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The Political Economy of Canadian Oil Export Policy, 1949-2002

by

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Abstract

This thesis uses a staples-based political economy approach, supplemented with regulation theory, to investigate why Canadian governments pursued interventionist or non-interventionist approaches to oil export policies over the years 1949-2002. Three distinct paradigms over this time period are identified and examined at multiple levels of analysis, with a focus on power relations as causal factors. Structural biases of the Canadian economy, namely staples dependence and continentalism, combined with entrenched political cleavages of national identity and federalism to influence the success or failure of paradigms of oil export policy. External crises and power shifts precipitated the creation and destruction of these paradigms. In between these transformations, hegemonies formed based upon social, political, and economic arrangements that mutually supported the negotiation of major structural cleavages. Finally, conclusions are drawn about the role of labour as a catalyst for the development of a new interventionist, anti-continentalist paradigm in oil policy.

Table of Contents

Chapter 1: Introduction

An understanding of modern capitalism and its social and political support structures is, in many ways, tied to the business of oil. As Daniel Yergin points out in his seminal history of the industry, *The Prize*, oil has shaped history in three significant ways. As a commodity, oil has spawned the largest and most successful capitalist corporations on the planet, and generates massive amounts of wealth for businesses capable of handling the risk. As a strategic resource, oil shapes international politics through its necessity to modern warfare, its role in national development, and the power and influence that flows from controlling its value. Finally, as a social need, oil is a fundamental of modern life. Not just luxuries like car transportation and plastic consumer goods, but necessities like the transportation of food and the construction of houses, are dependent upon hydrocarbon products.[1] The ability to supplant human labour with chemical energy has been fundamental to the global political economy.

Closer to home, Canada's economic and political development has been tied in unique ways to basic commodity extraction. The dependence of Canada's economy throughout history of the export of basic "staple" products—furs, fish, lumber, wheat, and oil and gas—has spurred the development of a Canadian tradition of political economy, beginning with Harold Innis' 1930 study, *The Fur Trade in Canada: An Introduction to Canadian Economic History.* Innis' work also questioned the power relationships maintained through these dependency relationships, first with Britain, then later the United States. These kinds of questions, further pursued by Canadian political economists in the 1970s-80s, remain extremely relevant today. Canada's trade surplus has been single-handedly carried by the energy sector in recent years, accounting for $90 billion in exports in 2007 (crude oil alone made up $41.8 billion, representing almost a four-fold increase over the last decade).[2] 99% of Canada's energy exports go to the United States. Considering the political importance of oil—and the legacies of Canadian development that oil exports transform or perpetuate—these economic facts and their implications for Canada's future are worth careful analysis.

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[1] Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991), 14-15.

[2] Statistics Canada, "Canada Year Book 2008: Energy," available http://www41.statcan.gc.ca/2008/1741/ceb1741_000-eng.htm, January 20, 2009.

Fundamentally, public policy can be thought of as "what the state chooses to do or not do;"[3] however, in the case of oil export policy, the "state" is fundamentally divided. Since 1959, the National Energy Board Act has delegated power over the regulation and approval of oil exports to the National Energy Board (NEB), an independent, quasi-judicial hearings board acting "in the public interest."[4] The NEB is empowered to set and enforce rules in areas mandated by the Act based on its technical competence, and is required to hold public hearings (as well as consult with involved parties like oil and pipeline companies) when reaching decisions.[5] Even more confusingly, the Board is mandated to advise Parliament on energy policy issues "over which Parliament has jurisdiction."[6] The NEB is not entirely independent in its powers; the government can influence its decisions through active two-way consultation, and formal approval and Cabinet appeals of major decisions (like export pipeline approvals). Of course, government also sets the policy framework within which the NEB must make and enforce rules. The 1961 National Oil Policy and the 1981 National Energy Program are examples of such overall frameworks that will be examined later in this thesis. In some cases, Parliament has simply overridden the jurisdiction of the Board over oil export approvals and pricing, such as during its policy response to the 1973 oil shock. At other times, Canadian governments have granted the NEB greater powers to regulate; instructed the NEB to delegate particular functions to the market; and allowed the NEB to independently pursue other forms of deregulation. In sum, the policy role of the Board has been contested throughout its existence, and direct government regulation versus independent regulation (and of what aspects of the oil market—"deregulation" is not the same as "non-intervention" in this case) has been a continual dilemma. The goal of this thesis is to explain the evolution of this continuum in Canadian oil export policy since the 1950s until the present day. What factors have influenced the creation and implementation of interventionist or non-interventionist policies, and why? How is intervention related to the orientation of governments towards oil exports (and, thus, continentalism)? How can shifts along the continuum be accounted for? My normative goal is to suggest ways that the dominant export mentality can be challenged, following the evidence I uncover.

In this Introduction, I will lay out in more detail the theoretical tools I will be using to map influences on and changes within oil export policy. Drawing on approaches employed within the literature, I will formulate my own theoretical lens based upon four major tools. First, I will set out a general framework for organizing and making sense of a historical analysis of export policy, based on Richard Simeon's concept of the "funnel of causality." Secondly, I will situate the fundamental viewpoint of the thesis within a framework of political economy,

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[3] Peter Graefe, "Political Economy and Canadian Public Policy," in *Critical Policy Studies,* eds. Michael Orsini and Miriam Smith (Vancouver: UBC Press, 2007), 19.
[4] "National Energy Board Act," in *Revised Statues of Canada*, 1985, c. N-7, s. 12, available http://laws.justice.gc.ca/eng/N-7/index.html, accessed November 23, 2009.
[5] *Ibid.,* s. 12.
[6] *Ibid.,* s. 26.

emphasizing the interconnectedness of political, social, and economic factors and the power relationships between each. Thirdly, I will bring in concepts from regulation theory compatible with a political economy analysis as a tool for examining policy change. Fourth, in recognizing the importance of the NEB, I will explain my usage of some concepts from institutionalism and institutionalist analyses of regulatory policy. Throughout this discussion, I will lay out a plan of the following chapters with reference to this theoretical framework and the arguments I hope to develop.

Theoretical Discussion

One of the most complete and well-written studies of Canadian energy policy in general is John McDougall's 1982 book, *Fuels and the National Policy*. McDougall frames his historical analysis around a recurrent debate in Canada's political history: the benefits and drawbacks of framing a "national fuel policy" around energy self-sufficiency.[7] For McDougall, Canadian energy policy has always been about fuels. Fundamentally, Canadians are at the mercy of their fuel supply, and its cost, during the winter. Furthermore, industry in central Canada has developed through utilizing imported fuels to supplement its hydro resources, despite the availability of such resources in other parts of the country. The extent to which Canada is self-sufficient in fuels, and whether self-sufficiency is viewed as a primary means for attaining energy security, is a political problem of transportation, according to McDougall.[8] In other words, geographical and economic realities—the difficulties and extra costs of transporting Nova Scotia coal, or Albertan oil, to Ontario and Quebec across long distances rather than importing and exporting fuels according to market efficiency—have shaped political ideas about national fuel policies and energy security.[9] These debates have also been linked with questions of Canadian nationalism, national unity, federalism, and regional development.[10] As I will discuss, ideas linking staples development, geography, and federal and identity issues will also form a starting point for my analysis in this thesis.

As McDougall admits, his study is primarily a historical account tracing Canadian fuel policies from Confederation to the late 1970s.[11] However, he ends the study by drawing a number of conclusions about what "conditions and circumstances" have shaped the degree of government intervention in the Canadian fuel market. To this end, McDougall uses an organizational framework formulated by Richard Simeon in his 1976 article on Canadian public policy

[7] John N. McDougall, *Fuels and the National Policy* (Toronto: Butterworths, 1982), 1.
[8] *Ibid.,* 3.
[9] *Ibid.,* 7.
[10] *Ibid.,* 10-11.
[11] *Ibid.,* 153.

research, "Studying Public Policy."[12] McDougall frames some major determinants of Canadian fuel policies—geography, American trade policies, the regional distribution of political power, and goals of national unity and independence—according to Simeon's "funnel of causality" concept.[13] Simeon separates causal factors into five general categories, in order from the macro to the micro level: environment, distribution of power, ideas, institutions, and the decision-making process. While all these factors have explanatory value, and some may be more valuable to particular areas than others, none provide a complete picture on their own. Additionally, while some of these factors conflict as explanatory devices, it is more revealing to look at complementarities and interactions between them to reveal new insights.[14] McDougall's explanatory factors are primarily grouped into the more macro concepts within Simeon's model. Geography is an environmental factor, while American policy can be viewed as both an environmental factor (in terms of geographic nearness as well its influence as an external factor) and a power factor. The regional distribution of political power in Canada is also included in the latter category. His final argument covers ideas about national unity and independence that shaped Canadian politics in general as well as broadly guiding fuel policies.[15] McDougall's attention to institutions and processes is rudimentary, and he admits his study was not oriented in that direction.[16] Despite the short length and generality of his analytical chapter, McDougall's attempt at a complete approach is a good example of how to frame an explanation of Canadian energy policy—one that this thesis will use as an organizational starting point upon which to expand.

Richard Simeon's article on policy research was originally an attempt to pose challenges and provide suggestions for improvement to Canadian political scientists engaged in studying policy. His overall suggestion is to "pay attention to theory," avoid becoming bogged down in descriptions of minutiae, and focus on specifying and explaining the broader picture more clearly. McDougall's book—of course not an attempt to directly implement Simeon's ideas—nevertheless provides an example of some of Simeon's criticisms in action. As Simeon argues, many studies of Canadian policy are case studies, mainly consisting of a detailed reconstruction of events with theoretical discussion wedged in at beginning and end. McDougall's work is an excellent example of a case study; while Simeon notes that case studies remain extremely valuable for overall understanding, he argues in favour of a more thorough approach based upon the analysis of causal variables. My goal for this thesis is thus not to simply recount the history of Canadian oil policy, but maintain a strong analytical focus throughout and develop my conclusions through the presentation of evidence.

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[12] Richard Simeon, "Studying Public Policy," *Canadian Journal of Political Science* 9, no. 4 (1976): 548-580.
[13] McDougall, *Fuels and the National Policy,* 157.
[14] Simeon, "Studying Public Policy," 566.
[15] McDougall, *Fuels and the National Policy,* 158-162.
[16] *Ibid.,* 166.

Simeon's article is a very good place to start when thinking about how to frame and organize such a study.

Organization: Simeon's Funnel of Causality Framework

Simeon argues that an effective overview of policy should have two components: first, it should specify what characteristics of a policy, or policy area, are to be explained; second, it should map causal factors in a way that shows their interdependence as well as individual significance.[17] The former component involves defining the variables at stake, as well as their changes, as clearly as is possible. What aspects are chosen to be relevant in a study and what levels of analysis or time frames are they specified at? Simeon offers three examples of important dimensions of policy: its scope (the crossovers between politics and social and economic life), the means used (techniques of establishing acceptance and compliance), and the distributive dimension (costs and benefits within the whole system—perhaps the most difficult aspect to get hold of in a study).[18] In my study, these three ideas will be the basis of a historical overview at the beginning of each chapter, which will provide a map of oil export policy in each period being analyzed. As I will discuss in greater detail later, I will divide my analysis into three chapters based upon the existence of three distinct approaches to intervention in the history of Canadian oil policy: 1949-1969, 1970-1983, and 1984-2002.

Simeon's second contribution is the aforementioned "funnel of causality," or his five general approaches to understanding variations in policy. In listing each, he points out potential pitfalls in relying on a single form of explanation. Environmental variables are so general that they only have limited explanatory value, especially if researchers simply assume a mechanism of causation exists without explaining how it occurs.[19] The same is true with power; there is a danger in simply assuming power translates to policy outcomes, especially since understandings of power can differ greatly between political perspectives.[20] Simeon believes that ideas are one of the most important policy determinants, but that they are intertwined with power as well as other variables.[21] Ideas are useful for mapping long-term changes in policy, while institutions are more of a short-term influence. It is in his discussion of institutions that Simeon explains one of the most valuable characteristics of the funnel concept: shifts in factors at a higher level of analysis are traceable in their actions upon lower levels of analysis and (albeit, more slowly) vice versa. Thus, Simeon's model is a way of organizing thinking about the interactions between agency and structure. Finally,

[17] Simeon, "Studying Public Policy," 556.
[18] *Ibid.,* 559.
[19] *Ibid.,* 567.
[20] *Ibid.,* 569.
[21] *Ibid.,* 570-573.

“process” is the immediate level of decision-making and action through which these forces operate—“it is the focus, the impact point, of all the other variables.”[22] Because it is subject to the variations in broader forces, process may seem irrelevant to explanation—but it is also critical, because it provides the evidence that such forces actually operate. It is for precisely this reason that historical evidence will be extremely important in my analysis.

My thesis will be structured throughout in order to bring out a thorough analysis of all these causal factors, by dividing the body of each chapter into four sections: environment, power, ideas, and institutions. Of course, part of Simeon’s argument is that these cannot be understood as discrete factors; indeed, McDougall’s and Simeon’s work both reveal this point. An example is the interaction between “power” and other levels of the funnel. At what point is American policy an external and environmental factor (as McDougall and Simeon both categorize it) and not a power relationship? What about the way institutions both structure and represent power, or the way dominant ideas carry power with them? Simeon’s suggestions are extremely useful for organizing a study, but they cannot suffice as a theoretical perspective on their own because they do not provide answers to these questions of priority and overlap. Throughout my thesis, and in the conclusion to each chapter, I will attempt to provide both examples of interactions and explanations for their significance from a political economy perspective.

Foundations: Canadian Political Economy

Canadian political economy, as a mode of analysis, arose out of attempts to explain the “peculiar” characteristics of the Canadian economy, founded in the work of Harold Innis in the 1930s-1950s. In *The Fur Trade in Canada: An Introduction to Canadian Economic History,* Innis concluded that the fur trade established economic patterns that had impressive political effects on the formation of the Canadian state, for example, by defining its borders and establishing the particular governance structure of the New France colony.[23] Furthermore, these patterns developed economic linkages that supported future exploitation of new kinds of staples, such as lumber, once furs were no longer a viable export. Both economically and politically, staples exports also shaped a pattern of development that subordinated the Canadian resource hinterlands to economic interests in the “center” of Britain or the United States. These patterns had a great deal to do with the characteristics of the staple itself—how it originated, how it was extracted and transported, and so on. The problem of Canada’s pattern of development was precisely the way that leading staples exports perpetuated the further entrenchment of staples exports from periphery to

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[22] *Ibid.,* 578.

[23] Harold A. Innis, *The Fur Trade in Canada: An Introduction to Canadian Economic History* (Toronto: University of Toronto Press, 1970), 391, 393.

core, which limited more diversification in economic development. Innis called this phenomenon the "staples trap," namely something Canada ought to seek to escape from.[24] In later works, beginning with his 1950 *Empire and Communications*, Innis also deepened his analysis of the dependency relationships these interactions created with the growing American cultural and foreign policy "empire."[25]

Canadian staples analyses generally split into two streams. One was the liberal "steady progress" view embodied in the work of scholars like W.A. Mackintosh who investigated Canadian staples-based growth as progressive and relatively non-problematic.[26] On the other hand, differing interpretations arose from Innis' suggestions about the problems of dependency and foreign control that flowed from staples exports in Canada. A resurgence in Canadian political economy emerged during the 1960s-1980s, which mixed Marxist and left-nationalist ideas with Innis' work on both staples and empire. As an example, Mel Watkins advocated a more Marxist formulation of the staples approach as a way of broadening the analysis beyond his previous focus on economic linkages to include discussion of class, distribution of economic rent, foreign ownership, the capitalist elite in Canada, and colonization.[27] A number of my sources, such as work by Larry Pratt on Petro-Canada and Melissa Smith-Jones on Canadian staples industries are such political economy investigations.[28] Another stream of Canadian political economy that arose in this period was not necessarily based within the staples school. Instead, it formed from an alliance of left nationalist forces with other groups in Canadian society—women, Aboriginals, labour, environmentalists, and others—as well as connections to decolonizing nationalisms around the world. Challenging the growth of neoliberalism, a style of governance based in economic liberalism and the superiority of market-based policies that dominated over the late 1980s-mid 1990s, unified these differing strands and provided a focus for research.[29] Major strands of political economy work in Canada today on policy emphasize the "intersectionality" between the social realities of members of marginalized groups, markets, and public policy,

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[24] *Ibid.,* 401.
[25] Mel Watkins, "Politics in the Time and Space of Globalization," in *Changing Canada: Political Economy as Transformation,* eds. Wallace Clement and Leah F. Vosko (Montreal: McGill-Queen's University Press, 2003), 6.
[26] Mel Watkins, "The Staple Theory Revisited," *Journal of Canadian Studies* 12, no. 5 (1977), reprinted in *Staples and Beyond: Selected Writings of Mel Watkins,* eds. Hugh Grant and David Wolfe (Montreal: McGill-Queen's University Press, 2006), 32.
[27] *Ibid.,* 36, 32.
[28] Larry Pratt, "Petro-Canada," in *Privatization, Public Policy, and Public Corporations in Canada,* eds. Allan Tupper and G. Bruce Doern (Halifax: Institute for Research on Public Policy, 1988), 151-206; Melissa Clark-Jones, *A Staple State: Canadian Industrial Resources in Cold War* (Toronto: University of Toronto Press, 1987).
[29] Watkins, "Politics in the Time and Space of Globalization," 6.

and continue to investigate the paradigm of neoliberalism and its consequences through this analysis.[30]

In a book chapter entitled "Political Economy and Canadian Public Policy," Peter Graefe provides an excellent overview of the core of political economy approaches in order to apply them to policy studies. Fundamentally, political economy is concerned with the interactions between economic, political, and social factors, and the relationships of power between actors embedded in this mix. Modern capitalist societies cannot be understood without recognizing how markets are socially-embedded institutions that require the application of political power for their continued existence (and vice versa—politics are constrained by the operations and demands of markets).[31] Fundamentally, these abstract concepts are created by human interactions; the political and economic are produced and reproduced through social relations, such as class or gender. Relationships of power hold across this system, and one's role in the whole process is enabled and constrained by broader social and power relations.[32] However, the "active" nature of these social relations means that, through human agency, they can gradually be transformed. Policy is one site where the collision of agency and structure can be observed and reconstructed.[33] Graefe's conception of "the state" in political economy is therefore of a space within and through which social forces act. Institutions, policies, and strategies are all creations representing a balance of power between social forces; when particularly powerful actors manage to stabilize a project, it becomes hegemonic.[34] A final characteristic of political economy that Graefe discusses is its roots in activism and critique. The reason why it is important to unpack causal relationships between economy, state, and society—and question the power imbalances within these relationships—is precisely to intervene effectively in the world to improve them.

My approach to political economy will be rooted in a staples approach that takes as its fundamental starting point the existence of structural biases within the Canadian economy: dependency upon staples products, and dependency upon an external market to buy exports of these staples products (namely continentalism, during the time period in question). These structures have deep-seated power implications for the state, capital, and society in Canada, that affect variables at different levels of analysis as described above. Furthermore, they have been constructed, challenged, and reconstructed through visible struggles and less-visible power relationships over time. As I trace the historical evidence following Simeon's approach, I will attempt to bring out the centrality of these power implications at all levels of oil export policy, with a focus on bringing together these multiple influences. In my sections on environment, I will examine how the characteristics of staples themselves, geography, and international events shaped

[30] *Ibid.,* 6.
[31] Graefe, "Political Economy and Canadian Public Policy," 20.
[32] *Ibid.,* 23.
[33] *Ibid.,* 26.
[34] *Ibid.,* 28.

the capacities of the Canadian state from without. In my discussion of power, I will link the power implications of these external variables with internal Canadian struggles, including American-Canadian relationships, the struggle between capital and the state, tensions between the provinces and the federal government, the place of societal forces, and finally the agency of the state itself. Within my discussion of ideas, I will examine how some of these power struggles were shaped by debates over substantive definitions (such as definitions of the political value of oil), political ideologies, public and cultural ideas (such as Canadianization or deficit cutting, both of which became broadly-popular ideological constructions), sources of counter-hegemony and critique, and ideas about the process of governing itself. Finally, I will explore the interaction of power and ideas within institutional structures. I will look at institutional definitions of the public interest, conceptions of expertise and independence, embedded structures of power, relationships with the state, internal agency goals, and finally operational pressures that shaped policy outcomes, as potential sites of such interaction. To develop a greater understanding of hegemony, crisis, and change in both the oil export policy regime and the structural biases of the Canadian political economy, however, I will develop a staples-based regulation theory analysis.

Change: Regulation Theory

Regulation theory is an approach to critical political economy that draws on and adapts concepts of Marxist historicism. Like other strains of political economy, the fundamental analysis of regulation theory examines the socially-constructed interactions between states and markets. More specifically, it focuses on stability and crisis in these relationships over medium-length terms, rooted in the basic contradictory tendencies of capitalism.[35] Capitalism, as a mode of production, is "structurally coupled" to other systems of social relations in ways that are mediated through politics.[36] A structuralist, functionalist account of this process would explain how states inherently serve capital and ensure its reproduction, but regulation theory offers a more agency-focused account. A regime of accumulation (a specific organization of capitalism) co-evolves with a mode of regulation (the institutionalized social relations that reproduce the regime of accumulation in a variety of ways) and a societal paradigm (the hegemonic ideas and values that sustain both of the above) through human struggle and compromise.[37] The complete package is a "mode of development"—a paradigm

[35] Jane Jenson, "'Different' But Not 'Exceptional': Canada's Permeable Fordism," *Canadian Review of Sociology and Anthropology* 26, no. 1 (1989): 73; Bob Jessop, "Capitalism and Its Future: Remarks on Regulation, Government, and Governance," *Review of International Political Economy* 4, no. 3 (1997): 562.

[36] Jessop, "Capitalism and Its Future," 563.

[37] Different researchers use different terms for these concepts; I feel these are the clearest, most self-explanatory choices in the literature. From Jane Jenson, "All The World's a

of social relations that is stable, dominant, continually re-produced, and which endures over the medium-term.[38] In other words, the system is "regulated," giving the school its name.[39] The mode of development forms the boundaries of actors' political universe; it defines political identities, national goals, rights of citizenship, and so on.[40] Breakdowns can occur in any part of this system as contradictions or new conditions emerge that seem irresolvable within the current mode of development. In some cases, powerful actors may be able to tweak structures or adapt hegemonic ideas in ways that keep the overall paradigm afloat.[41] During larger crises, new actors may emerge with counter-hegemonic ideas. Power struggles between old and new manifest themselves in different ways within different institutions and structures, and may lead to the collapse of the hegemonic paradigm.[42] The cyclical emergence, hegemony, and destruction of medium-term paradigms is the theory underlying my selection of three medium-term periods in Canadian oil policy as the organizational structure of my thesis.

