

**Saskatchewan's Perspective on the Ratification of the Kyoto Protocol:  
Sources of Conflict in Canadian Federalism**

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## ABSTRACT

The 2002 ratification of the Kyoto Protocol by the government of Canada represents an interesting case study in Canadian federalism. This thesis seeks to explore the perspective of the government of Saskatchewan during the debate surrounding the ratification of the Kyoto Protocol. In examining Saskatchewan's perspective, this thesis uses the theoretical framework developed by Richard Simeon in *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada*. In particular, the four major sources of intergovernmental conflict identified by Simeon, economic conflict, ideological conflict, political competition, and differences in perspective, will be used to examine Saskatchewan's reaction to the ratification to the Kyoto Protocol.

Climate change policy provides interesting insights into Canadian federalism. Constitutional authority in environmental policy is concurrently shared between both levels of government. At the same time, the federal government has authority to make international treaties, but requires provincial consent to implement those treaties in areas of provincial jurisdiction. Unlike other previous intergovernmental negotiations, the Kyoto Protocol's ratification also introduces international elements and considerations to domestic federal-provincial relations, which have rarely been explored in academic literature surrounding Canadian federalism. As such, this thesis hopes to use the case study of Saskatchewan's perspective on Kyoto's ratification as a means of expanding on the relevance of Simeon's framework through the consideration of unexplored international factors on Canadian federalism.

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# CHAPTER 1: INTRODUCTION

## 1.1 Introduction

One of the most important policy problems facing Canada is how to deal with climate change in a manner that is environmentally effective but does not undermine economic growth. However, successful climate change policy is complicated by the constitutional division of powers between the federal and provincial governments, which has led the Supreme Court to rule that environmental policy is a concurrent power with shared jurisdiction between both levels of government (*Friends of the Oldman River v. Canada [Minister of Transportation]*, 1992). Additionally, climate change is a cross-jurisdictional policy problem because greenhouse gases (GHGs), once emitted into the atmosphere, cannot be localized to their emission source. The consequence is that the poor behavior of one province in regulating the emission of greenhouse gases contributes to climate change in all province. Similarly, this domestic dynamic of climate change also applies internationally: the poor behavior of one country in regulating the emission of greenhouse gases contributes to climate change in all countries.

As a result, any realistically successful plan to address climate change and the emission of greenhouse gases requires the cooperation and coordination of all provinces domestically, and of all countries internationally. Unsurprisingly, cooperation among governments is easier to imagine than it is to achieve. Internationally, the Kyoto Protocol<sup>1</sup> attempts to provide a framework to address climate change and to achieve cooperation among the industrialized countries of the world in regulating GHG emissions. At the September 2002 UN World Summit on Sustainable Development in Johannesburg, South Africa, Prime Minister Jean Chrétien announced the government of Canada's intention to ratify the Kyoto Protocol, by stating: "before the end of the year, the Canadian Parliament will be asked to vote on the ratification of the Kyoto

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<sup>1</sup> The "Kyoto Protocol" and the "Kyoto Accord" are interchangeable terms.

Accord” (Chrétien, 2002). Mounting international pressure and the growing awareness of Canadian citizens of climate change had helped to motivate Ottawa’s decision to ratify the Kyoto Protocol, and Chrétien made full use of this international setting to emphasize his government’s commitment to the Kyoto Protocol.

Many of Canada’s provincial governments were caught off-guard by Chrétien’s announcement. Only Quebec and Manitoba supported the federal government’s stance on the Kyoto Protocol, but even they were wary of the unilateralism displayed by the Chrétien government’s announcement in Johannesburg (Harrison, 2003: 338). Although the federal government had authority to sign and ratify international treaties, the *Labour Convention Case* of 1937 had established that the implementation of international treaties could not override provincial jurisdiction (Morton, 1996: 45). While not challenging the federal government’s authority to make international treaties, the provinces felt that constitutional convention and the jurisprudence set by the *Labour Conventions Case* required more extensive federal-provincial consultation before Ottawa’s ratification of the Kyoto Protocol. Provincial willingness to cooperate with the federal government’s decision to ratify was further weakened by the uncertainty surrounding the failure of Ottawa to release a comprehensive climate change plan. As a result, the three month period between Chrétien’s announcement at the UN Summit and the House of Commons’ vote to ratify on December 12, 2002, saw a testing of Canadian federalism.

The Saskatchewan government was one of the provincial governments with deep-seated concerns about the ratification of the Kyoto Protocol without a clearly defined implementation plan. This opposition by Saskatchewan went against the political ideology of its governing party, the New Democratic party, led at the time by Premier Lorne Calvert. Veteran Saskatchewan political commentator Murray Mandryk remarked on the uncharacteristic response of the NDP government in opposing Kyoto in his February 20, 2002, article in the *Regina Leader Post*: “[Premier] Calvert’s Kyoto decision is right for the province.” Mandryk argues that the politically



easy decision for the NDP government would have been to support the federal Liberals' move to ratify: "there certainly is enough credible science for a social democratic premier to side with the environmentalist over the industrialists" (2002a). Within provincial politics, Mandryk also notes that: "losing the environmental left [poses] a big political problem for Calvert, who has been rather successful in the past year at bringing the left back into the NDP's tent" (2002a).

While at a cursory glance Saskatchewan's opposition to Canada's ratification of the Kyoto Protocol may seem puzzling, analyzing Saskatchewan's perspective through the theoretical framework of federal-provincial relations developed by Canadian political scientist Richard Simeon can help solve the puzzle. Simeon's framework suggests that the four most prevalent sources of conflict in Canadian intergovernmental relations are economic conflict, ideological conflict, political competition among governments, and differences in perspective (2006: 163). Therefore, using Saskatchewan's perspective on Canada's ratification of the Kyoto Protocol as a case study, it is possible to tease out the root causes of Saskatchewan's opposition, while at the same time building on the usefulness of Simeon's framework as an analytical tool for understanding federal-provincial relations.

## **1.2 Focus, Objectives and Research Questions**

The objective of this thesis is to put rhetoric and opinions aside and use Simeon's framework to determine what were the major sources of conflict between the government of Saskatchewan and the federal government during Canada's 2002 ratification of the Kyoto Protocol. Additionally, this thesis will expand on Simeon's framework by exploring several important international influences on both levels of government during Canada's ratification debate. To narrow the scope and focus of this thesis, only the perspectives of the government of Saskatchewan and the federal government will be examined. Several research questions are important for exploring this topic:

1. Using Simeon's theoretical framework, what are the root sources of Saskatchewan's opposition to the Kyoto Protocol?
2. How did the international factors of climate change and the Kyoto Protocol affect federal-provincial negotiations?
3. How effective is Simeon's framework at encompassing these international factors in describing federal-provincial relations?

This thesis argues that Simeon's framework remains a useful analytical nearly 40 years after its original publication. This thesis also argues that there were multiple facets to Saskatchewan's opposition to the ratification of Kyoto. As well, there were a number of international considerations that are useful in explaining the positions taken by both Saskatchewan and the federal government.

### **1.3 Importance of Thesis**

How Canada ought best to deal with climate change and global warming remains a contentious issue in Canadian politics. The ratification of the Kyoto Protocol by the Chrétien government in late 2002 was an attempt by the federal government to set aspirational goals and priorities on climate change through the mechanism of an international treaty. However, the provincial governments were not consulted to the extent they felt they deserved. These aspects of environmental policy, international treaties, and Canadian federalism deserve academic attention.

This thesis hopes to provide a contribution to the study of Canadian federalism and intergovernmental relations by examining the ongoing usefulness of Simeon's theoretical framework. Moreover, since the publication of Simeon's framework in *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* in 1972<sup>2</sup>, there have been a number of developments in Canadian intergovernmental relations. Notably the issues of environmental protection and climate change policy have been identified as significant policy problems. Similarly,

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<sup>2</sup> *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* was republished in 2006

international influences on domestic intergovernmental relations have come to play an important role in the shape and nature of conflict in Canadian federalism. Analyzing and building upon Simeon's theoretical frameworks is beneficial for political scientists hoping to understand Canadian intergovernmental relations.

This thesis also seeks to address the relative dearth of in-depth studies on Canadian intergovernmental relations, climate change policy, and the influence of international factors. In particular, there have been even fewer studies with a focus on Saskatchewan's role in climate change policy. A case study of Saskatchewan's unique perspective during Ottawa's ratification of the Kyoto Protocol may help to smooth future climate change negotiations by pinpointing the most contentious sources of conflict from the viewpoint of the government of Saskatchewan.

#### **1.4 Structure of Thesis**

The perspective of the Saskatchewan government on the 2002 ratification of the Kyoto Protocol by Ottawa is presented in the subsequent chapters.

Chapter 2, *Federalism: Theoretical Perspectives*, provides a brief literature review of the theories of the structure Canadian federalism and intergovernmental relations. Additionally, Simeon's framework is explained in detail.

Chapter 3, *Understanding Context: Environmental Policy, Climate Change and Canada*, provides the background information on the history of environmental policy in Canada, the constitutional division of powers in respect to environmental policy, and the science behind climate change.

Chapter 4, *The Kyoto Protocol: Saskatchewan's Perspective*, examines the history of the Kyoto Protocol and the subsequent climate change debate in Canada leading up to the ratification debate of 2002.

Chapter 5, *Sources of Conflict: Saskatchewan's Perspective*, applies Simeon's framework of four major sources of conflict to Saskatchewan and attempts to determine what motivated Saskatchewan's opposition to Canada's ratification of the Kyoto Protocol.

Chapter 6, *Conclusion*, summarizes and integrates the analysis to include future implications for Canadian climate change policy.

## **1.5 Methodology**

This thesis makes use of a number of sources to provide supporting evidence. Both primary and secondary sources were consulted. Primary sources consulted include government documents, polling results, position papers, court cases, legislative debates, newspaper articles and speeches. Secondary sources include journal articles and academic monographs. As discussed earlier, this thesis uses the theoretical framework developed by Richard Simeon in *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* as a basis for analyzing Saskatchewan's perspective. Additionally, three interviews were conducted in the fall of 2009 to provide insight and context into Saskatchewan's position.

A number of primary and secondary sources were accessed through the Internet because using electronic sources and databases were the only practical means of accessing some data.

## **CHAPTER 2: FEDERALISM: THEORETICAL PERSPECTIVES**

### **2.1 Introduction**

Canadian federalism and intergovernmental relations involves a complicated web of ideas, beliefs, practices, and conventions that are increasingly affected by international pressures and the desire of provincial governments to act independently of the federal government. To effectively provide a theoretical context for this thesis, it is important to frame several important terms relating to federalism, provide a brief literature review of academic thought on Canadian federalism, and to analyze Simeon's theoretical framework on intergovernmental relations. Combined this theoretical background information will serve as a guide for developing a case study of Canadian federalism and intergovernmental relations by exploring Saskatchewan's perspective on the 2002 ratification of the Kyoto Protocol by the federal government.

This chapter will first examine the definition of federalism. Next, the chapter will explain the cooperative versus confrontational federalism continuum. Finally, the chapter will introduce Simeon's theoretical framework.

### **2.2 Definition of Federalism**

K.C. Wheare's defines federalism as "the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent" (Wheare, 1964: 10) In Canada, the federal government in Ottawa acts as the unifying national government and the ten provinces are the geographically defined regional government in Wheare's definition.

Provincial powers are enshrined constitutionally and the provinces are polities separate from the federal government. Neither the federal nor the provincial governments have hierarchical control over the other, and each order of government maintains autonomy (Simeon, 2006: 2). Federalism acts to provide a form of regional government where decisions can be made on a range of local

issues without the consent of the national majority. Herman Bakvis and Grace Skogstad contend that a well performing federal system “must respect federal principles, sustain the balance between unity and diversity, provide a setting for discussion and negotiation between governments, and facilitate agreement, or at least understanding, on major issues in a manner that respects the positions of both levels of government” (2008: 6).

Constitutionally protected areas of provincial jurisdiction cannot be infringed upon by the federal government except under unusual circumstances. Unilateral action by either level of government in areas of joint jurisdiction or interference by one level government in the constitutional jurisdiction of the other can lead to conflict and damaged relations. Nonetheless, in Canada, the federal government has a greater ability to generate revenue and over time has become active in provincial jurisdictions through the federal spending power (Baier, 2008: 23). Non-constitutional alterations to the division of powers have also been reached through administrative agreements (Rocher and Smith, 2003a: 8). Often, intergovernmental relations, in the form of executive federalism, negotiations between high level decision makers such as first ministers, have resulted in formal and informal agreements that have been used in lieu of court rulings or constitutional amendments to alter the nature of Canadian federalism, and this has led to an enhanced role for the federal government in areas of provincial competence while the provinces’ legal control of their jurisdictional responsibilities has been maintained.

The legal text of the constitution only partially explains the many conventions and practices that influence the structure of government and the political relationships among individuals, civil society, the private sector, and government. Indeed, in Canada citizens tend to identify with their regional government before their national government in domestic matters. In 2007, 46.7 per cent of Canadians felt their provincial/territorial government was not treated with the respect it deserved by the federal government (Kincaid and Cole, 2008: 479). At the same time, the federal government in Ottawa often wishes to establish a national identity based upon a harmonization of

standards and practices in several key policy sectors, notably healthcare, aspects of the economy, and the environment across the breadth of the country (Rocher and Smith, 2003a: 8). Naturally, a large degree of conflict arises over how politicians view the federal system. One analytical tool used to describe the range of views on federalism is the cooperative versus confrontational federalism continuum.

### **2.3 Cooperative versus Confrontational Federalism Continuum**

The cooperative versus confrontational continuum is a useful conceptual device for understanding intergovernmental relations in Canada. This continuum can aid academics in assessing the nature of intergovernmental relations among Canadian governments regarding important public policies. But, despite these different conceptions of how governments ought to cooperate with each other, Herman Bakvis and Grace Skogstad note that the polarization of the positions of either level of government can be mitigated when each level of government recognizes a role for the other in their areas of jurisdiction (2008: 4).

Bakvis and Skogstad identify this continuum as containing five distinct models of decision-making between levels of government. At one end is the independent governments model, which views the jurisdictional competences of each order of government as being in watertight compartments, where actions within a government's legal jurisdiction are conducted unilaterally and without consultation of the other level of government. Next is a consultation model where governments solicit the advice of the other level of government, but in the end are not bound by that advice. A middle ground is the co-ordination model, which describes a situation in which the two orders of government seek to develop a mutual strategy with common, but informal, policy goals. With these common goals in mind, each level of government then implements the strategy with its own initiatives and within its own constitutional jurisdiction. The fourth model is collaboration, where both levels of government seek to create a setting of equal participation

among the provinces and the federal government where best practices can be shared and joint-programs developed in the pursuit of consistent and broad national policy. The final model is joint decision-making. This final model requires complete agreement among governments on every aspect of policy-making before either level can proceed with implementing new initiatives; the situation described by this last model has often been criticized as leading to a state of paralysis in which decisions are weakened to the point where they become ineffectual (Bakvis and Skogstad, 2008: 7-8; 14-15).

A critical analysis of this continuum reveals that neither extreme is practical or has historically characterized decision making; therefore, the vast majority of intergovernmental decision-making will be either consultative, collaborative or involve coordination. To elaborate, at the independent governments extreme, the classical federalist idea of a strict division of powers fails to acknowledge several aspects of the Canadian constitution, such as the federal power to appoint lieutenant-governors and areas of concurrent jurisdiction such as agriculture or immigration, that have always prevented a truly watertight division of jurisdiction (Bakvis and Skogstad, 2008: 7; Watts, 2003: 143). Indeed, on a practical level, governing Canada's interdependent and continental economy in a system in which there are divided responsibilities between orders of government over social and economic policy makes cooperation between the provinces and the federal government necessary for policy to meet with any degree of success (Watts, 2003: 122). Depending upon the nature of the policy, provincial governments, collectively and individually, on the one hand, and Ottawa, on the other, have often found common ground through intergovernmental structures such as first ministers conferences, cost-sharing programs, and day-to-day interaction among civil servants or politicians (Watts, 2003: 127).

While the cooperation versus confrontational federalism continuum is a useful analytical device, it is also important to recognize some of the weaknesses in using the continuum to examine the nuts and bolts of federal-provincial relations. Kathryn Harrison identifies a number of pitfalls



associated with relying on too narrow a view of intergovernmental relations (Harrison, 2000: 12-16). Harrison argues that the normative aspects of the conflict-cooperation dichotomy are also worthy of careful consideration. Specifically, it is easy to view all acts of cooperation as progressive and good in and of themselves. However, at times a more unilateral and confrontational approach may be necessary to advance the policy agenda and achieve policy goals and not simply cooperation itself (Harrison, 2000: 12). For example, conflict between governments can lead to creative policy solutions such, as Simeon points out, occurred in 1964 with the Canada Pension Plan, when provincial opposition forced Ottawa to amend its plans and improve its proposed CPP (2006: 257).

The conceptual framework of the cooperative versus confrontational continuum is a useful tool for categorizing trends in intergovernmental affairs relative to previous experience. Similarly, drastic shifts from one model of decision-making to another along the continuum are often partially responsible for intergovernmental conflict.

#### **2.4 Simeon's Four Sources of Conflict**

While the cooperative versus confrontational continuum identified by Bakvis and Skogstad helps to categorize and describe major trends in intergovernmental relations, it is also necessary to identify the major sources of intergovernmental conflict that influence how governments will react to shifts along the cooperative versus confrontational continuum in specific policy areas, in our case environmental policy.

Richard Simeon's 1972 *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* identifies four main sources of conflict in intergovernmental relations that are useful in examining specific policy areas: economic interests, ideology, political competition, and differences of perspective. However, before outlining Simeon's sources of conflict it is important to note that while partisan competition between provincial governments of one political party and

the federal government of another political party can be a source of conflict, Simeon discounts this factor as a major source of intergovernmental conflict in Canadian federalism. Simeon explains that provincial governments of the same party as the federal government will often be vocal opponents, and likewise provincial governments of opposing parties to the federal government can be the most ardent supporters of federal initiatives (2006: 194). Instead, Simeon contends that the other four factors play a greater explanatory role in understanding conflict and cooperation in Canadian federalism.

That being said, one of the important preconditions for successful intergovernmental relations is that both levels of government show mutual respect and acknowledge a valid place and role for the other level government in policy making (Simeon, 2006: 197). Conflict and cooperation between the federal government and each individual provincial government varies from issue to issue based upon the priority placed on each individual policy sector and the resources each government is willing to expend on an issue. Conflict is also reduced by the personal relationships that develop through negotiation among politicians and through day-to-day interactions among civil servants.

#### **2.4.1 Economic Interests**

Simeon contends that one of the primary sources of conflict in Canadian intergovernmental relations is concern over economic interests. Indeed, Simeon views conflicts over economic interests as “the most obvious source of conflict among the governments” of Canada (2006: 163).

For some provincial governments the need to stabilize their economies and revenues demands a strong federal government capable of providing assistance. Provincial governments such as those of PEI, New Brunswick or Newfoundland and Labrador, for example, have traditionally had a proportionally higher percentage of revenue deriving from federal transfers than the wealthier provinces with more vibrant economies, such as Ontario or Alberta. Economic

dependency on Ottawa can condition poorer provinces to avoid conflict compared to more independent richer provinces (Simeon, 2006: 164). Poorer provinces advocate federal primacy in fiscal matters as a means of redistributing wealth in Canada, which allows fiscally weaker governments to provide roughly equal levels of basic services to their citizens as those in fiscally stronger provinces. Indeed, Simeon states: “for the poorer provinces, paradoxical as it may seem, a strong central government is a condition of strong provincial governments” (2006: 165).

