

# **International Climate Change Policy in the Harper Era**

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## **Introduction**

Canada has been deeply involved in international discussions around climate change from their outset. Canada's specific contributions to these processes have, however, varied widely. At times Canada has played prominent and constructive leadership roles, contributing significantly, for example, to the conclusion of the original 1992 United National Framework Convention on Climate Change (UNFCCC) and the subsequent 1997 Kyoto Protocol. On the other hand, in 2013 Canada received a "lifetime underachievement" award from the international NGO the Climate Action Network, for its failure to make meaningful contributions to the United Nations climate negotiations, and attempts to stall progress over the preceding five years. More recently, the government of Prime Minister Trudeau has signalled a strong intention to re-engage constructively in the international climate change effort, and has signed and ratified the 2015 Paris Climate Change Agreement.

The following chapter focusses specially on the Canadian government's approach to the international dimensions of the climate change issue during the government of Conservative Prime Minister Stephen Harper, from its coming into office in January 2006, to its defeat in the October 2015 federal election. As a case study, the Harper period provides an opportunity to examine the extent to which international obligations and considerations constrained and shaped the behaviour of a government that was fundamentally disinclined to take the climate change issue seriously, and eventually came to regard it as a threat to its core economic agenda.

After providing a brief discussion of the evolution of Canada's role in international climate change policy during the governments of Prime Ministers Mulroney (1984-1993), Chretien (1993-2003), and Martin (2003-2006), the chapter examines the Harper government's approach to the issue through three distinct phases. During the initial period 2006-2008, the minority Conservative government, with aspirations to be a global

“energy superpower,” found itself compelled by domestic and international considerations to engage with the climate change issue. The second (2008-2011) period, is marked by continued minority government status for the Conservatives and the arrival of the Obama administration in the United States. The new US administration brought with it a strong focus on climate change. The third and final phase, encompasses the period from the Harper Conservative’s achievement of a majority government in 2011 to its defeat in the 2015 federal election. This was a period defined by major retrenchments on Canadian Climate change policy domestically and internationally. The chapter also includes a discussion of important transnational initiatives that emerged around climate change policy among sub-national (provincial and state) governments in North America during the Harper period.

The narrative that emerges suggests that the multilateral regime established through the UNFCCC around climate change ultimately provided little or no constraint on the Harper government’s abandonment of Canada’s commitments under the UNFCCC framework. Rather, the only significant constraints emerge through the bilateral relationship with the United States. At the federal level the Obama administration’s refusal to approve the Keystone XL pipeline project, which was seen by the Harper government as essential to its oil sands development strategy, was fundamentally tied to the Harper government’s approach to the climate change question. At the sub-national level, state and provincial initiatives like the Western Climate Initiative, would provide the structure for the emergence of a national climate change regime in Canada without significant federal involvement.

## **Background**

### **1990-2006 - International Leadership and Federal-Provincial Conflict**

Canadian climate change policy formulation and implementation was defined, through the governments of Progressive Conservative Prime Minister Brian Mulroney, and Liberal Prime Ministers Jean Chretien and Paul Martin, by the combination of relatively strong leadership roles at the international level, and increasing domestic federal-provincial conflict over the implementation of Canada’s international commitments.

Internationally, Canada was in the forefront of the development an legal and policy framework in response to the emerging scientific consensus around the significance of the problem of anthropogenic climate change, from the outset. The Progressive Conservative government of Prime Minister Brian Mulroney adopted a national goal of stabilizing Canadian greenhouse gas emissions in 1990. Two years later Canada played a major role in the establishment of the stabilization of emissions at 1990 levels by the year 2000 as the central goal of the United Nations Framework Convention on Climate Change (UNFCCC), adopted at the Rio Conference in 1992. Canada was among the first countries to sign the UNFCCC, which provided the structure for all subsequent international climate change negotiations and agreements. Prime Minister Mulroney was seen to have played an important personal part in persuading the US administration of President George Bush (Senior) to participate in the negotiations and sign the Convention.<sup>1</sup>

The pattern of relatively strong Canadian international leadership on climate change continued under the subsequent (1993-2003) Liberal government of Prime Minister Jean Chretien. Like Mulroney, Chretien played, at times, a major role in the multilateral discussions over climate change. Following discussions with other G-7 leaders, for example, he intervened personally to establish of Canada's commitment to a six per cent reduction in its GHG emissions relative to 1990 by the First Commitment Period (2008-2012) of the 1997 Kyoto Protocol to the UNFCCC.<sup>2</sup> The Canadian commitment was among the most ambitious of the individual national targets of the non-European Union, Annex B (i.e. developed) countries under the protocol.

Despite the 2001 decision of the administration of US President Bush (Jr) to withdraw the United States' signature from the Kyoto Protocol, the practice of strong Canadian international leadership continued. Then Environment Minister Stephane Dion, for example, played, a major role as Chair of the 2005 Conference of the Parties in Montreal, under government of Prime Minister Paul Martin, who succeed Chretien in 2003.

