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A Canadian Perspective on Environmental Regulation: The Larger Context — Transnational Cooperation, Global Warming and Environmental Issues

*Elizabeth Dowdeswell**

I am reminded of a Spy magazine article a couple of years ago. It was called the Canadians Among Us. It was really a spoof about Canadians and it started out by saying, "Imagine beings who look like us, only cleaner. Imagine beings who act like us, only nicer. Imagine beings who talk like us, only slower." Well, I am here to say that when it comes to our environment, unfortunately our similar lifestyles have netted us some very similar environmental problems.

I want to do three things tonight. I would like to spend a few moments talking about this particular policy question (climate change), because I think it is a very unusual policy question, and I want to try and show you why. Secondly, I would like to give you a glimpse into the world of negotiations. I want to speak broadly about what some of those convergences and divergences are among all of the countries that are negotiating. Finally, I would like to end up by suggesting where I think we will be at the end of this process.

I mentioned that this is a particularly perverse policy question, and I think it is that for three reasons. First of all, it is a policy problem of unprecedented scope and complexity. Enhanced global warming is the result of industrialization, technological change and our dependence on energy. It is really the spinoff effect of our striving to improve our quality of life through economic growth. In fact, someone has described it as the result of normal, not aberrant behavior. There is no one villain, yet we are all responsible. It is simply the product of innumerable decisions that are taken by individuals, by industries, by business, by government, every day, every hour, and all around the world. We are talking about basic economic growth. We are talking about energy policy of all countries around this world. It is a very different scope than many of the environmental problems we have faced to date.

The second reason that I think climate change is a particularly difficult policy question is because it requires decision making in the face of uncertainty. This is an area where we simply have to take some actions now, before we have the kind of certainty that we would often like to

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The following text was compiled from the transcript of the remarks made by Ms. Dowdeswell at the Conference.

have, especially when some of the responses are costly responses. We know that the uncertainties are there, that they are large, contentious and slow to be reduced. They are genuine uncertainties. Few of our climate modelers, for example, expect to be able to improve their forecasts within the next decade. We know that it will be some time before we can predict things like regional variations. We know that it is going to be a long time before we can predict precise local impacts with any degree of confidence. It is no wonder then that policy makers' comfort level is so low. It has been said that instincts and hunches are a very weak basis for making public policy decisions. While we have a lot more than instincts and hunches in this case, there are still many uncertainties to be overcome.

On the other side of the question are those who espouse the precautionary principle — those who simply believe the cost of inaction is too high. In Medieval times, it was perhaps all right to count the angels dancing on the head of a pin, but that was another time. That kind of precision about climate change is neither possible nor appropriate. You would know better than I that our courts employ the principle of reasonable certitude or reasonable doubt. Why not employ that same principle in the case of climate change?

The third characteristic that I think makes climate change a particularly difficult and, at the same time, interesting policy question is that it is an issue of global interdependence. While we once considered environmental problems to be local in nature — urban air pollution or sewage discharges — we now know that the impacts we are facing can sometimes be felt hundreds and thousands of kilometers away. Sometimes the source can be traced; sometimes it cannot. The fact is that every car driven to work in Toronto has implications for people in Costa Rica, and every tree cut in Brazil has implications for all of us in the room.

We must have the widest breadth of countries involved in these climate change negotiations, even those developing countries which currently emit comparatively few emissions.

To give you one example, each American now uses as much electricity as 200 people in China. In China, the more electricity used as they develop, the more coal they are going to burn — the more dirty coal they are going to burn. The more coal they burn, the more pollution in the air. It has been estimated that China could avoid spewing some 20 billion tons a year of carbon pollution into the air if it chose efficient appliances instead of inefficient appliances. This convention has to be concerned not just about the here and now, but also about the development of countries like China, India and Brazil sometime into the future.

The trends in population growth, trade and economic power simply cannot be ignored when we are discussing the question of climate change. Eighty-four percent of the world's population in the year 2000 is going to be living in non-western countries. At the same time, more than sixty percent of world trade will originate in or go to the Pacific region. Many,

many of the statistics that we have about future economic power, future trade and future population growth illustrate why it is so vitally important that this be a global convention.

There is a profound difference between developing and industrialized countries. Developing countries are not likely to compromise their objective of economic growth in response to a problem that they see as being created by rich countries to the north. As developing countries are very fond of pointing out to us, it is the industrialized countries that have benefitted from using the atmosphere as a garbage dump for their carbon by-products. They are the same ones who now propose that we put limits on the use of that shared resource. Curbing greenhouse gases is not the highest priority of developing countries. Even if it were, the response would require an immediate infusion of money, skilled labor and technology. The potential for the North/South conflict is ever present. Environment has truly become a global security issue. The forecasts raise many profound questions: questions of equity, of winners and losers, of third-world development, of conflict over food and land, and even the specter of environmental refugees.

