological, and social costs of polluting activities. With approximately 800 delegates, observers and media present, the conference became a springboard for CCRM activity into pollution and environmental management issues.

The CCRM's involvement in pollution and environmental management was reflected in the increasing amount of work and responsibility the coordinating committee assumed after the Pollution and Our Environment conference. Beginning in late 1967, the co-ordinating committee began reassessing and rethinking the role of the CCRM. From the summer of 1968 to the spring of 1970, the number of intergovernmental departments increased from two to seven. The increase in the scope of Council activities also led to an increase in staff with more people working on the new intergovernmental steering committees.

One of the new steering committees, formed at a general meeting of the CCRM in September 1969, was the pollution committee. The creation of this particular committee was important not only because of the issues it addressed, but because of the people who recommended it - the provincial

premiers. It was the premiers themselves who, in August 1968, asked the CCRM to improve communication and consultation between provinces on pollution standards and formulate common approaches towards finding solutions."

The evolution of the CCRM during the late 1970's was greatly assisted by the work of Secretary-General Christian de Laet. The CCRM's involvement in pollution and environmental management activities were issues de Laet was quite familiar with given his professional memberships and background in resource management, environmental control, and health. de Laet was a strong supporter of the new directions the coordinating committee wished to follow. In order to support the new and expanding mission of the Council, de Laet began to position the secretariat as a body capable of developing problem identification capacity as he worked on networking the different committees together, and on offering assistance to promote steering committee/government coordination."

CANADIAN COUNCIL OF RESOURCE AND ENVIRONMENT MINISTERS

The change of the CCRM to the CCREM in 1971 represented the culmination of an ongoing debate that had been taking place within the Council since its first venture in environmental issues in 1966. On these sorts of debates, de Laet commented in 1971:

'Ibid, 13.
The CCRM as an intergovernmental consultative agency is characterized, in part, by the constant desire to reappraise its own vocation and if necessary to modify its direction to meet changing patterns of circumstances and needs.'

Secretary-General Le Lait and those inside the CCRM were not the only ones aware of how important environmental issues were to resource management. Public awareness of environmental problems was also increasing and the provincial and federal governments were only beginning to pay more attention to environmental management concerns. In 1970, another conference of provincial premiers raised the question of whether or not the mandate of the CCRM should be broadened. The CCRM was also asking itself the same question. After the premiers conference, the Council's co-ordinating committee reviewed the CCRM's mission and relevance to environmental management. The results of this review produced an expanded CCRM that was rechristened the Canadian Council of Resource and Environment Ministers.'

The Man and Resources Conference

The single most important event in the early history of the CCREM was the planning and organization of the 1973 Man and Resources Conference (MRC). Though the Council's structure and operation remained intact from the previous decade, its organizational goals focused predominantly on

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'Ibid, 7-8.
planning for a conference on resources and conservation. The idea for the conference was developed and decided upon at a CCRM meeting in Halifax in 1968, two years after the success of the Pollution and Our Environment conference.\footnote{Ibid, 10.} The purpose of the MRC was to provide a forum for the discussion and critical examination of guidelines for environmental quality. The forum would also address the problems of balancing environmental protection with resource extraction and land use; changing social values and how they relate to environmental management decision-making; and, evaluating current approaches to resource and environmental management.\footnote{CCRM, Annual Report 1969-1970, 19.}

The MRC was designed to facilitate a broadly based discussion of resource and environmental management questions and plans were made "to provide for a large measure of public participation" and "include people with many different backgrounds and interests."\footnote{Ibid, 19.} The MRC agenda was to be developed around local, provincial, and national meetings where relevant environmental issues and concerns would be identified. Expert task forces would then be formed to study these issues and concerns more closely. These activities
would then be followed up by the MRC in Toronto in November 1973 to put forward solutions and recommendations. After the Toronto conference, there would be an active "follow-through program" to monitor the implementation of the MRC recommendations.\textsuperscript{12}

The MRC was attended by approximately 400 delegates consisting of government officials and others from across the country and lasted four days. The two years of intensive preparation by the CCREM consumed much of the Council's human and financial resources costing approximately $100,000. Most of the Conference's discussions had been built upon the findings of the 12 MRC Task-Forces organized in the fall of 1972. At the MRC, selected delegates from these Task-Forces presented their reports and discussed them with other groups. The results of the discussions were then drafted into a final report of recommendations. Some of the prominent recommendations included recognizing aboriginal rights and settling land claims, establishing an environmental bill of rights, and funding citizen involvement (i.e.: involvement through interest groups) in monitoring development activities.\textsuperscript{15} Conference organizers and government representatives seemed satisfied that the MRC had achieved

\textsuperscript{12}This led the CCREM to later move the base of its operations to the site of the Conference after 1973.


\textsuperscript{15}Canadian Council of Resource and Environment Ministers, Resources, 6:11, (November 1973), 4.
tangible results. A number of provincial representatives promised that the Conference's results would shape the future of their own resource and environmental policies. The success of the MRC, however, was more apparent than real. Instead, both the conference and its major recommendations were forgotten and quickly shelved. Rather than establishing a new era for the CCREM, the MRC in fact, marked the beginning of the Council's decline.\textsuperscript{15}

The Aftermath of the Man and Resources Conference

When it entered into the 1970's, the CCREM was an expanding organization with growing influence in the Canadian environmental policy community. At the end of the decade, the role of the CCREM in Canadian environmental policy was almost undetectable. Several factors explain the cause of this decline and why it happened at a time when the CCREM was hoping to increase its influence in the decision-making process.

Problems immediately began when the CCREM started to encourage public discussion and review of resource and environmental policies. This sometimes resulted in embarrassing situations for major government officials. In one case, Ontario's minister of the environment was criticized by environmentalists for not attending one of the important MRC

\textsuperscript{15}Ibid, 2-3. An in-depth list and discription of the Conference's recommendations can be found in Resources: Bulletin of the Man and Resources Conference Programme, 2:9, (October 1973).
task force meetings in 1972. In another case, this time during the MRC itself, the governments of Quebec and Manitoba were criticized by environmental groups for going ahead with hydro-electric projects in the James Bay and Churchill River regions in the absence of significant public input or regard for the environment. These and other such instances support Michael Jenkin's assertion that many governments were uncomfortable with the new, proactive role the CCREM was taking in organizing public reviews of policy. Jenkins also suggests that some of the smaller, less well-off provinces felt troubled by the increasing demands being placed upon their department's resources by the CCREM. From 1964 to 1973, the CCREM's permanent staff had grown from zero to 16 (larger, in some cases, than the environment departments of some smaller provinces). The enormous task of planning and organizing the MRC exacerbated the financial and human resource problems within the CCREM and the smaller provinces.

The MRC and the subsequent decline of the CCREM coincided with a number of external and internal events that precipitated the decline of environmental issues as a whole


"The Manitoba government, for example, was accused at the Man and Resources Conference of ignoring "the social and ecological costs of [its] degradation". Globe and Mail, November 23, 1973.

"Jenkins, Industrial Policy in Canada, 122.

"Ibid, 121-122.
within Canada. International concern over broad environmental issues was replaced after 1973 with concerns over energy. Two oil crises in the 1970's forced many Western governments to focus their efforts on resolving energy issues and assuring continued industrial development. In Canada, the energy question, as well as other domestic issues, invariably forced environmental issues off the public policy agenda. Through the late 1970's, the federal government was more preoccupied with inflation and recession, increasingly divisive relations with the provinces, and constitutional discussions including the separatist threat from Quebec. Within the federal government, the Department of the Environment, unlike its U.S. cousin, the EPA, suffered heavy budget cuts and a reduction of its status to a junior ministry in 1977.  

The decline of the CCREM was also compounded by two internal changes. The first was the reduction of the Council's permanent staff from 16 to 5. Then, shortly after the MRC, Christian de Laet resigned as Secretary-General of the Council. As Jenkins points out, de Laet had held the position of Secretary-General since 1964 and was largely responsible for the growth of the CCREM up to 1973. After the Man and Resources Conference, and with de Laet gone, the CCREM turned its attention away from encouraging public debate towards activities that were less likely to be politically

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"M. Paul Brown, Canadian Environmental Policy: Ecosystems, Politics, and Process, 27."
contentious (eg: organizing information seminars and improving communications between member governments).

1987-1990: Renaissance and the Birth of the CCME

The decline of the CCREM after 1973 was slowly reversed by an increase in Council activities during the early-to-mid 1980's. The CCREM of the late 1970's and early 1980's placed more emphasis on its activities related to high level ministerial consultations rather than large gatherings of officials. While the Council maintained separate steering committees and study groups on different environmentally related issues (eg: toxic substances, water quality, climate change), most of the Council’s work, by the mid-1980's, was organized along specific sectoral lines. In addition to the regular annual meetings of the Resource and Environment ministers, the CCREM also organized annual meetings and seminars among provincial and federal forestry ministers and federal and provincial wildlife ministers. In the CCREM's 1984-85 annual report, for example, there are separate accounts for the general activities of the Council, forestry ministers, environment ministers, and wildlife ministers.\(^{22}\)

The National Task Force on the Environment and the Economy

The shape of the Council today was heavily influenced by the work and recommendations of the 1987 National Task Force on the Environment and the Economy (NTFEE). The mandate of the NTFEE, "to foster and promote environmentally sound economic development", was directly influenced by the visit of the Brundtland Commission to Canada in 1986. The Commission's visit led the CCREM to sponsor national task force to study the prospects for sustainable development in Canada. The CCREM appointed Manitoba environment minister Gerard Lecuyer to head the task force and several other prominent Canadians were persuaded to join as members.21

The recommendations developed in the report addressed those issues the Task Force thought were important to environmentally sound and economically sustainable development. The most prominent and publicized recommendation were proposals for the creation of national and provincial multi-stakeholder forums (round tables) on the environment and the economy. These round tables would consist of people representing different sectors of society; government and industry, environmental interest groups, labour, academia and

21The 17 members of the Task Force included Jim Bradley, the environment minister of Ontario; Tom McMillan, the federal environment minister; David Buzzelli, the head of Dow Chemicals and; Adam Zimmerman, the chairman of Noranda Forest Inc. The National Task Force on the Environment and the Economy, Report, 18.
aboriginal peoples. While these forums were meant to encourage "candid discussions" on environment and economic issues and make recommendations to federal and provincial First Ministers, they would not "challenge the authority of existing offices or institutions". According to the NTFEE, the round tables would exert influence based on their credibility and independence.

The NTFEE report also addressed other important sustainable development issues in Canada. It promoted the creation and development of national and provincial conservation strategies in order to ensure wise use of renewable resources. It encouraged government and industry decision-makers to assume roles of leadership and set examples of environmentally responsible decision-making. It also recommended that the Canadian government promote the idea of sustainable development abroad in its international trading activities, for example, and through international aid organizations (eg: CIDA).

The final report of the NTFEE was released in September 1987 and received a wide range of comments from those in the environmental policy community who reviewed it. Alistar Cresar, former CEO of the Alberta Environmental Council, was

24 Ibid, 10-11.
25 Ibid.
26 Ibid, 12.
27 Ibid, 12-17.
very enthusiastic about the Report. He claimed the report represented a profound paradigm shift which would lead to a new way of thinking about the environment and development in Canada.\textsuperscript{23} The president of the environmentalist group Friends of the Earth David Brooks was also favourably disposed towards the report. He did hold, however, that while the NTFEE recognized the interrelatedness of environmental and economic issues, it failed to address situations when environment and economic issues were at odds.\textsuperscript{23} Terry Fenge, a representative of the Tungavik Federation of Nunavut, was less optimistic about the report. He argued the report was not a sign of profound change but a reliance on a cornucopian view of environmental management and development. Like Brooks, Fenge felt the confrontational issues that invariably occur in environmental politics (eg: economics versus conservation) were being ignored by the NTFEE. Fenge also criticized the lack of aboriginal representation on the Task Force and the lack of attention paid to aboriginal concerns about environment and development, especially in Canada’s North.

It is worth noting that the conclusions and recommendations of the NTFEE were unanimously supported by its participants. The unanimous endorsement, one could argue,


gave the report an appearance of respectability, validity and legitimacy. This, presumably, would create pressures within government, industry and the public to pay attention to the report's recommendations. The unanimous support for the Task Force's recommendations, however, also reflected its weighted composition. Of the 17 members who were on the Task Force, seven were government ministers, seven were corporate and industry leaders, two represented environmentalist groups and one was a university vice-president. It is difficult to speculate what a wider range of participants might have accomplished. While they might not have produced a unanimous report, they might have been able to address the main criticisms of Brooks and Fenge; one, that NTFEE avoided contentious issues, and two, that the Task Force underrepresented other environmental stakeholders.

An important part of the NTFEE's discussion, overlooked by most critics, was the role it advocated for the CCREM in shaping environmental policy and promoting sustainable development. The Task Force believed that the CCREM could have a direct and meaningful role in the following way by:

* harmonizing of environmental assessment, standards and legislation across Canada,

* sponsoring the creation and operation of the proposed national and provincial round tables on the environment and the economy,

* preparing a compendium of Canadian experiences in developing conservation strategies, and by
* encouraging public dialogue on the environment and the economy.\footnote{National Task Force on the Environment and Economy, \textit{Report}, 13.}

In retrospect, the report of the NTFEE proved to be more of a turning point for the CCREM than it was first realized; soon after the release of the report, the CCREM began to play a more active role in Canadian environmental policy. The CCREM was again being recognized as an important environmental policy forum. The renewed interest that came out of the Task Force's work, added with the recognition received in MacDonald Commission and the Neilsen Task Force, allowed the Council to capitalize on the resurgence of environmental issues in the latter part of the 1980's by promoting the philosophy of sustainable development. The NTFEE's work indirectly led to a series of reviews and evaluations of the CCREM itself, and later, the Council's transformation into the Canadian Council of Ministers of the Environment, the CCME. The NTFEE's recommendations were important because they also substituted as a new agenda for Council activity; they provided activities towards which the CCREM could direct its energies and a measuring stick against which the activities of the CCREM, and later the CCME, could be evaluated. The real contribution of the NTFEE was to give the Council a renewed sense of purpose, something the organization seemed to lack.
since the build up to the Man and Resources Conference in November 1973.

Organizational Structure and Operations

The ministers and officials of the CCREM quickly took advantage of the NTFEE report and recommendations, and the growing public concern about the environment, to restructure and strengthen the Council. The changes that produced the CCME in 1988 actually began in 1985 with a decision by provincial and federal forestry and wildlife ministers to move out of the CCREM and form their own separate councils. In October 1988, the remaining environment ministers decided to change the name of the CCREM to the CCME to reflect the Council's new focus on the issues raised by the NTFEE and the Brundtland Commission.

Most of the changes and restructuring that eventually took place within the CCME occurred in the two year period after October 1988. As before 1990, the Council continued to consist largely of middle and senior environment ministry bureaucrats, seconded from the provinces and the federal government, organized into different advisory committees (see Figure 2). The policies and activities of the CCME have always centred around the bi-annual meetings of the environments ministers. Ministerial work and activities are coordinated and supplemented by deputy environment ministers who meet several times a year. The day-to-day operations of
FIGURE 2: CCME Organizational Structure, 1988-89.

CCME ORGANIZATION CHART

CANADIAN COUNCIL OF MINISTERS OF THE ENVIRONMENT

ENVIRONMENT AND ECONOMY ADVISORY COMMITTEE

COMMITTEE OF DEPUTY MINISTERS

CONTINGENCY FUND TASK FORCE

MANAGEMENT COMMITTEE (2)

CCME SECRETARIAT

LONG RANGE TRANSPORT OF AIR POLLUTANTS (LRTAP)

JOINT CONSULTATIVE COMMITTEE OF SENIOR HEALTH AND ENVIRONMENT OFFICIALS (JCC) (3)

RESEARCH ADVISORY COMMITTEE

WATER ADVISORY COMMITTEE

COMMUNICATIONS ADVISORY COMMITTEE

TOXIC SUBSTANCES ADVISORY COMMITTEE (TSAC)

FEDERAL-PROVINCIAL ADVISORY COMMITTEE ON AIR QUALITY (FPACAO)

1. As of March 31, 1989.
2. Composed of three Deputy Ministers
3. Reports jointly to Environment and Health

the Council are been carried out by a permanently established management committee which, until 1990, consisted of three deputy ministers. The Management Committee is responsible for monitoring and coordinating the activities of the advisory committees and the Council's secretariat. Some of these committees had been around for a long time (e.g. the Federal/Provincial Committee on Air Quality) while others were created after, or as a direct result of, the NTFEE (e.g. the Advisory Committee on Environment and Economy). The secretariat remained located in Downsview, Ontario until 1990 with a staff of five to seven people carrying out mostly administrative duties.

