Chapter 4

The Business Response to Environmentalism

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By the mid-point of the twentieth century, the modern business corporation had become an organization highly skilled in detecting and influencing the ideas and behaviour of existing and potential customers. By and large, it could safely ignore other social groups. However, with the postwar expansion of the state and the articulation of new values by social movements that had gained sufficient political power to move their issues onto the policy agenda, that situation changed. As governments expanded their regulatory ambit, in both the economic and social spheres, the corporation had no choice but to focus on other societal actors and, most importantly, those policy-makers who were seeking to change its behaviour.

One of the first sectors to face this new external challenge was the tobacco industry. Throughout the 1950s, scientific evidence of the health effects associated with smoking had steadily increased.[1] These claims were given visibility and legitimacy in 1964, when a high-profile advisory committee to the Surgeon General of the United States reported that: 'Cigarette smoking is of sufficient importance in the United States to warrant immediate action.'[2] Cigarette sales immediately fell, although only for a brief period, and the Federal Trade Commission began to take steps to ban some forms of cigarette advertising. The six firms that dominated the American cigarette industry reacted both individually and collectively. Working together, in 1958 they established the Tobacco Institute, a trade association created to lobby governments by means of the élite contacts available to its first two directors, a former US ambassador and a former senator.[3] In an attempt to forestall the regulatory advertising restrictions, ultimately imposed in 1970, the Institute in 1964 developed the Cigarette Advertising Code, a form of voluntary self-regulation. While coming together to influence policy, each firm at the same time individually sought to benefit from this change in societal values by introducing new, 'safer' cigarettes, for instance, by adding filter-tips and highlighting their safety as an advertising theme, along with the traditional appeals to sophistication and taste.[4]

Although in this case the concern was for a product that harmed only the user (pollution in the form of second-hand smoke was not to become a policy issue for another 20 years), this early example nicely illustrates the basic options available to the firm that comes under external pressure as a result of new scientific knowledge and changing societal values. The firm can respond by changing its own behaviour, in this case product design and voluntary restrictions on advertising. It can also, however, work to change the ideas and behaviour of those, such as

governments, exerting the pressure. These are the options that have faced resource and manufacturing industries in Canada since the emergence of the modern environmental movement in the 1960s. Environmentalism, and government policy responding to it, has demanded that corporations change the products they sell, such as packaging, cars, or pesticides; that they change production methods to generate less solid waste and toxic pollution; and, more recently, that some manufacturing inputs such as chlorine be completely eliminated. The firms involved have responded by significantly improving their environmental performance, but they have also actively reached into the policy process, strongly influencing both policy objectives and the means employed by governments to achieve them. This chapter explores both responses, with the focus on the latter. How have resource and manufacturing industries worked to influence the environmental policy intended to influence them?

The argument made here is that to answer that question we must first determine what objectives business is trying to achieve as it participates in the policy process. We cannot assume that the business interest is limited to profit alone. Although maximizing short-term profit is a fundamental goal of all firms, other goals, in particular the desire of polluters to regain social legitimacy, influence business behaviour as it interacts with governments and others. In responding to the concerns of environmentalism, business has attempted to achieve both objectives. By 'greening' its operations and products, the firm has forestalled regulatory pressure, reduced waste and inefficiency, and thus increased profit while improving its public image. When asked to make changes that more directly threaten the profit interest, however, such as eliminating an entire class of raw chemicals, business has balked. In those cases, instead of changing its own behaviour, business has employed élite-access lobbying to change the behaviour of governments.

Environmental Policy as Seen by the Firm

The subject addressed here is environmental policy-making, not business management. That process is viewed, however, through the eyes of the firm. From that vantage point, i.e., looking over the factory wall at the world outside, developments in scientific knowledge and changes in societal values are seen as having the potential for additional cost and forgone profit, but also opportunities for new marketing advantage. This approach to understanding organizational response to changes in the external environment is borrowed from Miles and others who are writing from the basis of two bodies of literature: the sociology of complex organizations and business management.[5] For them, unlike others who write on business, such as economists, the key issue is social legitimacy.[6] 'Because of the timing of the crisis, the tobacco industry became the first of the major US industries in modern times to have to confront head-on the now-widespread issue of corporate social responsibility.'[7]

Miles argues that the firm, because it is an organization embedded within the institutions and values of the society within which it functions, cannot simply ignore its critics.

> All complex organizations must contend with at least two fundamental aspects of organizational effectiveness: efficiency and legitimacy. Corporations in particular are both economic instruments that must bear the test of relative efficiency in some kind of market domain *and* social subsystems that perform roles for and within their embedding society.[8]

This search for legitimacy stems in part from the principal-agent problem, which means that, while shareholders may be exclusively interested in profit, they cannot fully control the actions of managers. Their values, including their desire for self-esteem, will lead them to adopt corporate strategies intended to gain respect in the eyes of others, even if some profit must be sacrificed. Marcus and his co-authors argue that, 'Although corporate advantage is the primary objective of the public affairs function, social legitimacy is an equally compelling consideration, which typically acts as a constraint on unbridled self-interest.'[9]

Business originally saw modern, postwar environmentalism as a set of alien values to be held at bay; 'most companies regarded environmentalists as enemies and environmental regulation as something to be fought off as long as possible and then complied with reluctantly.'[10] By the time of the 1992 Rio conference and creation of the World Business Council on Sustainable Development, this was no longer the case. Instead of engaging in the policy process with the objective of delaying the imposition of new regulatory standards, many corporations had moved 'beyond compliance', improving their environmental performance even when not mandated by law.[11] Why did this change take place? To answer that question, as stated above, we must examine the interest of the firm.