Wealthier provinces advocate a shift of tax room from the federal government to the provinces. These provinces serve to benefit from Ottawa vacating tax room and lowering equalization payments to poorer provinces. At times affluent provinces also argue that transferring revenue from their province to more disadvantaged provinces serves to support poor fiscal habits and that federal aid distorts the normal economic equilibrium of Canada (Simeon, 2006: 166). These richer provinces often argue that Ottawa must not weaken the richer provinces because they generate the most wealth and ensure fiscal stability within the country as a whole.

Federal-provincial conflict also emerges from the very nature of provincial economies themselves. For example, the Western provinces have resource oriented economies and resent attempts to regulate the economy nationally through trade, tariff, and freight policies (Simeon, 2006: 167). Often these provincial governments are competing with each other for a competitive business environment, which can easily cause conflict with Ottawa when the federal government takes a stance favoring one province over the other, such as with the awarding of federal contracts.

When provincial governments negotiate with Ottawa, economic interests usually take centre stage. Wrangling over policy is often reduced to wrangling over funding.

#### **2.4.2 Ideology**

Political ideology is another important source of conflict in intergovernmental relations. Simeon identifies ideology as “a basic set of prescriptions about the nature and purpose of the

system” (2006: 168). The views that political leaders have “about the nature of the political system, the proper balance of the governments within it, and the ways the decision process should operate” affect the outcome of negotiations (Simeon, 2006: 168). These ideological factors are responsible for the strategies that politicians will adopt to meet their political goals. Due to the close relationship between ideology and the personal values of decision makers, ideological conflict is often more difficult to overcome than other forms of conflict. Each party in a conflict is often entrenched in its world view and accommodation of others’ interests can prove difficult (Simeon, 2006: 169).

In the context of the Canadian political landscape, Simeon views conflicts over the nature of the political system as more prevalent than conflict over specific policy issues because the Canadian welfare state is widely accepted (2006: 169). For example, most politicians can agree on broad policy goals, but some may favor a private approach over a public approach to their achievement, or federal over provincial. Simeon characterizes this type of conflict as “yes, but” (2006: 170). In this sense decision makers say “yes” to the policy but take issue with the way the policy is implemented.

Provinces that share a concern over national unity with Ottawa will at times put aside differences with the federal government and with other provinces to reach a common goal. Simeon provides the historical example of Ontario’s support of equalization, despite the potential damaging effects equalization may have had on Ontario’s fiscal strength, because national unity is seen as ideologically more important than short term economic gain (2006: 166).

The federal government has an ideological preference for cooperative federalism that often serves to limit conflict. The federal government has had a general view that interaction with the provinces requires close consultation and mutual respect for jurisdictional boundaries (Simeon, 2006: 172). However, the force of this ideological perspective is difficult to discern for academics and other observers when trying to determine the motivations behind federal decisions. Federal

adherence to the belief in cooperative federalism can vary greatly depending on how important the issue of the day is compared with the general desire for cooperation with the provinces (Simeon, 2006: 173).

While Ottawa's ideological preference for cooperative federalism in some instances has served to lessen conflict with the provincial governments, the federal government seeks to maintain its power and status (Simeon, 2006: 173). Federal officials are conscious of the power provinces may gain from increased province-building capacities and will at times seek to maximize federal powers by cautiously guarding the role of the federal government in setting national policy, especially in economic matters (Simeon, 2006: 174). This is based on the federal government's view of itself as the only level of government that has a truly national viewpoint. In this sense, while Ottawa has ideological preferences for lessening intergovernmental conflict, its desire to act as the definitive national voice may in fact increase conflict because individual provinces may feel ignored when Ottawa acts unilaterally to assert its national voice.

While ideological perspectives are important for most provinces in intergovernmental relations, only in Quebec do they carry the same weight and priority in decision-making as they do for the federal government. For example, Quebec places a large degree of importance on ideology when formulating its response to intergovernmental issues (Simeon, 2006: 174). Quebec's nationalist ideology acts to inform many of its positions on federal-provincial issues. Ideologically, Quebec also views its position in Canada as distinct from its English-Canadian counterparts. Quebec's belief in its role as protector of a distinct national culture means that its point of view places the needs of the Quebecois people first and above that of the Canadian people (Simeon, 2006: 175). This can easily lead to conflicting views on Canadian national policy. As well, other provinces are suspicious of the federal government when it is seen to capitulate to Quebec's desire for a special place in Canadian federalism. A corollary is that Quebec's activist provincial government seeks a role for itself in all potential areas of its jurisdiction and beyond, and this can

incite other provincial governments to act similarly (Simeon, 2006: 176). Quebec views its role as the representative of the Quebecois people as paramount in its relations with the federal government, and this increases the influence of regionalism in Canadian federalism. For these reasons Quebec carefully guards the areas of provincial competence from encroachment by the federal government and will also seek to limit federal programs within the provinces in any area of provincial jurisdiction (Simeon, 2006: 177-178). Nonetheless, while Quebec couches much of its strategy in ideological terms, it remains pragmatic in assuring its citizens receive an equitable share in the federal system, especially in economic matters, and will, consequently, subsume ideology when practicality demands such a course of action (Simeon, 2006: 178).

While Quebec frames its approach in more ideological terms, the other provincial governments frame their desire for greater provincial control over policy in more pragmatic terms. Many provincial governments simply believe that they are better positioned to devise and implement policy. While broad economic and fiscal policy may require a strong central government to shield Canada's economy from fluctuations in a globalized international system, most social and domestic policy is best decided and implemented by provincial governments (Simeon, 2006: 181-182). These provincial politicians often have the ideological perspective that decentralization is preferable to centralization.

In summation, at times ideology can act to smooth federal-provincial relations and at other times it can serve as an important and major source of intergovernmental conflict.

### **2.4.3 Political Competition**

In all policy formulation and negotiation, political competition remains a potent source of conflict. Both provincial governments and the federal government seek the support of the electorate when formulating policy. As a result, decisions are sometimes made purely out of a desire to make government institutions and political parties look more favorable to a particular

constituency. Simeon characterizes these political goals as “status” goals, which are based on electoral, psychological, and policy reasons for supporting a particular policy stance (2006: 184-185).

While the two levels of government in Canada do not directly compete for the support of voters in elections, they do compete for credit or to avoid blame with the electorate (Simeon, 2006: 185). Concern over credit and blame is most evident in the distribution of resources and the amount of credit either the provincial or the federal governments receive for programs. Politically, governments wish to accumulate goodwill from the programs they fund, and conflict can arise when one level of government believes the other parties are seeking to attribute unjustified credit to themselves. At the same time, governments wish to avoid blame when they are not responsible for the decisions leading to, or the implementation of, controversial policies because they were not consulted. At a basic level, the two levels of government compete to shift blame and gain credit at any opportunity so as to gain the approval of their citizens (Simeon, 2006: 186). As a result, political leaders will sometimes limit their activity to those issues in which they can gain significant credit or avoid significant blame (Simeon, 2006: 187).

Simeon also identifies psychological status goals, which, although difficult to observe and document, involve an individual’s desire to maintain political power and prestige. Enhancing the welfare of the electorate is secondary to achieving psychological status goals; instead individual decision makers are primarily concerned with seeking to maintain and enhance their personal status. Likewise, another important factor in realizing psychological status goals is the desire for bureaucracies to maintain their status and to avoid losing resources to departments implementing new programs or shifts in responsibility of delivery from one level of government to the other (Simeon, 2006: 188). Consequently, the policy positions that the bureaucracy may advocate may on occasion be affected by the desire to retain bureaucratic power and prestige.

Finally, political competition may develop over the policy development process. Political actors naturally seek to receive recognition for their contribution and ideas. A lack of recognition of the contributions of a member or members can lead to conflict and disagreement (Simeon, 2006: 189). In federal-provincial relations, each level of government seeks to see its ideas incorporated and to gain credit through this process.

#### **2.4.4 Different Perspectives**

Conflict among governments can arise simply from differences in priorities. Each of Canada's 14 governments have a different set of priorities that are at the top of their agenda. When a specific government's priorities are not being met in negotiations that government can become hostile to the process (Simeon, 2006: 189). As well, at times the concerns of one government over the environment, for example, may not carry the same priority with another government to the same degree as, perhaps, concerns over economic development. In the end, as mentioned above, all politicians are responsible to a particular and different electorate with differing priorities, and their positions on intergovernmental issues will naturally reflect this reality.

Differences in perspectives are closely related to the regionalism that informs a great deal of Canadian politics. The federal government seeks to develop national policies and a national vision. The provincial governments, while cognizant of this need, judge policy based upon local needs and politics (Simeon, 2006: 190). For provincial governments, the national perspective is viewed as catering to a "mythical Canadian" who does not exist in any specific geographical jurisdiction, and catering to this ideal of the "mythical Canadian" by the federal government can easily result in waste and confusion (Simeon, 2006: 190).

Provincial skepticism over Ottawa's motivations for changes in national programs or for the creation new national programs by the federal government also leads to conflict. The national goals of the federal government to regulate areas of national concern, such as the economy or the



environment, are viewed suspiciously by provincial governments because some of the powers constitutionally necessary to enact these policies rest with the provinces. In short, provinces will sometimes see the federal government's motivation for action as seeking to maximize and expand its jurisdictional powers rather than as altruistic goals, such as seeking to combat national unemployment or pollution (Simeon, 2006: 190). Suspicion over motives is often compounded by conflict over status goals and political competition.

Provincial governments can also be suspicious of federal initiatives based on what they believe to be favoritism. For example, Western provinces often feel that new economic policies will disproportionately benefit the Atlantic provinces and Quebec (Simeon, 2006: 193).

As can be seen, the individual environments facing different governments can easily lead to differences in perspective that will result in intergovernmental conflict.

## **2.5 International Influences and Simeon's Framework**

This thesis also seeks to analyze the international influences that are increasingly playing a role in Canadian intergovernmental decision making and how they might fit into Simeon's theoretical framework. It will argue that international influences played an important and supporting role in determining both the government of Canada's decision to ratify the Kyoto Protocol and the government of Saskatchewan's decision to oppose ratification. Analyzing federal-provincial relations in policy fields affected by international actors and considerations expands on Simeon's theoretical framework by introducing a possible new source of conflict.

The case study of Kyoto suggest that these international influences played a strong role in Canada's decision to ratify the Kyoto Protocol and in provincial objections. On the economic front, for example, Saskatchewan's concern over its international competitiveness with other jurisdictions was one of the most potent objections to the federal government's decision to ratify. Looking at ideology, the federal government's ideological preference towards cooperative federalism was

overshadowed by its ideological commitment to multilateralism and internationalism. Similarly, the Prime Minister was interested in competing politically with the U.S. for recognition on the international stage - a desire that translated into an aggressive unilateral agenda domestically on the climate change front. Finally, when it comes to Simeon's fourth source of conflict, differing perspectives, Saskatchewan's position was influenced by the international nature of the mechanisms designed to help countries meet their Kyoto obligations.

One approach to inserting these international factors, which are appearing in more and more policy fields, into Simeon's theoretical framework is to categorize international influences on intergovernmental relations as a fifth major source of conflict alongside economic conflict, ideological conflict, political competition, and differing perspectives. Certainly the forthcoming case study of Kyoto would suggest that international influences have to be taken into account in examining Canadian intergovernmental relations. However, not all instances in intergovernmental relations involve international influences, and creating a fifth source may not be relevant in these cases to understanding federal-provincial relations.

A second approach is to view international influences as a source of conflict that interacts with Simeon's four sources of conflict, but which does not play a strong enough role to be considered a fifth major source of conflict. In this sense, international influences are better understood as a factor in determining the strength of a government's opposition in any of Simeon's four major sources. This thesis applies this view to the case study of Kyoto's ratification. In doing so, the international influences themselves are broken down into more manageable components rather than remaining an abstraction that is difficult to effectively analyze. Applied in this manner, international influences can be effectively incorporated into Simeon's analytical framework.

## 2.6 Conclusion

The purpose of this chapter was to frame the forthcoming case study of Saskatchewan's perspective on the ratification of the Kyoto Protocol by the federal government. Canada's status as a federal state informs much of the political interaction that occurs between the federal government of Canada and the provincial governments in their respective regions. As a federation, Canada's constitution defines the roles, responsibilities, limits and boundaries of both the provincial governments and the federal government. However, much of the political negotiation and the day-to-day relationship between the governments is informed by the tone of intergovernmental relations. For example, unilateral action in a particular policy sphere by Ottawa will give a certain tone to intergovernmental relations, and consequently different results than cooperative action. The tonality of intergovernmental relations helps academics assess whether Canada's two levels of government are modeling their interactions on either the consultative, coordinative, or collaborative forms of federalism. Bakvis and Skogstad's cooperation versus confrontation continuum provides a framework for understanding these tones and trends in Canadian federalism.

Simeon's framework is useful in providing a detailed framework for evaluating specific events and case studies in Canadian intergovernmental relations. Through Simeon's framework it is possible to more easily identify how specific events shift the tone and nature of Canadian intergovernmental relations along Bakvis and Skogstad's continuum. Therefore, Simeon's identification of four sources of conflict in Canadian federal-provincial interaction, combined with Bakvis and Skogstad's continuum, provide useful insight into how one level of government will react in a given policy sphere to initiatives put forward by the other level and how specific events can create trends in Canadian federalism. While it is tempting to focus on one source of conflict - most prevalently economic conflict - Simeon reminds us that there are often more nuances to intergovernmental interaction, such as ideological conflict, political competition, and differences in perspective.

## **CHAPTER 3: UNDERSTANDING CONTEXT: ENVIRONMENTAL POLICY, CLIMATE CHANGE, AND CANADA**

### **3.1 Introduction**

Before tackling the Saskatchewan's perspective on the 2002 ratification of the Kyoto Protocol by the federal government, it is necessary to evaluate how past environmental policy in Canada has been conducted. The purpose of this chapter is to examine the constitutional division of powers in the field of environmental policy and explain where each level of government draws legal authority to make environmental policy. Next, two important court cases in environmental policy, the *Crown Zellerbach* case and the *Friends of the Oldman River* case, will be examined to explain how the Supreme Court has interpreted where each level of government's responsibilities lie. The chapter will then proceed with an analysis of intergovernmental relations in the sphere of environmental policy. Finally, the science of climate change will be explained to provide context to the need for international and cross-jurisdictional cooperation among countries internationally, and Canada's two levels of government domestically.

### **3.2 Environmental Policy and the Constitutional Division of Powers**

In Canada, responsibility over the regulation of environmental policy is shared by the provinces and the federal government. Environmental policy is not specifically assigned to either level of government in the constitution, and as a result has been termed a shared or concurrent power where jurisdiction lies with both levels of government (*Friends of the Oldman River v. Canada [Minister of Transportation]*, 1992; Winfield and Macdonald, 2008: 266). The following section will seek to further expand and explain the legal regime in which environmental policy is conducted beginning with the importance of the *Constitution Act 1867*, followed with the basic

legal realities of environmental governance, and concluding with looking at the importance of legal precedents set in the 1988 *Crown Zellerbach* and 1992 *Friends of the Oldman River* court cases.

### **3.2.1 Constitution Act 1867**

Section 91 of the Canadian constitution outlines most of the powers and responsibilities of the federal government. Similarly, Section 92 outlines the powers and responsibilities of the provincial governments. These two sections largely determine the legal regime from which each level of government derives authority to act. Moreover, court decisions, derived from the division of powers in the *Constitution Act 1867*, have resulted in the federal government and the provinces sharing jurisdiction over environmental policy (Morton, 1996, 37). It is important to know and understand where each level of government derives its authority in environmental policy by examining relevant constitutional powers.

### **3.2.2 Provincial Jurisdiction**

The provincial governments of Canada derive their authority to act in environmental policy from a number of powers enumerated in the *Constitution Act 1867*. Provincial authority for environmental policy comes primarily from their jurisdiction over municipal affairs, property and civil rights, and matters of a local or private nature (Morton, 1996: 37). Additionally, provincial control over health policy is closely related to environmental policy. As well, much environmental regulation is categorized as falling under civil law, which is under provincial jurisdiction, as compared to criminal law, which is under federal jurisdiction (Morton, 1996: 38). Importantly, the property and civil rights powers of section 92 give provincial governments significant authority to create environmental regulations. Judicial interpretations of the limited extent of the federal government's power over trade and commerce have allowed provincial governments substantial leeway in creating their own laws regulating labor, manufacturing, mining, land use, and other

economic matters, that have helped to inform environmental policy (Morton, 1996: 38). Control over natural resource development has also proved important in regulating environmental and energy policy. Provincial governments have also used powers over taxation to provide incentives for environmentally friendly practices through such initiatives as taxing gasoline or taxing other forms of pollution, but must be careful to frame them as regulatory charges and not indirect taxes (Valiante, 2002: 8).

### **3.2.3 Federal Jurisdiction**

Active engagement in environmental issues by Ottawa did not begin in earnest until the late 1960s, and by that time the provincial governments had entrenched their role as environmental regulators. As a result, the federal government has had to accommodate its actions to the established patterns of environmental regulation developed by the provinces rather than pioneer new patterns (Morton, 1996: 41). The federal government derives much of its legal authority over environmental policy from legislative powers such as trade and commerce, its residual powers, and the “peace, order, and good government” clause as well as rights gained through proprietary ownership of federal lands (Valiante, 2002: 4). The trade and commerce powers of the federal government have been limited by restrictive judicial decisions over time unlike in other federal states, such as the United States. The efficacy of trade and commerce powers as the primary source of federal jurisdiction in environmental policy is questionable as a consequence (Morton, 1996: 41). Ottawa has, previous to the ratification of the Kyoto Protocol, limited its action in environmental policy to conform with its other powers over commerce, criminal law, and peace, order, and good government. Nonetheless, as stated above, environmental policy has become a shared power, where some types of unilateral federal action may face legal limitations. As a consequence, administrative cooperation has served as the most important factor in mitigating conflict arising from the overlap between federal and provincial environmental regulation.

While the federal government's role in environmental policy has been limited, it retains significant legal authority. As compared to the United States, Canada's trade and commerce powers have been limited to interprovincial and international trade<sup>3</sup>, though the federal government retains a degree of authority over environmental policies that may affect more than one province (Morton, 1996: 43). Additionally, the federal government has authority to regulate aviation, interprovincial and international transportation and communication and nuclear power (Morton, 1996: 43).

The federal government receives some of its authority to regulate environmental policy based on the need to protect and promote fishing in Canada. The fisheries power allows Ottawa to regulate the type of substances that can be dumped in fish habitats (Valiante, 2002: 4). While this power does not extend to a general control over water pollution, the federal government need only link environmental damage to harm to the fisheries to have legal authority to enforce federal regulations (Morton, 1996: 44).

Closely related to fisheries is federal control over navigable waters and shipping. Any obstruction to navigable waters, even if these waters are entirely within a single province, requires the consent of the Minister of Transport. In addition, as a result of the *Friends of the Oldman River* case, the federal government has authority to conduct environmental reviews of projects, such as dams, that may affect more than one province (Valiante, 2002: 4). Regulations involving water quality can also be enacted through indirect means, such as targeted taxation (Morton, 1996: 44).

