

Institutions and Federal Climate Change Governance: A Comparison of the Intergovernmental Coordination in Australia and Canada

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1. Introduction

The physical nature of the climate change issue is such that no one state can solve its climate change problem by itself and nor is any one state likely to incur the costs of emission mitigation without some assurance of comparable action by others. Since there is no empirical relationship between effects in one location and emissions of greenhouse gases in another, bargaining between victim and polluter is not an option. For these reasons, climate change is a truly a global collective-action issue, which must be addressed in a coordinated fashion, with some agreement on allocation of the total cost of action (who will do what, by when). At the global level, this agreement respecting sharing of cost between North and South was expressed by the Kyoto principle of "common but differentiated responsibilities" and amongst the Northern states by agreement on the specific target for each. When disagreement over allocation of cost between North and South came close to sinking the 2009 Copenhagen meeting, the issue was temporarily side-stepped by the Copenhagen Accord which relies only on voluntary commitments by states, but it remains the central challenge for global policy making.

Exactly the same issue is found within federated systems: how will the total cost of mitigation be allocated amongst sectoral sources and the sub-national jurisdictions in which they are found? The European Union has successfully addressed this issue through two burden-sharing agreements, in 1998 and 2008. Canada, on the other hand, adopted the principle that "no region shall bear an undue portion of the cost" but has been unable to reach explicit agreement on allocation of costs amongst sources and Canadian provinces. Canada has sidestepped the issue for now by relying on uncoordinated, unilateral action taken by each province and the federal government. By contrast, the Australian Commonwealth government and states were able in 2009 to reach agreement on a coordinated plan of action, including explicit allocation of cost (in addition to a series of national strategies and objectives in the areas of renewable energy, energy efficiency, and adaptation). Though the national plan on emissions reduction was subsequently defeated in the Australian Senate, as a function of partisan politics (the Green Party wanted a greater total reduction, while the Liberal Party fragmented internally over whether or not to support the scheme), and has not yet been implemented. Nevertheless, Australia is a federated state with a system of government very similar to that of Canada, and it managed to broker agreement on allocating the cost of climate change policy. How do we explain this Australian success in contrast with Canadian failure? While an answer can be provided in terms of differences in the political economy of each country (such as the much greater importance of fossil-fuel production to the economy of Alberta, than is found in any Australian state) and in terms of differences in political leadership, we suggest that a complete answer requires acknowledging important differences in the institutions of intergovernmental relations (IGR).

The subject of this paper is thus the institutional system of intergovernmental relations used in the two federations, Canada and Australia, to co-ordinate climate change policy. Our purpose is to compare the Australian success in negotiating coordinated national climate change policies with the Canadian failure to do so in order to answer two research questions: (1) to what extent is the difference attributable to differences in the two systems of intergovernmental relations?; and, (2) *how* did this difference in IGR influence success in one case and failure in another? As set out below, our theoretical perspective is drawn from literature on both federal intergovernmental relations and institutionalism, and we focus our attention on assessing the strength of institutions of IGR in both cases. We offer analysis of institutional differences in the hopes it will contribute not only to theoretical understanding but also to applied policy making. We hope our findings from this case-study comparison will contribute to the broader literature on climate-change policy making in federated systems, and provide possible entry points for further

analysis that can inform ongoing efforts to increase the governance capacity in this important field of governance.

2. Theoretical Context

Climate change, as a policy problem, requires coordination in order to develop and implement effective responses. This axiomatic statement derives from the fundamental nature of the problem. Climate change has causes and effective that cut across jurisdictional and geographic borders, and any effort to address those causes requires that emissions reduced from one source are not offset by increases from another. This relationship of interdependence is captured in the well-known concept of tragedy of the commons and the related problem of free riding (Hardin 1968; Olson 1965). The challenge, as illustrated in these conceptual frameworks, is to overcome the tendency to “cheat” in situations in which there is a joint social benefit produced through coordination that is in tension with a structural incentive to act unilaterally in order to derive individual benefit or avoid individual cost (Olson 1965).

The essence of climate change as a wicked problem is a second factor that necessitates a coordinated response (Rittel & Webber 1973; Levin et al 2009). Wicked problems are those for which there are no simple technical solution, as the nature of the problem (how it is defined) is intimately bound up with the various solutions proposed to resolve it (which themselves tend to be linked to the specific costs/benefits associated with such solutions, and are rooted in specific interests and ideas of those who support them). There is an inherently political aspect to the policy response to climate change – in the true sense of who gets what, when, and where. This presents a paradox, in that it drives the need for coordination, and presents a major obstacle to achieving it. Actors with divergent perspectives, interests, and preferred solutions must interact in order to identify points of agreement and common ground where policy advances can be made, but the level of entrenchment of these different positions can lead to political stalemate and stand in the way of successful coordination (Verweij et al 2006)

The dynamic outlined above are most evident in efforts to negotiate an international agreement on climate change. However, they are also a core feature of national efforts to develop a governance response. In federal states, such as Canada and Australia, the need for coordination in many ways mirrors the dynamics in operation at the international level. Federal states are comprised of multiple, interdependent jurisdictions, each assigned with a set of constitutionally entrenched responsibilities and powers. In Canada and Australia, jurisdictional responsibility over matters related to GHG emissions is divided between the levels of government. While this *de jure* division of powers is rooted in an attempt to separate and specify a single level of government responsible for particular issue areas (Wheare 1951), the *de facto* reality is one of functional interdependence (Painter 1991: 278, 1998: 62, 2001; Galligan 2008: 274).

The need for coordination is further complicated by the relative weakness of intra-governmental modes of coordination in both states, as reflected in the central institutions of federalism. The Senate in Canada lacks political authority and legitimacy, as positions are filled through an appointment process that is driven by political partisanship rather than regional representation (Bakvis & Skogstad 2008: 5). The Senate in Australia has a greater degree of political authority and legitimacy, relying as it does on direct elections to fill positions, but voting operates primarily on the basis of partisanship and party politics rather than on the basis of regional representation (Thorlakson 2003: 19). In both cases, party discipline drives voting behaviour in the upper house and regional representation is a relative non-factor (ibid). This reinforces the processes and institutions of intergovernmental relations as the primary site of

national coordination, and renders them with the essence of an interaction amongst sovereign equals (Simeon 2006).

The combination of these dimensions – the tension between formal independence and functional interdependence inherent in federal systems and the inter-related need for and barriers to coordinating a response to the wicked problem of climate change – illustrates the nature of the political challenge that underlies efforts to develop effective an effective policy response to climate change in federal states. Coordination is needed, but is a daunting task. In order to assess the efforts of particular federal states in this matter, it is essential that we clarify what “effective” coordination might look like.

Effective coordination defined:

What makes coordination “effective” in the area of climate change? We suggest three core aspects. First, as stated above, coordination must produce policy outcomes that exceed what could be accomplished unilaterally – it must result in an aggregate that is more than the sum of its parts. More specifically, coordination requires that interdependent actors come to agreement on joint objectives, as well as on how efforts to attain those objectives are to be allocated. Put simply, coordination requires agreement as to who does what, and by when. Second, “effective” climate change policy should include national policies that set in place cuts to GHG emissions and establish pathways for future reductions that are at least somewhat related to science-based targets (and are tightly linked in the long-run); must establish a national strategy for technological investment, innovation, and transformation in key systems (power generation, consumption, transmission; transportation), and; must establish a national strategy for adapting to the impacts and implications of climatic changes.¹ Third, to be “effective” coordination must be implementable, in that all parties (a) perceive policies to have been developed in a representative manner and/or to embody their interests and needs; and (b) buy-in to the set of policies such that they are willing and able to implement them (Bernstein et al 2008: 4).

Explaining effective coordination:

There are three general factors that could contribute to explaining the observed variation in coordination outcomes in our two cases: differences in the underlying interests of actors (as a result of material resource allocation and political pressure); differences in the underlying ideas regarding governance (how the problem is defined; what is an appropriate response); and differences in the institutional context (political and social) (Harrison and Sundstrom 2007).

