

The business campaign to prevent Kyoto ratification

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Resources, connections, attentiveness and preferences load the political system in favour of business. Against the odds, when the conspicuous corporation meets the virtuous politician, business loses in the policy struggle.¹

Thus Neil J. Mitchell begins his study of the political power of American business. He uses the May, 1807 vote to abolish slavery in the British House of Commons – taken in the face of strenuous opposition by relevant business interests – as an example of one of the rare instances in which the dominant political power of business momentarily fails. He argues that study of such occasional defeats is valuable for the scholar studying business as a political actor precisely because they are so rare. “The question of why does business fail in the policy struggle is complementary to the question of why does business have so much influence over public policy. Indeed, the question of why business fails only becomes interesting once the considerable political resources of business, and how they translate these resources into political influence, are explicitly recognized.”²

This paper examines another instance in which business lost a battle over policy, also by means of a House of Commons vote, albeit in this case Canadian – the December 10, 2002 vote endorsing this country’s ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change. During the previous year-and-a-half, Canadian business, led by the oil and gas sector in a coalition which included almost all the other manufacturing and resources sectors plus the three broad-based associations which speak for capital as a whole, had mounted its largest effort to date to influence the environmental policy of the government of Canada. It had conducted an all-out campaign to prevent ratification, using both elite-level and outside lobbying, the latter done through paid advertising to convince individual citizens ratification would cost them money and jobs. This lobbying pressure influenced federal climate policy as it evolved to the point of the House of Commons vote, but it failed to achieve its primary objective of preventing ratification. Following Mitchell’s lead, I have not selected the business campaign against ratification because it is representative. It is, however, instructive. Seeking to understand why business intervened as vigorously in the policy process as it did and then, having done so, why it was unable to achieve its policy objective, sheds light on the larger subject of the extent to which Canadian environmental policy is shaped by business influence. Other factors clearly are significant, but environmental policy analysis cannot comprehend its subject without an understanding of the preferences and powers of the regulated industry.

To achieve this purpose, I first set out the theoretical perspective used, which is centred on the view of environmental regulation as an external threat to the ability of

¹ Neil J. Mitchell, The Conspicuous Corporation: Business, Public Policy, and Representative Democracy (Ann Arbor: The University of Michigan Press, 1997), p. 3. As indicated by his title, David Vogel has also used the fact that it changes over time as a means of understanding of the political power of business. See David Vogel, Fluctuating Fortunes: The Political Power of Business in America (New York: Basic Books, 1989)

² Mitchell, The Conspicuous Corporation, p. 7.

business to achieve its goal of generating profit while maintaining social legitimacy. Borrowing from organizational theory, I argue that over the past forty-odd years the firm has had two possible responses to the emergence of this new threat – it can adapt, changing its own values and environmental management behaviour in the manner demanded by the environmentalists and regulators exerting external pressure, or it can intervene, working to change *their* ideas and behaviour. Historically, firms have displayed both responses, often simultaneously. What decides their response? The question is important, both for academic understanding of policy making and for effective practice. I consider two possible explanatory variables, the nature and severity of the external threat and the nature, in terms of such things as corporate culture, of the threatened policy actor.

The other component of the theoretical perspective presented here is the question of what factors determine the success, if that is the response, of a business policy intervention. Again, I consider two factors, first, the political power of the business actor and, secondly, the nature of the policy network in which it is functioning.

This perspective is then used for analysis of the business policy intervention between September, 2001 and December, 2002. The case study findings are that the external threat of unilateral federal ratification was the most severe faced by the oil and gas sector since the Trudeau government National Energy Program of 1981 and, arguably, the most severe environmental policy threat yet faced by Canadian business. This led to a high degree of business organization, in which oil and gas, plus other threatened sectors were joined by the three major broad-based business associations – the Canadian Council of Chief Executives, Canadian Chamber of Commerce and Canadian Manufacturers and Exporters Association. It was also the severity of the external threat which determined the response. In the eyes of business, the cost of compliance was so high it had no choice but to mount a strong policy intervention, intended not merely to delay or weaken regulation but to fundamentally change the federal policy objective from participation in the international Kyoto regime to a continental climate policy, co-ordinated with that of the United States and aiming for a much less ambitious greenhouse gas reduction target, accomplished over a much longer time-frame. Although they may succeed in the years ahead, as Canadian climate policy is implemented through government-business negotiation, they failed in this instance to achieve their policy objective, despite high degrees of organization and motivation. This was because their inherent power, in terms of public support, was insufficient and because they were badly outgunned in the policy network, once federal policy leadership had moved from departments to the PMO and the provinces had been relegated to the outer edges.

The conclusion drawn from this case study analysis is that the choice of adaptation or intervention is determined more by the nature of the external threat than by characteristics of the business actor in question. In terms of the second question, what determines success of an intervention, I conclude that structural and agency power of the business actor are significant, but external factors are more so. In the final section of the paper, I discuss ways in which this perspective might be used to better understand the

variable of business pressure as an important variable influencing the evolution of Canadian environmental policy over the past half-century.

Understanding business as an environmental policy actor

The modern environmental movement which came into being in the 1950s has its origins in both improved scientific understanding of resource depletion and ecological health and changing cultural values respecting nature. The combination generated societal demands for behaviour change on the part of resource and manufacturing industries which had become strong enough by the late 1960s to prompt government action in the form of environmental regulation. Ever since, business has been both coping with the demands of environmentalism and seeking to profit from the new market opportunities it has afforded. The subject here is limited, however, to the ways in which it has sought to cope with and influence the more specific, and pointed, demands of environmental regulators. What follows is a very brief history of the evolution of regulatory pressure upon the firm since the 1960s and of the business response. What is the connection between the two? The remainder of this section lays out the theoretical perspective which I believe is best suited to answer that question and the following section then applies it to the case study examined here.

For the first half of the twentieth century, environmental protection was left almost exclusively to local governments, operating in the aegis of provincial public health policy. Jurisdiction subsequently moved up in response to the demands of environmentalism and by the 1970s federal and provincial governments had established laws governing pollution management and created environment departments to administer them. During the course of the next decade, however, the federal government largely withdrew from a direct regulatory role, focussing instead upon science and co-ordination of provincial efforts. Provincial regulation was done by means of regulator-firm negotiation of both standards and compliance time-tables, with little use of prosecution as an enforcement technique.³

During the 1980s, new issues such as chemical contamination of drinking water, acid rain and stratospheric ozone layer depletion came on the policy agenda, the values of environmentalism moved from fringe to centre, and the political power of the social movement increased. With this came an increase in regulatory pressure, as provincial regulators made greater use of prosecution, both of firms and individual officers, and the federal government, with enactment of the Canadian Environmental Protection Act in 1988, moved at least partially back to a direct regulatory role. This pressure was relaxed, however, during the course of the 1990s. At least on a rhetorical level, the paradigm of environmental policy had been reframed from “polluter pay” to the less adversarial concept of “sustainable development.” Governments were moving to deregulate in the fields of transportation and communications, were balancing budgets by stiff expenditure

³ Kathryn Harrison, Passing the Buck: Federalism and Canadian Environmental Policy (Vancouver: UBC Press, 1996).

reductions and moving toward a new public management style of governance, based on “partnerships” with regulated industries. A number of provinces established bodies charged with review of environmental and other regulations, in order to remove “red tape” burdens on their industries. Voluntarism was added to the collection of environmental policy instruments.⁴

For purposes of this analysis, I classify regulatory pressure upon the firm as either “weak” or “strong.” The difference has to do with both the policy instrument used and the degree of coerciveness with which it is employed.⁵ Use of law exerts stronger pressure than does exhortation to voluntary action. Law employed by a well-funded environment department which actively seeks out non-compliance and prosecutes it when found is stronger still. While imprecise, and recognizing great variances amongst provinces and issue fields, this distinction can be used summarize the history recounted above. The result is provided in Figure 1, immediately following.

Figure 1. Changes in degree of regulatory pressure

strong				x		
					x	x
		x	x			
weak	x					
	1960	1970	1980	1990	2000	2003

In the post-war years, business largely ignored the gathering storm clouds of environmentalism. Although little research has been done, it does not appear that business made any effort to block the initial enactment of environmental law. During the 1970s, it engaged in defensive negotiations with the newly-established environmental regulators, seeking to weaken sectoral or individual-firm pollution standards and to delay their implementation. That posture changed during the 1980s, as environmental values became more firmly established and regulatory pressure increased. The chemical industry moved to establish new, voluntary codes of improved environmental management and more generally business moved to embrace the compromise offered by sustainable development. A number of sectors moved to sign memoranda of agreement with regulators, setting out steps to be taken voluntarily, as an alternative to imposition of new legal requirements.⁶ This evolution of the business response to regulation in the late 1980s and early 1990s can be characterized, using the language of analysts writing on the subject, as a move from “grudging compliance” to “beyond compliance.”⁷

⁴ See Debora L. VanNijnatten and Robert Boardman, eds., Canadian Environmental Policy: Context and Cases (Toronto: Oxford University Press, 2002).