By and large, policy analysis looks to three variables: (1) interest, in terms of the economic or other benefits, such as identity, that policy actors pursue; (2) ideas, including scientific understanding and dominant values or goals such as individual liberty and human rights; and (3) institutions, defined as the rules and procedures that actors follow during the policy process.[12] Different approaches to policy analysis are distinguished in part by their relative focus on one or more of these three variables.[13] This discussion is intended to contribute to an understanding of the first variable, which, as Atkinson explains, is a method of understanding a given policy process by 'asking the simple question: who benefits?'[14] Although he discusses the political economy treatment of class interest, the subject is also the basis of pluralist studies of interest groups and of public choice analysis, which takes as its starting point individual pursuit of marginal utility. To understand a policy process by focusing on the variable of interest, however, we need to recognize that the actors involved may be pursuing multiple, and sometimes contradictory, objectives. Often, they not only seek self-interest but also

want to contribute to the larger societal good.[15] Is this why business moved from the defensiveness of the 1960s and 1970s to the voluntary action of the 1990s?

Answering such a question and thus explaining this change in business strategy is of fundamental importance due to the simple fact of the enormous political power wielded by industry. Brooks and Stritch describe the power relationship this way: 'business occupies a privileged position in the politics of capitalist societies. This privileged position is based on a combination of the *cultural dominance* of business values, the *structural dependence* of governments on the behaviour of business, *élite linkages* and the *lobbying power* that business interests wield through pressure politics.'[16]

It is widely recognized that environmental policy-making in Canada, and elsewhere, is essentially a process of closed-door negotiation between regulators and the polluting industry in which the latter, having greater technical expertise, strong motivation, and ample opportunities for delay, holds the upper hand.[17] Environmentalists on occasion have managed to elbow their way into business-government negotiations, but they have not changed the basic power dynamic. These business advantages are augmented by the basic fact that Canada is a capitalist society in which the principal objective of all governments, regardless of party or ideology, is to facilitate the creation of wealth through investment of capital. Environmental policy is intended to mitigate some of the worst externalized effects of production, but it has never been carried out in a way to undermine that basic goal. Both the institutional process and context of ideas give business dominant power, and the interest it pursues as it participates in environmental policy-making, therefore, is of paramount importance.

The Firm as the Unit of Analysis

Before we can discuss the policy role of 'business', we need to define the term more precisely. Who is the policy actor? There are a number of possibilities. We might look primarily at the shareholders, who regularly move their investments among firms and, we are told, are able to influence policy by threatening capital flight. Alternatively, we might look at the corporation they invest in: a legally constructed entity, having rights and obligations essentially similar to an individual citizen. Within the firm, we might look exclusively at the chief executive officer, exercising his or her military-style, hierarchical powers from the lonely pinnacle of command. Perhaps, instead, we should look at the network comprised of all the relevant subunits within the firm, including senior management, public affairs, environmental management, product design, marketing, and labour, plus other firms, such as various suppliers and marketers, which collectively put a given product on the market and are, therefore, influenced by environmental policy. Finally, we might focus on the trade association, which is often the primary vehicle used by business to interact with governments.

From that list, the primary focus of this study is determined by the purpose to

be achieved, that is, understanding the influence business brings to bear as provincial and federal governments set and, to greater or lesser degree, achieve environmental protection goals. Brooks and Stritch present the 'political interests of business' on a four-point spectrum, running from the most basic and commonly shared political objectives, such as 'social acquiescence to capitalism', through to specific interests, such as the search for government subsidies, which may be in conflict with the interests of other business actors.[18] The four points on their spectrum are: (1) capital as a whole; (2) sectoral or regional business interests; (3) industrial sectors; and (4) individual corporations.[19] Brooks and Stritch state that: 'At the most specific level of business-government relations, one finds the individual corporation.'[20] Following their lead, the business policy actor discussed here is the firm, with attention also paid to the trade associations firms create to pursue their shared policy interests.

When we look inside the black box of the firm, we must focus, given its hierarchical structure, on those who decide the environmental policy interest it will pursue: the CEO and relevant senior managers, who may work closely with some members of the board of directors. They, in turn, look for advice and technical guidance from those charged with public affairs and environmental management. The corporate public affairs department, which has expanded considerably in both resources and expertise during the past 50 years as new external pressures have come to bear on the firm, carries out three functions. It monitors events in the world outside the firm and internally relays its findings and analysis; it communicates with various external actors; and it seeks to influence the behaviour of external actors.[21] It would seem reasonable to assume that the internal organization of the firm will have an impact on the relative influence of the public affairs or environmental management department; either has more power if it reports directly to a vice-president rather than to several management levels below. Moreover, the relative power of the subunit will influence the extent to which the firm devotes resources to the attempt to influence governments and other policy actors, relative to other activities, such as product development or marketing.