Much can, and has, been written about the impacts of the interests and underlying ideas held by political actors and jurisdictions as regards climate change policy in Australia and Canada (Harrison & Sundstrom 2007; Harrison 2007; Crowley 2007; Cass 2008; Rabe 2007; Christoff 2005, 2008). Much less has been written regarding the effect of political institutions of IGR and how they do, or do not, influence policy outputs. As such, that is where we place our focus.

We posit that the explanatory factors outlined above paint only a partial picture of successful coordination in Australia and failed coordination in Canada. Our argument is that the institutional context of IGR in each federal state can help to complete the picture, and fill in the gaps in our understanding. We ask how, when, and in what way the institutions of IGR have influenced coordination outcomes in our cases (Rockman & Weaver 1993).

¹ The key point here is that coordination can only be deemed effective if it leads to policies that are appropriate to the task at hand – in this case, policies that go some way to preserving environmental integrity.

Institutions, IGR, and coordination:

The relationship between institutions and coordination outcomes is frequently characterized as a product of the level of *institutionalization*, where institutionalization is a proxy that stands in for the extent to which the rules, procedures, and processes that structure interaction between actors are fixed, clearly understood and communicated, and perceived to be persistent across time and space. This relationship is premised on the notion that institutions are created in order to facilitate coordination, by increasing information, ensuring compliance, and reducing uncertainty between actors with overlapping but non-identical interests (Keohane 1984; Axelrod 1987; Ostrom 1990). Applying this institutional perspective to the realm of IGR leads us to expect that the greater the degree of institutionalization of IGR, the more likely there will be successful coordination on national climate change policy (and vice versa). It must be noted that this does not imply that strong institutions necessarily yield successful coordination outcomes – actors must after all have an interest in engaging with others through an institution before it can exert any potential influence.

This statement above requires further unpacking, however, in order to be of use in assessing our cases. Institutional effectiveness or impact, as noted above, appears to be associated with the degree of institutionalization, or what could be termed the *strength* of institutions. What then is institutional “strength” and how can we assess it? This question is further complicated by the fact that institutions of IGR in both our cases are primarily informal, in that they are not constitutionally entrenched or guaranteed but rather have evolved as extra-constitutional mechanisms for managing functional interdependence (Meekison et al 2004).

Levitsky and Murillo suggest that institutional strength can be disaggregated into two characteristics: enforcement and stability (Levitsky & Murillo 2009: 117). Enforcement is defined as “the degree to which ...rules are complied with in practice” whereas stability is “the degree to which” institutions “survive not only the passage of time but also changes in the conditions – ie, underlying power and preference distributions – under which they are initially created and reproduced” (ibid).

Drawing on this framework, enforcement thus concerns the extent to which agreements are perceived as likely to be implemented by parties. In order to assess enforcement, we will identify the extent to which coordinative agreements are explicitly codified (written down in formal legislation, as an intergovernmental agreement, as a memorandum of understanding, or as a joint statement), are perceived to be subject to judicial review or other enforcement mechanisms (public commitments and performance review, tied funding commitments), and are perceived to be legitimate or fair. In other words, we will assess to what extent jurisdictional actors formally commit to one another, and what mechanisms are in place that bind them to such commitments.

Stability, on the other hand, can be measured by the consistency of rules and procedures, and the extent to which institutions continue to exist and are utilized by actors across time. In other words, do institutions of IGR persevere across time, and in the face of changes in federal or sub-state political leadership? In order to assess stability, it is important to identify the extent to which institutions of IGR are utilized as the primary venues of coordination across time, the lifespan of institutions of IGR across time, the extent to which the rules and procedures (who attends, who sets the agenda, what gets discussed, how decisions are reached) structuring IGR are codified or not, the existence of a supportive bureaucracy, and the survival of institutions in

the face of changes in the underlying interests or preferences of actors who designed it (Levitsky & Murillo 2009: 129). Participation rules are especially important, as they regulate who has access to, and is involved in, the process of discussion and decision-making. This sort of rule is thus representative of, and points to, the role of power dynamics within institutions.

This concerns the extent to which actors interacting within institutions of IGR are enabled or constrained by institutional sources of power. Broadly speaking, two sorts of power resources are available. Agential power resources are a product of institutional rules regarding, for example, when meetings are called, who gets to attend, who sets the agenda, and how decisions are made. Unanimity decision-rules provide relatively equal distribution of institutional power, as the smallest actor has exactly the same amount of leverage as the largest. Actors with control over meeting times and agenda setting possess a power resources that allows them to establish the tone and tenor of IGR interactions, thus setting parameters of possibility on coordination outcomes (Bachrach & Baratz 1962). The second form of institutional power is structural, and concerns the underlying ideas or norms that inform the type of interactions and behaviours that are deemed to be possible and appropriate (March & Olsen 1989; Barnett & Duval 2005). Institutional legitimacy as a power resource is distinct from agential power in that it relates not to the ability of actors to deploy it, but rather it serves to constitute the interests and regulate the actions of actors (Barnett & Duval 2005). Institutional legitimacy is thus a product of the degree of fit with widely shared and accepted norms or ideas (ie: regarding the nature of the relationship between jurisdictional actors; regarding the purpose of federalism).² These power dynamics are expected to act as a contributor to institutional stability and enforcement.

These are, admittedly, somewhat crude measures of our dimensions of institutional strength. Recognizing this weakness, in light of the methodological challenges associated with the task at hand (Levitsky & Murillo 2009: 129), and in recognition of the need for more focused thinking in this area, we suggest that our metrics for assessing the strength of institutions of IGR are a reasonable starting point albeit a starting point that demands further and more detailed research efforts.

The following sections will look, respectively, at the Australian and Canadian cases in order to assess the extent to which the institutions of IGR in each helps to explain the divergent coordinative outcomes that are evident. In each case, we will establish the evolution of climate policy in broad strokes in order to identify the institutions involved in the process of coordination and the relationships between these institutions. We will seek to identify the strength of institutions of IGR, the manner in which they fit together, and the extent to which they have contributed to cooperation outcomes. As a function of time and resource limitations, we are unable to assess the full extent of variables outlined above in assessing institutional strength in our two cases. As such, we have focused our attention on measures of stability and institutional power in order to generate a first-cut at exploring the relationship between institutional strength and coordination outcomes, with further research efforts to focus on filling in our analytic gaps.

3. Case 1: Australia and Successful IGR Coordination

We base our assertion that Australia is a case of coordinative success on three claims. First, in spite of the fact that it was subsequently defeated in the Australian Senate, the states/territories and commonwealth jointly developed and agreed upon a national emissions trading system along with a set of national emissions reduction targets for the medium and long

² Broschek 2010

term. This system, dubbed the Carbon Pollution Reduction Scheme (CPRS), contained a national target agreed upon through the process of IGR³ as well as a set of instruments for compensating households and businesses for the imposition of costs associated with the scheme. A long-term national target has also been jointly adopted that is roughly in line with the consensus international science.⁴ In addition, the national target and CPRS were themselves supplemented by joint agreements on a set of national strategies and initiatives on renewable energy, energy efficiency, and adaptation – initiatives that have been successfully hived off from the CPRS following its demise. Lastly, the defeat of the CPRS in the Senate was a product of partisan politics and poor coalition building on the part of the governing Labor party, rather than a reflection of the failure of intergovernmental coordination.⁵

A final point: evaluating the “success” of coordinative outcomes on the basis of their environmental ambition is a tricky enterprise. The nature of the policy challenge is such that the transformation required is going to create winners and losers, and therefore there are considerable political ramifications and barriers involved. The ambition of objectives must be weighed against the ability to corral enough political support to enact them. As such, while we want to avoid making agreement of any sort the equivalent of “successful” coordination (Harrison & Fafard 2000: 12) we suggest that political feasibility must be considered when making judgments regarding the “success” of IGR coordination (Bernstein et al 2008). As incrementalism is likely to be the way forward, coordinative outcomes as evident in Australia seem worthy of analysis in order to understand the factors underlying their “success”.

