

ENERGY-ENVIRONMENT FEDERALISM IN CANADA: FINDING A PATH FOR THE FUTURE

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Study in Brief

This study examines the role that federalism plays in the intersection of energy and environment policy in Canada. Energy and the environment are inexorably linked: energy production is a major economic driver in Canada, but both the production and consumption of energy are major contributors of greenhouse gas (GHG) emissions. This study was undertaken because there have been major battles between the federal government and provinces, or between provinces, on energy and environment policy in Canadian history. These conflicts have had significant political, economic, and environment costs. Through an analysis of Canada's constitution, politics, energy and environmental characteristics, and past intergovernmental conflicts and collaboration, the study aims to explain why cooperation over energy and environment policy has been so difficult and to make recommendations for a positive path forward.

Key Findings

A combination of several federal intergovernmental mechanisms: multilateralism (Ottawa and all/most provinces), bilateral (Ottawa and one/two provinces), or unilateralism (Ottawa or a province) are required to meet the current and future challenges of energy-environment policy in Canada.

An example of multilateral success is the Pan-Canadian Framework on Clean Growth and Climate Change (2016). It exploited a window of opportunity: a newly elected Trudeau government, the four largest provinces with provincial prices on carbon, Alberta (country's largest oil and gas producer) had just brought in a carbon tax, a likeminded administration in the United States, and international pressure leading to the Paris Climate Change Conference. While some provinces have since pulled out of the Pan-Canadian Framework, and some fought the federal carbon tax in the courts, many of its mechanisms remain in place. The Trudeau government even felt comfortable unilaterally updating its climate plan and announced in December 2020 a gradual increase of the carbon tax that, by 2030, would triple beyond its current level. This example shows that moments in time can allow for multilateral cooperation on energy-environment policy.

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Given the difficulties associated with achieving multilateral consensus, bilateralism has been used much more frequently: Ottawa and Ontario jointly developed civilian nuclear energy starting in the 1950s, in the mid-1970s, Ottawa-Alberta-Ontario worked together on investing in the emerging oil sands, in the mid-1990s, Ottawa and Alberta worked together on a new tax regime to encourage investment in the oil sands, BC and Alberta were able to negotiate an agreement on the Trans Mountain Pipeline (although that was scuttled with a change in BC government).

There are examples of successful provincial unilateral actions. In 2008, BC was the first jurisdiction in North America to introduce an economy-wide carbon tax. In 2015, the Rachel Notley government in Alberta brought forward its Climate Leadership Plan. Successive Ontario governments over the last twenty years have restarted and refurbished its nuclear fleet and shut down coal-fired electricity generation. Successful provincial unilateralism, such as BC's introduction of an economy-wide carbon tax, often has spillover effects as different provinces learn from the lead example and adopt similar programs.

Unilateral action by the federal government has sometimes had disastrous consequences (e.g., the NEP). However, there have been other examples of unilateral action from Ottawa through use of its spending power to intervene in energy-environment issues. Examples include Ottawa's purchase of the Trans Mountain Pipeline (2018) and spending \$1.7 billion to clean up orphaned oil and gas wells in Western Canada (2020).

Discussion and Implications

These findings help to understand the challenge of federalism dynamics at the core of energy-environment policy in Canada. It explains the roles and responsibilities of the federal and provincial governments (constitutional arrangements and the economic and political interests) that govern Canada's energy-environment policy. Finally, it offers a path forward and identifies paths to avoid.

Relevance for Decision-Makers

Canadian policymakers need to realize that there is no silver bullet to achieve federal energy-environment cooperation. There are moments in time when a large multilateral deal can be achieved. While these windows of opportunity are rare, they can be leveraged by policymakers skilled enough to recognize and act on them. Parts of a large multilateral deal may wither away, but some of them will stay in place. In addition, the existence of a multilateral framework allows for committed governments to build on them unilaterally or in bilateral partnerships. Bilateralism (either between the federal government and a specific province or between two provinces) has been proven to work. In the case of unilateralism, federalism is a flexible device that allows individual provinces the legal authority and political motivations to take independent action in the area of energy-environment policy. Successful provincial unilateralism can have spillover effects as different provinces learn from the lead province and adopt similar programs. However, unilateral action by the federal government should be rare.

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Previous examples of unilateralism by the federal government can lead to massive backlash and intensify conflict. This can even be the case when Ottawa is taking unilateral action in a clear area of federal jurisdiction.

A combination of multilateralism, bilateralism, and unilateralism will, through a series of small initiatives, create a cumulative web of energy-environment cooperation. It is the classic Canadian process of muddling through. Big ideas, no matter the topic, are tough to negotiate and sustain in Canada. But small steps can occur. The concept is one step forward and a half step back. If this is repeated long enough, Canada can make sustained progress on energy and environment.

Next Steps for Positive Energy

In the coming months, Positive Energy will release additional studies on how Canada can strengthen public and investor confidence in infrastructure project decisions, and effectively clarify and strengthen the relationships between policymakers, regulators and the courts on energy and environmental decisions.

[Link to the full report](#)