The annual report of the Council and its president (B.C. environment minister John Reynolds) announced in 1990 that a "major restructuring and strengthening of the CCME" was currently under way. This had been precipitated by what Reynolds called:

> Canadians unprecedented demands on their governments to preserve, protect and repair all aspects of the environment. Canadians want their governments to make the environment a high priority on their political agendas and they want nationally consistent environmental standards.

The strengthening and restructuring of the Council was also a result of the Advisory Council on the Environment and Economy's (ACEE) follow-up report on the progress towards
implementing the recommendations of the NTFEE.\textsuperscript{11} The ACEE's 1989 report to the CCME, \textit{An Evaluation of the Response of Government to the Recommendations of the National Task Force on the Environment and Economy}, covered the approximately 40 recommendations made by the NTFEE. The ACEE report reviewed why many of the recommendations had, or had not, been implemented. More importantly, the ACEE made several recommendations of its own and discussed the implications these recommendations could have on the CCME.\textsuperscript{12}

The work of the ACEE and the further evaluation of the Council's activity and structure by senior environment officials and environment ministers quickly led to a major restructuring of the CCME. The restructuring (see Figure 3) reorganized the activities of the Council into two main steering committees: the Environmental Protection Committee (EPC) and the Strategic Planning Committee (SPC). The Management Committee, which previously consisted of three deputy ministers, was expanded to include the chairpersons of the two new steering committees. Many long-standing advisory groups and task forces were reorganized and renamed while new

\textsuperscript{11}Section 7.4 of the NTFEE's report recommended that the "CCREM should prepare an evaluation of the effectiveness of the Task Force's recommendations and their implementation. The evaluation report should be presented at the 1989 CCREM Annual Meeting." The ACEE was created to carry out this recommendation. See National Task Force on the Environment and the Economy, \textit{Report}, 17.


This chart reflects the structure of the organization after the Annual Meeting in November 1990 when Nova Scotia assumed the chair of CCME.

ones were created. The creation of the EPC and SPC supercommittees followed from an ACEE suggestion that the CCME "establish a Planning and Coordination Advisory Committee to provide advice in areas of policy development, planning, priority setting, and intergovernmental relations as well as specific areas requiring attention which are not addressed by other CCME committees." 33

Since many CCME activities are carried out on a project-by-project basis with the resources and personnel of environment ministries from across the country, interaction with other government departments of the environment has been on a very close and interpersonnel level. Ministers, Deputy-ministers, and other bureaucrats from all provinces have participated together in nearly every Council project to date. Relations, therefore, have historically non-combative and co-operative an collegial. The evolution of the Council since 1986 has continued this trend. Figure 4 illustrates the nature of CCME-Environmental department relationships.

The Secretariat

The most important change to the CCME during the 1989-1990 period, however was the expansion of the CCME secretariat. Prior to 1989, the Council's secretariat was largely an administrative branch of the CCME responsible for coordinating Council meetings, task group activities, and

33Ibid, 21.
FIGURE 4: CCME - Environment Department Relationships.

Environment Dept.

ENVIR.
MINISTERS

B.C. Alta
Sask-Man
Ont
Que
N.B N.S
NFld P.E.I
N.T. Yukon

DEPUTY
MINISTERS

B.C. Alta
Sask-Man
Ont
Que
N.B N.S.
NFld P.E.I
N.T Yukon

BUREAU.
STAFF

B.C. Alta
Sask-Man
Ont
Que
N.B N.S
NFld P.E.I
N.T Yukon

Council of
Ministers

Director
General

Deputy
Ministers

EPC

SPC

Special
Task
Groups

Secretariat

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intergovernmental communications. Beginning in 1990, the secretariat was given a greater role in the Council's policy making process and moved to Winnipeg. The move to Winnipeg, perhaps politically motivated, also gave the CCME the opportunity to substantially change and increase the size of Secretariat personnel.

While the reorganization of the secretariat was designed to reflect the restructuring of other parts of the Council, it was also used to further develop political-administration linkages between ministers, deputy ministers, and permanent Council staff. The Director-General, head of the secretariat, now acts as the secretary to environment ministers and is a member of both the deputy minister's committee (re: policy matters) and the Management Committee (re: administrative and financial matters). Other political-administrative linkages include the new positions of Director of Environmental Protection and Director of Strategic Planning. They each act as Secretaries to their respective steering committees and provide a sense of organizational continuity when the chairperson of each committee (a deputy minister) is changed each year.

The structure and personnel of the current Council and secretariat is given in Figures 5 and 6. The current Director-General, Dr. Eva L.J. Rosinger, has held the position since 1990. In addition to her other formal responsibilities, Dr. Rosinger has tried to publicise the work of the
secretariat in "messages from the Director-General" in the CCME's Annual Reports - much like the Council's first Secretary-General Christian de Lait. Reporting to the Director-General are the secretariat's Directors of Environmental Protection, Strategic Planning, Administration, and Communications. Both the Directors of Strategic Planning and Environmental Protection have held their positions since 1991 and, together with their coordinators, have formed into a cohesive planning and working group. The Director of Administration and Finance is primarily involved in financial issues and personnel matters such as the hiring of Council staff. The Director of Communications, an area receiving more attention in recent years, looks after communication activities among Council members and is responsible for the publication, dissemination, and translation of Council documents. The roles of each director, and the Secretariat as a whole, is to help CCME ministers other government officials set the Council's agenda and carry out Council studies and projects. These projects are discussed in the following chapters.

Conclusion
Throughout its relatively short history, the CCME has gone through substantial changes. The history of the CCME, as

^Liseanne Forand has just replaced Dr. Rosinger as CCME Director-General.
an intergovernmental organization, remains largely unknown but this may change as several members of the Secretariat feel it is necessary to attract more public attention to the organization.\textsuperscript{15} The Council has been influenced indirectly by broad societal factors, namely the increase in public concern about the environment, and from within, through various internal reviews and task force reports. As a result, the CCME is now playing a more active and visible role in Canadian environmental policy.

Despite setbacks such as the 1973 Man and Resources Conference, the CCME and its predecessors have maintained the wherewithal to adapt to changing circumstances in a positive way. This chapter has illustrated this by closely studying the impact of the 1986 Task Force on the Environment and Economy on the current structure of the Council. In response to the Brundtland Commission, the NTFEE put forward suggestions to improve the prospects for sustainable development in Canada. The NTFEE, created by the CCREM incidentally, called on the Council to take an active role towards promoting sustainable development. The ACEE, also created by the CCREM, recommended specific actions to strengthen the Council, namely its recommendations to the Ministers of the Environment to "approve the necessary changes and budget increases to ensure that CCME operates as

an effective national body for intergovernmental deliberations concerning the environment and sustainable development." In this recommendation, given the importance of environmental issues politically at the time, were acted upon almost immediately. The Council's salary budget, for instance, was increased $60 000 in 1989 to $430 000 by 1991."

Throughout its history, the CCME has tried to carve a niche for intergovernmental cooperation, executive consultation, and consensus as a method for developing nationally integrated environmental policies. This approach has persisted since 1964 and has become an entrenched characteristic of the Council. Those who sponsored the Man and Resources Conference tried to substantially change this and failed causing the decline of the CCREM; the NTFEE accepted it and the fortunes of the Council turned around. Whether the cooperative approach has been beneficial or not to the sustainable development cause is the central question of this paper. We now turn our attention to the activities of the CCME, discussed in chapters four and five, to answer this question.

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CHAPTER 4

THE CCME (PART I):
AN OVERVIEW OF COUNCIL ACTIVITIES

The CCME is involved in many activities designed to promote environmental protection and sustainable development. Much of what the CCME has done is described in the annual reports the Council publishes each spring. As the focus of environmental concern has changed within the larger Canadian environmental policy community, so too has the focus of the CCME. In doing so, the Council has tried to maintain a level of rational planning in its agenda. Much of the Council's activity over the 1988 to 1991 period, for example, was guided by the recommendations of the National Task Force on the Environment and Economy (NTFEE) report. Then, in 1992, the CCME released the 1992 Strategic Overview, this plan was to guide CCME activity over the next four to five years. The purpose of this chapter is to review the 1987 NTFEE report and the 1992 Strategic Overview, and to analyze the Council's efforts to accomplish the sustainable development and environmental protection objectives set out in each of these frameworks. We begin, first, with a general overview of CCME activity, based on the organization's annual reports, over the 1988-1994 period.

A Preview of CCME Activity

The first annual report of the "new" CCME, released in the Spring of 1989, covered the Council's 1988 activities.
Council president Gilbert Clements of Manitoba, described how the work of the NTFEE and follow-up projects had become the major focus of Council activities. The Council was, first of all, involved in implementing various NTFEE's recommendations (e.g.: the creation of federal and provincial round tables on the environment and the economy). The CCME also continued with several initiatives started by the CCREM a few years earlier. This included Council sub-committee work on the management of toxic substances and hazardous wastes, and, their effects on air and water quality. The Council's purpose was to develop guidelines and codes of practice, and to gather and distribute information.¹

The strengthening of the CCME in 1989-1990 resulted in the Council addressing a broader scope of issues. It was in March 1990 that the revamped Council of environment ministers adopted the Statement on Interjurisdictional Cooperation on Environmental Matters. The Council also addressed several environmental issues related to global warming, acid rain, the remediation of contaminated sites, smog, and ozone depletion. In March 1990 the CCME finalized the National Packaging Protocol; a plan to reduce packaging waste by 50% by the year 2000. In August, the Council met to discuss the development of the federal government's Green Plan and the development of

a federal environmental assessment act.²

Recently, the CCME has taken a more active role in the international dimension of Canadian environmental policy. Jean Charest, federal environment minister and President of the Council in 1992, and Director General Eva Rosinger highlighted the CCME’s work in preparing for the Rio Summit in 1992 and its work on the international agreements for Bio-Diversity protection and climate control.³ The CCME also released its strategic plan outlining its goals and proposed activities for the upcoming five years and carried out the second of its yearly "scans" of important issues related to the environment.⁴

As it entered 1993 and 1994, the Council continued its work on technical aspects of environmental protection while taking on new and different issues related to the environment. It has been developing and implementing technical guidelines and codes of practice to address issues such as the handling and remediation of contaminated sites. The Council began research into such areas as the use of market based approaches towards environmental protection and pollution control and has


also continued to promote the harmonization of environmental regulation between the different levels of government. In addition, the Council's environment ministers signed several important intergovernmental environmental agreements including the Framework for Environmental Assessment Harmonization in November 1992 and the National Commitment to Pollution Prevention in November 1993.

A Framework for Action (Part I): The NTFEE

Earlier in chapter three we discussed the origins and purpose of the NTFEE. The final report of the Task Force was submitted and accepted by the environment ministers at the Council's 1987 annual fall meeting. The recommendations in the report were divided into two implementation phases. The first phase, known as "laying the foundation", called on all governments to create round tables on the environment and economy and develop conservation strategies. The second phase, called the "future agenda", discussed longer term sustainable development issues such as government and industry leadership, informed decision-making, and better communication and sustainable development education.¹

¹The NTFEE continued to exist after it released its report in 1987 and in 1988 it produced a Progress Report of the National Task Force on Environment and Economy, a follow-up to its earlier work. The progress report marked the end of the original Task Force's work and the NTFEE was disbanded.

²National Task Force on the Environment and Economy, Progress Report of the National Task Force on the Environment and Economy, (Downsview: Canadian Council of Resource and Environment Ministers,
After the CCME received an update on the implementation of NTFEE recommendations in October 1988, the Council then created a committee called the Advisory Committee on Environment and Economy (ACEE) to evaluate the implementation effort. The ACEE presented its report, which reviewed the successes and shortcomings of efforts to follow through on the NTFEE's recommendations, to the Council at its annual meeting in October 1989. Though the report discussed many of the issues the NTFEE considered important, this thesis will focus on the following three most important areas: the development of conservation strategies, the creation of environment and economy round tables, and the implementation of state of the environment reporting.

Conservation Strategies

The idea of conservation strategies was a key recommendation of the NTFEE. Conservation strategies would deal with:

the integration of policies regarding resource protection, management and development; the allocation of resources to optimize their maintainable sustainable yield; and the establishment of formalized consultative processes to ensure


8Conservation Strategies were envisioned by the Brundtland Commission and the NTFEE as plans that would control the development and consumption of renewable and non-renewable resources.

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broad-based public input on programs and plans related to environmentally sound development."

Even though only one province, PEI, had established a conservation strategy before 1987, the NTFEE's progress report in 1988 indicated that the Council's goal of having a conservation strategy in each province and territory, and an integrated national strategy would be achieved by 1992."

The ACEE, however, disagreed. In a report to the Council in 1989, the ACEE said:

A blunt assessment of the current rate of progress in the development of national, provincial and territorial conservation strategies raises a strong note of concern: unless an immediate priority is placed on completing conservation strategies, fewer than half of Canada's jurisdictions will have strategies in place by 1992."

This, the ACEE added, jeopardized the possibility of having an integrated national conservation strategy in place by 1992 in time for the United Nations Conference on Environment and Development in Brazil. The ACEE suggested the slow development of conservation strategies had a lot to do with process. Most jurisdictions, for example, put round tables, or other non-governmental groups, in charge of conservation strategy development. These groups' limited resources, lack of established contact within government, and narrow or non-

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Ibid, 11.


existent authority made the development of conservation strategies slow and difficult.\textsuperscript{12}

The CCME's involvement in the development of conservation strategies began with the release, in 1989, of *Conservation Strategies: A Compendium of Canadian Experiences*. The Compendium was essentially an advisory document that contained suggestions on how to create and develop effective conservation strategies.\textsuperscript{13} By the end of 1992, however, the early emphasis placed on the development of conservation strategies had dissipated. First of all, the underlying goal of developing a national conservation strategy based on the integration of various provincial and regional strategies at a national conference in Quebec, in 1990, failed to materialize after the Meech Lake affair. A number of provinces, however, eventually went ahead with the development of conservation strategies. Yet, there was no impetus within the CCME to integrate these strategies into a single national conservation strategy. It now appears that the conservation strategies are no longer considered to be central instruments of effective and co-operative national sustainable development planning.

\textsuperscript{12} Ibid.

Round Tables on the Environment and the Economy

The most visible monuments to the NTFEE's contribution to the Canadian environmental policy community are the round tables on the environment and the economy. Many round tables still exist today and others have been created at the regional and municipal level. Round tables have promoted the cause of sustainable development primarily through studies of environmental issues and discussion groups. The round table process has also attracted the participation of many different environmental policy community actors and the attention of environmental policy analysts. Unfortunately, time and space constraints do not allow for full description of the complete history and activities of all roundtables. The purpose of analyzing round table activity in this chapter is limited to understanding their relationship to the CCME and determining whether or not they have helped the Council promote intergovernmental action and cooperation on environmental issues.