The Institutional Context:

Section 51 of the Constitution Act of 1901 divides powers between the Commonwealth and the states/territories by enumerating powers of the former and assigning the residual powers to the latter (Saunders 1996: 55). The Australian constitution relies primarily on concurrent jurisdiction rather than coordinate distribution along functional lines (Painter 1998:6-7; Galligan 1995:192-203). In spite of the fact that the Commonwealth is granted paramount status in all cases of concurrency, intergovernmental interdependence is the predominant feature of Australian federalism (Painter 2001). While the primary motivating force was the need for microeconomic reforms, this recognition of jurisdictional interdependence in the area of environmental governance was a contributing factor in the process of intergovernmental reform in the early 1990s. This process resulted in the creation of a COAG and the signing of the Intergovernmental Agreement on Environment (which itself created a new ministerial council on environment).

The IGAE set forth a clarification of division of responsibilities regarding environmental matters (aiming to reduce duplication and inefficiency) and to establish procedures for cooperation between the Commonwealth and States/Territories in a set of policy areas (including climate change) (Painter 1998: 122). The National Environment Protection Council (NEPC) was created in order to manage this cooperative process, and to develop policy measures in order to

³ This mid-term target was indexed to international actions such that an agreement at Copenhagen would trigger a more aggressive 15% target. A third contingent target of 25% reduction by 2020 was agreed upon, should the international community coalesce around policies aimed at a 450 ppm global emissions cap.

⁴ The long-term Australian target is 60% reduction in GHG emissions by 2050 (2000 baseline). While this remains below IPCC recommendations for an 80% reduction by 2050 using a 1990 baseline (Australian emissions increased just slightly from 1990 to 2000) it still represents a relatively aggressive emissions reduction pathway.

⁵ <http://www.climaticoanalysis.org/post/australian-senate-rejects-cprs/>; <http://www.timesonline.co.uk/tol/news/environment/article6939147.ece>; on the general nature of the Aus Senate as a forum for national partisan rather than regional representation, see Thorlaxson 2003: 19

facilitate coordination. The IGAE incorporated the precautionary principle that was entrenched in the Rio Declaration on Environment and Development (Peel 2007:105). The IGAE aimed to establish the authority to create legislation by the NEPC that would apply...throughout Australia, as a valid law of each jurisdiction; and would...replace any existing measures dealing with the same matter. However, when the national Environmental Protection Act was passed in 1994 (by the Commonwealth) and 1995 (by the States, except Western Australia who enacted legislation in 1996) the States integrated the national legislation into the existing state-level environmental law rather than replacing it. This resulted in substantial discretion as to how national legislation was interpreted and applied, and eroded the uniformity of the legal/policy framework (but also provided a degree of de facto flexibility that may, along with other mechanisms, work to increase the ability to reach agreements).

The Political-Economy

The high energy-intensity of the Australian economy, along with its' status as a major coal exporter, lead to relatively high abatement costs in Australia (Bach & Brown 2009: 39; Crowley 2007: 121-122). States own their natural resources, and as a result of their relative lack of tax receipts (the commonwealth has a near monopoly on tax collection) are highly reliant on revenues generated from economic activity within their borders (Painter 1998:17; Galligan et al 1991: 5-6; Braun 2006: 27-28; Crowley 2007: 125). Natural resources (coal and other mineral deposits) are distributed relatively evenly throughout the states and territories, although there is a slight concentration of natural resources and agricultural production located in Western Australia, and concentration of coal deposits in Queensland. As an export oriented economy, Australia is deeply embedded in the regional and global marketplace. Japan, China, South Korea, India, and the US are the major export markets (Brown 2002). As a result, the Australian economy does not have direct dependence on a single trading partner, but is more sensitive to both cost competitiveness relative to its regional neighbours and the need for internal economic growth and efficiency.

Domestically, Australia does not face the challenge of dealing with powerful cultural, ethnic, religious, or historical cleavages. The domestic population is, for the most part, homogeneous in these respects and thus a powerful barrier to coordination that Canada must face is absent in the Australian case (Brown 2002b: 6; Braun 2006; Galligan 2008: 617).⁶ This absence of cultural-regional cleavage is paralleled by a relatively strong and coherent national orientation towards federalism as a tool for nation-building and an orientation towards inter-jurisdictional equality (Braun 2006: 12; Brown 2003).

Climate policy and IGR in Australia: 1990 to 2010

This section traces out the historical evolution of IGR coordination on climate policy in Australia from 1990 to present. This timeframe can be sub-divided into four eras of coordination: naïve coordination; fragmentation and unilateralism; sub-state experimentation and coordination; and resurgent national coordination.

- Naïve Coordination:

⁶ There has been a persistent secessionist movement in Western Australia, which has its roots in 19th Century. This movement culminated in a referendum in 1933 in which the WA population voted in support of secession, but were foiled by the resistance of the Commonwealth government and the British Government. This movement appears to have declined in relevance and impact in recent years. Government of Western Australia. 'The Constitution Centre of Western Australia.' <http://www.ccentre.wa.gov.au/ResearchAndSeminarPapers/Secession/Pages/SecessionintheFuture.aspx>. Last accessed 6 May 2011

The first time period, roughly running from 1990 to 1994, featured early efforts at developing a national approach to climate change. These early years are in some ways an expression of naïve altruism in Australia, rooted as they were in ideal-driven agreements on national targets and measures (Christoff 2005: 31). In 1992, the *National Greenhouse Response Strategy* (NGRS) was released following a two-year consultation and development process involving peak industry and labour associations, ENGOs, and climate scientists. *NGRS* consisted of voluntary measures aimed at achieving the non-binding target of stabilizing emissions at 1988 levels by 2000 and reducing by 20% by 2005 (ibid: 31). *NGRS* was officially endorsed by COAG, indicating the presence of high level IGR coordination, but the non-binding nature of the strategy and the relative lack of knowledge regarding what it mean certainly can be seen to facilitate this outcome.⁷

The endorsement of *NGRS* followed hot on the heels of the Intergovernmental Agreement on the Environment (IGAE), which was signed in May of 1992 between the states and commonwealth as a part of the broad set of IGR reforms undertaken in the early 1990s. The IGAE was premised on the need to develop mechanisms for effective coordination between levels of government in relation to environmental matters, to reduce disputes between states/territories and the commonwealth, to reduce regulatory uncertainty for businesses, and to increase the quality of environmental protection across the country.⁸ The IGAE clarified the division of responsibilities regarding environmental matters (aiming to reduce duplication and inefficiency) and established procedures for cooperation between the Commonwealth and States/Territories in a set of policy areas, including climate change (Painter 1998: 122).

Agreement on the IGAE and the *NGRS* took place against a broader backdrop of concerted efforts to reform the institutions and practices of Australian IGR, all of which culminated in the creation of COAG in May 1992. The creation of COAG provided Australian IGR with a peak institution of intergovernmental relations aimed at fostering and enabling coordination between the levels of government deemed necessary in order to respond to pressing policy challenges (Wiltshire 1992: 175; Watts 2003: 4).

- *Fragmentation and Unilateralism:*

Almost immediately upon agreement on *NGRS*, a coalition of business interests began collaborating in order to push back against the move towards strong national emissions reduction policies and programs (Christoff 2005: 32; Crowley 2007: 127). In 1996, the shift from Labor to a Liberal Commonwealth government led by new Premier John Howard led to a renewed emphasis on voluntary measures and shifted entirely away from specific targets. This shift is evident in the Commonwealth White Paper, *In The National Interest*, and the Prime Ministerial statement, *Safeguarding the Future*, released prior to the Kyoto Conference of the Parties in 1997 (Christoff 2005: 32). The Howard government clearly established a position of protecting Australian economic competitiveness and avoiding the imposition of “unfair” costs (Christoff 2005: 32; Lyster 2004). Australia went to Kyoto with a hard-line position on acceptable targets and demands that one-time land use change emissions be included in their baseline. Both demands were met, and Australia signed the Kyoto Protocol, accepting a target of 8% increase from 1990 levels by 2012 (Lyster 2004: 562; Christoff 2005: 33).