Nonetheless, the reach of federal jurisdiction in environmental policy is uncertain, according to Marica Valiante, because some aspects of the "peace, order and good government" clause of the constitution, have yet to be adequately defined either by practice or by the courts when it comes to environmental policy (2002: 4). For example, the POGG clause may be employed in the case of a national emergency or for policies of national concern (Valiante, 2002:

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<sup>3</sup> The provincial governments retain purview over economic activity that occurs solely within one provinces.

5). This power was confirmed by the Supreme Court in the *Crown Zellerbach* case and applies to both new areas of concern, such as nuclear power, and to old areas previously considered under provincial jurisdiction, but that have since become a matter of national concern (Valiante, 2002: 5). Primarily, the federal government gains authority through the POGG clause when a province cannot deal with a problem internally and when the externalities that result from this inability affect other provinces or international jurisdictions (Valiante, 2002: 5).

Jurisdiction over criminal law allows Ottawa to punish those whose actions endanger the health of Canadians. For example, Hydro-Quebec was prosecuted under criminal law for not reporting the dumping of polychlorinated biphenyls (Valiante, 2002: 5-6). As a result of this case, the Supreme Court effectively included environmental protection within the scope of criminal law. However, this power is limited by the high burden of proof required for criminal convictions (Morton, 1996: 43). For this reason, criminal law is ineffective in directly regulating environmental policy, but serves to bolster the federal government's legal basis for involvement in that policy sector.

The federal government also has treaty-making powers, which allow it to enter into international treaties with other states as a means of creating environmental regulations and policies. The *Labour Conventions* case of 1937 limits this power by asserting that the normal operating conditions of federalism apply and that the federal government must receive provincial support in areas of provincial competence (Morton, 1996: 45).

### **3.3 Important Court Cases**

Several court cases are important in understanding responsibility for environmental policy and how the courts may interpret the federal government's powers to sign and implement international agreements in the shared federal-provincial jurisdiction of environmental policy. The 1988 *Crown Zellerbach* and the 1992 *Friends of the Oldman River*, referred to earlier, are two



cases that have extended federal authority over environmental policy while at the same time restricting the scope of provincial authority. These court cases also provide insight into some of the legal arguments regarding the role of the provincial and federal governments in the field of environmental policy.

### **3.3.1 Crown Zellerbach**

The *Crown Zellerbach* case involves the dumping of woodwaste into Beaver Cove, BC by Crown Zellerbach Ltd. (R. v. Crown Zellerbach Canada Ltd, 1988). Crown Zellerbach was charged and found guilty under s. 4(1) of the federal *Ocean Dumping Control Act*. The resulting appeal of *Crown Zellerbach*, with both the Attorney Generals of Quebec and British Columbia intervening on the side of Crown Zellerbach, argued that the charges by the federal government were *ultra vires* of Parliament. The federal government argued that although Crown Zellerbach dumped the woodwaste in the internal waters of British Columbia, Ottawa, in fact, had jurisdiction to charge the company with dumping because Beaver Cove flowed into the Pacific Ocean. Uncontrolled dumping of waste in oceans and rivers, argued Ottawa, is a matter of national concern, because it has the potential to damage fish stocks and to violate Canada's commitments to the 1972 *UN Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter* (R. v. Crown Zellerbach Canada Ltd, 1988).

The federal government argued successfully before the Supreme Court that marine pollution was a matter of national concern. The Supreme Court agreed that the *Oceans Dumping Control Act* was not constitutionally supported by arguments centring on Parliament's jurisdiction over seacoast and inland fisheries, but that it did qualify as constitutional because of the doctrine of national concern and the POGG powers of Parliament (R. v. Crown Zellerbach Canada Ltd, 1988). In its judgement, the Supreme Court also stated that use of the national concern doctrine only applies in cases of national emergencies or when a piece of legislation is of a "singleness,

distinctiveness, and indivisibility that clearly distinguishes it from matters of provincial concern” (R. v. Crown Zellerbach Canada Ltd, 1988). Additionally, if a provincial government that would normally have jurisdiction fails to legislate or chooses not to, and the matter of concern is extraprovincial and affects other jurisdictions then the federal government has a legal basis to intervene.

*Crown Zellerbach* gives a legal precedent for the implementation of environmental policy by the federal government in areas normally considered under provincial jurisdiction. However, as Christopher Kukucha points out “although the decision was significant in terms of expanding POGG’s national concern provisions, the split ruling of the Court and the strong dissent of [Justice] La Forest weakened the precedent. Indeed, the Supreme Court has failed to elaborate on the national concern doctrine since the initial *Crown Zellerbach* decision” (Kukucha, 2005: 140).

### **3.3.2 Friends of the Oldman River**

The 1992 *Friends of the Oldman River v. Canada (Minister of Transportation)* is another precedent setting Supreme Court decision that serves to expand the federal government’s authority over environmental policy (*Friends of the Oldman River v. Canada [Minister of Transportation]*, 1992). The Friends of the Oldman River Society was an environmental group that sought to have the federal government conduct an environmental assessment of a dam constructed by the Alberta government under federal regulations found in the Environmental Assessment and Review Process (EARP) Guidelines Order. The EARP Guidelines Order required an environmental review of projects that are within federal legislative authority, are funded by federal spending, and/or are using federal lands, which would practically include nearly all sizable projects (Morton, 1996: 49). Although the federal government was reluctant to accept the additional responsibility of conducting environmental assessments, the Supreme Court decided that the language contained

within the EARP Guidelines Order was imperative and not discretionary and that federal law required the government to conduct environmental assessments.

Although the federal government was not eager to assume the responsibilities set out by the Supreme Court that it conduct environmental reviews, the case does show that the judiciary is receptive to examining arguments about jurisdiction over environmental matters. In particular, the Supreme Court showed a degree of willingness to expand the authority of the federal government to act in areas which had previously been considered exclusively provincial in nature (Morton, 1996: 49). The Supreme Court was essentially acknowledging a role for the federal government in environmental policy in an expanding number of cases (Kukucha, 2005: 141).

### **3.4 Previous Intergovernmental Relations and Environment Policy**

Despite the complex nature of the legal authority each order of government is accorded under the division of powers, before the case of Kyoto's ratification, there have been few instances of federal-provincial conflict (Harrison, 1996: 3). Environmental policy during the 1970s and 1980s was conducted relatively cooperatively compared to other policy sectors, such as energy policy (Harrison, 1996: 3). In this early period of environmental regulation, policy was narrowly defined to encompass issues that could be confined to provincial jurisdictions. As a result, the federal government played a largely supportive role through research, technical assistance, and encouraging national standards (Harrison, 1996: 4). At the same time, provincial governments viewed the federal government suspiciously in the area of environmental policy because of the close relation environmental regulation has to control over natural resources, a power provincial governments guard carefully (Harrison, 1996: 5). The federal government was reluctant to assert authority in environmental policy because of the limited political and electoral gains compared to the potential political costs of challenging provincial authority in environmental policy. Likewise the federal government was cautious of the financial burden that would accompany greater

responsibilities in environmental policy (Harrison, 1996:5). As awareness of environmental problems such as climate change and air pollution, problems not easily addressed within provincial borders, has grown so too have calls for a greater federal role in environmental policy, and, consequently, the electoral disincentives of challenging provincial authority have declined.

The governance of Canadian environmental policy has shifted to reflect growing awareness of environmental issues by the public. Scholars of Canadian environmental policy and federalism have identified a number of waves of activity in environmental policy. Grace Skogstad sees two major waves of environmental awareness and policy formation with the first beginning in the 1970s and the second in the mid 1980s (1996: 103). The first wave of environmental regulation focused on environmental problems that were more local in nature, such as air and water pollution control and the management of natural resources. The second wave was focused on more national and global environmental concerns such as ozone depletion, climate change, and deforestation (Skogstad, 1996: 103). Skogstad sees one of the primary differences between these two waves as being the shift from “closed, elitist policy networks that permitted economic priorities to prevail” to a “more pluralist and open” policy setting process (1996: 103).

Intergovernmental relations during both waves of environmental regulation were characterized by executive federalism. The first wave did not exhibit the type of major intergovernmental conflict that has characterized other policy sectors, such as natural resource policy or equalization. Many of the issues that arose during the 1970s and early 1980s did not force either level of government into political competition with each other for favorable public opinion (Skogstad, 1996: 105). Additionally, the policy focus was more closely on local and specific environmental problems, such as dumping rights or emissions standards at factories, rather than on major inter-jurisdictional environmental problems such as climate change. This concentration on local environmental issues helped to diffuse and marginalize the strength of broader environmental movements focused on climate change, for example (Skogstad, 1996: 105).

In contrast the second wave of environmental regulation and policy formation, beginning in the mid-1980s, has attracted more interest in and attention to problems related to non-territorially defined environmental degradation. Issues such as ozone depletion, toxic dumping, and climate change have gained, and solidified, a foothold on the broader public agenda. Significantly, and important to this thesis, international pressures and influences have been exerted on all levels of Canadian government to promote and protect a range of environmental issues (Skogstad, 1996: 105). International pressure has naturally been felt most keenly at the federal level, and consequently with the addition of treaty obligations and legal precedents set through court cases, such as *Crown Zellerbach* and *Friends of the Oldman River*, the federal government has had more confidence asserting a positive role for itself in environmental policy both domestically and internationally. Additionally, environmental groups, both domestic and international, have brought increased public scrutiny to the environmental conduct of all levels of government and have shifted much of the policy debate on specific environmental questions from the limited policy circle of industry and government to a more open and participatory debate involving a wider range of stakeholders (Skogstad, 1996: 106).

One of the first intergovernmental institutions that focused on environmental cooperation was the Canadian Council of Resource and Environmental Ministers (CCREM).<sup>4</sup> Through this body an understanding was reached where by the federal government was largely responsible for providing scientific analysis, environmental research and other similar types of technical support for broad national standards while the provincial governments were responsible for implementing and enforcing agreements reached at CCREM meetings (Skogstad, 1996: 106; Harrison, 2000: 5-6). Negotiated agreements, such as the Accords for the Protection and Enhancement of Environmental Quality, which provided provincial governments with the authority to enforce federal standards and regulations, characterized the environmental regime that grew through this

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<sup>4</sup> The CCREM is now the Canadian Council of Ministers of the Environment.

type of executive federalism and intergovernmental relations. In the 1970s and early 1980s, the closed policy circle of government and industry helped to mitigate intergovernmental conflict in environmental policy through a convergence of interests among political elites and the prioritization of local economic development. The political costs of impinging on established provincial jurisdiction in environmental policy, and the possibility of wading into murky constitutional waters without any major political benefits, kept the federal government from engaging in major environmental policy initiatives (Skogstad, 1996: 111).

A general lack of environmental awareness by both citizens and government kept environmental regulation, and consequently intergovernmental interaction, to a minimum during the first wave; however, the second wave is characterized by an emergence of public interest in environmental policy and greater intergovernmental activity both formally and informally by all levels of government. With favorable decisions in the *Crown Zellerbach* and *Friends of the Oldman River* cases, the federal government had clearer authority to pursue legislative initiatives. For example, in 1988 the *Canadian Environmental Protection Act* (CEPA) consolidated a number of federal environmental acts into one and sought to shift authority over the regulation of toxic substances to the federal government from the provinces based on the strong ruling in *Crown Zellerbach* (Skogstad, 1996: 114). Federal unilateralism in environmental policy was tempered by a move towards equivalency agreements that allowed provincial governments to keep their own laws if they were as stringent as those found in the CEPA (Skogstad, 1996: 114).

Since 1988 the Canadian Council of Ministers of the Environment (CCME) has provided a forum dedicated exclusively to resolving intergovernmental conflicts and facilitating intergovernmental cooperation in environmental policy. The CCME has a permanent secretariat which helps to promote continuity in agenda and progress on environmental policy. Although iterations of the CCME have existed since 1961, it did not receive significant attention until 1988. Indeed, the 1990 Statement on Interjurisdictional Cooperation was a public statement on the

desirability for joint coordination on environmental issues and national consistency (Harrison, 2000: 8). The CCME was also instrumental in advancing attempts at rationalizing the Canadian environmental protection regime by pursuing harmonization of environmental standards.

Eventually, the work of the CCME led to the Canada-Wide Accord on Environmental Harmonization in 1998.

Harmonization was pursued at a time of budget retrenchment in the early 1990s and was seen as a cost-effective way of reducing the fiscal burden of environmental regulation in a period when public attention on the environment was waning (Harrison, 2000). Both levels of government were actively seeking to reduce duplication in the environmental field as a method to cut costs and ease the fiscal burden through the rationalization of environmental policy (Harrison, 2000: 8). The first attempt at harmonization, the 1995 Environmental Management Framework Agreement, ended in failure due to significant opposition from environmentalists who viewed the agreement as flawed and susceptible to gaps in regulation and loopholes. By 1996 preliminary agreement was reached by the CCME on a new Canada-Wide Accord on Environmental Harmonization. The principal goal of this Accord was to promote rationalization of standards that have been reached through federal-provincial consensus (Harrison, 2000: 11). A significant sidebar to the implementation of the Accord was the federal government's view that environmental harmonization policy was useful in demonstrating to Quebec, following the 1995 Referendum, that federalism can work to produce meaningful results (Harrison, 2000: 10-12).

### **3.5 The Science of Climate Change**

Climate change, as a public policy problem, is concerned with the human induced changes to both the Earth's environment and atmosphere. While climate change itself is a natural phenomenon that has ebbed and flowed between cooling and warming periods throughout the

Earth's history, recent industrial activity has caused a noticeable acceleration in a global warming trend according to the Intergovernmental Panel on Climate Change (IPCC)<sup>5</sup> (IPCC, 2007a: 5).

The study of climate change generally focuses on measuring the average temperature, precipitation, and wind patterns over a period of time and analyzing the trends and effects of changes compared to historical averages. Broadly speaking, changes in climate are attributable to the natural variance of internal climate systems, for example, normal patterns of precipitation and wind, and to external “forcings”, such as solar radiation, volcanic eruptions, and “human-induced changes in atmospheric composition” (IPCC, 2007b: 96). The resulting temperature changes, and the temperature's ancillary effects on precipitation and wind patterns, are a result of the atmosphere absorbing energy from solar radiation. Roughly 30 per cent of solar radiation is naturally reflected by the Earth's atmosphere, by cloud cover, by small particles known as aerosols, and by reflective surfaces.<sup>6</sup> The remaining solar radiation is absorbed by the Earth's surface and atmosphere. To provide a balance to this constant influx of energy, the Earth must radiate energy back into space from its surface through what is known as longwave radiation. A perfect equilibrium between the energy absorbed by solar radiation and the energy lost through longwave radiation would see an average surface temperature of approximately -19°C (IPCC, 2007b: 97). However, the Earth's mean surface temperature is approximately 14°C and is caused by a natural greenhouse effect provided by particles and gases in the atmosphere. Water vapor and carbon dioxide are the most important of these substances and induce the majority of the greenhouse effect.

The IPCC has concluded that mounting evidence from scientific observations has demonstrated that human-induced changes through the alteration of the atmosphere's chemical

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<sup>5</sup> The IPCC is an international organization developed under UN General Assembly Resolution 43/53 of 6 December 1988 that seeks to collect and organize scientific data from UN member nations on climate change to present balanced scientific information and recommendations to governments around the world.

<sup>6</sup> Such as deserts, ice, and snow



composition are having a significant and long term effect on global temperature and climate systems (IPCC, 2007b: 105). The amount of carbon dioxide in the atmosphere, for example, has risen by 35 per cent since the beginning of the industrial era (IPCC, 2007b: 97). Human activity has caused this significant rise in carbon dioxide due primarily to deforestation and the burning of fossil fuels. Additionally, the Earth's atmospheric circulation spreads greenhouse gases emitted through industrial activities from their sources and disperses them across the globe (IPCC 2007b: 97). In this sense, changes in regional temperature and weather due to human activity cannot be confined to a single geographic location, but instead affect the entire global climate system.

Each province in Canada faces different climate change effects, and because of this the federal government must accommodate a wide range of issues into its international approach towards climate change policy. The 2001 Intergovernmental Panel on Climate Change report, *Climate Change 2001: Impacts, Adaptation, and Vulnerability*, outlines a number of potential impacts of climate change on the global environment. Concerning North America, the IPCC report raises a number of issues, among them rising overall temperatures and the increased frequency of heat waves, changes in lake, river, and precipitation levels, changes to drainage patterns, dangers to forests, and changing agricultural production patterns, as well the spread of infectious diseases (2001a: 737-739). Culturally, climate change may have severe impacts on Canada's northern peoples, especially its traditional Inuit populations, "The impacts [of climate change] may be particularly disruptive for communities of indigenous peoples following traditional lifestyles" (IPCC, 2001a: 804).

And, providing, an example of the effects of climate change at the provincial level, Joe Piwowar of the University of Regina argues that the province of Saskatchewan will face challenges due to changing weather patterns that include "extreme events, such as severe thunderstorms, tornadoes, hailstorms, and heatwaves" (2004: 8). When it comes to one of Saskatchewan's leading industries, agriculture, Piwowar argues that, at the macro-economic level, climate change will have

a balanced effect on the agricultural production of prairie provinces: while lands in the southern region of Saskatchewan will become less productive they will be replaced by more productive lands in northern Saskatchewan. However, at the micro-economic level, while net provincial agricultural production will remain relatively stable, some individual landowners and farmers will be greatly affected by changes in temperature and moisture levels that are a consequence of global warming trends causing “tremendous strain on the social cohesion within agricultural families and communities” (2004: 10).

### **3.6 Conclusion**

This chapter has sought to provide a summary of necessary background information on the constitutional role of Canada’s two levels of government in environmental policy, pre-Kyoto intergovernmental relations in environmental policy, and a summary of the science of climate change. The following chapter explores the international efforts to combat climate change and Saskatchewan’s perspective on Canada’s role in global climate change policy. Then Simeon’s four sources of conflict in Canadian intergovernmental relations will be used to structure a case study of the 2002 ratification of the Kyoto Protocol by the federal government.

## **CHAPTER 4: THE KYOTO PROTOCOL: SASKATCHEWAN'S PERSPECTIVE**

### **4.1 Introduction**

The ratification of the Kyoto Protocol by the government of Canada provides interesting insight into Canadian federalism's ability to react to the complex nature of emerging public policy problems. As well, Canada has had a rich history of activism on the international stage, and environmentalism is no exception. The Kyoto Protocol presents an interesting case study of the interaction and impact of foreign policy and the politics of Canadian federalism. This chapter seeks to explain Canada's role in the development of international policies on climate change. Secondly, it seeks to evaluate the perspective of the province of Saskatchewan towards the federal government's commitments to the Kyoto Protocol. The fifth chapter will then apply Simeon's framework to more closely identify the sources of Saskatchewan's perspective.

### **4.2 Canadian Involvement in International Climate Change Policy**

Because of the serious nature of its effects, climate change has been pushed onto the international political agenda as a high priority. Additionally, the international community has adopted the idea of the prevention principle, also called the precautionary principle, as a guiding policy principle in dealing with global climate change. Therefore, serious and substantial efforts to successfully mitigate the causes of climate change requires the international cooperation of the world's largest greenhouse gas emitters.

Climate change began to gain international attention in the late 1980s as scientific evidence began to mount regarding the effects of human made GHG emissions. Building on the success of the 1987 Montreal Protocol, which dealt primarily with ozone depletion, Canada took a leading role in advancing the climate change agenda by hosting the 1988 Toronto Conference, which helped provide the first framework recommendations for GHG emission reductions using 1988 as a

benchmark year (Smith, 1998: 2). Additionally, the formation of the IPCC, also in 1988, helped to provide detailed technical assistance to policy makers seeking to understand the effects of climate change. However, the first major step towards a formalized international environmental regime to address GHG emissions was the United Nations Framework Convention on Climate Change (UNFCCC) negotiated during the June 1992 Rio Earth Summit. The UNFCCC sought to set targeted goals for the reduction of GHG emissions by signatories. To date 192 jurisdictions have ratified the UNFCCC.