The situation on the domestic front was more complicated. Efforts to formulate a national strategy to implement Canada's obligations under the UNFCCC and particularly

the Kyoto Protocol were defined by rising levels of political conflict. Tensions became increasingly acute between fossil fuel producing provinces, particularly Alberta, who saw the Kyoto obligations as potentially significant constraints on the development of its oil sands resources, and the federal government and less carbon export dependent provinces, led by Quebec. Efforts at a multilateral domestic consensus around Kyoto implementation collapsed with Alberta's withdrawal from the process in 2002, leading to the unilateral federal ratification of the Kyoto Protocol at the end of that year.<sup>3</sup>

The Liberal minority government of Prime Minister Paul Martin that emerged from the 2004 federal election continued with a strategy of bilateral engagement with those individual provinces willing to negotiate over Kyoto implementation. These efforts were backed by proposals for a federal cap and trade system for large industrial sources of greenhouse gas emissions. The final draft of regulations to implement the system under the *Canadian Environmental Protection Act* were published in the Canada Gazette in December 2005, just prior to the January 2006 election.<sup>4</sup>

While the Liberal governments of Chretien and Martin, and New Democratic, Bloc Quebecois and Green opposition parties remained at least rhetorically committed to attempting to fulfil Canada's Kyoto obligations, the Progressive Conservative and Reform parties, with their strong political bases in western Canada, emerged as deeply opposed to the ratification of the Protocol and the implementation of measures to fulfil Canada's obligations under it. The political impact of that opposition was initially limited by effects of vote splitting among conservative voters between the Reform and Progressive Conservative parties. The merger of the two parties in 2003 under leadership of Stephen Harper, would set the stage for a very different direction in Canadian climate change policy both domestically and internationally.

### **2006-2008 - Energy Superpower Aspirations meet Climate Change Realities.**

The fall of Paul Martin's minority government in November 2005, and subsequent January 2006 federal election would be a crucial watershed in the evolution of Canadian climate change policy. The election resulted in a Conservative minority government, led

by Stephen Harper. Harper's personal and political hostility to the climate change issues was well known. As leader of the Canadian Alliance party, he had once described the Kyoto Protocol as "a socialist scheme to suck money out of wealth-producing nations," that would "cripple the oil and gas industry."<sup>5</sup>

The new government was clear from the outset that its primary focus was to be on the development and export of Canada's energy resources, particularly Alberta's oil sands, with the intention of making Canada an "energy superpower."<sup>6</sup> Its initial approach to the climate change issue seemed to be one of neglect, both domestically and internationally. At the time, international discussions on a successor agreement to cover the Second Commitment Period (2012-2020) under the Kyoto protocol seemed stalled, given the United States' withdrawal of its signature from the protocol and subsequent non-engagement under the Bush administration. Domestically there seemed little to be gained by antagonizing the new government's western Canadian political base over the issue.

A number of factors combined to quickly render such an approach both politically and practically unviable. Domestic and international public concerns over the climate change issue began to rise dramatically. These concerns were reinforced by perceived increases in extreme weather events, and underlined by the 2007 Fourth Assessment Report of the Intergovernmental Panel of Climate Change (IPCC), the scientific body established under the UNFCCC. In its report, the panel concluded that "warming of the climate system is unequivocal", and that "most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations."<sup>7</sup> Concerns about climate change had been further reinforced by the release of the 2006 film "An Inconvenient Truth," featuring former US Vice-President Al Gore.

By the end of 2006 the environment was being identified consistently in the McAllister Opinion Research 2006, with a specific focus on climate change.<sup>8</sup> The issue became a major focus for all four opposition parties (Liberal, NDP, BQ and Green) facing the Harper government. The government's initial response was to attempt to refocus public concerns on air quality issues, rather than climate change, through the introduction of a

federal *Clean Air Act*.<sup>9</sup> These efforts were largely unsuccessful, ultimately compelling the government to introduce a domestic climate change strategy, entitled *Turning the Corner*.<sup>10</sup> The plan included proposals for an emissions intensity based regulatory framework for industrial emissions of greenhouse gases and other air pollutants, improvements in vehicle fuel economy standards, and new energy efficient standards for other consumer and commercial products.

Perhaps most importantly, the plan introduced a new GHG emission reduction target of a twenty per cent reduction in emissions relative to 2006 by 2020. By changing the baseline for future Canadian GHG emission reductions from 1990 to 2006, the plan implicitly abandoned the Kyoto protocol commitment to a six per cent reduction relative to 1990 levels.<sup>11</sup> The 1990 to 2006 period had been a period of significant growth in Canada's GHG emissions, driven very strongly by the expansion of production from the Alberta oil sands.<sup>12</sup> The shift to a 2006 baseline effectively wrote-off that growth in emissions.