The other aspect influencing the policy function of the firm is corporate culture, defined as the ideas held by those individuals within the organization. Inevitably, they will largely coincide with those held outside the firm, although to some extent they will be distinct. Schoenberge, seeking to explain the failure of some firms to pursue economic self-interest, says: 'the answer lies somewhere in the realm of corporate culture, which, in turn, is intimately involved in the production of corporate strategy.'[22] This chapter argues below that the business response to the external pressure of environmentalism changed between the 1960s and 1990s in part because of changes in the internal structure and culture of the firm and in part because of changes in the force of that external pressure.

The New Context for Environmental Policy

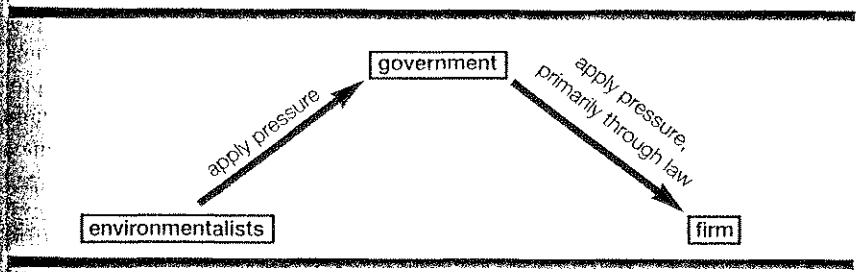
When the modern environmental movement first began to seek to influence business behaviour, for the most part it did so indirectly, by working through government. Environmentalists, largely by means of media exposure to generate public support, sought to bring enough pressure to bear on governments that they would pressure business, primarily by using the instrument of law. Although the newly created environment departments rarely used prosecution to enforce legal requirements, instead reserving it as a potential threat as they negotiated both standards and compliance, law was the policy instrument used. Thus, the initial policy process was as depicted in Figure 4.1.

Today, the resource or manufacturing firm no longer finds itself in that relatively simple world. Environmentalism has undergone a decline in political power in the 1990s. Environmentalists, however, are seeking to compensate for this decline in their ability to influence governments by applying pressure directly to customers. Moreover, the form and degree of regulatory pressure have changed. Finally, new non-governmental pressures, related both to production inputs and market demand, have emerged.

By the late 1980s, governments had moved to more active enforcement of law and were examining the potential use of various economic instruments. By century's end, however, regulatory pressure had been noticeably relaxed. Deregulation, initiated by federal and provincial governments in the mid-1990s, has meant both a change in policy instruments and significant reductions (in the order of one-third to one-half) in the size of the environment departments using them. Basic regulatory functions such as monitoring, inspections, and law enforcement have been reduced. Although law still provides the basis for the regulatory regime, for most new initiatives governments now rely on self-regulation, often codified in a memorandum of understanding with the relevant trade association and individual firms.[23]

While government pressure on the firm was lessening in the 1990s, the environmental concerns of those buying its products were on the rise. When McCain Foods recently responded to potential change in consumer demand and

Figure 4.1: Initial Environmental Pressure on the Firm



announced that it would no longer buy genetically modified potatoes, this had far more impact on the agricultural industry than any actions to date by biotechnology regulators. As Wilson points out in the preceding chapter, environmental campaigns increasingly target consumers. When environmentalists convince builders in Texas not to use BC old-growth forest by appealing to the green values of homebuyers, they can exert pressure on the BC forest industry while completely bypassing government. 'Attacking the market, rather than loggers directly, is proving to be a devastatingly effective tactic.'[24] In addition, the buying behaviour of individual consumers is influenced by labelling systems such as Eco-Choice.

Self-regulatory codes of conduct, such as the chemical industry's Responsible Care program, described below, or the International Organization for Standardization (ISO) 14000 Environmental Management System (EMS) are another form of external pressure. They offer the benefit of both cost savings from improved efficiency and a reduction in liability, since they can be employed in court as proof of due diligence. These programs require initial expenditure, however, and place the firm, which must demonstrate that it has met the standards embodied in the environmental management system, in a governance relationship with the certifying body. The Canadian Chemical Producers' Association acts as a proxy for the state when it uses the threat of expulsion to influence member firm behaviour. These voluntary standards developed by trade associations also have the potential to become incorporated into law. On at least one occasion in Canada, they have been mandated by a court.[25]

The firm's need for capital and insurance now also carries with it existing and potential environmental pressures. Ethical investors, some of whom buy shares to gain a voice at the annual meeting, do not yet make up a significant percentage of total shareholders but do have the potential to generate adverse publicity.[26] Sensing a new market, the auditing profession is moving to develop new ways of measuring and reporting environmental performance.[27] Banks, worried about their potential liability, require environmental audits and evidence of environmental management systems before lending. Those who sell environmental insurance impose similar conditions.[28]

We do not yet have data on the extent to which these non-governmental pressures (Figure 4.2) actually influence business environmental performance. Nor yet have governments actively investigated the new opportunities for regulatory pressure they afford. Government purchasing, support for labelling programs, financial regulation, and willingness to provide 'backdrop regulation' (used as a threat to convince free-riders to participate in self-regulatory programs) may some day be extensive and thus further transform this new world of mixed public-private governance. Regardless, the fact remains that business seeking to influence environmental policy must today function in a new and evolving regulatory environment.[29]