Typically, regulation theory studies have focused on examining the emergence and decline of the welfare state, or Fordist mode of development, in post-World War II Europe and North America. This topic has lent itself to comparative studies, such as Gosta Esping-Andersen's work on welfare state regime types, and Jane Jenson's work on the specificities of Canada's welfare state.[43] Other approaches have examined the implications of this perspective for a specific policy area or power relationship, such as Janine Brodie's analysis of gender in Canadian social policy reform.[44] The predominant topic in the literature is social welfare policy; indeed, one critique of the regulation approach is that its preoccupation with avoiding economic structuralism leads to an overemphasis on the social.[45] Another potential problem is the link between regulation theory and theories of identity politics. Regulation theory is agency-centered, but focusing

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Stage: Ideas, Spaces, and Times in Canadian Political Economy." *Studies in Political Economy* 36 (1991 53-56; Jenson, "Canada's Permeable Fordism," 74; Jessop, "Capitalism and Its Future," 563.

38 Jenson, "All The World's a Stage," 43.

39 Of course, this is a different notion of regulation than judicial-political regulation of society, such as through institutions like the NEB. I will discuss the study of this form of regulation in my next section on institutions.

40 Jenson, "Canada's Permeable Fordism," 56-57.

41 Jessop, "Capitalism and Its Future," 564.

42 Jenson, "Canada's Permeable Fordism," 76.

43 Gosta Esping-Andersen, "The Three Political Economies of the Welfare State," *Canadian Review of Sociology and Anthropology* 26, no. 1 (1989): 10-36; Jenson, "Canada's Permeable Fordism."

44 Janine Brodie, "Putting Gender Back In: Women and Social Policy Reform in Canada," in *Critical Policy Studies,* eds. Michael Orsini and Miriam Smith (Vancouver: UBC Press, 2007), 165-184.

45 Bob Jessop, "The Regulation Approach, Governance, and Post-Fordism: Alternative Perspectives on Economic and Political Change?" *Economy and Society* 24, no. 3 (1995): 316.

too much on identity formation as the fundamental stuff of politics risks limiting the scope of political analysis to deconstruction of identities. A final related critique is the problem some regulation theorists have when addressing the future. For an agency-centered approach to a macro analysis it seems to have just as many teleological tendencies as structural Marxism, predicting the inevitable dissolution of nation-states into a cosmopolitan, globalized world of identity communities.[46] Most of the literature agrees that we are in a "post-Fordist" age, but there is little unity as to what that means, or how far its characteristics can or should be predicted.[47]

My approach to regulation theory attempts to blend its analysis of hegemony and change with a historicist, staples political economy approach that avoids these biases. My starting point is Jane Jenson's regulation analysis of Canada's Fordist state.[48] According to Jenson's argument, Canada's welfare state was unique based upon the political and economic characteristics specific to the Canadian situation. It was rooted in the dominance of a staples-based regime of accumulation, institutionalized through the action of the state to balance the demands of capital and labour, and constantly dependent upon both the importation of capital and goods to sustain export-led economic growth.[49] The political basis for this "permeable" Fordism was a lack of left-right (labour-capital) partisan politics, based on the overwhelming divisive force of enduring Canadian political cleavages: federalism and national identity.[50] Unfortunately, while Jenson's analysis notes the importance of the staples fraction to the permeable economy, it fails to explore the staples bias as an important causal factor contributing to the rise and fall of this societal paradigm. In my thesis, I will thus develop a staples-based approach to regulation theory, which will argue that both the Canadian staples bias and the continentalist export orientation are deep structural cleavages just as significant as federalism and national identity in terms of understanding Canadian economic policy change, especially in oil policy. I will demonstrate how the kinds of power relations Jenson argues were important to the negotiation of these fundamental cleavages—for example, class relations—have also been shaped by the staples bias, and that the shift to a neoliberal "post-Fordism" can also be seen through this lens as well. In the conclusion to each chapter of my thesis, I will attempt to unify my political economy analysis of policy with an overall conception of change rooted in this staples-based formulation of regulation theory. I will explain the successes and failures of interventionist and non-interventionist approaches to oil export policy based upon how such policies were an attempt of the state to negotiate these fundamental cleavages while also embedded within them.

[46] Jessop, "Capitalism and Its Future," 576.
[47] Compare Jessop's work with Brodie, "Putting Gender Back In," for example.
[48] Jane Jenson, "All The World's a Stage: Ideas, Spaces, and Times in Canadian Political Economy." *Studies in Political Economy* 36 (1991): 63.
[49] *Ibid.,* 58.
[50] Jenson, "Canada's Permeable Fordism," 80-81.

Institutions: Accounting for the Unique Role of the NEB

Institutionalist political scientists disagree on the proper place of institutions within a causal framework. Public choice institutionalists argue that choices made by actors within institutional rule systems are the fundamental constituent of politics. On the other hand, historical and structural institutionalists argue there are broader factors at work, such as cultural norms and ideas.[51] Both schools agree that the structure of the state is what matters most; the drawback is that neither perspective can fully account for why political actors, or the state, have the interests or goals that they do.[52] From the opposite perspective, macro theories like political economy may gloss over the role of institutions, assuming they reflect and solidify structural and power inequalities without questioning how this process occurs. Because the NEB is a critical component of oil export policy in Canada, and operates semi-independently of the state, I believe that parts of an institutionalist analysis need to be incorporated into my thesis in order to understand the expression of power relationships on the ground level of policy implementation. Another major reason for incorporating some elements of institutionalism is that much of the available literature on oil exports in Canada is written from an institutionalist or legal point of view. For example, G. Bruce Doern's large body of work on regulation in Canada accounts for a significant chunk of my research material, while much of the public documentation of the operations of the NEB exists in legal reviews and law papers. To fully understand and interpret this literature, I will need to find compatibilities between institutionalism and my theoretical framework.

Some institutionalist theories are overly atomist, economistic, and ahistorical, and thus incompatible with my overall approach. Other approaches, however, have a broader understanding of the way institutions reflect solidified power relationships extending into other spheres of society. For example, G. John Ikenberry uses a statist model (which examines the state as an actor and a structure institutionally linked with society) to account for different responses to the 1970s oil shocks in different countries.[53] A similar statist model is employed by John Fossum to examine changes in Petro-Canada's mandate leading up to its eventual privatization. Fossum's analysis is an excellent look at the tension between government intervention and the internal operational motivations of a semi-independent government institution. His analysis also draws extensively upon concepts from political economy, such as the state as power arena, the

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[51] Michael Atkinson, "Public Policy and the New Institutionalism," in *Governing Canada: Institutions and Public Policy,* ed. Michael M. Atkinson (Toronto: Harcourt Brace Jovanovitch Canada, 1993), 27, 33.
[52] *Ibid.,* 30, 33.
[53] G. John Ikenberry, "The Irony of State Strength: Comparative Responses to the Oil Shocks in the 1970s," *International Organization* 40, no. 1 (1986): 106, 120.

structural advantages of business over government, and ideas about political and social legitimacy.[54]

Apart from helpfully presenting similar concepts in a different light, there are some insights specific to institutionalism I want to make use of in my analysis. Because the NEB makes its decisions through a rule-driven, quasi-institutional process, and because much of its operation is intended to be "technical" in nature, some of the observations of public choice theorists will be helpful to explain the process by which institutional operations reflect power structures. Another example is the institutionalist analysis of interactions between government and institution in policy-making. When NEB officials regulate in an area mandated to them, they are essentially making government policy—but often, they decline to admit they are indeed performing such a "political" function, since political choices made by unelected officials are problematically undemocratic. On the other hand, the NEB is mandated to rule in the public interest, and the quasi-judicial process is one of the only means by which political representation of affected parties occurs.[55] C. Lloyd Brown-John's work on Canadian regulatory agencies provides some valuable insights for unpacking these issues. The political content of these institutions (such as the way they interpret a public interest mandate), the relationship between them and Cabinet (such as whether contact is formal or informal), and internal and external pressures on day-to-day operations (like interactions with business, or internal pressure to stay relevant to government's needs) are some key insights he raises when explaining institutional behaviour.[56] He also discusses questions of power and resource differences between business and public interest groups or individuals in representations to the NEB.[57] Within my sections on Institutions, my discussion of institutional goals, definitions of the public interest, relationships with government, and embedded societal power structures are examples of theoretical categories I have borrowed from this literature in order to develop examples of broader power structures operating on an institutional level.

A Plan of the Thesis

My goal in this theoretical chapter has been to set out a combination of tools that will allow me to address the gaps of each by selectively using another. I will use Simeon's framework as a basic organizational structure, infused throughout with a staples political economy approach as an explanatory

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[54] John Eric Fossum, *Oil, the State, and Federalism: The Rise and Demise of Petro-Canada as a Statist Impulse,* (Toronto: University of Toronto Press, 1997), 16, 270, 280.
[55] Earle Gray, Forty Years in the Public Interest: A History of the National Energy Board (Toronto: Douglas and McIntyre, 2000), 127, 129.
[56] C. Lloyd Brown-John, *Canadian Regulatory Agencies* (Toronto: Butterworths, 1981), 164, 96, 65, 73.
[57] *Ibid.,* 181, 186.

foundation. I will also supplement my analysis with institutionalist theory to reveal pertinent insights about the NEB. To draw out broader conclusions, I will employ a staples-based adaptation of regulation theory to understand and evaluate changes in oil export policies. In focusing on approaches united around a foundation of political economy, I have attempted to avoid the potential problem of theoretical inconsistency in an attempt to explain everything. A good example of the pitfalls of doing so is a paper by Carter A. Wilson, which attempts this kind of synthesis of an even broader range of theoretical perspectives in order to develop a general theory of policy regimes. Wilson combines concepts from differing theories in ways that seem contradictory in his search for a complete description of a policy regime: for example, his discussion of power is a combination of Marxist class analysis, interest group theories, and the hegemony of policy paradigms.[58] His model also leads to an account that is both too complicated and lacking in depth to make a coherent analytical point. I have attempted to develop a strong and consistent analytical framework in this chapter in order to avoid such theoretical issues.

To sum up, my thesis will be structured into three main body chapters, each focusing on one medium-term period where I argue some level of consensus was reached over a Canadian mode of development and a corresponding paradigm within oil policy. The first chapter will focus on 1949-1969, a period within which the first national laws on oil export regulation were formulated and passed, including the National Energy Board Act and the National Oil Policy. Policies during this period set non-interventionist, continentalist precedents that were partially overturned as a result of global crisis and change in the oil industry, as well as power shifts and state action within the Canadian context, after 1970. The second chapter, covering 1970-1983, will examine the ascendance of interventionist and anti-continentalist policies such as Petro-Canada and the National Energy Program. This interlude fell into crisis as well and was replaced by a return to hands-off, continental oil export policies rooted in the transition to a neoliberal mode of development. The last chapter will examine the years between 1984-2002 and examine the development of the neoliberal hegemony in Canadian oil policy. My concluding chapter will sum up the analytical conclusions I have reached about each period, and extend the analysis by building on my conclusions to develop an economic nationalist challenge to the current state of oil export policy in Canada.

[58] Wilson, "Policy Regimes and Policy Change," 257, 259, 264.

Chapter 2: 1949-1969

Historical Overview

While it was not Canada's first oil discovery, Imperial Oil's 1947 find at Leduc launched the agricultural Albertan economy into a new pattern of oil booms-and-busts. Imperial's drilling activity was soon supplemented by an influx of other American and British companies as well as small independent Canadian companies, and the oil they produced needed buyers. In Canada's early days as an oil producer, the federal government found itself playing a catch-up game when establishing policies to guide Canadian oil markets. The main constituents of its program, which was developed fairly consistently despite alternation between Liberal and Conservative administrations, fell into three categories. One was the approval and regulation of pipelines to transport oil to markets, whether in Canada or the United States. The second was policy with respect to domestic use, and imports and exports, of oil. The final aspect of policy was the government's mechanisms and institutions for dealing with energy issues in general. By the end of the 1960s, these problems had been addressed by the National Energy Board, the National Oil Policy, and the Department of Energy, Mines, and Resources.

In the late 1940s, Canada was becoming a moderate producer of oil, but its manufacturing base in eastern Canada continued to rely on imported fuels like American coal to supplement hydro power. In some ways, the federal government was forced to "put the cart before the horse" by the eagerness of oil and gas companies to sell their product—rather than formulating an overall national energy plan to guide development, Parliament was pushed into the fray of approving pipeline construction proposals and arbitrating the national energy interest in an ad-hoc manner. Its first accomplishment was the Pipe Lines Act, which stipulated that Parliament approval would be required for the construction of any pipeline crossing provincial or national boundaries. The bill was presented on April 5, 1949, and blazed through three readings in 22 days; within weeks after the Act was passed, five enthusiastic companies received approval for their proposals in successive private members' bills.[1] Four of these proposals were for gas pipelines, but the fifth concerned oil. This proposal, the Interprovincial Pipeline, was approved as a line from Edmonton to Regina with an extension further east planned soon afterwards.

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[1] Earle Gray, *Forty Years in the Public Interest: A History of the National Energy Board* (Toronto: Douglas and McIntyre, 2000), 3.

The route this extension took—out of Canada through Gretna, Manitoba and through the United States to Superior, Wisconsin, then by 1953 to Sarnia, Ontario—was the subject of nationalist arguments in Parliament. In the end, pleas for economic efficiency won the debate. A major justification advanced by Imperial Oil in its advocacy for the American route was that export sales within the reach of the American leg of the line would be necessary in order to finance its construction; this "joint-service" style of argument established a precedent that endures to this day as a de-facto policy commandment.[2] C.D. Howe, the Liberal minister of trade and commerce, was the main architect and spokesman for the government's direction on oil policy at this time. He stressed the sensibility of marketing oil to its nearest markets regardless of national borders, and argued that consumers of oil should rely on the cheapest source available to them. Doing otherwise would harm Alberta's economy, submit eastern Canadians to excessive fuel prices, and sour the Canadian-American relationship.[3] Howe summed up this policy framework in a statement to Parliament in 1953 on government pipeline policy. In the House, there was general consensus that exports of Canada's surplus oil and gas were a good thing, but the details of what constituted an exportable surplus were subject to debate.[4]

The IPL controversy was minor, however, compared with the 1956 debate regarding the route of the Trans-Canada gas pipeline. The mishandling of the debate and of financial guarantees for the pipeline by the Liberal government was a major contributor to the victory of John Diefenbaker's Progressive Conservatives in 1957.[5] The "Pipeline Debate," combined with the ever-increasing number of pipeline proposals appearing before Parliament, highlighted a need to expand and formalize federal energy policy. Diefenbaker's solution was to appoint a Royal Commission on Energy (the Borden Commission) to investigate the Trans-Canada affair, recommend policies for the regulation of oil and gas pipelines and exports, look into the establishment of a national energy board to oversee these regulations, and to investigate any related matters it found relevant.[6] It was directed to consider both Canada's future energy needs and, rather vaguely, the "'most effective' use of Canadian resources 'in the public interest.'"[7] In the end, the Diefenbaker government would implement Borden's recommendations to an extent that was surprisingly complete for a Royal Commission report.

The first part of the Borden report, released in October 1958, examined gas issues as well as the establishment of a National Energy Board to regulate gas and electricity. The idea of an independent, semi-judicial arbiter of approval and regulation issues had been raised before, such as in the Gordon Commission's

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[2] John N. McDougall, *Fuels and the National Policy* (Toronto: Butterworths, 1982), 58, 63.
[3] *Ibid.,* 64.
[4] *Ibid.,* 74, 78-79.
[5] Gray, *Forty Years in the Public Interest,* 7.
[6] *Ibid.,* 9.
[7] McDougall, *Fuels and the National Policy,* 82.

report on Canada's economic prospects a year earlier.[8] In the eyes of the Borden commissioners, such a board would have powers to approve and reject pipeline proposals as well as imports and exports of oil, gas, and electricity. Tolls and rates for these pipelines would be established by the existing Board of Transport Commissioners (though this responsibility would instead be granted to the NEB in the final National Energy Board Act). The commission also stipulated some of the concerns the NEB would be required to consider, such as economic feasibility, national interest, opportunities for Canadian involvement, and construction issues. Another interesting, and controversial, recommendation was that the NEB should have a policy advisory role as well as a regulatory one.[9] However, other contentious questions with a nationalist importance, such as the acceptability of export-only pipelines or the routing of Canadian fuels through United States territory, went unaddressed.[10] The National Energy Board Act, passed in July 1959, reflected the Commission's recommendations quite closely, except that the Act was often more lenient when defining conditions for gas exports and export gas pipeline construction (owing to the desire of Parliament not to unnecessarily constrain the industry).[11]

The second part of the Commission's report, on Canadian oil marketing and related issues, was released in August 1959 shortly after the newly incorporated NEB had begun preliminary meetings. One of these issues was finding a market for Alberta oil and gas, especially for independent producers who were reliant on their operations in Canada.[12] The independents proposed the construction of an oil pipeline from Alberta to Montreal to the Commission as a potential solution to the shut-in problem. The final Borden report acknowledged that Canada's oil exports were being hit hard by international price fluctuations and producers needed help selling their growing reserves; however, it rejected the Alberta-Montreal proposal entirely. Instead, the Commission's analysis of regulation issues regarding pipeline construction, imports, and exports was founded on the premise that a north-south approach was more economically rational.[13] It recommended that the Montreal market be reserved for imported oil, that companies be "encouraged" to displace imported oil with domestic oil in Ontario, and that Albertan producers should make strong attempts to increase their markets in the United States.[14]

In some ways, the Borden Commission had been tasked with defining the national interest in oil policy for the Diefenbaker government, and the 1961 National Oil Policy was the policy translation of those ideas.[15] After the second

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[8] Gray, *Forty Years in the Public Interest,* 8.
[9] *Ibid.,* 17.
[10] McDougall, *Fuels and the National Policy,* 88; Gray, *Forty Years in the Public Interest,* 14-15.
[11] McDougall, *Fuels and the National Policy,* 94-95.
[12] Gray, *Forty Years in the Public Interest,* 9.
[13] McDougall, *Fuels and the National Policy,* 91.
[14] Gray, *Forty Years in the Public Interest,* 23.
[15] McDougall, *Fuels and the National Policy,* 82.

part of the Borden report was released, the NEB fulfilled its policy advisory role by studying and giving approval to the Commission's recommendations on oil. It pointed out some practical concerns Borden had overlooked; for example, it argued that voluntary controls on companies would probably be unworkable, and that regulation might become necessary to implement the planned market division.[16] Cabinet approved the Board's modified implementation plans, and after private consultation with American officials to assuage potential concerns, the National Oil Policy (NOP) was announced in the House by the Trade Minister. Under the NOP, the Ottawa Valley Line became the official division point of Canada's oil markets; Ontario and western Canada would consume Albertan oil, while Montreal and points east would continue to use an imported supply. The NOP set production targets, announced a general expansion of export sales, and imposed a voluntary plan to build up refinery capacity in Ontario to displace imports. The NEB was given the duty of monitoring the implementation of the program and recommending what stronger regulatory measures would be required if the voluntary approach failed.[17] Over the next decade, a combination of significant growth in export volumes and transgressions of the Ottawa Valley Line by individual companies would indeed indicate the need for stricter controls, as was recognized by the close of this period.[18]

Another significant policy development during this period was the establishment of a federal department in charge of energy policy. The early NEB had served as the government's "energy department" at a time when few countries had need for an energy policy or an institutional structure to support it.[19] However, the Board's combined advisory-adjudicatory role had already become a problem as early as when it was asked to make recommendations regarding the NOP, which it would later have to administer. In October 1966, the Government Organization Act provided for the establishment of the Department of Energy, Mines, and Resources (EMR). It absorbed the Department of Mines and Technical Surveys, and amalgamated energy-related functions from a variety of departments—including responsibility for the NEB, which had formerly reported to the trade minister. The NEB did not lose its statutory policy advisory function, but EMR was granted the responsibility of recommending and coordinating national energy policies, and advising government on energy in general.[20]

On the whole, Canadian oil export policy was marked by remarkable stability and consensus during this period, despite political and regulatory debate on natural gas policy (as exemplified by the Pipeline Debate). While nationalist MPs within the Progressive Conservative Party like Howard Green continued to

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[16] Gray, *Forty Years in the Public Interest,* 29-30.
[17] McDougall, *Fuels and the National Policy,* 96; Gray, *Forty Years in the Public Interest,* 31.
[18] Gray, *Forty Years in the Public Interest,* 34.
[19] Roland Priddle, "Reflections on National Energy Board Regulation 1959-98: From Persuasion to Prescription and on to Partnership," *Alberta Law Review* 37, no. 2 (1999): 529.
[20] Gray, *Forty Years in the Public Interest,* 37.

advocate for the Alberta-Montreal pipeline, there was all-party agreement in the House on the NOP as well as the necessity of increasing oil exports to boost both oil exploration and overall economic development.[21] In social-economic terms, the NOP recognized a balance between producers and consumers of oil in Canada. Producer provinces were largely satisfied by federal attempts to expand their export markets. Consumer provinces maintained access to cheap imported sources, except in Ontario, where the shift was phased in voluntarily and through expansion of refinery capacity. Still, this approach created jobs and boosted the growth of manufacturing in that province.[22] Individual Canadians likewise benefited from remarkable price stability. Between 1962 and 1970 oil prices were near-constant across the country, the combined result of the structure of the NOP, Albertan control of production through a prorationing scheme, and the price-setting power of Imperial Oil.[23] Major energy companies operating in Canada (like Imperial) made the bulk of their overall profits from oil sales during this period, owing to the fact that the NOP closely matched the pre-existing market divisions company policies had established in the 1950s to maximize profits.[24] Therefore, despite the initiation of several new policies in this period, I will argue that the government approach to regulation of Canadian oil exports was minimalist, and largely based upon cooperation with or submission to existing oil companies and their market planning.

Analysis

Environment

Because oil is a staple commodity, its physical attributes are a basic influence on its economic and political characteristics. For example, oil has been a global commodity since as early as the 1860s due to the relative ease of transporting it. Transportation also creates competition, as Standard Oil found out when its monopoly on railroad shipping of American oil was broken by the

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[21] The CCF supported helping independent Alberta oil producers to find markets, and was also satisfied with increasing Canadian refinery capacity from a labour perspective. See Melissa Clark-Jones, *A Staple State: Canadian Industrial Resources in Cold War* (Toronto: University of Toronto Press, 1987), 68; McDougall, *Fuels and the National Policy,* 92, 96; Gray, *Forty Years in the Public Interest,* 31.

[22] J. G. Debanné, "Oil and Canadian Policy," in *The Energy Question,* eds. Edward W. Erickson and Leonard Waverman, Volume 2 (Toronto: University of Toronto Press, 1974), 130-131.

[23] F. J. Anderson, "Price Formation in the Canadian Oil Sector," *Canadian Public Policy* 2, no. 1 (1976): 5, 7.