So for those three reasons — the fact that this is a policy question of unprecedented breadth, scope and complexity; that it is a problem that requires solution in the face of uncertainty; and that it is a problem dependent for its solution on global interdependence — this is a policy question unlike any others that we faced in the environmental field.

So what has been happening in the world of climate change? Perhaps I can simply paint you an impressionistic painting.

The chronology sounds like this: scientific meetings in 1987 in Villach, Austria and Bellagio, Italy; a world conference on the atmosphere in Toronto in 1988; an Intergovernmental Panel on Climate Change (“IPCC”), set up by the World Meteorologist Organization (“WMO”) and the United Nations Environment Program (“UNEP”); in 1989, a meeting of legal and policy experts, the Paris Economic Summit which declared for the first time an urgent need for a climate change convention, and the Noordwijk Ministerial Conference which recognized the need to stabilize emissions of greenhouse gases; in 1990, the Bergen Conference, the Houston Economic Summit, the release of the IPCC’s scientific assessment confirming what we did and what we did not know about climate change, the Second World Climate Conference and the U.N. General Assembly Resolutions laying out the mandate for international negotiations on a climate change convention; and, finally, 1991 negotiations began. We are on the road to the U.N. Conference on Environment and Development in Brazil.

This chronology illustrates the number of activities, agencies and countries involved, and it illustrates the magnitude of activity and work that has been done in a very short period of time.

Climate change has clearly become a compelling issue that has

caught the attention of scientists, policy makers, Joe public and world leaders. With each conference the political stakes have been heightened. Each conference, after all, needed a declaration; each needed a deliverable, something to be announced, and each one tried to be just a little greener than the last, trying to move the issue just a little bit further. If you were to examine those declarations, you might find not much more than semantic differences in each of the texts — very similar sounding phrases with a word change here or there — but those are all code words. They are words that are fought over and words that will be defined back home. New funding gradually becomes new adequate and additional funding. Commitments become not just commitments, but common, differentiated commitments. Technology is never just technology; it is safe and sound technology. Accordingly, environmental law is shaped line by line, phrase by phrase and convention by convention.

One measure of success is that we have been building constituencies and broadening the issue. The number of countries participating has changed dramatically, and the commitments have also changed. The pledging has begun, and little by little we are finding that domestic policies are indeed being influenced by genuine peer pressure.

At the start, this was purely a scientific exercise with very few countries involved, but as the IPCC was about to release its first assessment, the dynamics changed very abruptly. Countries realized that climate change was not an issue of meteorology; it was an issue of energy policy. Things have never been the same from that point on.

At the same time, developing countries strengthened the call for equality of membership in the process. They thought they had been shut out of a previously scientific process that was largely run by countries in the North. They sensed that climate change was the latest issue that could be used in the longstanding North/South debate. Pictures of winners and losers started to emerge at the end of the IPCC's work, and it became very evident that countries simply could not distinguish their own country positions from an objective analysis of potential responses.

At that point, it was clearly time to move to the negotiations. The United Nations entered with the full weight of the system brought to bear. The momentum of the IPCC, which had brought to the "take-off point" the issue of climate change, almost was aborted. The key actors changed from specialized agencies to political organizations, from scientists to professional diplomats, and the process changed considerably.

As with any negotiations, there have been frustrations: hours of discussion on process, process, process and rules of procedure; endless days of country statements; no intercessional work allowed; undue influence of certain capitals; additional complexity of media and non-governmental organization politics. Still over 150 countries are involved and fully engaged in the process.

The role of regional groups has been significant in these negotia-

tions. For example, among the Group of 77, the role of the low-lying island states is being felt. The growing confidence of the European Community is in evidence. The Group of 77 remains disciplined in advocating finances and technology transfer and no new institutions, but their divisions are showing. A new regional grouping-economy in transition is now being heard.

What used to be negotiations between developed and developing countries are now becoming negotiations among a wide range of groups of countries with specialized interests. The entire spectrum of views is being represented.

On the one hand there are countries demanding urgent action. They are impatient. On the other hand are those countries fearful and suspicious of the pace already achieved. If it takes ten years to negotiate a law of the sea, how can we possibly negotiate something as complex as this in eighteen months or less? There are some countries who focus on the need to narrow the uncertainties and the need for more research, while others focus on adaptation. Still others focus on the need to limit greenhouse gases.