Resistance from large emitters, notably the United States, resulted in the UNFCCC being a largely symbolic convention. Concerns over the economic costs of pricing emissions, especially for energy intensive economies such as the United States, led to a weakening of the wording and commitments of the UNFCCC (Smith, 1998: 3). Ultimately, fears that the United States would pull out of the UNFCCC led to what Heather Smith calls an appeal to the “lowest common denominator” through non-binding targets and voluntary reporting and compliance (Smith, 1998: 3).

The follow up to the Rio Convention was the 1997 Kyoto Protocol negotiated in Kyoto, Japan. Unlike the agreement reached at Rio, the Kyoto Protocol sets binding, rather than voluntary, targets for industrialized countries to reduce their GHG emissions from 1990 levels. For Canada this represents a reduction of six per cent from 1990 levels by 2012 (UNFCCC, July 20, 2009). In this environmental regime, countries are expected to reach their GHG reductions primarily through national measures.

As a result, throughout the international negotiation process for both the UNFCCC and the subsequent December 1997 Kyoto Protocol, Canada supported objectives that took into account its economic interests and not just environmentally idealistic goals. For instance, Canada pushed for a legally-binding umbrella agreement that would include all major industrialized nations, especially the United States (Grubb, Hourcade and Oberthur, 2002: 27). Additionally, Canada sought to shift

the focus from per capita emissions of only CO<sub>2</sub> to net emissions of a comprehensive list of GHGs, which helps to lessen the burden on Canada's many energy intensive industries such as agriculture, mining, and oil and gas, by providing industry and government more flexibility in targeting a broader mix of gases (Kjellen, 1994: 158). Also Canada sought to lower its commitments through gaining credit for planting and protecting forests that serve as natural carbon sinks, and for providing more efficient energy options for other countries to reduce their GHG emissions through exporting hydroelectric power and cleaner burning natural gas (Smith, 1998: 4).

#### **4.3 Saskatchewan's Perspective on the Kyoto Protocol**

Saskatchewan, to state it briefly, during the run up to the ratification of the Kyoto Protocol was a supporter of action to mitigate the effects of climate change and to scale back GHG emissions, but felt any mitigation measures that would threaten economic growth deserved careful consideration. In a position paper released by the Department of Energy and Mines in October 2002, for example, the government of Saskatchewan stated its position as "willing to do its fair share to assist in accomplishing [the Kyoto] objectives, subject to a fair, equitable federal climate change plan being put in place that includes significant federal funding assistance" (Saskatchewan, 2002a: 1). Due to the energy intensive nature of the province's economy, however, the government of Saskatchewan was reluctant to fully commit to any binding environmental scheme without extensive consultation and a detailed and well-thought out implementation plan. Therefore, as a condition of Saskatchewan's support for environmental initiatives by the federal government, Saskatchewan insisted there needed to be extensive dialogue among the provinces and the federal government.

When the Kyoto Protocol was signed in 1997 at the Fifth Conference of Parties to the UNFCCC in Kyoto, Japan, the province felt the federal government had acted hastily and had betrayed the trust of the provinces by agreeing to a more stringent carbon reduction scheme than

had earlier been agreed upon at a November 1997 Joint Meeting of Environment and Energy Ministers (JMM) in Regina.<sup>7</sup> Specifically, at the 1997 JMM the provinces and Ottawa agreed to bargain in Kyoto for reducing emissions to 1990 levels by 2010 (JMM, 1997). Only a few short weeks later the government of Canada agreed to a six per cent reduction below 1990 levels at the Kyoto conference. By contrast, Australia, a country with a comparable economic structure to Canada, was allowed to increase its emissions by eight per cent above 1990 levels (Greenspon, 1997: A1; UNFCCC, 2009)

Provincial leaders were frustrated with the lack of consultation by the federal government when it decided to unilaterally change Canada's commitment from the agreed targets reached at the JMM. In reaction to this turn of events in Kyoto then Premier of Saskatchewan Roy Romanow stated: "[These events are] an example of the kind of confusion and stepping on each other's toes which this country simply doesn't need" (Greenspon, 1997: A1).

The federal government's reaction to the opposition expressed by the provinces, notably Saskatchewan and Alberta, was to seek to mollify them by agreeing to consult with the provinces at a First Ministers Meeting in Ottawa held in December 1997. In the weeks after the signing of the Kyoto Protocol, Prime Minister Jean Chretien hosted a private dinner of provincial and territorial leaders in which he agreed to substantial consultations before Ottawa would move ahead with ratification (Bryden and Greenaway, 1997: A10). Resulting from the private dinner and First Ministers Meeting was a communique that stated: "First Ministers agreed to establish a process, in advance of Canada's ratification of the Kyoto Protocol, that will examine the consequences of Kyoto and provide for full participation of the provincial and territorial governments with the federal government in any implementation and management of the Protocol" (FMM, 1997).

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<sup>7</sup> JMM are intergovernmental meetings that are an expansion and extension of the earlier CCREM and CCME meetings discussed in Chapter 3.

To follow up on the pledge to develop a consultative mechanism prior to any move to ratify, the first ministers directed their ministers of the environment and energy to work collaboratively to analyze the costs, options, and implications of ratifying the Kyoto Protocol. At an April 24, 1998 JMM the federal government and the provinces agreed to work together through the creation of a National Climate Change Secretariat (JMM, 1998).

By 2000 the government of Canada had produced the *Government of Canada Action Plan 2000 on Climate Change* designed to reduce GHG emissions by 65 megatonnes and bring Canada approximately one third of the way to its Kyoto commitment (Canada, 2000: 2). This plan primarily outlined methods of GHG reductions in areas under federal jurisdiction and through the use of the federal spending power. For example, the federal government pledged to commit money to research into carbon capture and sequestration. However, *Action Plan 2000* did little to outline specific regional impacts or the obligations of the individual provincial governments. In this sense, *Action Plan 2000* provided little guidance to Canada's provinces on how implementing Kyoto would affect them directly and left many questions that the provinces had about the impact of implementing Kyoto unanswered.

Demonstrating the confusion that surrounded the consultations into Canada's implementation plans on climate change, in June 2002 Saskatchewan's Premier Lorne Calvert described the province's position to the *Regina Leader Post* by stating: "What we're saying is that before the ratification takes place, there are some key things that have to be assured," adding further, "There has to be a fair distribution of costs. And there has to be a hard look at opportunities that exist (in terms of economic opportunities). The vast majority of Canadians are anxious that work be done to deal with global warming. This we believe offers a better opportunity than just being restricted to (four federal options)" (Parker 2002: F.5).

Regardless of the concerns of the provinces regarding the federal government's GHG reduction plans, Prime Minister Jean Chretien announced on September 2, 2002 at the World

Summit on Sustainable Development in Johannesburg, South Africa, that Canada's government would seek to ratify the Kyoto Protocol. The provincial reaction to Chretien's decision was immediately negative. Although provinces such as Manitoba and Quebec supported the principles of Kyoto they, along with other provinces such as Alberta and Saskatchewan, opposed ratification without consultation and a clear federal implementation plan. Reflecting Saskatchewan's frustration, Industry and Resources Minister Eldon Lautermilch, Saskatchewan's lead minister on the climate change file, stated: "we haven't seen a plan, we haven't seen an analysis of the costs and impacts" (Regina Leader Post, 2002: B.7). Lautermilch felt that the federal government had only paid "lip service" to involving the provinces, and that the decision to announce ratification was based on political factors and not pragmatism and economic factors (Lautermilch Interview, 2009).

Alberta was particularly outraged by Chretien's decision to move ahead with ratification of the Kyoto Protocol. For example, the Alberta government spent nearly \$2 million on a media campaign designed to raise opposition to the Kyoto Protocol (Canadian Press, 2002). Alberta Premier Ralph Klein even threatened a constitutional challenge of Ottawa's actions to impose climate change policy on provincial governments, citing federal intrusion into the provinces' constitutional control over natural resources (Olsen, 2002: A.3).

Saskatchewan likewise had reservations about the ratification of the Kyoto Protocol. Climate change was viewed by the government of Premier Calvert as an important aspect of public policy. The March 14, 2002 Speech from the Throne stated that: "Saskatchewan people recognize the importance of climate change as an environmental and economic issue. Initiatives will be continued to reduce greenhouse gas emissions" (Calvert, 2002a: 3). However, shortly before the Parliament of Canada moved to vote on a resolution approving the ratification of the Kyoto Protocol, Premier Calvert stated his opposition to the government of Canada's actions: "Our fight is not with the principle of Kyoto. Our fight is with the federal Liberal government who has refused from day one to participate with Canadians in building a sane implementation



plan that will protect the interests of the environment and the interests of the economy” (Calvert, 2002b: 2861).

Saskatchewan organized much of its opposition to the Kyoto Protocol around a *12 Point Plan* reached by all the provincial and territorial governments during an October 28, 2002 JMM in Halifax. This agreement laid out 12 principles that the provinces and territories felt needed to be addressed and included in any national implementation plan put forward by the federal government.<sup>8</sup> Saskatchewan was a strong supporter of the JMM agreement with Industry and Resources Minister Lautermilch introducing a motion that was subsequently passed by the Saskatchewan Legislature calling for the federal government to honour the 12 principles (SK Legislature, 2002). Among the principles of particular importance to Saskatchewan are point two: “the plan must ensure that no region or jurisdiction shall be asked to bear an unreasonable share of the burden and no industry, sector or region shall be treated unfairly”; point three: “the plan must respect Provincial and Territorial jurisdiction”; and point nine: “the plan must maintain the economic competitiveness of Canadian business and industry” (JMM, 2002).

As can be seen, Saskatchewan’s position towards the ratification of the Kyoto Protocol can be characterized as reluctant and cautious. From Saskatchewan’s perspective, the federal government had acted prematurely and without proper or meaningful consultation, and as a result the economies of both Saskatchewan and Canada were threatened by Ottawa’s intention to ratify the Kyoto Protocol without a concrete implementation plan. For these reasons, and more, Saskatchewan was brought into conflict with the federal government over the ratification of Kyoto.

#### **4.4 Conclusion**

The purpose of this chapter was to provide context to the importance to Saskatchewan and Canada of the Kyoto Protocol and to frame Saskatchewan’s position towards Kyoto following

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<sup>8</sup> See Appendix A

Ottawa's decision to move ahead with ratification. From the perspective of the government of Saskatchewan, it was important to develop a clear implementation plan prior to Canada ratifying the Kyoto Protocol. The failure of the government of Canada to provide a detailed and achievable plan left Saskatchewan uncertain of the implications of Kyoto and pushed the Saskatchewan government to oppose Canada's ratification of Kyoto. In the next chapter Simeon's model of the four sources of conflict in Canadian intergovernmental relations will be used to analyze and categorize Saskatchewan's motivations and disagreements with Ottawa in more depth.

## **CHAPTER 5: SOURCES OF CONFLICT: SASKATCHEWAN'S PERSPECTIVE**

### **5.1 Introduction**

The previous chapters have attempted to provide background information into Canadian federalism and theories of intergovernmental relations, environmental policy in Canada, the politics of climate change, and the government of Saskatchewan's perspective on the ratification of the Kyoto Protocol by Ottawa in 2002. This chapter will seek to provide a more in-depth analysis of Saskatchewan's motivations for opposing Canada's ratification of the Kyoto Protocol by examining Saskatchewan's position through Simeon's four sources of conflict: economic conflict, ideological conflict, political competition, and differences in perspective.

Although uncertainty over the economic impact of ratifying the Kyoto Protocol was Saskatchewan's greatest concern, aspects of the three other sources of conflict identified by Simeon helped to shape and mould Saskatchewan's opposition. To achieve a complete understanding of Saskatchewan's position on Kyoto's ratification, it is best to look beyond economic factors and to incorporate Simeon's other sources of conflict.

This chapter will proceed by applying each of Simeon's four sources of conflict to the case study of Saskatchewan's perspective on Kyoto. First economic conflict will be examined following sequentially by ideological conflict, political competition, and finally differences in perspective. Throughout the analysis consideration is given to how international considerations played a role in each of the four sources identified by Simeon.

### **5.2 Economic Conflict**

As stated in Chapter 2, Simeon views economic interests as "the most obvious source of conflict among the governments" of Canada. It should come as no surprise then that Saskatchewan's most prominent concern over the ratification of Kyoto involved economic concerns (2006: 163). Simeon's analysis of economic conflict applied to the case study of

Saskatchewan's perspective on Kyoto helps to explain several seemingly contradictory positions of the Saskatchewan government.

Indeed, from Saskatchewan's perspective there were a variety of economic factors that influenced its opposition to the federal government's approach to ratifying the Kyoto Protocol. On the most basic level, the energy intensive structure of Saskatchewan's economy meant its potential GHG reduction obligations relative to most other provinces were greater. At the same time, Saskatchewan was also concerned about the competitiveness of its economy relative to both other provinces and perhaps more importantly to competitors in the United States, especially after the United States had announced its refusal to ratify Kyoto. The uncertainty that resulted from the lack of a formal federal implementation plan also caused Saskatchewan to be drawn into conflict with the federal government over which level of government would be expected to cover costs of GHG reduction policies. In a similar vein Saskatchewan was also cautious when it came to possible implications for its ability to raise tax revenue and properly budget without a clear delineation of its responsibilities towards GHG reductions. Closely related to these financial considerations was the desire to protect provincial control over all aspects of resource policy and the associated revenue and economic clout generated by natural resource extraction.

To begin: Simeon acknowledges that a major "source of conflict based on economic differences arises from differences in the nature of provincial economies" (2006: 167). Applied to climate change policy, the differences in the economic structure and development of Saskatchewan's economy reveal a heavy dependence on GHG intensive economic processes compared to most other provinces. Additionally, since 1990, the baseline year for Kyoto, Saskatchewan's economy has rapidly developed and with this development has come rapid growth in GHG emissions. According to Environment Canada's *Greenhouse Gas Inventory: 1990-2002*, Saskatchewan's GDP had risen 23.3 per cent between 1990 and 2002 with GHG emissions rising in concert by 29 per cent over the same time period. Comparatively, Canada's GDP had risen 40.0

per cent and GHG emissions had risen 20.1 per cent. Saskatchewan's per capita emissions in 2002 were approximately 60 tonnes of GHG equivalent compared to the national average of 23.3 tonnes of GHG equivalent. In 2002 for every million dollars of economic activity generated in Saskatchewan two kilotonnes of GHGs were emitted. In comparison, the national average over this period was 0.68 kilotonnes GHG per million dollars of economic activity (Canada 2002a). Placed in these statistical terms, Saskatchewan faced some of the most burdensome economic obligations of all the provinces when it came to possible ratification of Kyoto in 2002.

<b>Table 5.1: Comparative Table of GHG Emissions and Economic Activity</b>				
	<b>GHG Emissions per Capita 2002</b>	<b>Rise in GHG Emissions 1990-2002</b>	<b>Rise in GDP 1990-2002</b>	<b>GHG Intensity (Million tonnes/\$Billion GDP) 2002</b>
Canada	23.3 tonnes	20.1%	40.4%	0.68
Saskatchewan	60.0 tonnes	29.0%	23.3%	2.0
Manitoba	18.8 tonnes	6.4%	24.9%	0.635
Alberta	73.3 tonnes	29.4%	52.4%	1.756

Source: Canada's Greenhouse Gas Inventory 1990-2002

During the 2002 ratification debate, the potential economic impact of meeting Canada's GHG reductions targets under Kyoto was predicted to lead to substantial costs to the Canadian economy. A federal-provincial-territorial task force placed the economic impact of implementation at nearly \$40 Billion or approximately 3 per cent of 2010 GDP (Canada, 2002: 57). Likewise, business groups in 2002 went as far as to argue that the effects of implementation would amount to nearly 450,000 lost jobs across Canada (Canadian Association of Exporters and Manufacturers, 2002). Due to Saskatchewan's rapid growth of GHG emissions from 1990 to 2002, meeting the Kyoto commitments would mean that, relative to population, Saskatchewan would pay a greater cost to meet its targets than other provinces.

Another example of one of the differences between Saskatchewan's economy and the other provinces is its reliance on coal for electrical generation, which places it at a disadvantage to provinces with cleaner GHG emitting forms of electrical generation, such as nuclear, natural gas, or hydroelectric generation. Indeed, the discrepancy that exists among Canadian provinces regarding GHG emission intensity per unit of economic activity can largely be attributed to whether a province is either a hydrocarbon producer or a hydroelectric producer. Provinces that are dependent upon the production and exportation of oil and other energy products, as well as the generation of their power primarily through coal-fired generation, have dramatically higher greenhouse gas emissions than provinces that generate the majority of their economic activity from industries other than the energy sector and that produce their energy primarily through nuclear power or hydroelectric generation. For Saskatchewan the generation of much of its economic activity requires substantial reliance on non-renewable sources of energy, such as coal, that emit disproportionate amounts of greenhouse gases compared to hydroelectric generation. Indeed, SaskPower, Saskatchewan's largest electricity company, estimated that compliance with the Kyoto Protocol could have cost the Crown corporation between \$50 million and \$250 million annually (Regina Leader Post, 2002: B7). For Saskatchewan the economic impact of reducing emissions solely in the electrical generation field would have had substantial costs and these potential costs contributed to Saskatchewan's opposition to ratification.

Likewise, the oil and gas sector of Saskatchewan's economy was especially concerned about the implications for its continued vibrancy and growth if the implementation of the Kyoto Protocol caused costs to rise drastically. In 2002 the value of Saskatchewan's oil related production amounted to \$4.7 billion, a dramatic growth from the year of Kyoto's negotiation in 1997, \$2.9 Billion, and the target year for reductions of 1990, \$1.6 billion (Saskatchewan, 1997: 2; Saskatchewan, 2002: 2). Saskatchewan's production of petroleum products is also weighted towards GHG intensive methods of oil extraction. For example, in 2002 Saskatchewan's heavy

gravity oil production was 12.3 million m<sup>3</sup>, medium gravity was 6.9 million m<sup>3</sup>, and light gravity was 5.1 million m<sup>3</sup> (Saskatchewan, 2003: 19). Heavy oil, having a greater density than medium or light oil, requires more energy and water to extract than either light or medium oil, resulting in greater GHG emissions (Canada, 2010). As a result, the major players in Saskatchewan's energy sector and economic think tanks lobbied both the provincial and federal governments to delay the ratification of Kyoto until an extensive implementation plan could be developed. For example, the Canadian Association of Petroleum Producers sent an open letter to the federal government in late October of 2002 stating: "we have seen no evidence that it makes sense for Canada to make its contribution to climate change action under the Kyoto Protocol" (Seskus, 2002: FP.3). Gwyn Morgan, CEO of the oil and gas company Encana Inc., wrote: "[Kyoto] would go down in history as one of the most damaging international agreements ever signed by a Canadian prime minister" (Girard, 2002: F.01).

For these reasons, the government of Canada's decision to move forward with ratification of the Kyoto Protocol raised major questions about the resulting economic impact on Saskatchewan, given its energy intensive economy compared to other provinces. As Simeon's framework would predict, a portion of Saskatchewan's economic conflict with the federal government was a result of the differences in its economy compared to other provinces.