One of the first round tables to be formed was the National Round Table on the Environment and Economy (NRT) in 1988. The NRT is probably the best known of all round tables. While the NRT can be used to illustrate how typical round tables act and function, it is different from most round tables in several respects; it takes a national approach to its work and it is larger than other round tables in size, available resources and national prestige. The reason behind
the creation of the NRT and other round tables, according to George Hoberg, was to open up the environmental policy decision-making process to more groups, especially environmentalist groups, and increase the legitimacy of environmental policy outputs. The round tables fit into a public policy decision-making system Hoberg calls multipartite bargaining.¹⁴

The NRT, as a participant in the multipartite bargaining process, tries to promote consensus amongst the different actors in the environmental policy community and acts as a catalyst for sustainable development. To promote consensus, the NRT has tried to include representatives of all segments of society in its membership. Much of the NRT’s work is carried out by special task-groups and sub-committees which also maintain a balanced membership. The NRT has also successfully organized round tables on environmental issues of different sectors of the economy (eg: forestry and pulp and paper).¹⁵ To promote sustainable development, the NRT has tried to become visibly involved in many environmental issues. These have ranged from projects related to improving environmental education in Canada, to preparing in depth studies on pollution and waste. The NRT has tried to keep in

¹⁴Hoberg, *Governing Canada*, 319-323.

touch with the activities of other round tables\footnote{See Michael Howlett, \"The Round Table Experience: Representation and Legitimacy in Canadian Environmental Policy-Making\", \textit{Queen's Quarterly}, 97:4, (Winter 1990).} and has used its annual reports and publications to promote sustainable development activities across Canada.\footnote{See Canada. National Roundtable on the Environment and Economy, \textit{Annual Report}, (Spring 1994).} The NRT also participated in the 1992 Rio Summit.

For all their work, round tables, as new institutions in the environmental policy process, have come under pointed criticism. Micheal Howlett's examination of the formation and mandates of most round tables raised doubts about whether or not round tables could ever achieve meaningful results. First of all the round table appointment process was heavily influenced by cabinets and other government officials, closed to public input, and significantly dominated by government and industry:

Round tables exist only as advisory bodies to government or groups concerned with public education. They have in no way affected environmental decision-making or administration, both of which remain in the traditional political-corporate realm.\footnote{Howlett, \"The Round Table Experience\", 594.}

If Howlett and other round table critics are correct, the round table process has not been successful for several of the following reasons. First of all, round tables have appeared to imitate, rather than initiate, change in environmental policy-making. In this sense, round tables have become an end
rather than a means to an end. Concerns about debt, government spending, and a stronger emphasis on growth, have crowded out voices for environment and conservation and directly affected the future of the round tables themselves. Third, and as CCME officials suggest, the continuous discussions about the environment seem to be creating fatigue amongst participants. Finally, governments use the round tables to get people talking about the environment and to make plans, but these discussions and plans often fall in the face of strong interests for economic growth in the private sector and reductions in the public sectors from politicians.

RELATIONS WITH THE CCME

When the round tables were created in the late 1980's, participants in the NTFEE and members of the CCME had hoped a strong relationship would develop between the two. This is not surprising since the NTFEE, which advocated the creation of round tables, was a CCME sponsored initiative. At first, the prospects for such a relationship looked good and the CCME, in a 1988-89 annual report highlighted the work being done to establish round tables as "a major undertaking of the

19 In 1993, British Columbia became the first province to wind up its round table claiming it had fulfilled its mandate. Canadian Council of Ministers of the Environment, Personal Communication, (Winnipeg, May 1994).
Council."22 This section of chapter four will illustrate and explain why a close relationship did not develop.

The ACEE's report to the CCME in 1989 gave two reasons why a close relationship between the round tables and the CCME was important. First, the ACEE believed a close relationship would reduce duplication between the two institutions. Second, the ACEE felt that the two institutions could act as positive reinforcements to each other through collaborative efforts on issues of mutual interest.22

In spite of the ACEE's recommendations, strong Council-round table relationships did not emerge. The initial interest of the CCME seemed to disappear when the Council's annual reports and publications ceased making references to the round tables' studies and activities. Work on issues important to both institutions (eg: trade and the environment, and waste management) was carried out separately. In other instances, such as the CCME's work on lender liability, the NRT was only included as an outside correspondent.22 The possibility that each institution would duplicate the efforts of the other, a fear the ACEE expressed, in many instances has come true.


If, as it appears, no strong linkages or working relationship developed between the CCME and the various round tables, the next question is why? There are several probable explanations. One is that while the CCME was indirectly responsible for the creation of round tables each was independent in setting their own agenda. CCME officials admit, for instance, that the role of round tables in setting the CCME agenda has been minimal.\textsuperscript{23} The absence of many direct institutional linkages between the round tables and the CCME secretariats has also contributed to weak Council-round table relationships. Third, each institution’s agenda is focused, at different times, on different issues. The round tables, for example, are usually concerned with discussing environmental issues in a broad context; much of the CCME’s work has focused on highly technical discussions about specific environmental protection issues. Finally, round tables are places for open discussion amongst a wide range of participants from the environmental policy community; the CCME is more closed and discussions usually involved only government staff and select participants from the environmental policy community. The closedness of the CCME and the differences in CCME-NRT agendas have added to the difficulties of developing a strong inter-institutional relationship.

State of the Environment Reporting\textsuperscript{24}

State of the environment (SOE) reporting was another area the CCME took great interest in after the NTREE report in 1987. The Council thought SOE reporting was an important element in better environmental policy decision-making. The Council thought it was important, therefore, to establish co-ordinated SOE reporting mechanisms between the provincial and federal levels of government.

The basis for SOE reporting originated from the complaints of environmentalists and analysts that not enough was known about Canada’s environmental situation. The demands for such information by individuals, corporations, and environmental interest groups had been communicated to the CCME on several occasions. In 1993, for instance, participants in multistakeholder meetings organized by the CCME felt that "developing a national clearinghouse/data bank of environmental information" was very important.\textsuperscript{25}

To remediate this perceived deficiency, some governments responded with different forms of SOE reporting beginning in the 1970’s. The first comprehensive SOE report was performed by the federal government in 1986. The aim of the report was to provide a macro-picture of the environment, a baseline...

\textsuperscript{24}An update on recent State of the Environment events is given at the conclusion of this paper.

\textsuperscript{25}Peat Marwick Stevenson & Kellogg, 1993 Environmental Scan: Evaluating Our Progress Toward Sustainable Development, (Winnipeg: Canadian Council of Ministers of the Environment, 1993), 89.
against which future changes could be measured, and a wider understanding of environmental and socio-economic interrelationships.\(^5\)

The purpose of SOE reporting is, ultimately, to evaluate and compare environmental conditions and trends. As one CCME official put it, SOE reporting can be seen as an instrument for "passive policy harmonization" where one jurisdiction can examine the environmental record of another, observe differences and, if necessary, adjust its own environmental policies and institutions. This idea of "passive harmonization", however, is problematic for institutions like the CCME which depend on maintaining collegial relationships between its members. Some jurisdictions, for instance, might interpret comparisons of environmental records as subtle forms of pressure. Comparisons could enable critics of a jurisdiction's environmental policies to politically embarrass its government. From a CCME perspective, more comparable and easily accessible SOE reporting only increases the danger of creating conflict and animosity between governments. It also intensifies the dilemma between promoting action on environmental concerns and maintaining cooperative, collegial relations between governments. This, up to now, has been a strong incentive for the CCME to avoid emphasizing SOE reporting and the fractious situations it might cause.

A New Framework for Action: The 1992 Strategic Overview

In the early 1990's the CCME entered a new phase of planning and priority setting. 1992 marked the release of the Council's Strategic Overview: a plan which established specific goals and priorities for the CCME for the next five years. The work of the CCME, as outlined in the Strategic Overview's introduction, was to concentrate on:

* building partnerships,
* building a sustainable development vision and integrating environment with development,
* overcoming jurisdictional fragmentation; and
* adjusting to international reality.\(^\text{27}\)

The remainder of the strategic overview was then given over to discussions of possible Council activities. All issues and activities were grouped into three categories: high priority, medium priority, and low priority issues. Air quality, global warming, environmental assessment, and contaminated site liability, for example, were given high priority status. This meant that a significant amount of time and resources would be directed at these issues. Waste management and the harmonization of regulatory and technical approaches for some issues received medium priority from the Council, presumably because much of the work in these areas had been already done. State of the Environment reporting was one of the few tasks that received a low priority on the CCME's new agenda.

The strategic overview process was also important to the Council because it identified several issues that were becoming increasingly important in the sphere of environmental policy. These included working more closely with aboriginal peoples, participating in international environmental events like the 1992 Rio Summit, and developing policies in new areas of environmental policy such as contaminated site liability. The remainder of this chapter is given over to analyzing and discussing CCME activities in the following areas: the integrating environment and economic decision-making; overcoming sectoral fragmentation; addressing aboriginal environment issues; and dealing with environmental issues of international importance. An analysis of the Council's work in environmental impact assessment and technical/regulatory policy harmonization follows in chapter five.

Trade and the Environment

The need to develop linkages between the environment and the economy has always been a high priority for the CCME, both before and after the Council's reorganization. The 1992 Strategic Overview and subsequent environmental scans have now given environment and economic integration a high priority on the CCME's agenda. The trend towards integrating environment and economic concerns has forced public policy makers to pay more attention to the impact of issues like trade and the environment. The Brundtland Commission report, for example,
made efforts to demonstrate how trade was inextricably linked to the long-term success of sustainable development. In 1992, the CCME's strategic overview talked about the pronounced linkages between trade and the environment, and the need for more in-depth study.²⁹ An Institute for Research on Public Policy discussion paper for the CCME reviewed many issues pertinent to environment and trade. The report stated it was important for the Council to pay close attention to trading agreements and argued "just as Ministers of the Environment will be concerned with the impact of environmental measures on trade and competitiveness, so they will need to increasingly react to the impact of trade agreements on the environment."²⁹

The relationship between trade and the environment for trading nations like Canada is especially important. Canada is a member of two multilateral trading regimes: GATT, the General Agreement on Tariffs and Trade; and NAFTA, the North American Free Trade Agreement. In both cases, there is serious disagreement over whether or not each agreement includes sufficient measures to protect the environment and manage resources. Many Canadians who oppose NAFTA fear it will prompt pollution intensive industries to migrate south to Mexico to take advantage of lower labour costs and weak

²⁹Ibid, 16.

environmental enforcement practices. Domestically, efforts are also under way to further liberalize interprovincial trade.

Except for carrying out several studies on the issue, the substance of the work done on environment and trade by the CCME has been relatively limited. There are two possible explanations. First of all, according to one CCME official, the Council was more of a "silent observer" than an active participant during the NAFTA negotiations. The responsibility for carrying out the environmental provisions of the NAFTA agreement was not given to the CCME, but placed under a committee of officials responsible to trade ministers bypassing the CCME altogether. This situation seriously limits what the Council can do in the field of environment and international trade.

Secondly, attempts to liberalize trade between the provinces ultimately take place in an atmosphere of intense negotiation and competition. One province may potentially see the introduction of environmental standards and conditions on the negotiating table as a trade tacit adding to the already competitive atmosphere. This environment of negotiations does not fit the consensual negotiating style of the CCME, and as such, the council has remained outside this debate.10


11 Ibid.
Overcoming Sectoral Fragmentation

In 1987, the NTFEE highlighted the need for different sectors of government and the economy to be included in environmental and economic integration. The CCME’s 1992 Strategic Overview committed the Council to work with stakeholders in other sectors of the economy both inside and outside government. According to the Brundtland Commission report, the lack of sectoral integrated decision-making between the environment and other government departments was a substantial barrier to sustainable development. The CCME’s 1992 environmental scan reiterated this view:

Although the idea of sustainable development has become part of the Canadian political and economic scene, the traditional segregation of sectoral decision-making within government appears to remain intact. The commitment to shift bureaucratic and political thinking towards a system that recognizes their interdependence remains largely rhetorical.\(^\text{12}\)

Participants at the CCME’s 1993 environmental scan workshops suggested that institutional structures need to further accommodate environmental concerns in their decision-making processes:

Participants said that the positive environmental measures introduced by environmental ministries are being counteracted by the forestry, agriculture, energy, economic development, and finance ministries. In short, they said the environment

ministries must reach out to other ministries just as the other ministries need to involve the environment ministries.\textsuperscript{13}

For its part, the CCME is making several efforts to overcome sectoral fragmentation. In 1992-1993, for example, the CCME has arranged tri-council meetings with ministers and of Parks and Wildlife to develop policies for sustaining bioc-diversity and wilderness areas.\textsuperscript{14}

One of the best attempts to promote intersectoral cooperation has occurred between the CCME and the ministers of energy in the field of atmospheric quality. A joint steering committee of environment and energy officials released a discussion paper outlining a national action strategy on global warming in 1990. The discussion paper urged all jurisdictions to find ways to reduce greenhouse gas emissions and prepare strategies to address potential climate change as a result of global warming.\textsuperscript{15} Work between environment and energy ministers has carried on through the early 1990’s and, in 1993, a comprehensive air quality management agreement which was adopted at a joint meeting of energy and environment ministers in November. The ministers also announced that cooperation between both sectors would continue on a national

\textsuperscript{13}Ibid, 83.


strategy to reduce sulphur dioxide emissions. 16

There is a sense of irony in the CCME's new attempts to promote intersectoral co-operation. Prior to 1995, two sectors of the economy, forestry and wildlife, were represented on the Council before they decided to form their own separate councils. Three years later, the Council dropped "Resource" from its title to concentrate more on environmental issues. Now the Council has reached a point where it supports sustainable development (read: resource management) and intersectoral cooperation. As the Brundtland Commission and the CCME environmental scans have pointed out, sustainable development does not stop at just energy, forestry or wildlife. There is also a need to incorporate other sectors into the sustainable development process. The CCME, therefore, needs to get involved with other segments of the economy; agriculture, transportation, mining, and fisheries, if it wants to promote economical and environmental forms of sustainable development and ensure resources are managed properly for future generations. There are several possible reasons why, to date, this is not happening.

One explanation is that these sectors of the economy, agriculture, mining, and fisheries, are components of the national economy under provincial jurisdiction which the

provinces guard jealously. It is unlikely that provinces will let other provinces or the federal government use environmental policy to suggest, let alone dictate, how these sectors of the economy should be managed. This may partially explain why the development a national resource conservation strategy failed. Similarly, corporate interests would probably resent the intrusion of another government agency into its development plans. In forestry and agriculture policy communities, for example, powerful economic interests have historically resented attempts by all levels of government to regulate resource development based on protecting the environment. The CCME, undoubtedly, would face the same resistance.

Aboriginal People, the Environment and the CCME

Chapter two briefly discussed the impact of aboriginal peoples in the Canadian environmental policy community. Despite the closeness of aboriginal peoples to the environment, the aboriginal presence inside the environmental policy community is only now beginning to be felt. The increasing influence of aboriginal peoples in the environmental policy community now attracts the attention of government and the CCME. As a result, the Council is now

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8 See Culeman and Skogstad, Policy Communities, chapters 3 and 5.
working on how native environmental concerns can be incorporated into the CCME's broader environmental agenda.

The importance of aboriginal views on environment policy is one consequence of the broader political demands aboriginals are making on the Canadian political system. From the failed Meech Lake Accord and the crisis at Oka to the debates over the Charlottetown constitutional proposals, Canada's first peoples have emerged as potent political forces. The political demands of aboriginal peoples centre around aboriginal self-government; a concept that includes, but is not limited to, more aboriginal control over environmental matters through land claim settlements and enforced treaty rights. To accomplish their environmental objectives, aboriginal groups have not been afraid to resort to protests, blockades, and litigation.

The courts, in particular, have been the stage for some of the most important developments in environmental policy in Canada with respect to native groups. An important case with respect to resource conservation was the 1984 Supreme Court case R. vs Sparrow. The Sparrow decision's requirement that native groups had to be consulted in the resource conservation and management processes accelerated the pace of aboriginal

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involvement in environment and sustainable development issues. Aboriginal groups and associations are now more involved in the environmental policy making process, environmental assessment proceedings, and consultative institutions like the round tables. This wider range of aboriginal involvement in environment policy has now led the CCME to consider what it can do to incorporate aboriginal views and concerns into its own planning agenda.