The government's proposed *Clean Air Act* would never be adopted, in the face of objections from all three major opposition parties. Rather the opposition would combine to adopt, in June 2007, a *Kyoto Protocol Implementation Act*,<sup>13</sup> over objections of Harper government. The legislation required the government to table a plan for meeting Canada's commitments under the Kyoto Protocol every two years. The legislation required that these plans be reviewed by the National Round Table on the Environment and Economy (NRTEE)<sup>14</sup> and the Commissioner for the Environment and Sustainable Development (a branch of the Office of the Auditor General of Canada) to determine whether they were sufficient to meet Canada's Kyoto obligations.

The government's approach to the climate change issue emerged as a major focus in the federal election, called by Prime Minister Harper, for October 2008. During the election the Liberal party, now led by former environment minister Stephan Dion, proposed a "Green Shift," focussed on the implementation of a national carbon tax. The election resulted in a continuation of the Conservative minority government. The outcome was attributed to a collapse of the Liberal vote under Mr. Dion's leadership and the four-way splitting of post-materialist voters among the Liberal, NDP, Bloc Quebecois

(BQ) and Green parties. Post-materialist voters are the most likely to be concerned about social and environmental issues like climate change, and potentially constitute a majority of the Canadian electorate. Materialist voters, in contrast, who tend to form the base for the Conservative party, are more focussed on economic issues, employment and law and order issues.<sup>15</sup>

### **2008-2011 – Managing Obama**

Prime Minister Harper's apparent, partial vindication, of his management of climate change issue in the 2008 election became vastly more complicated the following month. Although the aftermath of the 2008 election left the Liberal party in disarray and unwilling to force another election on Harper's minority government, the November 2008 US election resulted in the election of Democratic candidate Barack Obama as president. Mr. Obama was backed by Democratic Party majorities in the US House of Representatives and the Senate. Mr. Obama's campaign had included a strong focus on US re-engagement with the climate change issue domestically and internationally, following the years of neglect under the Bush administration.

Mr. Obama's administration arrived with a strong ecological modernist<sup>16</sup> perspective on energy and environment issues, emphasizing the integration of energy, environmental and economic strategies.<sup>17</sup> This approach stood in stark contrast to the zero-sum framing that defined the Harper Government's conceptualization of energy and environmental issues. Within that framework environmental protection was only seen to be able to come at the expense of economic development, and vice versa. The government's own environment minister Jim Prentice had highlighted that point, stating that "There is a need for balancing of our responsibility as stewards of the environment and on the other hand, as creators of wealth and builders of industry and economic opportunity."<sup>18</sup>

The arrival of the Obama administration was accompanied by the introduction of a series of legislative proposals around climate change and carbon pricing in US Congress. Importantly from a Canadian perspective, virtually all of these proposals incorporated some form of trade-related measures. Reflecting US concerns that American industry would be disadvantaged if some form of carbon pricing system were

introduced in the US, but not in major competing economies, like those of China and India, the proposed legislation included some form of restriction on access to the US market for countries that did not introduce a carbon pricing scheme similar to that adopted in the US.

Congressional legislative efforts around climate change reached their zenith in June 2009, with adoption of the *American Clean Energy and Security Act* (a.k.a. the Waxman-Marky Bill) by US House of Representatives. Consistent with other proposals introduced at the same time, legislation would have required exporters to the US to obtain carbon permits from the US government. Emerging economies like China were the primary targets of these measures, but they had major implications for Canada as well given its trading relationship with the US. Although the legislation would never be adopted, it signalled the seriousness of the potential risks for Canada of inaction on climate change.

The international climate change discussions were re-invigorated as the United States re-engaged in UNFCCC processes following the arrival of the Obama administration. Major attention was focussed on the December 2009 Copenhagen Conference of the Parties, which was intended to establish a successor agreement and commitments to the Kyoto Protocol.

The Harper government's response to the situation, at least initially, was to tie its international approach to the climate change issue to that of the new US administration. Specifically, Canada committed to same climate change targets as the US under the accords that emerged from the Copenhagen Conference of the Parties of a seventeen per cent reduction relative to 2005 by 2020. Environment minister Prentice emphasized Canada's "complete alignment," with the US targets and that Canada's goals were "subject to adjustment to remain consistent" with the US approach.<sup>19</sup> The federal government was also critical of efforts by Canadian provinces or businesses to pursue more ambitious targets, with Prentice stating that "It is absolutely counter-productive and utterly pointless for Canada and Canadian businesses to strike out on their own, to set and to pursue targets that will ultimately create barriers to trade and put us at a competitive disadvantage."<sup>20</sup>



The alignment approach offered a number of potential advantages to the Harper government. On the surface, it offered a defense against trade-related climate change measures by the United States, as Canadian policy would be the same as the US and therefore provide no grounds for restrictions on access to the US market. At the same time, the strategy seemed grounded in an assumption significant US action to actually reduce GHG emissions was unlikely given the ongoing inability of the administration or Democratic congressional leadership to complete the adoption of climate change legislation. The situation enabled the government to say that it was following the lead of the Obama administration, without actually having to implement measures to reduce GHG emissions.