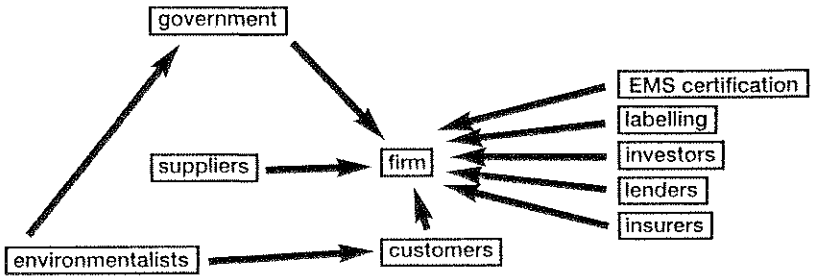
Options for Response

In response to these pressures, the firm has two basic options: to comply, completely or in part, or to attempt to change the pressure. Almost always, both options are pursued in tandem. In terms of the latter option, the firm must engage with three major sources of pressure: consumers, governments, and environmentalists. Changing consumer demand is met by new products and green marketing, including EMS certification, which other firms may require. Business seeks to influence government both through private, élite-access lobbying[30] and through participation in the public policy process, such as committee hearings and other forms of consultation.[31] In the environmental area, the primary form of business-government negotiation has always taken place at a relatively low level, as officials from the firm and environment department, who usually shared a similar technical expertise, discuss pollution abatement methods. Business has supplemented those discussions with others at a higher level as necessary, taking advantage of the contacts that political donations and class connections can provide. Business seeks to influence the actions of the environment movement by using both 'carrots' and 'sticks'. Financial support is provided to non-profits likely to advance pro-business views, while those in opposition are threatened with lawsuits.[32]

Business also uses advertising to make its policy case to the public. In the fall of 1997, for instance, as the federal and provincial governments were developing the Canadian position to be taken into the Kyoto climate change negotiations, the Canadian Association of Petroleum Producers, the Nuclear Association, and the Coal Association all made their arguments (as did the Suzuki Foundation) by means of full-page advertisements. In addition to paid advertising, business also does its best, as do environmentalists, to influence electronic and print news reporting.

Voluntary behaviour change, as illustrated above in the case of the cigarette manufacturers, may be prompted by a genuine concern to reduce the harm caused, but it is also likely to be part of a calculated strategy to influence those

Figure 4.2: Current Environmental Pressure on the Firm



exerting pressure, most notably regulators. The firm offers up some behaviour change as a means of appeasing and forestalling those demanding a much greater degree of internalized cost. As we shall see, business increasingly began to adopt this option in the 1980s.

From Delay to Voluntary Behaviour Change

During the 1970s the major policy response of resource and manufacturing industries was to engage in technical negotiation with regulators in the new environment departments over the changes to be made in emissions to air and water. These discussions took place both on a case-by-case basis, as each firm negotiated separately the standards set forth in its regulatory permit, and on a sectoral basis. The major strategy used by the firms was private negotiation and lobbying. A picture of that strategy at play can be seen in efforts made by the Ontario Ministry of Environment over a 15-year period to reduce acid rain emissions from the Inco plant at Sudbury.

Throughout that period, Inco made no secret of its policy objective: it would only spend money on pollution control if doing so provided a net return through improved efficiency.[33] Although simple cost internalization was not something Inco was willing to do, it has always had an economic interest in developing more efficient means of separating ore from sulphur-laden rock, with the result that emissions had declined significantly, even before the firm was subjected to regulatory pressure. Throughout the acid rain policy negotiations, the basic question was always when Inco would make the necessary capital investment to achieve even more efficiency and pollution-reduction gains.

In 1970, an Ontario order required that the firm limit annual emissions to approximately 250,000 tonnes of sulphur dioxide per year by 1978.[34] Inco failed to meet the 1978 deadline and then, in the spring of 1980, the Ontario Minister of Environment announced plans for a new regulatory limit, capping emissions at their current level and requiring a reduction to approximately 640,000 tonnes per year by 31 December 1982. (This was well above the 1969 regulatory limit, which seems to have been nothing more than a pious hope. The 1982 limit was based on new technology the firm was currently investigating.)[35] The firm responded publicly by threatening litigation, based on the argument that such regulation was beyond the constitutional power of the province, and in private by arranging a presentation to the Ontario Premier and cabinet.[36] During this period it was also using élite access to put pressure on federal regulators in Environment Canada by means of northern Ontario MPs such as Judy Erola, then Minister of Mines.[37] By the fall of that year, the 1982 limit had been enshrined in law, the company had dropped the threat of legal action, and the Ontario ministry, for its part, had dropped a threat to require studies of even further reductions. Instead, that would be done, without any participation by Inco, by means of a federal-provincial task force.

In December 1982 the task force reported that Inco could bring its emissions

down to as low as 18,250 tonnes per year, at a cost estimated to be somewhere between $519 million and $684 million. The external demand facing the company had now been explicitly stated: environmentalists as well as federal and Ontario environmental regulators wanted it to invest half a billion dollars or more to modernize and increase the efficiency of operations and thus reduce its acid rain emissions by well over 50 per cent. Inco responded by engaging in periodic closed-door negotiation with the regulators over the next two years.