Simeon's analytical framework can also be built upon and expanded by including international economic influences as a determinant of intergovernmental conflict in Canadian federalism. One critical economic concern of the government of Saskatchewan was its ability to compete internationally against jurisdictions that decided against adopting the Kyoto Protocol and would therefore, as a result, have lower emissions standards. In particular, the government of Saskatchewan had concerns over economic consequences of the Bush Administration's opposition to ratifying the Kyoto Protocol. "President Bush has said they are not going to ratify or adhere to Kyoto," Calvert said. "We need to be sure that somehow that does not create an unfair

circumstance for our energy-producing industry" (O'Connor, 2002: B:1). Likewise, Mexico, the other partner in the North American Free Trade Agreement, had no obligations to alter its behavior according to the principle of differentiated responsibility acknowledged in the Kyoto Protocol (UNFCCC, 2010).

International competitiveness was emphasized in the federal-provincial Analysis and Modelling Group's 2000 paper, *An Assessment of the Economic and Environmental Implications for Canada of the Kyoto Protocol*, which argued that the economic consequences of Canada's ratification would cause more harmful affects to Saskatchewan's economy than to other provinces' economies (AMG, 2000, 50). While the paper did not make reference to each province individually, it stated that nationally Canada would drop in relative competitiveness to its trading partners - amounting to a loss of approximately 0.5 per cent of GDP (AMG, 2000: 50). Estimates of the costs to the Saskatchewan economy by 2010 under the numerous scenarios analyzed by the taskforce ranged from \$1.3 billion to \$3.0 billion (AMG, 2000: 38). Similarly, in its October 2002 position paper the government of Saskatchewan estimated the annual costs of Kyoto's ratification and implementation to the Saskatchewan economy at between \$300 million to \$2.6 billion annually by 2020 (Saskatchewan, 2002: 12).

International competitiveness for Saskatchewan business was a major concern for the government of Saskatchewan after business groups emphasized some of the major negative implications of ratification. For example, Ipsco Inc., a steel manufacturer based in Regina, made clear in interviews to the *Regina Leader Post* that energy rate increases as a result of the implementation of the Kyoto Protocol could result in the relocation of its core Regina business, which in 2002 had approximately 700 Regina based employees (Johnstone, 2002: B.4). Speaking in reaction to Ipsco's announcement, and reflecting the views of Saskatchewan business, Regina Chamber of Commerce director John Hopkins said: "Kyoto will have a devastating impact on the Saskatchewan economy. It puts us at a huge disadvantage. It's a bad deal for all of us." (Johnstone,



2002: B.4). Saskatchewan Industry and Resources Minister Eldon Lautermilch is quoted in the *Regina Leader Post* as saying: "[Kyoto's ratification will] put us at a huge competitive risk," adding, "The U.S. represents just under 90 per cent of Canadian exports. And that could threaten jobs in (Saskatchewan's) potash industry, since the Americans are our largest buyer of potash. It could also affect the oil and gas industry since Saskatchewan is the second-largest producer of oil and gas in the country" (Foster, 2002: A.1).

Reflecting its concerns over the effects ratification of Kyoto would have on the competitiveness of Saskatchewan companies relative to firms based in the United States, the government of Saskatchewan stated as part of its official position paper:

The plan should maintain the economic competitiveness of Saskatchewan's businesses and industries. Trade with the United States and other nations is critical to Saskatchewan's economy. Saskatchewan is concerned that ratification of the Kyoto Protocol may reduce Canada's economic competitiveness since 87% of Canada's exports go to the U.S. The U.S. has indicated it will not ratify the Protocol. If Canada ratifies the Kyoto Protocol, Saskatchewan companies may be placed at a competitive disadvantage compared to U.S. companies that may not have to reduce their emissions. Saskatchewan companies can easily move to the U.S. or manufacturing activity can easily shift from Saskatchewan to U.S. plants as relative costs change. As well, many other countries are not yet covered by the Protocol and may enjoy a competitive advantage in competing for U.S. or Canadian markets (Saskatchewan 2002: 13).

The Saskatchewan government, then, had a clear goal of defending its economic interests when it came to negotiating with the federal government and the other provincial governments. This quickly brought the government of Saskatchewan into conflict with the federal government over economic concerns. The tactics used by these two governments reflected these economic concerns. As Simeon predicts, partisan discussion, or trying to "structure the discussion in terms favourable to themselves" (2006: 243) played an important role in the economic debates put forward by both levels of government.

At the very basic level the two governments presented conflicting narratives of climate change and the appropriate policy necessary to successfully deal with the implications. From the perspective of the Saskatchewan government, the federal government attempted to position itself

as the “champion of the environment” and the provincial governments, including Saskatchewan, that opposed Canada’s ratification of the Kyoto protocol as “Neanderthals” according to then Energy and Mines Minister Lautermilch (Lautermilch Interview, 2009). In contrast, the Saskatchewan government attempted to frame itself more favourably as the pragmatic and cautious policy maker that sought to fully understand and account for all the economic implications of Kyoto’s ratification. From Saskatchewan’s perspective it was important to define the debate in economic terms rather than in emotional or altruistic terms, such as the negative impact of climate change on traditional peoples in the North or the negative effects on disadvantaged peoples abroad. Defining the terms of the debate was especially critical because, as Simeon suggests, “the act of definition suggest that the problem will be viewed from a certain perspective. A particular set of precedents, prior experiences, arguments, and general rules will be called into play and will structure future action” (2006: 243). An example of this type of economic framing by Saskatchewan can be found in Minister Lautermilch’s statements in the Saskatchewan legislature:

[I]t has become very clear to us that the Kyoto Protocol in its current form will not do that; that this protocol could have grave consequences for our provincial economy, for the jobs and lives of our citizens and their children, and that the federal Liberal government in Ottawa is not committed to public consultation, to regional fairness, or economic development outside certain centres — in short, that the government of Ottawa is not committed to Saskatchewan (Lautermilch, 2002a: 2865).

Similarly, the Saskatchewan government attempted to portray the federal government as ignoring the provinces and refusing to consult. In its October 2002 position paper one of the fundamental demands of the Saskatchewan government was that: “Stakeholders and residents should have an opportunity for full and informed input into the development of the plan and the ratification decision (Saskatchewan, 2002: 10).” In this context, Saskatchewan’s desire for extensive consultation was also extended to include other stakeholders beyond government including, perhaps most critically, business interests. Additionally, the demands found in this

position paper were an attempt to organize the procedure that the federal government ought to follow to benefit, and to receive the support of, the Saskatchewan government.

Saskatchewan government's framing of the discussion was no more clearly stated than in the ending to its position paper in which it states under the title "A Call to the Federal Government" that:

Saskatchewan has outlined the features that it feels need to be included in a fair, open and sensible national plan to address climate change.

Saskatchewan calls upon the federal government to immediately resume discussions with the provinces to develop the details of such a national climate change plan.

Saskatchewan calls upon the federal government to consult with Canadians about this national climate change plan before making a decision on ratification of the Kyoto Protocol. (Saskatchewan, 2002: 18)

Similarly, Ottawa's reluctance to outline a comprehensive climate change plan can be linked to its desire to have the debate narrowly limited to a focus on environmental and health benefits of climate change abatement. The federal government appeared to marginalized the economic concerns of the provinces and industries opposed to ratification as a way of sustaining public support by obscuring the potential costs to citizens and instead emphasizing the health and environmental benefits. The obscuring of the economic costs of ratification corresponds with Simeon's observations that "participants will try to withhold or downplay information unfavourable to their positions" (Simeon, 2006: 246).

Building upon this attempt to define the issue in economic terms, Saskatchewan was a strong supporter of the *12 Point Plan* jointly issued by all provincial governments and territories following the October 28, 2002 JMM (JMM, 2002).<sup>9</sup> The *12 Point Plan*, along with Saskatchewan's position paper, were meant to provide a narrower framework to guide climate change policy development in the federal government towards policies beneficial to Saskatchewan, and by extension the other provinces. In other words, these position statements were meant to force

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<sup>9</sup> See Appendix A.

the federal government to argue in the economic terms defined by the government of Saskatchewan. This follows Simeon's analysis of partisan discussion, which suggests that: "when the terms of an argument are defined, the range of possible outcomes is drastically reduced" (2006: 243).

Applying Simeon's framework would suggest that Saskatchewan's support of the *12 Point Plan* sought to create a bargaining position that would maximize financial resources for the province. Two points in particular emphasize this position:

"The plan must ensure that no Province or Territory bears the financial risk of federal climate change commitments";

and,

"The plan must ensure that no region or jurisdiction shall be asked to bear an unreasonable share of the burden and no industry, sector or region shall be treated unfairly. The costs and impacts on individuals, businesses and industries must be clear, reasonable, achievable, and economically sustainable. The plan must incorporate appropriate federally funded mitigation of the adverse impacts of climate change initiatives" (JMM, 2002).

For Saskatchewan these two points were vital components of its approach to negotiating a national climate change regime. The rapid growth of GHG emissions in Saskatchewan after 1990 meant that efforts to reduce its GHG emissions to achieve Kyoto's targets would mean a nearly 35 per cent reduction in absolute emissions across the province. Advocating for a strong national plan that included the input and agreement of the provincial governments, with associated federal funding, was essential to securing Saskatchewan's economic future. In this sense Saskatchewan desired a strong federal plan that would help to redistribute some of the burden of GHG reductions to other jurisdictions in Canada. The NDP's Andrew Thomson argued just this point on March 19, 2002, in the Saskatchewan Legislature:

It is unfortunate that the Kyoto Protocol sets as the target to reduce below the 1990 levels. This puts Saskatchewan at something of a disadvantage because our industrial growth was after that time period. We need to work with Ottawa, we need to work with our national government, with other provinces, and with industries to set realistic targets for the reduction of greenhouse gas emissions. We need to clearly understand what the impacts are going to be on the province in terms of its environment, on the province in terms of its

economy, and on the citizens who live here in terms of what the impact would be in terms of the consumers. That is the approach that we are continuing to work on as we work with Ottawa on this very important issue. (Thomson, 2002: 115).

Similarly, Saskatchewan's position paper on climate change argues:

The plan should recognize the difficult financial circumstances of Saskatchewan and other provinces and should provide federal cost-sharing to provinces to assist them to undertake required climate change initiatives. (Saskatchewan, 2002: 16);

and,

Saskatchewan believes that it will be extremely difficult for the federal government to fairly allocate the impact of emission reduction measures among provinces or economic sectors. Accordingly, Saskatchewan feels that the federal government should commit that it would provide compensation if Saskatchewan, another Canadian jurisdiction, or an economic sector bears a disproportionate share of the burden of reducing greenhouse gas emissions to meet Canada's Kyoto target. The plan should not selectively impose significant additional burdens on a narrow group of individuals or businesses beyond reasonable costs to effectively reduce emissions (Saskatchewan 2002: 17).

For these reasons it was important for Saskatchewan that a national plan that acknowledged its post-1990 growth and the energy intensive structure of its economy be developed.

Saskatchewan's view of a strong federal role in a comprehensive national climate change plan in many ways parallels classic federal provincial debates over equalization policy identified by Simeon (2006: 164). Only, in the case of climate change policy, the GHG intensive economies in Canada such as Saskatchewan and Alberta sought to equalize GHG reductions among provinces, while GHG efficient provinces such as Manitoba and Quebec sought to prevent this redistribution of the burden of GHG reductions away from the most egregious emitters. Indeed, Saskatchewan's position paper makes its desire for a national plan clear: "Policies to meet national objectives such as the Kyoto Protocol should be nationally based and should be designed so that the average burden is relatively even across the country and across the economy" (Saskatchewan, 2002: 11).

Nonetheless, this desire for a national role for the federal government in easing the financial burden of GHG reductions was balanced against the goal of retaining Saskatchewan's

control over its economy, and especially complete control over its natural resources. Control over natural resource revenue and regulation has always been a source of conflict between the Western provinces and the federal government - especially when considering the past policies of the federal government, such as the National Energy Plan (NEP). Simeon acknowledges the historical suspicion of the Western provinces towards federal policies: “Throughout Canadian history westerners have resented national trade, tariff, and freight-rate policies which were seen as protecting eastern manufacturing industries” (2006: 167). The debate leading up to ratification was no exception, with Saskatchewan arguing that federal climate change policy ought to “respect provincial jurisdiction, including provincial ownership of natural resources” (Saskatchewan 2002: 11).

For Saskatchewan’s negotiators there was always the fear that implementation of climate change plans through some form of carbon tax or trading scheme to meet Canada’s Kyoto obligations would result in a “sucking out of resources” (Wilson Interview, 2009). Minister Lautermilch emphasized that Saskatchewan was cognizant that climate change policy could become some form of a “new NEP” that would result in a “redistributing wealth shift” as resource revenue generated in Saskatchewan would flow to other Canadian jurisdictions (Lautermilch Interview, 2009). Saskatchewan puts its position clearly:

Saskatchewan is committed to taking action on climate change. But we are not willing to have our residents and industries pay a price disproportionate to that paid by other Canadians. Nor are we willing to accept a plan that penalizes our economy but fails to effectively address climate change. It is time for the federal government to have an open discussion with all Canadians on Kyoto and its implementation plan (Saskatchewan, 2002: 9).

Similarly, the position paper later states:

Saskatchewan, along with other Canadian jurisdictions, is concerned that ratification of the Kyoto Protocol will eventually result in federal intrusion into the management and taxation of resource industries that are currently the responsibility of the provinces. This could transfer significant amounts of resource revenues from a province to the federal government. Saskatchewan feels that provincial resource revenues now used to fund

services to provincial residents should not be taxed away by the federal government under the guise of reducing greenhouse gas emissions (Saskatchewan, 2002: 16).

When all these economic arguments are summarized and connected, it becomes easier to understand the reasons the Saskatchewan provincial government decided to oppose the 2002 ratification of the Kyoto Protocol. In short, Saskatchewan was trying to maximize its economic position by mitigating the potential costs to its established industries and economy, maintain its international competitiveness relative to the United States, maximize federal contributions to GHG reduction programs, ensure that the provincial government maintained strong control over natural resources and had extensive input over the direction of economic policy affecting Saskatchewan. In terms of Simeon's analysis, economic conflict arose because of the differences in Saskatchewan's economy compared to other provinces, its desire for certainty in federal funding programs, its demand to retain control of its natural resources, and its concerns over international competitiveness.

### **5.3 Ideological Conflict**

Along with economic conflict, Simeon's evaluation of federal-provincial relations also identifies ideology as an important source of conflict between governments. Simeon's analysis provides a guide to understanding the role and importance of ideological factors in the federal-provincial negotiation and how these ideological factors helped to drive intergovernmental conflict during the ratification of the Kyoto Protocol. According to Simeon there are two primary categories of ideological factors in federal-provincial negotiations: "first are prescriptions about the nature of the political system, the proper balance of the governments within it, and the ways the decision process should operate; second are more substantive aspects relating to the kinds of policy goals the system should pursue" (Simeon, 2006: 168). Or, in other words, there are ideological

conflicts over the ideological and philosophical motivations of policy makers as well as ideological conflicts over how federal-provincial relations ought to be conducted.

The first type of ideological conflict during the ratification debate was over the motivations and priorities of policy makers at the federal level compared to those at the provincial level. The primary ideological difference between the federal government and the government of Saskatchewan rested on the weight ecological concerns ought to have compared to the weight economic development ought to have in determining environmental policy. In the case of the ratification of Kyoto, this type of ideological clash occurred over the more pragmatic and economically focused position of Saskatchewan, versus the more environmentally idealist and ideologically focused position of the federal government. The federal government demonstrated its commitment to the protection of the environment and reductions in the emissions of GHGs because of its adherence to the international treaty known as the Kyoto Protocol - parts of which were clearly designed to benefit developing countries at a cost to industrialized countries. Saskatchewan, in contrast, had a commitment to sustained economic development, while taking economically cautious steps to address environmental concerns over climate change and GHG emissions in a manner that was most economically beneficial to Saskatchewan.

During the federal-provincial negotiations following the signing of the Kyoto Protocol in 1997 and leading up to the ratification of Kyoto in 2002, the government of Saskatchewan felt that the federal government used an ideological approach laced with idealistic rhetoric towards climate change, which caused Saskatchewan to criticize Ottawa's approach for being light on practical, measured, and reasoned implementation plans. For example, on the day the federal government voted to ratify the Kyoto Protocol Saskatchewan's Minister of Industry and Resources, Eldon Lautermilch, stated in the Saskatchewan legislature:

[W]e have the federal plan before us. A plan... [that] is better described as a goal, a wish, a dream, a hope that would be nothing but bad news for the people of Saskatchewan. Mr. Speaker, the federal climate change plan is not a real plan. It contains no details, no



specific information, and no realistic cost estimates. Sounds kind of familiar, Mr. Speaker, but I don't think that's what we need here in this province (Lautermilch, 2002b: 2866).

Indeed, for the government of Saskatchewan, the federal government's rush to ratification was characterized by Minister Eldon Lautermilch as an "ideological decision, but without firm commitments [to an implementation plan]" (Lautermilch Interview, 2009). Similarly, during intergovernmental meetings such as JMMs and federal-provincial committees, Saskatchewan felt that the federal government's ideological thrust towards ratification meant they were unprepared for the serious discussions revolving around implementation. Indeed, Minister Lautermilch reflected that these meetings were "difficult because they never went anywhere" because he felt the "federal government was not contributing" and that lack of substantive contribution led to "little progress" through the intergovernmental committee process (Lautermilch Interview, 2009).

Furthermore, the ideological nature of Ottawa's stance on climate change was reflected in discord within the federal cabinet where there was dissension by those who favoured a more prudent approach to climate change, one that took greater account of potential negative economic consequences. For example, federal Health Minister Anne McLellan threatened to resign if Kyoto had negative economic effects on the Albertan economy (Toulin, 2002: A.4). Similarly, just days after the announcement that Ottawa intended to ratify the Kyoto Protocol, Paul Martin was quoted by the *National Post* as saying:

I don't think we should kid ourselves. There are costs to dealing with climate change (Sokoloff, 2002: A.5).

And,

Canadians are entitled to know what those costs are, what they are going to be asked to bear and that it's going to be done in a way that is equitable and fair, right across the country, region by region (Sokoloff, 2002: A.5).

In the end, the ideological position of the Prime Minister and the other supporters of the Kyoto protocol won the day over those wanting more pragmatism - hence the ideological thrust by Ottawa in choosing to make a unilateral move to ratify the Kyoto Protocol.

The federal government's more ecologically idealist position is typical of an ideological trend in Canadian environmental policy towards "deep environmentalism" as described by Melody Hessing, Michael Howlett, and Tracy Summerville (2005: 7). Deep environmentalism and other similar environmentally centred ideologies adhere to the belief that priority should be given to "environmental concerns over market forces" (Hessing, Howlett and Summerville, 2005: 7). Those that hold the deep ecologist viewpoint argue that the natural environment should not be categorized simply as a resource for exploitation, but as a natural system with deep connection to and for human beings. Deep environmentalists encourage public policy to be developed with the health of natural systems as a primary consideration, equal to the concern with economic development. Evidence of the influence of deep environmentalism in general environmental policy can be found in the adoption of the "precautionary principle" by many levels of government when it comes to environmental assessments and the inclusion of "environmental sustainability" in public policy discourse (Hessing, Howlett and Summerville, 2005: 189).