⁵ Douglas Macdonald, “Coerciveness and the selection of environmental policy instruments,” Canadian Public Administration vol. 44, no. 2, summer, 2001, pp. 161-187.

⁶ Robert B. Gibson, ed., Voluntary Initiatives: the new politics of corporate greening (Peterborough: Broadview Press, 1999)

⁷ Carl Frankel, In Earth’s Company: Business, Environment and the Challenge of Sustainability (Gabriola Island: New Society Publishers, 1998), Frances Cairncross, Costing the Earth (Boston: Harvard Business

What are the causal connections between the changes in regulatory pressure and this change in the business response? To what extent was the business move to beyond compliance in the late 1980s a pre-emptive response to increasingly strong regulatory pressure? To what extent was the 1990s relaxation of regulatory pressure, in turn, a response to this change in business practice? If the move to beyond compliance in the 1980s was in fact pre-emptive, why did business not use a comparable strategy to delay or weaken imposition of the regulatory regime at the outset, in the 1970s? Why has it not used it to date to deal with the threat of climate change regulation? To answer such questions, we need a generalized, theoretical understanding of business as an environmental policy actor. It seems reasonable to search for that within the larger theoretical understanding of business-government relations.

Study of the political role played by business starts with the basic fact of the interdependence of state and market. Each needs the other. Market activity generates the wealth which is taxed to finance governments, courts, militaries and other entities of the state. That market activity is only possible, however, because the state solves the collective action problems faced by market actors and provides the physical and legal infrastructure without which the market could not exist and which it cannot provide itself. Business and government need each other and accordingly are in a continual state of reciprocally supportive interaction. They also, however, continually seek to influence the behaviour of the other. Politicians, seeking re-election, work to convince capitalists to invest in their jurisdiction rather than another, while those business leaders, in exchange, bargain for subsidies, laws, training programs and other government actions which will help them achieve their market goals. As they seek to influence business behaviour, governments have available an extensive array of policy instruments – carrots and sticks in a variety of sizes and flavours. As they seek to influence decisions made by governments, business leaders face the challenge of “translating economic power into political power.”⁸ To accomplish that, they too use carrots and sticks – promising to provide or threatening to withhold investment and related job creation, financial support for political parties and individual candidates, public support or condemnation of government policy. Setting aside for the moment the question of the *sources and extent* of business political power – what determines the ability of business to influence policy - there are basically only two *means* by which business can influence a given policy decision. These are elite-level, inside lobbying, largely done in secret as business leaders communicate their wishes to elected and appointed officials, and outside lobbying, done through advertising, media influence, financial donations or other means used to engender political support for the business policy objective amongst particular constituencies or the public at large.

In today’s capitalist societies, organized primarily on the basis of neoliberal ideas and dedicated to material consumption, business, not surprisingly, is the dominant

School Press, 1991) and her later work, Green Inc: A Guide to Business and the Environment (Washington, D.C.: Island Press, 1995)

⁸ Mitchell, The Conspicuous Corporation, p. 3.

political actor.⁹ It has more influence upon government policy than other classes, social movements, organized pressure groups or institutions. Nevertheless, this power is qualified in two ways: (1) it is not absolute, but instead is to at least some extent shared, both with somewhat autonomous government agencies and other societal actors and; (2) it varies over time, as a result of changes in the relative sharing of political power. Two examples illustrate these related points. From the mid-nineteenth century through to the post-war era, labour successfully used its political power to gain a system of law which allowed it to organize and negotiate a sharing of profit with capital. The political power of capital relative to that of labour declined over that hundred-year period, but since the 1950s has been to some extent restored. Secondly, the advent of the new social movements in the 1950s and '60s resulted in an extension of regulatory influence upon business activity in a variety of areas, including occupational health, product safety, hiring, and environmental protection. Since then, however, we again see variance - the political power of business relative to social movements and government regulators has since increased.

The perspective I present here, which assumes that political power is both shared and varies, is based in pluralism. Accordingly, the units of analysis are state and non-state policy actors (groups, organizations or individuals) pursuing their interests, both material and psychological, within a context of the institutions which channel that process. The other essential variable is ideas, both empirical understanding of reality and norms. The policy actor of concern here, "business", is conceptualized by Brooks and Stritch as a set of nested boxes, from the most inclusive, capital, through successive stages of industrial sectors, single firms and the individuals within a given firm.¹⁰ The unit of analysis is important both for analytical precision and because, presumably, to the extent that business actors can act in concert as they engage with governments they increase their political power.¹¹

All of these nested actors are engaged primarily in the production process, and for the most part engage in political activity only as required to do so as a means of achieving that original goal. There is another business actor, however, for whom political activity is the basic *raison d'être*. This is the trade association, a non-profit entity created, funded and managed by firms, usually on a sectoral basis, whose function is to both provide services to the firms and to lobby governments on their collective behalf. Trade associations can also play a quasi-governance role, participating with governments in program delivery or acting as proxies for government to regulate the behaviour of member firms.¹²

⁹ See Mitchell, The Conspicuous Corporation, Stan Luger Corporate Power, American Democracy and the Automobile Industry, (Cambridge, UK: Cambridge University Press, 2000), and Stephen Brooks and Andrew Stritch, Business and Government in Canada (Scarborough: Prentice-Hall, 1991) for discussions of the way in which social scientists see business political power.

¹⁰ Ibid.

¹¹ For a study of the connection between business unity and political power, see Mark A. Smith, American Business and Political Power: Public Opinion, Elections, and Democracy (Chicago: The University of Chicago Press, 2000).

¹² William D. Coleman, Business and Politics: A Study of Collective Action (Kingston and Montreal: McGill-Queen's University Press, 1988).

A given firm must continually decide whether it will rely upon the lobbying efforts of the trade associations or instead spend time and money lobbying directly on its own behalf. This is seen by analysts as a principal-agent problem. Generally, it is assumed firms work with their competitors to engage in joint political activity when they share a policy objective and lobby separately when their political interests are in conflict.¹³ An aspect of the trade association as lobbyist which requires further study is the internal process by which the policy objective is determined. It seems reasonable to assume democratic power is shared as unequally within the trade association as it is in the society at large and that large firms, which provide a greater portion of the association annual budget, work to steer its political activity to their benefit and to the detriment of smaller firms, but this has not been the subject of extensive study.

Another agent potentially available to the firm is the “public affairs” consulting firm, which offers policy advice and access. As we have seen, National Public Relations played that role during the Kyoto campaign. The use of paid lobbyists raises the same issues for policy analysis – what prompts firms to join with others to hire such agents or to use their own, in-house expertise and directly lobby themselves? Secondly, in the case of either trade associations or contract lobbyists, do these agents exercise any autonomous influence in the policy process? Principal-agent theory suggests they will, for instance by giving policy advice to their clients which serves their own economic interests (for instance, the need to make further use of their services) but this has not been extensively studied.

Although institutions and ideas are important variables in policy analysis, the focus here is centred upon the business actors who engage in political activity – capital, the firm, and the firm’s policy agents. To understand their influence upon a given environmental policy process, we must determine first which of them are in a position to influence the policy decision (the composition of the policy network) and, secondly, what objective they hope to achieve as they attempt to do so. What determines the environmental policy interest of business? The answer is not self-evident, since firms may seek to avoid or weaken environmental regulation, or may invite it, as a means of imposing costs upon competitors.¹⁴ It is fair to say, however, that the policy interest is subsidiary to and largely determined by the market interest of the firm. Firms want governments to provide them with infrastructure, give them money, trained staff, regulatory relief, regulation which imposes costs upon competitors or other things, in light of the way in which the firm believes such policy will contribute to its market goals. In addition to market and policy interests, however, the firm also pursues another objective - legitimacy in the eyes of those outside the firm and of managers as they gaze upon their image reflected in the mirror, in the cold light of morning. Legitimacy is sought for this reason, *amour propre*, and also because it is a source of authority and

¹³ Brooks and Stritch, *Business and Government*, pp. 225-226.

¹⁴ Douglas Macdonald, “The Environmental Policy Interest of the Regulated Firm,” paper delivered at the annual meeting of the Canadian Political Science Association, May 31, 2002.

power, in the arenas of both the market and state.¹⁵ The search for legitimacy also influences the policy interest of the firm.