First Nations and the CCME

Since the CCME is an intergovernmental institution representing predominately provincial and federal jurisdictions, the representation of aboriginal interests on the Council is a problematic issue. The lack of a constitutionally recognized, solely aboriginal governing institution prevents the direct representation of native peoples at the CCME. This, in turn, limits the contact between the Council and aboriginal people. The Council's first serious attempt to establish some form of contact and communication with native peoples occurred at the 1973 Man and Resources Conference when the CCREM created a task force to study northern development issues. The task force complained it had not been given enough time, resources or attention to do an adequate job and that the process ignored the concerns

of the peoples of the north.\textsuperscript{41}

The 1973 experience was repeated somewhat in 1987 when the NTFEE was criticized by aboriginal groups for ignoring specific aboriginal environmental concerns and not having aboriginal participants on its panel. The most significant move the CCME has made to include Northern concerns occurred in 1990 when the North West Territories and the Yukon were made full Council members. The CCME also promised in its 1992 strategic overview that more work on aboriginal concerns would begin in 1993.

Despite acknowledging the importance of aboriginal issues, the CCME has still done very little, until recently\textsuperscript{42}, to involve native peoples and groups in its own policy process. The question is why this involvement has not happened. One reason, as we have pointed out above, is that aboriginals lack the same types of institutions that represent the provinces and territories. Even if groups like the Assembly of First Nations and the Inuit Tapasariat, could be argued as effectively representing native peoples, there is still an even greater problem. According to one CCME official, no formal role is being considered for aboriginal peoples within the CCME. The presence of aboriginals, it is feared, would bring other issues to the Council table, issues


\textsuperscript{42} See Conclusion.
like native land claims and self-government. These highly charged and politically contentious issues could cause significant disagreements between Council members and aboriginal leaders who may not exercise the same consensual and co-operative style of negotiating that the CCME normally conducts.

Aboriginal policy styles, as we discussed above, have higher preponderance towards conflict and use of the legal system. CCME members are likely very hesitant to let the Council become embroiled in legal action if aboriginal representatives wanted to choose that option to resolve policy differences. These differences in philosophies present another barrier to aboriginals becoming more directly involved in Council activity.

The CCME and International Environmental Politics

Major events in the international environmental policy community have coincided with the fortunes of the CCME. The rise of environmentalism in the 1960’s, Earth Day 1970, and the 1972 Stockholm Environmental Conference all happened during the height of CCREM activity in the early 1970’s. The rejuvenation of the CCME in 1990 took place just prior to the second major global conference on the environment in Rio, Brazil in 1992 - the United Nations Conference on Environment and Development (UNCED). The CCME took immediate interest in the UNCED after the conference was announced at the U.N. in
A number of Canadians, including the CCME, were involved in several of the preparatory (PrepComm) meetings leading up to the summit meeting in Rio in June 1992.

Despite the heavy criticisms the conference endured," many Canadian officials returned from Rio with a sense of accomplishment and enthusiasm. Jean Charest, federal environment minister and president of the CCME at that time said:

The biggest accomplishment (of the UNCED) was the extent to which different concerns converged around a common agenda and countries rallied behind a global commitment to sustainable development." Critics, meanwhile, argued the government spent more time talking about the environment and sustainable development instead of following through with concrete action to implement solutions.

The CCME's concern about the international aspects of Canadian environmental policy focused primarily around the UNCED's recommendations. After the final UNCED PrepComm meeting, the CCME met in March 1992 and agreed it would actively follow up on the recommendations that came out of Rio. One of the CCME's representatives at the PrepComm

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"David Runnells, "Success and Failure From Rio", EcoDecision, (September 1992), 11-12.


meeting, Peter Underwood, and PEI environment minister Gilbert Clements, went to Rio in June. After Rio ended, Underwood and Clements returned and submitted their updates on what the final conference achieved. The CCME promised it would campaign actively on behalf of the UNCED and its post-conference agenda and then created a new Task Group to follow-up the UNCED. 45

The purpose of the Rio Summit was to talk about and initiate global environmental change. The impact of Rio on the Canadian environmental agenda in general, and the CCME agenda in particular, is not easy to discern. According to top Department of Environment officials, Canada's highlight at the Rio Conference, the Green Plan, is now being allowed to quietly whither away. The CCME's agenda of promoting economic and environmental integration, increasing intersectoral co-operation, and developing environmental protection regimes was established before the UNCED or PrepComm meetings. Instead, the CCME has used the Rio Summit to further justify the worth of its own activities and policies.

Another concern of both the Brundtland Commission and UNCED was the need for nations to treat each other in an environmentally responsible manner, especially in terms of international aid. These concerns and complaints have had a significant impact on one of Canada's most significant international development agencies; the Canadian International

Development Agency - CIDA. While CIDA wasted little time adopting the philosophy of sustainable development and promising to carefully assess the impact of its projects on the environment, some international development analysts believe CIDA has not been able to live up to its commitment. Both the CCME and CIDA have made international sustainable development a top agenda item, but, there is no evidence to suggest there is any ongoing communication or coordination between the two organizations.

Conclusion

This chapter has traced the progress of several CCME initiatives in its early phase beginning in the late 1980's to the most recent phase of activity inaugurated by the release of the 1992 Strategic Overview. Based on the analysis of these initiatives, the following conclusions can be drawn. First of all, some CCME initiatives, especially those from the early phase of Council activity, have not persisted over time. The conservation strategies and the SOE reporting are two examples. Secondly, many CCME initiatives related to what might be called the larger picture of sustainable development, have not proceeded far beyond the planning and discussion phases; the environment and economy initiatives are examples of such. The work on environmental and economic integration, in terms of overcoming sectoral fragmentation has been rather limited in scope with respect to those segments of the economy
important to achieving sustainable development (e.g., resource ministeries). Finally, the plans for new initiatives, such as taking into account aboriginal concerns, have not substantially changed how the CCME operates or currently takes these concerns into account.

When we turn our analysis towards understanding the causes of CCME action and inaction, a common theme seems to appear. In many of the cases above, CCME activity has been limited by more than logistical or time constraints. In several instances, CCME activity appears to be guided by institutional and political constraints. The evidence indicates that in situations where the potential for intergovernment conflict from a course of action is high, the CCME has modified or limited its action.

Is preserving intergovernmental cooperation the central theme and guiding rationalization for most CCME activity and is the Council effectively promoting sustainable development? We shall keep this question in mind as we look next, in chapter six, at two case studies in CCME policy-making. The first analyzes the harmonization environmental assessment regulations, and the second is analyzes CCME approaches to harmonizing environmental protection regimes.
CHAPTER 5

THE CCME (PART II):
THE CCME AND POLICY HARMONIZATION: TWO CASE STUDIES

The harmonization of environmental policies and regulations is probably the most important item on the CCME’s agenda today. The emphasis on harmonization, a reaction to the unclear delineation of environmental responsibilities between the federal and provincial governments, is present in most of the CCME’s agreements. The belief that consistent environmental policies and legislation are necessary to protect the environment and promote sustainable development has made policy and regulatory harmonization a deeply ingrained organizational characteristic of the CCME.

The CCME’s role in facilitating policy harmonization and co-ordination is outlined in the set of principles adopted by the Council in March 1990 entitled A Statement of Interjurisdictional Co-operation on Environmental Matters.¹ The four page document announced that the CCME would implement sustainable development and environmental protection initiatives through a series of consultations, cooperative agreements, bilateral and multilateral accords. The statement on interjurisdictional cooperation on environmental matters also stressed the necessity of working together, resolving issues in a collegial atmosphere, and respecting the authority

of all jurisdictions to legislate on environmental matters. CCME members and officials believed that intergovernmental cooperation was essential to the environment because it promoted certainty, predictability, and public confidence in environmental regulatory regimes and sound economic and environmental planning.\(^2\)

The CCME continues to promote policy and regulatory harmonization across a number of environmentally related areas. The Council has historically focused on the harmonization of regulatory and technical approaches to environmental protection by developing a series of guidelines and codes of practice (e.g., guidelines for managing bio-medical wastes). Since the late 1980’s, the CCME has paid increasing attention to more policy related issues like environmental impact assessment and contaminated site liability. This chapter discusses what the CCME has done in some of these areas and critically analyzes the impact of different CCME initiatives and their implications for sustainable development in Canada.

**Environmental Impact Assessment**

The demands of environmentalists and others to be heard in the political debate on issues affecting the environment increased the importance of environmental impact assessments

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in the policy process. The purpose of environmental impact assessments (EIAs) was to force "explicit consideration of the consequences of proposed public and private interventions into the natural and human environment." The need for EIAs, according to Lang, was prompted by worries that environmental resources (e.g., air, water, wildlife, etc.) were undervalued. As part of a rational planning process, EIAs were seen as "a solution to the problem of getting government agencies and departments to consider environmental factors in their planning and decision making." It was now up to decision makers in these institutions to decide if EIAs would be conducted fairly and openly and whether or not EIAs would be conducted for all government and privately sponsored initiatives capable of significantly altering the environment. Since the passage of the federal government's Environmental Assessment Review Process (EARP) in 1973, environmental assessment has been an important Canadian environmental policy community issue. The CCME's involvement in this issue began shortly after the mid-1970's while it was still the CCREM. Detailed work on the issue started in 1977 when the British Columbia government prepared a report on environmental assessment policy for the CCREM.

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versions of this report later compared federal, provincial, and territorial environmental assessment legislation and practices. The last revised report in 1988 called on the CCME and all jurisdictions to co-ordinate environmental assessment procedures so that conflict and duplication could be avoided. The report highlighted an Alberta-Canada agreement on environmental assessment procedures as an example of successful federal-provincial co-ordination and co-operation.⁶

The 1988 survey of environmental assessment regimes occurred at a time when the saliency of environmental issues was on the rise throughout Canada. A year before the 1988 survey, the NTFEE had called on the CCME to promote environmental policy harmonization, especially in the area of environmental assessment. The ACEE echoed the same suggestions and encouraged the CCME to work on co-ordinating environmental assessment policies and procedures. Since 1989, the topic of environmental assessment has been raised at a number of Council gatherings and annual meetings. In 1992, the CCME declared that it would continue to pay attention to environmental assessment over the next several years.

**CCME Activity**

When the CCME was reorganized in 1992, a new task group was created specifically to work on harmonizing environmental

assessment. The environmental assessment task-group, located within the Strategic Planning Committee, immediately began drafting a set of cooperative principles for environmental assessment based on a similar agreement developed by Western provinces several years earlier. This draft agreement, accepted by all jurisdictions in May 1991, was later replaced by a more comprehensive framework for environmental harmonization adopted in November 1992. The new framework attempts to bring more coordination and cooperation to the environmental assessment process and contains the following principles:

- information sharing amongst governments involved in the environmental assessment.

- accommodation of each government's interest by the other governments involved.

- joint environmental assessment panels,

- co-operative decision-making at all stages of the review,

- appropriate attention to aboriginal concerns.\(^7\)

The CCME's harmonization of initiatives during the early 1990's also coincided with the Mulroney government's review of the federal environmental assessment process. The federal environment minister at that time, Robert de Cotret, had

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\(^7\)The agreement was referred to it as a "generic framework" for co-operation between two jurisdictions on a bi-lateral basis. Canadian Council of Ministers of the Environment. Framework for Environmental Assessment Harmonization. (November 1992).

\(^8\)Ibid.
introduced the bill to replace the federal government's 1973 EARP and the 1984 federal Guidelines orders. Because the bill had implications for provincial environmental assessment policies, the Council decided to participate in parliamentary hearings on the legislation in Ottawa. The CCME President, John Reynolds of British Columbia, was then given the task of presenting Council suggestions to the Parliamentary committee conducting public hearings on the proposed legislation.

The federal government's environmental assessment legislation bill went through two series of parliamentary hearings. The government's first bill, Bill C-78, did not get to third reading before parliament ended in the summer of 1991. When the new session opened in autumn, a new bill, Bill C-13, was introduced by a new federal environment minister, Jean Charest. When the CCME was invited to participate in Bill C-13 hearings, Alberta environment minister Ralph Klein attended.

The CCME's concern about federal environmental assessment legislation in particular, and environmental assessment processes in general, was motivated by the desire to reduce the jurisdictional ambiguity surrounding environmental assessment and the costly duplication of assessment efforts. It is important to determine what impact CCME initiatives have had on the state of environmental assessment in Canada. Since

*Klein was chosen to represent the CCME because its current president was federal environment minister Jean Charest, the sponsor of Bill C-13.
these initiatives are very recent (two years ago), their long-term effects cannot yet be determined. It seems that while CCME agreements, in the short period since their inception, have had a positive effect on the atmosphere and negotiation of environmental assessment agreements, they have not solved the more fundamental problems environmental assessment has experienced in Canada.

The Impact of the CCME on Environmental Assessment

The CCME does appear, on the one hand, to have made some progress towards collectively recognizing the importance of environmental assessment and promoting co-ordination. During the legislative hearing on Bills C-78 and C-13, for instance, the CCME was able to get the federal government to amend several sections of the Canadian Environmental Assessment Act. These CCME amendments were based on draft agreements developed by the Council in Halifax and the Framework agreement developed in 1992. In addition, the Federal Environmental Assessment Act and different provincial acts strengthened joint participation mechanisms in environmental assessment procedures. Thus, under the auspices of the CCME, federal and provincial jurisdictions have become increasingly more receptive of joint panels as an effective way of reducing duplication.

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Canada, Canadian Environmental Assessment Act. Section 17.
Despite these immediate gains, there is still some question as to whether or not CCME initiatives have improved the effectiveness of environmental assessment as a tool for sustainable development. Events in Canadian environmental politics would suggest that this is not happening. Instead, instances of conflict between jurisdictions and a disregard of environmental assessment procedures for projects with substantial environmental consequences still occur. The environmental process, it seems, is still subject to the vagaries of political will rather than the integration of environmental and economic concerns.

The difficulties of improving the environmental assessment process were visible during the hearings on the federal government’s environmental assessment Bills C-78 and C-13. Some of the amendments to Bill C-13 presented by Alberta environment minister Ralph Klein illustrates the dichotomy between the environment and the economy that many provincial environment ministers perceive. Two amendments related to the determination of jurisdictional responsibility for carrying out an environmental assessment (scope) and the use of provincial environmental assessment processes in lieu of the federal process (equivalency), were both rejected by the federal government. The CCME had presented these amendments because they were concerned that:

Without a cooperative scoping process and provision for equivalency, the wording under section 11 of the proposed bill would allow for the federal government to assume a decision-making role in the provincial
management of natural resources. That wording would allow a federal or joint panel to determine the need for a project, the alternatives to a project, as well as the capacity of the renewable resource to accommodate the project.

Klein then adds:

Canada’s environment ministers are concerned that these potential jurisdictional issues, which are essentially unrelated to the environment, but more perhaps to the economy, may impair our ability to implement effective environmental assessments.\(^\text{12}\)

The federal government’s rejection of the CCME’s request for more provincial say in environmental assessment was based on apprehensions about the provincial governments’ commitment to carry out adequate assessments. The testimony of environmental groups at the Bill C-78 and C-13 hearings raised doubts that all provinces could be trusted to implement effective environmental assessments.\(^\text{12}\) The provinces’ cause was hurt further by the contradictory testimony of CCME President John Reynolds during the Bill C-78 hearings in December 1991. Reynolds had testified to NDP environment critic Jim Fulton that the government of British Columbia was planning to hold environmental hearings on a huge provincial hydro project being developed on the Kemano river. A day


Based on testimony given by Brunnio Marchauvio of Greenpeace.
later, Reynolds changed his testimony and told news reporters that formal environmental hearings would not take place. Members of the Legislative Committee were astonished at Reynolds sudden reversal. Jim Fulton suggested that Reynolds may have deliberately tried to mislead the Commons Committee (which Reynolds later denied). Fulton was most upset that Reynolds had so crafted his testimony as to lead Committee members to believe that provincial governments, such as British Columbia, could be trusted to carry out environmental assessments in lieu of federal assessments.\textsuperscript{13}

The Halifax Draft Agreement and the Framework Agreement that the CCME negotiated have only partially solved the two biggest problems associated with environmental assessment; jurisdictional conflict and the low regard for the environmental assessment process. The first problem often arises between jurisdictions, especially in cases where federal/provincial political tension is high. The Quebec government, for example, strongly protested the passage of Bill C-13 and claimed it would unduly intrude into provincial affairs. Pierre Paradais, Quebec’s environment minister, worried that the federal government would use its power and authority to force environmental assessments on Quebec’s hydro and other economic development projects.\textsuperscript{14}

\textsuperscript{13}Ibid. vol 15. 6-10.