⁷ COAG December 1992; See also Cass 2008: 477

⁸ Kellow 1996:149; IGAE 1992. <http://www.environment.gov.au/about/esd/publications/igae/index.html>. Last accessed 3 May 2011

In light of the lack of leadership at the federal level, some states and territories began experimenting with climate policies of various types (Bailey & Maresh 2008: 208).⁹ The state of NSW passed legislation aimed at enabling domestic emissions trading¹⁰ and subsequently a number of states began experimenting with various policies related to renewable energy, adopting emissions reduction targets, and symbolically supporting the national Kyoto target (Christoff 2005: 35; Crowley 2007; Ayers 2006; Lyster 2004: 579-581).

During this period of time, there is little evidence of any ongoing processes of IGR coordination on national climate strategy and policy. COAG communiqués makes scarce mention of climate change: indeed, over the 1996-2001 period COAG was only convened a total of 4 times.¹¹ The Howard government demonstrated a sharp lack of interest in carrying forward the earlier efforts towards collaborative relations with the states and territories, and pushed intergovernmental relations towards a more bilateral, competitive, and antagonistic footing (Carrol & Head 2009). The one possible exception to this is the meeting of the Treaties Council in November 1997, prior to the Kyoto conference. This is the only time that this council, which is comprised of the first ministers from all jurisdictions and is tasked with coordinating a joint national position on international agreements that have direct impacts on state/territory affairs, has met (COAG 2009: 10). The subsequent endorsement of the Commonwealth negotiating position heading into Kyoto indicates that the states/territories agreed in broad strokes on a set of national interests, but it is unclear as to whether there was a jointly agreed-upon position regarding acceptable targets that emerged from this meeting (COAG November 2007: 4).

- Sub-state Experimentation and Coordination:

As states and territories continued to experiment, and the Commonwealth further rejected the international process by signaling its intent not to ratify the Kyoto Protocol in 2002, a new dynamic of horizontal intergovernmental coordination began to emerge in the early years of the 2000s.

The idea of an ETS was first mooted in the late 1990's by the Commonwealth, but was rejected as economically damaging in the absence of a global agreement and system of carbon trading (Bailey & Maresh 2008: 206-207). In 2004 all 6 states and 2 territories agreed on the need to explore development of a national emissions trading scheme in the absence of federal leadership (NETT 2004: ii). A joint taskforce, the National Emissions Trading Taskforce (NETT) comprised of state and territory officials was established to investigate the design of a cap & trade system involving all states and territories, beginning with the stationary energy sector (Ayers 2006: 44-45).¹² In 2006, NETT issued a discussion paper outlining the possible design of a national ETS comprised of states and territories (NETT 2006). That same year the Australian states and territories, building from the already existing Leaders Forum, created a

⁹ For more on why states began to engage with climate policy, see Ayers 2006: 43; Christoff 2005: 35; State of NSW. NETT Communique July 2004; www.cabinet.nsw.gov.au/greenhouse/emissionstrading. Accessed 2 May 2011; State of New South Wales, National Emissions Trading Scheme. Communique. June 2004.

¹⁰ Tim Power, John Taberner, Michael Voros, Lauren Kirkwood, Anna Sinclair, Emily Stanton, Yvette Carr (November 2010) "How are our states and territories tackling climate change" Available at: <http://www.freehills.com.au/6744.aspx>. Last accessed 2 May 2011. Note that this was followed by state-level experimentation with other forms of climate policy. See Lyster 2004: 579-581

¹¹ Carrol & Head 2009: 3; COAG Meetings Archive. Available at: http://www.coag.gov.au/coag_meeting_outcomes/archive.cfm. Last accessed 1 May 2011

¹² This proposal closely mirrors the initial iteration of the Regional Greenhouse Gas Initiative (RGGI) developed by 10 states in the northeast US.

formal institution for State/Territory cooperation: the Council of the Australian Federation (CAF).¹³

Supported by a permanent secretariat, CAF emerged as an institution for coordinating State/Territory positions prior to engagement with the federal government and for engaging in collaborative efforts absent Commonwealth participation. The CAF took from the beginning a strong position on climate change, issuing a joint communiqué in 2007 regarding the need to address climate change and the intention of the States and Territories to move forward and develop a national carbon trading scheme (CAF 2007: 1-2). CAF officially endorsed in April 2007 a national target of 60% reduction by 2050 (2000 baseline) to be achieved through the NETS (CAF April 2007:2).¹⁴ In the same month, CAF along with the leader of the official opposition (Labor Leader Kevin Rudd) commissioned Australian Economist Ross Garnaut to explore and report on the costs of policy action/inaction and to model the impacts of various policy scenarios.¹⁵ CAF also commissioned economic modeling regarding the impacts of carbon trading on sectors and regions (Access Economics 2009 a, b, c) and began design of a national scheme that was eventually integrated in the national Carbon Pollution Reduction Scheme (CPRS) developed by the Rudd administration in 2008. CAF asserted a coherent and unified voice on behalf of the states and territories, strongly supporting the need for coordinated national action on climate change, declaring that emissions trading was the most appropriate means through which to reduce emissions, and clearly stating that: “Commonwealth participation in a national emissions trading system is essential. However, if the Commonwealth Government refuses to commit to introduce emissions trading by the end of 2010, States and Territories will do so.”¹⁶

In 2005, under pressure from sub-national actors, business organizations, and the general public, PM Howard created the Task Group on Emissions Trading, a collection of federal and business actors tasked with exploring the case for establishing a national ETS.¹⁷ At the same time, and in light of the increasing tensions emerging between the state-led NETT and the Commonwealth disinterest in developing a national emissions trading system, Premier Howard tasked a senior officials working group in COAG with exploring possibilities for coordination, and identifying different visions over a national ETS, between the states/territories and commonwealth.¹⁸ The extent to which this represented a true engagement with the states/territories is suspect, however, as climate change was relegated to the bottom of the agenda and received only cursory discussion (Hollander & Patapan 2007: 287).

In spite of this, there is some evidence of collaboration evident at this time. In early 2006 COAG announced agreement on a new *National Climate Change Plan of Action* – a series of relatively anodyne principles that carefully sidestepped the ongoing tensions regarding the use of a national emissions trading system (COAG 2006: 3). The senior officials working group,

¹³ The CAF bears a great deal of resemblance, in form and name, to the Canadian Council of the Federation. The two councils have also established working connections on the sub-national governance of climate change, and have held a joint meeting (Feb 2008). <http://www.caf.gov.au/Meetings.aspx>

¹⁴ This target was subsequently taken up in the CPRS.

¹⁵ Garnaut Review. Available at: <http://www.garnautreview.org.au/terms.htm>. Last accessed 3 May 2011

¹⁶ CAF Communique February 2007: 13. Available at: <http://www.caf.gov.au/meetings.aspx>. Accessed 4 May 2011. Note that there was also an interesting 2-level strategy utilized by CAF in relation to setting up a national emissions reporting system. The states/territories, while working through the senior official working group under COAG, simultaneously made a joint threat through CAF to force national reporting through the already-existing National Pollutant Inventory (operated through the NEPC) if a new national system was not up and running by 1 July 2008. See CAF Communique April 2007: 3

¹⁷ Note the absence of state and territory representation on the PMs TGET.

¹⁸ Ayers 2006: 45; COAG Communique June 2005

although failing to develop a coordinated position on emissions trading, did bring work on development of a national adaptation strategy and revisions to a national renewable energy framework. Later in the year, states/territories and the Commonwealth agreed on the need for a new national greenhouse gas reporting system, and tasked a working group drawn from the MCE and EPBC with development, leading eventually to agreement on the *National Greenhouse and Energy Reporting Act 2007*, which established a National Greenhouse Emissions Reporting System.¹⁹ In April 2007 COAG announced agreement on a new national adaptation strategy, and the joint creation of the Australian Centre for Climate Change Adaptation (COAG April 2007).