At a meeting with Ontario ministry staff on 8 July 1983, Inco officials stated that the task force analysis was untrustworthy and that, in any case, it was only interested in 'new technology which would increase productivity while reducing emissions'.[38] Inco did give the impression, however, that it might be willing to move emissions down to 350,000 tonnes per year. Although it was not made public, that figure then became the basis for policy as the Inco reduction in the overall Eastern Canadian Acid Rain Program agreed to at the federal-provincial environment ministers' meeting of 5 February 1985. The Canadian program was announced on 6 March, without specifying reductions from individual sources. The figure was then made public by the firm itself, in a speech by Inco president Charles Baird on 24 April 1985, who presented it as the Inco contribution to the overall Canadian effort.[39]

A few months later, however, by the summer of 1985, a new Liberal government had taken power in Ontario and the firm was being pressured to reach a much lower limit of 150,000 tonnes. The firm balked in private negotiations and then used its familiar technique of élite access, going over the head of provincial Environment Minister Jim Bradley to appeal directly to Premier David Peterson. In late November 1985, news that the Ontario cabinet was being asked to approve the lower regulatory limit was leaked to the Toronto news media. On the morning of the cabinet meeting scheduled for 4 December, Inco's chairman and president had breakfast with the Premier. No decision was made at that day's cabinet meeting, and subsequent meetings were then held between Inco and ministry staff. Then, on 17 December Bradley announced that as part of the Ontario Count Down Acid Rain program, Inco would be required to reduce emissions to 265,000 tonnes by 1994.[40] By that date, the firm had put in place new technologies to modernize its operations at a cost of $600 million, met the regulatory requirement, and generated annual savings of $90 million per year through reduced labour costs.[41]

Throughout the process, Inco relied on direct lobbying, without offering voluntary behaviour change as a means of influencing the policy objective. Although it regularly issued press releases and other materials presenting its case to the public, it did not carry out any major advertising campaign. The first industrial sector to pioneer the use of these techniques, grounded in voluntary action, was the Canadian soft-drink industry.

For at least a hundred years before the emergence of modern environmentalism and the broad acceptance of a need to reduce, reuse, and recycle, soft drinks

and all other beverages were sold in reusable containers—that was the cheapest option available to the manufacturers, who operated deposit-return systems without any urging by the state. By the 1960s, however, it had become cheaper for the industry to use throwaway metal containers rather than pay the costs of collecting, transporting, washing, and refilling glass bottles. Motivated both by concerns for pollution in the form of 'litter' and by the need to conserve resources, one of the major demands made by the nascent environmental movement was that the soft-drink industry return to the use of refillable containers.[42]

Responding to that pressure, a number of American states in the early 1970s passed 'bottle bills' requiring the use of refillable bottles. In 1971, BC and Alberta enacted regulatory requirements for deposits on non-refillable containers to give an incentive for the customer to take them to recycling centres. Ontario, in 1976, established a regulatory requirement that 75 per cent of the soft drinks sold in the province be in refillable containers. The initial response of the soft-drink industry in Ontario, which it follows to this day, was non-compliance. It took minimal steps to increase refillable sales to the required portion and has actively fought in the courts to block an attempted private prosecution.[43] By the early 1980s, allied with aluminum can manufacturers, the soft-drink industry had moved out of this defensive posture and was actively seeking to influence solid waste policy, working to make recycling, rather than reuse, the objective. The strategy used was financial support for the new blue box curbside recycling programs, which were then being established on an experimental basis, combined with life-cycle assessment studies suggesting that, when such things as energy and water used for washing bottles were taken into account, reuse was not necessarily the environmentally preferential option.[44]

By 1985 the industry had concluded a deal with the Ontario government, offering to pay one-third of the capital cost of the blue box program in exchange for a relaxation of the 1976 refillable ratio (which was not being enforced in any case). During the next 10 years the soft-drink industry expanded its alliance to include others who sold products in containers that might potentially become subject to regulatory demands for deposit-return reuse systems, most notably the grocery product manufacturers. The Canadian Industry Packaging Stewardship Initiative (CIPSI) program, which offered provincial governments subsidies for curbside recycling as an alternative to reuse policy measures, was proposed to a number of provincial governments. By 1994 such negotiations were under way in BC, Manitoba, Ontario, Quebec, New Brunswick, and Nova Scotia. By 1996 the industry had contributed $33 million towards the cost of curbside recycling in Ontario and had achieved its goal of forestalling any move towards mandatory deposit-return systems, at least in that province.[45] In 2000 a new organization, jointly administered by the soft-drink and grocery products industries, was developing yet another proposal for industry funding of municipally operated blue box programs in Ontario. Negotiations in the other provinces, however, had collapsed. Nevertheless, their curbside recycling costs are paid in part by the soft-drink and other relevant industries through various customer deposit systems.

Today, soft drinks in Canada are sold almost exclusively in recyclable rather than refillable containers. The policy debate centres not on reuse versus recycling, but on the question of how curbside recycling costs will be shared among governments, taxpayers, and the relevant industries. Thus, the soft-drink industry has achieved its basic objective of thwarting regulatory demands that it sell its product in refillable bottles.

During the 1980s the chemical industry also began to use voluntary action as a means of forestalling regulation. Like other contaminants, toxic chemicals, in the form of hazardous wastes emitted to air, water, or land and as chemical feedstocks, became subject to regulatory controls in the 1970s. (Chemicals prized for their lethal properties and used in pesticides or herbicides were also regulated, by means of a separate regime.) Chemical contamination as a threat to human health did not move fully to the forefront of environmental concern, however, until the Love Canal controversy in Niagara Falls, New York, during the late 1970s. Several years later, in December 1984, the accidental release of a pesticide gas by the Union Carbide plant in Bhopal, India, causing the death of several thousand people and severely injuring many more, ignited public concern and prompted voluntary action by the industry.