The one significant exception in this regard was the April 2010 adoption of new vehicle fuel economy standards in conjunction with those implemented by the Obama administration under existing provisions of the US *Clean Air Act*.<sup>21</sup> The level of integration in the North American automobile industry left the Harper government with little choice but to follow the US lead on the issue. Steps to reduce emissions from the Canadian energy sector, including oil and gas extraction, was conveniently deferred, pending US action.

The apparent success of the Harper Government's strategy was reinforced by the outcome of the November 2010 US mid-term elections. The elections resulted in the Republican party, which was generally hostile to taking significant action on climate change, taking control of US House of Representatives. The outcome meant that the chance of the adoption of climate change legislation by the Congress was virtually eliminated. From the Harper's government's perspective this offered several major advantages. It removed the direct threat of US legislation incorporating trade restrictions on countries that did not take similar action on climate change. It also greatly reduced the possibility that the Obama administration would take further substantive domestic action to reduce GHG emissions. Such action could reinforce pressures for similar action by the Canadian federal government. The existing provisions of the US *Clean Air Act* were written with conventional air pollutants in mind, and did not lend themselves easily to the regulation of emissions of GHGs.

The second assumption on the part of the Harper government proved less robust than the first. Almost immediately following the mid-term elections the Obama administration announced its intention to proceed with regulation of industrial GHG emissions on a sector by sector basis under the existing provisions of *Clean Air Act*. The administration's actions were propelled in part by litigation dating back to the time of the previous Bush administration. The US Environmental Protection Agency (USEPA) been compelled to make a determination of whether GHGs "endangered" public health and welfare in the settlement of litigation between the administration of former President George W. Bush and twelve states, several cities, and non-governmental organizations. The endangerment finding was ultimately issued in 2009. The *Clean Air Act* requires that once such a finding is made, regulatory action must be taken to reduce emissions.<sup>22</sup> The electric power generation and oil and gas sectors were identified as early priorities for action by the USEPA.

The Harper government's response to the US administration's initiatives were to state that "will not follow [the EPA's] course," but "we are harmonizing in terms of the outcome. We will reach the same outcome."<sup>23</sup> In other words, the policy of "complete alignment" with the US only lasted as long as the US did not take substantive regulatory action on industrial sources of GHGs. That said, the Canadian government stated that it would follow the US lead, and focus on regulating GHG emissions sector by sector, rather than pursuing a general carbon tax or national cap and trade system for large final emitters. The electric power generation and oil and gas sectors were also identified as priorities for regulation by Canada.

The Harper government generally assumed that no trade related climate change measures were possible under existing US legislation. This again turned out to be only partially true. Although the *Clean Air Act* does not allow trade-relation actions against countries that fail to adopt emissions standards similar to those put in place in the US, it would emerge that there were other ways in which market access could be limited.

Several of the congressional legislative proposals had included provisions for low-carbon fuel standards. Such standards would prohibit the sale of some types fossil fuels based on the amount of GHGs released in their production. Such standards could

significantly affect fuels produced from oil extracted from Alberta's oil sands. The production of oil sands oil is highly carbon intensive relative to conventionally (e.g. drilled) extracted oil.<sup>24</sup> Although the federal proposals were not adopted, low-carbon fuel standards were adopted by some US states, led by California, as well as the province of British Columbia. The low-carbon fuel standards, which were seen to specifically target oil sands oil, were also considered by the European Union.<sup>25</sup>

A second unforeseen issue related to the pipeline infrastructure needed to facilitate the planned expansion of production from the oil sands. The oil sands strategy set in motion in the mid-1990s had anticipated major increases in production, reaching one million barrels per day by 2004, and potentially increasing to five million barrels per day by 2030.<sup>26</sup> These levels of production would exceed the existing pipeline capacity to move oil sands oil to markets in the US by a substantial margin. At the time, the expansion of North American pipeline capacity to accommodate this growth was taken as a given. Pipeline expansions had rarely attracted substantial public attention. The possibility of significant local or even national level objections to such projects on their basis of environmental, and even more specifically, climate change, considerations was not anticipated.

Those assumptions began to unravel with the arrival of the Obama administration. The most significant of the proposed pipeline expansions, the Keystone XL project, first proposed in 2008, would run from Hardisty, Alberta to a pipeline hub in Steele City, Nebraska. The Canadian National Energy Board approved the pipeline in 2010. However, the pipeline became the target of significant advocacy campaigns on the part of environmental non-governmental organizations in the US and Canada. The NGOs identified the pipeline capacity issue as a potential choke point for oil sands expansion and the associated projected growth in GHG emissions.<sup>27</sup> There were strong local objections to the pipeline in South Dakota and especially Nebraska as well.