[24] Clark-Jones, *A Staple State,* 66; Debanné, "Oil and Canadian Policy," 129.

independent construction of the world's first long-distance oil pipeline in 1879.[25] Unlike natural gas, which must flow from well to final consumer through a unified distribution network, oil and oil products can be transported in a variety of ways—from wooden barrels on horse cart, to tanker railway cars, to massive tanker ships. When pipelines are used to transport oil, its greater density allows it to be piped much less expensively than natural gas.[26] Natural gas is also considered to be a "natural monopoly" commodity, like electricity. Because the consumer is essentially captive to whatever utility owns the distribution network to their home or business, there is a basic economic justification for regulation of the market in the absence of a competitive system.[27] Oil is not such a commodity, and thus has been subject to less complicated regulation on pipeline rates and distribution arrangements. The flexibility of oil supplies related to natural gas is also observable through the differences in how each has traditionally been sold. Natural gas is generally sold by long-term contract, reflecting the captive nature of its markets. Oil contracts are short-term, meaning it is harder to argue that (or determine whether) export approvals will threaten long-term domestic oil supply.[28] Oil regulation is therefore more of a question of political determination than gas regulation, which has a basic "economic" justification. This economic argument was part of the reason why government intervened relatively little in nascent oil markets during this period—for example, by using voluntary regulation of the Ottawa Valley line in the NOP in order to burden industry as little as possible, and by mapping the NOP around pre-existing industry economic arrangements.

The fact that transportation competition can occur in an oil market much more easily than a natural gas market is also one explanation for why debates over gas pipeline routes were more controversial than oil routes. An east-west gas pipeline built through the wilds of the Canadian Shield would have no markets to directly connect to along much of its route, meaning that a total market large enough to sustain a profitable capacity on the line may not have existed. The "joint service" concept removes this problem, but builds in an infrastructural guarantee that Canadian gas will be sold to American customers permanently. Oil pipelines were perceived as more route-flexible because pipeline location had less of a deterministic bearing on final markets. For example, the original terminus of the Interprovincial Pipeline was in American territory, from which half its oil was shipped in tankers to Sarnia and half was exported to other American destinations. This state of affairs was justified by the government as befitting the status of oil as an international commodity, and nationalists in the House admitted that flexible oil swaps in the reverse direction had served demand in central Canada well in the

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[25] Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991), 43.
[26] Gray, *Forty Years in the Public Interest,* 4.
[27] C. Lloyd Brown-John, *Canadian Regulatory Agencies* (Toronto: Butterworths, 1981), 48; Gray, *Forty Years in the Public Interest,* 15.
[28] Anthony Scott, "Policy for Crude Oil," *Canadian Journal of Economics and Political Science* 27, no. 2 (1961): 268.

past.[29] The argument for a Canadian terminus was therefore built on appeals to "common sense" and secondary benefits rather than guaranteed security of national supply, which potentially would have been a much stronger rallying point.[30] Later in this chapter, I will argue that the difference in public perceptions of oil and natural gas as secure fuel sources is one key to understanding these arguments. Finally, the characteristics of pipelines in general also have repercussions for export policy. Since economies of scale are required to make private construction profitable, and since a constructed pipeline must permanently operate at a given rate of flow in order to maintain profitability (as well as normal line pressure), it is extremely difficult to dismantle or reduce the capacity of a pipeline network. Once an export pipeline is approved, it is nigh impossible to turn back the clock without bankrupting the owner or rendering the line unusable; furthermore, doing so could have major economic and thus political repercussions. This is partially why the Liberal government supported the industry's preference for an American terminus for the Interprovincial Pipeline: it would open a door to the American market that could only create future export opportunities, since it would be very difficult to close.[31]

Government "non-intervention" in the form of support for oil industry market arrangements and political demands is a reflection of another environmental variable: the organization of the global oil market and the policies of the major companies that dominated it. In Canada, oil production and refining capacity was dominated from the beginning by the Canadian subsidiaries of major multinational oil companies, such as Imperial Oil. The parent companies of these subsidiaries controlled sources of oil around the world and maintained a semi-structured division of global markets, the effects of which directly shaped the Canadian market. Albertan oil was a costly product to produce in the 1950s and 1960s compared to a glut of cheap and seemingly reliable foreign oil. This price differential allowed the majors to argue that Canadian oil development required government aid such as tax-deductible exploration costs if the Canadian industry were to continue to develop.[32] Majors with large foreign reserves, typically located in the Middle East and Venezuela, benefited from the economic advantage of selling imported oil in the Canadian market as far as was possible; this allowed them to deplete those resources before their costly Canadian holdings were developed (and before political changes on the horizon in those countries resulted in the majors losing control of them).[33] The majors' unanimous opposition to the Alberta-Montreal pipeline idea was founded on how it would disrupt their existing North American market arrangements. They also vehemently opposed any active involvement of government in any aspect of the oil market. Because government financing and/or ownership would probably be necessary to construct the pipeline (as was necessary to construct the Trans-Canada pipeline, for

[29] McDougall, *Fuels and the National Policy,* 63.
[30] *Ibid.,* 65.
[31] *Ibid.,* 64.
[32] Clark-Jones, *A Staple State,* 38.
[33] *Ibid.,* 48-49.

example), they found another reason to condemn it.[34] These anti-intervention sentiments certainly reflected the international policies of their parent companies. Gulf Oil, for example, had a company-wide policy forbidding it from dealing with government-owned oil companies, a constraint that nearly derailed the Trans-Canada project.[35] On the majors' side, the recent success of their Iranian oil boycott in expediting the CIA-led overthrow of the nationalist Mossadeq regime gave them confidence that governments would concede to economic pressure tactics.[36] Thus, the international situations and policies of multinational oil companies had demonstrable effects on their interactions with government.

The international political environment also influenced options available to the government. After the start of the Korean War in 1950, Canada's involvement through the United Nations as well as its proximity to the United States led it to justify decisions to construct gas and oil export pipelines. The Canada-Montana gas pipeline, constructed to supply the Anaconda copper smelter, was one example. The American military successfully persuaded the U.S. government to lobby Canada to grant a special export permit, and Alberta to release natural gas for export, in order to support war production at Anaconda.[37] More relevant to the topic of oil exports is the Transmountain oil pipeline, which was constructed to move Alberta oil to Vancouver through an all-Canadian route. The oil was urgently needed due to war-induced fuel shortages on the west coast of both Canada and the United States, and the Board of Transport Commissioners expedited the approval of the line for continental defense reasons.[38] I will return to the influence of American defense policies later, but these examples point out how war situations have implicated Canadian fuel export policy.

Another international political incident, the Suez Crisis, had mixed repercussions for Canadian oil exports. The British-controlled Suez Canal was the major conduit for oil shipments to Europe from the Middle East. Following the expropriation of the canal by a nationalist Egyptian government in 1956, the

[34] Clark-Jones, *A Staple State,* 40; McDougall, *Fuels and the National Policy,* 88.
[35] William Kilbourn, *Pipeline: Transcanada and the Great Debate* (Toronto: Clarke, Irwin and Company, 1970), 76.
[36] G. Bruce Doern and Glen Toner, *The Politics of Energy: The Development and Implementation of the NEP* (Toronto: Methuen, 1985), 129. This interpretation of the coup is contested by Krasner, who argues that the majors were reluctant to enter the Iranian oil business and only agreed to do so on national interest grounds; the United States was concerned about potential political turmoil as a result of excessive disruption to the Iranian economy if oil production were not taken over. Even if this was the case, this foreign policy objective was achieved only due to the willingness of the Justice Department to drop antitrust charges against the industry in exchange for their investment into Iran. This in itself clearly demonstrates the political power of the industry over government economic policy, even if the American government appeared to attain its national interest objective. See Stephen D. Krasner, "A Statist Interpretation of American Oil Policy toward the Middle East," *Political Science Quarterly* 94, no. 1 (1979): 88-90.
[37] McDougall, *Fuels and the National Policy,* 70-71.
[38] *Ibid.,* 70.

threat of major oil shortages in Europe led Britain and France to back Israel in an invasion attempt. The military attack was successful, but it had severe political ramifications; one notable result was the introduction of U.N. peacekeepers to the area, spearheaded by Canada with the support of the United States.[39] Predictably, this crisis both shook up the world oil industry and raised political questions of the security of relying upon unstable foreign sources of oil. One legacy was the tactic employed by the OECD to alleviate oil shortages in Europe—an "oil lift" that required the cooperation of the major oil companies to reroute production and tanker distribution.[40] This type of diversion system would later form the basis for IEA energy security arrangements, as I will discuss in the next chapter. Shortages and the redistribution of American oil also proved to be a small boon for Alberta oil producers, whose access problems to the American market were temporarily alleviated. However, following the end of the crisis by late 1956, Alberta's production glut became an even larger problem than before.[41] The international shortage thus acted as an external pressure on the Albertan boom-and-bust economy that pushed the problem of finding markets for its oil to the fore in the late 1950s, precisely when the Borden Commission was active.

Perhaps the most significant environmental influence on the Canadian government in oil policy was American policy towards oil imports. Canadian domestic consumption of oil in 1952 was a modest 455,000 barrels per day compared to the United States, which consumed 16 times as much oil, or 57% of total world consumption, each day. American domestic supply was also increasingly unable to meet its needs.[42] However, the American domestic oil industry felt threatened by the decline of its dominant role and successfully lobbied the U.S. government to institute an oil import limit, ostensibly in the interests of national energy security. A voluntary restriction program was instituted in 1957, to be replaced in 1959 with a mandatory program when the voluntary option failed to quell demand for imports.[43] Canada and Mexico were granted an "overland exemption" for energy security reasons; the American independents continued to lobby against this exemption, while the multinationals supported it, already having a profitable continental market division in place and desiring more oil for their refineries close to the Canadian border.[44] This internal industry tension (which complicated political attempts to encourage greater American imports) and the relationship between Canadian oil exports and American energy security were two significant external variables that influenced Canadian government decisions. As Canadian exports continued to grow, Canadian oil was partially brought into the exemption program by 1963. Despite the fact that American import restrictions were a continual concern, Canada decided against using such restrictions itself as part of the NOP. This decision

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[39] Yergin, *The Prize,* 480, 485, 489, 491-492.
[40] *Ibid.,* 493.
[41] Clark-Jones, *A Staple State,* 59.
[42] *Ibid.,* 27.
[43] Debanné, "Oil and Canadian Policy," 125-126.
[44] Debanné, "Oil and Canadian Policy," 126; Gray, *Forty Years in the Public Interest,* 32.

was partially the result of yet another external political influence: such restrictions contravened GATT and would arguably undermine Canada's diplomatic position on trade. International agreements have been a persistent constraining factor for oil export policy ever since, in addition to formal and informal agreements with the United States.[45]

A clear emerging theme is that many external influences on Canadian export policy originate in, or are mediated by, relations of power. From wars and diplomacy to economic concerns, American power has shaped the way environmental variables influenced particulars of oil export policy. Other power relations exist between the Canadian state and oil companies, as well as between the independent oil producers and major multinationals. The next section will examine these power relationships more closely in order to explain the process by which these environmental variables had effects on Canadian oil policy.

Power

Viewing the environmental variables discussed above through the lens of power provides a much deeper account of how they shaped oil export policies. American military power, and related discourses of national and continental security, affected how war and defense situations influenced Canadian oil exports. The end of World War II marked the ascendance of the United States as the Western world's dominant military power, as well as the beginning of a polarizing global conflict between communism and capitalism as ideologies. Canada's attempt at establishing a foreign policy power niche during this period—exemplified by Diefenbaker's stand against American dictation of Canadian military policy during the Cuban Missile Crisis, or by the independent Canadian role in the Suez Crisis intervention—was subsumed when it came to economic defense policies.[46] As explained above, during the Korean War Canada expedited fuel exports to alleviate war-induced shortages in the United States as a gesture of cooperation. As the Cold War ideological divides deepened, however, cooperation with the United States imposed more thorough constraints. A notable example was Canada's involvement in American policy towards Venezuela. Venezuela, a major foreign source of oil for both countries, was a point of geopolitical concern due to its nationalist (potentially communist) leanings and increasing government take of oil profits.[47] One of the conditions imposed by the American government in exchange for Canada's overland exemption was that Venezuelan oil must retain free access to eastern Canada. Considering the size of the market in question, this stipulation effectively killed the economic viability of the Alberta-Montreal pipeline.[48] American concerns with Venezuela's economic and political stability, in light of its own energy and security interests, were thus

[45] Gray, *Forty Years in the Public Interest,* 30.
[46] George Grant, *Lament for a Nation* (Montreal: McGill-Queen's University Press, 2003), 43-48.
[47] Debanné, "Oil and Canadian Policy," 132.
[48] Gray, *Forty Years in the Public Interest,* 29

permitted direct influence upon what was essentially a domestic Canadian energy matter.

Just as NORAD and the DEW line were matters of continental strategic cooperation, so did American officials regard energy security as a joint defense matter. Indeed, the construction of the DEW line in Canada was supported by the duty-free importation of foreign oil, ordered by the U.S. Military Petroleum Purchasing Agency from Imperial Oil and specially licensed by a Canadian Order-In-Council.[49] Canada's overland exemption from import controls was politically justified by the argument that Canada's oil was essentially American oil, and thus provided a direct security benefit when used in place of other imported sources.[50] On the other hand, Canada willfully constrained its policy options to avoid disrupting American strategic concerns. C.D. Howe called oil "a strategic material in our defense plans," and therefore prevented those government departments without a defense role from having access to industry data, severely limiting policy research capacity.[51] The pre-emptive power of potential American military concerns was thus also at work on the ability of the Canadian government to shape oil export policies over the long term.

Why were American defense concerns so influential upon even Canadian domestic oil policy? A major component of American power is informal or non-visible, and relates to dependency relationships perpetuated by Canada's staples export pattern of development (as I will explore in more detail throughout this thesis). A large part of this informal dependency relationship has been the idea that appeasing American political demands is the best way of securing economic policy cooperation. A pre-emptive approach to American market access soon developed in export policy-making: because officials concluded that "Canadian access to U.S. markets ultimately comes down to goodwill," maintaining this goodwill by serving American fuel interests was of key importance.[52] Canadian officials engaged in private negotiations with their American counterparts, for example, in order to ensure planned oil policy developments would not harm their relationship. The Diefenbaker Cabinet's first meeting with the new Kennedy administration took place in 1960; it was a private conference to seek American comments on the as-yet unannounced NOP. American officials showed concern with the draft, and asked for the increases in exports to be downplayed, as was duly done in the public announcement of the policy later that week.[53] To avoid provoking the American government, and thus risk the extension of further oil import controls, official Conservative policy was to speak publicly about the NOP as little as possible. In further consultations conducted by the NEB, Board members reported privately agreeing to additional voluntary export controls under threat of losing the overland exemption.[54] In large part the NOP was "symbiotic"

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[49] Clark-Jones, *A Staple State,* 58.
[50] Gray, *Forty Years in the Public Interest*, 29.
[51] Clark-Jones, *A Staple State,* 44.
[52] McDougall, *Fuels and the National Policy,* 114-115.
[53] Gray, *Forty Years in the Public Interest*, 31.
[54] *Ibid.,* 32-33.

with American import restrictions, but the relationship was never equal because of the informal power relationship it represented.[55]

Another example of this pre-emptive dependent process in action was the NEB's approval of the Matador oil pipeline proposal in 1961. The pipeline was to be constructed from the Canadian border to meet up with the Interprovincial system; it would be used to transport North Dakota oil to American markets, thus making use of a Canadian pipeline for American domestic purposes. In its approval decision, the NEB directly cited the potential threat denying the application might have to American cooperation with the NOP.[56] The Board, in its interpretation of its public interest mandate as well as its appreciation of its political context, adopted a continentalist framework in its decision-making partially because it felt not doing so would jeopardize Canada's economic relationship with the United States. Following this framework, the Board's decisions over this time period in general reflected a persistent export mentality in both oil and gas production.[57] The formal and informal power of American military and economic might was a significant influence in this period; this power supported Canadian oil policies that were economically continentalist in orientation, both because it weakened effective Canadian sovereignty over such policies, and deepened further Canadian dependency on American markets and political "goodwill" for access to those markets.

An even more imbalanced power relationship existed between the major multinational oil companies operating in Canada and the Canadian government. Developing a fledgling oil industry in Canada meant sinking dollars into exploration and infrastructure construction, which is the most expensive part of producing conventional oil. The risk of capital flight was a significant bargaining chip used by major oil companies to solicit federal policies beneficial to their interests.[58] Vertical control of oil production in other markets allowed companies like Imperial Oil to pressure government (and independent oil producers) from multiple sides. Because the majors controlled production from cheap foreign sources, they were able to divert large quantities of this oil for purposes of manipulating the Canadian market structure. Creating a temporary oil glut could pressure independents out of business, allowing majors to consolidate their former assets, then lobby for tax compensation to make their Alberta crude "financially viable" in the (artificially) low-price environment. Crown ownership of land was another sticking point, since it structurally incorporated the payment of economic rents, or royalty payments on production, into the cost of production on Canadian soil. The burden of royalty rates, plus the availability of exploration cost and depletion tax subsidies in the United States, gave the majors the potent argument that exploration capital could easily be directed to American operations.[59] At the same time the majors were engaging in subsidized Canadian production, they

[55] *Ibid.,* 28.
[56] *Ibid.,* 115.
[57] *Ibid.,* 101.
[58] Clark-Jones, *A Staple State,* 37.
[59] *Ibid.,* 31, 38.

continued to benefit from offloading as much Venezuelan crude as possible in eastern Canada. What made business sense to the majors was the basis of their argument for the national economic interest—since, without them, there would be no national oil economy at all. The political acceptance of this argument was evident in how it pervaded the recommendations of the Borden Commission. Indeed, this line of reasoning was explicitly incorporated within the suggested role of the NEB as government's liaison with the industry: "…this Board as an agent of the Government can and should keep in close touch at all times with the industry, in all its phases, and with all its problems, as these have a bearing upon the prosperity of the Canadian economy, and of the industry itself."[60]

This close contact—both formal and informal—between industry and government referenced in the Borden Report was another aspect of an imbalanced relationship. Control over the market through the threat of capital flight meant that the industry had the constant ear of the federal government during the planning stages of oil policies. Policy-making requires information gathering, and the Canadian government had become convinced of the necessity of relying on industry-supplied information and policy suggestions, rather than developing an in-house research capacity, as early as 1951. At that time, C.D. Howe argued that government would undermine free enterprise by doing its own research work, leading to an information deficit that would severely limit policy capacity in later decades.[61] This attitude allowed industry consultants to shape data and reports on the feasibility of Canada's oil economy, and portray the industry's existing market arrangements as objective economic necessities. One significant example was Imperial's report to government on the viability of the Alberta-Montreal pipeline. According to the report Montreal was not a viable long-term market for oil, because if it were Imperial would have already constructed the pipeline itself and pre-empted the independent Alberta producers.[62] The Borden Commission's decision against the Alberta-Montreal pipeline was certainly swayed by its reliance on testimony and data primarily from major company sources.[63] Multiple commission members disagreed with the decision and sided with the independent producers, but the economists on the panel supported export growth as the better solution. The government, not wanting to make a potentially explosive political debate out of the issue, chose to maintain the industry's status quo of market division at the Ottawa Valley line.[64]

The implementation of the NOP, as Borden had foreseen, required constant personal contact and negotiation between representatives of oil companies and NEB members. Representatives of individual oil companies, rather than of company associations, attended NEB meetings at Imperial's insistence; this weakened the capacity of independent producers to speak with a

[60] McDougall, *Fuels and the National Policy,* 91.
[61] Clark-Jones, *A Staple State,* 43.
[62] *Ibid.,* 42.
[63] McDougall, *Fuels and the National Policy*, 89.
[64] Clark-Jones, *A Staple State,* 46.

united voice against the majors.[65] The nuts and bolts of policy administration were established at these meetings through the questions and answers of industry representatives, such as how individual company export targets would be set. The fact that oil companies were working so closely together in concert with the NEB to make policy even led to the question of what would happen if the arrangements would be challenged under Canada's competition laws (in the end, the NEB graciously agreed to fight on the companies' behalf if any legal problems arose).[66] The Justice Department warned the NEB that such an inquiry might be provoked by complaints if the national gasoline price were to rise—but, as noted earlier, Canadian oil prices remained extremely stable during the NOP period.[67] The price-setting power of Imperial Oil's market dominance was therefore crucial to maintaining this stability, evidenced by the fact that the only oil price changes during this period (just 6 instances between 1962 and 1973) were a result of Imperial's pricing decisions.[68] The existing dominance of the major oil companies over the structure of the Canadian oil market gave them continuous power to shape oil export policies; these policies thus reflected the most profitable arrangement, a continental market organized according to the market decisions of the majors and unimpeded by government intervention.

The majors' economic and political power was also interwoven with the American-Canadian relationship. The geopolitical imperatives of oil during the Cold War were an interesting example. Countries like Sweden, South Korea, and Japan had repeatedly requested to import Canadian oil during the 1960s, but were forced to rely on imports from the USSR after continuous refusals.[69] The marketing arrangements of major oil companies, which relied on shipping Alberta crude to the U.S., thus only served the energy security of the "free world" as far as it bolstered the Canadian-American dependency relationship. The fact that the Canadian government was so beholden to industry advice had an interesting effect upon continental affairs as well: it encouraged an impression among Canadian bureaucrats that industry insiders had similar contact with, and influence over, policymakers in the United States. This perception raised the possibility that greater cooperation with industry representatives in Canada might be rewarded by lobbying favours in Washington on the import restriction problem.[70] This was not simply a daydream of a dependent bureaucracy: Imperial Oil had an official seat on the U.S. Military Petroleum Advisory Board during the 1950s, the only "foreign" oil company ever to participate on the board.[71] American parent companies also kept a tight leash on their Canadian subsidiaries throughout industry-government interactions. Imperial's leadership on opposition to the Alberta-Montreal pipeline was related to the significant investments of its parent

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[65] *Ibid.,* 68.
[66] Gray, *Forty Years in the Public Interest*, 35.
[67] *Ibid.*
[68] Anderson, "Price Formation in the Canadian Oil Sector," 6.
[69] Clark-Jones, *A Staple State,* 173.
[70] *Ibid.,* 41.
[71] *Ibid.,* 56-57.

(Standard Oil of New Jersey) in Venezuela and its relationship with the United States government in favouring economic and political stability there.[72] The Canadian government was also actively complicit in the establishment of subsidiary companies to mask these power relationships at work. Officials advised the editor of the American *World Petroleum Report* that Canadians would be more receptive to foreign capital if invested through Canadian subsidiary companies that maintained a Canadian appearance.[73] In sum, links between economic continentalism and government non-intervention in oil export policies were developed and strengthened through these intertwined relationships of Canadian dependency during this period.