The Canadian chemical industry had first created a trade association to represent its collective policy interests in 1962. By the 1970s the Canadian Chemical Producers' Association (CCPA) had become one of the most sophisticated lobbyists in Ottawa, initiating the Business Association Interchange, an informal, monthly forum at which representatives of the major trade associations met in private, often with an invited bureaucrat or politician, to exchange the latest public policy intelligence.[46] In 1978, prompted by the explosion of a chemical factory at Seveso, Italy, the CCPA developed a set of principles intended to help its member firms prevent similar accidental chemical releases in this country. One-third of the membership adopted them, one-third refused, and the remaining third suggested changes to make the principles less stringent.[47] A year later these principles had been given the name Responsible Care, and after the Bhopal accident they were further developed as codes of conduct governing the storage, use, and transport of chemical stocks and hazardous wastes (they do not prescribe emission limits but instead list recommended operating systems). In 1986 the program was publicly unveiled and the trade association launched a major public relations campaign, using full-page newspaper and magazine advertisements intended to restore public confidence in the industry. In 1991 the principles were made a mandatory condition for membership in the CCPA and the Association then began a process, involving those living in local communities, to verify that member firms were in fact using the Responsible Care operating systems.[48]

The Responsible Care initiative, which has since been replicated by chemical industry trade associations in many other countries, is significant for several reasons. Even more than financial subsidy for curbside recycling, it represents a

significant development in the use of voluntary behaviour change, as a complement to direct lobbying, thus, combined with mass communications, providing a three-pronged strategy to influence policy. In addition, it heralded the 1990s policy shift from law-based regulation to voluntarism. In this process the trade association has assumed a new role; not only does it seek to influence governments, it is also engaged in governing the behaviour of the member firms that provide its annual revenues and manage its affairs.

Outside Canada, this trend to voluntary action took the initial form of development of environmental management systems for industrial sectors beyond the chemical industry. Like Responsible Care, these systems specify operating procedures rather than quantifiable pollution management objectives. The European Eco-Management and Audit Scheme was announced in 1993, by which time the ISO had begun work on the ISO 14000 Environmental Management System.[49] A few years previously, at the second World Industry Conference on Environmental Management, convened by the International Chamber of Commerce (ICC) at Rotterdam in April 1991, 230 firms had signed a statement titled the ICC Business Charter on Sustainable Development.[50] Ultimately, that initiative led to the creation of the World Business Council on Sustainable Development, an international body with a mandate both to improve the environmental performance of business and to participate in environmental policy development.[51]

The 1991 Business Charter sets out two themes. Based on the Brundtland definition of sustainable development as that which meets present needs without compromising the ability of future generations to meet theirs, it argues that economic growth and environmental protection are complementary, not conflicting, goals. The Charter then sets forth the essential role played by business in meeting those twin objectives: 'versatile, dynamic, responsive and profitable businesses are required as the driving force for sustainable economic development and for providing managerial, technical and financial resources to contribute to the resolution of environmental challenges.'[52] By 1996, 46 Canadian firms and trade associations had formally endorsed the Business Charter.[53] A much larger number of firms have developed their own statements of environmental principles and developed environmental management systems.

Within Canada, the next major step in voluntary action after Responsible Care was taken in November 1990, when a group of environmentalists and business officials met to discuss action beyond regulatory requirements that might be taken. This meeting led to joint establishment of the New Directions Group.[54] Paul Griss, co-ordinator of the process, has stated the business motivation for participating in this way: 'Business is understandably not going to sit back and wait to be regulated.'[55] Working jointly with environmentalists, he suggests, was necessary to give voluntary action credibility.[56] The New Directions Group drafted a position paper on the reduction and elimination of persistent toxic chemicals, which in turn led to a voluntary program for the Accelerated Reduction/Elimination of Toxics (ARET). The program is co-ordinated by Environment Canada and has achieved

participation by companies representing 40 per cent of Canadian industrial production.[57] In September 1993, environmentalists withdrew from the process because of 'ARET's decision to focus on eliminating the release and not the use of substances'.[58] That same conflict over the policy objective of guarding against discharge of persistent toxic substances to air, water, or land (release) versus completely eliminating them from the production process (use) was to be repeated, in a much more vituperative fashion, several years later during review of the Canadian Environmental Protection Act.

During the course of the 1990s, business undertook a variety of other voluntary programs. In 1992 the automotive industry signed a memorandum of agreement with Environment Canada and the Ontario Ministry of Environment to establish a program for a 'verifiable reduction of persistent toxic substances as well as other environmental contaminants of concern used, generated or released by the participating member companies'.[59] On 20 January 1995 the Canadian Association of Petroleum Producers and Natural Resources Canada signed a memorandum of understanding setting out a program of voluntary action to reduce greenhouse gas emissions. The establishment of this program marked an important point in the conflict between two federal cabinet ministers, Anne McLellan, then Minister of Natural Resources, and Sheila Copps, then Minister of Environment and advocate of a regulatory approach to climate change. Copps lost and the Canadian climate change policy has since been based on voluntarism rather than law or economic instruments.[60] A number of analysts have pointed out that programs developed by business to forestall regulation are not truly 'voluntary' since they would not exist without the threat of government action. Regardless of the nomenclature, voluntary programs are now firmly established as an environmental policy instrument.