In the majority of business-government dealings, the policy interest pursued by the former is self-generated, flowing directly from its market activities. Business is the first mover when it approaches government to ask for subsidy or regulation which gives it cartel-type benefit. In the case of environmental policy and other forms of social regulation, however, business is *reacting*. Government is the first mover, having been prodded by environmentalists. This leads to the next, and most important, theme in the theoretical perspective suggested here which is the range of reactive responses available to business as it negotiates with environmental regulators.

Some branches of organizational theory seek to understand organizational behaviour by looking not so much at the entity itself, in terms of internal organization or culture, but at the way in which it interacts with its external environment. Hatch uses the term “resource dependence theory” to refer to the fact that organizations rely upon their external environment for material, financial and other inputs and are also dependent upon the goods and services it provides.¹⁶ She goes on to discuss the ways in which this recognition of the importance of the external environment as a variable influencing organizational behaviour has led to both theories of population ecology, in which ability to adapt to new environmental demands determines rates of survival of organizations, and to recognition of the fact that organizations must adapt not only to changing material conditions but also to changing external values which potentially threaten the social legitimacy of the organization.¹⁷ While adaptation to external change is the primary component of this perspective, Hatch notes that the organization is not completely powerless.

The basic argument of resource dependence theory is that an analysis of interorganizational relations within the network of the organization can help managers to understand the **power/dependence relationships** that exist between their organization and other network actors. Such knowledge allows managers to anticipate likely sources of influence from the environment and suggests ways in which the organization can offset some of this influence by creating counter-dependence.¹⁸

¹⁵ Alfred A. Marcus, Allen M. Kaufman and David R. Beam, “Introduction: The Pursuit of Corporate Advantage and the Quest for Social Legitimacy” in Marcus, Kaufman and Beam, eds., Business Strategy and Public Policy: Perspectives from Industry and Academia (New York: Quorum Books, 1987).

¹⁶ Mary Jo Hatch, Organization Theory: Modern, Symbolic and Postmodern Perspectives (Oxford: Oxford University Press, 1997) pp. 63-100. The primary work she refers to for resource dependency theory is Jeffrey Pfeffer and Gerald Salancik, The external control of organizations: A resource dependence perspective (New York: Harper and Row, 1978).

¹⁷ Hatch, Organization Theory. She refers here to works such as Michael T. Hannon and John H. Freeman, “The population ecology of organizations,” American Journal of Sociology, 1977, 82, pp. 929-64 and Richard W. Scott, Organizations: Rational, natural and open systems (Englewood Cliffs, N.J.: Prentice-Hall, third edition 1992).

¹⁸ Hatch, Organization Theory, p. 78. Emphasis in original.

In their study of the way in which the U.S. cigarette industry coped in the 1950s and 1960s with the new scientific understanding that the product they sold was deadly to the user Miles and Cameron used a similar perspective.¹⁹ Their theoretical perspective was based in an attempt to understand how organizations adapt to external change, but then added the recognition that organizations also seek to *influence* their external environments – to create counter-dependence, in Hatch’s language. “Virtually no attention is paid by these theorists to the possibility that organizations, individually or collectively, may influence the environments upon which they depend for their effectiveness and persistence.”²⁰ Finally, they included the need of the organization for social legitimacy. They argued organizations search for legitimacy in the face of changing external norms in three ways – by changing their own behaviour to adapt; by changing the external norms; or by seeking to have their behaviour identified with other, more legitimate norms. Their case-study of the cigarette industry examined all three industry responses to new views of the product which had been successfully marketed throughout the century: (1) changing product design, to introduce “safer” filter-tip cigarettes; (2) lobbying governments in order to change regulatory behaviour governing cigarette advertising; and, (3) marketing their product to associate it with traditional, prized values of individual freedom and responsibility on the part of those who smoke.

The theoretical perspective presented here for understanding business participation in environmental politics draws upon these branches of organization theory. It sees the emergence of modern environmentalism in the decades after the war as an external threat to resource and manufacturing industries strong enough that by the 1960s they had suffered a loss of legitimacy and were consequently subject to regulatory demands for costly changes in environmental management and product design. Those industries had available two possible responses, adaptation (changing their own environmental management behaviour) or intervention (changing the behaviour of those posing the external threat). As discussed above, historically those industries have responded in both ways. In the market, they have adapted by offering new “safer” products and have intervened by green marketing which seeks to associate existing products with new environmental values. They have also intervened in the market and civil society by advertising intended to change their image, regardless of actual behaviour. The subject of interest here, however, is the ways in which they have adapted and intervened in the political arena.

There, the external threat was posed by environmental regulators, setting and enforcing new laws governing environmental behaviour, and firms have again displayed both adaptive and interventionist responses as they coped with new or threatened regulatory demands. Each approach has taken two forms. Adaptation to regulatory demands since the 1970s has taken the form of simple compliance. (Recognizing that the

¹⁹ Robert H. Miles with Kim S. Cameron, *Coffin Nails and Corporate Strategies* Englewood Cliffs, N.J.: Prentice-Hall, 1982. Their analysis and the example of the threatened cigarette industry led me to the perspective used here. See Douglas Macdonald, “The Business Response to Environmentalism,” in Debora L. VanNijnatten and Robert Boardman, eds., *Canadian Environmental Policy: Context and Cases* (Toronto: Oxford University Press, 2002).

²⁰ Miles with Cameron, p. 11.

firm will have played an active role in negotiating the environmental standards being complied with.) During the 1990s, however, some firms have adapted by improving environmental management “beyond compliance” – the greening of business which is presented as the justification for use of voluntarism to supplement regulation as a policy instrument. Alternatively, they have intervened in the policy process. The first sub-set of an interventionist response is an exaggerated form of the usual firm-regulator negotiation of standards referred to above. Examples are the pulp and paper and smelting sectors which by and large throughout the 1970s and early 1980s managed to delay and weaken imposition of new regulatory standards. In contrast to that response, termed here “weak intervention” some firms and sectors have made “strong” interventions in the policy process, seeking not only to change severity of standards but to go further and change the policy objective sought by environmental regulators. The most successful strong environmental policy intervention to date has been the soft-drink industry has led governments to abandon to force the industry to sell its product in re-usable containers and instead settle for recycling of pop cans. These four possible responses to the external threat of regulatory pressure are presented, with an example for each, in the table below.

Table 1. Possible responses to regulatory pressure

Adaptation	
. compliance	pulp and paper sector today
. beyond compliance	1980s chemical industry Responsible Care more generally, greening of business early 1990s
Intervention	
. weak	pulp and paper sector 1970s
. strong	1980s soft-drink industry curbside recycling support chemical industry CEPA lobbying, 1999

Although they are neatly separated here, experience shows firms often respond simultaneously in more than one of these ways while negotiating with environmental regulators. As noted, firms fully intending to comply nevertheless bargain to influence standards while doing so. More significantly, analysts have long recognized that “voluntary” adaptation is intended to forestall new regulatory requirements. This is a recognized and valid policy process, whereby governments address a problem by first asking the relevant business sector to itself improve its performance, only using law to mandate behaviour change if necessary. Nevertheless, it means “beyond compliance” adaptation can in fact be considered a form of intervention. Although the walls separating the four boxes in the figure above are not completely watertight, the model accurately depicts the range of available responses to environmental regulation.²¹

²¹ The one response missing is non-compliance, defined as a deliberate decision to engage in illegal environmental behaviour. In some cases, it is an element in the weak intervention response, recognized by both parties as part of the bargaining with regulators. Ideally, given sufficient space and time, it could be incorporated into this model.

What determines which response is displayed by a given firm, sector or business as a whole? To answer this in a manner consistent with the theoretical perspective being developed here, we must return to the conceptualization of the regulated firm as an organization coping with external change in the external environment upon which it is dependent, but over which it has at least some influence. Business and government need each other and continually influence each other, as do the smaller agents embedded in each, the regulated firm and the regulatory department. The essence of regulation is firm-department negotiation. The answer then, if we wish to use this approach, must lie either in the nature of the regulatory threat or of the regulated firm.

The hypothesis to be explored here is that the choice of response is determined, first and most importantly by the severity of the external threat, as seen by the regulated industry. It is assumed that the industry acts in a rational manner to calculate, first, its own policy interest, including the search for legitimacy, and, secondly, the cost of compliance with the regulatory demand. When the firm's own policy objective is not completely at odds with that of government (for instance, when environmental performance can be enhanced through increased efficiency, generating long-run cost savings) and the cost of compliance is relatively low, adaptation is likely to be the response. When the cost is higher, however, the firm is motivated to intervene.