The extension of the pipeline became a major political controversy in the United States, particularly over its potential to induce further growth in oil sands related GHG emissions. USEPA rejected the initial environmental impact assessment for the pipeline in 2010, on the basis that it had failed to address oil spill response and safety issues

and GHG emission concerns.<sup>28</sup>The Obama Administration began to make increasingly explicit linkages between its reluctance to approve the Keystone XL project and Canada's poor performance on climate change issues.<sup>29</sup>

The Obama administration's unexpected determination to continue to act on climate change without congressional support, and to link decisions on issues of importance to the Harper government to its performance on the question of climate change, were not the only unexpected developments during the Harper minority governments. The emergence of the low-carbon fuel standard issue signaled another unanticipated development, this time at the sub-national level.

Given the apparent unwillingness of the Bush administration in the United States and Harper government in Canada, to act at the national level on climate change, a number of state and provincial governments began to collaborate on climate change policies of their own. The most significant of these initiatives was the Western Climate Initiative (WCI), launched in February 2007 under the leadership of then California Governor Arnold Schwarzenegger, with the participation of New Mexico, Arizona, Oregon and Washington. Montana and Utah would join the following year, along with the provinces of British Columbia, Quebec, Ontario and Manitoba. Several other states and provinces participated as observers.

The WCI was intended to establish common GHG emission reduction targets, a cap and trade system among the participating jurisdictions for GHG emissions, and common standards for vehicle fuel efficiency and low-carbon fuels. Participation in the cap and trade system would ultimately be limited to California, Quebec and Ontario, but did represent an unprecedented level of formal, transnational, subnational cooperation around climate change policy. The Harper government was at times outright critical of these initiatives,<sup>30</sup> but could do little to stop them. Given the non-participation of the key fossil fuel producing provinces, particularly Alberta, the initiative was not seen to directly threaten the government's energy policy agenda. Some of the participating provincial governments, for their part, were directly critical of the federal government's performance on the climate change file at UNFCCC COPs.<sup>31</sup>

## **2011-2015 – Withdrawal from the International Climate Change Regime and Responsible Resource Development.**

Stephen Harper's minority Conservative government was defeated on a motion of non-confidence in March 2011, over the behaviour of cabinet minister and budgetary matters. Despite a relatively small gain (~2 per cent) in the popular vote relative to 2008, the Conservatives continued to benefit from vote splitting among the four opposition parties, and gained a majority government in the May 2011 election.<sup>32</sup> The Harper government now found itself with the constraints of minority government and the threat of US legislative action, including trade related measures, on climate change, removed. The consequences for Canadian climate change policy would be dire.

The directions of the Harper majority government on energy, environment and climate change issues were defined at the at the end of 2011 and beginning of 2012. On December 11, 2011, the eve of the UNFCCC COP in Durban, South Africa, Canadian environment minister Peter Kent announced Canada's intention to withdraw from the Kyoto Protocol, stating that "Kyoto for Canada is in the past."<sup>33</sup> The principal justification offered by the government at the time was the possibility of being subject to increased obligations in the protocol's second (2012-2020) commitment period due to Canada's failure to meet its first commitment period obligations.<sup>34</sup>

The government appeared to anticipate that other countries would join it in formally withdrawing from the protocol, potentially setting in motion a chain of events that could undermine much of the international framework for addressing climate change. That did not occur, and Canada was left as the only country to formally withdraw from the protocol after ratifying it. The effect of the withdrawal was largely to marginalize Canada's role in international climate change discussions from 2011 until the defeat of the Harper government in 2015. Canada's contributions were acknowledged, by the international NGO, Climate Action Network, with the granting of a "Lifetime Achievement Award," at the 2013 Warsaw COP, for being named the "Fossil of the Year" as the country making the least constructive contribution to international climate change negotiations, for the preceding five years.<sup>35</sup>

The second international development took place in January 2012, and had a much more direct impact on Canadian climate change, energy, and environmental policy. In November 2011, the Obama administration had deferred a final decision on the Keystone XL pipeline, prompting the Republican majorities in the US Congress to pass legislation requiring a final decision within 60 days. President Obama responded by rejecting the pipeline application, arguing that the legislation prevented a “full assessment of the pipeline’s impact.”<sup>36</sup> The deferral and then rejection seemed to incense Prime Minister Harper, who had once described approval of the US pipeline as a “complete no-brainer.”<sup>37</sup> Obama would ultimately veto legislation adopted by the Congress in February 2015, approving the pipeline.<sup>38</sup>