While cognizant of Quebec's and other provinces' concerns, the federal government has also had to accommodate the demands of environmental groups. Environmentalists frequently try to get the federal government to perform environmental assessments when the provinces do not (or do so inadequately). This usually places the federal government at odds with recalcitrant provincial jurisdictions. Conflict between the federal government, provincial governments, and environmentalists has arisen over a number of provincial development projects in several locations; James Bay (Quebec), Rafferty-Alameda (Saskatchewan), Point Aconi (Nova Scotia), and the Oldman River (Alberta).

The cases just mentioned are symptoms of a problem the CCME agreements seem to miss; that is, the competitive nature of environmental assessment between jurisdictions. This competition is not based on who can come up with a better assessment process; it is about whose environmental assessment process takes precedence. The effects of this competition are illustrated in one instance where the federal government's environmental assessment agency, FEARO, wanted to study the effects of various provincial hydro projects on the Hudson Bay basin. Manitoba and Quebec resisted FEARO's efforts to bring the federal government's environmental assessment processes into these issues, despite federal jurisdiction out of fear that FEARO's work was going to be used to stop provincial
development projects.\textsuperscript{15}  

British Columbia's 1993 environmental assessment legislation is another example of interjurisdictional competition. Though some aspects of the legislation are directed towards promoting cooperation between governments in the form of joint assessment panels, British Columbia's environment minister was interested in passing its legislation before federal assessment regulations were developed in 1994. This would ensure that British Columbia regulations got "priority" in instances where environmental assessments occurred in areas of overlapping jurisdiction.\textsuperscript{16} This sort of competitiveness is not consistent with the spirit of cooperation being fostered by the CCME.

The second problem, ensuring that environmental assessment processes are not ignored by government, is one of the biggest challenges to sustainable development in Canada. Despite the work that the CCME has done, there is no guarantee that the environmental assessment process will not be disregarded in the future. In some cases, the environmental assessment process is either taken lightly or not implemented at all. This occurred in two provincial development projects; the Point Aconi coal powered generating plant in Nova Scotia and the Soligaz natural gas complex in Quebec. The Point


Aconi project, despite environmentalists' protests, was subject to only one day of informal environmental hearings.\textsuperscript{17} In Quebec, a request by the Quebec Environmental Hearing board for an environmental study on the Soligaz gas development project was turned down by the Quebec environment minister.\textsuperscript{18}

One of the most controversial water-related development projects in Canada is the construction of the Oldman river dam in Alberta. The Alberta government, a long time supporter of the project, gave permission to start building the dam in 1986. A comprehensive environmental assessment, however, was not completed until 1990. Many environmentalists and federal DOE officials were dissatisfied with the Alberta assessment and called on the federal government to carry out its own environmental assessment. Alberta's response was to challenge, with the support of five other provinces, the need for a federal environmental assessment in the Federal Court of Canada. Though the Court ordered a federal assessment, work on the dam continued. It seems neither the protests of environmentalists and native groups, the judgements of the courts, nor the environmental review process had any impact on the Alberta government's decisions.

The Oldman River dam dispute, as with the Kepman, James

\textsuperscript{17}Canada. House of Commons, Minutes of Proceedings and Evidence of the Social Committee to Pre-Study Bill C-78: An Act to Establish a Federal Environmental Assessment Act, vol 12, 8.

\textsuperscript{18}Globe and Mail, March 28, 1992, B4.
Bay, and the Rafferty-Alameda hydro disputes; have increased the role of the courts in the environmental assessment process. Environmentalists have viewed legal action as a legitimate means of stopping and delaying controversial development projects. The ambiguous division of environmental responsibilities between governments, and the hesitancy of the federal government to intrude upon provincial development projects, have given the courts the role of environmental arbiter. The actions of the courts have frequently placed federal and provincial governments at odds. CCME agreements, while trying to promote cooperation and coordination, have not usurped conflict and the role of the judiciary, in the eyes of environmentalists, to make sure environmental assessments are sincerely and adequately conducted.

Despite the many problems that remain, the CCME is making progress in the area of environmental assessment. Realizing the saliency of environmental assessment to important members of the environmental policy community, governments are steadily trying to improve the quality of environmental assessment processes. To solve jurisdictional problems, some governments have developed policies to promote joint assessment review panels to achieve a measure of federal-provincial coordination. The CCME has facilitated these activities, but these activities in and of themselves have not

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19For further analysis see Hoberg. *Governing Canada*, 326-328.
solved the other more fundamental problems of environmental impact assessment in Canada. The major problems that remain, especially federal-provincial disagreements and deadlocks over environment assessment, are not likely to be solved by the CCME where cooperation and collegiality are essential ingredients in the Council's success.

Harmonizing Approaches to Environmental Protection

The CCME has achieved some degree of success in harmonizing approaches to environmental protection. Over the years, the Council has devoted many of its resources to the development of environmental protection regimes. As a result, the Council has been able to develop a number of technical and regulatory guidelines to protect the environment from pollution and waste. The development of technical and regulatory guidelines has been facilitated largely through the cooperative efforts of public servants from different environmental departments across Canada under the auspices of CCME sub-committees and task forces. CCME harmonization activities in the past have centred around the serious and ongoing problems of solid and hazardous waste management and its transportation, storage and disposal. More recently, the CCME has focused more of its time and effort on atmospheric issues: the reduction and elimination of volatile organic compounds (VOCs), nitrogen oxides (NOx), and chlorofluorocarbons (CFC's).
The agreements and accomplishments of the CCME in the past seven to ten years, however, have been dampened by two circumstances. First of all, the technical and regulatory regimes developed by the CCME have no direct authority on its members. Any and all guidelines developed for the Council must be approved separately by all jurisdictions. Once the CCME has developed a set of guidelines, all it can do is wait and see if they are adopted. There is also evidence to suggest that the Council confines its activities to areas where there is little political contention and where important stakeholders in the environmental policy community are in general agreement on the need for some specific action. The CCME has, in many situations either been cautious and slow to act, or reluctant to deal with divisive environmental issues like organochlorine effluent discharge.

Waste Management

The CCME has been involved in waste management activities since the 1960's. When the Council changed its name to the CCME in 1988, it inherited a number of waste management programs being developed and implemented by the CCREM. Responsibility for several CCME programs rested with the Toxic Substances Advisory Sub-Committee established in 1984. The Toxic Substances Sub-Committee's first major project involved developing a Hazardous Waste Action Plan to address issues surrounding the management of hazardous waste. A plan was
agreed upon by the Council of Environment Ministers at its annual meeting in 1986.\textsuperscript{21}

Another major and highly publicized waste management project of the CCME is the National Packaging Protocol. The Protocol, endorsed by all environment ministers at the Council’s annual meeting in March 1990, was developed to reduce the amount of packaging waste in Canada to 50% of 1990 levels by the year 2000.\textsuperscript{22} CCME meetings have also been used to announce and highlight other CCME projects: the elimination of PCB’s; petroleum products recycling; and funding for contaminated site remediation programs. The CCME also has a number of ongoing sub-committees under the direction of the Environmental Protection Committee to handle these issues.

From 1989 to 1994, the CCME has published over a dozen comprehensive codes of practice and guidelines related to improved waste management. In many cases, the CCME has successfully brought together officials from different governments, beyond the environment ministries and other policy community interest groups (ie: industry and environmental groups) to develop guidelines. The development of these sets of guidelines and codes of practice highlight several positive accomplishments of the CCME as a proactive intergovernmental environmental institution. In developing


new guidelines, the CCME has, in several instances, summarized and compared existing provincial and federal regulations on particular issues (e.g., managing bio-medical waste, used oil recycling). The Council has also encouraged the development of consistent approaches and national standards for waste and toxic substances through initiatives such as the 1989 National Contaminated Sites Remediation Program. This particular program, a cost shared venture between the federal and provincial governments, has allocated $250 million towards cleaning up hazardous waste sites and developing new site remediation technologies.

The CCME's National Packaging Protocol probably goes the farthest of any of the agreements on waste management. In addition to an agreement on collectively reducing overpackaging; all jurisdictions agreed to establish nationally consistent monitoring systems to determine if waste reduction targets are being met. The agreement also commits governments to impose restrictions and regulations to reduce packaging waste if targets are not met through voluntary means.22 The response from corporations who are most affected by the Protocol has been favourable as many businesses, like Alcan Aluminum, attempt to reduce packaging waste. According to reports from the CCME at their 1993

annual meeting, the Council's initial goal of a 20% reduction in packaging waste between 1988 and 1992 was met.²³

Atmospheric Issues

In 1992, the CCME's strategic overview identified atmospheric issues as a high priority item for the Council. Each of the CCME's 1991, 1992, and 1993 Environmental Scans mentioned that Canadians continue to worry about air quality in major cities as well as nationally. The CCME is actively involved in the following air quality issues; acid rain, ground level ozone, global warming and ozone depletion. With the reorganization of the Council in 1989, responsibility for atmospheric issues was given to the Environment Protection Committee. The impetus for a national approach to solving atmospheric problems and harmonizing policy came in the wake of several bilateral and multilateral agreements on the environment signed by the federal government with other countries.

ACID RAIN AND GROUND LEVEL OZONE:

The problems of acid rain and ground level ozone have existed in Canada for over 20 years. The CCME has, in some way or another, been involved in both issues since the late

1960’s. This involvement has continued to the present day with the recent signing of the Comprehensive Air Quality Framework for Canada designed to strengthen acid rain and smog reduction efforts.

The negotiations over acid rain, first of all, have historically taken place at two levels; bilaterally between the United States and Canadian governments; and internally between the Canadian federal and provincial governments. A landmark agreement on acid rain was hammered out between the federal and provincial environment ministers at a Council meeting in 1984 setting the stage for further acid rain negotiations with the United States. The agreement required Canadian provinces east of and including Manitoba to reduce present sulphur dioxide emissions by 50% over the next ten years. Reaching a sulphur dioxide emission agreement with the United States proved more difficult. After years of negotiations, the United States passed a Clean Air Act which promised to substantially cut sulphur dioxide emissions by the year 2000.24

Meanwhile, on the ground level ozone front the CCME continued to press forward with plans to reduce the concentrations of ground level ozone, particularly NOx and VOCs, in the atmosphere - especially in high density urban

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24Macdonald, Politics of Pollution, 250-252. In order to meet national targets, the province of Ontario agreed to provincial cuts in its acid rain emissions beyond the 50% mark in its 1985 Countdown Acid Rain Program.
areas. In recent years, a series of multi-stakeholder consultations and negotiations were carried out by the CCME over the 1988-90 period through the CCME steering committee on the Long Range Transportation of Airborne Pollutants. The steering committee’s efforts led to the CCME’s approval of a three phase NOx and VOC management plan. The management plan sought to reduce ground level ozone concentrations by 15 to 30 percent of 1985 levels by 2005.  

Ozone depletion:

As discussed in chapter two, the threat chlorofluorocarbons (CFC’s) posed to the environment seized the attention of scientific and environmental communities in the early 1980’s when it was discovered that CFC’s were destroying the earth’s protective ozone layer. Several international Conferences on CFC’s were held and in 1987 the first international protocol on reducing CFC use was signed in Montreal. As with acid rain, the international and interprovincial dimensions of the CFC problem eventually attracted the attention of the CCME. The Council’s involvement in the CFC debate began in 1987 after the signing of the Montreal protocol. The CCME first established an ad hoc working group of federal, provincial and municipal government representatives in order to develop a harmonized

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25G. Bruce Doern, "Regulations and Incentives: The NOx-VOCs Case", Getting It Green, ed. G. Bruce Doern, (Toronto: C.D. Howe Institute, 1990), 92-93.
and consistent approach to deal with CFC's. A preliminary strategy was reviewed and approved by the Council in November 1990.

While this first strategy was being developed, the federal government decided to move the date for completely banning the import and production of CFC's to 1995. At its next meeting, the CCME asked its ad hoc working group to develop another action plan to ensure the full cooperation of the provinces in achieving the new CFC goal. The ad hoc group completed its task in October 1992 with the release of the National Action Plan for the Recovery of CFC's in October 1992. In addition to the technical procedures and recommendations outlined in the report, the CFC action plan also compared existing federal, provincial, and municipal approaches to CFC control.

Global Warming:

The other highly publicized atmospheric issue of the 1980's was the rising concentration of greenhouse gases in the atmosphere increasing the possibility of global climatic change. As with CFC's, global warming was primarily an international problem. At several conferences on global warming, Canada supported relatively strong measures (in

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comparison to the United States, for example, to reduce emissions of carbon dioxide and other greenhouse gases. As the debate over global warming intensified outside Canada, federal and provincial environment ministers set out to develop nationally co-ordinated policies and strategies to maintain greenhouse gas emissions at 1990 levels by the year 2000.

The CCME’s 1992 Strategic Overview stated that global warming was a high priority issue for Canada and the Council. The Strategic Overview pointed out that Canada was one of the largest per capita producers of greenhouse gases and that these gases could have a tremendous impact on Canadian climate and lifestyle. In the early 1990’s, the CCME added its voice to the debate on global warming in October 1989 by promising to examine the issues more thoroughly. In March 1990, the CCME created a sub-committee of Deputy Ministers to develop a national action strategy on global warming and later released it for public discussion in November 1990. The gist of the recommendations focused on a three pronged approach to controlling emissions; limiting emissions, planning for climate change, and increasing scientific knowledge about global warming. The report also recommended that while a federal-provincial negotiated national action plan to combat global warming was important, attention should be given to those regions which would be adversely affected by reductions of carbon dioxide emission activities.
Conclusion:

Overall, the CCME continues to play a noticeable and active role in the organization of conferences and discussions, and the negotiation of atmospheric quality agreements. In most cases, the Council serves as a forum for discussion and information on the technical aspects of policy. The Council’s role as a policy forum is equally important. This function was particularly useful, for example, when the federal Ministers of the Environment minister was negotiating a bilateral acid rain treaty with the United States on acid rain and the European Community on CFCs. These negotiations avoided potentially serious problems between the provincial and federal governments when environmental pollution treaties were to be signed by one level and implemented by another.

Environmental Protection and the CCME: A Critical Analysis

The CCME’s work on environmental protection is well documented. If success is measured by the number of conferences and number of agreements that Council members have negotiated in the past seven years, by all accounts, the CCME might be considered a success. If, however, we look beyond these largely internal measurements, we see that the Council’s success is debatable. Since 1991, for instance, the CCME has

commissioned private consultants to evaluate environmental trends in Canada. The 1993 environmental scan was able to identify several detrimental environment trends in areas where the CCME had already negotiated environmental protection agreements. The environmental scan reported that little has been done to control the increase of carbon dioxide and nitrous oxide (greenhouse gases) emissions in Canada. Today, ground level ozone still poses a serious problem in major urban areas that Canadian governments still have been unable to solve. Even the progress towards reducing acid rain is showing slight signs of reversal as economic activity in North America has increased.28 There are similar trends in solid and hazardous waste disposal where, despite the success of programs like the National Packaging Protocol, waste generation continues to increase. The inadequate disposal of hazardous waste is particularly troubling in spite of the improvements in disposal technology and methods. In Canada, an estimated eight million tonnes of hazardous wastes are produced each year with less than half receiving secondary treatment.29

Since CCME agreements on environmental issues are attempts to solve environmental problems, it is important to consider the reasons why some of these problems are not being

28Peat Marwick Stevenson & Kellogg. 1993 Environmental Scan, 35.