It is always difficult to separate normal political rhetoric from deeply held ideological beliefs, but in the case of the Kyoto Protocol, the federal government's ideological commitment to climate change policy as an environmental imperative can be seen reflected in Prime Minister Jean Chretien's contemporary statements and in his memoirs. Tellingly, Chretien's memoirs relate his deep feelings about environmental stewardship: "Protecting the environment had been a personal preoccupation of mine ever since I was put in charge of Canada's national parks in 1968 as Minister of Indian affairs and northern development" (2007: 383). Likewise, his predilection for environmental protection over more purely hard-nosed goals of economic development is reflected in this statement in the section of his memoirs dealing with the ratification of Kyoto: "In all my forty years in public life, I've never once seen a sector coming to the government and asking us to increase the taxes it's paying so that the country can be better (Chretien, 2007: 388). Similarly in parliamentary debates and questions throughout 2002, Prime Minister Chretien stated: "We must

respect our international obligations and we must respect the desire of Canadians to do something about climate change” (Canada Hansard, 2002: Oct 19). All of these statements serve to demonstrate the priority Chretien placed on environmental protection and making and fulfilling international commitments, such as the Kyoto Protocol.

Environmentalism as an ideology played a role in the policies of the Saskatchewan but, in contrast to the federal government, Saskatchewan was more disposed to emphasize continued economic stability and growth over purely ecological concerns. Saskatchewan’s 2002 position paper on Kyoto reflects the preeminence of economic concerns: “While the Saskatchewan government supports many of the principles and objectives of the Kyoto Protocol, Saskatchewan is seriously concerned about the lack of information regarding Ottawa’s intentions” (Saskatchewan, 2002: 1). Likewise Premier Calvert’s statement of December 10, 2002 in the Saskatchewan Legislature also reflect the priorities of the Saskatchewan government.:

From day one, Mr. Speaker, this government has made it clear we do not — we do not — oppose the principles and objectives of the Kyoto Protocol, do not object to taking on the challenge of greenhouse gas emissions. Our fight is not with the principle of Kyoto. Our fight is with the federal Liberal government who has refused from day one to participate with Canadians in building a sane implementation plan that will protect the interests of the environment and the interests of the economy (SK Hansard, 2002: 2861).

Saskatchewan officials believed that climate change policy ought to preserve economic growth in a manner that also addresses environmental concerns - climate change policy that did not adequately protect Saskatchewan’s economy was viewed dimly.

As a result, in the context of actual intergovernmental negotiations that occurred both on the political and bureaucratic level, Saskatchewan officials were left with the impression that ratifying the Kyoto Protocol was motivated by ideological beliefs. Additionally, from the perspective of Minister Lautermilch, the federal government was inflexible due to its ideological commitment to ratification, “Federal Liberals got insensitive as time went on and were less inclined to listen” (Lautermilch Interview, 2009). Some of the reasoning behind the federal

government's reluctance to continue negotiations is found in Chretien's memoirs regarding the Kyoto Protocol: "I thought it was important first to establish an obtainable target and then to figure out how to meet it step by step, year by year. The fact is, if you have no set destination in mind, you'll never get anywhere" (388).

Another distinct, although related, major source of ideological conflict during Kyoto's ratification involved the ideological expectations of politicians about the nature of Canada's federal political system itself and the traditions and norms of federal-provincial relations. Exploring these expectations about the nature of the political system helps to explain the opposition of Saskatchewan to the federal government's unilateralism in climate change policy. In the case of Kyoto, this type of ideological conflict arose from the strongly held belief in cooperative federalism by provincial governments. This is a historically important ideological position of the provinces as explained by Simeon: "The provinces are also strong believers in cooperative federalism. The federal government must be sensitive to regional needs. It must fully consult with the provinces before introducing policies that affect them" (Simeon, 2006: 182).

As a consequence, ideological beliefs about the nature of the federal system and the constitutional division of powers between the provinces and Ottawa generally determine the type of tactics that governments will pursue in federal-provincial negotiations. In the case of climate change policy, these ideological views held by both levels of government played a major role in the path negotiations took. Because the need for reductions in GHG emissions was universal accepted by all the governments in Canada, the focus was on which level of government was most capable and best suited to implementing a viable climate change policy. Additionally, because the constitution and Canadian jurisprudence provided a poor guide to policy-makers on where constitutional authority ultimately rested for climate change policy, ideological views about the nature of Canadian federation provided a frame of reference for both provincial and federal policy-

makers.<sup>10</sup> From the ideological perspective of the provinces the responsibility for climate change policy rested jointly with both the provinces and the federal government, which made the federal decision to unilaterally move forward with the ratification of the Kyoto Protocol in September 2002 ideologically untenable to the provinces.

Simeon also identifies three ideological emphases of the federal government concerning the proper functioning of the Canadian system of federalism that normally help to lessen overall intergovernmental conflict: unity, cooperation, and the equal status of provinces (Simeon, 2006: 172); however, in the case of Kyoto, both the ideological emphases on cooperation and the equal status of provinces that one would expect from the federal government were overridden by an ideological concern with environmental protection. Regarding cooperative federalism, the government of Canada sought to move ahead unilaterally on the climate change agenda without the consultation satisfactory to the provinces. As for the equal status of the provinces, the federal government failed to provide an implementation plan that gave evidence that all provinces would be treated equally and could expect equal outcomes. Instead, the federal government's ideological concern with environmental protection and international cooperation prevailed over the ideological tendencies that Simeon argues would normally help smooth interactions between Ottawa and the provinces.

While on one level it is surprising that Ottawa ignored traditional methods of attaining intergovernmental cooperation, Simeon's model also identifies a secondary ideological preference of the federal government that helps to explain this discrepancy between historical practices and the reality of the events that surrounded the ratification of the Kyoto Protocol. Simeon, reporting on discussions he had, writes:

[F]ederal officials are intent on maintaining the federal power, and many feel that the pendulum has already swung too far towards the provinces. Many federal respondents

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<sup>10</sup> The constitutional division of powers regarding environmental policy has been previously explored in Chapter 2.

echoed this view: “There definitely is one government superior to all the provinces - and that is the federal government,” said a French Canadian Minister. “Otherwise there is going to be no country” (Simeon, 2006: 173).

In this sense, Ottawa was asserting its authority for making national decisions by unilaterally ratifying Kyoto. Additionally, because Kyoto was an international agreement giving in to the provinces over climate change policy was disruptive of the federal government’s role as the single voice of all Canadians.

However, from the provincial point of view, conflict arose because federal unilateralism in climate change policy meant a shift in the nature of the Canadian federal system away from the cooperative decision-making of previous environmental policy, such as with the Canada-Wide Accord on Environmental Harmonization, towards federal predominance. This is reflected in the ideological preference identified by Simeon for “cooperative federalism,” which “reflects the view that Ottawa cannot dictate to the provinces; rather, it must rely on techniques of diplomacy, persuasion, and consultation if it is to maintain both national unity and an important voice in social policy” (Simeon, 2006: 172). Consequently, although the provinces acknowledged that constitutional authority for treaty-making lay with the federal government, the governments of Saskatchewan and the other provinces felt that constitutional convention required federal consultation with the provinces before entering into treaties with potentially extensive implications for them (Lautermilch Interview, 2009).<sup>11</sup> As a result, the unilateral action of the federal government was met with hostility from all the provinces because it challenged both established practice and threatened the legal jurisdiction of the provinces over climate change policy and more broadly over environmental policy. Breaking these unwritten rules of federal-provincial consultation during the ratification of the Kyoto Protocol reflected, according to Minister Lautermilch, a “fundamental error” and a “blunder” in the approach of the federal government

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<sup>11</sup> Similarly, Christopher Kukucha, identifies numerous instances in Canadian foreign policy where provincial governments were meaningfully consulted before international treaties were ratified by the government of Canada (Kukucha, 2005: 144-145).

(Lautermilch Interview, 2009). On this level there were ideological differences between the politicians at the provincial level who viewed the nature of federalism as cooperative, especially in the case of environmental policy, and politicians at the federal level who viewed unilateralism on the climate change as an appropriate method for ratifying the Kyoto Protocol.

The above ideological factors together with economic factors, political competition, and differences in opinion, helps to explain the refusal of the Saskatchewan government to support the ratification of the Kyoto Protocol by Ottawa. In summation, the priority of the Saskatchewan government of ensuring economic development clashed with the ideological commitment of officials within the federal government to address climate change. At the same time Saskatchewan and the other provinces were ideologically opposed to the unilateralism demonstrated by the federal government in ratifying a treaty that may have had broad implications for areas under provincial jurisdiction without more extensive intergovernmental consultation.

#### **5.4 Political Competition**

Political competition between the federal government and provincial governments is identified by Simeon as a potent source of intergovernmental conflict. For Simeon political competition as a source of intergovernmental conflict is important because taking into account political competition allows his framework to make a theoretical distinction between the interests of the people of a region and the political interests of the government in power. In this context politicians are both conscious of how a policy, such as implementing the Kyoto Protocol, will affect both their region and their government's political status and strength.<sup>12</sup> Simeon writes: "these types of goals and interests, which I shall call status goals, are a crucial source of conflict in the

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<sup>12</sup> One historical example of placing the interests of the government over the region it governs is Quebec's refusal to accept federal funding for universities. Additional federal dollars were certainly beneficial for the citizens of Quebec in receiving the most educational opportunities, but the political interests of the Quebec government led to a refusal of federal funds.

system” (Simeon, 2006: 184). There are three main types of status goals: electoral, psychological, and, finally, those related to policy (Simeon, 2006: 185).

When examining the events leading up to ratification of the Kyoto Protocol it is possible to see several instances where both the federal and provincial governments sought to pursue electoral status goals. Simeon points out that reasons for electoral competition between governments that do not directly compete for voters is simple: “to gain credit, status, and importance, and to avoid discredit and blame” (2006: 185). From the point of view of Saskatchewan, the federal government was actively seeking the political credit for addressing climate change through the ratification of the Kyoto Protocol without fully developing implementation plans. Indeed, former Saskatchewan Minister Lautermilch made exactly that point, stating that ratifying Kyoto was a “political announcement” and that the federal government “didn’t have a game plan for implementation” (Lautermilch Interview, 2009). Lautermilch further attributes the federal decision to the popularity of the Kyoto Protocol among Canadians, which consequently made Ottawa “fearful of not doing anything politically” to combat climate change (Lautermilch Interview, 2009). Public opinion polls of Canadians demonstrated substantial support for efforts to address climate change. This is evidenced by a Decima Research poll quoted by *The Globe and Mail* which stated that approximately 76 per cent of Canadians endorsed Canada ratifying the Kyoto Protocol in late August of 2002 (Chase, 2002: A.13).

The view that the federal government was motivated by political concerns was further strengthened by the widespread belief that ratification of the Kyoto Protocol was a political ambition of Prime Minister Jean Chretien to secure a “legacy” before retiring as Prime Minister. Editorials by Saskatchewan’s leading media outlets decried the ratification of the Kyoto Protocol as an economically dangerous attempt by Chretien to cement his legacy. The *Star Phoenix*, for example, published an editorial on September 21, 2002, called “Legacy binge will hurt Grits” stating:



The push to have Canada ratify the Kyoto accord before year's end is a glaring example of Chretien's "Damn the torpedoes, full speed ahead" stance that may well earn him short-term approval among Eurocrats perpetually looking down their noses at North Americans but end up seriously harming Canada's economy and the Liberals' power base when consumers feel the impact on their wallets (Star Phoenix, 2002: A12).

Similarly, Minister Lautermilch is quoted in the *Regina Leader Post* shortly after the federal government announced its decision to move forward with Kyoto's ratification:

What's the legacy? Is the legacy about creating a rift between provinces, who, 50 years ago, made a decision to generate electrical energy using fossil fuels against those who made a decision to use hydro? If that's his legacy, he's welcome to it (Mandryk, 2002: B. 7).

The above quotation demonstrates that the government of Saskatchewan perceived that the move towards ratification by the federal government was meant to place a feather in the cap of the retiring Prime Minister. Politically, Prime Minister Chretien was in a unique position because the threat of electoral backlash was mitigated by his impending departure from political office. Extensive consultation and negotiation typical of federal-provincial relations was consequently not possible given the limited time left for the Prime Minister to build a lasting legacy before retirement.

On the other side of the debate, Saskatchewan was also clamoring for credit for its contribution to climate change policy and to ensure that its actions would be recognized in any future national implementation plan for the Kyoto Protocol. For example, Saskatchewan's 2002 position paper devotes approximately six pages to outlining various Saskatchewan initiatives designed to reduce GHG emissions (Saskatchewan 2002: 2-7).<sup>13</sup> Later in the position paper, Saskatchewan argues:

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<sup>13</sup> Examples of such projects found in the position piece: "Saskatchewan provided \$1.8 million out of the Innovation and Science Fund to assist in the establishment of the International Test Centre for Carbon Dioxide Capture at the University of Regina" and "The Conservation Cover Program operated by Saskatchewan Agriculture, Food and Rural Revitalization will significantly increase carbon sinks in agricultural soils. Under this initiative, Saskatchewan has committed \$26 million over 4 years for farmers who wish to convert marginal cropland to perennial forage cover" (Saskatchewan, 2002: 4)

Saskatchewan is already active in addressing climate change in ways that make sense in our province and reflect the opportunities we have available. Any federal plan should reflect our priorities and should build upon what Saskatchewan has already done (Saskatchewan, 2002: 14).

The political need for recognition is emphasized in Simeon's quotation of an Ontario official: "the governments... are competing for political credits, and, perhaps more important for political prestige" (2006: 186). From a political perspective, Saskatchewan's NDP government needed to ensure that its good work on the climate change file would be politically lauded and not overshadowed by new federal programs and a new federal climate change narrative.

Saskatchewan was also wary that to meet new obligations resulting from Kyoto's ratification it would have to levy new taxes to pay for GHG reduction programs, taxes which the government of Saskatchewan would be blamed for while the federal government would take undue credit for the GHG reductions. An example of this point of view can be seen in Minister Lautermilch's remarks found in the *Regina Leader Post*:

[Lautermilch] noted Ottawa is unwilling to provide financial support for federal initiatives and has assumed federal credit for forestry and agriculture carbon sinks, which is a direct attack on Saskatchewan farmers. "We are going to fight for Saskatchewan farmers as it relates to agricultural sinks.<sup>14</sup> We are going to fight for support and fair treatment of our industries and we are going to fight to protect Saskatchewan's jurisdictions, because we will not give that away" (Kyle, 2002: A.1).

In this sense, Simeon's framework underlines that the conflict arises "not just about what policies will be made or what taxes collected; it is about who shall carry out these policies and who shall collect the money to pay for them" (2006: 186). In this context, Saskatchewan's government had a strong political interest in ensuring that it received full credit for its contribution, both among Saskatchewan citizens and among Canadians as a whole. The government of Saskatchewan feared that Ottawa's move to ratify Kyoto would allow it to receive credit for leadership in climate change policy, but leave Saskatchewan with the unenviable task of implementing policies, and potentially

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<sup>14</sup> Lautermilch is referring to receiving credit for agricultural land dedicated to growing vegetation that works to remove CO<sub>2</sub> and other GHGs from the atmosphere.

creating and collecting taxes on GHG emissions. A December 2001 public opinion poll for the Saskatchewan government demonstrated a sharp decline in the willingness of citizens to pay for GHG reductions with only 12 per cent of those surveyed in favor of paying \$50 a year in additional costs to reduce GHG emissions (Fast Consulting, 2001: 16).

While political competition can be seen from a broader perspective as governments competing for public approval, it can also be demonstrated to exist at lower levels when individual departments or persons seek to maintain their personal status. Simeon categorizes these types of political competition as “psychological” status goals (2006: 188). In the context of the ratification of the Kyoto Protocol, the energy and natural resource departments of the provinces believed that climate change policy and regulation of heavy GHG emitters was their responsibility. Consequently, these departments had an institutional stake in maintaining their authority on making climate change policy within the provinces. These bureaucracies had a tendency towards what then Saskatchewan Energy Department official Malcom Wilson described as “turf protection” and that this tendency led energy departments to “feel [climate change policy] was their jurisdiction” (Wilson Interview, 2009). Provincial bureaucratic turf protection led to conflict with the federal bureaucracy, which believed in protecting its treaty-making powers and jurisdiction over foreign policy.

Psychological status goals also played a role in the motivations of Saskatchewan’s politicians in opposing the political process through which Kyoto was ratified by the federal government. Putting aside concerns over such issues as the constitutional murkiness over jurisdiction or the economic impact of ratification on Saskatchewan, there remained the fact that provincial politicians felt aggrieved that they were not, in their judgement, properly consulted and heard during the decision-making process. Indeed, grievances with the consultation process even led Saskatchewan to boycott a proposed Joint Meeting of Environment and Energy Ministers of

November, 2002 (Kyle, 2002: A.1). Explaining his motivation for boycotting the intergovernmental meeting, Minister Lautermilch stated:

“We prefer a partnership arrangement, an implementation plan that is fair to all Canadians, regions and jurisdictions. But, as far as I can see, this is a federal plan initiated by federal Liberal politicians, and there just hasn't been the involvement of the provinces, we think, that is necessary to make it work” (Kyle, 2002: A.1).

Indeed, an improved consultation process was the first demand of the *12 Point Plan* agreed to by all provincial and territorial governments: “All Canadians must have an opportunity for full and informed input into the development of the plan” (JMM, 2002).<sup>15</sup> Similarly, Wilson relates that the Saskatchewan’s climate change officials felt aggrieved that the federal government approached climate change through an opportunistic political lens compared to the more practical and balanced view point of their provincial counterparts (Wilson Interview, 2009). While it may be improper to assign too much weight to the personal status goal form of political competition (for example, turf-protection considerations) in explaining the conflict over the ratification of the Kyoto Protocol, it does help to explain the souring political relationship and the rhetorical exchanged between provincial politicians and the federal government.

While these were not part of federal-provincial negotiations, the federal government was also seeking to demonstrate Canada’s role as a model international citizen for prestige reasons. The federal government believed that the ratification of the Kyoto Protocol would help to boost its image abroad. Chretien’s memoirs relate how the push to ratify was meant to galvanize the Russian Federation into likewise ratifying the Kyoto Protocol (Chretien, 2007: 388). Additionally, the federal government was widely believed to be motivated by a desire to have a superior climate change policy to the United States in the original 1997 Kyoto negotiations (MacDonald and Douglas, 1999-2000: 114) and the provincial governments believed a similar motivation was at play following George Bush’s announcement that the U.S. would not ratify the Kyoto Protocol.

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<sup>15</sup> See Appendix A

The United States' move towards an international policy based more on unilateralism than multilateralism was naturally contrasted by the narrative that Prime Minister Chretien wove of Canadian engagement in the world, which was partially demonstrated by its commitment to the ratification of the Kyoto Protocol. These international status goals help to explain why the federal government was intransigent towards provincial concerns over ratifying Kyoto and why it had shifted from its historical preference for cooperative federalism, as analyzed in the previous chapter, to a more confrontational and unilateral approach in the case of the Kyoto Protocol.

In summation, as Simeon's framework predicts, there are numerous strands of political competition evident in the events leading up to the ratification of the Kyoto Protocol. On the one hand, the federal government was motivated by Prime Minister Chretien's personal desire to leave a lasting legacy, which overrode some of the federal government's natural tendency towards cooperative federalism; the domestic popularity of climate change efforts; an institutional need to retain and expand the federal government's jurisdictional reach; and, the desire to raise Canada's prestige and status internationally. On the other hand, provincial governments, and Saskatchewan in particular, competed politically with Ottawa by seeking to retain credit for their pre-Kyoto climate change policies, to protect their jurisdictional control over energy and natural resource policy, and to demand the appropriate consultation to which they believe the provinces were entitled.