The Harper government’s response to the US decision was not to strengthen its climate change policies to address the Obama administration’s concerns. Rather, the government began refocus its energy superpower strategy away from the US market for energy exports. With expanded US market access potentially blocked by the Obama administration’s concerns over climate change impacts of oil sands expansion facilitated by the Keystone XL and other pipeline capacity expansion projects, the government attempted to move towards facilitating access to non-US markets. The focus on markets beyond the US was further reinforced by the weakening of US demand for oil imports given the dramatic growth in unconventional (“fracked” and “light tight”) oil production in the US from 2008 onwards.<sup>39</sup>

Instead the government focussed on facilitating approval for a series of pipeline projects within Canada to intended to move oil sands oil to tidewater on Canada’s east and west coasts, and from there to wider international markets. The Alberta to BC Northern Gateway and Kinder-Morgan expansion projects, the Alberta to New Brunswick Energy East project, were all identified as major components of this strategy.

Frustrated by community, and municipal, aboriginal, and provincial government objections to these projects,<sup>40</sup> the Conservative government introduced a Responsible Resource Development strategy specifically to facilitate the approval of these and other energy resource export infrastructure projects. The key legislative elements of the strategy were incorporated into the 2012 Federal Budget implementation legislation, Bill

C-38. The legislation: made major changes to the federal *Fisheries and National Energy Board Acts*; repealed, and replaced the *Canadian Environmental Assessment Act* with new “streamlined” legislation; and repealed the *Navigable Waters Protection Act* and replaced it with a new *Navigation Protection Act*, all with the intention of facilitating and accelerating the approval of energy export infrastructure. The National Round Table on the Environment and Economy was disbanded and the 2007 *Kyoto Protocol Implementation Act* was repealed for good measure.<sup>41</sup>

In a final gesture towards the alignment of Canadian and US climate change policy, regulations controlling emissions from coal-fired electricity plants were adopted in September 2012.<sup>42</sup> The rules effectively required the phase out of conventional coal-fired electricity in Canada, but on timelines aligned with the normal end-of-life for existing coal plants in Canada, and allowed for the construction of new plants with carbon capture and storage (CCS) technologies.<sup>43</sup>

The November 2012 US election produced a situation similar to that after the 2010 mid-term elections: a renewed mandate for President Obama, but also continued Republican control of the House of Representatives, with the implication that no new climate change legislation would be adopted.

In this context, both the Harper government and Obama administration continued on the divergent pathways that had emerged in 2011. The Harper government, for its part, continued its pursuit of oil pipelines to Canadian tidewater, with the intention of bypassing the Obama administration’s objections to the Keystone XL expansion, and weakening US export market. The first of the pipelines, the Bruderheim, Alberta to Kitimat, BC Northern Gateway was approved in the cabinet under the revised, C-38 approval process, in June 2014.<sup>44</sup> The approval was met with a total of eighteen legal challenges by affected First Nations and environmental and community organizations. The approval would ultimately be overturned by the Federal Court of Appeal, on the basis of inadequate consultation with the affected First Nations, in June 2016.<sup>45</sup>

Despite the outcome of the 2014 mid-term elections, which left the Republicans in control of both houses of Congress, the Obama administration continued to move forward on its plans to regulate GHG emissions under the existing provisions of the

*Clean Air Act*. The centrepiece of these efforts, a Clean Power Plan focussed on reducing emissions from the electricity sector by thirty-two per cent by 2030 relative to 2005, was announced August 2015.<sup>46</sup> The plan was the subject of immediate challenges by twenty-seven states, although eighteen others intervened in support of the plan. The US Supreme Court would order a halt to the implementation of the plan in February 2016, pending consideration of the plan by the lower courts.<sup>47</sup>

President Obama would play a major role in the run-up to December 2015 UNFCCC COP in Paris, at which successor agreements to the Kyoto Protocol and 2009 Copenhagen Accords were to be negotiated. A November 2014 US-China Agreement to limit emissions was seen as a major breakthrough.<sup>48</sup> Obama would ultimately sign and ratify, without Congressional approval, the Paris Agreement committing the US to a Nationally Determined Contribution (NDC) of achieving “an economy-wide target of reducing its greenhouse gas emissions by 26%-28% below its 2005 level in 2025 and to make best efforts to reduce its emissions by 28%”<sup>49</sup> Canada, for its part, now very much at the margins of the Paris discussions, announced an intended Nationally Determined Contribution of a thirty per cent reduction in GHG emissions by 2030 relative to 2005 in May 2015.<sup>50</sup>

### **2015-2017: Trudeau, Trump and Climate Change**

The Harper government ended abruptly with the October 2015 Canada federal election. Justin Trudeau’s Liberal party won a majority government, in part on the basis of a platform that made substantial commitments to action on climate change and to reverse the Bill C-38 changes to federal environmental legislation.<sup>51</sup> In stark contrast to the Conservative government’s zero-sum framing of the energy and environmental issues, the platform reflected a strongly ecological modernist vision of the integration of energy, environment and climate change policy similar to that pursued by the Obama administration. Through the campaign the Liberals achieved the consolidation of the post-materialist vote that had evaded the opposition parties throughout the Harper government.