The power of major multinational oil companies operating in Canada in relation to the Canadian government was neither inevitable nor unchallenged. Other political, economic, and social interests were involved in the negotiation of what would become oil export policy. Independent Canadian oil producers, whose interests were supported by the Alberta government and the CCF, were one of these forces.[74] Their advocacy of the Alberta-Montreal pipeline was based on finding markets for their excess oil capacity, in light of the difficulties of securing guaranteed access to the U.S. market. However, the financial success of such a pipeline was predicated on the agreement of Montreal refineries—dominated by the integrated majors—to buy the crude.[75] In its testimony to the Borden Commission, Imperial Oil spoke as a representative for the majors' unanimous opposition to the proposal, but reluctantly agreed it would sign refining agreements if required to do so by the government.[76] This forced the government's hand, since it put the onus on government to actively commit to major state intervention in the oil market if the pipeline were to be built. Imperial was thus able to consolidate support for the expansion of oil exports as the logical economic alternative to state intervention.

The weakness of a Canadian alternative to oil continentalism was not built on the power of the majors alone. The extent to which the interests of national political parties, the province of Alberta, and the major oil subsidiaries lined up around increasing export market access following the defeat of the Alberta-Montreal option is also remarkable. In his communications with Diefenbaker, Premier Ernest Manning of Alberta wrote he was eager to sell Alberta oil to anyone who could buy. After Borden rejected the Alberta-Montreal line, Diefenbaker publicly equated the government's efforts to secure U.S. market access with the interests of the Canadian oil industry as a whole.[77] Even the CCF had supported the Alberta-Montreal pipeline contingently, based upon the continued existence of U.S. import restrictions as well as the willingness of the

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[72] McDougall, *Fuels and the National Policy*, 90.
[73] Clark-Jones, *A Staple State,* 54.
[74] Gray, *Forty Years in the Public Interest*, 23; McDougall, *Fuels and the National Policy*, 92.
[75] McDougall, *Fuels and the National Policy*, 89.
[76] *Ibid.,* 89.
[77] *Ibid.,* 92.

independents to took towards the eastern market. CCF MPs perceptively criticized Imperial Oil and its "international oil cartel" for its capture of government in securing the Montreal market for itself, but were hopeful that the removal of American market restrictions on Canadian oil might undermine Imperial's dominance.[78] The fact that Imperial also supported ramping up exports of Albertan oil to the United States, in the interests of maximizing profits in the Canadian market, was kept as hidden as possible from this political debate. Instead, policymakers were kept abreast of the majors' preferences through private communications and consultation throughout the NOP debate.[79]

Another potential countervailing source of power in the energy policy arena, the agency of the Canadian public, failed to materialize during this period. Gas and oil, although formed and found together, were commonly perceived quite differently by the public, due in part to transportation differences as well as perceptions of scarcity during a worldwide oil glut. Gas was viewed as a natural gift or right to which Canadians ought to be guaranteed, while oil was more acceptably considered an international commodity.[80] These general perceptions were one contributor to the high national profile of gas pipeline routing debates, in contrast to the comparative invisibility of oil as a political issue during this period. Public mobilization around nationalist debates on oil exports was typically a local phenomenon, such as the lobbying effort by the mayor and citizens of Fort William, Ontario to place the Canadian terminus of the Interprovincial Pipeline in their area.[81] Furthermore, as the NEB strengthened its reputation for technical competence, less and less public and parliamentary attention to its decisions arose. Despite the fact that the NEB approved unprecedented levels of oil and gas exports during this period, including the largest-ever release of Canadian gas for U.S. export in 1970, only one NEB decision was ever subject to Opposition questioning in Parliament and received some level of public exposure.[82] This was the proposed Great Lakes extension of the Trans-Canada system through the United States, which replicated the script of the Pipeline Debate closely enough to worry the Liberal government into negotiating a modified proposal that would satisfy nationalist routing concerns.[83]

The state itself is not powerless and automatically a tool of capital; oil export policies were subject to the decisions of government to politicize or depoliticize parts of the agenda according to its own goals, many of which (but not all) supported the industry. As the Pipeline Debate had shown, combining political and ideological controversy with complex technical auditing made for a slow and divisive energy policy process. The NEB was designed to be a

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[78] *Ibid.*
[79] Clark-Jones, *A Staple State,* 40.
[80] *Ibid.,* 18.
[81] Unfortunately for those concerned citizens, their local MP, C.D. Howe, was unlikely to be swayed by arguments against economic continentalism. McDougall, *Fuels and the National Policy,* 65.
[82] McDougall, *Fuels and the National Policy,* 123, 126.
[83] *Ibid.,* 124.

comprehensive, expert authority that would ensure those technical concerns beyond the competence of Parliament were fully and fairly analyzed. However, its secondary goal was to depoliticize the process of regulatory approvals; the remarkable lack of public attention to NEB decisions referenced above is evidence of the success of this mandate. By moving export and pipeline debates out of public visibility, government could exert a level of control over contentious decisions without getting directly involved.[84] This depoliticization also acted in favour of companies seeking stability and predictability—thus, the maintenance of the market status quo—from government regulation. One example of the transformation of political issues into "technical" ones was the process of surplus estimation.[85] The NEB was mandated to study and report on Canada's present and future fuel resources in order to make prudent recommendations on the levels of exports that were appropriate to maintaining Canadian energy security. Predicting unproved resources, forecasting overall demand, and determining what exactly constituted an exportable surplus above future security was a political question as well as a technical one—especially considering the NEB's reliance upon industry-supplied data.[86] Framing this kind of policy as an economic calculation depoliticized questions of the future rate of development, Canadian energy security, and the quantity of fuel exports, and privileged industry arguments of economic efficiency over alternatives.

On the other hand, the creation of EMR in 1966 acted as a counter-politicization of energy issues and a reassertion of government policy competence. The fact that the NEB reported to EMR would allow the government to re-cast NEB reports in whichever light fit with its energy policy goals. Linked with this attempt to develop in-house policy capacity was the acquisition of a controlling stake in Panarctic Oils, an oil and gas exploration company operating in the north; this foreshadowed a federal interest in northern oil and gas that would for the basis of interventionist development policies during the 1970s-early 1980s.[87] While the dominance of continentalist and non-interventionist policy options was sustained during the 1960s by the weak position of the Canadian government compared to external sources of power, plus its own decisions to implicate itself in that submission, this situation was the creation of a political power struggle and not an inevitable outcome of structural factors.

Ideas

The outcomes of such power struggles are intimately tied to the ideas that sustain and legitimate that power. The contemporary debate between Canadian nationalism and continentalism, and the conceptions of public interest in oil

[84] Brown-John, *Canadian Regulatory Agencies,* 23.
[85] Alastair R. Lucas and Trevor Bell, *The National Energy Board: Policy, Procedure, and Practice* (Ottawa: Law Reform Commission of Canada, 1977), 23.
[86] McDougall, *Fuels and the National Policy*, 79.
[87] Doern and Toner, *The Politics of Energy,* 85.

export policy that flowed from these ideas, was one of these significant ideological sources. As discussed earlier, in many ways the Borden Commission was asked by the Diefenbaker government to define the national interest for energy policy. Interestingly, however, it was not the first panel to investigate such questions, and its answers were not reflective of a broad consensus. The report of the Gordon Commission was released in November 1957, a few months after the defeat of the Liberal government that had appointed it to study the prospects for Canada's future economy. Among its recommendations, the report recommended the establishment of a "national energy authority" to advise government on, and regulate, energy matters. However, its advice was ignored entirely by Diefenbaker and the Borden Commission soon stole the limelight instead.[88] Walter Gordon, chair of the Gordon Commission, was both a Liberal and an economic nationalist, and the ambiguity of his report to Parliament reflected schisms between different conceptions of Canada represented by nationalist and continentalist perspectives. Gordon's influence on the report came through in its argument that Canada's economic trajectory was structurally limited by how it had developed, which made it impossible to duplicate an "American-style" mature economy in Canada. Instead, Gordon raised concerns about Canada's subordinate place in a continental economy, the importance of domestic economic control and ownership, and regional development. His conclusion was that Canada, due to its unique economic situation, needed a much stronger economic role for the state. On the other hand, much of the Gordon Report was written by a research team drawn from the federal bureaucracy, which generally had great faith in the power of unrestrained markets. This counter-discourse argued that Canada had unlimited future growth potential based on market self-adjustment, deepening continental trade, and a limited state role.[89] These two kinds of philosophies were the major ideological foundations upon which political debates regarding oil export policies were built.

Debates about pipeline routing, as I have mentioned previously, were rooted in Canadian economic nationalism. Howard Green, a Conservative MP, was a constant proponent in the House for pipeline policies that reflected a Canada-first approach based on maintaining sovereignty and ensuring fuel security. Indeed, Green was perhaps the first person to publicly suggest the creation of a national energy authority to provide energy policy advice to government and regulate resources in the national interest.[90] During the debate on the proposed American terminus for the Interprovincial Pipeline, it was Green who argued that Canadian oil should be shipped to Canadian ports over Canadian soil. He forecast that joint-service construction policies would lead to increasing exports of Canadian oil as American sources became depleted, and personally dug up export permits the Liberal government had already issued in preparation as

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[88] Gray, *Forty Years in the Public Interest*, 8.
[89] Neil Bradford, *Commissioning Ideas: Canadian National Policy Innovation in Comparative Perspective* (Toronto: Oxford University Press, 1998), 62-63.
[90] Gray, *Forty Years in the Public Interest*, 8.

evidence.[91] Green was also critical of government's willingness to allow oil companies, rather than Parliament, to form oil policy.[92] In contrast to Green's personal leadership on the oil question, the all-Canadian routing of the Trans-Canada gas pipeline was supported virtually unanimously in the House.[93] As I noted when discussing public involvement in these policy debates, differing general perceptions of the political significance of oil and gas probably contributed to this situation. The difference is one explanation for a split within the Conservative Opposition on the Interprovincial Pipeline question. While the party came out in support of Green's all-Canadian stand, Albertan Conservative MPs sided with Social Credit in arguing for the more economical American option.[94] To Albertan Conservatives, the economic fact that Alberta needed to sell its excess oil production as soon as possible trumped idealistic nationalism; when the fuel in question was gas, nationalist arguments retained a greater political pull.

Once the Progressive Conservatives found themselves in power, this internal debate on the viability of Canadian economic nationalism versus lucrative continentalism became more pronounced. According to George Grant, the deep nationalism that inspired Green and Diefenbaker became muddled with free market conservatism in power.[95] If the Borden Commission legitimized a conception of Canada's national energy interest that was in line with company interests, the willing transformation of this conception into the NOP partially reflected a lack of coherent economic nationalist alternatives. The last gasp of such an alternative within the Diefenbaker administration, the Alberta-Montreal pipeline, retained some private favour with Cabinet despite the disapproval of both the Borden Commission and the NEB. However, Cabinet was finally convinced to put it to death by the potential threat the required market restrictions would pose to American cooperation on exports—an example of American dependency at work.[96] Despite its anti-nationalist content, Diefenbaker proudly compared the finalized NOP to Prime Minister Macdonald's National Policy as an east-west reorientation of the Canadian oil economy. This contradiction was pointed out by contemporary critics, who offered it as proof that company interests had trumped economic nationalism in Canadian policy.[97] Oddly enough, however, it was the action of Venezuelan nationalists that truly called Canada's bluff. In 1960, the Venezuelan government caused a great deal of embarrassment for Canada by announcing it would cut oil exports to Ontario to help Canada maintain a domestic market for oil; the statement undermined the alliance between the "nationalism" of the NOP and the majors' market planning.[98] The

[91] McDougall, *Fuels and the National Policy*, 63.
[92] *Ibid.,* 64.
[93] Kilbourn, *Pipeline,* 102.
[94] Gray, *Forty Years in the Public Interest*, 4.
[95] Grant, *Lament for a Nation,* 36.
[96] Gray, *Forty Years in the Public Interest*, 30
[97] Scott, "Policy for Crude Oil," 269.
[98] Clark-Jones, *A Staple State,* 66.

combination of Canadian nationalism with anti-communism (one argument for the Alberta-Montreal pipeline was that it would break Canada's dependence on communist sources of oil) also meant that the range of economic nationalist alternatives open to government was ideologically limited.[99]

The CCF was similarly trapped between inconsistent nationalisms and its alliances with Alberta producers. A good example of this dilemma was contained in the CCF's support for the NOP versus its criticisms of the NEB Act. The fact that the NEB Act was fairly lenient in terms of gas export approvals, reflecting a desire on the part of government to shackle the industry as little as possible, was certainly a point of criticism from the left. The CCF argued that company interests, especially those involving high volumes of gas exports, were not necessarily synonymous with the public interest.[100] However, the NOP was not subjected to the same line of criticism by the CCF opposition. The CCF supported the plan insofar as it would aid the economic plight of Alberta producers, and advocated for the Alberta-Montreal pipeline as a second-best solution to the problem if export opportunities could not be secured.[101] Increasing oil exports, while similarly a question of substituting company interest for public interest, was not seen in the same ideological light as increasing gas exports. The split between sources of ideological support, namely the party's foundation in western populism as well as progressivism, seemingly led the CCF to argue on behalf of Alberta independent oil producers in a manner that overestimated their strength in the face of Canada's dependent position. This may have been one form of a nationalist position, but it was not a realistic one. During debates on the Alberta-Montreal pipeline, the CCF called Imperial's position "narrow" and self-interested, perhaps reflecting an underestimation of the power relationships at play behind the profit motive. Soon after the NOP came into effect, the majors bought out the majority of the Alberta independents, revealing the CCF's nationalist position as a false hope and defeating yet another potential source of alternative policies.[102]

On the other hand, continentalist visions of Canada were linked with a powerful economic package based on increasing exports of oil to the United States. The continental approach argued that Canada and the United States had a special relationship founded on shared defense and trade concerns, and that nurturing this relationship was the best way to secure Canada's future. Within this period, continentalism was a guiding principle of Liberal party policy. Within the St. Laurent administration, C.D. Howe had consistently been a public advocate of continentalism, as he had made clear within his supportive statement on the International Pipeline route decision.[103] Following Diefenbaker's defeat in 1963, Liberal Prime Minister Lester Pearson was another public advocate of Canada's participation in a "well-ordered continental society," particularly when

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[99] *Ibid.,* 48.
[100] McDougall, *Fuels and the National Policy*, 95.
[101] *Ibid.,* 96.
[102] *Ibid.*
[103] *Ibid.,* 64.

it came to "natural" trade flows in natural resources.[104] Pearson argued that if defense was considered on a continental basis, then resources for continental defense should logically be as well. Pearson even suggested forming a joint materials board to institutionally facilitate the sharing of natural resources across the border.[105]

Such arguments about the efficiency of the natural continental market were both power-laden and well-received within technocratic government circles. The Canadian bureaucracy, nurtured under successive periods of Liberal rule, had developed impressive expertise in administration of the economy by the 1950s. This bloc favoured maintaining the existing economistic, anti-nationalist and anti-interventionist approach to policy. Economic nationalist proposals such as the Alberta-Montreal pipeline were condemned from within as "artificially expensive," "emotional," and more expensive for Canadians than was logical.[106] Arguing that nationalists were blinded by emotion, or by their fear of American domination, was an effective way of portraying that position as a falsification of the real economic facts possessed by government experts.[107] Another contemporary argument was that oil was no longer a scarce strategic resource, but a commodity like any other, and was therefore no longer a matter necessitating state intervention. "Hoarding" supplies risked the possibility that oil might never be scarce again, or be replaced by nuclear energy, such that Canada would lose the opportunity to collect on the value of oil.[108] The natural economic approach, in contrast, would be to shackle private industry as little as possible and allow it to buy and sell oil as was most economically efficient. This included as little government control of the industry as possible in terms of regulation, direct financing, ownership, or taxation.[109] As I have argued earlier, the "natural" organization of the Canadian oil economy was a result of company policies that were presented to government as being natural since they existed as the status quo prior to regulation of the "new" market. The bond between continentalism and a broader economic theory, combined with the use of polarizing language to frame the debate, formed a powerful political package; as I will discuss later parallels of these ideas would form the basis of continentalist arguments during the 1980s, reflecting a notable continuity in the structural factors that informed such debates.

These two orientations—nationalist and continentalist—might have collided over questions of energy security, but there were few grounds to challenge the continentalist position during a worldwide oil glut. Part of defining the national interest in energy, as the Borden Commission was tasked to do, was to define national energy security. How much security, and what kind, was

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[104] *Ibid.,* 96.
[105] *Ibid.,* 93.
[106] Leonard Waverman, "The Reluctant Bride: Canadian and American Energy Relations," in *The Energy Question,* eds. Edward W. Erickson and Leonard Waverman, Volume 2 (Toronto: University of Toronto Press, 1974), 230-231.
[107] *Ibid.,* 235.
[108] Scott, "Policy for Crude Oil," 275.
[109] McDougall, *Fuels and the National Policy*, 75.

appropriate? How would appropriate levels of oil and gas exports be determined in light of this definition? Recognizing the political volatility of some of these decisions, the Commission chose to delegate reporting on future supply estimations to the NEB, effectively depoliticizing the question of security along with numerous other aspects of oil export policy as previously mentioned. Considering the NEB staff consisted primarily of civil servants and experts with industry experience (as I will discuss in the next section), a continentalist perspective consistently shaped both NEB surplus estimations and export approval decisions. The best evidence for this tendency was in gas export approvals. The NEB was mandated to determine appropriate volumes and rates for natural gas exports based upon a reasonable forecast of Canadian demand, but continually revised these estimates upward through underestimations of Canadian demand from 1959-1971.[110] The NEB also tended to approve gas exports based on the presence of exportable surplus plus the benefits of maintaining "amity and comity" with the United States, even when approving exports would result in an undervaluing of the gas due to lower American gas prices.[111]

When it came to oil exports, the NEB's policy directives essentially came from the United States because of the import quota. Forecasts of future Canadian oil supplies, based on company data, were obscenely optimistic: in 1971, the EMR minister claimed Canada had "923 years of oil and 392 years of natural gas in the ground."[112] Thus, much of the NEB's attention to oil regulation was spent privately re-negotiating the American import limit or convincing refineries in Ontario to use more Alberta crude, rather than keeping tabs on supply and production.[113] As long as exports continued to flow, independent Canadian producers had little motivation to continue to support a nationalist plan for an Alberta-Montreal pipeline. Even nationalists in Parliament had little reason to disagree with oil exports in terms of energy security. In a situation of oversupply, the continentalist argument seemed to have few drawbacks: more exports meant more exploration and development of future supplies and more infrastructure built at economies of scale.[114] As long as domestic pipelines were routed on Canadian soil, "then let us make every barrel of oil which is surplus above our requirements available to our neighbours," as Conservative George Drew stated in the House.[115] Overall, despite the persistence of economic nationalist ideas about Canadian development during this period, there was little ideological challenge to the dominance of a continentalist approach to oil exports in particular. The compatibility of this ideological approach with existing conditions and power

[110] Ian McDougall, "The Canadian National Energy Board: Economic 'Jurisprudence' in the National Interest or Symbolic Reassurance?" *Alberta Law Review* 11 (1973): 362-363.
[111] McDougall, *Fuels and the National Policy*, 122.
[112] Doern and Toner, *The Politics of Energy,* 83.
[113] McDougall, "The Canadian National Energy Board," 361; Gray, *Forty Years in the Public Interest*, 33.
[114] McDougall, *Fuels and the National Policy*, 78.
[115] *Ibid.,* 65.

relationships served to further stabilize the overall paradigm of hands-off continentalism.

Institutions

According to Lloyd Brown-John, Canadian regulatory agencies like the NEB reflect a balance between British and American inspiration, as do many other Canadian political institutions. From the Americans comes the idea of an independent and impartial regulatory agency, which adjudicates technical decisions and sets regulations based upon expert advice. Parliamentary supremacy and the power of Cabinet appeal are two examples of how the Westminster tradition transformed the implementation of American-style "independent tribunals" in Canada.[116] As a result, Canadian regulatory agencies are far more political institutions than their American counterparts, which have stronger independence from political control and focus more pointedly on economic rationality.[117] Regulation in Canada is also more often entwined with other social and political goals. Some of the characteristics of the NEB that have been noted thus far—the conflict between its depoliticizing role and its position under EMR responsibility, for example—relate to this basic tension between politics and independence. Like other Canadian regulatory agencies such as the CRTC, the NEB was created to administer what was a relatively new and unknown policy area: the Canadian petroleum industry as an interprovincial and international entity. The NEB amalgamated the piecemeal policymaking strategies that had been scattered between the Departments of Transport and of Trade and Commerce, and essentially became the government's energy department until 1966.[118] From the start, therefore, the NEB had to be flexible in its mandate and procedures, while balancing a rigorous judicial decision-making process with political sensitivities.

The National Energy Board Act, as it stood during this period, reflected the need for flexibility to the point that it maintained almost unlimited discretion in certain areas of regulatory procedure. For example, for the Board to approve a pipeline project it had to be "satisfied that the line is required by the present and future public convenience and necessity."[119] In addition to specific criteria like economic viability, Board members were mandated to assess any matters they deemed relevant, and investigate any additional public interests they believed might be affected.[120] The Board had power to include or exclude participants in hearings based on perceived relevance, as well as the capacity to hear whatever

[116] Brown-John, *Canadian Regulatory Agencies,* 192.
[117] *Ibid.,* 49.
[118] Lucas and Bell, *The National Energy Board,* 7.
[119] McDougall, *Fuels and the National Policy*, 113.
[120] *Ibid.*

evidence they deemed relevant (such as hearsay evidence).[121] The discretion as to when a matter was appropriate for the Board to regulate upon was, interestingly, also up to determination by the Board itself.[122] The combined impact of these openings for subjectivity was that the NEB—by deciding which matters were within its established area of mandate, deciding what made up the public interest as far as those matters were concerned, and having the power to establish regulations deemed necessary to implement that interest—was essentially a policy-making body. When government provided limited political guidance as to an overall energy policy direction, as it did when it assigned the implementation of the NOP guidelines to the NEB, then the NEB had great leeway to interpret between government interests and the public interest. Furthermore, considering the policy advisory mandate of the NEB during this period, the NEB even had influence over the direction of energy policy at early stages; this further confused the difference between determining and adjudicating the public interest within its mandate.