This does not mean, however, that business no longer whispers in the ear of the prince. While the oil industry has voluntarily offered to reduce its *own* emissions, it has relied on traditional, élite-access lobbying to prevent Canadian policy measures such as a carbon tax, which would significantly reduce the amount of their product used each year. Allied with provinces such as Alberta and functioning as part of The Climate Change Coalition, an international pressure group, the industry has worked hard to ensure that Canada relies only on voluntarism to reduce emissions.[61]

The other major use of old-fashioned, élite-access lobbying has come with efforts by the chemical industry, allied with other sectors, to forestall the incorporation of 'toxic use reduction' (defined as action to ban some chemical feedstocks or products and also referred to as 'sunsetting') into the Canadian Environmental Protection Act (CEPA). The major impetus for moving to eliminate completely some classes of chemicals came from the International Joint Commission (IJC) in its biennial reports on the implementation of the 1978 Great Lakes Water Quality Agreement (GLWQA). In its 1986 report the IJC suggested that some chemicals may have to be 'prohibited or replaced at their source if their

intrusion into the environment cannot otherwise be prevented.'[62] In 1992 it recommended that a number of specific substances, such as PCBs, DDT, dieldrin, toxaphene, and mirex, be sunsetted and then went on to discuss problems associated with 'organochlorines': 'We know that when chlorine is used as a feedstock in a manufacturing process, one cannot necessarily predict or control which chlorinated organics will result, and in what quantity. Accordingly, the Commission concludes that the use of chlorine and its compounds should be avoided in the manufacturing process.'[63] The IJC specifically recommended that governments in Canada and the United States work with industry to 'develop timetables to sunset the use of chlorine and chlorine-containing compounds as industrial feedstocks.'[64]

These recommendations were a radical break from existing federal and provincial law, which is primarily intended to manage the discharge of dangerous chemicals into the environment as pollutants, rather than controlling their use as inputs to the manufacturing process (the one exception is CEPA and its predecessor, the federal Environmental Contaminants Act, enacted in 1975, which dealt with such things as the development and import of new chemical substances). This policy objective of the effective containment of chemicals was something the industry had been increasingly committed to since Bhopal and was working to achieve through its voluntary program. In 1995, however, the concept of sunsetting classes of chemicals received its strongest endorsement yet when the House of Commons Standing Committee on Environment and Sustainable Development released its review of CEPA and suggested that, at least to some extent, chemicals be regulated based on their inherent danger as well as likelihood of release.[65] Immediately afterward, the Canadian Chemical Producers' Association, engaging in public policy discussion, sent its response to cabinet members. The CCPA stated that 'the Report takes an inappropriate, narrow toxic use reduction (TUR) approach to pollution prevention focusing on preventing the generation and use of substances.' The Association then proceeded to point to the apocalyptic consequences of environmentalism run mad: 'these recommendations could well mean that most of the commercial substances used in Canada today would need to be phased-out which clearly does not make sense.'[66]

In this instance, industry did not offer any voluntary behaviour change to preempt regulation. Instead, it fell back on older methods and the lobbying battle between environmentalists and industry raged in Ottawa for the next four years. Writing in January 1997, the Mining Association of Canada and 10 other trade associations used the same argument industry had first advanced 25 years earlier: 'we account for millions of jobs in communities across Canada, in a wide range of resource based and manufacturing industries. We are writing to inform you of our grave concerns'.[67] As well as making public submissions, the CCPA directly lobbied MPs, with their campaign headed by former MP Claude-André LaChance.[68] At the end of the day, industry had enough lobbying power, coming in part from the services of paid lobbyists, to convince the Chrétien government to overrule

amendments proposed by the Standing Committee, on which Liberals formed a majority. Three Committee members, chairman Charles Caccia, Clifford Lincoln, and Karen Kraft-Sloan, voted against their government on final reading in the House. Caccia, as always, was blunt and 'accused the government of being convinced by the chemical industry to water down the bill.'[69]

Conclusion

Two questions were posed at the outset: (1) how does business work to influence federal and provincial environmental policy? and (2) why did business change from a strategy of defensiveness in the 1970s to voluntary action in the 1990s? In terms of the first, as we have seen, business works to influence government by élite-access lobbying, combined with other measures such as advertising intended to improve its media image, and on a number of occasions has also taken preemptive, voluntary action intended to forestall regulation. Why did it increasingly move to that strategy in the late 1980s? Although further research is required to give a definitive answer, it seems the answer is likely to be found in changes that took place both within the firm and in its external environment.

In the 1960s the internal organization of the firm was such that the public affairs and environmental management functions were small and far less influential than they would be 20 years later. Those subunits of the firm whose interests were best served, and which had the technical ability to develop a sophisticated, three-pronged strategy for responding to environmentalism, were unable at that time to influence the corporate policy interest. The other internal factor was the culture of senior management, consisting of values and assumptions held by middle-aged men who in no way shared the culture of environmentalism. Not surprisingly, they felt threatened and responded with defensiveness. It seems reasonable to assume that, 20 years later, corporate culture had changed to become more in tune with environmentalism, as a new generation of managers, exposed to environmental values from birth, moved into positions of influence. Seeking social legitimacy, they initiated the 'greening' of business.