## **5.5 Differences in Perspective**

The fourth major source of conflict according to Simeon's framework is differences in perspective between the priorities and interests of the federal government and those of each individual province. The root of this type of conflict lies in the different role of each level of government in Canadian federalism and the distinct regional needs of each province. To be exact, the federal government is tasked with charting a national vision and implementing national policies

for Canada as a whole or, as Simeon writes: “the federal government tries to take a broad view. It tries to develop policies for the country as a whole” (2006: 190). In contrast, the provincial governments are only concerned with their regional interests and their narrow and concentrated constituency: “[the provinces] are more concerned with their own regional needs and will judge [federal] policies in that light” (Simeon, 2006: 190). At the same time, the priorities of both Ottawa and the provinces must take into account the scarcity of resources.

In the case of climate change policy, the federal government and the provinces’ perspectives differed primarily in the following ways: first, the proper ranking of climate change policy compared to other policy priorities, such as economic growth; second, determining which level of government constitutionally had the jurisdictional authority for implementing climate change regulation; and, third, determining the specific mechanisms of the Kyoto Accord, such as the creation of an international carbon trading market, and the federal government’s implementation plans.

With respect to the first difference in perspective, that of where climate change ought to stand on the list of government priorities, there is a clear separation between the agenda of the federal government for an international treaty with binding GHG targets, and that of the government of Saskatchewan, which was more concerned with sustained economic growth. Indeed, climate change constituted one of the primary sections of the September 30, 2002, federal Speech From the Throne. Demonstrating the priority of climate change to the federal government, the speech from the throne reads:

As part of the Kyoto Protocol, Canada agreed to obligations to reduce greenhouse gas emissions by 2012. Extensive consultations and preparatory work followed. The government is now intensifying consultations with Canadians, industry and provinces to develop an implementation strategy to meet Canada’s obligations over the next ten years. Before the end of this year, the government will bring forward a resolution to Parliament on the issue of ratifying the Kyoto Protocol on Climate Change. Meeting this challenge must become a national project, calling upon the efforts and contributions of all Canadians, in all regions and sectors of the economy—producers and consumers, governments and citizens. (Canada, 2002: 3)

Saskatchewan, by contrast placed a much greater emphasis on economic development than on combatting the growth of GHG emissions. In comparison, Saskatchewan's Speech From the Throne addresses only briefly the priority of climate change policy, stating:

As the federal government considers ratifying the proposed Kyoto protocol, my government will continue to work jointly with Canada to evaluate implications of the protocol for Saskatchewan's environment and economy. Saskatchewan people recognize the importance of climate change as an environmental and economic issue. Initiatives will be continued to reduce greenhouse gas emissions in our province. A new Office of Energy Conservation will be established (SK Hansard, 2002: 3).

Similarly, in the Saskatchewan Legislature, MLA Kevin Yates, a member of the governing NDP, referring to climate change policy said: "[the government is] concerned about the economy, about business in our province, because that's our number one priority" (SK Hansard, 2002: 2877).

Likewise, opposition MLAs presented numerous petitions from their constituents advocating halting the federal government's attempt to ratify the Kyoto Protocol in favor of the province's economic growth.<sup>16</sup>

This demonstrates that politically the federal government and the government of Saskatchewan not only had different views on the importance of climate change policy, but they also had different perspectives on which level of government had constitutional responsibility for climate change policy. From the perspective of the provinces, responsibility for climate change was closely related to natural resource and energy policy, which they believed to be the exclusive jurisdiction of the provinces. Minister Lautermilch made this case for provincial control over resources as quoted in the *Regina Leader Post*:

"We have jurisdiction over our resources. We will have a look at what our options are if they decide to move forward and ratify (Kyoto)," he said.

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<sup>16</sup> For example, the text of one petition is as follows: "Wherefore your petitioners humbly pray that your Hon. Assembly may be pleased to cause the provincial government to take the necessary action to protect our province's economy by working to halt the federal government's intent to sign on to the Kyoto accord in its current form."

"Saskatchewan has the right to defend jurisdiction. Saskatchewan has the responsibility to defend jurisdiction. We would take that message loud and clear to the federal government." (Regina Leader Post, 2002: Oct 29 A.1.FRO).

Saskatchewan's position paper on climate change makes much the same argument, demanding respect for provincial jurisdiction:

The plan should respect provincial jurisdiction. The federal plan should respect provincial jurisdiction, including provincial ownership of natural resources. The plan should provide fair compensation for any national use of carbon sinks developed by Saskatchewan farmers or for any carbon sinks accumulated by provincial forests. The plan should allow for a provincial role in implementation of major climate change initiatives, including monitoring and administration of any proposed emissions trading system (Saskatchewan, 2002: 11)

In much the same terms, point three of the *12 Point Plan* of the provincial and territorial governments demands of any potential federal implementation plan: "The plan must respect Provincial and Territorial jurisdiction" (JMM 2002). Saskatchewan and the other provincial governments believed that because of their jurisdiction over, most importantly, natural resources and other constitutional areas of provincial responsibility,<sup>17</sup> they deserved extensive consultation on Kyoto's ratification, and on any federal climate change policy.

The federal government took the position that its jurisdiction over international treaty-making gave it the authority to both ratify and implement the Kyoto Protocol. Reacting to reports that some of the Western provinces were considering opting out of federal plans to implement Kyoto, Prime Minister Chretien is quoted as saying: "We wanted to make a decision earlier and we had a lot of discussions with the provinces and the others. But there will be a moment where a decision will be made. It is our federal responsibility" (Bryden, 2002: A.1.FRO). In the words of reporter Joan Bryden, the reaction of Stephane Dion, then federal Minister for Intergovernmental Affairs, was:

Should Alberta pursue the matter in court, however, [Dion] said the federal government is confident it will win (Bryden, 2002: A.1.FRO).

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<sup>17</sup> See chapter 3 for more details on provincial jurisdiction over environmental policy.



And, before the federal-provincial meeting that led to the provinces and territories stating their demands to the federal government in the *12 Point Plan*<sup>18</sup>, federal Environment Minister David Anderson said: “In fact, it's not their area of responsibility. The global atmosphere is a common property of all mankind and that clearly is an area for federal and international action, not provincial” (Bueckert, 2002). Further evidence for a clash in beliefs about jurisdiction between the provinces and the federal government is seen in Jean Chretien’s reaction during Question Period to a question from Calgary MP Joe Clark. Mr. Clark asked:

The Prime Minister insists that the federal government will proceed before January 1 with Kyoto even if the provinces continue to object. Under our Constitution Canada cannot make Kyoto work without the provinces. For example, meeting Kyoto targets would require the use of credits related to carbon sinks and emissions trading.

Is the government confident that it has the constitutional authority to introduce those systems on its own without provincial cooperation? Has the government sought a specific legal opinion identifying this authority and will it table that opinion?

To which the Prime Minister replied curtly: “Mr. Speaker, we have the authority” (Canada Hansard, 2002b: 1904). Throughout the Kyoto ratification debate these differences in perspective over constitutional authority for implementing climate change policy provided an important source of conflict.

The federal and provincial governments also clashed over their different perspectives on what the best instruments were to implement climate change policy. For the federal government it was clear: effective climate change policy involved the engagement of the international community through a binding international treaty. The provinces, however, were skeptical about the purported effectiveness of the Kyoto Protocol. Provincial governments, Saskatchewan included, had grave concerns over the mechanisms that would be used to reach GHG reduction targets. Saskatchewan’s position paper advocated this view:

Saskatchewan is concerned that the federal plan might rely too heavily on the purchase of international emission credits from other countries that will not reduce global greenhouse

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<sup>18</sup> See Appendix A.

gas emissions and will not have any direct impact on the environment. Wherever possible, it would be far more beneficial to invest these funds into actions that will both reduce greenhouse gas emissions and create new opportunities and jobs for Canadians. Canada could invest in international development projects that encourage sustainable development and reduce greenhouse gas emissions in other countries. (Saskatchewan, 2002: 12-13).

Indeed, the provincial governments believed that the transfer of wealth through the purchasing of carbon credits from underdeveloped countries or the failed economies of the former Soviet Union<sup>19</sup> would have little impact on reducing the absolute amount of GHG emitted into the atmosphere (Mandryk, 2002b: A.10). Instead, Saskatchewan, and Alberta, argued for “technology funds” that would be used to invest in developing new methods and technologies to reduce GHG emissions (Parsons Interview: 2009). While this idea was only in its infancy during the 2002 ratification debate, it was supported by leading industry groups opposed to the Kyoto Protocol (Brethour, 2002: B.6) and was featured prominently in Alberta’s rival climate change plan *Albertans and Climate Change: Taking Action* released by the government of Alberta in October, 2002 (Alberta, 2002). Moreover, “technology funds” represent a classic tactic of federal provincial relations identified by Simeon of “changing reality” by introducing a competing provincial initiative or vision (2006: 247).<sup>20</sup>

Saskatchewan also questioned the continued effectiveness of the Kyoto Protocol following the United States’ decision not to ratifying the Kyoto Protocol. Saskatchewan was concerned that implementing Kyoto would simply shift inefficient industries to the United States. This would result in a net loss of economic activity in Saskatchewan, but achieve no cuts to GHG emissions because the source of emissions would only shift from Saskatchewan to the United States

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<sup>19</sup> Since the the Kyoto Protocol uses 1990 as a baseline year, the GHG emissions of a number of former Soviet Republics are well below the targets required of them because their economies collapsed following the dissolution of the Soviet Union. Under the Kyoto Protocol these Soviet Republics are allowed the possibility of trading carbon credits to more developed countries.

<sup>20</sup> Simeon cites the Quebec Pension Plan as a historical example of rival provincial initiatives.

(Saskatchewan, 2002: 13). Statements by industry leaders such as IPSCO president Phil McFail to the *National Post*, demonstrated this perspective:

"The most logical thing you would do, depending on how the economy deteriorated, is you operate the equipment to the point where it's not worth operating any more and then you build a new facility somewhere else," he said.

"As far as where to go, it would be wherever the market is best. Certainly, the U.S. has no problem whatsoever with this regulation of carbon and where you look for clarity, that's where you'd be going" (Seskus, 2002: FP.3).

From Saskatchewan's perspective, it was illogical for the federal government to argue the economic merits of an international GHG reductions treaty that did not include the United States.

Saskatchewan also feared that the climate change initiatives that it had already undertaken would not receive credit or renewal of funding under the federal government's climate change plan. Saskatchewan's position paper demanded: "Saskatchewan is already active in addressing climate change in ways that make sense in our province and reflect the opportunities we have available. Any federal plan should reflect our priorities and should build upon what Saskatchewan has already done" (Saskatchewan, 2002: 14). From the perspective of planning climate change projects, Saskatchewan was concerned that its provincial initiatives would be forced in another direction to qualify for funds under a new federal climate change program, a direction which might not reflect the most efficient means to reduce GHG emissions in Saskatchewan.

As predicted by Simeon's framework, differences in perspective about climate change and the effectiveness of the Kyoto Protocol provided an important source of conflict between the provincial governments and the federal government during the ratification of the Kyoto Protocol.

## **5.6 Conclusion**

The chapter has sought to analyze Saskatchewan's perspective on the ratification of the Kyoto Protocol through Simeon's lenses of economic conflict, ideological conflict, political competition, and differences in perspective. Economic conflict, as predicted by Simeon, was the

most potent source of conflict between Saskatchewan and the federal government. Saskatchewan's hesitancy towards supporting federal ratification of the Kyoto Protocol can largely be attributed to the uncertainty surrounding the federal government's implementation plans considering the GHG intensive nature of Saskatchewan's economy.

At the same time, this chapter has shown that the other sources of conflict identified by Simeon played an important role in the shape events took and the intensity of opposition displayed by Saskatchewan and the other provinces to federal unilateralism. The ideological shift from cooperative federalism in environmental policy prior to Kyoto's ratification by the federal government to a confrontational approach played a major role in generating provincial opposition. Provincial opposition was magnified by the political assurances the federal government had given, and then ignored, first in 1997 by ignoring the agreement reached at the JMM in Regina, and second by failing to adequately consult the provinces before announcing the federal intent to vote on ratification. Likewise, political competition played an important role in Saskatchewan's distrust for the motivations of the federal government. As observed in this chapter, Saskatchewan viewed the federal government as politically motivated, concerned more with the best political outcome to raise the federal government's international prestige and to cement the legacy of the departing Prime Minister rather than, from Saskatchewan's perspective, the best policies. Finally, differences in perspective over priorities, jurisdiction, and specific implementation policies, help to explain a number of the roadblocks to compromise between the provinces and the federal government on Kyoto's ratification.

The case study of the Kyoto Protocol's negotiation and ratification has shown that applying the Simeon's four sources of conflict remains a useful tool in analyzing Canadian federalism 40 years after its original publication. The next chapter will seek to further explore the ongoing usefulness of Simeon's framework and expand on how the Kyoto case study demonstrates that international influences and considerations interact with each of Simeon's sources of conflict.

## **CHAPTER 6: CONCLUSION**

### **6.1 Introduction**

Climate change policy, as with any major social and political issue in Canadian federalism, is multifaceted to say the least. Without a strong frame of reference one can easily become lost attempting to analyze the multitude of actors, issues, and influences on the intergovernmental process, which can lead to contradictory conclusions on only a cursory examination. This thesis has attempted to make use of Simeon's theoretical framework as an analytical tool to make sense of both the events that occurred during Canada's ratification of the Kyoto Protocol in 2002 and the motivations and negotiating tactics used by both levels of Canadian government.

### **6.2 Major Findings**

This thesis has argued that the root sources of conflict between the Saskatchewan government and the federal government during the ratification of Kyoto are consistent with Simeon's theoretical framework on federal-provincial relations. By applying Simeon's four sources of conflict in analyzing Saskatchewan's perspective on climate change policy a more complete policy picture has emerged. On the one hand, it is tempting to assert the simplistic analysis that Saskatchewan's opposition to the Kyoto Protocol was based solely on economic grounds and maximizing the financial resources of the provincial government. On the other hand, the details reveal that Saskatchewan's position was also affected by the other sources of conflict identified by Simeon, for example, ideological concerns about the role of government in society, political and institutional concerns over inadequate federal consultation, and differences in perspective over constitutional jurisdiction and the structure of the Kyoto Protocol itself. Therefore, it is important to avoid tunnel vision by focusing on only one specific source of conflict when analyzing intergovernmental relations, and the case of Kyoto is no exception. Or, to quote Simeon:

The four factors which are important obviously interact with each other. For example status concerns contribute to ideologies which emphasize either provincial or federal dominance, as the case may be. Differences in focus are at least partly related to differences in economic need (Simeon, 2006: 196-197).

Nonetheless, economic factors played the strongest role in determining the Saskatchewan government's position on Kyoto. Saskatchewan's position was informed by the nature and history of the province's economy. Specifically, in 2002 Saskatchewan was only just emerging from a period of economic malaise and deep budgetary cuts, both federally and provincially, that had begun in the early 1990s. Consequently, the government of Saskatchewan's recent economic experience had conditioned the provincial government to approach the possibility of expansive new obligations to meet the Kyoto Protocol with suspicion. Additionally, given that economic activity in Saskatchewan generates nearly three times the amount of GHGs than the Canadian average,<sup>21</sup> the government of Saskatchewan was keenly aware that staking out a favourable national climate change plan was critical to the ongoing economic growth of the province. Saskatchewan wanted to ensure that the economic impact of meeting Canada's obligations was equally shared across Canada instead of focusing on the industries located in Saskatchewan that are more GHG intensive.

Ideological factors were also important in determining how Saskatchewan viewed the Kyoto Protocol compared to the federal government. Saskatchewan's policy makers approached the ratification debate with pragmatism and were frustrated by the more ideological approach of the federal government. The federal government's view of climate change policy as a priority worthy of action, even at the cost of economic development, clashed with the more hard-nosed economic approach of the Saskatchewan government. Further, the Saskatchewan government also viewed the federal government's actions as ideologically based, given its failure to present a well-thought out implementation plan. The federal government's inability to look beyond the political

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<sup>21</sup> See Table 5.1

value of championing GHG reductions to the details of implementing a truly effective climate change strategy obstructed provincial attempts to reach a compromise with the federal government on the Kyoto Protocol.

Moreover, the provincial government was ideologically uneasy with the federal government's unilateral actions in such an important policy area such as regulating climate change. This uncertainty and uneasiness was coupled with a general distrust, arising in part from the NEP, towards federal involvement in the provinces' economy. Saskatchewan's historical disputes with the federal government regarding jurisdiction over natural resources and the revenue generated from nonrenewable resource extraction reinforced skepticism of the federal government's motivations in ratifying the Kyoto Protocol. The general break from cooperative and collaborative forms of federalism in environmental policy towards unilateralism caused grave concerns within the Saskatchewan government.

Simeon is also correct in asserting that political competition plays an important role in intergovernmental conflict. Political competition played a major role in the case of the Kyoto Protocol. Gaining credit for taking action on climate change was at the forefront of the intergovernmental dispute between Ottawa and the provinces. This case study reveals that Saskatchewan was concerned with receiving credit over its contribution in the fight to combat climate change. At the same time, Saskatchewan was critical of the federal government's motives for ratifying the Kyoto Protocol given the impending departure of Prime Minister Chretien. Indeed, many in Saskatchewan, and nationally, viewed the federal government's pursuit of ratification as meant merely to place a feather in the resigning Prime Minister's cap and lacked any genuine commitment from the federal government. In this sense, the provinces feared that the federal government would make a bold and aspirational commitment to the Kyoto Protocol, but leave the provinces to muddle through the details of implementation.

The economic, ideological and political positions of the Saskatchewan government help to explain its differing perspective from the federal government on the best way to proceed with climate change policy. From the perspective of Saskatchewan, effective climate change policy has to take into account the nature of Saskatchewan's economy and its GHG intensive nature, respect the constitutional jurisdiction of the provinces, and make real cuts to GHG emissions in Canada. The federal government was more concerned with making a commitment to the international community to cement Canada's image as a model international citizen and promote the narrative of an environmentally conscious country. Further, the Saskatchewan government was critical of the mechanisms of the Kyoto Protocol, favouring instead a more made-in-Canada solution, or at least a solution that did not involve buying international carbon credits and offsets.

Additionally, this thesis has argued that international considerations play an important role in the debate surrounding Kyoto's ratification by the federal government. Furthermore, it has sought to incorporate these international considerations into each of Simeon's four sources of conflict. These international considerations most obviously played a role in the federal government deciding to ratify an international treaty as a means of advancing public policy on climate change within Canada. On more subtle levels international considerations effected Prime Minister Chretien's decision to pursue the Kyoto Protocol as a way of bolstering Canada's image on the world stage and leaving a legacy during his twilight years in office. For the Saskatchewan government, international considerations mainly centred on the economic consequences of Kyoto's ratification and the ability for Saskatchewan businesses to compete with jurisdictions outside the Kyoto framework, most critically the United States. Understanding these international considerations is an essential component of understanding the federal-provincial conflict that emerged over the Kyoto Protocol in 2002.



### **6.3 Suggested Future Research**

While the case study of Kyoto has demonstrated that Simeon's theoretical framework is a useful tool in understanding federal-provincial relations, there is always a need to continue to refine and develop theory to better explain the reality of Canadian federalism and intergovernmental relations. Case studies of provinces other than Saskatchewan on the ratification of the Kyoto Protocol may prove an important avenue of research in this regard. Similarly, studying each province may further illuminate the role international considerations played in the decision of the other provinces to oppose the ratification of Kyoto.