29Ibid. 37.
solved and may be getting worse. Part of the answer has to do with the non-authoritative nature of CCME guidelines and codes of practice. CCME agreements on CFCs, hazardous wastes, and contaminated site liability, for example, are strictly voluntary. The Council, once it creates a set of guidelines and principles, has no power to implement or enforce them upon a particular jurisdiction. In cases such as the agreement on CFC reduction, where there was enough common will between jurisdictions, the guidelines stood a good chance of becoming policy. Even when there are agreements in principle, enforcement becomes the next obstacle to overcome. If, on the other hand, there is no consensus, CCME recommendations are likely to be ignored. This situation is currently happening with Council recommendations on curbing carbon dioxide emissions. The voluntary, non-compliance method of environmental protection is a common thread through all of the agreements the CCME has negotiated.

CCME agreements are also linked by a desire to coordinate environmental protection policies and establish national environmental standards and objectives. Council agreements frequently discuss harmonizing regulatory approaches to different environmental problems. Whether or not this is accomplished, however, depends on each individual jurisdiction. The reaction of a province, a territory, or the

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federal government to an environmental problem does not always follow the recommendations prescribed by the CCME and there is no precise way of knowing whether or not policies are being harmonized. As CCME officials suggest, the amount of coordination between jurisdictions varies from province to province. The most common practice is for a concerned government to choose from the CCME agreements those aspects of policy they like and set aside the rest.\footnote{Canadian Council of Ministers of the Environment, \textit{Personal Communication}, (Winnipeg, May 1994).}

CCME and Water Management:

In some areas CCME agreements avoid addressing controversial issues. Take, for example, water pollution. According to many environmental analysts, water pollution created by pulp and paper mills has been the biggest obstacle to effective water management in Canada for over a century.\footnote{See Macdonald, \textit{Politics of Pollution}, Chapter 15.} The issue of water management and pollution has been on the CCRM and CCREM agenda intermittently throughout the 1960’s and 1970’s, but few substantive actions ever resulted from all the discussions. In the mid 1980’s, the CCREM launched several new initiatives including the creation of a Task Force on Water Quality, the publication of a national water quality inventory, and the negotiation of an intergovernmental agreement on water pollution guidelines. Outside government
and the CCME, environmental groups complained that serious water management problems were inadequately addressed. A major concern of many environmentalists and groups like Greenpeace, the International Joint Commission, and the Canadian Environmental Law Association was the presence of organochloric toxic substances in major rivers and lakes, especially the Great Lakes. The primary source of this pollution was the pulp and paper companies.

The response of the federal and various provincial governments in the late 1980’s and 1990’s has been to tighten water pollution regulations, especially on pulp and paper effluent discharges. The federal government led the way by requiring pulp and paper mills to reduce and "virtually eliminate" discharges of specific dioxins and furons. Provincial governments like British Columbia, Alberta and Ontario followed suit with their own different sets of regulations and guidelines. Some environmentalists and aquatic scientists felt the new regulations and emission targets with its focus on one single dioxin and furon in the toxic soup (2378 TCDD) did not go far enough. Pulp and paper companies, meanwhile, worried that meeting the new regulations would be expensive and could cost jobs.

The vigorous discussion and heated debate over

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14 Macdonald. Politics of Pollution.
organochlorines has caused the CCME to proceed cautiously on
this issue. While several CCME agreements (eg: hazardous and
municipal waste incineration guidelines) do take into account
the need to reduce carbon dioxide emissions, Council activity
has concentrated on promoting discussion and awareness through
conferences like the one held in Quebec in 1989. As in other
discussions, the main resolution of the Quebec conference was
to go ahead with more studies and create another special task
force, this time on dioxins. To date, there has only been
a verbal commitment from CCME members to develop a nation-
set of guidelines to regulate the largest source of dioxin
emissions, the pulp and paper mills. Controlling the
discharge of organochlorines and various chlorinated
substances has been especially problematic for the CCME.
According to CCME officials, the policy of zero discharge of
chlorinated materials in pulp and other industrial effluent
being advocated by Greenpeace and the International Joint
Commission has been discussed, but only at the steering
committee level. The CCME has no plans to immediately get
involved in the zero discharge proposals or campaign for the
end of organochlorine use.14

The CCME's involvement in the organochlorine debate


illustrates how limited the role of the Council becomes when it has to face a controversial issue. On either side of the CCME are two diametrically opposed sets of interests: environmentalists who want a zero discharge approach to controlling toxic pulp effluent and industrial interests which only want minor changes to the status quo. Each member of the CCME must guard against seriously infuriating either the environmental groups or the resource industries and chemical manufacturers. Antagonizing either is likely to create a publicity incident or elicit threats of plant closures and layoffs in some of Canada’s single industry towns.

As a member of a federal, provincial or territorial government, each member of the CCME must also worry about political and jurisdictional implications of any Council or other type of intergovernmental environmental agreement. Disputes between different provinces, or provinces and the federal government, are likely to occur when one jurisdiction thinks its power or authority over an environmental matter is being threatened. The pulp and paper industry, like environmental impact assessment, is a prime example because of its economic importance to many provinces. In 1989, a serious rift between Alberta and the federal government developed over the environmental assessment and construction of several new paper mills in Alberta. It was caused by a different view over the impact that mill effluent would have on receiving waters. The Alberta government thought it had adequately
accounted for environmental concerns when it approved the construction of the mills. The federal government's subsequent involvement and recommendation to delay the mills' construction angered the Alberta government. It seemed the Alberta-Canada environmental assessment agreement of 1988, a supposed model for federal-provincial environmental agreements (See page 127), had not been adequate enough to handle this dispute.

The differing regulations and standards between jurisdictions in an area such as pulp and paper raises an important question: whose environmental regulations take precedence in the event of a disagreement? While there are legal precedents (eg: Crown Zellarbach case where the federal government was given the legislative authority to control pollution under for the Peace Order and Good Government of Canada clause of the constitution) many environmental problems are politically contentious issues. For the CCME, the highly politicized nature of the pulp and paper industry and other issues, controlling the use of pesticides for example, means it has to act cautiously. Subtle changes in the status quo can easily lead to acrimonious political conflict which the Council may wish to avoid. By waiting for the political acrimony to subside, the CCME increases its chances of negotiating successful agreement amongst its members.
Conclusion

The evidence presented in this and the previous chapter shows that the CCME has been a very proactive organization since 1988. The two cases presented in this chapter: environmental assessment and environmental protection guidelines, reveal how the CCME acts as an environmental policy-making institution. First of all, and also similar with environmental and economic integration and aboriginal issues, environmental assessment has been a problematic issue for the CCME. The political and economic contentiousness of environmental assessment has persisted throughout the history of environmental politics in Canada. This has hampered efforts to construct a multilateral arrangement for carrying out environmental assessment across all of Canada in a common and consistent manner. The CCME has been content, therefore, to confine its efforts to developing a broad, generic agreement that commits jurisdictions to work towards harmonizing environmental assessment. The difficulties of negotiating precise agreements is left to bilateral negotiations between each province and the federal government. The CCME’s generic agreement also fails to address the problem of jurisdictions not adequately or faithfully carrying out environmental assessments. To do so would potentially upset the cooperative relations between Council members.

The second case is somewhat different. The harmonization
of environmental protection activities has been a major Council endeavour since 1988. Many issues, (eg: used oil management) do not usually cause major political or economic conflicts between governments or industry since they deal with highly technical and scientific matters. Even so, the guidelines and codes of practice developed are not binding on members. This allows for all jurisdictions to come together in the spirit of agreement on issues without having to commit to follow-up or strict enforcement measures. This, in turn, preserves the cooperative and collegial spirit amongst Council members.

Throughout this and the previous chapter, it has been argued that intergovernmental cooperation has been a central factor in the outcome of CCME policy and the nature of Council activity. The next chapter of this thesis will explain why intergovernmental relations and cooperative federalism is so important to understanding how the CCME works. Chapter 7 will hold that the CCME has consciously designed its policies and activities in order to promote and maintain intergovernmental cooperation.
CHAPTER 6

The CCME In A Federal Environment

In order to understand the CCME's actions and varying degrees of success, it is important to understand the federal institutional context within which intergovernmental policy is made. Different styles of federalism in Canada have different effects on public policy outcomes. Most students of Canadian public policy are acquainted with the different "types" of federalism that exist in Canada: executive federalism, intrastate federalism, cooperative federalism, competitive federalism and various other types. Intergovernmental institutions like the CCME are generally predisposed to operating within the paradigms of cooperative and executive styles of federalism. The hypothesis put forth in Chapter One suggested that the CCME is primarily concerned with maintaining collegial intergovernmental relations in accordance with the principles of cooperative federalism. This chapter will justify this hypothesis and describe how cooperative federalism has both helped and hindered the process of sustainable development in Canada.

A Background to Federalism in Canada

The institution of federalism plays a large role in the public policy process in Canada. Federalism has been defined and redefined by such prominent political scientists as Cairns, Smiley, and Simeon. Canada is considered a federal
country because government responsibilities are divided between different levels of government. Each level of government, (federal and provincial) also possesses some measure of autonomy from the other. Canada and many other states usually resort to a federal system of government in order to balance regional concerns against national concerns. From a Canadian perspective there are two basic problems with the federalist form of government: first, authority and autonomy in policy matters are not always clearly delineated; and second, the rules governing the federal separation have not remained static or fixed over extended periods of time.

Canadian federalism is a multifaceted concept. The study of Canadian federalism tends to revolve around other sets of dichotomies: classical federalism versus dynamic federalism; symmetrical versus asymmetrical federalism; executive versus open; and cooperative versus competitive. Federalist forms of government have intrigued political scientists for decades and there have been many attempts to define the concept of federalism. A prominent author on federalist systems of government, K.C. Wheare, defined federalism as the division of power within a state between governing institutions "so that the general and regional governments are each, within a sphere, coordinate and independent."¹ The "classical" definition of federalism, that power and authority can be

exactly sub-divided between different levels of governing institutions, is generally regarded today as idealistic and impossible to maintain in a practical sense. It would be impossible to find many Canadian political scientists arguing that Canada is a model of classical federalism. Most political scientists today believe the Canadian federal system is a dynamic institution with no area of public policy fully excluding one particular level of government. The environmental policy field in Canada is a perfect example of the dynamic nature of Canadian federalism. Canada’s constitution, for instance, does not state which level of government is responsible for environment policy, largely because the framers of the 1867 BNA had no concept of environmental protection, let alone sustainable development. Recent constitutional amendments have not addressed this deficiency since environmental issues are now highly politicized. The interrelationships and interdependence between governments on environment matters have evolved over time; more by way of necessity than design. This is evident in the works of environmental policy analysts like Macneill, Dwivedi, Hoberg, Harrison, and Kopas and Skogstad.²

Political scientists, politicians, and the public are also caught up in the symmetrical versus asymmetrical debate over Canadian federalism. The concept of symmetrical

²These authors talked about jurisdictional ambiguity and the lack of a clear division of powers in the constitution. See chapter one.
federalism implies that the sub-units in a federal system are equal in terms of rights and responsibilities. Asymmetrical federalism suggests sub-units can differ in terms of rights and responsibilities. The idea that Canada is a federalist state in crisis has its roots in the conflict between symmetrical versus asymmetrical visions of Canadian federalism. This is a substantive issue in Canadian constitutional politics. Gordon Robertson suggests Canadians, particularly Canadians outside Quebec, were angered by the proposed constitutional amendments in the 1987 Meech Lake Accord because it gave one province more rights and powers than others. While it can be argued that Canada's constitution attempts to treat all provinces equally, the design and implementation of public policy in Canada is sometimes asymmetrical in character. A commonly quoted example of asymmetrical federalism is the Canada/Quebec pension compromise which allowed Quebec to establish its own pension fund. There are also examples of asymmetrical federalism in the administration of environmental policy. The federal government, for instance, has let some provinces, like Quebec, administer environmental regulations under the Fisheries Act.

Canadian politicians have frequently tried to solve the problems of federalism through formal constitutional

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amendment. There have been many attempts to do so since the Second World War. The first two attempts, one in the mid-1960's and the other in 1971, both failed. The third attempt in 1981-82 succeeded, but without the support of Quebec. Two attempts to amend the constitution since 1982 have also failed; the Meech Lake Accord in 1990 and the Charlottetown Accord in 1992. In almost every case, the process of negotiating constitutional change has taken place in private between first ministers and their executive support staff. This process of intergovernmental negotiation is referred to as executive federalism. The failure of the Meech Lake Accord in particular reflected a growing popular dissatisfaction with this style of federalism; a style where policy making centred around the executive level within governments removed from the scrutiny of legislatures and the general public.¹ The 1992 constitutional amendment process attempted in some ways to democratize the constitutional decision-making process by holding public forums and a national referendum on proposed constitutional amendments.

The institution of federalism in Canada has also been affected by varying levels of intergovernmental cooperation and competition. Federal and provincial governments often address public policy issues in a spirit of cooperation as both levels of government try to coordinate the development

and implementation of policy. Since the 1950's, for example, the provinces and the federal government have both worked together in the area of tax collection. These instances are examples of cooperative federalism. In other cases, federal and provincial governments have disagreed over public policy issues. In the fields of energy, health and social policy, for example, there have been serious arguments between the federal and provincial governments. These instances are examples of competitive federalism as one level of government competes with the other for the right to make public policy.

A Brief History of Cooperative/Competitive Federalism

Canadian federalism has oscillated between competitive and cooperative forms of federal-provincial relations. The analyses of Smiley, Simeon and Robertson suggest that this oscillation is the product of a series of events which have shaped the historical evolution of federalism in Canada. For the first 60 years after Confederation, the federal and provincial governments acted predominately, but not completely, in an independent fashion within their own spheres of authority as outlined in sections 91 and 92 of the BNA Act. When serious disagreements over authority and jurisdiction arose, they were usually settled by Canada's highest court (which, until 1949, was the British Judicial Committee of the Privy Council).

The Depression, World War Two, and the post-war
reconstruction brought new challenges to public policy making. According to Simeon and Robinson, classical styles of federalism no longer seemed appropriate to deal with increasing demands on the state. After the war, and through the 1950's and 1960's, Ottawa and the provinces began working together to create and finance various social welfare programs like unemployment insurance, the Canada Pension Plan, and universal health care. The evolution of the modern welfare state and the creation of many social welfare programs were made possible through the cooperation of the federal and provincial governments in a series of cost-shared fiscal arrangements.5

After the early 1960's, a more competitive brand of federalism began to emerge. Quebec, under the government of Liberal Jean Lesage was the first province to start competing with the federal government for more control over economic policy and social programs. Following Quebec's lead, other provinces began competing with the federal government in a number of policy fields. The late 1960's, the 1970's, and early 1980's were characterized by numerous attempts at "province building" - increasing of provincial power and autonomy. The province building drive within Quebec was influenced by a combination of nationalistic and linguistic

aspirations fuelled at first by the "maitre chez nous" philosophy of the Quebec Liberals in the 1960's and the separatist Parti Québécois in the 1970's and early 1980's. Other provinces' aspirations were considerably less nationalistic as many provincial premiers focused their efforts on gaining control over resource management and lobbying for regional equity and freedom from federal fiscal hegemony.

Simeon and Robinson attribute the emergence of an adversarial style of federal-provincial relations during this period to the differing views of federalism held by different political leaders. The argument that Simeon and Robinson make, as have other Canadian political scientists, is that the federal government, led by Pierre Trudeau, was strongly opposed to the decentralization of federal powers to the provinces. Trudeau felt a strong government was essential in order to protect the foundations of the Canadian welfare state, to ensure the equality of Canadians, regardless of what region of the country they lived in, and to counteract the threat of Quebec separatism. Provincial leaders such as Premiers Johnson and Levesque in Quebec, Lougheed in Alberta, Bill Bennett in B.C. and Peckford in Newfoundland, disagreed with Trudeau's vision and version of federalism. According to Simeon and Robinson, these premiers believed the power and economic hegemony of the federal government was a threat to their respective regions of the country. These provincial
Premiers were ready to fight the Trudeau government, and their provincial colleagues if necessary, to defend their province's rights and authority.