This latitude of mandate does not mean that the procedural aspects of the Board were insufficiently rigorous. The guidelines for administering public NEB hearings were based on the requirements of court proceedings but were less formal in a number of aspects, such as the lack of cross-examination or rules regarding the admissibility of evidence. Great stress was placed on procedural formality because the very credibility of the agency depended upon it, to the extent that having no access to legal advice at a hearing placed intervenors at a severe disadvantage.[123] However, such a quasi-judicial decision-making process structures determinations of the public interest in a way that favours positive decisions and substitutes the interests of intervenors for the general public interest. One example is the importance of working precedent in guiding decisions, as a court would operate. As the Board heard cases over the 1950s-1960s, it developed a principle of considering the historical terms of service to markets as an important influence on future approvals—in other words, additional export licenses were rarely disapproved.[124] In terms of institutional structure, the tribunal format was designed to reduce controversy. Board members were required to come to a unified decision to be presented to government in its Reasons for Decision, which glossed over dissent within the Board itself or during proceedings.[125] A decision-making body is not designed to act as a representative body, which is relevant to the NEB as final arbiter of the general public interest; however, this consideration was not perceived as relevant during this first period of Canadian oil policy.

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[121] Roger C. Carter, "The National Energy Board of Canada and the American Administrative Procedure Act—A Comparative Study," *Saskatchewan Law Review 34* (1969): 123; McDougall, "The Canadian National Energy Board," 340.
[122] McDougall, "The Canadian National Energy Board," 338.
[123] Brown-John, *Canadian Regulatory Agencies,* 96, 102.
[124] McDougall, *Fuels and the National Policy*, 123.
[125] McDougall, "The Canadian National Energy Board," 375.

Part of the reason why this was so was that hearings during this period were attended almost exclusively by oil company representatives, as well as intervenors representing the Government of Alberta who typically had few qualms with the industry position.[126] Therefore, the Board's "public interest" determination was often synonymous with the private economic interest, since the evidence provided for its decisions reflected only a limited representation of the public. One example of this process in action was the approval of the Matador pipeline project; since no Canadian companies raised any objection to the market repercussions of its construction, the Board concluded the project was in Canada's economic interest. The only objection raised on public interest grounds was from an American railroad company that debated the necessity of the line as new competition; the fact that the Canadian public interest in energy was shaped by American business interests was rarely so obvious as within NEB proceedings! In the end, the Board rejected this argument in favour of the benefits the line would provide to future good relations with the United States on energy policy, citing the general orientation of the federal government.[127] This example shows how the Board's determination of "public interest" could be transmuted and co-opted at multiple levels, from direct contacts with business to informal interpretations of politics.

Taking general cues from the government's overall policy direction is an example of how informal processes within institutions—based on making procedures easier in practice, on internal agency goals, or on operational pressures—also structure outcomes. Over the 1960s, the NEB responded to the general direction of the Borden Commission (one of the Board members had in fact sat on the Commission) and the Pearson government's continentalist orientation by loosening its definitions of acceptability for gas export approvals.[128] Justifications for bending the rules ranged from the advantages doing so would have for the Canadian-American relationship, to the fact that American sales contracts should not be inconvenienced, and even simply that no intervenor opposed doing so.[129] The latter provides another example of how shortcutting through substitution of intervenor interests for public interest, a process I described earlier, translated industry power into policy results. Another avenue of informal power, brought about by the limitations of the U.S. oil import controls on the NEB's ability to regulate, was the development of frequent communication with the NEB's American counterparts, the Federal Power Commission (FPC) and the Oil Import Administation (OIA). Following the creation of the NEB, the Minister of Trade and Commerce explained to industry representatives how the Board would streamline export approval in order to assist industry and maintain contacts with these American agencies in the interests of

[126] *Ibid.,* 123.
[127] *Ibid.,* 114-115.
[128] Gray, *Forty Years in the Public Interest*, 18; Doern and Toner, *The Politics of Energy,* 85.
[129] McDougall, *Fuels and the National Policy*, 109.

furthering continental resource development.[130] The FPC soon commended the NEB for its remarkably cooperative conduct in handling gas price disputes; the NEB responded by noting how the "amity and comity" of Canadian-American regulatory relations was "real and highly valued by the Board."[131] Informal institutional structures were therefore another brick that cemented a continentalist, dependent relationship between the two countries in energy policy. Finally, the new NEB had difficulties securing staff with the necessary expertise on extremely technical matters like pipeline toll regulation, obtaining funds to adequately compensate staff, and even finding space to locate its office.[132] Time pressures and a lack of both staff and independent government statistics made reliance on industry-supplied data and expertise, obtained through informal consultations, much more likely.

As institutions can be understood as solidified power relationships, so the NEB embodied the power differential between government and business in a way that reinforced its influence over policy outcomes. One possible explanation of this process is the "capture" of a regulatory institution over time as its employees and members leave the private sector for regulatory jobs (or vice versa), develop friendships and relationships with industry representatives, or come to see the agency's interests as synonymous with those of the industry.[133] The original NEB board members were all experienced civil servants or academics, some of which had industry experience but all of which had spent the preceding years advising government at provincial or federal levels on energy or trade questions.[134] As I have argued earlier, much of the federal bureaucracy endorsed a continentalist orientation; in fact, Diefenbaker's mistrust of federal bureaucrats contributed to his appointment of the independent Borden Commission in the first place.[135] Intermixed with experienced men from Ottawa were the Chairman of the Board, Ian McKinnon, and many of the advisory staff, who were enlisted from public service on Alberta energy boards or from industry offices in Alberta. The most pressing problem of "capture," as perceived at the time, was in fact by Albertans with established ways of going about energy regulation and pre-existing relationships with industry lawyers and representatives.[136] Much in the same way that the "new" NOP reflected an industry status quo did the NEB represent an institutionalization of the existing relationships between industry and government.

While Board members may not have had deep personal connections with industry, there were certainly reasons why they shared common goals with oil companies. Part of the concern with institutional capture by Albertans was based on stereotypes of oilmen in the "free-wheeling West;" in practice, this meant the

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[130] Clark-Jones, *A Staple State,* 63, 72.
[131] McDougall, *Fuels and the National Policy*, 116.
[132] Gray, *Forty Years in the Public Interest*, 18-19, 25.
[133] Brown-John, *Canadian Regulatory Agencies,* 201, 204; McDougall, "The Canadian National Energy Board," 374.
[134] Gray, *Forty Years in the Public Interest*, 17-18.
[135] Bradford, *Commisioning Ideas,* 75.
[136] Gray, *Forty Years in the Public Interest*, 24.

adoption of some of the managerial tactics, like 7-hour work weeks and faith in the creativity and innovation of private enterprise, that were characteristic of a high-risk and high-profit industry.[137] The pressure to stay ahead of new industry developments in order to effectively regulate them also put regulators at a constant disadvantage.[138] In a rush to prove its value as a new institution, and under media scrutiny during its first hearings, the NEB started a trend of institutional "risk-taking" in its attempt to satisfy the demands of industry for quick regulatory results. Of the six gas export hearings it heard in its first five weeks, the NEB approved five, with the sixth given a license after minor pricing changes "in the public interest."[139] The speed of these approvals suggests short-term economic concerns outweighed long-term security planning, certainly a risky bet.

Finally, the relationships between the NEB and the rest of the state also exemplified important power dynamics at work. Despite insistence that the government retain a final say over pipeline construction and gas export approvals, as was written into the NEB Act, Parliament proceeded to pay almost no attention to the goings-on of the NEB during the 1960s.[140] This may partially be the result of close, informal communication between cabinet and NEB staff on matters requiring policy direction or approval.[141] Another explanation is that the NEB was extremely successful at what its makers established it to do in a political sense: deflect energy issues out of the public eye, and resolve them through use of expert advice and a judicial decision-making format, giving "symbolic reassurance" to members of Parliament.[142] As mentioned earlier, one of the few exceptions to this trend was the Great Lakes pipeline project. Cabinet's decision to reject the NEB's approval of the line was only reversed after private consultations with industry—in other words, government was willing to challenge an NEB decision if it became politically volatile, but not at the expense of upsetting the industry.[143] The decision to establish EMR as the government's energy policy department, and thus strip the NEB of much of its policy advisory role, was another action exemplifying the government's ambivalent attitude toward the NEB. It would soon became a magnet for government dollars and talented staff that reduced the NEB's capacity while simultaneously increasing direct political control over its functioning.[144] Thus while the NEB reflected the structural power of industry, there was also room for other social forces to control or push back its decisions—if the political will was there.

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[137] *Ibid.,* 24, 40.
[138] Brown-John, *Canadian Regulatory Agencies,* 95.
[139] Gray, *Forty Years in the Public Interest*, 27.
[140] Gray, *Forty Years in the Public Interest*, 16; McDougall, *Fuels and the National Policy*, 124.
[141] Brown-John, *Canadian Regulatory Agencies,* 58.
[142] McDougall, *Fuels and the National Policy*, 126.
[143] *Ibid.*
[144] Priddle, "Reflections on National Energy Board Regulation," 37.

Trends and Conclusions

From a political economy perspective, power relationships are the key to understanding political continuity and change. In my analysis of explanatory factors, I have attempted to bring out bottom-up and top-down interactions between political agency and structural factors at each level to draw attention to the centrality of power relationships throughout this period. Despite the fact that groundbreaking new policies were introduced in the area, including the NEB Act and the NOP, the overall paradigm of oil export policy from 1949 to 1969 was remarkably stable and internally consistent in its support of state non-intervention. These "new" policies followed pre-established patterns and institutional frameworks that embodied the relative strength of capital. I argue that environmental conditions, such as American oil policies, served as resources that bolstered the existing dominance of capital over the direction of Canadian oil export policies. The comparative weakness of the state in its capacity to formulate alternatives, the strength of continentalist ideological resources over nationalist ones, and the institutionalization of the existing power of capital within the nascent NEB, all served to strengthen the hegemony of the existing regime of accumulation. This regime was the expression of a continentalist, staples-biased capitalist class, the dominance of which had structured Canadian economic development for decades.[145] Oil was simply the next staple export in line to follow the engrained trend and take over from declining staples like grain.

Cooperation between this capitalist class and allied state elites formed a stable mode of development that overwhelmed small movements of counter-hegemony, typically rooted in economic nationalist concerns. This arrangement of power, as Jane Jenson has argued, supported a particular configuration of a Fordist welfare state that negotiated two fundamental cleavages of Canadian politics—federalism and national identity.[146] This Fordist paradigm was characterized by the Canadian economy's permeability to outside capitalist forces and the negotiation of a compromise between society and capital through the actions of government (rather than through negotiations between labour and capital, or Left and Right parties). It was a period of economic prosperity and mass consumption led by staples industries and supported by the development of limited social programs, which compensated for uneven regional development and the failure of weak labour forces to secure gains through collective bargaining.[147] In other words, individual pieces of the paradigm, such as a staples-based and continentalist regime of accumulation and a unified Canadian

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[145] Mel Watkins, "The Political Economy of Growth," in *The New Canadian Political Economy*, eds. Wallace Clement and Glen Williams (McGill-Queen's University Press, 1989), 24.
[146] Jane Jenson, "'Different' But Not 'Exceptional': Canada's Permeable Fordism," *Canadian Review of Sociology and Anthropology* 26, no. 1 (1989): 78.
[147] *Ibid.,* 78-81.

political identity based in the brokerage tradition, evolved together to form a mutually-constitutive and supportive mode of development.

Within oil export policy, the expression of this paradigm was evident in the stability of non-interventionist, continentalist export policies that perpetuated both staples dependence and dependence upon American economic and political factors. Potential cleavages and crises rooted in the staples bias, such as between producing and consuming provinces (thus implicating federalism), or between fuel scarcity and demand (thus implicating national energy security and identity), were successfully incorporated within the paradigm or did not arise at all. The invasion of American external capital, which was crucial to sustaining an export-dependent staples economy, was evident in the economic and political dominance of multinational oil companies throughout this period. Factors such as the lucrative market arrangements these multinationals secured through the NOP, the combination of low oil prices and price stability that sustained economic growth, and the way in which the NOP acted as a regional redistribution of oil profits, can all be understood within a Fordist paradigm based in the combined negotiation of Canadian political and economic structural biases. The division within, and ambivalence of, counter-hegemonic societal forces such as labour or economic nationalism is also relevant to this explanation. The fact that Prime Minister Diefenbaker, who was greatly unpopular with the Canadian economic and political elite for his nationalist views, nevertheless enacted a policy like the NOP attests to the hegemony of this societal paradigm as a whole.[148]

Overall, the stable anti-interventionist attitude towards oil exports up to the end of the 1960s can be explained by the balance of power both within the Canadian social-economic paradigm at large. This balance led the state to successfully negotiate continentalist and staples-based economic biases by deferring to the interests of capital—which had an interest in perpetuating the very same structures. Other major structural biases of Canadian politics, such as federalism and national identity, were strongly linked to this political-economic compromise. Their relative stability during this period also contributed to the lack of challenge to such an oil export policy. The birth of Canadian oil policies provides a starting point for understanding how such structural biases came to be inculcated in these policies; however, as I will analyze in the next chapter, there is far more to be learned from how the state reacted to schisms in its ability to negotiate these biases.

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[148] Grant, *Lament for a Nation,* 27.

Chapter 3: 1970-1983

Historical Overview

Despite the dominance of a continentalist, non-interventionist approach to oil policy in the NOP period, cracks began to form in this paradigm by the late 1960s due to it its inability to accommodate changes. Within the Canadian oil market, attempts by companies to squeeze maximum profit out of the NOP structure threatened the policy on both sides of the Ottawa Valley line. On the western side, oil exports continued to grow beyond the informal limits set by the NEB in private negotiations with American officials. When approving new oil export pipelines, such as a new offshoot of the Interprovincial system to serve Chicago, the NEB was forced to undertake these negotiations in order to secure American regulatory approval.[1] However, these unofficial quotas were exceeded extremely rapidly; by 1970, exports exceeded the 1966 informal target by nearly 70%. As early as 1968, these overruns in exports led Cabinet to consider imposing a formal NEB pro-rating scheme as well as instituting export controls through Parliament.[2] However, the need to do so was pre-empted by external factors when President Richard Nixon ended Canada's overland exemption and brought Canadian imports within full control of the American import quota system in March 1970.

On the eastern side of the Ottawa Valley, oil companies whose Canadian subsidiaries were not fully vertically integrated were the main government concern. Imperial Oil, Gulf Oil Canada, Shell Canada, and Texaco Canada were the key owners and operators of refineries in central Canada; as outlined in the previous chapter, the arrangements of the NOP served the maintenance of their continent-wide market.[3] However, other multinationals with smaller stakes in Canada, and some smaller Canadian companies, justified transgressions of the Ottawa Valley line on the basis that it was necessary for their economic survival in light of these market arrangements. One example was Canadian Petrofina, which owned a refinery in Montreal for its imported crude but had no refinery capacity in Ontario. Petrofina repeatedly shipped refined products to Ontario in defiance of the NOP because it was the only major Canadian oil subsidiary that

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[1] Earle Gray, *Forty Years in the Public Interest: A History of the National Energy Board* (Toronto: Douglas and McIntyre, 2000), 33.
[2] *Ibid.,* 34.
[3] John Eric Fossum, *Oil, the State, and Federalism: The Rise and Demise of Petro-Canada as a Statist Impulse* (Toronto: University of Toronto Press, 1997), 27.

could not access the Ontario market otherwise.[4] Gulf Oil responded to the Petrofina example with a warning that it might be forced to transgress the NOP out of competitive necessity if violations continued, thus deepening the problem.[5]

The government response to this pressure was to proclaim s. 87 of the NEB Act in May 1970. The new text of the Act provided for formal regulation of the Ottawa Valley line by mandating the NEB to approve and license all crude oil imports. The repercussions of this decision foreshadowed a growing politicization of the national oil market. One of the first companies to be threatened by the licensing requirement was Caloil, a Montreal-based importer of gasoline, which found itself in a situation of extremely bad timing. On the very day the change in regulations was instituted, Caloil received a previously-scheduled tanker shipment of gasoline that had been destined for the Ontario market; it soon found the import license it had been issued pursuant to the new regulations restricted such a sale. Caloil requested and was denied special permission to sell its shipment, a decision that was unsuccessfully appealed as far as the Supreme Court.[6] The federal denial was seized upon by the Parti Québécois, which publicly argued that the NOP hurt Quebec's local oil companies. The federal government, led by Liberal Prime Minister Trudeau since 1968, responded by publicly listing the numerous economic benefits the NOP had granted average Quebeckers.[7]

The next major blow to the stability of the NOP was the complete reversal of the American policies that had shaped its original necessity. The U.S. Mandatory Oil Import Program, the requirements of which had essentially dictated the fundamentals of Canadian oil export policy, was revoked in 1971. Due to peaking domestic oil production and rapidly increasing demand, the United States suddenly wanted as much oil and gas as Canada was willing to provide.[8] Faced with the prospect of fundamental changes to Canadian oil policy, the federal government bolstered EMR's policy advisory capacity in 1972 by establishing the Energy Policy Sector within the department.[9] The government was also under growing industry pressure to endorse the construction of northern oil and gas pipelines in light of the American demand situation. The perception that Canada possessed "virtually unlimited" supplies of both products in the North, and that these reserves would only be developed by industry if sufficient incentives and infrastructure were in place, led to a consistent effort by the federal government to promote an export oil pipeline through the Mackenzie Valley.[10] The persistent skepticism of American legislators led the federal government to offer to construct a highway to support the line, drop requirements for majority

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[4] Gray, *Forty Years in the Public Interest*, 36.
[5] *Ibid.*
[6] *Ibid.,* 36.
[7] *Ibid.*
[8] Fossum, *Oil, the State, and Federalism,* 29.
[9] Gray, *Forty Years in the Public Interest*, 56.
[10] François Bregha, *Bob Blair's Pipeline: The Business and Politics of Northern Energy Development Projects* (Toronto: James Lorimer and Company, 1979), 24.

Canadian ownership of the line, and even propose a continental energy pact with the U.S. that would guarantee American access to Canadian oil and gas reserves—all to no avail.[11] However, the government would be forced to change position dramatically when it was surprised by domestic shortage issues and the extensive impacts the of 1973 oil crisis.

The rapid increase in world oil prices spurred by OPEC's October 1973 supply embargo turned the NOP's pricing assumptions on their head. No longer was imported oil a cheap energy source for the Montreal market: average prices for a barrel of imported crude in Montreal jumped from a 1970 low of $2.45/barrel to $13 in 1973.[12] However, the oil crisis arrived early for Canada due to a complicating issue. Domestic oil supplies had been seriously impacted due to a sudden deluge of Albertan oil exports following the repeal of American import restrictions—a near-doubling in export volumes had occurred over only two years. By December 1972, the NEB confidentially advised Cabinet that Canada would no longer have enough oil to meet both domestic needs and current export levels by the next year.[13] The government's response was to implement NEB licensing of all crude exports, effective March 1973; American refineries were required to "nominate" or request amounts of oil from the NEB to be licensed on the short term. Pipeline capacity problems soon forced the NEB to curtail the initial nomination amounts over the course of 1973.[14] By September, it was publicly clear that the NOP had been rendered obsolete as a market control mechanism due to increasing world prices and decreasing domestic supply, and Prime Minister Trudeau announced three replacement initiatives to shield the Canadian market against disruption. These measures were the extension of the Interprovincial Pipeline to Montreal from Sarnia, a temporary freeze on oil prices, and an oil export tax calculated based on the differential between domestic and world prices to both capture revenues and shield consumers of imported oil by supporting the price freeze.[15]

Almost immediately after these steps were taken, the breakout of the Yom Kippur War induced OPEC to implement a politically-motivated supply embargo. Government quickly responded by establishing an advisory committee (the Technical Advisory Committee on Petroleum Supply and Demand) of oil company representatives and members of EMR and the NEB to make confidential policy suggestions.[16] Closer to the end of the year, Trudeau explained the failure of the NOP to the Canadian public during a television address and called for conservation measures. This was the prelude to a new "national oil policy," announced in the House at the beginning of December, which abolished the

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[11] *Ibid.,* 26, 27, 29.
[12] Gray, *Forty Years in the Public Interest*, 50.
[13] *Ibid.*
[14] *Ibid.,* 51.
[15] G. Bruce Doern and Glen Toner, *The Politics of Energy: The Development and Implementation of the NEP* (Toronto: Methuen, 1985), 91; Gray, *Forty Years in the Public Interest*, 51.
[16] Gray, *Forty Years in the Public Interest*, 51.