- *Resurgent National Coordination:*

The federal election of 2007 saw a shift in power in the Commonwealth, as Labor emerged victorious and Kevin Rudd became the new Prime Minister. Rudd immediately re-engaged the states and territories through COAG, committing to meeting four times in 2008. A joint working group on climate change and water (WGCCW), drawn from the ministerial councils on energy and environment, was immediately formed under COAG and tasked with incorporating the state-driven NETS and the recommendations embodied in the Task Group on Emissions Trading into a national plan (COAG December 2007). In addition, sub-groups within the WGCCW on renewable energy, energy efficiency, and adaptation were created and tasked with coming to agreement on the design of new national policies in each area.

The Commonwealth released its Green Paper on the CPRS in July 2008. In October of the same year COAG announced agreement on principles regarding how to assess the fit between state/territory and commonwealth mitigation measures, and approaches to rationalizing existing state/territory policies and programs with the new CPRS.²⁰ It also announced agreement on a national approach to carbon capture and storage and the joint creation of the Global Carbon Capture and Storage Institute (COAG October 2008). The April 2009 COAG meeting produced agreement on an updated national mandatory renewable energy target of 20% by 2020 and later in the year on a new national energy efficiency strategy (COAG April 2009). The July 2009 COAG meeting led to agreement on revising the Australian Energy Market Agreement in order to allow pass-through of costs associated with CPRS and RET to regulated users (COAG July 2009).

During the period from late 2007 to late 2009, the appropriateness of the CPRS as a national approach to reducing emissions appears to have been taken for granted within COAG. The WGCCW was tasked explicitly, in addition to developing national policies on renewable energy, energy efficiency, and adaptation, with reaching agreement on a national ETS.²¹ The states, territories and commonwealth agreed in March 2008 on the need for a national ETS (COAG March 2008), and communiqués issued in October 2008, as well as April and July 2009 (following national consultation on the CPRS green and white papers) take implementation of CPRS as taken-for-granted.²² And in December 2009, in light of the emerging challenges facing the CPRS in the Australian Senate, the states/territories and commonwealth joint communiqué declares that:

¹⁹ Crowley 2007: 135; COAG Communique July 2006

²⁰ The Strategic Review of Australian Climate Change Programs (The Wilkins Review). <http://www.finance.gov.au/publications/strategic-reviews/index.html>. Last accessed 2 May 2011

²¹ Queensland Government, Office of Climate Change. <http://www.climatechange.qld.gov.au/whatsbeingdone/queensland/commonwealthcollaborations.html>. Last Accessed 2 May 2011

²² COAG Communique October 2008: 5; COAG Communique April 2009: 9; COAG Communique July 2009: 10

Leaders noted the importance of an emissions trading scheme in helping Australia achieve its targets for greenhouse gas reduction and play its fair share in international efforts to deal with climate change. Setting a price signal for carbon through a market-based mechanism enables reductions in Australia's greenhouse gas emissions at the lowest possible economic cost. COAG noted that the proposed Scheme would be supported by substantial complementary climate change initiatives, a number of which have been developed collaboratively through COAG. In 2009 COAG agreed to the national Renewable Energy Target, which will drive the deployment of renewable energy, and the National Strategy on Energy Efficiency which will accelerate adoption of energy efficiency in buildings, households and businesses.²³

Thus, there appears to have been a strong degree of support for the CPRS amongst states and territories prior to its eventual defeat in the Australian Senate.

4. Case 2: Canada and Failed IGR Coordination

Like the review of Australian policy making above, this section briefly sets out the context within which Canadian climate-change policy making has taken place, both the institutions which determine the process used and the political economy which shapes the interests of relevant state and non-state actors. This is followed by a chronological narrative of the policy-process.

The institutional context

Within Canada, jurisdiction over environment has been determined by the Supreme Court to be shared by both senior levels of government (Valiante 2009) and accordingly a system for policy co-ordination, facilitated by a joint-federal provincial secretariat, the Canadian Council of Ministers of the Environment (CCME), has been in place for some time. In 1998, federal and provincial governments agreed upon an explicitly stated, written means of co-ordination termed the Harmonization Accord. Climate change, however, is not addressed by the Accord and it has been suggested by some, most notably the government of Alberta that because under the Canadian constitution resources belong to the provinces that emissions related to the resources of oil, natural gas and coal might fall exclusively under provincial jurisdiction. The issue has not been brought to the courts, however, and as discussed below the federal and provincial governments have behaved, for the most part, as though they consider it to be another case of shared jurisdiction. The primary institution used to date for attempts at policy co-ordination has been an extensive system of federal-provincial committees, reporting to the two relevant federal-provincial secretariats, CCME and the Canadian Council of Energy Ministers. While the mechanism of First Ministers Meetings (Prime Minister and provincial and territorial Premiers) has been used in other policy fields, such as aboriginal affairs, health and the constitution, it has not been used for climate change policy. Unlike Germany and the United States, Canada does not have an upper house Senate with fixed regional representation (beyond guarantee of a minimal number of Quebec seats). Nor does the federal cabinet, despite the fact regional representation is always a factor in its make-up, play an explicit role of regional bargaining and accommodation. Necessarily, that function is performed by federal-provincial policy secretariats, informal networks of federal and provincial officials and occasional First Ministers meeting. In all these fora, decision-making is consensual which guarantees a veto role for any sufficiently

²³ COAG Communique December 2009: 12

motivated jurisdiction and significantly weakens the ability of the institutional system to facilitate negotiated agreements on issues of cost-sharing.

That federal-provincial system of IGR related to climate change, as embodied in the Joint Ministers Meetings (JMM: 1992-1997) and subsequently the National Climate Change Process (1998-2002), broke down after disagreements over ratification of the Kyoto Protocol in 2002 and today there is no real effort to coordinate federal and provincial climate-change policy making. However, institutions (albeit very weak) are in place to co-ordinate Canadian federal government policy with that of the US federal government and also to co-ordinate action by some provinces (British Columbia, Manitoba, Ontario and Quebec) with some US states (most notably California). Thus Canada is currently in the unusual situation of having no system for internal policy co-ordination but having two, unrelated, systems for trans-boundary coordination (Macdonald, forthcoming).

The political economy context

Analysts routinely note that Canada is one of the most decentralized federations in the world (Stevenson 2000). This is in part due to Canadian geography - the population is primarily strung out in thin line in the most habitable parts of the country, just north of the US border. Additionally, along that line we find historical development of very different regional economies: fishery and forestry on the west coast, agriculture and fossil fuels in the prairies, manufacturing in the Ontario-Quebec St. Lawrence river corridor and again forestry and fishery in the Atlantic provinces. This wide disparity in regional economic interest is reinforced by differing regional identities, most notably that of the distinct society found in Quebec but also those of the west and east. Historically, the centre of political and economic power was the Ontario-Quebec axis, which created the country in 1867, but a considerable portion of that power has since shifted west. Given these major differences in regional interests and powers it is hardly surprising Canada is a decentralized federation, since the only alternative is that the country not exist at all, at least in its present form (an eventuality which came very close to being realized at the time of the second Quebec referendum on separation in 1995).

With respect to some aspects of climate-change mitigation, such as building insulation and capital and operating costs associated with public transport, there is no great regional variance in the cost of action and hence this underlying decentralist tendency is not significant. With respect to energy sources, however, the regional differences in cost are striking. Provinces with access to hydro-electric power, such as Manitoba and Quebec, generate far lower per-capita greenhouse gas emissions than do provinces without, such as the Alberta and Saskatchewan. In addition, the oil-producing provinces - Alberta, Saskatchewan and Newfoundland - have economies much more vulnerable than the others to adverse effects associated with rigorous climate change policy. Not surprisingly these provinces, and most notably Alberta, have consistently played a veto-role in Canadian climate-change policy-making, working to delay or dilute national programs.

Climate policy and IGR in Canada: 1990 to 2010

This section traces out the historical evolution of IGR coordination on climate policy in Canada from 1990 to present. This timeframe can be sub-divided into four eras of coordination: National Ministerial Coordination; fragmentation: unilateralism/bilateralism; Informal Harmonization with the US; and Sub-national Experimentation combined with weak horizontal coordination.