When Trudeau retired and the federal Liberals were defeated in the 1984 federal election, the pendulum of federal-provincial relations appeared poised to move towards a more cooperative atmosphere. During the 1984 campaign, P.C. leader Brian Mulroney made federal-provincial reconciliation a major part of his electoral platform. Almost immediately after his stunning electoral victory, Mulroney took steps to rectify provincial grievances. He scrapped the National Energy Program that angered the Alberta government. In 1985, he signed the Atlantic accord with Newfoundland giving that province a voice in offshore oil development, and finally he promised to start reducing the size of the federal government through deregulation and privatization. With the election of the federalist Liberal government of Robert Bourassa in Quebec, Mulroney was able to accomplish what Trudeau had failed to do in 1971 and 1982; reach a constitutional agreement with Quebec. Mulroney was later rewarded by Bourassa and a number of other premiers in his bid for reelection in November 1988; an election dominated by the Free Trade Agreement Mulroney had negotiated with the United States. Bourassa and several others tacitly supported the deal and helped Mulroney win a second majority government.

Mulroney's successes in federal-provincial relations during his first term, however, were to quickly evaporate during his second term. Intergovernmental relations suffered, first of all, because of Mulroney's inability to dramatically reduce the level of government spending and regulation. Coupled with this failure was the beginning of a damaging recession shortly after the free trade deal was negotiated in 1989. Ironically, Mulroney's greatest success - the Meech Lake Accord, suddenly turned into a political and intergovernmental relations nightmare. After the accord was signed in 1987, opposition amongst many Canadians began to grow and an anti-Meech Lake campaign was spearheaded by Newfoundland premier Clyde Wells. A series of last minute negotiations in June 1991 failed to save the accord, and its failure, while welcomed by many, had devastating consequences for intergovernmental relations. In anger, the Quebec government withdrew from multilateral intergovernmental negotiations in all public policy fields. The spectre of Quebec separatism, previously thought dead by many, also returned. In Newfoundland, bilateral relations with the federal government turned sour as the Mulroney caucus temporarily canceled the final approval needed to launch the multi-billion dollar Hibernia project.

Since Mulroney's retirement in 1993, federal-provincial tempers have started to cool. The state of federal-provincial relations today lies somewhere in the middle of the
cooperative-competitive spectrum. The new Liberal government of Jean Chretian appears willing to cooperate, as do many provinces, on many public policy issues. Federal-provincial intergovernmental cooperation, however, remains extremely fragile and the precarious fiscal positions of many governments has the potential to strain future relations. The economic uncertainties each government faces makes it tempting for one level of government to hold the other level of government responsible for its social and fiscal problems.

This brief historical review of Canadian federalism is meant to illustrate the dynamic nature of intergovernmental relations. While federal-provincial relations during each of the periods were never wholly cooperative or confrontational, general trends did exist and have been confirmed by many political scientists in many policy fields. The general trend of federal-provincial environmental relations, however, has been predominately cooperative. The remainder of this chapter focuses on the dominant cooperative and executive characteristics of federal-provincial environmental relations and the role the CCME has played in ensuring their continuation.

The Environment, Canadian Federalism, and the CCME

Historically, federal-provincial environment relations have proceeded in a relatively harmonious and cooperative manner. Despite increasing federal-provincial conflict during
the early 1970's, both levels of government were able to agree that cooperation was essential to managing emerging environmental issues. The impetus for cooperation, as Kopas and Skogstad point out, resulted primarily from the lack of a clearly defined role for either level of government in environment policy.' Hoberg, Kopas and Skogstad, along with others believe that recent court challenges brought about by natives and environmentalists pose a great threat to this long-standing pattern of cooperation. Since environmental issues returned to the public agenda in the late 1980's, federal-provincial environmental relations have become more competitive. One of the ways both levels of government have tried to reduce the potential for intergovernmental conflict and confrontation has been through intergovernmental institutions like the CCME.

The CCME has facilitated the rise of executive and cooperative styles of intergovernmental environmental policy-making and, in one sense, represents "text book" executive/cooperative federalism in action; thirteen ministers meeting in private with their senior bureaucrats to make policy. Ministerial meetings are private to the extent that they do not usually include other stakeholders in the environmental policy community. CCME policies and regulatory frameworks are usually drafted and decided upon by representatives, at both the senior and technical levels, from

'Skogstad an Kopas, Canadian Environmental Policy, 44.
various government ministries. The development of most of the regulatory agreements outlined in the previous chapter have followed this pattern. These agreements illustrate the close connection between cooperative and executive federalism and bureaucratic politics.

The importance of the bureaucracy in intergovernmental policy-making and the negotiation of federal-provincial agreements in many public policy areas has been the subject of many studies. Leslie Pal argues that bureaucracies are politically sensitive institutions. Bureaucrats are affected by such factors as departmental ideology, control of information and expertise, organizational goals and needs, and intra-organizational conflict. According to Richard Schultz, the position of governments over the course of intergovernmental negotiations is shaped by bureaucrats interacting with departmental colleagues from other governments and other department bureaucrats from their home government. Bureaucrats working on intergovernmental projects must reach agreements with fellow departmental colleagues without raising the suspicions of other bureaucrats from their respective home provinces.

The CCME, as its technical agreements on environmental

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protection illustrate, has benefited from a close and cordial relationship between the senior and middle level environmental officials from different jurisdictions. When questions about the environment are less technical and more political, each bureaucrat must keep in mind the political concerns and agendas of their home governments. Bureaucrats, as representatives of an environment portfolio, are also under pressure from other departments of government, especially from finance and resource development ministries. Intragovernmental tension within a particular government over a particular environment policy is capable of destabilizing efforts to negotiate environmental arrangements with other governments.

Within the environmental policy community, the bureaucracies of each government’s environment ministry and the CCME’s own secretariat continually emphasize the need for open and frank communication across all jurisdictions. To promote this kind of discussion, the CCME has not gone to any length to include outside, non-governmental interests in the Council’s discussions. This argument was used in Chapter Four and Chapter Five to explain why linkages with Environment Round Tables and aboriginal groups have remained underdeveloped. These non-authoritative and non-governmental associations are pursuing objectives far different from those.

of the CCME and are unlikely to compliment the CCME's collegial approach to decision-making. They, or other environmental interest groups, might also want discussions and negotiations on issues CCME members would rather leave outside the intergovernmental negotiating forum. As a result, non-governmental interests, particularly those wanting substantial change to existing policy and the environmental decision-making process, represent a danger to the delicate process of cooperative, executive-style intergovernmental negotiating.

The importance of cooperation in the environmental decision-making process, as far as the CCME is concerned is vital. The Council's mission statement declares, "The 13 governments work as partners in developing nationally consistent environmental standards, practices and legislation." Cooperation, in a CCME context, translates into the following set of unwritten rules. Members publicly agree to Council policy statements, though each government reserves the right whether or not to act on these statements. Disagreements are accepted but governments do not publicly attack or belittle each other. Everybody participates in the major policy initiatives and serious problems are discussed and worked out in private away from the media."

The importance of cooperation is evident in the different agreements member governments have signed. These include the

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"Canadian Council of Ministers of the Environment, Personal Communication, (Winnipeg, May 1994)."
Statement of Interjurisdictional Cooperation on Environmental Matters, the Pollution Prevention agreement, the National Packaging Protocol and many other guidelines and codes of practices developed since 1988. The cooperative focus of the CCME is also highlighted in the Council’s strategic planning documents, annual ministerial conferences, and through publications like the CCME’s "envirogram" newsletter. The CCME’s involvement in the environmental negotiations and agreements that have been discussed thus far have placed a premium on federal-provincial cooperation. This, in turn, raises an important question - what effect are executive/cooperative styles of federal-provincial relations having on the environment and Canada’s goal of sustainable development? More importantly, in what way does the CCME’s brand of federalism either help and hinder effective environmental decision-making?

The Impact of Federalism

There have been many investigations into the impact different styles of federalism have had on shaping public policy. It was mentioned earlier that executive/cooperative-style intergovernmental institutions like the CCME have allowed federal and provincial governments to circumvent the rigidness of the Canadian constitution. According to J. S. Dupre, federal-provincial, executive-type relationships lend themselves to a certain degree of "workability" or the
possibility to get things done. Dupre argues that executive and cooperative federalism are positive as well as complimentary concepts. Executive federalist approaches to policy making allows ministers, and senior or middle level bureaucrats of similar backgrounds, to work together on common issues and shared interests. Within the insulated walls of executive federalist institutions, policy differences can be discussed and debated, and compromises developed and decided upon. Limiting the number and scope of discussions can work to remove the chances that partisan political differences will create roadblocks to reaching agreements. Donald Stevenson suggests that the development of intergovernmental institutions, like the CCME, equipped with the necessary financial and administrative resources, have allowed federal-provincial policy-making to become more sophisticated. This, in turn, has encouraged information exchanges, joint studies, and seminars on pertinent policy issues. The ultimate purpose of this activity, Stevenson concludes, is to make the harmonization and coordination of policy across different jurisdictional and political spheres possible and easier.


13 See Whittington, Issues in Canadian Public Policy.

14 Donald Stephenson, "The Role of Intergovernmental Conference in the Decision-making Process", Confrontation and Collaboration - Intergovernmental Relations in Canada Today, ed. Richard Simeon,
The successes of the CCME illustrate how executive/cooperative federal-provincial relations have enhanced environmental policy-making in Canada. In most cases, the process of developing and implementing CCME guidelines requires extensive meetings and negotiations between middle and senior bureaucrats from all CCME member governments. CCME technical regulations and guidelines are very similar to each other in both the style in which they are presented and the highly technical nature of their contents. The CCME has been essential in providing a framework for negotiations for both technical and general matters of the environment that is predictable, inclusive and discrete.

Beyond the technical agreements negotiated by the CCME, the Council's cooperative and executive federalist characteristics have facilitated the negotiation of several broadly-based agreements on the environment and sustainable development. These include the Statement of Interjurisdictional Cooperation, the agreement to harmonize environmental assessment and the Pollution Prevention Agreement. However, as more politically controversial issues creep on to the environment agenda, the CCME's task to negotiate consensual types of agreements on these issues becomes more difficult. Occasionally, the CCME "style" has worked to defuse politically sensitive situations and maintain

(Toronto: The Institute of Public Administration of Canada, 1979), 90-92.
the cooperative working relationships within the Council. One such case evolved from the aftermath of the Meech Lake Constitutional Accord and the reintegration of Quebec into the CCME after it voluntarily withdrew in 1989.

Case Study: The Aftermath of Meech Lake

Secretariat officials at the CCME acknowledge that the Council's role in many circumstances is a diplomatic one. A common problem, when federal and provincial officials meet to discuss environmental issues, is sorting out jurisdictional difficulties. The aftermath of the Meech Lake Accord created a major problem for the Council in this regard. After the Accord failed in June 1990, the Quebec government immediately withdrew from all federal-provincial multilateral institutions and policy making negotiations including the environment and the CCME. Thus, from mid-1990 to 1992, Quebec environment officials did not participate in any formal Council activity.

The Quebec delegation that returned in 1992 was, at first, anxious about protecting Quebec's power and authority in the environment from a reconstituted council of environment ministers. According to CCME secretariat officials, the Quebec delegation was quite hesitant to participate openly in discussions with other Council members. Within a short period of time, however, this hesitancy gave way to active

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participation. With Quebec back at the Council table, the CCME secretariat and other Council members tried to reassure their Quebec colleagues that the nature of Council discussions posed no threat to the Quebec government’s existing power and jurisdiction over the environment. Once the Quebec delegation became more aware of the nature of the CCME policy-making process, they started participating as full and active members and the aftermath of the Meech Lake affair faded into history.\footnote{Canadian Council of Ministers of the Environment, Personal Communication, (Winnipeg, May 1994).}

Other Benefits

The cooperative approach to intergovernmental environmental policy making has also yielded other benefits. First of all, by requiring a general consensus on most issues, and leaving the implementation of policy to each jurisdiction, the CCME has made the adoption and eventual implementation (usually in one form or another) of policy more likely. The best example of the success of this approach is the National Packaging Protocol. The purpose of the protocol, discussed earlier, was to reduce the amount of post-consumer waste generated in Canada by 50% by the year 2000. The CCME was instrumental in creating a regulatory framework for achieving this goal. All jurisdictions are now committed to action on this front. Some provinces like Ontario, went beyond the
voluntary guidelines established by the CCME and introduced strict measures to achieve this target.

The emphasis on cooperation and consensus within the CCME has ensured all governments, regardless of size, are equal in the Council’s policy-making process. All regulations and policy drafted by the CCME receive input from the representatives of all Council members. The SPC and the EPC and other major policy task forces consist of senior bureaucrats representing all governments. Throughout its entire operation, the CCME endorses a policy-making process that tries to be open and collegial.

Situations do arise in the environmental policy community when one level of government is pitted against the other. This happened during the debate over the 1992 federal Environmental Assessment Act. In this case, the provincial and federal governments held strongly divergent views over the potential impact of this piece of federal legislation. Behind the scenes, the CCME was at work trying to prevent the conflict from escalating. In this instance, the consensus style of CCME decision-making enabled the Council to facilitate compromises between disagreeing parties while remaining above federal-provincial conflicts. CCME ministerial meetings are not filled with the same divisiveness or political posturing found in other policy areas like health or the constitution. A recent meeting in Toronto, for example, exposed the differences in opinion between
governments on how to achieve Canada's commitment to reduce greenhouse gases. Yet, despite the differences that exist, the discussions did not cause any major rifts or frustration between environment ministers or threaten the existing cooperative relationships between ministers and their staff.

The Price of Cooperative/Executive Federalism

The cooperative/executive federalist style of public policy has been frequently criticized. The remainder of this chapter will be used to illustrate that the "flexibility, pragmatism, and opportunism" of cooperative/executive approaches to federal-provincial policy-making can have negative as well as positive effects. The discussion of cooperative and executive styles of federalism, to this point, suggests that both concepts are compatible and complementary. Many policy fields like education and welfare, have benefitted from cooperative arrangements worked out between the executive levels of the federal and provincial governments. As we have seen, however, the level of cooperation between governments can vary over time and depends to a certain extent on the characters of the players involved.

Ronald Watts has observed not only differences in opinion among Canadian political scientists about the impact of executive federalism but also about executive federalism's

ility to reduce levels of intergovernmental conflict. 12

of Donald Smiley's strongest criticisms of executive federalism in 1979 put forward several complaints. Smiley argued that executive federalism was essentially a secretive process and an occasion where only ministers and select bureaucrats were involved in policy discussion and decision-making. Smiley believed that executive federalism weakened the accountability of governments to their legislatures as executive conferences and consultations supplanted legislatures as institutions of policy-making. Executive federalism, Smiley said, also muted the voice of outside interests in the policy process, making groups on the periphery of policy communities less and less relevant. Smiley summed up many of the basic arguments against executive federalism by arguing the process contributes to "secret, non-participatory, and non-accountable processes of government." 13

In Canadian environmental politics, there is a general interest at the ministerial and bureaucratic levels on

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12 According to Watts, even Donald Smiley, Canada's preeminent author on federal-provincial relations, has changed his views on the impact of executive federalism in Canada. Donald Smiley and Ronald L. Watts, Intrastate Federalism in Canada, (Toronto: University of Toronto Press, 1985), 5.

reducing intergovernmental conflict, accommodating divergent political interests, and reshaping incongruous policy. This has been the central thrust of environmental policy-making and has taken shape through the many attempts at policy harmonization that we discussed in previous chapters. Hoberg has discussed how governments, especially the federal government, have continually tried to avoid solving environmental problems in institutions that are adversarial (e.g. the courts) because of the political consequences of "losing". As a result, governments are more favourably disposed to relying on cooperative institutions like the CCME. 22 Other analysts, like Skogstad and Kopas, concentrate on the positive aspects and impact of intergovernmental cooperation. They suggest that efforts to avoid legislative jungles justify intergovernmental efforts to promote harmonization and cooperation through institutions like the CCME. 23

The gist of the discussions surrounding environmental policy and intergovernmental relations in Canada tends to focus on the impact government policy and activity has had on the level of federal-provincial cooperation and competition. Since the writings of Macneill and Whittington in the early 1970's, analysts tend to look at federal-provincial activities

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22 See Skogstad and Kopas Canadian Environmental Politics, and Hoberg, Governing Canada.