Ottawa Valley line, established a new national oil price, and provided for the establishment of a new publicly-owned national oil company (NOC). This NOC, Petro-Canada, would be crucial to the implementation of another part of the plan: the focused expansion of non-conventional and northern oil and gas development. Finally, the plan reinforced government commitments to the Sarnia-Montreal pipeline extension and the new oil export tax, the rate of which would now be formally regulated by the NEB based on changes in the international-domestic price differential.[17] In his public television address, Trudeau had pointed out that the NOP had essentially subsidized the Albertan oil industry by forcing Ontario to purchase higher-priced Alberta crude. Now, the distribution of oil's profits and costs needed to change; the impact of international price increases on Canadian consumers and industries needed to be balanced with the royalty windfalls that were accruing to Alberta due to those increases. Furthermore, the federal government faced the prospect of undertaking further significant revisions to oil policy from a weak position. The legacy of the preceding era, when governments had relied on industry data and expertise for the limited planning that was done, had left Ottawa without independent information on how the industry actually worked. Increased policy capacity required funding, the best source of which would be the partial capture of oil revenues flowing to the Alberta government and to the major oil MNCs.[18]

The tools implemented in the years following 1973 were partial achievements of these goals. The most uncontroversial measure was the Sarnia-Montreal pipeline extension; it was technically a matter within the NEB's jurisdiction, and therefore raised minor questions of the government's power to approve pipelines over the head of the NEB, but was wholly approved upon in principle by the Conservatives and NDP.[19] The formalization of the oil export tax and the Oil Import Compensation Program institutionalized an adaptive response to increasing global prices.[20] Measures were also introduced in the 1974 federal budget to remove the deductibility of provincial royalties from corporate income tax in order to redistribute some of these revenues to the federal government.[21] The 1975 Petroleum Administration Act also instituted wide-ranging federal powers over national oil prices. This Act enabled government to indirectly control the domestic rate of exploration and development through price—thus boosting Canadian self-sufficiency and security in oil—while maintaining a uniform Canadian oil price that was lower than the world average in order to shield consumers.[22] The assertion of federal power over natural resource pricing and production, an area constitutionally guaranteed to the provinces, led to acrimonious opposition from Albertan Conservative MPs. They argued that price

[17] *Ibid.,* 51-52.
[18] Doern and Toner, *The Politics of Energy,* 91-92.
[19] John N. McDougall, *Fuels and the National Policy* (Toronto: Butterworths, 1982), 135.
[20] Doern and Toner, *The Politics of Energy,* 92.
[21] *Ibid.,* 93.
[22] McDougall, *Fuels and the National Policy,* 134.

controls would illegitimately protect central and eastern Canada at the expense of the West's economic development, but failed to sway the rest of their party; the Act passed with the support of both the Conservatives and the NDP.[23] This division between Alberta and Ottawa on pricing would be partially smoothed over during the mid-1970s through the use of First Ministers' conferences to reach negotiated agreements on national prices.[24] On the other hand, the Petro-Canada Act, also passed in 1975, was subject to strong and united Conservative opposition. Their primary concern was how the political flexibility written into the company's mandate would allow directives from Cabinet, rather than Parliament, to guide company policy.[25]

The mid-1970s were characterized by the successful growth of Petro-Canada as well as resurgent public debate on a new formulation of an old government pet project—a Mackenzie Valley pipeline. Petro-Canada's first years of operation were directed toward three policy main goals, according to directives from EMR: to further northern oil and gas development, develop data on both Canada's resource base and the oil industry itself, and promote Canadianization of the industry.[26] The strongest priority within the company was to develop a foothold in the industry by opening up frontier oil and gas resources for exploration. To facilitate this goal, Petro-Canada received preferential access to land through modifications to federal regulations.[27] Combined with accepted industry tactics, such as acquisitions of smaller companies and "farm-ins" that allowed co-development between companies, Petro-Canada became a medium-sized player in the Canadian industry by 1979, with $3.4 billion in assets by that year.[28]

According to arguments by both government and industry, another major step Canada could take to lessen its dependence on foreign oil would be to develop Canadian natural gas from the western Arctic as a substitute fuel. A joint-service pipeline through the Mackenzie Valley, combining delivery to Canadian markets with American exports, would be the only financially-viable way of implementing such a plan.[29] The NEB requested formal jurisdiction over the approval of a Mackenzie pipeline, but the government was concerned about public perceptions of potential environmental and social impacts of construction in the North—areas in which the NEB lacked experience and expertise. Instead, the Department of Indian and Northern Affairs was directed to organize a plan for public hearings to assess the impact of a Mackenzie Valley pipeline. This inquiry began in 1975, headed by Judge Thomas Berger, whose previous work with the Nisga'a in British Columbia formed much of the legal basis for Aboriginal rights in Canada. Instead of defusing criticism and depoliticizing the issue, as

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[23] *Ibid.,* 140-141.
[24] Gray, *Forty Years in the Public Interest*, 54.
[25] Fossum, *Oil, the State, and Federalism,* 76.
[26] *Ibid.,* 88.
[27] *Ibid.,* 90.
[28] *Ibid.,* 88.
[29] McDougall, *Fuels and the National Policy,* 145.

government had hoped, Berger's inquiry raised significant environmental and social objections to development and gave them a long-lasting public profile.[30] The report recommended that no pipeline ever be built in the northern Yukon for environmental reasons, and that development in the Mackenzie Valley should not take place for 10 years in order for land claims and social issues to be resolved.[31] The depth of Berger's report, his attention to the interrelationships between social and environmental impacts, and his concern for the full and fair participation of native peoples, also set a high bar for future environmental assessments of pipeline projects in Canada. The Mackenzie Valley gas pipeline was subsequently rejected by both the NEB and the government in favour of an alternate proposal routed along the Alaska Highway.[32]

The second oil shock of 1979 precipitated another crisis in oil policymaking. The Iranian revolution in March of that year resulted in the removal of 2.5 million barrels a day from world oil production. These production shutdowns in Iran combined with intense price speculation, fueled by a climate of scarcity fears that had existed since the shock of 1973.[33] In Canada, the initial response was formulated by a new minority government under Conservative Prime Minister Joe Clark, elected in May 1979. The Clark government's energy policy platform reflected some of the internal schisms within the Conservative party between producing and consuming provinces—despite the fact that it had campaigned on a promise to better manage the provincial-federal relationship than the Liberals had.[34] During Clark's seven months in office, attempts to secure agreement with the Alberta government on revenue sharing failed, though minor progress was made on oil pricing.[35] Instead, the Conservatives put forth a budget that implemented a windfall profits tax on the industry, a gasoline tax on consumers, and cuts to tax write-offs for oil and gas drilling; obviously, neither Alberta nor the industry was happy with the plan.[36] Furthermore, the Conservatives' unified ideological opposition to Petro-Canada soon began to dissolve once in office. The Clark government initially supported privatization, but continued to weaken the level of proposed divestment in its plans until it came out in support of Petro-Canada as an interventionist tool, albeit with the caveat that the intervention should be as indirect as possible.[37] In the end, these plans evaporated when the Clark government was defeated over its budget and the Trudeau Liberals were returned to office in February 1980.

The 1980 election was remarkable because of the extent to which energy issues, rarely a matter of intense public concern, became the focus of debate during the campaign. The highly unpopular gasoline tax and genuine public

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[30] Bregha, *Bob Blair's Pipeline,* 119-120.
[31] *Ibid.,* 123.
[32] Doern and Toner, *The Politics of Energy,* 100.
[33] Fossum, *Oil, the State, and Federalism,* 106.
[34] Doern and Toner, *The Politics of Energy,* 103.
[35] Fossum, *Oil, the State, and Federalism,* 110.
[36] Doern and Toner, *The Politics of Energy,* 105.
[37] Fossum, *Oil, the State, and Federalism,* 112.

support for Petro-Canada were two major issues that resonated with voters during the campaign.[38] In the wake of such an election, the Trudeau government began to construct the major energy policy milestone of this period: the National Energy Program (NEP). The NEP strongly asserted federal control over oil in Canada in the interests of energy security, through both the extension of Canadian sovereignty over domestic supplies and the development of more domestic energy capacity in order to end reliance on foreign oil imports. Notably, the government pledged to phase out Canadian oil exports by 1990.[39] The NEP's other goals were to widen the scope of Canadian participation in the oil industry and to establish a pricing and taxation regime for oil that fairly shared benefits and costs across Canada.[40] Following unsuccessful federal-provincial negotiation, the federal government unilaterally implemented the NEP as part of its first post-election budget.[41]

Energy security was pursued through grants for fuel substitution and conservation, and subsidies to intensify exploration and development in the northern Canada Lands. These subsidies, called Petroleum Incentive Payments (PIPs), were tailored according to the level of Canadian ownership and control within recipient companies in order to promote Canadian participation.[42] A consumer levy at the gas pump, the Canadian Ownership Charge, was also instituted to finance takeovers of foreign-controlled energy companies by Petro-Canada.[43] Taxes were used to establish a fairer regional distribution of wealth, such as the Petroleum and Gas Revenue Tax (PGRT) of 8% on net production revenues. Canadian domestic consumers paid a single national oil price, balanced through a complex system of price determinations that advantaged new, frontier, and unconventional producers and funneled revenues into the Oil Import Compensation Program (OICP).[44] These blended price regulations were implemented in the Canada Oil and Gas Act (COGA), which also introduced a new royalty regime for northern oil and gas. In addition, the COGA changed the northern land rights system in order to give government more discretionary power over the use of leases (for example, requirements for a 25% Crown share of all land and for Canadian participation in leasing companies).[45] Another notable component of the overall NEP package was the introduction of the Alberta Technical Advisory Committee (ATAC), a panel of senior oil and gas representatives that served as a bridge between the federal government and industry regarding technical matters of the NEP's implementation.[46]

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[38] Doern and Toner, *The Politics of Energy,* 5.
[39] Gray, *Forty Years in the Public Interest*, 61.
[40] Doern and Toner, *The Politics of Energy,* 4.
[41] Fossum, *Oil, the State, and Federalism,* 113.
[42] Gray, *Forty Years in the Public Interest*, 75.
[43] Doern and Toner, *The Politics of Energy,* 4.
[44] Gray, *Forty Years in the Public Interest*, 61.
[45] Fossum, *Oil, the State, and Federalism,* 142-145.
[46] Doern and Toner, *The Politics of Energy,* 109.

The NEP was received positively by the Canadian public, especially its expansion of Canadian ownership within the oil and gas industry.[47] On the other hand, the intense opposition of petroleum-producing provinces (especially Alberta) to the constitutional imposition and redistributive terms of the NEP led to intense political conflict and repeated re-negotiation of parts of the package. In retaliation to the introduction of the NEP, Alberta raised a legal challenge against the federal government on constitutional grounds, as well as an economic one through production cuts and approval delays on new tar sands projects.[48] Still, Alberta and Ottawa were able to come to some consensus by September 1981, resulting in an agreement that balanced the protection of jurisdiction with federal Canadianization goals as well as implemented some revenue sharing.[49] Similar agreements were subsequently reached with other producer provinces, from British Columbia to Newfoundland, over the next few months.[50] However, the major flaw of these agreements, namely the assumption that global oil prices would continue to rise through the decade, was soon made clear. World-wide recession and an increasing oil glut—the result of fractures within OPEC as well as the success of conservation measures among the consuming nations—led to a dropping world price. Together, these conditions forced a readjustment of the NEP in order to strengthen the suddenly-floundering domestic oil industry.[51]

The NEP Update of Spring 1982 included assistance plans primarily directed at small Canadian producers, and tweaked the determination of the blended oil price in order to boost industry revenues.[52] The revenue-sharing provisions of the Canada-Alberta agreement had to be adjusted in June 1983 to account for the downward trend in global oil prices. Furthermore, the federal government—faced with mounting criticism over its handling of the recession and its growing deficits—had to confront the burgeoning costs of maintaining the PIP grant system, and capped PIP approvals in early 1983.[53] By the time of their electoral defeat in 1984, the Liberal government had largely abandoned the NEP due to intractability of these problems; thus, this change of government marked the end of a period of significant innovation in oil export policy. The combined effects of international and domestic crises with opportune shifts in power relations had spurred the development of an interventionist, sovereignty-oriented Canadian oil policy over the 1970s-late 1980s, in stark contrast to the laissez-faire policies of previous decades.

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[47] *Ibid.,* 107.
[48] *Ibid.,* 106.
[49] Fossum, *Oil, the State, and Federalism,* 180.
[50] Doern and Toner, *The Politics of Energy,* 113.
[51] *Ibid.,* 114.
[52] Fossum, *Oil, the State, and Federalism,* 182.
[53] Doern and Toner, *The Politics of Energy,* 118.

Analysis

Environment

The physical realities of oil, as I outlined them in the last chapter, did not change in this period but the political implications of these realities certainly shifted. Oil maintained its status as a global commodity, but within the context of a politicized and polarized market. Thus, while these international changes can be thought of as external variables with regard to Canadian oil policy, they were also deeply tied to changes in power that had more direct and internal effects. The intermingling between these international changes in power and power structures within Canada is the key to understanding the influence of environmental variables during this period on Canadian export policy. In this section, I will focus on outlining worldwide power shifts as environmental variables, but will examine the interactions between these shifts and the Canadian situation in greater depth within the following section on power.

Before the 1970s, the Canadian oil market, like the world market in general, was dominated by an oligopoly of major international oil companies primarily based out of the United States. The vertical integration within these companies and the market agreements between them effectively shut out potential competitors by keeping the barriers to entry in the global market very high.[54] This control, combined with the unwillingness of governments to challenge it, resulted in a period of prolonged price stability and significant industry profits. The market price of oil had always been subject to industry power, but because the very structure of the normal market was intertwined with this power it remained disguised within the "natural" balance of supply and demand.

However, the dominance of the "Seven Sisters" was shattered in the 1970s by unexpected shifts in behaviour from peripheral oil producing nations. The Organization of Petroleum Exporting Countries (OPEC) was formed in 1960, as a political response to unilateral assertions of price control by the major oil companies. This organization of oil exporting countries both in the Middle East and elsewhere (including Venezuela, Iraq, Saudi Arabia, Iran, and Kuwait) negotiated with the majors on a united front and demanded a reversal of the surprise price cuts.[55] The fact that these countries together accounted for 80% of world oil exports worried the multinationals, but OPEC did not attempt to assert serious political power based on this imbalance for around a decade—mostly because the majors still owned the oil in the ground by contract. Furthermore, global supply far outstretched global demand through the 1960s.[56] Just as this world oil glut limited the extent to which oil was perceived as a political

[54] Fossum, *Oil, the State, and Federalism,* 28.
[55] Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991), 522-523.
[56] *Ibid.,* 567.

commodity within Canada, so did that surplus of oil reduce the potential power of OPEC during that time.

Growth in demand over the late 1960s-early 1970s, combined with a resurgence in nationalisms worldwide, shifted the situation rapidly. The catalyst for change was the 1969 military overthrow of the Libyan King Idris by Muammar al-Qaddafi, whose Revolutionary Command Council initiated a campaign to pressure major oil companies through taxation and price increases. The eventual agreement Libya reached the with majors—a 20% royalty increase in exchange for permission to keep operating in the country—represented a major shift in the balance of power between the companies and producing nations.[57] Other OPEC members, emboldened by the Libyan example, followed suit in collective negotiations. In Tehran in 1971, OPEC and the industry came to an agreement on increased taxation and government participation; this success solidified the drive for OPEC to act together in the interests of maximizing pressure on the majors. The combination of the Yom Kippur War and general dissatisfaction with the terms of the Tehran pact led to an even stronger collective response by Arab OPEC states, namely the 1973 oil production cut. The 1973 crisis was "shocking" in part because it announced the collapse of the majors' economic control over world oil markets and created uncertainty regarding control in the future. This assertion of economic sovereignty also became linked with political sovereignty: through the embargo, Western nations were pressured to withdraw support from Israel's occupation of territories in the Middle East.[58]

The recognition that oil supplies could be used as a political weapon due to Western dependence on imported oil, and the resultant "politically-imposed" scarcity that threatened the economies of Western nations, was one component of the global politicization of oil in the 1970s. Another significant factor was the association of oil, and its political power, with nationalist goals worldwide. OPEC members like Saudi Arabia and Kuwait argued that selling off their "bread and butter," in order to accumulate as much unstable currency over the short term as possible, was a waste of national resources that served mostly to provide windfall profits to the majors.[59] The nationalist imperative to assert control over one's own natural resources and develop them for the benefit of citizens, not outsiders, became a popular strategy. Over the 1970s, every OPEC member was able to secure control of its oil production from the majors through nationalizations and expropriations; between 1970 and 1979, OPEC's ownership of its own crude climbed from 2% to 80%.[60]

Interwoven with the nationalist significance of oil was the worldwide development of national oil companies (NOCs) as instruments of public ownership and control during this period. Through the threat of further cutbacks to supply, OPEC pressured subsidiaries of the major oil companies to agree to

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[57] *Ibid.,* 580.
[58] Doern and Toner, *The Politics of Energy,* 89.
[59] Yergin, *The Prize,* 595, 599.
[60] Fossum, *Oil, the State, and Federalism,* 29, 296.

increasing government participation in oil. More often, however, producer states simply nationalized holdings within an NOC; Algeria, Libya, Venezuela, Iraq, and Kuwait all took back major concessions from the majors during the 1970s. Iran, which had already nationalized its oil holdings in 1951, also took complete control of production through its National Iranian Oil Company.[61] Saudi Arabia was more hesitant to join the nationalization bandwagon owing to its relationship with the United States, and instead gradually took deeper control over Aramco over the 1970s.[62] The fact that these NOCs preferred to make contracts with other NOCs and develop government-to-government relationships spurred some consuming countries to adapt their own practices. France drew on its existing framework of state ownership in the petroleum industry in order to negotiate state-to-state deals with OPEC producers, and Japan formed a new NOC for the same purpose.[63] The creation of Petro-Canada was both encouraged and legitimized by these world examples; indeed, one of the justifications for its creation was that it would enable Canada to obtain "politically secure" oil supplies through state-to-state contracts.[64]

The creation of NOCs by non-OPEC countries as a coping mechanism is an example of how different states pursued different strategies of adjustment to sudden oil scarcity. These strategies varied in terms of their tolerance for state intervention, but assertions of national control specific to the situation of each country were the most popular response.[65] One piece of supporting evidence for this claim is the weakness of international political initiatives formed to counter OPEC's united front. The oil crisis strained relationships between Western countries. Europe, which was completely dependent on Middle East oil, favoured opening dialogue with OPEC—a position the United States condemned. Japan's dependence also forced it into a shifting its foreign policy position in support of the Arab nations, resulting in its first major political split with the United States since the Second World War.[66] Still, most of the Western countries were willing to participate in forming an international response to the crisis at the behest of the United States, which held an international energy conference in Washington in 1974 to formulate a plan. The result of these negotiations was the International Energy Agency (IEA), a new arm of the OECD that would administer an energy sharing program in the event of another crisis as well as working for overall harmonization of energy policies in defiance of the state-to-state negotiation trend.[67] However, the more ambitious American plans, including international monetary reform and coordinated import reductions, failed to find acceptance,

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[61] Yergin, *The Prize,* 584.
[62] *Ibid.,* 584-585.
[63] G. John Ikenberry, "The Irony of State Strength: Comparative Responses to the Oil Shocks in the 1970s," *International Organization* 40, no. 1 (1986): 113.
[64] Fossum, *Oil, the State, and Federalism,* 75.
[65] Ikenberry, "The Irony of State Strength," 110, 120.
[66] Yergin, *The Prize,* 627-629.
[67] *Ibid.,* 630.

leaving American leadership on the international energy scene in question.[68] France, which had opted out of the Washington Conference and had called the IEA an "instrument of war," remained a visible symbol of opposition to American-led international cooperation on oil.[69]

The American policy response to the 1973 oil crisis depended on some level of international cooperation because it was a more market-oriented approach. Due to the unwillingness of American domestic producers to cooperate, and the reluctance of other importing countries to follow the American example, the overall response formed a patchwork of inconsistent policies. Energy shortages had begun in the United States as early as 1971, leading to the sudden repeal of the U.S. Mandatory Oil Import Program that year.[70] In its place, President Nixon introduced "Project Independence," a plan to reduce American dependence on OPEC oil imports. The fact that Canadian oil was not given special status within this plan, but simply lumped in with all other "foreign sources," seemed to indicate an end to the continental "special relationship" on energy issues.[71] Indeed, Nixon's own words apparently encouraged an independent Canadian oil policy: "Our policy towards Canada reflects the new approach we are taking in all our foreign relations, an approach which has been called the Nixon Doctrine. The doctrine rests on the premise that mature partners must have autonomous independent policies; each nation must define the nature of its own interests; each nation must decide the requirements of its own security; each nation must determine the path of its own progress."[72] American oil price controls, first introduced in 1971 to shield consumers from high overall inflation, were modified to a two-tiered pricing regime as part of the 1973 package. Under the program, "new oil" produced that year would be subject to free market prices, while old oil was sold at controlled prices.[73] Following Nixon's resignation, President Gerald Ford also implemented a number of projects that both fit with the Project Independence theme and had significant ramifications for Canada's oil exports, including the construction of the Trans-Alaskan oil pipeline to bolster American domestic oil supplies.[74]

American oil policies continued to change frequently following the election of Democrat Jimmy Carter as President, who campaigned on a promise to

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68 Ikenberry, "The Irony of State Strength," 110, 116.

69 Yergin, *The Prize,* 630.

70 Gray, *Forty Years in the Public Interest*, 49.

71 J. G. Debanné, "Oil and Canadian Policy," in *The Energy Question,* eds. Edward W. Erickson and Leonard Waverman, Volume 2 (Toronto: University of Toronto Press, 1974), 137.

72 Edward Cohen, "Canada's Aloof Oil Policy," *New York Times,* September 30, 1973; Lawrence Martin, *The Presidents and the Prime Ministers* (Toronto: Doubleday, 1982), 251.

73 F. J. Anderson, "Price Formation in the Canadian Oil Sector," *Canadian Public Policy* 2, no. 1 (1976): 10.

74 Yergin, *The Prize,* 660.

overhaul national energy policy in his first ninety days.[75] In part, American public opinion and media discussion regarding the source of the 1973 price shocks fuelled the desire for rapid change. Much of the American public came to believe the price increases were the fault of a conspiracy (or at least a dangerous lack of competition) in the American oil industry. At the height of the embargo, 25% of Americans blamed the oil companies for the shortage, 23% blamed the government, and only 7% blamed Arab states for the oil crisis. This public pressure led to congressional investigations of oil company dealings and of the amount of responsibility delegated to the oil industry by the American government.[76] Once in power, the Carter administration pursued a more aggressive and expansive energy policy than its predecessors, involving conservation and fuel efficiency initiatives, import cuts, and greater taxation of the oil industry's windfall profits.[77] Price controls, which both indirectly subsidized the purchase of foreign oil and contributed significantly to a growing inflation problem, were to be phased out.[78] Indeed, the effect that American price controls had had on global inflation was dire enough that the United States was forced to promise to completely decontrol prices at the 1978 Bonn Summit on the future of the international economy.[79]

The test of international responses to the 1973 oil crisis was the "second oil shock"—the combined disruptive effects of the 1978-1979 Iranian Revolution, resulting price speculation, and the beginning of the Iran-Iraq War in 1980.[80] A number of shifts in the international situation mediated the effects of the second oil shock. The willingness of Saudi Arabia to increase production to meet the global shortfall was one cushion.[81] Splits within OPEC, such as individual production increases in the name of greed and the political conflict between Iran and Iraq, began to whittle away the combined political and economic power of oil. Another new development was the ascendance of international oil sales through the spot market. As mentioned above, price speculation worsened the immediate price increases in 1979, fueled both by investors trading small volumes of oil and producer countries selling more and more oil on the spot market rather than through large contracts. However, the USSR saw this as an opportunity to move aggressively into the new spot market in order to undercut its OPEC competitors, which cushioned the effects of supply disruption. Furthermore, conservation efforts and the success of non-OPEC NOCs at finding and developing new sources of oil mediated the worldwide shortage.[82] Once production caught up with demand, these forces continued to place downward

[75] *Ibid.,* 662.
[76] Richard H. K. Vietor, *Energy Policy in America Since 1945* (Cambridge: Cambridge University Press, 1984), 206-208.
[77] *Ibid.,* 259.
[78] Yergin, *The Prize,* 663.
[79] Fossum, *Oil, the State, and Federalism,* 108.
[80] *Ibid.,* 106.
[81] *Ibid.*
[82] *Ibid.,* 106-107.

pressure on world oil prices to the extent that a reversal occurred. The price spike deepened the inflation problem and the resultant economic downturn grew into a major recession, fuelled by even lower oil demand.[83] The political position of oil also changed in the late 1970s. As a response to the Iranian Hostage Crisis during the revolution of 1979, the President announced the "Carter Doctrine" asserting the willingness of the United States to use any means necessary to protect American interests in the Middle East; this represented a surge in American assertion of power over Arab oil.[84] As OPEC was forced to lower its prices and thus relinquish its price leadership to the fluctuations of spot markets, oil became "just another commodity" from an economic point of view. It would retain political significance in a geopolitical sense as the Carter Doctrine demonstrated, but the political pull of "security" disappeared from the international scene.[85]

The final external development of note to Canadian policy was the election of Republican President Ronald Reagan in 1981, which set off another period of major economic policy change in the United States. Reagan aimed to restore American confidence through a reassertion of economic and political leadership on the world stage. The focus of his first term was a neoliberal restructuring of the economy in order to lift the country out of recession. In the specific area of oil policy, the remnants of oil price controls were dismantled and the windfall profits tax removed. Complete deregulation let loose a wave of competition that completely reorganized the landscape of American multinational oil companies.[86] The implementation of "Reaganomics," which centered around major cuts to both taxes and government expenditures (excepting the military), seemed to produce quick results; by the beginning of Reagan's second term in 1985, the United States was in the midst of economic recovery.[87] The strength of Reagan's commitment to restructuring, and the ascendant power of business lobbies to influence policy in a political climate dominated by free-market thinking, would later influence the extent to which Canada could independently pursue interventionist economic policies.