- *National Ministerial Coordination*

The Canadian Prime Minister Brian Mulroney in 1988 took an active role in arranging for the "Toronto Conference" an event, co-hosted with the United Nations Environment Programme and World Meteorological Organization that put the issue of climate change on the international agenda. The Canadian federal government then made a unilateral commitment to stabilize emissions in 1990; in 1992 was an active supporter at the Rio conference of the United Nations Framework Convention on Climate Change; and then ratified the Convention that same year. In 1993 the federal government then began to work with the provinces to develop a Canadian national (federal-provincial) program, using the established mechanism of the environment and energy ministerial secretariats, the Canadian Council of Ministers of Environment and Council of Energy Ministers. The two councils established a joint network of committees of federal and provincial civil servants to develop policy proposals, which were then presented to annual meetings at which the two councils met together, referred to as Joint Meetings of Ministers (JMM). Decision-making in the committee system and JMM meetings was all consensual, effectively giving a veto vote to all members and driving decisions toward lowest common denominator solutions.

The result of that first effort at national policy making was the 1995 federal-provincial National Action Program on Climate Change, which had as its primary policy instrument a joint business-government (both federal and provincial) program, the Voluntary Challenge and Emissions Registry. Quebec initiated its own, similar but distinct program, EcoGESSt. All Canadian organizations, including governments, corporations and non-profits, were invited to take voluntary action to reduce their GHG emissions; publicly announce their plans on the program registry; and then report annually on progress in meeting them. The program operated until the early 2000s, with wide participation from business but no major success in reducing emissions, and ended when the federal government began to develop plans for unilateral action, separate from the provinces, using instruments other than voluntarism.

In 1997, at the time of the Kyoto meeting, the federal-provincial JMM process was dealt a severe blow. Prior to the Kyoto COP all countries were announcing their plans for reductions. To develop such plans in Canada, the JMM formally decided the Canadian negotiating process should be stabilization at 1990 levels by 2012. The federal government, however, under direction from the Prime Minister who in turn was working closely with US President Bill Clinton, decided that position should be a *reduction* below 1990 levels and so instructed his diplomats in Kyoto. This action by the federal government of ignoring the JMM decision and substituting for it a different target caused considerable mistrust on the part of the provinces as the JMM process continued in the period 1997 to 2002 (Harrison 2007). It is an indication of the institutional weakness of the JMM system, since it was not strong enough to induce compliance on the part of the federal government. Meeting procedures, objectives, remained uncodified and ad hoc, and all parties retained the right to opt-out at any point. As the JMM process continued post-Kyoto, under the rubric of the National Climate Change Process (1998-2002), at different times Ontario, Alberta and Quebec all opted out of particular decisions made by ministers, and high level political engagement (at the First Minister level) remained absent. The final opting out, by Alberta, signalled the end of the process in 2002.

- *Fragmentation: Unilateralism/Bilateralism*

In 2001, after having succeeded in convincing the Kyoto parties to grant Canada a reduction in its national target, through credit for carbon stored in sinks of trees and soil, Prime Minister Chretien announced that his government would, in fact, ratify the Kyoto Protocol. This

move was strongly resisted by industry and the oil provinces, to the point that Alberta left the JMM process in the spring of 2002. In the fall of that year, all the provinces demanded that the federal government take the ratification decision to the level of a First Minister's meeting. The federal government refused to use that federal-provincial mechanism, unilaterally ratified despite vociferous Alberta objections and then proceeded to develop its own program for regulating industrial emissions. For its part, Alberta adopted a different reduction target and enacted Alberta law, in part to provide a legal basis for a possible challenge to federal regulation of Alberta industry. At this point the supporting system of joint federal-provincial committees ceased to function.

During the period 2003 to 2005, the federal Liberal government headed by Paul Martin worked to develop its own regulatory program and to enter into bilateral agreements for emission reduction programs with willing provinces, using the inducement of federal funding. No significant progress had been made by the time that government was defeated in January 2006, and replaced by Stephen Harper's Conservatives. For its part, the Conservative government from 2006 to 2008 abandoned the bilateral agreements, made no efforts to restart the JMM, and took only desultory action to develop its own regulatory program.

- Looking to the South: Informal Harmonization

In the fall of 2008, with the election of a US president apparently intent on activist federal approaches to the issue, the Conservative government announced it would harmonize its policy with that of the US federal government and publicly suggested to the US a Canada-US climate treaty, similar to the 1991 Air Quality Agreement which addresses acid rain and other transboundary pollutants. That offer was spurned and to date there is only mid-level consultation on energy between officials from the two countries. Nevertheless, the Canadian federal government is adhering to its stated policy of only implementing policy synchronized with that of the Obama administration. In effect, that has meant no effort to introduce the program for industry regulation first announced by the former government in 2003, and, in 2010, new harmonized regulation of motor vehicle fuel efficiency in both countries. The underlying dynamic that now binds the Canadian federal government to action in Washington has moved towards unwritten, informal harmonization, absent formal institutional linkage (Macdonald, forthcoming). Most importantly, this period emphasizes a shift, as the thrust of harmonization and coordination shifted from national (federal-provincial/territorial IGR) to cross-national (Canada-US at the federal, and as discussed below at the sub-national level as well) and disengaged from national IGR.

- Sub-national Experimentation: Weak horizontal coordination

During the period 2006 to the present, despite the absence of any system for co-ordinating federal and provincial policy, all Canadian provinces developed formal climate-change action programs, with targets and stated policy measures to meet them. The provinces-only institution, the Council of the Federation, at several annual meetings has discussed the issue in an effort to develop common provincial policy. Coordinated outcomes have remained stuck at the lowest common denominator, however, as expressed in statements of ambiguous intent (COF 2007), reports highlighting the autonomous actions undertaken in various jurisdictions (COF 2007, 2008a), and commitments to sharing information and best practices (COF 2008b). The COF, also dependent upon consensual decision-making with a right of exit always available to each province, has been too weak an institutional mechanism to develop co-ordinated policy.

Furthermore, there are no formal linkages between the COF (as an institution of horizontal IGR) and the ad hoc institutions of vertical IGR (the FMM in general, and the JMM on climate change). Some provinces, most notably, B.C., Manitoba, Ontario and Quebec, are participating in cross-border arrangements, such as the Western Climate Initiative. Those too suffer from the institutional weakness of lowest-common-denominator decision making (the WCI reduction target is essentially the sum of the pre-existing targets of states and provinces participating) and have no real power to force compliance if co-ordinated policy ever reaches the implementation stage - which is still not certain, given the recent decisions by B.C. and Ontario to put back their programs by one year.²⁴

In summary, then, we see that the Canadian IGR system has moved through four phases: (1) the JMM, 1992 to 2002, with an inability to bind all jurisdictions or develop effective policy; (2) bilateral federal-provincial agreements, 2003-2005, which only included some provinces and did not produce effective policy; (3) since 2008, harmonized Canada-US federal policy, the effectiveness of which will be decided completely in Washington, with no influence from Ottawa; and, (4) sub national harmonization, not through the COF but instead cross-border mechanisms like the WCI, which only include some provinces and to date have not adopted effective policy. Since 1992, Canadian federal and provincial governments have failed to develop co-ordinated national policy. As discussed below, a substantial contributor to this outcome can be found in the underlying interests of state and non-state actors, and in particular the blocking actions of Alberta and the oil industry. Equally significant have been the interests of successive federal governments, which have never really engaged with the issue (unlike the Rudd government in 2007) and for that reason have not attempted to really *use* the Canadian IGR system - as witnessed by the Chretien government setting aside the pre-Kyoto 1997 JMM decision, and failure or unwillingness to use the mechanism of a First Ministers' Meeting in 2002 or since. However, in addition to an unwillingness to make use of the existing institutions of IGR, the inherent weakness of both vertical and horizontal institutions may also be part of the explanation. The sections above highlight the weaknesses of the Canadian institutions of IGR, lacking as they are in stability (weakly or not codified at all; participation rules that exclude first ministers; subject to change or dissolution in the face of changes in the underlying interests of actors) and legitimacy (as evident in the willingness of actors to opt-out and work outside or around them). These issues will be explored in greater detail below.