The arrival of the Trudeau government coincided with the final year of President Obama’s presidency, and led to a brief period of cooperative Canada-US relations



around energy, environment, and climate change issues. A joint, March 2016 Statement on Climate, Energy and Arctic Leadership, for example, emphasized their commitment to the implementation of the Paris Agreement, reduce GHG emissions, integrate renewable energy sources into electricity grids, improve energy efficiency, accelerate the development of clean energy sources, and protect the arctic environment and communities, while building a sustainable arctic economy.<sup>52</sup>

The Trudeau government announced a plan for a federal minimum carbon price<sup>53</sup> as part of the overall strategy for its October 2016 Ratification of the Paris Agreement. This was followed by the announcement, of a Pan-Canada Framework on Clean Growth and Climate Change, with the participation of all of the provinces except Saskatchewan.<sup>54</sup> The agreement largely rested on actions already being undertaken by the provinces, but did signal a renewed effort at federal-provincial engagement around climate change. The NDC committed to under the Paris Agreement remained the same as that proposed by Conservatives.

The period of Canada-US cooperation around energy, environment and climate change issues would end with the November 2016 election of Republican candidate Donald Trump as President of the United States. Backed by continued Republican majorities in the US House of Representatives and Senate, Trump has ordered a review of the Clean Power Plan, the centrepiece of the Obama administration's domestic climate change strategy,<sup>55</sup> and announced the United States' intention to withdraw from the Paris Climate Change Agreement.<sup>56</sup>

The Trudeau government, while stating that it was "deeply disappointed" in Trump's decision, affirmed that: "Canada is unwavering in our commitment to fight climate change and support clean economic growth" and that it would "continue to work with the U.S. at the state level, and with other U.S. stakeholders, to address climate change and promote clean growth."<sup>57</sup>

## **Analysis and Discussion**

The Conservative government of Prime Minister Stephen Harper's approach to the question of climate change was defined by a combination of political necessity and

perceptions of national economic interest, not a commitment to respond to the problem of climate change *per se* or a desire to fulfil Canada's international obligations around the issue.

When the risk of US trade-related action on climate change, expressed through a series of Congressional proposals in the late stages of the Bush Administration and first years of Obama Administration, seemed a real possibility, the government responded by tying its policy approach to that of the US. A strategy of "complete alignment" around issues like emission reduction targets in the Copenhagen Accords, and vehicle fuel economy standards, provided a means of maintaining access to the US market for Canadian exports, while also providing a political defense against doing more than the US federal government was actually able to undertake.

Once the threat of trade related action around climate change receded with the Republicans gaining control of the US House of Representatives in 2010, and the constraints of minority government removed in 2011, the Harper government returned to its core economic focus of Canada's development as an energy exporting "superpower." Although now qualified by the need to by-pass the US market, due to the combination of objections from the Obama administration to pipeline expansions, and a weakening US market for oil, this focus was expressed through the decision to withdraw from the Kyoto Protocol, the 2012 Bill-38 Responsible Resource Development initiative, and the elimination of NRTEE.

Canada's role in international Climate change negotiations, never particularly constructive during the Harper period, became increasingly marginalized. The Harper government seemed unconcerned by this, or the potential for its approach to climate change discussions to have adverse effects on Canada's wider international relations. This strategy was, in some ways, borne out in the sense that Canada's approach to climate change file did not seem to interfere seriously with other goals the government wished to pursue. Major new trade agreements were successfully concluded, for example, with China (2013), the EU (2015) and other nations. Aggressive and, largely successful, defenses of oil sands oil from US and EU Low-carbon fuel standards were mounted without serious collateral consequences.<sup>58</sup>

The UNFCCC regime provided an overall structure and focus for discussions and international policy making around climate change. The international regime established, for example, core minimum obligations around climate change, and the COPs functioned as the focal points for decision-making around global climate change policy. The existence of international commitments around climate change was an important touchstone for legislative opposition and civil society critics of the Liberal and then Conservative governments' performance on the issue. The delivery of IPCC assessment reports in 2007 and 2013 played important roles in focussing global public, media, and political attention on the climate change issue. However, in the end, the multilateral international regime around climate change did not significantly constrain the behaviour of the Harper government in any direct way.

The UNFCCC regime's overall enforcement mechanisms were weak, relying principally on reporting requirements. The 1997 Kyoto Protocol attempted to incorporate a stronger enforcement regime, with the potential for the imposition of more aggressive emission reduction targets during the protocol's second 2012-2020 commitment period, for Annex B Parties who failed to meet the first (2008-2012) commitment period obligations. The Harper government escaped this possibility by simply withdrawing from the protocol altogether.