Far more than in the previous period, environmental factors played a significant role in the direction of Canadian oil export policy. First of all, international economic and political shifts created a crisis environment in the area of oil policy to which the Canadian government felt forced to respond. Secondly, oil came to be perceived internationally as a matter of "high politics" as a result of the way these crises occurred, elevating oil policy to a new importance and tying oil politics to a broader range of political concerns such as national economic sovereignty. Thirdly, the actions of other countries in response to these international factors acted as models of potential policy changes in Canada. The very fact that different countries acted in different ways, however, exemplifies how external factors do not produce predetermined outcomes by themselves.

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[83] Yergin, *The Prize,* 717.
[84] *Ibid.,* 702.
[85] Fossum, *Oil, the State, and Federalism,* 108.
[86] Yergin, *The Prize,* 726.
[87] *Ibid.,* 742.

Instead, these factors interacted with existing power structures in ways that that opened up space for governments to initiate change, or legitimized ideas that shifted existing hegemonies. Within Canada, the specifics of this story are tied to the way in which these external factors shifted power relationships between the Canadian state and both the American state and the major multinational oil companies.

Power

The extent to which power relationships remain hidden rather than obvious can change how these relationships are perceived and have influence. The fact that oil became an international matter of "high politics" during this period is one indication that such power relationships became more overt around the world. Factors of hidden power in the Canadian context, such as the informal influence that had characterized the Canada-US and Canada-industry relationships during the previous decades, also had diminished pull as a result of these international power shifts. Instead, oil as "high politics" became a domestic as well as an international phenomenon. Issues like foreign dependency, the weakness of the federal government versus the Canadian industry, and constitutional and revenue disputes thrust oil politics into the political spotlight. As a response to these heightened stakes and the threats they represented, the federal government endeavored to increase the strength and visibility of its own power during this period. In this section, I will examine different power relationships affecting oil export policy in this period moving from the broad and external, to state-society relationships, and finally to matters of federal-provincial conflict and internal federal capacities.

In his account of the formation of Petro-Canada, Larry Pratt categorizes the package of policies introduced in 1973 as a form of "defensive expansionism," a concept introduced by Hugh Aitken in his work on Canadian economic development.[88] According to Aitken's thesis, direct state involvement in economic development has occurred as a response to perceived external threats—notably from the United States—that would harm the security of Canadian territory or Canada's future economic development.[89] Pratt argues that the Canadian response to the Arab oil embargo, as well at the shifts in international power that it represented, can be partially understood as an incidence of this historical pattern. The extent of the international disruption, especially in relation to dependency relationships that had formerly shaped policy, created a power vacuum within Canada that the Canadian state moved in to fill. The expression of this shift in power in oil export policy was increased government

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[88] Larry Pratt, "Petro-Canada," in *Privatization, Public Policy, and Public Corporations in Canada*, eds. Allan Tupper and G. Bruce Doern (Halifax: Institute for Research on Public Policy, 1988), 159.
[89] H. G. J. Aitken, "Defensive Expansion: The State and Economic Growth in Canada," in *Approaches to Canadian Economic History*, eds. W. T. Easterbrook and Melville Watkins (Toronto: McLelland and Stewart, 1967), 221.

intervention in the market, explicitly justified on grounds of national benefit. However, this intervention was not supported by an enduring shift in power toward economic nationalist alternatives. While this concept is not sufficient to understand government intervention in this period, it is a good entry point when examining the interrelationships between the international environment and power.

In Aitken's thesis defensive expansionism was typically a response to American power. However, in this situation it was actually the weakening of American power that opened up room for Canada to mount a response to an international threat that both countries faced. American military power around the world (and thus, informally, the links between that power and the security of oil companies abroad), suffered a blow to its credibility during this time. Perhaps the most visible example of such stumbling was the Vietnam War, which discredited both the superiority of and the political forces leading American military forces. The aforementioned Nixon Doctrine, which placed more onus on friendly countries for their own defense, was laid out as part of Nixon's plan for withdrawal from Vietnam. As a policy, it reflected acquiescence to the financial and political strain of maintaining a war against Communism on multiple fronts.[90] Another contributing factor was the continuing transformation of geopolitical power within the Middle East, previously foreshadowed by the Suez Crisis. Instead of using direct force, the Nixon Doctrine started a precedent of supporting anti-Communism in the Gulf region through financial aid and weapons sales.[91] The power of OPEC to link economic with political goals and the Iranian hostage crisis were two highly visible examples of the weakening of American power in the region. The failure of the Nixon Doctrine strategy to prevent both anti-American uprisings in the Middle East and the Soviet invasion of Afghanistan led to the subsequent Carter Doctrine, a policy that supported intervention in the Middle East to protect American interests there in an attempt to reassert general control.[92] Trends in domestic American politics, such as Ronald Reagan's campaign promise to restore the foreign policy might of the United States, add to the evidence that this loss of power was real and significant to both the American state and its public.

These changes in American military power had repercussive effects when it came to the legitimacy of continental defense and cooperation as a significant motivation in Canadian oil policy. As noted earlier, American policies toward Canada became explicitly less involved, clearly giving the Canadian government a wider berth in both defense and energy policy. The Nixon Doctrine lumped Canadian defense affairs in the same category as those of any other American ally; Canada would take dominant responsibility for its own security when it came

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[90] Richard Nixon, "President Nixon's Speech on 'Vietnamization'," Public speech, November 3, 1969, available http://vietnam.vassar.edu/doc14.html, accessed January 12, 2010.
[91] Bruce R. Kuniholm, "Retrospect and Prospects: Forty Years of US Middle East Policy," *Middle East Journal* 41, no. 1 (1987): 16.
[92] Yergin, *The Prize,* 702.

to non-nuclear threats.[93] An example of decreasing American influence over energy security matters in general was the weakness of international cooperation initiatives initiated by the United States such as the IEA, which was compounded by the open dissent of NATO allies like France on energy policy. The fact that Canada established an NOC and aimed to negotiate state-to-state deals instead of relying solely upon the IEA architecture shows how part of the debate was rooted in a debate about the definition of energy security. EMR argued that long-term state contracts would be beneficial to security over the long run, but would not help Canada in shortage situations due to IEA requirements to share this "extra" imported oil with other member countries.[94] The fact that much of this shared oil would likely be re-distributed to the United States (as previous oil diversions during the 1973 crisis had) reflects the endurance of power relationships within the operation of the IEA.

The fact that the United States itself was implementing interventionist policies, such as price controls and cuts to foreign imports, also meant that Canada could pursue similarly interventionist policies without worrying too much about American reaction.[95] This perception of the situation was not automatic, however. During the 1960s, when the United States unapologetically enforced oil import restrictions to protect domestic producers, Canadian legislators were still hesitant to introduce their own import control program (as would have been necessary for the viability of the Alberta-Montreal pipeline) due to fears that the United States might retaliate by removing the Canadian exemption. Another argument was that Canada might face sanctions from other trading partners due to the abrogation of international free trade regulations that import restrictions would represent.[96] The fact that Canada felt able to implement trade and price restrictions alongside the U.S. in 1973 is therefore evidence that both Canada-America and America-World power relationships had shifted significantly (although the proximity of the two economies meant it would have been difficult not to follow the American lead on pricing to some extent). The parallel, yet independent, goals and motivations of the two governments were especially evident during the Carter administration. Vice President Mondale visited Canada in early 1978 to discuss energy policy with Prime Minister Trudeau, during which visit Canadian officials expressed solidarity with attempts to pass the Carter package through Congress; rarely before had continental energy policy been regarded as a matter of negotiation between sovereign equals.[97] Notably, the NEP was developed during this period of amicability in energy policy.

Although American political influence over Canadian energy policy waned during this period, American economic power continued to have controlling effects that acted as a counter-force against state intervention. The

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[93] Nixon, "President Nixon's Speech on 'Vietnamization'."
[94] Fossum, *Oil, the State, and Federalism,* 100.
[95] *Ibid.,* 31.
[96] Gray, *Forty Years in the Public Interest*, 30.
[97] Robert Trumbull, "Mondale in Canada for Fuel Talks," *New York Times,* January 18, 1978.

Canadian response to the 1973 crisis was disjointed and inconsistent in approach, partially because it reflected the endurance of existing economic power structures. The birth of the Sarnia-Montreal pipeline proposal was one example of this struggle at work. There was little political opposition to the pipeline idea, except for members of the Opposition who wished the government to go further and support public ownership or the construction of a new all-Canadian line to loop around the American segment.[98] However, the fundamental political issue behind the pipeline was oil scarcity in eastern Canada, not the creation of an east-west oil market or an assertion of Canadian economic nationalism. Before deciding upon the pipeline option, the Trudeau government attempted to secure an oil swap arrangement with the United States, promising to maintain oil exports at an agreed level if the United States would do the same. The Americans would not agree to such an arrangement, and the Sarnia-Montreal pipeline was adopted as a second option.[99] In the words of the Energy Minister, the "obvious and first" starting point for the government was to find an arrangement with the United States that solidified existing market arrangements in order to solve the scarcity problem.[100] On the other hand, when the federal government was denied cooperation it opted to take strong interventionist action (such as the export cuts needed to ensure enough Albertan crude would be available to fill the line and the export taxes needed to finance it) that provoked American complaints, rather than make further attempts to solicit goodwill. Washington threatened to cut off oil exports from Portland, Maine to Montreal in retaliation, but by February 1974, the U.S. government announced its support for Canada's actions.[101] Canada had called the American bluff and succeeded, but the initial will to do so had been tenuous.

An even clearer example of the persistence of Canadian dependency in export policy was the Alaska Pipeline issue. Since 1968, when a major oil field was discovered at Prudhoe Bay, Alaska, determining how Alaskan oil and gas would be transported to serve American domestic markets became a major bilateral issue. One possibility was that the Americans would route a pipeline across Canadian soil up the Mackenzie Valley to Alaska; the other option was to build a trans-Alaskan line and ship the oil to the mainland U.S. by tanker. The major companies favoured the latter option because it would be easier and cheaper to construct. The American government simply wanted the oil onstream so badly that it employed the Coast Guard to test a tanker route through the Northwest Passage in defiance of Canadian sovereignty over the waters.[102] Since the Prudhoe Bay discovery threatened Alberta's tenuous (at the time) oil exports, and because a line through Canada might be able to carry additional Albertan

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[98] T. C. Douglas and Charles-Eugène Dionne, "[Oil]," in Canada, Parliament, House of Commons, *Debates*, 29th Parliament, 1st Session (October 25, 1973), 7216, 7225.
[99] McDougall, *Fuels and the National Policy,* 135.
[100] *Ibid.*
[101] Stephen Clarkson, *Canada and the Reagan Challenge* (Toronto: James Lorimer and Company, 1985), 61.
[102] Bregha, *Bob Blair's Pipeline,* 21.

exports, the Canadian government made endorsing a Canadian route a political priority.[103] Thus, the federal response to the Northwest Passage incident—taken after private consultation with industry and the NEB but not with Parliament or native groups—was to get on board with the American project.[104]

Following earlier patterns, Ottawa took pre-emptive action to placate American demands in order to secure a trans-Canadian route for the Alaskan oil line, such as by approving large volumes of new gas exports despite a tight gas market. However, both the American government and the companies involved refused to change their position; the government was forced to admit defeat by 1972, having demonstrated considerable weakness in its willingness to give away bargaining chips during the episode.[105] When oil became scarce in contrast to gas, the government engaged in similar appeasement of American requirements when seeking the construction of an Alaska Highway gas pipeline in the later 1970s, including the pre-building of a segment of the line and a lateral to include Albertan gas for exports until the Alaskan supply came online (which it never did).[106] Neither the oil nor the gas pipeline, both of which would have served American markets but traveled through Canadian territory, were ever constructed. The willingness of Canadian governments to give away bargaining chips in these situations rather than reach a harder compromise simply perpetuated the historical trend of Canadian weakness in continental energy trade matters. When scarcity was not an issue, the federal government continued to negotiate to increase fuel exports from a position of weakness, despite the fact that oil and gas are linked products as well as substitutable fuels in many cases. That is, while scarcity concerns may have provoked interventionist responses in Canadian energy policy, these concerns did not run deep enough to reverse engrained patterns of power or shift them in a more economic nationalist direction.

Similarly, the failure of the NEP was a reflection of the underlying weakness of Canadian interventionist responses founded in scarcity, as well as further shifts in both international and Canadian-American power relationships. The NEP was founded on the assumption that politically-created scarcity, and thus a high international oil price, would be a permanent fixture of the future. Its provisions and its instruments, which were primarily price and tax based, relied upon high prices to function correctly.[107] When prices did not follow the anticipated pattern, the ties between fiscal policy and energy policy goals therefore quickly made the original NEP unworkable.[108] The fact that the NEP relied on a permanent worldwide power shift, and that its goals were explicitly tied to an environment of high price and scarcity, is a further indication of how the NEP reflected an incomplete interventionist response; it was responsive rather than forward-looking, and was deterministic in its assumptions about global

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[103] *Ibid.,* 19.
[104] *Ibid.,* 23.
[105] *Ibid.*
[106] Gray, *Forty Years in the Public Interest*, 72.
[107] Doern and Toner, *The Politics of Energy,* 323.
[108] *Ibid.,* 324, 345.

prices and oil politics. Another unanticipated power variable was the election of Ronald Reagan as President of the United States. The NEP directly contradicted Reagan's platform to de-control fuel prices and aggressively promote market forces in the U.S, as part of a reassertion of American national strength.[109] Despite the fact that much of the American opposition to the NEP came from Congress rather than the President, the Reagan administration seized upon the issue as a way of providing the international community proof of the seriousness of its new neoliberal program, drawing on Canadian violations of international treaties as a pressure tactic.[110] The NEP had gained strength from the weakening of American power over both Canada and the international oil market, but the return of this power was a significant contributor to its abandonment; in other words, it was not backed by a fundamental power shift in terms of Canadian willingness to assert sovereignty.

The NEP may have been an incomplete assertion of power, but the extent to which it and other interventionist measures undertaken in the 1970s did reflect some changes in domestic power structures should not be understated. Far more than in the last period, other political voices came to have significant influence over oil export policy decisions. The interventionist responses to the 1973 crisis were definitely influenced by the fact that the Liberals had formed a minority government with the support of the NDP, which pressured the government to consider economic nationalist issues in its handling of the crisis on pain of a vote of confidence.[111] In fact, the American government chose to temper its opposition to the 1973 measures, most notably the export cuts, in part because it feared toppling the minority government might give greater power to an anti-American NDP.[112] During the NEP period, the NDP maintained pressure on the government to deepen its interventionist measures, such as new royalty rates introduced for northern development, to comparable levels within other producing countries like Norway.[113] The mobilization of labour, environmental groups, native groups, and other progressive forces around issues like the Mackenzie Valley gas pipeline became an increasingly significant political force.[114] The economic nationalist issues raised from this perspective, such as the problematic effects of foreign ownership on internal development issues, linked energy policy with a general need for Canada to assert greater sovereignty. Perhaps the strongest successes of the NEP were achieved in its Canadianization goals, reflecting the partial success

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[109] Roy MacLaren, "Canadian Views on the US Government Reaction to the National Energy Program," *Canadian Public Policy* 8, Supplement: Canada-United States Trade and Policy Issues (1982): 494.
[110] Clarkson, *Canada and the Reagan Challenge,* 29; MacLaren, "Canadian Views on the US Government Reaction," 494.
[111] Pratt, "Petro-Canada," 155.
[112] Cohen, "Canada's Aloof Oil Policy."
[113] Fossum, *Oil, the State, and Federalism,* 142.
[114] Neil Bradford, *Commissioning Ideas: Canadian National Policy Innovation in Comparative Perspective* (Toronto: Oxford University Press, 1998), 112.

of these forces.[115] Because the power of these groups was closely related to their advocacy of alternative ideas, I will look at them more closely in the next section of this chapter. Business also entered the public political arena with its own counter-mobilization, dominated by the creation of new think tanks and interest groups like the Business Council on National Issues (BCNI).[116] Another assertion of voice came from the provinces, both on constitutional and energy issues; I will discuss shifts in intergovernmental power relationships later in this section. The overall point is that new openings for agency were created from a wide variety of political perspectives, making spaces for change to be made from the bottom-up rather than reactively; this shift was one example of an enduring change in power related to Canadian energy policy.

The fact that the oil industry felt it needed to organize and raise its political profile is evidence that government-industry power relationships also shifted significantly. Previously, Canadian oil policies were formulated from the perspective of the supply side; the Canadian market was divided according to what sources would be sold in what locations, and this division typically took the form of what worked best from an international perspective for the companies on the supply side. When high prices—stemming from politically-induced scarcity rather than market supply problems—became the founding fact of oil policy, it made political sense to approach from the demand side through price regulation, fuel substitution, import compensation, and conservation. Because these issues touched average Canadians more than supply and production had, moving oil policy away from the supply side shifted political power towards the federal government.[117] In a situation where international oil markets no longer operated on "free market" principles, continuing to export oil based on market profitability when doing so could harm future Canadian supplies seemed unreasonable. Furthermore, the majors were no longer able to assert market control over price, and their credibility as stable suppliers of foreign oil was severely harmed. To compensate for the 1973 embargo, the majors had spread their oil shipments around and diverted oil tankers destined for the Canadian market to supply U.S. needs. The fact that Canadian subsidiaries were supplicant to their American owners, and that American needs would come before Canadian energy security, thus became publicly obvious.[118] Public pressure against the windfall profits of the oil industry also mounted, spurring an investigation by the Competition Bureau into the market practices of the majors. Its 1981 report accused the majors of taking an excess of $12 billion from Canadians over the previous decade. In response, the industry spent millions of dollars on advertising campaigns, since their internal polls showed they had an extremely poor public image in contrast to the significant popularity of Canadianization and public ownership.[119]

[115] Doern and Toner, *The Politics of Energy,* 200, 204.
[116] *Ibid.,* 467.
[117] Fossum, *Oil, the State, and Federalism,* 119.
[118] *Ibid.,* 31.
[119] Doern and Toner, *The Politics of Energy,* 206-207.

The federal government both drew upon and deepened this shift of power away from the multinational companies in the Canadian market; the ways in which it mediated this response, however, showed a continuing concern with meeting industry demands. A major pillar of the NEP strategy regarding domestic energy supplies was the development of new northern and non-conventional oil and gas. In some ways, intervention in order to shift the focus of Canadian fossil fuel development increased the power of the federal government related to companies. By favouring development on northern lands, over which the federal government had complete jurisdiction, it could prevent business from playing the federal government and provincial governments off each other in order to gain greater concessions.[120] Furthermore, complete control over royalty and land leasing policies brought in more finances with which to support the entire NEP project. The development of non-conventional megaprojects—most notably the Alberta tar sands—required extensive federal financial support in order to be feasible, but would shift production away from conventional sources dominated by the multinational industry. This control over the development of new energy sources, combined with the power to shape the rate of development through price controls, allowed the federal government to have greater indirect influence over the rate and direction of oil development in Canada. Throttling the rate of development, as well as speeding up the exploration of new high-cost sources, would add to Canadian energy security over the long term; this strategy contradicted the profit-making assumptions of the industry, which favoured developing the easiest sources as fast as would maximize profits.[121]

On the other hand, the use of indirect controls over development also acted to deepen dependence on the existing industry in some ways. Northern development required the expertise and infrastructure of the major companies; PIPs, despite their Canadianization stipulations, were essentially lavish bribes to induce the industry to shift its development strategies.[122] Even the industry was worried about the extent of the PIPs, since they reduced economic efficiency by promoting risky development without rewarding success.[123] Encouraging the rapid exploration of northern resources by private companies ended up spurring immediate production of northern oil for profit, a result that partially contradicted the gains to Canadian energy security such exploration represented.[124] Price controls also acted as an indirect subsidy to the multinationals as importers of foreign oil, which detracted from conservation objectives. Another subsidy-related problem was the use of megaprojects to spur non-conventional development. The willingness to invest government money in huge private-run projects for national development purposes deepened dependence upon multinational participants. The forced rescue of the Syncrude project by government when its industry support fell apart is an example of how a project

[120] Fossum, *Oil, the State, and Federalism,* 127.
[121] Pratt, "Petro-Canada," 164.
[122] Gray, *Forty Years in the Public Interest*, 76.
[123] Doern and Toner, *The Politics of Energy,* 345.
[124] Fossum, *Oil, the State, and Federalism,* 119.

became "too significant to fail," allowing industry to hold the federal government hostage to extract greater concessions.[125]

The government was apparently aware of this control conundrum and attempted to compensate through other policies—however, only as long as the situation of scarcity persisted. In its justification of Canadianization policies, the NEP noted that foreign ownership of the Canadian oil industry would, in Canada's case, negate the power gains happening worldwide for producing countries.[126] PIP grants and leasing agreements (which acted as direct links between Canadianization and the assertion of indirect federal control over development), as well as the PGRT, were examples of tools used to combat this problem at the expense of industry. The NEB was also required to judge export proposals based on favouring Canadian ownership, limiting the extent to which windfall industry profits (thus the power of the producer) could escape the country.[127] Industry was also systematically excluded from decision-making processes and restricted to giving technical input on existing policies. Even during the Clark administration, the setting of national prices occurred through intergovernmental negotiation, with little involvement from industry.[128] Industry involvement in the NEP was handled away from the center of power through the Alberta Technical Advisory Committee (ATAC), a board created for industry to participate in the implementation—though not the formulation or direction—of the NEP.[129] However, the speed with which subsidies and tax breaks were offered to industry once the situation of scarcity began to reverse shows that an enduring power shift did not occur. The financial results of the 1982 NEP Update exemplify the magnitude of the reversal well: between 1981 and 1983, during which world oil prices dropped by 25%, Ottawa's share of oil profits dropped by $10 billion while industry cash flows remained about the same.[130]

The ambivalence of the power shift between industry and the federal government was also exemplified by Petro-Canada. The original political goals of Petro-Canada, in many ways, reflected the government's desire to shift this power balance. The strongest example was the intention that Petro-Canada become a window on the oil industry; the fact that such a window was needed to inform policymaking shows government recognition of the information and power deficit that had characterized the previous period. In order to truly act as a learning device, Petro-Canada needed to become as fully vertically integrated as possible, in order to understand a market dominated by integrated majors. Considering its place within a private industry environment, Petro-Canada was also legally structured with few formal political restrictions in place, and operated according to a pseudo-private mandate in its own self-interest.[131] This freedom

[125] Doern and Toner, *The Politics of Energy,* 127
[126] Fossum, *Oil, the State, and Federalism,* 122.
[127] *Ibid.,* 126, 130.
[128] Doern and Toner, *The Politics of Energy,* 187.
[129] *Ibid.,* 314.
[130] Fossum, *Oil, the State, and Federalism,* 182.
[131] *Ibid.,* 76-77.

may have reduced potential problems in Petro-Canada's partnerships with industry, but it also opened up room for Petro-Canada to absorb and adopt some of the characteristics of the private industry along the way. Through the takeovers needed to develop vertical integration, as well as the increased revenue and thus independence from government funding brought about by such expansion, Petro-Canada began to take on similar business tactics as the private industry by the late 1970s.[132] The overwhelming risk of its mandate to promote northern development, for example, led Petro-Canada to develop significant safe and profitable holdings in the Alberta conventional sector in defiance of the federal government's diversification goals.[133]

One further example of the weakness of Petro-Canada as a power instrument was in its role as a bargaining lever with the multinational oil companies. Through structural benefits accorded to it as a state-owned corporation, such as special guarantees to lease terms and participation rights on northern projects, Petro-Canada was expected to pressure industry into cooperation on its co-development projects.[134] The option for negotiating state-to-state deals with other NOCs also remained on the table as a bargaining chip. However, it is telling that the majors quickly developed a pragmatic view of Petro-Canada. Having experienced outright appropriations of their holdings in other countries, they welcomed Petro-Canada as an "alternative to nationalization."[135] Once government had their "window" in the form of a major investment in the market, the industry expected that Ottawa's financial and political position would soon become linked to the overall positive performance of the industry. Indeed, during his short stay in power, Joe Clark's ideologically-driven desire to privatize Petro-Canada was (to his surprise) opposed by the majors who valued the political stability it created.[136]

However, the NEP definitely undercut the majors' assumptions that an NOC would create stability in energy policy. Not surprisingly, it was during this period that Petro-Canada came into its own as a power resource for the federal government. Petro-Canada took up the ideological defense of the government's policies against industry complaints, especially when Ottawa wished to avoid potential political damage, and provided a publicly credible counter-dialogue on the viability of the NEP. For example, it blamed the industry slowdown of 1982 on the global market situation, when the multinationals were quick to blame the NEP.[137] It also provided a bridge between government and industry on development issues. The majors benefited from indirect subsidization through cooperation with Petro-Canada on development projects; from their point of view, Canadianization requirements for participating companies could easily be avoided

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[132] *Ibid.,* 94-95.
[133] *Ibid.,* 94.
[134] *Ibid.,* 81-93.
[135] Doern and Toner, *The Politics of Energy,* 139.
[136] *Ibid.,* 152.
[137] *Ibid.,* 232.

through the creation of new "Canadian-owned" subsidiaries.[138] Indeed, public support for Petro-Canada and Canadianization was so great during the NEP era that the multinationals sought to publicize their Canadian heritage or employment numbers in order to bolster their own image.[139] As I will discuss in the next section of this chapter, much of the power of Petro-Canada came from public support of the ideas it represented; the political and economic power it possessed drew on this strength. Thus, while Petro-Canada did become a more private-oriented corporation toward the 1980s, its success did reflect a significant shift in power due to this union between political will and economic goals.