Many factors come into play in calculating that cost, including the question of whether competitors will be asked to undertake comparable behaviour change. At the risk of gross simplification, however, a distinction can be made between regulation intended only to improve the firm's management of its pollution by-products and that which is intended to significantly influence either use of a manufacturing input, product design or existence of the product itself (product bans, such as alcohol prohibition or DDT). Because they carry a greater potential cost to the company, they are seen here as a more severe threat. The second element of regulatory severity is the ability of the regulator to fully implement the regulatory demand. This is seen here as the relative political power of regulator and regulated firm, which is determined by a number of factors, including policy instrument used, staffing levels, expertise, morale and motivation of the regulator, plus position of the regulator within the hierarchy of the relevant government. Thus, a severe threat is defined as one which will result in a higher cost than simply improved pollution management and which is seen by the firm as likely to be fully implemented.

Turning to the second variable, are some firms or sectors more likely to intervene than others, regardless of the nature of the external threat, perhaps due to a culture of aggressiveness in dealings with governments? In the environmental policy field, some analysts have explored factors which might account for the fact that some firms have gone further in "beyond compliance" voluntary improvements in environmental performance than others.²² This is attributed to different market strategies or corporate culture, as influenced by personal values held by the CEO. No research has been done, however, on connections between such differences in environmental management and

²² See Andrew J. Hoffman, Competitive Environmental Strategy: A Guide to the Changing Business Landscape (Washington, D.C.: Island Press, 2000).

corresponding policy responses. As discussed below, the case study findings indicate this variable is less significant than the nature of the external threat.

The second research question explored here is what factors determine success or failure of a policy intervention? This is, of course, a central question for political science and policy analysis and there is a considerable literature on the workings of pressure groups.²³ The approach suggested here relies upon that literature, but does so from the same perspective as that described above, focussing upon the relationship between the organization and its environment. I pose here the same question as that asked with respect to the response of adaptation or intervention – does the degree of policy influence stem primarily from characteristics of the business actors lobbying government, or from factors external to them? In terms of the first, I would suggest three factors are most important: (1) degree of business organization; (2) degree of motivation; (2) structural and agency power of the business actors involved. The second, of course, contains a multitude of possibly relevant factors: the institutional framework; scientific understanding of the problem; social construction of the problem by environmentalists and the related factor of political power held by environmentalists; political power of the regulatory agency, and so on. Without denying the importance of such factors, I focus here upon the one consistent with the organizational theory perspective used – the distribution of power in the immediate regulatory environment, the policy network. What follows is a brief discussion of these factors intrinsic and extrinsic factors.

intrinsic to the actor

There is agreement that social power increases with organization, defined as ability to impose internal discipline.²⁴ The military uses its hierarchical powers to concentrate force in space and time. Michels and other analysts have found that organizations routinely trade away internal democracy in order to increase effectiveness, that is power to influence the external environment.²⁵ As noted above, business is viewed as nested boxes of capital, sector, firm and individuals within the firm. In the case study examined here, all four levels were engaged in the effort to influence federal climate policy, making similar arguments and joined in a formal coalition. Nevertheless, this high degree of organization did not produce policy success. Why? This case study finding seems to support the argument of Smith, in that Kyoto ratification was what he defines as a “unifying” issue – one which is salient, partisan and ideological and which for that reason excites the interest and political activity of business opponents, such as labour and social movements, in a way that more low-key issues, relevant only to a given sector or firm, do not.²⁶ It also must be pointed out that in Smith’s analysis degree of organization

²³ The perspective I offer here is in accordance with that found in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities and the Problems of Governance,” in Laurent Dobuzinkis, Michael Howlett and David Laycock, eds., Policy Studies in Canada: The State of the Art (Toronto: University of Toronto Press, 1996).

²⁴ John Kenneth Galbraith, The Anatomy of Power (Boston: Houghton Mifflin, 1983).

²⁵ Roberto Michels, Political Parties: a Sociological Study of the Oligarchical Tendencies of Modern Democracy (New York: Free Press, 1949).

²⁶ Mark A. Smith, American Business and Political Power (Chicago: University of Chicago Press, 2000).

varies with the nature of the issue and associated regulatory threat, reinforcing the importance of that variable.

Secondly, degree of motivation is recognized as a factor influencing power. The degree of motivation of the actor determines the willingness to commit resources to the struggle and to endure pain without conceding. This variable is also central to understanding collective action, in which those bearing concentrated cost are assumed to be more motivated, and therefore more willing to engage in political conflict, than those receiving the dispersed benefit. It would appear that in this case the business actors were highly motivated but nevertheless lost the battle, again, supporting the notion that external factors carry greater weight.

The two remaining variables are structural and agency power. Structural power can be defined as that which is inherent to business, that power which business holds already, before taking any overt action to influence policy. Agency power, by distinction, is that which results from such action, defined here as some combination of inside and outside lobbying. Luger points to the way in which structural political power, in the first instance, flows from economic power. "In simple terms, corporate officials can choose not to use their capital, or to relocate it, or they can simply threaten to do those things."²⁷ Since governments want business to invest, they are structurally, or inherently, dependent.

Structural power also flows, however, from the context of ideas – what Brooks and Stritch refer to as the "culture of dominance" by business.²⁸ A capitalist society dedicated to material consumption readily cedes power to those who have capital to invest. One important aspect of this cultural power which flows from dominant ideas is the public views of the legitimacy of business as a social institution. Analysts of business-government relations point to the loss of business legitimacy, particularly in the 1960s, as a factor explaining the decline in business power relative to government regulators. Wilson tells us: "Whereas in 1968 70 percent of the public said they thought business tries to strike a fair balance between profits and the public interest, by 1976 only 15 percent had those views."²⁹ Vogel's approach to understanding changes in business political power takes the variable of public confidence as being central.³⁰ Smith gives us this picture of polling data on changes in U.S. public confidence in corporations, which he sees as the inverse of public attitudes toward the ideal size and role of governments.

He presents three types of policy issues: (1) unifying; (2) conflictual, in which business actors pursue competing policy objectives; and, (3) particular, in which policy is of concern only to a given firm or sector.

²⁷ Luger Corporate Power, p. 23.

²⁸ They point to three sources of cultural dominance: (1) the belief that market activity, which is private, is to some extent outside the purview of government; (2) the values which inhere in the corporation; and, (3) materialism. They use the term "structural" to refer only to the economic power pointed to above, to distinguish it from cultural power. Brooks and Stritch, Business and Government, pp. 16-24.

²⁹ James Q. Wilson, "The Corporation as a Political Actor," in Carl Kaysen, The American Corporation Today (New York: Oxford University Press, 1996), p. 421. Wilson cites Seymour Martin Lipset and William Schneider, The Confidence Gap (New York: Free Press, 1983).

³⁰ Vogel, Fluctuating Fortunes.

Following fluctuations in the 1950s and 1960s, public attitudes toward corporations turned increasingly sour from 1968 to 1976. ... [then] moves toward the positive end of the scale during the 1980s before reversing course in 1990. Public attitudes then flow substantially toward unfavourability during the 1990s, falling back to the levels of the 1970s.³¹

Finally, it is assumed that agency power, efficacy of inside and outside lobbying, is a variable which must be considered. Two factors are significant, the first being the arguments made and the extent to which those are congruent with dominant social ideas. Secondly, the resources committed, both staff and money used to hire agents, presumably will have some relationship to influence.

extrinsic

As noted, space does not permit discussion of all potentially relevant factors external to the firm. In keeping with the approach used here, only one is considered – the political power of the regulator, which I suggest flow from both its position and support within the relevant government, from alliances with other network actors and the structural variable of degree of public confidence.

We now use this approach to examine the business campaign to stop Kyoto ratification.

The business policy intervention to block ratification

Three research methods were used for this case study research: (1) review of relevant secondary literature and newspaper accounts, primarily from The Globe and Mail; (2) review of all publicly available documents generated during the campaign by the four business actors studied, available on their websites; and, (3) a limited number of interviews. These methods provide a comprehensive picture of the outside lobbying campaign. They give only glimpses, however, of the elite-level, inside lobbying effort. More interview research is needed to complete that picture.

The objective of the business campaign, as described above, was to pressure the federal government into abandoning the international Kyoto regime, which imposes an absolute cap on total annual Canadian emissions, and instead develop a policy co-ordinated with the American approach, which would work only to reduce the ratio of energy us to production. Thus the business campaign was an attempt to significantly change the policy objective and is characterized as a strong policy intervention. As noted, business involvement with federal climate policy is far from over. One distinct phase in the policy process, however, clearly ended with the failure of business to win the Commons vote on December 10. This case analysis, accordingly, is structured by means of two research questions: (1) why did business respond with a strong intervention, rather than one of the other three possibilities?; and, (2) why did that strong intervention fail to change the federal policy objective? Before attempting to answer those questions, I first

³¹ Smith, p. 101.

provide a chronological account of federal policy as it evolved since 1988, briefly review the role of the provinces and of environmentalists and then provide a short history of the business campaign.