The primary international constraint on the Harper government's approach to the climate change issue that did emerge came through the bilateral relationship with the United States. Although the United States Congress was ultimately unwilling to adopt legislation incorporating trade-related measures against nations that failed, from the perspective of the US, to adopt adequate climate change policies, the Obama administration found other means of affecting economic interests important to the Harper government. The need for Canada to harmonization its vehicle fuel economy standards with those adopted by the Obama Administration, as a result of the integrated nature of the North American vehicle market provided one example of such influence.

The other, and perhaps most significant example, was Obama administration's delays in decision-making and ultimate rejection of the proposed Keystone XL pipeline project. These decisions were due, in large part to concerns over the climate change impacts of

the expansion of oil sands production that the pipeline would enable, particularly in the absence of an effective framework for managing and reducing GHG emissions in Canada.

Unfortunately, the Conservative government's responses to even these constraints, was not to develop an effective climate change policy. Rather it chose to try to work around the blockage through the development of pipelines, such as the Northern Gateway, Kinder Morgan expansion, and Energy East projects, to move oil sands oil to tidewater within Canada. In effect, responses of the Obama administration were seen and treated as tactical, rather than strategic threats to the government's approach to energy issues.

The NRTEE, in particular, tried on numerous occasions make arguments for a more strategic approach. Following the lead of the 2009 Stern report to the UK government,<sup>59</sup> the round table attempted to lay out the economic case for carbon pricing, arguing that the costs of reducing emissions would be far less than those of dealing with the impacts of climate change.<sup>60</sup> It also advanced arguments for a modest carbon pricing regime as hedge against the possibility of US action to embed trade related measures into climate change legislation in the future.<sup>61</sup> The round table was summarily executed through Bill C-38 for these efforts.

More broadly, the larger ecological modernist vision of the integration of energy, environment and climate change policy, as articulated by the Obama administration, seemed completely lost on the Harper government. Rather the Conservatives Responsible Resource Development strategy seemed embedded in a zero-sum framing of the environment-economy relationship. Following Obama's lead, those of many EU governments, and, at least rhetorically, those of some provinces, including Ontario, Quebec, and BC, the theme of the economic opportunities associated with low-carbon transitions would later be successfully picked up by the Trudeau Liberals in their 2015 election platform.

### **Subnational Activity**

An important development during the Harper period was the role of subnational governments acting both individually and collectively on climate change in the context of

blockages at the federal level in both Canada and the United States. The transnational collaborations among provinces and states around climate change policy, most prominently through the Western Climate Initiative, opened new dimensions in the Canada-US relationship.<sup>62</sup>

While the collapse, except for California, of the US side of the WCI demonstrated the limitations of sub-national cross border initiatives, the WCI process provided a forum within which intergovernmental discussions of the details of cap and trade systems and other elements of a regulatory regime to reduced GHG emissions, could take place. The cap and trade system for GHG emissions involving California, Ontario and Quebec, that has emerged from the remnants of the WCI represents the most extensive cross-border regulatory collaboration seen to date among provinces and states. The cap and trade regime, along with the BC carbon tax developed in the context of BC's participation in the WCI, has ultimately provided of the foundation of the Trudeau government's 2016 Pan-Canadian Framework on Clean Growth and Climate Change.

### **The Path Forward?**

The combination of the arrival of the Trump regime in the United States, the preoccupation of the EU with the British exit from the Union, and the weak, reporting based enforcement regime of the Paris Agreement, means that there are few external drivers of Canadian climate change policy, other than the physical reality of climate change itself and its consequences. The possibility of an international climate change regime incorporating substantial enforcement measures, such as trade-related penalties for countries that fail to undertake serious efforts to reduce their GHG emissions, seems remote at best.

In Canada's case, the primary short-term drivers of Canadian climate change policy will be domestic. The climate change issue offers the government a strong wedge against the Conservatives, whose opposition to action leads them to be associated with the Trump administration. Action on climate change also offers a defense against the NDP, Greens and BQ drawing post-materialist voters away from the Liberal government. The Trudeau government also appears to be genuinely motivated by a desire to restore Canada's reputation as constructive member of the international community.

That said, the government's current domestic carbon pricing proposal seems unlikely to push the major provinces, including BC, Alberta, Ontario and Quebec, who collectively account for eighty per cent of Canada's total GHG emissions, beyond what they have committed to do already.<sup>63</sup> Those efforts are widely recognized as being inadequate to meet Canada's Paris commitments.<sup>64</sup> Nor has the government been clear on how it will reconcile its international climate change commitments with its own approvals of major fossil fuel export infrastructure, including the Kinder-Morgan and Line 3 pipeline projects<sup>65</sup> and liquid natural gas export projects in BC.<sup>66</sup> The hostility of the Trump administration complicates this uncertain landscape even further. In the end, Canada's path for avoiding what the UNFCCC terms "dangerous" climate change remains uncertain and incomplete.

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