On the one hand there are those who see this as a scientific issue, wanting it to be discussed and debated without the excessive heat of politics, while on the other hand there are those who want public opinion and politicians to set the pace. There are those who want common yardsticks, mandatory targets and an entirely new international response, while others advocate each country developing national plans, taking whatever actions they can and simply pledging to move in the right direction. There are those who want a framework convention only, with substantive protocols to be negotiated later, while others want a meaningful convention right now with commitments embedded in it. There are those who see targets as legally binding obligations, and others who see them simply as motivational goals toward which to work. There are those, as Jessica Matthews described them, whose environmental agency is two people at a typewriter, while other delegations are a cast of thousands.

That gives you some idea of the range of extremes with which we are dealing. The answer is somewhere in between. We have developing countries arguing that bottom-line principles are unconditionally, polluter pays, right to development, convergence of per capita emissions and protection of sovereignty. We have developed countries, unprepared to assume historical responsibility for greenhouse gases, which agree to a common but differentiated responsibility and which also agree that cost-effectiveness and comprehensiveness should be basic principles.

Heading to Nairobi eight or nine months ago, we raised a number of questions. Much to my chagrin, those questions still remain. Will there be a convention in 1992? What kind of convention will it be? Will we be able to find creative solutions to technology transfer? Will we have money to transfer? Will we seriously examine new global institutional

authorities? Will a convention really include developing companies? And, of course, will this end up being a unifying rather than a divisive exercise?

Perhaps it is not surprising that questions remain. We are dealing with profound issues of growth and development, of energy, of trade and of peace and security. However, I do believe that at the end of the day we will have a framework convention on climate change.

The Bruntland Commission's concept of sustainable development is the brightest light that we have seen for some time. This concept, which some define as meeting the needs of the present generation without compromising the ability of future generations to grow and meet their own needs, is one that has wetted the interest of both industrialists and environmentalists alike. We are talking of growth that sustains and expands the resource base of the planet. This is a concept that has people talking to each other instead of past each other.

The second ray of hope is that new questions are being posed. For so long, we have really asked the wrong questions. The question is not how can we tame the environment, but rather how can we learn to live in harmony with it? It is clear that the challenges we face are going to demand better of us than the old entrenched modes of thinking; they will demand a change in mindset. The past decade produced a backlash against many forms of regulation based on the view that they hurt industry and undermine a country's competitive advantage. The conventional wisdom of most North American industrialists is if they have higher standards, they will lose their competitive edge. The fact is that it also works the other way. Higher standards can gain competitive advantage, the way the Japanese did when they unilaterally improved automotive emissions standards in 1971. Like Michael Porter, I believe that we need to turn this issue on its head and realize that those countries with strong environmental, health and safety regulations tend to be the ones that do the research and development required to give them a competitive advantage.

Finally, what gives me hope is simply that many of the people involved in negotiations are beginning to think not just of the people within their own borders. They are affected by the persuasive simplicity of the man from Bangladesh. The following is from Mr. Rahman:

I come from Bangladesh. I'm very pleased to be here, but my attendance has forced me to take myself away from a community that I work with closely. This community is a small island deep in the Bay of Bengal, fifty kilometers from the coast of Bangladesh. The man who wished I would stay in his community instead of coming here is the local leader. He thinks he is a rich man. Why? Because he is the only villager who has a pair of shoes, and his family is the only one whose food intake is more than seventy-five percent of the minimum World Health Organization's recommended calorie and protein needs. When I explained to him that the impact of global warming, sea level rise,

and increased cyclones would be that his island would be inundated, he asked me, "Why me? What have I done to cause it?" He was surprised to hear that many communities of the world use 200 times more energy per head than his people do. He asked me again, "Why? Why are their wants more important than our needs to survive?" I promised him that I would take his questions to negotiations in the hope that you could answer them.

I think also of the delegate from Africa who during the height of a procedural debate amongst two large developed countries reminded us of the African proverb that when two elephants fight the grass suffers.

I know that action will not simply happen because at a visceral level environmentalists want to save this planet. Exquisite logic alone is not going to convince our publics to disrupt our comfortable way of life. Science, public policy and social consensus must converge on this issue. Climate change is not exclusively a scientific or a technical problem; it is a social and political one.

Human indifference and passivity may represent perhaps our greatest threat to planetary survival. Fortunately, I think they are not in evidence at this round of negotiations. I really think there are enough of us involved who, much like one of our Canadian Innuit described, are out to cause constructive damage to the status quo.