5. Comparative Analysis:

As noted above, the purpose of the comparison of the cases presented in this section is to determine the extent to which the differences in IGR institutions explains co-ordination success in the Australian case and failure in the Canadian case and, secondly, to say something about how those institutions influenced the two different policy processes. To do that, we draw upon the data presented in the two preceding sections to, first, rule out those factors which are clearly irrelevant to the different policy outcomes; secondly, to identify the major non-institutional explanatory factors; and, thirdly, to discuss in more detail the differences in institutional factors.

We start by noting the similarities between the two cases. since they can immediately be ruled out as factors explaining differences in ability to co-ordinate policy. For both Canada and Australia, the extraction and export sale of fossil fuels is an important contribution to the national economy and, not surprisingly, both are among the highest global per capita emitters of greenhouse gases. Both have similar Westminster-style forms of government and, like all the

²⁴ Shawn McCarthy (April 13, 2011) "B.C., Ontario hinder California green plan. [The Globe and Mail](#), A11.

other industrialized democracies, both have environmental movements pressing for action on climate change and other issues. In each country, sub-national jurisdictions have established links with their counterparts, such as the Western Climate Initiative, in the US and the National Emissions Trading Taskforce in Australia. Another set of factors that can be ruled out for explanatory purposes, although in this case it is a difference rather than similarity, is the external influence of the UNFCCC regime. The 1997 Kyoto Protocol allowed Australia an 8% GHG emission increase over 1990 levels, compared to the Canadian 6% reduction, and Australia only ratified the Protocol in 2007, compared to Canadian ratification in 2001. Thus Australia was subject to less external influence from the UNFCCC than Canada, meaning that in terms of that one factor alone, it would be less likely to co-ordinate policy, in order to achieve its international commitment, than would Canada. Differences in participation in the UNFCCC regime do not explain the differences in co-ordination success.

Turning to the non-institutional factors, three stand out as the most significant: (1) the much greater regional differences in the cost of compliance with effective climate policy in Canada than in Australia; (2) the absence in Australia of the basic fault-lines of federalism, most importantly the threat of Quebec separatism but also the underlying tension between West and East, which have pushed Canada toward substantial decentralization; and, (3) differences in federal government leadership, most notably the fact that starting in 2007 Australia, unlike Canada at any time, had a Prime Minister actively engaged with the issue and working to generate intergovernmental agreement. Each is briefly discussed, in terms of its explanatory value relative to the institutional factors which are then analyzed in more detail below.

As noted above, in Canada there has always been a wide gap between the climate-change policy objectives of the oil-producing provinces and the others. The latter played a veto-state role and their power was augmented by the fact that no other governments, either at the provincial or federal level, were actively opposing them in order to play a lead-state role. This meant that while the JMM institutional process was being used to develop coordinated national policy, voluntarism was the only policy instrument agreed to and the thorny issue of burden sharing, expressed by the principle that "no region shall bear an undue portion of the cost" was never explicitly addressed. That process broke down because of objections by Alberta and others to ratification and the institutional systems used since 2002, bilateral federal-provincial agreements and sub-national cross-border agreements such as the WCI, excluded the oil provinces. Analysts agree that this is one of the major factors explaining the failure of Canadian national policy, which in turn is a failure of co-ordination (Harrison 2007; Macdonald, 2008, Rabe, 2005; Simpson et al. 2007). The absence of similar differences in sub-national economic motivation in Australia, where natural resources are much more evenly distributed between states and territories, obviously made the co-ordination challenge much more manageable in that country. We argue, however, that this difference is not the *only* explanatory factor, since Alberta did participate in the national process up to 2002 and has since put in place climate-change mitigation policy, albeit with less ambitious objectives than the Canadian international target.

In the same way, we suggest the basic challenges of Canadian federalism associated with regionalism and ethno-linguistic identity, which are not found in Australia, is only part of the explanation for coordination success in the former and failure in the latter. We base our position on the fact that in Canada, both in the environmental policy field (most notably the 1998 Harmonization Accord) and other policy fields, such as health, social welfare and internal trade, federal and provincial governments have reached agreement and gone on to implement coordinated policy. Canadian federalism is not made completely unworkable by that country's

historic cleavages, which suggests coordinated climate policy could have been achieved, despite them.

Thirdly, we argue differences in federal leadership are also important, but once again offer only a partial explanation. Australia, under Prime Minister Howard, suffered from a lack of leadership from 1996 to 2007 equivalent to that found in Canada and yet, unlike that country, was able to take the first steps toward policy coordination. Furthermore, as discussed below, once he was replaced by a Prime Minister who *was* interested in leadership, that individual's task was made much easier by the existence of an institutional system for IGR co-ordination which by that time no longer existed in Canada. Here we see the inherent interconnection between the variables of interests and institutions.

Institutional differences

Based on data presented in the two case studies above, we believe four differences in the IGR institutions are significant in explaining the differing abilities in each country to coordinate policy between the two levels of government. These are: (1) the strength of IGR institutions; (2) participation rules which require participation by first ministers; (3) differences in the sub-national institutions; and, (4) positive linkages between horizontal and vertical institutions. Each is discussed below.

As noted above, Australian state and non-state policy actors in the 1990s expressed considerable dissatisfaction in the 1990s with the ability of their governments to develop and implement co-ordinate policy. With active support from the Commonwealth Labour government, which was strongly interested in intergovernmental reform, this led to creation in 1992 of the Council of Australian Governments (COAG) as a peak institution for vertical intergovernmental relations. Although similar dissatisfaction is routinely expressed in Canada, that country has not implemented any significant change in the federal-provincial machinery of intergovernmental relations.²⁵ After the near-death experience of the 1995 Quebec referendum, the Chretien government embarked on a series of initiatives in different policy fields all intended to show Quebec that "federalism works" but all of these were done using the existing IGR system (Meekison et al 2004). In Australia, COAG has evolved into a relatively strong institution of IGR. The rules of participation and decision-making are codified formally, have persisted across time and in the face of changes in the preferences and interests of key actors (in spite of Howard's relative disinterest in COAG and his shift in general away from the collaborative endeavour of the early 1990s, COAG has remained the primary institutional venue for IGR and its rules and procedures have been unchanged), and are supported by a permanent bureaucratic institution (the COAG permanent secretariat). While COAG remains outside of the constitutional structure of Australian politics, and thus exists in a formal status of legal limbo, the factors outlined above render it a relatively strong institution of vertical IGR. This is especially so in comparison to the institutions of vertical IGR in Canada (the FMC/FMM) which remain entirely ad hoc and lack well-understood and accepted (never mind codified) rules and procedures, and lack any sort of commitment to regular meetings or permanent secretariat (Papillon & Simeon 2004).

Secondly the new body created in Australia, COAG, was designed to directly involve the heads of Commonwealth and state governments, thus making it a more authoritative body than one involving ministers only. Indeed, one of its mandates of COAG is to improve and coordinate

²⁵ Simmons 2004

the existing system of ministerial councils that operate along sectoral and issue-based lines. As noted above, when COAG fully re-engaged the issue after election of the Rudd government in 2007, a high level working group comprised of government officials from the commonwealth and state/territory governments as immediately created to coordinate agreement on a host of national climate change policies (the WCCCW, referred to on p. x above). The participation rule in COAG is thus of central importance – the mandate that decisions involve high-level political engagement, oversight, and agreement sidesteps the political wrangling and delay that can beset interactions at the ministerial level or lower. And in fact, this is what has happened in Canada. The primary Canadian institution of peak intergovernmental relations, the First Ministers Meeting (FMM), has to date only been used once for climate-change policy, when First Ministers met immediately after the Kyoto Protocol was negotiated in December, 1997. This FMM, following hot on the heels of the commitment by PM Chretien to a national target well in excess of the previously agreed through federal-provincial consultation, was marked by vigorous objection from Alberta, and resulted in the adoption of the principle that no region shall bear an undue portion of the cost of emissions mitigation. In the fourteen years since then, the FMM has not been employed or activated for the purpose of coordinating a national climate change strategy. The primary institutional venue for IGR that has been utilized, the JMM that functioned from 1992 to 2002, was based on a participation rule that excluded first minister participation. As such, it lacked an institutional linkage between the minister and first minister levels. The two institutions in combination, the FMM that has been studiously ignored or avoided, and the JMM, which lacks legitimacy and decision-making clout as a product of the participation rule that excludes first ministers, form a relatively weak institutional context. COAG on the other hand, as shown above, was the principle forum used by the Rudd government to negotiate a set of intergovernmental climate policies and programs. It is true that COAG and CFM both rely on the political will of the Prime Minister, as both lack automatic standing as a forum that must be used regularly for intergovernmental relations. Nevertheless, it *was* used by the Australian Prime Minister and because State and Territory first ministers were automatically involved the IGR process was more likely to reach a successful conclusion, both because first such participation lent weight and legitimacy to the process, and also because of the institutional connection between ministers and first ministers.