Canadian federal government climate policy dates back to 1988, when then Prime Minister Brian Mulroney helped put the issue on the international policy agenda at the “Toronto conference,” co-hosted by his government. Two years later, his government made a unilateral commitment to stabilize greenhouse gas emissions, primarily carbon dioxide emitted during combustion of fossil fuels, by the year 2000 and then in 1992 quickly moved to ratify the United Nations Framework Convention on Climate Change (UNFCCC).³²

As an international issue requiring a national response, federal policy then unfolded within the framework of federal-provincial diplomacy, managed jointly by the two relevant secretariats, the Canadian Council of Energy Ministers and Canadian Council of Ministers of the Environment. Periodic meetings of energy and environment ministers are referred to as the Joint Meeting of Ministers (JMM). In 1995, the two levels of government announced the National Action Program on Climate Change, which relied primarily upon the instruments of funding for technological development and a system for public reporting of plans for energy-efficiency emission reductions on the part of business firms and other large institutional actors – the Voluntary Challenge and Registry and its Quebec counterpart, ÉcoGÉSté. At the cabinet meeting on December 3, 1997, the same day as the start of the conference of UNFCCC parties at Kyoto, Japan, the federal government for the first time staked out a unilateral policy position, at odds with that announced by the JMM on November 12. (The JMM, with the exception Quebec, had agreed to keep the stabilization goal but move the target date from 2000 to 2010; the federal cabinet instead instructed its diplomats at Kyoto to commit to a 3% reduction by the time. At the end of the Kyoto meeting, Canada agreed to a 6% reduction.)³³

From early 1998 to fall, 2000, the federal-provincial JMM process engaged in a major consultative exercise on ways in which Canada might meet its Kyoto commitment. Despite the failure to date of the instruments of subsidy and voluntarism, no governments publicly discussed the possible use of other measures, such as fossil-fuel taxation or law mandating new building and machinery energy-efficiency standards. During that period Canada worked closely with the United States, Japan, Australia and New Zealand at UNFCCC meetings to stall the development of the Kyoto regime. It also bargained internationally for a reduction in its Kyoto commitment by something like one-third.³⁴ It was the partial success of those international negotiations which sparked the next unilateral federal policy departure.

³² Douglas Macdonald and Heather A. Smith, “Promises made, promises broken: questioning Canada’s commitments to climate change,” *International Journal*, winter, 1999-2000, pp. 107 – 124.

³³ *Ibid.*, p. 114.

³⁴ Canada sought credit for both sinks which capture carbon and export of less carbon-intensive natural gas to the U.S., resulting in a reduction there of 60 million tonnes (MTs) of greenhouse gas emissions a year.

At the July, 2001 meeting of UNFCCC parties in Bonn, Germany, it was agreed that Canada and other countries could count carbon stored in trees and soils (sinks) as part of its reduction effort. Prime Minister Chretien then stated that “open[s] the way for its [the Protocol] ratification by Canada in 2002.”³⁵ Shortly afterward, he and his Environment Minister, David Anderson, indicated they hoped to ratify by June 1, 2002. In May, 2002, the government released the document *Discussion Paper on Canada’s Contribution to Climate Change*.³⁶ That document was the first clear indication that any Canadian government was willing to give primacy to policy instruments other than voluntarism. It also, for the first time, laid out a vision of unilateral federal policy, using a suite of instruments ranging from exhortation to spending to law, which could be used without provincial involvement.

More consultations were held in June. The premiers, at their annual meeting, on August 2 called for a first ministers meeting prior to any decision on ratification. The Prime Minister did not respond and instead announced, on September 2, that the House of Commons would vote on ratification before the end of the year. On October 24 the federal government released a draft climate plan and the plan itself was then released on November 21. The House of Commons approved ratification on December 10 and Minister Anderson then flew to New York to sign United Nations ratification document. Shortly afterward, the Prime Minister released a statement saying that: “By ratifying the Kyoto Protocol, we are part of an international effort to address an issue that knows no boundaries and affects us all.”³⁷ On December 18, without, apparently, prior agreement by Environment Canada or the federal cabinet, Minister of Natural Resources Herb Dhaliwal gave a commitment that his government would subsidize any greenhouse gas reduction costs borne by industry above \$15 per tonne and that the total reduction required by the oil and gas sector would not exceed 15% below business as usual expectations for 2010.³⁸ This process is summarized in Table 1, following.

Table 1. Federal climate policy, 1988 - 2002

. August, 1988, federal government co-sponsors Toronto conference	. summer, 1998 JMM multi-stakeholder consultations begin
. 1990, federal government announces unilateral stabilization objective	. October, 2000 JMM announces National Business Plan; federal government announces Action Plan
. December, 1992, federal government ratifies UNFCCC	. July 26, 2001, Prime Minister indicates Canada will ratify
. 1993 Liberals elected, Red Book promise of 20% reduction below 1990 levels	. May 15, 2002 Government of Canada <i>Discussion Paper</i>

³⁵ Andrew Bjorn et al, Ratification of the Kyoto Protocol: A Citizen’s Guide to the Canadian Climate Change Policy Process (Toronto: Sustainable Toronto, U. of T., Sept. 21, 2002), p. 49.

³⁶ Government of Canada, *Discussion Paper on Canada’s Contribution to Climate Change* undated. Accompanying news release May 15, 2002.

³⁷ Statement by the Prime Minister, December 16, 2002, Prime Minister’s website.

³⁸ Dahliwal to CAPP; Hugh Winsor stated that this “guarantee I am reliably informed was the brainchild of Natural Resources Canada and Environment Canada but not blessed by cabinet until after the fact.” The Globe and Mail, December 20, 2002. Other observers go further and say that Environment Canada was not consulted: personal communication, Dr. Keith Stewart, Toronto Environmental Alliance, March 11, 2003.

<p>. Feb. 29, 1995, federal-provincial National Action Plan on Climate Change</p> <p>. Nov. 12, 1997, JMM decides Canadian position at Kyoto should be stabilization</p> <p>. Dec. 3, 1997, federal cabinet decides position will instead be 3% reduction</p> <p>. Dec. 10, 1997, Canadian representatives at Kyoto agree to 6% reduction</p>	<p>. October 24, 2002 Government of Canada <i>Draft Plan</i></p> <p>. November 21, 2002, Government of Canada, <i>Climate Change Plan</i></p> <p>. December 10, 2002, House of Commons approves ratification</p> <p>. December 18, 2002 Minister Dahliwal gives \$15 per tonne and oil and gas 15% commitments</p>
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Prior to 2001, federal policy had been developed primarily within the framework of the JMM process, in close consultation with the provinces. Environment Canada and Natural Resources Canada were the two lead federal departments. Co-ordination with other federal departments, such as Finance, Foreign Affairs and Trade, Transport, Agriculture, was provided by the federal Climate Change Secretariat and ad hoc committees of deputies and ministers.³⁹ During the period from July, 2001 to December, 2002, that process changed in two ways. Within the federal government, particularly in the fall of 2002, the lead policy development role moved up from the two departments to the Prime Minister’s Office and Privy Council Office.⁴⁰ In the policy network as a whole, illustrated in Figures 1 and 2, below, the provinces were increasingly moved to the sidelines as the federal government developed the unilateral policy set out in the November 21, 2002 plan.

While the bland communiqués issued at the conclusion of JMM meetings gave an appearance of provincial unity, the reality of very different policy positions became apparent in February, 2002.⁴¹ At a press conference during a trade mission to Russia, Alberta Premier Ralph Klein presented the Prime Minister with a letter purportedly signed by all provinces except Quebec, stating that a detailed, national plan must be developed before Kyoto could be ratified. Manitoba and PEI soon after joined Quebec in disassociating themselves from the letter.⁴² During the course of 2002, Alberta and

³⁹ Citizen’s Guide; Debora VanNijnatten and Douglas Macdonald, “Reconciling Energy Policy and Climate Policy: How Ottawa Blends,” in G. Bruce Doern, ed., How Ottawa Spends: 2003-03 (Toronto: Oxford University Press, forthcoming).

⁴⁰ Personal communications Keith Stewart, March 11, 2002, Jason Myers, CME, March 12, 2003.