These changes internal to the firm were matched by changes in the external pressure posed by environmentalism. In the 1960s, environmentalism had been very much a marginal social movement, advocating an extreme position of steady-state or declining industrial production. Given this radical fringe status, corporate managers presumably felt it could be safely ignored or given minimal attention. By 1990, however, that was no longer the case. Mainstream environmentalism had both moved to a more moderate stance and was far more securely grounded in the popular support that gave it political power. It had become something that business could not ignore.

This combination of factors internal and external to the firm brought about the change in strategy from defensiveness to policy activism and voluntarily accepted improvement in environmental performance. In part, no doubt, this was simply

a rational attempt to forestall regulatory requirements that would have imposed even greater costs. It is also likely, however, that this was part of the search for social legitimacy that some analysts see as motivating business public policy. Legitimacy was not achieved, however, by fully complying with the demands of environmentalists. As we have seen, business was willing to make *some* changes but refused to make others, such as selling pop in refillable bottles or toxic use reduction, that more directly threatened profitability.

In the same way, the issue of climate change, once it is posed as a transportation and land-use issue, poses a threat to the basic economic interests of the oil and automotive industries. Cars manufactured today generate far less pollution per-mile driven than ever before. The automobile industry has also come to pursue a policy interest of co-operation with governments in the regulation of both per-mile pollution and pollution generated during car production, the latter, as discussed above, to be done on a voluntary basis. On the other hand, it has worked with the oil industry to engage in defensive lobbying on the issue of climate change. Effective policy measures to reduce fossil fuel emissions, such as the increased land-use density needed to make transit systems viable, would result in a reduction in the total number of miles driven each year and, therefore, cars and gasoline purchased. Neither of these sectors has proposed voluntary measures to achieve that objective.

The conclusion to be drawn is that business has primarily worked to achieve social legitimacy by making those behaviour changes that are already in accordance with its own value of increased efficiency. When the goal of legitimacy has clashed too strongly with the fundamental objective of the firm, profit maximization, legitimacy has had to take second place.

These findings have implications for both applied environmental policy-making and academic understanding of that process. In terms of theoretical understanding, they point to the need for a more sophisticated conceptualization of the interest of policy actors. We must do more to distinguish among *degrees* of interest, the differing motivations associated with marginal and fundamental external threats, and the way this differing level of motivation influences the policy strategy chosen. Second, the connection between self-interest and contribution to the larger good must be carefully considered in each case. It seems reasonable to assume that policy actors seek both, but to determine how they balance the two goals when they are in contradiction we must examine specific cases, opening up the black box of the interest group, government department, or firm to determine how each establishes its policy objective.

In terms of applied policy, these findings highlight the challenge of the transition to sustainability. Something akin to the goal of a permanent cap on production and associated stabilization of energy and material use will never be achieved through the existing corporate internalization of environmental values or the now weaker external pressure of governmental regulation. These must be accompanied and strengthened by other external changes, particularly in market

demand, which bring about a transformation of corporate economic interest. Given the political power of business, fundamental challenges such as resource and fossil fuel consumption and proliferation of persistent toxic chemicals will only be met when it truly is more profitable, because of changes in demand, to use reusable packaging and containers, to sell renewable energy, and to use feedstocks other than chlorine. That can only be done if we move beyond the notion, now represented by 'sustainable development', that the environmental problem is nothing more than a lack of efficiency. Some new form of external pressure, which may start at the fringe but must ultimately be grounded in public support, will be needed to bring about another generation of change in the profit and social legitimacy interests of the firm.

Notes

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Chapter 5

Aboriginal Peoples and Environmental Policy in Canada: No Longer at the Margins

Greg Poelzer

It is increasingly clear that Aboriginal peoples are central to environmental policy and politics in Canada. Court decisions over the past two decades have empowered Aboriginal peoples and their communities to exercise their legal and constitutional rights, especially over resource and land use. The federal and provincial governments can no longer ignore Aboriginal interests. However, the emerging role that Aboriginal peoples and communities play in shaping environmental policy and resource management is far from monolithic. In some instances, they have allied with environmental groups against government and industry in pursuit of conservationist objectives. In other instances, Aboriginal communities have collaborated with government to establish parks. Aboriginal leaders and communities have even worked with government to promote resource development in opposition to environmental groups. Finally, some Aboriginal communities have engaged in economic activities and cultural practices in direct opposition to the policy objectives of environmentalists and/or government.

To understand these diverse roles that First Nations play in environmental policy in Canada, this chapter begins with a brief discussion of current approaches to understanding Aboriginal peoples and environmental policy. It then outlines some of the key reasons First Nations have moved towards the centre of environmental and resource policy communities. Finally, the chapter examines several case studies that demonstrate the complexity of First Nations and environmental policy-making in Canada.

Understanding First Nations' Role in Environmental Policy: A Political Community Approach

Few would question the increasing influence of First Nations over environmental policy, but there are different views on what this influence means and on the nature of First Nations' roles in shaping environmental policy. One approach suggests that the interests of environmentalists and First Nations are largely compatible, if not the same, and that alliances between environmentalists and First Nations over specific environmental issues represent the new politics based on post-material values. Far too many cases, however, demonstrate that the policy agendas of First Nations and environmentalists are often in conflict. Most scholars recognize that Aboriginal peoples' environmentalism is often part of broader