The third difference is regarding the roles played by the sub-national or horizontal institutions of IGR, the Council of the Federation (COF) in Canada and the Council of the Australian Federation (CAF) in Australia. The institutional design of the two bodies is similar (the CAF was modeled on the COF) in that each consists only of sub-national governments, meeting without any federal government presence and relying only on consensual, lowest-common-denominator decision-making. Nevertheless, the CAF was able to facilitate agreement in 2007 that States and Territories would develop and implement a national emissions trading system, with or without federal involvement. This contrasts with the fact that its Canadian counterpart has had climate policy on its agenda at a number of annual meetings, but has never been able to reach agreement on common policy. This difference is largely explained by the existence of the Alberta veto-state role in Canada, as compared with the aggressive leadership demonstrated by the states of NSW, Victoria, and Queensland, but may also in part be due to differences in the two sub-national institutions.

Finally, we suggest that the broader institutional context in Australian facilitated interaction and linkage between vertical and horizontal institutions, while no similar dynamics exists in Canada. As seen above, the original impetus for the Australian emissions trading scheme came from the work of the states, independent of any federal role. In spite of this, the

horizontal coordination between states and territories in Australia was in some ways explicitly oriented towards establishing a strong joint position that could be taken into COAG once vertical coordination was re-engaged. The extent to which CAF actually intended to implement the NETS is unclear, but there are certainly indications that some states were only interested in using it as a bargaining chip.²⁶ The Rudd government use of COAG to build upon and extend the work of the CAF, and the uptake of various elements of the CAF/NETS position (on the national target, and on the broad outlines of the trading scheme) point to the importance of the interaction between a strong vertical institution (COAG) and a more coherent horizontal institution (CAF). In Canada, on the other hand, the absence of a strong institution of peak IGR can be seen as detrimental to both the vertical and horizontal capacity to produce coordination outcomes. The absence of linkage between horizontal and vertical institutions of IGR in Canada may remove some of the impetus for horizontal coordination that has been central to Australian coordination, thus leaving the COF to rely on internal institutional rules and mechanisms to keep actors at the table long enough to reach agreement on coordinated outcomes (an unlikely proposition due to the reliance of such institutions on unanimity decision-rules). In addition to the inability to coordinate a national approach to reducing emissions, further evidence of institutional weakness is suggested by the inability of COF to formulate jointly coordinated positions in any aspect of climate change policy (Renewable Energy, Energy Efficiency, Adaptation, Mitigation) and in the tendency for coordination activities and efforts to shift to new cross-border institutions such as the WCI.

6. Conclusion

While our conclusions remain necessarily tentative as a result of the time and resource limitations imposed on our research and analysis, we suggest three core implications that emerge from the preceding sections.

First, the evidence presented above suggests that there is a case to be made for the causal relevance of institutions of IGR as a means of understanding variation in coordination outcomes in our cases. While institutions are by no means a necessary nor a sufficient cause of successful coordination, under particular scope conditions it does appear that institutions of IGR can and do affect the ability of functionally interdependent jurisdictional actors in federated systems to come to agreement on coordinated national objectives and policies. The next obvious step is to develop a stronger sense as to the specific conditions under which institutions of IGR matter, by exploring in greater detail the relationship between institutional strength and other causal factors.

Second, institutional strength appears to be positively associated with the effective coordination outcomes. Our analysis suggests that differences in the strength of institutions of IGR in Canada and Australia can help to account for the divergent coordination outcomes that are evident. This is, to be sure, not exactly a novel argument. Canadian IGR (and government practitioners) scholars have long noted the relative weakness of the institutions of IGR (Simeon 2006a; Papillon & Simeon 2004: 128; Simeon & Nugent 2008: 97), such that the “under-institutionalized” character IGR has “led to weak over-arching coordination in Canadian intergovernmental affairs” (Meekison, Telford and Lazar 2004: 14) and identifying as problematic the “chronic institutional weaknesses” in “intergovernmental coordination and cooperation” (Brown 2006: 68). Thus our suggestion that this problem stands as a powerful

²⁶ Robert Taylor, ‘WA can cash in on climate catastrophe – Premier’, *West Australian*, 4 November 2006, p10; see also <http://www.ias.uwa.edu.au/new-critic/four/inconvenienttruth>. Whether or not NETS actually required participation of all parties, or could have proceeded on the basis of a “coalition of the willing” as per RGGI and the WCI, is an open question – one that will likely re-emerge as a result of Commonwealth retreat from the CPRS over the course of 2010 and early 2011.

barrier to effective national coordination in the issue area of climate change seems relatively unproblematic. And yet, most analysis of, and commentary on, Canadian climate policy pays little attention to this fact, focusing instead on the debate over appropriate regulatory mechanisms (sectoral regulation, cap & trade, carbon tax), and the more challenging task of sorting out the economic principles and implications of emissions pricing and revenue gathering and redistribution (Bramley et al 2009; Peters et al 2010; Gibbins 2009; Snoddon & Wigle 2009; Courchene & Allan 2009). What our analysis suggests is that strong institutions of IGR, those with participation rules that mandate inclusion of first ministers, codification of rules and procedures, and permanent secretariat, create a context that enables the emergence of collaborative norms and joint expectations (Painter 1996: 104, 1998: 52, 2001: 140) and can create the conditions under which actors remain at the table long enough to negotiate coordinated outcomes as regards the substantive issues outlined above.

Lastly, while our analysis points to the relevance of institutional strength as a causal factor, what remains unexplored are the actual mechanisms through which institutional strength actually impacts on coordination outcomes. It seems apparent that institutional strength is relevant not only in terms of the internal dynamics of singular institutions of IGR (in terms of participation rules, decision-rules, agenda-setting rules, and so on) but also in terms of the external dynamics between institutions of IGR. The Australian case suggests that the relationship between the vertical institution of IGR (COAG) and the horizontal institution of IGR (CAF) created the dynamic that propelled successful coordination. The tension, and linkage, between the vertical and horizontal institutions is a factor that is markedly absent in the Canadian context, where the weakness of vertical institutions of IGR appears to undermine (or at least reinforce) the coordinative capacity of the COF. However, such notions regarding the nature and implications of linkage in the IGR “complex” (Keohane & Victor 2011) remain conjectures for the moment, and more research is needed in this area.

In summary, this case study comparison allows us to draw two conclusions. First, while factors such as asymmetrical distribution of costs, underlying schisms, and differences in federal leadership are significant in explaining the differences in ability to co-ordinate, we argue that differences in the institutions of IGR are also part of the explanation. We suggest, accordingly, that academic analysis seeking to explain the failure of Canadian climate-change policy to date needs to pay more attention to the institutional factor (Simpson et al, 2007; Harrison 2007; Macdonald, 2009) in addition to other. More specifically, in federal systems such as Canada and Australia, much more attention must be paid to the institutions of IGR as these are the workhorses through which the management of functional interdependence primarily takes place. Similarly, this analysis points to a need for climate professionals working for more effective climate policy to place greater emphasis on IGR institutional reform in their work on policy recommendations. Secondly, we conclude that the way in which institutions can facilitate co-ordination is through providing channels for policy making which require engagement of first ministers; which automatically link first ministers and ministers; and which also link co-coordinating institutions at the two levels of government. Again, we argue Canadian academics and policy makers need to pay attention to institutional reforms which can enhance those two functions, and suggest the need for greater research in this area.

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