⁴¹ For a listing of all JMM meetings and decisions made at each, see Citizen’s Guide. Quebec refused to sign the communiqué issued March 28, 2000 to protest lack of action. Quebec then signed the next communiqué, October 17, 2000 but Ontario did not, because, apparently, it was concerned by the lack of coercive instruments included in the national program announced at that meeting. (The Ontario government has not yet made use of such instruments itself, within that province.) Alberta then refused to sign the May 21, 2002 communiqué, apparently in protest at the JMM refusal to publicly present the “Alberta plan” along with the federal *Discussion Paper* in consultations. All provinces signed the October 28, 2002 communiqué.

⁴² Guide, p. 61.

British Columbia led the provincial opposition to federal ratification, with Ontario, less vocally, supporting that position. Alberta developed its own version of a national plan and then began to study options for legal action to prevent federal ratification.⁴³ In September, 2002, the Alberta government spent something like \$1.5 million on anti-ratification advertising in that province.⁴⁴ Quebec and Manitoba were the provinces most in favour of ratification. At the JMM meeting in Halifax on October 28, 2002, all provinces agreed, however, to a statement saying the federal plan, released in draft form on October 24 was inadequate; that a national plan was needed; and supporting the call by the premiers issued August 2 for a first minister's meeting "prior to any federal decision on ratification."⁴⁵ A news report indicates that the Prime Minister and Nova Scotia Premier John Hamm discussed the issue early in November.⁴⁶ This does not mean, however, that the November 21 Climate Plan was a federal policy developed within the framework of federal-provincial co-ordination, as was the case with the October, 2000 Action Plan. The provinces played no role in development of the November 21 plan.⁴⁷

Environmentalists, not surprisingly, consistently supported Canadian ratification. Their policy interventions consisted of analysis attacking the business predictions of major job losses associated with climate policy, an on-going media presence and on one occasion a full-page newspaper ad supporting ratification.⁴⁸ A strong body of backbench Liberals also supported ratification, publicly saying so in a letter signed by 97 Liberal MPs, released August 27, 2002. The NDP and Bloc Québécois also supported ratification, while the Alliance and Conservative parties were opposed.

Concern over federal ratification dominated the annual meeting of the Canadian Chamber of Commerce on September 18, 2001, resulting in adoption of a resolution demanding that ratification be delayed until a detailed, national plan had been developed.⁴⁹ The fact that the issue had moved from the sectoral level to that of capital as a whole was indicated by a letter sent September 28, 2001, to the Prime Minister by the Council of Chief Executives of Canada, the two other broad-based associations and sectoral trade associations. A similar letter was sent February 19, 2002.⁵⁰ CAPP and the three broad-based associations released detailed briefs at different times in 2002, as indicated in Table 2 below.⁵¹ The Canadian Coalition for Responsible Environmental Solutions (CCRES) was created in the summer of 2002, and issued its first press release

⁴³ Citizen's Guide, p. 63, citing news item in the National Post, March 19, 2002. Mike Byfield, "A question of sovereignty," The Report, October 21, 2002.

⁴⁴ Keith Brownsey, "The World Changed Forever: Alberta's Oil and Gas Industry in a Post-Kyoto World," paper delivered at the Carlton University Conference on Sustainable Energy, October, 2002, unpaginated.

⁴⁵ Provincial and Territorial Statement on Climate Change Policy, October 28, 2002, website, Canadian Intergovernmental Conference Secretariat.

⁴⁶ Shawn McCarthy, "Hamm announces 'mini-breakthrough' in Kyoto discussions," The Globe and Mail, November 11, 2002.

⁴⁷ Personal communication, Mr. Sean O'Dell, Large Industrial Emitters Group, NRCan, Feb. 12, 2003.

⁴⁸ See Citizen's Guide; the advertisement was carried in The Globe and Mail November 7, 2002.

⁴⁹ Personal communication, Robert Redhead February 4, 2003.

⁵⁰ Possession of the author. I have not seen the September 28, 2001 letter but it is referenced in that of February 19, 2002.

⁵¹ All are available on the relevant websites. Abbreviated titles are used in the table.

and statement of principles for a made-in-Canada plan on September 26. As indicated below, CCRES then periodically issued further news release comments to the effect that ratification must be preceded by development of a detailed, national plan. Membership of CCRES, as of October 11, 2002, is shown in Table 2 following.⁵²

Table 2. CCRES membership, as of October 11, 2002.

Canadian Chamber of Commerce, and these provincial chambers Alberta; Atlantic Provinces; BC; Ontario; Québec; (6)	<i>transportation</i> Automotive Parts Manufacturers Association; Canadian Trucking Alliance; Motor Coach Canada; The Used Car Dealers Association of Ontario (4)
<i>other broad-based business associations</i>	<i>other sectors</i>
Canadian Council of Chief Executives; Canadian Manufacturers and Exporters; Canadian Council for International Business; Alberta Chamber of Resources; Centre patronal de l'environnement du Québec; Business Council of British Columbia; Vancouver Board of Trade (7)	Building Construction Trades Department, AFL- CIO, Canadian Office; Canadian Chemical Producers' Association; Canadian Electricity Association; Canadian Fertilizer Institute; Canadian Plastics Industry Association; Canadian Steel Producers Association; Independent Contractors and Businesses Association of BC; The Cement Association of Canada; (8)
<i>sectoral trade associations</i>	
<i>oil and gas</i>	
Canadian Association of Geophysical Contractors; Canadian Association of Oilwell Drilling Contractors; Canadian Association of Petroleum Landmen; Canadian Association of Petroleum Producers; Canadian Energy Pipeline Association; Petroleum Services Association of Canada; Propane Gas Association of Canada (7)	32 total

Table 3 following gives a listing of major events in the outside lobbying campaign.

⁵² CCRES wesbsite.

Table 3. Visible policy interventions by business, 2001-2002

Sept. 18, 2001, Canadian Chamber of Commerce annual meeting resolution	Oct. 8, 2002, CCSRE announces English and French websites in operation
Sept. 28, 2002, joint letter to PM and Ministers	Oct., 2002, CCSRE television advertising campaign
Jan. 15, 2002 CCCE annual meeting; speech, check re resolution	Oct. 24, 2002, CCSRE press release panning federal draft plan Overview
Feb. 2002, CAPP report, <i>Climate Change</i>	CME letter to JMM federal and provincial Ministers of Energy and Environment
Feb. 2, 2002, CME report, <i>Pain Without Gain</i>	Oct. 25, 2002, CAPP letter to two co-chairs JMM, asking four questions
Feb. 7, 2002, CME Board of Directors resolution	Oct. 28, 2002, CCSRE news release making business representatives available after close of JMM meeting that day
Feb. 19, 2002, second joint letter to PM and Ministers	Nov. 5, 2002, CCSRE report, <i>We Can Do Better</i>
June 6, 2002, CAPP letter to Dhaliwal and Anderson; cc provincial energy and env ministers,	CCSRE and CCCE “appeared before Members of Parliament and Senators”
June 21, 2002, CCCE report, <i>The Kyoto Protocol Revisited</i>	Nov. 18, 2002, CAPP again writes two JMM co-chairs, expanding on policy objectives it seeks with respect to four questions in Oct. 25 letter
June 27, 2002, CCC report, <i>Response by the Canadian Chamber of Commerce</i>	CAPP report, <i>Climate Change Policy Position</i>
August 27, 2002 letter CCC, CCCE, CME and Cd Fed of Independent Business to PM Chretien, cc to Ministers of Finance, Env, Industry, Nat Resources;	Nov. 22, 2002, CCSRE spokesperson says Nov. 21 federal plan does not give enough detail
Sept. 6, 2002, full-page ad Globe and Mail (check over whose names)	Nov. 27, 2002, CME letter to MPs and Senators; cc to JMM provincial ministers energy and env;
Sept. 10, 2002, CCC full-page ad Globe and Mail for alternative “Made in Canada” policy solution; also in La Presse, in French language	Dec. 5, 2002, Jason Myers, CME, appearance before Standing Committee on Industry, Science and Technology
Sept. 26, 2002, CCSRE announces coalition formed, releases “Statement of Principles for a Made in Canada Solution”	
Sept. 30, 2002, CCSRE response to Throne Speech, calls on federal government to not ratify and instead implement “Made in Canada” plan	

What were the arguments publicly made during these interventions? To understand them, the reader must understand, in general terms, the evolution of federal policy depicted by the May, October and November documents. Although the numbers varied slightly, the quantitative policy objective, measured in million tonnes (MTs) of greenhouse gases (of which carbon dioxide emitted during fossil fuel consumption is

most significant), was expressed as the need to close the 240 MT “Kyoto gap.” This refers to the difference between “business as usual” emissions in the target year 2010 and the Canadian Kyoto commitment to achieve by that date a total rate of emissions 6% below 1990 levels. Of that, the government assumed existing policy would generate 80 MTs of reductions, that other countries would eventually agree to a relaxation of the target by 60 MTs and, therefore, that the policy objective was to bring about a further 100 MTs of reductions. That was allocated in the October 24 draft plan as follows:

. individuals and government actions	20
. large industrial emitters	55
. other industrial action	15
. government purchase of international credits	10

The large emitters consisted of the oil and gas, electricity and manufacturing sectors.