23 Skogstad and Kopas, Canadian Environmental Politics, 55-56.
in environment relations in terms of the amount of conflict or cooperation that results. In most instances, the CCME has received a favourable grade on the job it has been doing. No one has seriously questioned whether the preoccupation of institutions like the CCME with cooperation and policy harmonization has had any negative consequences for the environment and the quest for sustainable development within Canada. Federal and provincial governments, some environment policy analysts, and the CCME are quick to point to the advantages that come with close cooperation at the executive level. It is also worth considering, however, whether these arrangements contain any serious drawbacks.

The Other Side of Cooperative Federalism

There are several limits to the positive impact cooperative intergovernmental relations can have on environmental policy. These limits have been touched upon, albeit indirectly, throughout the course of this paper. The limits to cooperative federalism echo and parallel the criticisms of Smiley we discussed a moment ago. In the environmental policy field, the limits of cooperation range from avoiding certain issues to precluding certain environmental policy community actors from having an effective voice within the Council.

A significant drawback to the CCME's style of executive/cooperative intergovernmental environmental policy-
making is the difficulty in translating agreements into action. In most policy fields, particularly in the environment, stakeholders want to see action. CCME agreements are developed through a process that relies on broad consensus. If there is no consensus, there is no policy. The importance of maintaining cooperative relations, therefore, reduces the scope of environmental problems the Council ultimately discusses and takes action on. The examples we studied in the two previous chapters include the action plan on global warming, aboriginal affairs, and reducing organochlorine discharges.

While the CCME is more than a discussion forum, the environmental codes of practices, regulatory regimes and agreements the Council develops, in the end, have no binding authority on the members that created them. Secretariat officials acknowledge, however, that going beyond the voluntary agreement process would increase the risk of conflict between governments and the continued participation of all governments in Council projects. Unfortunately, voluntary means are often not enough to solve persistent environmental problems like ground level ozone and carbon dioxide emissions. Collegial and amiable relationships are ultimately maintained by allowing governments to decide for themselves whether they will either fully, partially, or not accept CCME agreements within their jurisdiction.

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See Canada, Canada’s Green Plan, 132.
The issues that wind up on the CCME policy agenda are also affected by the importance of cooperative decision-making to Council members. Some important environmental issues, like chlorine discharge for example, take a long time getting on the CCME agenda. Other issues, like Canada’s international commitment to carbon dioxide reduction have not progressed beyond the discussion and planning stages. Finally, environmental issues that have been contentious in the past, like CFC production and ozone depletion, receive Council attention and commitment to action only after intense political debate previously surrounding the issue has subsided.

The CCME has also proceeded cautiously on sustainable development issues when the potential for creating future disharmony is evident. Two examples are the Council’s unwillingness to employ any sort of direct enforcement or monitoring requirements on its agreements or, in particular, to ensure that environmental impact assessment legislation, across all jurisdictions and economic sectors, provides thorough consideration for sustainable development practices. Arguably, issues such as enforcement are beyond the Council’s mandate. Yet this issue, environmental assessment, and other issues that threaten the CCME’s pattern of collegial relations are treated with notable hesitancy within the Council.
Conclusion

Coupled with cooperative federalism, the executive federalist style of CCME decision-making has played an important part in building and maintaining cooperative intergovernmental relations. As we discovered in chapter three, the policy agenda of the Council is strongly influenced by the decisions made by environment ministers, their deputies and other bureaucrats; all with assistance from the CCME secretariat. Though individual members and ministers of the CCME frequently change, the organizational culture of cooperation and executive consultation has persisted for close to 30 years. There have been almost no attempts to dramatically change the Council’s focus on cooperation or its policy process because all who have participated in Council activities believe it has been a success. The executive federalist style of decision-making has made the prolongation of intergovernmental cooperation paramount in environment policy design and implementation at the CCME. Maintaining the collegial relations between high level members and governments is as important as harmonizing policy or any other of the CCME’s stated objectives. All CCME action is rooted in an organizational culture motivated by a concern with maintaining cooperative relations. Whether by instruction, desire, or historical peer pressure, individuals associated with the CCME treat cooperation with reverence. Given a
choice, CCME members will generally choose to act on those policies and activities that do not jeopardize what it has taken previous Council members, bureaucrats, and staff many years to build.
CONCLUSION

FROM TODAY TO TOMORROW: PROSPECTS FOR THE CCME

This paper has studied the evolution and activities of the CCME since its inception at the Resources for Tomorrow conference in 1961. The scope of this analysis has been CCME policy and activity since 1988. Chapter one set out the analytical framework on which most of the analysis of the CCME in this paper has been based. Chapter two also briefly reviewed the history of environmental policy in Canada, the concept of sustainable development, and the various policy and institutional responses of governments towards solving environmental problems. Chapter three outlined the rise of the CCRM/CCREM through the 1960's and early 1970's, its subsequent decline after the Man and Resources Conference in 1973 and its resurgence after the 1987 National Task Force on the Environment and the Economy.

The purposes of chapters four and five were to study and evaluate what the CCME has done to promote environmental protection and sustainable development, especially the Council's efforts to harmonize environmental policies. Chapter six looked at federalism and analyzed the importance of cooperative federalism in managing intergovernmental environmental relations. This section of the paper addresses two final questions. First, has the CCME been an effective agent for environmental protection and sustainable development in Canada? Second, what are the future plans and prospects
for the CCME and environmental policy in Canada?

Assessing the Results

Chapter one presented five evaluative criteria on which CCME success would be measured based on a list of council objectives published in the Statement of Interjurisdictional Cooperation on Environmental matters presented in chapter one.

1. Harmonizing environmental legislation and policy:

This has been the most important policy objective of the Council. One of the first tasks taken on by the CCME after 1987 was the harmonization of State of the Environment (SOE) reporting. Despite creating a working group on SOE reporting in 1989, CCME activity in this area has been minimal. To date, only five provinces have implemented SOE reporting procedures.

The CCME record in the field of environmental protection is somewhat better. As we discussed in chapter five, the CCME has developed over a dozen national guidelines and codes of practice for dealing with various environmental protection issues. While many provinces have either endorsed Council guidelines, not all provinces have put them into effect. Chapter five described the two problems with CCME policy in this area. First, environmental protection guidelines deal mostly with highly technical and non-controversial problems. Second, Council guidelines are voluntary and the CCME
possesses no power of strict enforcement. Chapter six described how the preservation of cooperative relations amongst members has been the motivation behind this approach.

2. The development of consistent national standards:

    After the 1987 NTFEE report, the CCME pursued the development of a national conservation strategy. Chapter four highlighted the Council's attempts to implement a national conservation strategy in time for the 1992 UNCED meetings. This attempt failed when not enough provinces established their own programs using the CCME to eventually give up on the idea. The CCME also tried to promote consistent standards in environmental protection regulations. These standards, however, are only voluntary and do not cover the whole range of environmental protection issues.

3. Developing consistent strategies to deal with national and international issues:

    The CCME has made explicit attempts, through its work on the UNCED and post-UNCED agenda, to develop strategies to deal with important international environmental issues. The Council has made international environmental policy a top agenda item. In spite of all the studies, discussions, and forums on international environmental issues, Canada has not stood out in the international community as a model for sustainable development. Global warming, as a national and
international environmental issue, has received a significant amount of attention from the Canadian environmental policy community and the CCME. In chapter five, we discussed how little the CCME has accomplished in this area. Recently, as we pointed out, the Canadian government admitted it would not achieve even the modest reduction targets set out in the Green Plan due to the objections of certain provinces. The CCME has not established any measures that ensure the stabilization of greenhouse gas emissions.

4. Harmonizing Environmental Assessment:

   Environmental assessment, discussed in chapter four, has been one of the CCME's biggest challenges. The 1992 environmental assessment agreement has been seen as an important first step in harmonizing environmental assessment procedures and bringing assessment closer to its proper role in a sustainable development society. Completing the journey, however, will be difficult since a uniform multilateral regime for environmental impact assessment remains unlikely. As well, other fundamental problems with environmental assessment, (eg: their application in a manner consistent with sustainable development), remain outside the effective mandate of the CCME.

   Chapter two discussed how sustainable development has been a key ingredient in Canadian environmental policy
initiatives since the 1987 NTFEE report. Several sustainable development related issues were also raised in chapter two with respect to the activities of the CCME:

6. Rigorous application of assessment procedures:

This issue is the same as the issue raised in chapter one. As we just stated, Canada and the CCME still face significant challenges in the field of environmental assessments. Environmental assessments are still not broadly and rigorously applied as was illustrated in chapter five. The CCME's 1992 environmental assessment agreement does not truly address these problems.

7. Increasing public participation:

The CCME is now making attempts to increase the amount of public participation in its environmental activities. The 1993 Environmental Scan, for example, and the task forces on the National Packaging Protocol and Contaminated Site Liability have tried to include different members of the Canadian environmental policy community. Aboriginal peoples, however, remain noticeably absent. The suggested reason for the anaemic lack of participation from outside interest groups in Council activities was given in chapters four and six. It was argued that the nature of environmental issues tend to be highly controversial and that native/environmentalist negotiating tactics are not congruent with the CCME's
cooperative style of decision-making. Indeed, much of the Council's agenda and decisions are developed and decided by ministers and deputy ministers, in private, consistent with the nature of executive federalism.

8. Overcoming Sectoral Fragmentation:

Overcoming sectoral fragmentation is part of the CCME's larger mission to promote economic and environmental integration. As we saw in chapter four, the CCME has been successful in its work on joint projects with Canadian energy ministers on issues like sulphur dioxide reduction plans. The Council has also been involved in joint projects with nature and wildlife ministers to protect bio-diversity. In other sectors of the economy, there has been little in the way of integration (e.g. agriculture, mining, fisheries, etc.). Another component of environmental and economic integration is bringing environmental concerns into economic trading arrangements; both nationally and internationally. While the CCME has completed several studies on environment and trade, it remains, as we saw in chapter four, far removed from any position of power or influence, especially in terms of monitoring the environmental impacts of agreements like NAFTA and GATT.

A question posed in chapter three, after reviewing the history and structure of the CCME, was what effect has the Council's
organizational culture had on improving environmental protection and promoting sustainable development? The organizational culture of the Council that has emerged throughout the course of this paper is one that emphasizes cooperation and collegiality. This organizational culture has affected what the CCME has chosen to do, as we have seen in each chapter. Chapter six discussed the benefits and drawbacks of this approach to intergovernmental environmental policy-making. On the positive side, the CCME has consistently been able to bring together 13 governments to talk about sustainable development and negotiate environmental protection guidelines. The Council has also been responsible for several conferences and numerous studies on many environmental issues. On the other hand, much of the work on sustainable development has not gone far beyond the study and discussion phase. Meanwhile, many environmental agreements are voluntary and basically unenforceable. It appeared, over the course of this paper, that there were occasions when the CCME chose to act, or not act, based on institutional considerations, the likelihood of disrupting the longstanding pattern of cooperative relations. Confining action to issues and activities that will not endanger harmonious relations effectively narrows the Council's scope of activities.
Future Prospects

As the CCME enters its fourth decade of existence, it, like Canada, faces a number of obstacles in the pursuit of sustainable development. Perhaps even more of a challenge for the country as a whole is the reestablishment of a new environmental agenda within government and society. Since the Rio Conference, government and public attention towards sustainable development issues (excepting perhaps the crises in Canada’s fishing and forestry industries) has declined appreciably. This decline is reflected in reports coming out of the federal Department of the Environment; namely, that Canada’s Green Plan, its plan for sustainable development, is set to expire after only four years.

The Green Plan, in its short history, has been an interesting case study in Canadian environmental politics and sustainable development. Hoberg and Harrison’s recent study of the Green Plan suggests that:

the Plan is strongly weighted towards spending on research and public education, and away from more coercive measures like green taxes or regulation. And while its calls for greater attention to environmental values in federal policy-making, the Green Plan contains few if any threats to the autonomy of other departments or governments...

Our view is that with [the Green Plan’s] heavy emphasis on indirect measures...and the lack of more direct measures of regulation, taxation, and spending on clean-up, the improvements in environmental quality resulting from the plan’s implementation are uncertain, and likely to be quite modest in the foreseeable future. Although the plan purports to strengthen the capacity of government to develop environmental
policies in the long term, there are remarkably few commitments to address the pressing environmental issues we face today.¹

The decline of environmental concern in Canada is consistent with Winfield’s and other analysts assertion that environmental policy development, especially in the provinces, is a "societally driven phenomena".²

For the CCME, environmental issues are the Council’s raison d’etre. The institutional structure and the current work of the Council suggests the organization will not decline as dramatically, at least, as the CCREM did after 1973. The latest issue of the CCME’s quarterly newsletter, Envirogram, highlights some of the Council’s activities. As the environment ministers prepare to meet for the annual conference in Whitehorse in May 1995, the CCME continues to focus on policy harmonization. The Council has recently drafted an agreement to be presented at the ministers meeting with new harmonization initiatives set out for the following environmental management areas: monitoring, compliance, environmental impact assessment, and international agreement. Additional items include: guideline development, legislation and regulation, pollution prevention, emergency response, communication and education, and state of the environment


reporting. 3 Finally, September 1994, an Industry Canada agreement (signed by the provinces and the federal government) on reducing interprovincial barriers took a significant in recognizing the role of the CCME by including the Council in its agreement to harmonize environmental standards. 4

An interesting aspect of the work being done on these issues in the participation of the new National Advisory Group on Harmonization. The purpose of the 16 member group, consisting of industry and environmental representatives, is to provide feedback on the Council’s harmonization efforts. 5 One of the things this group, and other stakeholders, will be asked to do is consider the Council’s plans to effectively decentralize the responsibility for pollution based monitoring to the provinces. The draft documents being prepared for the Council suggests that the provinces should be responsible for enacting industrial pollution regulations while "the federal government takes a stronger role in determining the appropriate monitoring methods and procedures in database management." The draft document also proposed "a nationally


5This Task Group has taken a step towards incorporating the views of aboriginals at Council discussions by including four representatives of the aboriginal community. Canadian Council of Ministers of the Environment, Personal Communication, (Winnipeg, May 1995).

6Ibid. 2.
consistent approach to environmental impact assessments with only one assessment for each project.""}

Those who, like MacNeill, would argue that a strong federal government is essential to ensuring consistent national environmental standards and promoting sustainable development probably disagree with the policy direction of the CCME and the further decentralization of environmental powers to the provinces. Kathryn Harrison suggests that the Council, eleven provinces versus the federal government, put the provinces in a position to resist federal government environmental initiatives’ (as indeed they did in the 1992 Environmental Assessment Act case). Those with a provincialist perspective would argue the CCME is essential to the cause of sustainable development by promoting cooperative relations between jurisdictions, eliminating costly duplication and developing guidelines that are acceptable to all governments involved. Provincialists argue that the federal government capacity to effectively protect the environment is no better, and is in some cases worse, than the provinces.’

The CCME has been an important catalyst in the

Ibid.


negotiation of environmental agreements notwithstanding the weaknesses we have pointed out over the course of this paper. While promoting harmonization and cooperation is essential to developing environmental policy in Canada, it is necessary to perhaps step back and take a brief look at the larger picture of the environmental condition in Canada. In May 1995, the federal government decided to end its State of the Environment Reporting group. Also in May, the Auditor-General of Canada criticized governments' lack of action on cleaning up orphaned contaminated sites as only 11 of 48 high risk sites have been addressed since the plan CCME's 1989 National Contaminated Sites Remediation Program was signed. The Alberta government, meanwhile has just overruled a decision of its National Resources Conservation Board after the protests of business representatives on the Council - a decision Alberta environmentalists said undermined the credibility of the board.

These are just three very recent examples of what amounts to a subtle but sustained attack on the environment. Governments are lapsing back into what amounts to a "the environment is political expendable" attitude. Can the CCME or the promotion of harmonized and cooperative environmental relations between governments reverse this trend? It seems

highly unlikely. Unfortunately, it will probably take another round of environmental crises to bring the environment and sustainable development back on the national political agenda.
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