Further research into the provincial role in climate change policy may also shed light on the direction of Canadian federalism. For example, the Western Climate Initiative negotiated by the provinces of British Columbia, Manitoba, Ontario, and Quebec as well as seven U.S. states may be an example of the direction Canadian provinces are looking for solving complex policy problems in the absence of federal leadership on climate change policy following the decision of Prime Minister Stephen Harper's Conservative government not to follow through with Canada's commitments to the Kyoto Protocol.

## WORKS CITED:

- Analysis and Modelling Group. 2000. *An Assessment of the Economic and Environmental Implications for Canada of the Kyoto Protocol*. National Climate Change Process.
- Baier, Gerald. 2008. "The Courts, the Division of Powers, and Dispute Resolution." In *Canadian Federalism: Performance, Effectiveness, Legitimacy*, Second Edition, ed. Herman Bakvis and Grace Skogstad. Don Mills, Ontario: Oxford University Press.
- Bakvis, Herman and Grace Skogstad. 2008. "Canadian Federalism: Performance, Effectiveness, and Legitimacy." In *Canadian Federalism: Performance, Effectiveness, Legitimacy*, Second Edition, ed. Herman Bakvis and Grace Skogstad. Don Mills, Ontario: Oxford University Press.
- Brethour, Patrick. 2002. "CAPP floats idea of 'green fund.'" *The Globe and Mail* (Toronto), November 29, B.6
- Bryden, Joan. 2002. "PM slams Alberta over Kyoto: Province told it can't opt out; [Final Edition]." *Calgary Herald* (Calgary), August 31, A.1.FRO.
- Bryden, Joan and Norma Greenaway. 1997. "PM promises to consult with provinces on gas emission:; [Final Edition]." *The Vancouver Sun* (Vancouver), December 12, A.10.
- Bueckert, Dennis. 2002. "Friction expected on Kyoto talks today." *New Brunswick Telegraph Journal* (Saint John), October 28.
- Calvert, Lorne. 2002a. Saskatchewan. *Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature*. March 14, 3.
- Calvert, Lorne. 2002b. Saskatchewan. *Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature*. December 10, 2861.
- Canada. 2010. "Energy Sector Sustainability Table." <http://www.tdds-sst.gc.ca/default.asp?lang=En&n=4C800B38-1&offset=2&toc=show> (December 14, 2010)
- Canada. 2002. "Climate Change Plan for Canada: Achieving our Commitments Together." Ottawa.
- Canada. 2002a. House of Commons Debates: Official Report (Hansard) Volume 138, Number 001, 2nd Session, 37th Parliament. <http://www2.parl.gc.ca/content/hoc/House/372/Debates/001/HAN001-E.PDF>
- Canada. 2002b. House of Commons Debates: Official Report (Hansard) Volume 138, Number 032, 2nd Session 37th Parliament. <http://www2.parl.gc.ca/content/hoc/House/372/Debates/032/HAN032-E.PDF>
- Canada. 2000. "Government of Canada Action Plan 2000 on Climate Change." Ottawa.
- Canada. Environment Canada. 2008. "Canada's Greenhouse Gas Emissions: Understanding the Trends, 1990-2006" [http://www.ec.gc.ca/pdb/ghg/inventory\\_report/2008\\_trends/trends\\_eng.cfm#toc\\_3](http://www.ec.gc.ca/pdb/ghg/inventory_report/2008_trends/trends_eng.cfm#toc_3) (August 10, 2009).
- Canada. Environment Canada. 2002a. "Canada's Greenhouse Gas Inventory: 1990-2002." Ottawa.
- Canadian Association of Exporters and Manufacturers. (2002). "Pain without gain: Canada and Kyoto Protocol."
- Canadian Press, The. 2002. "The bill for the Alberta government's anti-Kyoto campaign this fall totals more than 1.9 (m) million dollars." December 30.
- Chase, Steven. 2002. "EARTH SUMMIT: Canadians support Kyoto, poll finds: Ratify climate treaty, 76 per cent urge." *The Globe and Mail* (Toronto), August 29, A.13.
- "Chilling effect of Kyoto; [Final Edition]." 2002. *Leader Post* (Regina), September 25, B.7.
- Chrétien, Jean. 2002. "Statement by Jean Chrétien Prime Minister of Canada at the World Summit on Sustainable Development." <http://www.un.org/events/wssd/statements/canadaE.htm> (December 14, 2010).
- Fast Consulting. 2001. "OMNIBUS: Public Opinion Survery." Fast Consulting: Saskatoon. <http://www.gov.sk.ca/adx/asp/adxGetMedia.aspx?>

- [DocID=1283,617,534,206,Documents&MediaID=1676&Filename=Dec2001.pdf&l=English](#) (December 14, 2010).
- First Ministers' Meeting. 1997. "JOINT COMMUNIQUÉ FIRST MINISTERS' MEETING OTTAWA, DECEMBER 12, 1997." *Canadian Intergovernmental Conference Secretariat*, [http://www.scics.gc.ca/cinfo/80003606\\_e.html](http://www.scics.gc.ca/cinfo/80003606_e.html) (December 14, 2010).
- Foster, Scoot. 2002. "The high cost of commitment Series: Kyoto Protocol; [Final Edition]." *Leader Post* (Regina), April 27, A.1.
- Girard, Daniel. 2002. "Fear and loathing in the oil patch ; Kyoto Protocol viewed darkly in Alberta as another round of curtailment and exploitation; [Ontario Edition]." *Toronto Star* (Toronto), September 21, F.01.
- Greenspon, Edward. 1997. "Provinces let down at Kyoto, Klein says Deal on emissions 'not acceptable'". *The Globe and Mail* (Toronto), December 12, A.1.
- Grubb, Michael, Jean-Charles Hourcade, and Sebastian Oberthur. 2002. *Keeping Kyoto: A study of approaches to maintaining the Kyoto Protocol on Climate Change*. London: Climate Strategies.
- Harrison, Kathryn. 2003. "Passing the Environmental Buck." In *New Trends in Canadian Federalism, Second Edition*, ed. Francois Rocher and Miriam Smith. Peterborough: Broadview Press: 313-352.
- Harrison, Kathryn. 2000. "Intergovernmental Relations and Environmental Policy: Concepts and Context." In *Managing the Environmental Union: Intergovernmental Relations and Environmental Policy in Canada*, ed. Patrick C. Fafard and Kathryn Harrison. Montreal & Kingston: Queen's University: 3-19.
- Harrison, Kathryn. 1996. *Passing the Buck: Federalism and Canadian Environmental Policy*. Vancouver: UBC Press.
- Hessing, Melody, Michael Howlett, and Tracy Summerville. 2005. *Canadian Natural Resource and Environmental Policy: Political Economy and Public Policy, 2nd Edition*. Toronto: UBC Press.
- Howse, Robert . 1990. "The Labour Conventions Doctrine in an Era of Global Interdependence: Rethinking the Constitutional Dimensions of Canada's External Economic Relations." *Canadian Business Law Journal* 16: 160-84.
- Intergovernmental Panel on Climate Change. 2001. *Climate Change 2001: Impacts, Adaptation, and Vulnerability*. <http://www.ipcc.ch/ipccreports/tar/wg2/index.php?idp=0> (Accessed Jun. 28, 2009).
- Intergovernmental Panel on Climate Change. 2007a. *Climate Change 2007: Synthesis Report Summary for Policymakers*. [http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr\\_spm.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf) (Accessed Jun. 28, 2009).
- Intergovernmental Panel on Climate Change. 2007b. "Historical Overview of Climate Change Science." *Climate Change 2007 - The Physical Science Basis Contribution of Working Group I to the Fourth Assessment Report of the IPCC*. New York: Cambridge University Press. <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-chapter1.pdf>.
- IPCC. 2009. "History." [http://www.ipcc.ch/organization/organization\\_history.shtml](http://www.ipcc.ch/organization/organization_history.shtml) (December 14, 2010).
- Johnstone, Bruce. 2002. "Ipsco says it could leave: Kyoto-induced electricity costs may force it out; [Final Edition]." *Leader Post* (Regina), September 26, B.4.
- Joint Meeting of Environment and Energy Ministers (JMM). 2002. "Provincial and Territorial Statement on Climate Change Policy: Halifax October 28, 2002." *Canadian Intergovernmental Conference Secretariat*, [http://www.scics.gc.ca/cinfo02/830767004\\_e.html](http://www.scics.gc.ca/cinfo02/830767004_e.html) (December 14, 2010).

- Joint Meeting of Environment and Energy Ministers (JMM). 1998. "Joint Meeting of Environment and Energy Ministers Toronto, Ontario - April 24, 1998: SUMMARY OF DECISIONS JOINT MEETING OF FEDERAL, PROVINCIAL AND TERRITORIAL MINISTERS OF ENERGY AND ENVIRONMENT." *Canadian Intergovernmental Conference Secretariat*, [http://www.scics.gc.ca/cinfo98/83060913\\_e.html](http://www.scics.gc.ca/cinfo98/83060913_e.html) (December 14, 2010).
- Joint Meeting of Environment and Energy Ministers (JMM). 1997. "Joint Meeting of Environment and Energy Ministers Regina, Saskatchewan - November 12, 1997." *Canadian Intergovernmental Conference Secretariat*, [http://www.scics.gc.ca/cinfo/83059900\\_e.html](http://www.scics.gc.ca/cinfo/83059900_e.html) (December 14, 2010).
- Kincaid, John and Richard Cole. 2008. "Public Opinion on Issues of Federalism in 2007: A Bush Plus?" *Publius: The Journal of Federalism* 38 (3): 469-487.
- Knopff, Rainer and J.E. Gleen. 1996. "Courts, Tribunals, and the Environment in Canada." In *Federalism and the Environment: Environmental Policymaking in Australia, Canada, and the United States*, ed. Kenneth M. Holland, F.L. Morton, and Brian Galligan. Westport, Connecticut: Greenwood Press.
- Kyle, Anne. 2002. "Province says Kyoto plan not what was promised; [Final Edition]." *Leader Post* (Regina), November 22, A.1.
- Kukucha, Christopher J. 2005. "From Kyoto to the WTO: Evaluating the Constitutional Legitimacy of the Provinces in Canadian Foreign Trade and Environmental Policy." *Canadian Journal of Political Science*, 38: 129-152.
- Lautermilch, Eldon. 2002a. Saskatchewan. Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature. December 10, 2865.
- Lautermilch, Eldon. 2002b. Saskatchewan. Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature. December 10, 2866.
- MacDonald, Douglas and Heather A. Smith. 1999-2000. "Promises Made, Promises Broken - Questioning Canada's Commitments to Climate Change." *International Journal* 55: 107-124.
- Mandryk, Murray. 2002a. "Calvert's Kyoto decision is right for the province; [Final Edition]." *Leader Post* (Regina), February 20, 2002, B.7.
- Mandryk, Murray. 2002b. "Lautermilch's aggressiveness a welcome change for NDP; [Final Edition]." *Leader Post* (Regina), September 4, B.7.
- Mandryk, Murray. 2002c. "Premier pleads with PM to hash out Kyoto details: Calvert fears Chretien will OK controversial deal without implementation plan; [Final Edition]." *Star Phoenix* (Saskatoon), September 7, A.10.
- Morton, F. L. 1996. "The Constitutional Division of Powers with Respect to the Environment in Canada." In *Federalism and the Environment: Environmental Policymaking in Australia, Canada, and the United States*, ed. Kenneth M. Holland, F.L. Morton, and Brian Galligan. Westport, Connecticut: Greenwood Press.
- O'Connor, Kevin. 2002. "Calvert against Kyoto; [Final Edition]." *Leader Post* (Regina), February 18, B.1.
- Olsen, Tom. 2002. "Alberta vows to fight Kyoto in court: Province argues federal deal can't apply to its resources; [Final Edition]." *The Ottawa Citizen* (Ottawa), September 3, 2002, A.3.
- Parker, James. 2002. "Western Premiers support Klein; [Final Edition]." *Leader Post* (Regina), June 7, F. 5.
- Piwowar, Joe. 2004. "Climate Change and Saskatchewan's Environment." In *Weathering the Political and Environmental Climate of the Kyoto Protocol*, Raymond B. Blake, Polo Diaz, Joe Piwowar, Michael Polani, Reid Robinson, John D. Whyte and Malcolm Wilson. Regina : Saskatchewan Institute of Public Policy, University of Regina.
- "Provinces must be heard; [Final Edition]." 2002. *Leader Post* (Regina), August 31, B.7.

- Rocher, Francois and Miriam Smith. 2003a. "Introduction." In *New Trends in Canadian Federalism*, Second Edition, ed. Francois Rocher and Miriam Smith. Peterborough, Ontario: Broadview Press.
- 2003b. "The Four Dimensions of Canadian Federalism." In *New Trends in Canadian Federalism*, Second Edition, ed. Francois Rocher and Miriam Smith. Peterborough, Ontario: Broadview Press.
- "Sask. won't sign: Province's Kyoto threat; [Final Edition]." 2002. *Leader Post* (Regina), October 29, A.1.
- Saskatchewan. Bureau of Statistics. 2009. "Saskatchewan Employed Labour Force by Industry". <http://www.stats.gov.sk.ca/lfs/lfst4hist.pdf>
- Saskatchewan. Bureau of Statistics. 2003. "Economic Review 2003." <http://www.stats.gov.sk.ca/stats/2003review.pdf>
- Saskatchewan. Energy and Mines. 2002. "Making it work: a Saskatchewan perspective on climate change policy." Regina.
- Saskatchewan Legislature. 2002. "Votes and Proceedings 2002-2003: December 11, 2002." <http://www.legassembly.sk.ca/journals/Votes/24L3S/Votes%20No.%2081.pdf>
- Seskus, Tony. 2002. "Kyoto impact could shutter Ipsco mill: Devastated oilpatch, higher power costs may force move; [National Edition]." *National Post* (Don Mills), September 27, FP.3.
- Seskus, Tony. 2002. "Oilpatch seeks Kyoto Clarity: Energy sector grows desperate over Ottawa's failure to tackle key issues: Sends letter to Ministers; [National Edition]." *National Post* (Don Mills), October 26, FP.3.
- Simeon, Richard. 2006. *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada*. Toronto: University of Toronto Press.
- Skogstad, Grace. 1996. "Intergovernmental Relations and the Politics of Environmental Protection in Canada." In *Federalism and the Environment: Environmental Policymaking in Australia, Canada, and the United States*, ed. Kenneth M. Holland, F.L. Morton, and Brian Galligan. Westport, Connecticut: Greenwood Press.
- Sokoloff, Heather. 2002. "Rush to ratify is a mistake, Martin warns: Says debate needed: 'You can't discuss this kind of a thing in a vacuum'; [National Edition]." *National Post* (Don Mills), September 4, A.5.
- Star Phoenix (Saskatoon). 2002. "Legacy binge will hurt Grits; [Final Edition]." September 21, A.12.
- Supreme Court of Canada. *Friends of the Oldman River Society v. Canada (Minister of Transport)*, [1992] 1 S.C.R. 3.
- R. v. Crown Zellerbach Canada Ltd., [1988] 1 S.C.R. 401
- Thomson, Andrew. 2002. *Saskatchewan. Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature*. March 19, 115.
- Toulin, Alan. 2002. "McLellan threatens resignation if Kyoto ratification hurts oil industry; [All But Toronto / Late Edition]." *National Post* (Don Mills), December 4, A.4.
- Trebilcock, Michael J. 2001. "The Supreme Court and Strengthening the Conditions for Effective Competition in the Canadian Economy." *The Canadian Bar Review* 80: 542-604.
- UNFCCC. 2010. "Kyoto Protocol." [http://unfccc.int/essential\\_background/kyoto\\_protocol/items/1678.php](http://unfccc.int/essential_background/kyoto_protocol/items/1678.php). (December 14, 2010).
- Valiante, Marcia. 2002. "Legal Foundations of Canadian Environmental Policy: Underlining Our Values in a Shifting Landscape." In *Canadian Environmental Policy: Context and Cases, Second Edition*, eds. Debora L. VanNijnatten and Robert Boardman. Don Mills, Ontario: Oxford University Press.

- Watts, Ronald. 2003. "Managing Interdependence in a Federal Political System." In *The Art of the State: Governance in a World Without Frontiers*, eds. Thomas Courchene and Donald Davoie. Montreal: Institute for Research on Public Policy.
- Wheare, K.C. 1964. *Federal Government*. New York: Oxford University Press.
- Yates, Kevin. 2002. *Saskatchewan. Debates and Proceedings (Hansard) 3rd Session of the 24th Legislature*. December 10, 2877.

### **Interviews**

- Lautermilch, Eldon. 2009. "Lautermilch Interview." September 23.
- Parsons, Graham. 2009. "Parsons Interview." August 27.
- Wilson, Malcom. 2009. "Wilson Interview." September 8.

## **APPENDIX A: OCTOBER 28, 2002 JMM 12 POINT PLAN**

Joint Meeting of Energy and Environment Ministers  
Halifax, Nova Scotia - October 28, 2002  
Provincial and Territorial Statement on Climate Change Policy  
Halifax - October 28, 2002

The federal government has indicated that it intends to ratify the Kyoto Protocol before the end of this year. The federal framework on climate change, announced on October 28, does not as yet represent an adequate Canadian approach to reducing greenhouse gases in Canada\*. Provinces and Territories desire a national plan.

Provinces and Territories see climate change as a serious global issue that requires immediate and continuing action to reduce Canada's emissions.

Slowing, stopping and then reversing growth of green house gas emissions will require major changes for individual citizens and companies, in all Provinces and Territories. Provinces and Territories have noted the federal framework, and agreed to invite the federal government to work collaboratively on a truly Canadian plan. Ministers reiterate the call by Premiers for a First Minister meeting on climate change prior to any federal decision on ratification of the Kyoto Protocol as set out in the Premiers' Communique at the 2002 Annual Premiers' Conference.

Provinces and Territories agree that the following points are the principles for a national plan:

1. All Canadians must have an opportunity for full and informed input into the development of the plan.
2. The plan must ensure that no region or jurisdiction shall be asked to bear an unreasonable share of the burden and no industry, sector or region shall be treated unfairly. The costs and impacts on individuals, businesses and industries must be clear, reasonable, achievable, and economically sustainable. The plan must incorporate appropriate federally funded mitigation of the adverse impacts of climate change initiatives.
3. The plan must respect Provincial and Territorial jurisdiction.
4. The plan must include recognition of real emission reductions that have been achieved since 1990 or will be achieved thereafter.
5. The plan must provide for bilateral or multilateral agreements between Provinces and Territories, and with the federal government;
6. The plan must ensure that no Province or Territory bears the financial risk of federal climate change commitments.
7. The plan must recognize that benefits from assets such as forest and agricultural sinks must accrue to the Province and Territory which owns the assets.
8. The plan must support innovation and new technology.
9. The plan must maintain the economic competitiveness of Canadian business and industry.
10. Canada must continue to demand recognition of clean energy exports.
11. The plan must include incentives for all citizens, communities, businesses and jurisdictions to make the shift to an economy based on renewable and other clean energy, lower emissions and sustainable practices across sectors.

12. The implementation of any climate change plan must include an incentive and allocation system that supports lower carbon emission sources of energy such as hydroelectricity, wind power generation, ethanol, and renewable and other clean sources of energy.

\* The NWT reserves its position on the adequacy of the federal framework.