The basic argument made by business was that ratification was premature, since there was no detailed plan for implementation or analysis of associated costs. Advertising aimed at individual Canadians emphasized costs they would bear, such as job losses and higher gasoline prices. Briefs and letters to government officials focussed more upon the fear that ratification might endanger future investment and the need to harmonize Canadian policy with that of its major trading partner. The Canadian Exporters and Manufacturers continually returned to the theme that greenhouse gas reductions from industry could only be achieved (other than by reducing total production) by investment in new, energy-efficient capital stock. For that reason, CME argued, the time frame must be extended, to allow for retirement of existing machinery and buildings, and government policy must focus upon funding for technology development. The Chamber of Commerce was perhaps more strident in its response (although it was CME that launched the spectre of 450,000 lost jobs in its Pain Without Gain report of February, 2002) and more focussed upon economic impacts. The Council of Chief Executives was somewhat more conciliatory, focussing less upon the dangers of ratification and more upon the positive benefits which would flow from a national, multi-sectoral planning process to address all forms of air pollution, not just greenhouse gas reductions. The major arguments made by all three broad-based associations can be summarized as follows: (1) ratification must come only after agreement upon a detailed, national plan; (2) Canadian policy must not hurt competitiveness, and must be consistent with American policy; (3) the instrument of voluntarism must be given priority over law or tax; the 2010 time-frame must be extended; and, (4) Canadian money, both public and private, should be spent on new technology development, rather than purchase of international credits.

As 2002 progressed and ratification came to seem increasingly likely, the trade association representing the most threatened sector, the Canadian Association of Petroleum Producers, increasingly stressed its own, specific concerns. In a letter to the two federal ministers, June 6, 2002, CAPP made the point that since it functioned in an international market, oil and gas could not pass on increased operating costs, but instead would have to reduce profit margins, thus making future investment less likely. This

problem was augmented by “unassigned liability” – the fear that the industry would also have to take responsibility for some portion of the 60 MTs which was the subject of international negotiation: “That kind of uncertainty can drive investment to other countries where they will not face such a risk.”⁵³ The other basic point CAPP made repeatedly was that reductions must be made by Canadian end-users of fossil fuel, not the upstream industry. In its final public intervention before ratification, CAPP stated these policy objectives: (1) industry should reduce *intensity*, instead of a fixed cap on emissions; (2) the bulk of that should be achieved by industry actions, rather than purchasing domestic or international credits; (3) to the extent funds were used to buy credits, industry should have the option of spending on technology development instead; and, (4) investor uncertainty should be reduced by setting out sectoral targets and limiting the maximum price per tonne of “cost exposure.”⁵⁴

As noted, CAPP obtained both a sectoral target and maximum per tonne in the December 18, 2002 letter from Minister Dahliwal. More generally, the November 21 plan also conceded that in some instances reductions could be made after 2010, that industry contribution would not exceed 55 MTs and that competitiveness would be considered in allocating emission permits. Business actors welcomed these concessions, but still demanded that ratification be delayed. “Corporate Canada yesterday hailed Ottawa’s revision to its blueprint for greenhouse gas reductions as a step forward, but said it needs more concessions and clarity before it can endorse ratification of the Kyoto Protocol.”⁵⁵ In the event, ratification occurred without business endorsement. The business intervention influenced specifics of federal policy, but not the basic policy decision.

We now turn to the first research question: what led to a strong interventionist response? I argue the most important factor was the severity of the external regulatory threat. During the past fifty-odd years, resource and manufacturing industries have largely adapted to the new external demand for improved management of hazardous pollution and solid wastes, and in doing so have incurred additional production costs in the neighbourhood of two or three per cent. This is a relatively low percentage, and in most cases firms were confident that their competitors, both in Canada and abroad, were assuming comparable costs. Reducing carbon dioxide emissions resulting from fossil-fuel energy use, a manufacturing input, is a challenge on a different order of magnitude, particularly for high-intensity sectors.

Another important difference between pollution-control policy and climate policy is that in most cases the latter is aimed at reducing quantities and improving management of an unwanted by-product, while climate policy intends to reduce consumption of what is, for the fossil-fuel sector, a product in and of itself – the good they sell in the market. The Canadian oil and gas sector has responded to climate policy demands by reducing its

⁵³ CAPP and three related trade associations to Ministers, Dahliwal and Anderson, cc to Provincial Energy and Environment Ministers, June 6, 2002.

⁵⁴ CAPP to Energy Minister Gordon Balse, Nova Scotia and Fisheries, Aquaculture and Environment Minister Chester Gillan, PEI, co-chairs, JMM, cc to Energy and Environment Ministers, November 18, 2002.

⁵⁵ Lily Nguyen and Patrick Brethour, “Business seeks more on Kyoto,” The Globe and Mail, November 22, 2002.

own carbon dioxide emissions but has never suggested it might voluntarily reduce the total quantity of the product it sells each year to Canadian and American buyers. This distinction between reducing quantities of a product and a by-product in part explains why the oil and gas sector felt more threatened by Kyoto ratification and in response led the business campaign to stop it.

The perceived magnitude of the external threat also stemmed from the fact that the U.S. government had withdrawn from the Kyoto regime and then announced a considerably less ambitious, and costly, domestic climate policy. As discussed, this point was made repeatedly during the business lobbying effort.

The threat of new climate regulation was significant also because of the source. Unlike most new environmental policy initiatives, which are led by environment ministers, both in their own jurisdiction or nationally through CCME, the Prime Minister was personally involved, having adopted this as one of his “legacy” issues, comparable to election financing reform. From 1998 to 2002, development of federal climate policy was shared by Environment Canada and Natural Resources Canada, with co-ordination provided by the federal Climate Change Secretariat and ad hoc committees of officials and ministers. In the fall of 2002, however, it was understood by network actors that the Prime Minister’s office had become directly involved, with a mandate to “shut up the oil industry.”⁵⁶ Private negotiations with the oil and gas and other sectors were initiated under the supervision of George Anderson, NRCan Deputy Minister, in September of 2002.⁵⁷ Not only was the push for ratification coming from the highest levels of the federal government but that decision, pertaining to Canadian participation in an international agreement, was clearly within the sole purview of the federal government. National programs to implement Kyoto will require provincial assent and active involvement, but the largely symbolic act of ratification was stated clearly by the government of Canada to be something it could do alone, even in the face of provincial opposition.

Two other factors added to the severity of the threat. The first was the nature of the programs advanced by federal regulators, in the May Discussion Paper, and the November, 2002 Climate Change Plan for Canada.⁵⁸ As noted, all previous federal and provincial policy documents had been marked by: (1) a complete absence of any discussion of how the total reduction effort and cost would be distributed amongst geographic regions and industrial sectors; and, (2) intent to use coercive policy instruments such as law or taxation. The May paper, however, stated domestic emission trading, whereby “companies would be allocated emission permits and required to hold a permit for each tonne of GHGs they emit,” was a principle policy instrument to be used, accompanied by “incentives, regulations, or, possibly fiscal measures.”⁵⁹ The November

⁵⁶ Personal communication, Dr. Keith Stewart, Toronto Environmental Alliance, March 11, 2003.

⁵⁷ Personal communication, Jason Myers, CME, March 12, 2003.

⁵⁸ Government of Canada, A Discussion Paper on Canada’s Contribution to Addressing Climate Change, undated, accompanying press notice May 15, 2002; Government of Canada, Climate Change Plan for Canada, undated, accompanying press notice November 21, 2002.

⁵⁹ Canada, Discussion Paper Discussion Paper, pp. 18-19.

plan set forth, as noted above, a specific reduction quantity of 55 Mts for large industrial emitters and said these would be achieved through “covenants with a regulatory or financial backstop.”⁶⁰ The term “covenant” refers to a legally-binding contract signed by a federal department, most likely NRCan and an individual firm.⁶¹ The fact that it is a binding contract differentiates the new instrument of a “covenant” from a “memorandum of understanding” which during the 1990s had become the basis for voluntary programs but which, according to analysts, imposed no enforceable requirements upon business signatories. A “backstop” is the term used to refer to sanctions such as law or tax which regulators threaten to impose upon firms who do not join an industry-run environmental program. It is needed to solve the free-rider problem inherent to any such private governance effort. Specific, legally-binding reduction imposed upon individual firms was a very different prospect from the warm and fuzzy vagaries of all previous climate policy.

Finally, the threat of ratification was given credence by the alignment of political forces. The business class, industrial sectors and their trade associations, individual firms and individual CEOs were united on the issue, and had support from some provincial governments. But they had no societal allies, with the single exception of the Canadian Taxpayers Federation.⁶² As noted, the nuclear and renewable industries stood to benefit from ratification, but they played no significant role in the debate. The environmental movement, on the other hand, was united and vocal.⁶³ They were joined by labour, including energy workers, churches and doctors.⁶⁴ Within the House of Commons, the Prime Minister was supported by a majority of backbench Liberal MPs, the Bloc Quebecois and NDP. Paul Martin remained silent on the issue as long as possible, but then supported ratification, presumably driven by the fear that if ratification failed in a House vote the Prime Minister would jump at the chance to declare it a confidence issue, call and win an election and then proceed to happily govern for another four-year term.

Taken together, these factors meant that during 2002 business, both at the general level of capital and most specifically the oil and gas sector, faced a threat of regulatory pressure which was both significant and credible. They worked to achieve legitimacy in their response by admitting climate change was a problem requiring action and stressing their willingness to work as part of a non-Kyoto program. They had displayed adaptive behaviour ever since the goal of stabilization by ratifying the UNFCCC in 1992. When the threat became specific and urgent, however, as rational actors the cost of compliance drove them to an interventionist stance.

⁶⁰ Canada, Climate Change Plan, Table 1, p. 11 and p. 12.

⁶¹ Personal communication, Mr. Sean O’Dell, Acting Director General, Large Industrial Emitters Group, NRCan, Feb. 12, 2003.

⁶² Stewart, personal communication.

⁶³ The leading environmental organizations were the David Suzuki Foundation, West Coast Environmental law, Sierra Club and Pembina Institute. They and approximately a hundred other non-profits were members of the Canadian Climate Action Network. For a description of the environmental actors see Andrew Bjorn et al, Ratification of the Kyoto Protocol, pp. 101-108.

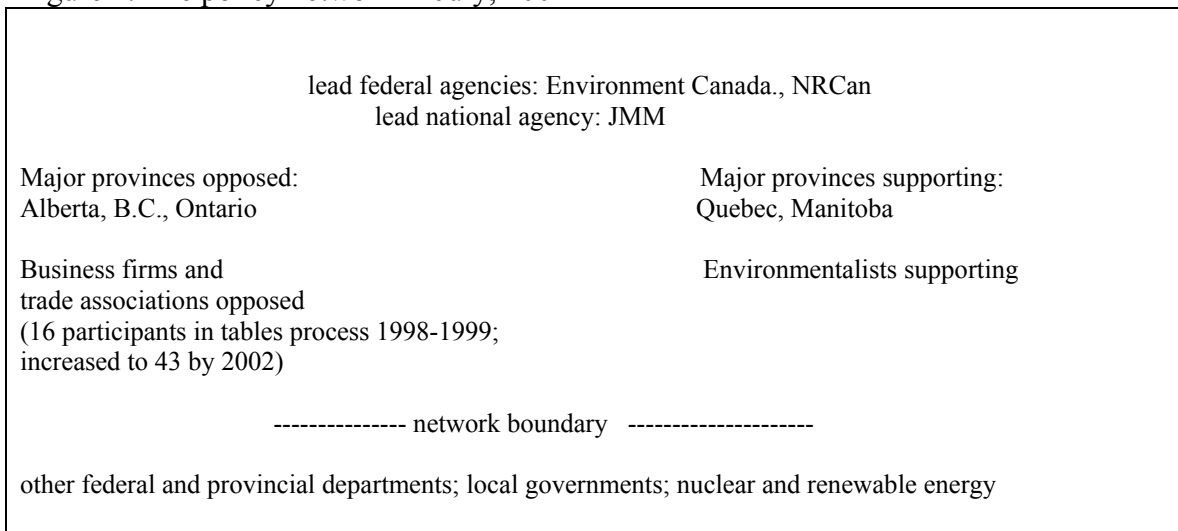
⁶⁴ Stewart, personal communication.

Did any intrinsic characteristics of the actors engender the response? Certainly, a broad-based organization like the Council of Chief Executives exists in order to influence national policy and it is not surprising it did so here. The last time the oil and gas sector was threatened, by the NEP, it reacted by intervention, spending \$3 million on outside lobby advertising and doing all it could to mount an elite-level campaign.⁶⁵ I would argue that this variable is less important, however, since the differences between the more moderate firms, such as Shell and BP, in contrast to the hard-liners such as Imperial, disappeared in the face of the external threat. “At this point, [mid-October, 2002] industry insiders agree that the oil patch is 100% united against Kyoto, with even liberal laggards like Shell Canada determined to resist.”⁶⁶

Why did the intervention fail? One reason is that public support for ratification was never influenced by the business and Alberta government advertising. On November 2, an Ipsos-Reid poll was reported as showing a drop in support. The government of Canada pollster, Ekos, responded with the plausible claim that this was due to a comparison of apples and oranges – comparing support for ratification as a yes/no option, with support for ratification, do nothing or a made-in-Canada plan. Ekos claimed that when the same questions were compared “there has been no significant change in support over the past few weeks, averaging at 78 per cent.”⁶⁷

More importantly, composition of the policy network changed, as shown in these two figures.

Figure 2. The policy network in July, 2001



⁶⁵ Glen Toner and G. Bruce Doern, “The Two Energy Crises and Canadian Oil and Gas Interest Groups: A Re-examination of Berry’s Propositions,” *Canadian Journal of Political Science*, XIX: 3, Sept., 1986.

⁶⁶ Mike Byfield, “A question of sovereignty,” *The Report*, October 21, 2002, p. 13. For differences amongst oil firms, see Ian H. Rowlands, “Beauty and the beast? BP’s and Exxon’s positions on global climate change,” *Environment and Planning C: Government and Policy* 2000, vol. 18, pp. 339-354.

⁶⁷ Frank L. Graves, President, Ekos Research Associates, letter to the editor, *The Globe and Mail*, November 6, 2002.

time both environmentalists and regulators had significantly increased their political power, relative to the regulated industries. The response to this second threat appears at first blush to have been less interventionist than any to date. Symbolized by such things as the chemical industry Responsible Care and business endorsement of sustainable development at the 1992 Rio Conference, the much touted “greening” of business appears to have been an adaptive response. In fact, it was pre-emptive adaptation, paving the way for the relaxation of regulatory pressure beginning in the mid-point of the 1990s. It was a far more sophisticated and successful policy intervention than that which accompanied onset of the initial regulatory regime.

Other factors also explain the move to deregulation, most notably the over-all shrinking of state size and capability accomplished by the neoliberal revolution. Nor did business engage in a large-scale outside lobbying campaign, calling for voluntarism as a policy instrument. During lobbying surrounding renewal of the Canadian Environmental Protection Act, however, the chemical industry made reference to its history of voluntary action and, more importantly, did not hesitate to revert to intervention to forestall a strong regulatory threat, CEPA amendments recommended to the House by its standing committee on environment (the Prime Minister also played a central role in that policy network, albeit on the side of business).⁶⁸

This example, in which the chemical sector displayed a beyond compliance adaptation response in the 1980s and then intervention in the later 1990s is further evidence that the external threat is a more influential variable than is corporate culture. If the latter were of primary significance, we would have seen a linear progression from the weak intervention of the 1970s toward adaptation as firms, like other organizations in the society around them, inculcated the values of environmentalism. However, we see the soft drink industry mounting a strong intervention in the early 1980s, while other sectors were adapting or engaged in weak intervention.⁶⁹ Just as importantly, we did not see strong intervention in the 1960s, when presumably corporate culture was the most out of tune with environmentalism. All of these responses can be explained more readily by changes in the external threat than by factors endemic to business.

Can we generalize from the finding that policy success is related to the distribution of power in the network? I would argue we can. The 1980s increase in regulatory pressure, shown in Figure 1 above, was associated with increases in staffing levels of environment departments and their increased willingness to use the coercive instrument of actively-enforced law. A decade later, their size had been cut in half, and it seems reasonable to conclude they simply did not have the capacity for coercive action.

Although not representative, study of the political battle business lost in 2002 yields lessons which can be applied to the larger subject of business influence on environmental policy over the past half-century.

⁶⁸ Douglas Macdonald, “Voluntary action or elite lobbying: the Canadian chemical industry and environmental policy,” paper presented at the Canadian Political Science Association, Université Laval, May 27, 2001.

⁶⁹ Douglas Macdonald, “The Business Response”.