Another significant change in the domestic balance of power was the implication of federalism and constitutional politics in the oil debate. Because of the threat posed by Quebec separatism to the stability of the country itself, the maintenance of federalism became a top political priority for the federal government during the 1970s. The high profile of constitutional reform during this period gave Alberta an opening to push the federal government regarding intrusion on its constitutional right to control natural resources. This opening was combined with a number of other changes, namely a new Progressive Conservative government in Edmonton willing to fight for Alberta's prosperity, and the financial leverage provided by an environment of high oil prices. From the federal perspective, Alberta's "province-building" strategy and determination to make its political voice heard posed a threat to its power on multiple levels. The federal method of retaliation typically took the form of deepening intervention and centralization in order to bolster its claims to power both over energy policy and the myriad of other issues that came to be tied with energy policy domestically.

The fact that federal oil policy existed in an area of constitutional overlap between provincial jurisdiction over resources and federal jurisdiction over trade gained new significance in a political environment where the constitution itself was up for questioning and renegotiation. That is, in a context of constitutional uncertainty, both Alberta and Ottawa sought to assert future claims to power over energy policy regardless of existing constitutional limits. Both engaged in "competitive interventionisms" in an effort to secure an advantageous future position, through tactics such as increasing royalties and taxes, subsidizing specific energy projects, or establishing publicly-owned corporations.[140] For example, in response to the 1973 federal plan to establish a Canada-wide oil price, Alberta established a provincial Petroleum Marketing Commission as a Crown corporation in order to assert control over pricing. The federal government retaliated with the Petroleum Administration Act, which gave the federal government final control over national pricing decisions.[141] As the conflict escalated, so did the depth of these interventions; for example, the unilateral

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[138] Fossum, *Oil, the State, and Federalism,* 143.
[139] Doern and Toner, *The Politics of Energy,* 212 , 219.
[140] Fossum, *Oil, the State, and Federalism,* 270.
[141] Doern and Toner, *The Politics of Energy,* 174-75.

nature of the NEP was matched by Alberta's willingness to cut oil production and delay regulatory approval of tar sands projects.[142] The willingness of the federal government to reinforce its control from the perspective of future constitutional power thus deepened the extent of its intervention in the oil market during this period.

Another aspect of the constitutional problem was the threat posed by an increasingly-wealthy Alberta to both federal fiscal power and the balance of regional development. Part of the reason why price increases provoked the dismantling of the NOP even before the 1973 oil embargo occurred was that Quebec was hit the hardest by any world price increases under the NOP scheme, while Alberta was unnecessarily subsidized.[143] High oil prices, combined with the NOP's legacy of dependence on foreign imports, had distorting effects on the national economy; for example, over the 1970s Ontario's manufacturing industries lost half their profits.[144] The federal government needed to capture part of the economic rents of Alberta's oil development not only to fund compensation for the high price of imports, but to prevent the fiscal balance of power in Canada from shifting away from federal control. Furthermore, Ottawa was increasingly aware of its growing budget deficits over the late 1970s-early 1980s, and oil revenues would be the easiest method to rectify the problem. This was especially pressing considering that the pre-NEP pricing regime, according to EMR, would result in negative net federal revenues in the 1980s.[145] Petro-Canada was a significant and successful part of this equation. Through direct participation in production it provided a mechanism for the federal government to capture economic rents from the source, as well as promote oil development on federal land.[146] On the other hand, the necessary link between federal energy policy and fiscal policy from this national perspective deepened the inflexibility of the NEP. When oil prices dropped, it undermined the federal government's redistributive and revenue goals as well as its Canadianization and development goals.

The inability of Canada's federal system to cope with the intergovernmental stress of the energy problem also proved a major concern for the federal government. On one hand, the visibility of intergovernmental bickering probably harmed the credibility of pro-federalist forces in Quebec. In his response to the NEP, Alberta Premier Peter Lougheed was careful to emphasize how federal action had been unilateral and anti-constitutional, especially since Alberta had no political representation within the sitting Liberal government.[147] The fact that Ottawa's typical response to province-building was increased centralization—such as the strengthening of EMR's influence on energy policy over the NEB, which ended up being excluded altogether from the

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[142] *Ibid.,* 267.
[143] *Ibid.,* 172.
[144] *Ibid.,* 266.
[145] Fossum, *Oil, the State, and Federalism,* 128.
[146] Pratt, "Petro-Canada," 157.
[147] Doern and Toner, *The Politics of Energy,* 268, 270.

formulation of the NEP in early 1980s—added to the strength of this argument.[148] Albertan arguments against Petro-Canada also undermined the federal intention that it serve as a national champion, showing the value of federalism and making the Canadian flag a visible presence. Indeed, as Minister of Federal-Provincial Relations and a strong campaigner for the "Non" side, Jean Chrétien made frequent public speeches about the low price of gas in Quebec relative to the international price, made possible by oil reserves in western and northern Canada.[149] The issues of oil prices and national energy security were thus used as bargaining chips in the defense of federalism; blows to the NEP or to the pricing situation could weaken the strength of the federal government's claim to power in general.

To counter Alberta's objections to the NEP, the Ontario government mounted its own campaign against Alberta, reflecting a growing willingness of provinces to define and defend their own interests rather than defer to the federal government on national issues.[150] One of the issues of contention between Alberta and Ontario was that Canadianization programs were not taking place in the manufacturing industries upon which Ontario depended economically. Interprovincial conflict thus brought out the inconsistencies of the federal approach within different regions and undermined the ability of the federal government to defend a unified national interest.[151] The assertions of provincial voice brought out by the energy debate had a contributing influence on the constitutional negotiations of 1980-1981. The formation of the "Gang of Eight" premiers, in collective support of an amending formula favouring provincial rights to opt out of changes, was one example of the provinces exercising greater bargaining power against the federal government. The fact that Quebec followed Alberta's lead on this amending formula, against the threat of federal unilateral patriation of the Constitution, shows the extent to which Alberta's anger over energy politics came to shape constitutional politics in a broader sense.[152] Overall, as constitutional issues, the status of federalism, regional economic imbalances, government deficits, and energy security became increasingly interwoven domestic issues, the failings of the NEP had repercussions throughout this entire web that acted to weaken the power of the federal government relative to the provinces. The failure of the NEP thus discredited more than a single policy, but the very foundations of the idea of federal government intervention in markets for national political reasons.

An interesting side-effect of the combination of competitive interventionism and the desire for fiscal gains was the opening of opportunities for industry to squeeze each level of government for better terms, based on the actions or perceived advantages of the other. As an example, the federal

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[148] Gray, *Forty Years in the Public Interest*, 62.
[149] Graham Fraser, *René Lévesque and the Parti Québécois in Power* (Toronto: Macmillan, 1984), 229.
[150] Doern and Toner, *The Politics of Energy,* 275.
[151] *Ibid.,* 269.
[152] Fraser, *René Lévesque,* 280.

government reformed the Income Tax Act in 1974 in order to make provincial royalty payments a taxable component of corporate income. The industry responded with threats of a drilling strike and succeeded in extracting a $2.5 billion subsidy plan from the Alberta government in order to mediate the effects of the federal tax change.[153] On the other hand, this tactic could also work against industry, since it would allow one level to intervene while placing the onus on the other to mediate the subsequent effects on industry revenues. The PGRT was a masterful example of such a power play. In addition to a flat 8% tax on production revenues, it instituted an 8% tax on amounts paid as resource royalties; thus, it captured revenues before and after the provincial royalty calculation and tied the actual extent of the tax to the provincial royalty rate. In situations where this led to an unreasonable total tax on industry, the federal government asserted that affected companies should challenge the provincial royalty take.[154] Industry was therefore not an automatic winner when it came to the interventionist repercussions of federal-provincial conflict; the threat of the loss of national political power could influence federal decisions more than the structural power of industry.

This period was clearly characterized by major shifts in power, both domestically and internationally, that opened up room for the federal government to act in an interventionist matter in oil policy. Due to the complexity of these power relationships, what could be defined as "oil export policy" was interwoven with issues of national energy security; control over oil development, markets, and trade; and the politicization of these issues in relation to nationalism and constitutional politics. As I will argue in the next section, this shift was complemented by a change in the political definition or significance of oil exports in Canada. It became difficult to consider the export of oil as an independent economic transaction due to concerns about scarcity and national energy security, as well as the linkages between these ideas and the web of other political issues I have described above.

Ideas

The politics of oil, both internationally and domestically, was shaped during this period by the worldwide perception that its status as a commodity had changed. Not only did access to oil become an issue of power politics, but a contemporary acceptance developed of the idea that access *was* and would remain such an issue. A notable example of this thinking was contained in the NEP itself. In its market analysis, the NEP assumed that OPEC's ability to regulate international prices and supply would continue into the future indefinitely, as well as that a climate of high prices beneficial to producer states would persist.[155] The speed with which key components of the NEP were rolled back in the NEP

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[153] Doern and Toner, *The Politics of Energy,* 181.
[154] Fossum, *Oil, the State, and Federalism,* 135-136.
[155] *Ibid.,* 116.

Update as international prices dropped shows how inflexible these assumptions had been. However, barring some dissent from within the petroleum industry, the majority of analysts from banks and other governments agreed with the NEP's overall analysis of OPEC's role in the worldwide oil market in the early 1980s.[156] The assumptions of the NEP were thus rooted in significant overall changes to how oil was perceived as a substantive political issue; these broad changes were important to oil export policy because they forced a redefinition of issues intimately tied to exports such as self-sufficiency and energy security.

Again, these changes in perception were linked to, and enhanced the durability of, power shifts in worldwide politics. The purported permanence of OPEC's control of oil production and pricing had much to do with its strength at discrediting existing ideological assumptions. OPEC represented a significant blow to American superiority in the non-Communist world, to the private oil industry, to remaining elements of colonialism in the Global South, and to the notion of uninhibited economic growth that had fuelled post-war prosperity in the western world. The combination of these changes in basic operating assumptions created a great deal of uncertainty for governments, especially since they appeared strong enough to become permanent in the future. The general worldwide acceptance of NOCs as a tool to further national energy security and engage in producer-consumer negotiations was one example of such an ideological trend. In Canada, this ambivalence about foundational assumptions of foreign and trade policy was exemplified by the failure of the Canada-U.S. "special relationship" as the dominant consideration of foreign affairs. Instead, the Trudeau government explored the Third Option, or the pursuit of diplomatic and trade links beyond North America in order to reduce Canadian dependence and vulnerability, as a new possibility.[157]

Within Canada, however, the notion of oil as a special political commodity was a contested idea. In a particularly insightful comment on the nature of Canadian oil development, the NEP pointed out that, "if energy were an ordinary commodity, Canadian taxpayers would never have supported provision of the rich incentives that have been available to the petroleum industry."[158] In previous years the strategic value of oil (beyond its market value) had remained suppressed, despite the fact that the oil industry bargained for greater government subsidies based on the indispensable nature of its product. Once oil became scarce in the 1970s, Alberta argued that treating oil as a political commodity—thus subject to special restrictions on its export—unfairly condemned the province for the type of natural resources it held.[159] Forcing Alberta to accept lower returns than would be possible on the global market for its resources would be akin to Canada not taking full advantage of its position as an oil producing nation on the world scale, which was precisely a founding assumption of the NEP. This

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[156] *Ibid.,* 116, 276.
[157] John N. McDougall, *Drifting Together: The Political Economy of Canada-US Integration* (Peterborough: Broadview Press, 2006), 136.
[158] McDougall, *Fuels and the National Policy,* 149.
[159] Doern and Toner, *The Politics of Energy,* 270.

producer perspective is at the root of the variability in conceptions of oil and oil exports in Canada.

Producers and consumers of oil have different ideas about the nature of oil as a commodity, a divide that formed the basis of global debate during this period but was also significant within Canada. For instance, the irreconcilability of these two positions on oil essentially doomed Joe Clark's short-lived minority government by damaging the political viability of its budget. Two examples of its failure on grounds of ideological incompatibilities were the privatization of Petro-Canada (which appealed to the Conservative ideological base but not to the Canadian public or the Canadian oil industry) and the windfall industry profits tax (which satisfied Canadian consumers but was obviously anti-market). On the other hand, the following Liberal government took the route of overvaluing the status of oil as a strategic commodity to the point where the NEP failed to foresee the oil glut that occurred immediately after its introduction. The idea of politically-created scarcity was so crucial to the overall NEP plan (and the shift of power toward the federal government that it represented) that the government seemingly put on ideological blinders during its formation. In the government's defense, the overall debate was so polarized around the consumer-producer divide it was politically difficult to approach the other side's position. Given this polarization, the fact that intergovernmental consensus around supporting the industry occurred so rapidly after the oil glut is notable, since it indicated how easily the producer-consumer divide could be mediated when oil was not a scarce commodity.

Another facet of the politicization of oil in Canada during this period was the influence the energy debate had on political representations. Specifically, the constitutionalization of the energy debate occurred through the deliberate use of language by political elites in order to shore up support. Public dialogue on the NEP was most visible not in the deliberations of Parliament, but through the exchanges between Premier Lougheed, other provincial premiers, and Prime Minister Trudeau and his governing partners. Lougheed challenged the federal attempt to frame national energy policy as a question of national unity, and the link between unity and the constitutional reform that Trudeau had a deep personal interest in pursuing, on similar terms in his responses to the NEP. He explicitly linked unilateral constitutional reform to the creation of a unitary state in which western provinces were treated as second-class and used for their resources.[160] Lougheed drew on the themes of a minority being oppressed by the majority, "generations" of discrimination based on region, and of the preservation of Canadian "diversity," both appeals to the ideas that would be contained in the Charter of Rights and Freedoms.[161] In terms of Canadian independence and sovereignty, Lougheed argued that sovereignty over energy supplies was already protected through the constitution at the provincial level.[162] Lougheed

[160] *Ibid.,* 268.
[161] *Ibid.,* 266, 268.
[162] *Ibid.,* 269, 271.

persistently challenged federal dominance over national issues by referring to the government as "Ottawa" or "the Ottawa government," contrary to the federal tendency to speak of "the national government;" he also argued that Alberta's provincialist position represented a different and valid claim to the Canadian national interest.[163] Constitutionalization of the debate also occurred at a procedural level through the use of constitutional court challenges to strike down government energy legislation, a tactic that was successful in 1981 against a natural gas export tax.[164] Tying together this package was dramatic and emotional language, contrary to the reasoned approach to government that was in favour at the federal level (as I will discuss later in this section). Lougheed spoke of the NEP as "rape," "tragic," "disturbing," and a cause over which Albertans would "suffer and bleed."[165] These tactics were not successful at swaying the Canadian public, which continued to support the NEP rates even its critics admitted were significant, nor were they popular with an oil industry that favoured political stability.[166] Nevertheless, the strategy would leave an enduring ideological imprint in Albertans' minds about the political stakes of the NEP, as well as contribute to the general malaise and negativity surrounding constitutional reform, thus having a major influence on the viability of interventionist options.

This positive public opinion of the value of the NEP, especially its Canadianization goals, reflected a resurgence of public nationalism in Canada's political culture; fundamentally, it was the strength of this public mandate that made interventionist policies possible. As I alluded to in the previous section, public panic over energy scarcity was a significant factor in the politicization of Canadian self-sufficiency in energy. The fact that the 1980 election came to be known as the "energy election" demonstrates the surprising extent to which energy became a public concern rather than a depoliticized, technical matter.[167] The importance of national oil supplies from a nationalist point of view was not new to Canada; it had been a key part of the debate on the Interprovincial Pipeline, for example. However, the link between scarcity and this nationalism shifted the debate in a new direction, because the entire Canadian public as energy consumers became implicated in economic nationalist concerns. One supporting example was the contemporary debate over the very definition of "energy security," and the extent to which Canadian self-sufficiency was viewed as the best solution to this problem. Superimposed on energy debate during the 1970s was the Gray Report, which critiqued the extent to which foreign direct investment had harmed Canadian economic development over the long term.[168] The influence of foreign control over Canadian energy supplies, especially in an international political environment where the definition of energy markets was up for question, therefore became an important factor in the energy security debate.

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[163] *Ibid.,* 267, 261.
[164] Fossum, *Oil, the State, and Federalism,* 137.
[165] Doern and Toner, *The Politics of Energy,* 266-272.
[166] *Ibid.,* 108, 272.
[167] *Ibid., 5.*
[168] McDougall, *Drifting Together,* 128.

Another link between scarcity, public concern, and economic nationalism was the aforementioned public pressure against the windfall profits of major oil companies during the 1970s. The fact that Petro-Canada's advertising slogans in the early 1980s ("Buy Petro-Canada and pump your money back into Canada,") drew on this configuration of public nationalism is telling.[169]

Another example of Canadian public nationalism during this period is that Canadianization became one of the most popular components of the NEP. According to oil industry poll data, 84% of Canadians supported Canadianization of at least 50% of the industry; a public poll by Gallup reported that 64% of Canadians would support deeper and more rapid Canadianization to the 75% level.[170] The power of the Canadianization idea was such that even Premier Lougheed expressed his definite support for Canadianization as a goal—just not in the form Ottawa would have.[171] The success of Petro-Canada as both an agent of Canadianization and regional development was partially made possible by the great public support it had for its program. On the other hand, the federal government also attempted to make its Canadianization programs more politically visible through the creation of high-profile megaprojects, which as I have argued deepened reliance on foreign companies and their technology. Other publicly popular parts of the NEP, like import compensation and the development of northern energy resources, directly or indirectly subsidized foreign companies. One interesting thing to note about this particular surge in public nationalism was its inattention to the questions of transportation and potential American control over it that had characterized earlier nationalist concerns, perhaps because foreign control was perceived as a threat in its direct rather than indirect form. This means less critical thinking—at least within the government—about the transportation of Canadian gas to American markets, as well as blindness to the potential effects of such precedents on future energy exports since the obvious assumption was that oil exports would never occur again. The link between nationalism and public support for interventionism was also not very enduring; public pressure mounted on the federal government to deal with its budget deficits in the early 1980s, and the limits of support for self-sufficiency appeared to be exactly where taxpayers and consumers would have to pay significantly more for it.[172]

In some ways, this lack of critical nationalism within the government was made up for by the injection of new and different counter-hegemonic ideas into Canadian political discourse. The Berger Inquiry represented a major turning point in ideas about oil and gas development in the Canadian north for multiple reasons. Justice Berger took an unprecedented look at the environmental and social implications of such development, and thus set a new example for environmental assessments for subsequent projects. Furthermore, Berger

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[169] Doern and Toner, *The Politics of Energy,* 236.
[170] *Ibid.,* 107-108.
[171] *Ibid.,* 271.
[172] McDougall, *Fuels and the National Policy,* 155-156.

established a high bar for such assessments in his attention to fair inclusion of native peoples' opinions, which would support later calls for greater intervenor support and funding. The fact that Berger recommended a moratorium on development was also a direct questioning of Canada's future as a staples-dependent economy as well as the value of economic growth in general. This undermined the Canadian government's contradictory tendency to enthusiastically promote gas development for export while simultaneously arguing for the need to conserve oil, as well as its entire northern development strategy and the power play it represented.[173] None of the Berger recommendations would have had much impact, however, if Berger himself had not remained so dedicated to keeping the report in a high profile publicly.[174] During the hearings, proceedings were broadcast daily on the CBC Northern Service, and Berger's staff kept close contact with reporters and newspaper editorial boards. After publication, the report itself became an immediate public best-seller, made accessible through its simple and direct language and use of illustrations.[175] The mobilization of native, environmental, and social justice groups around the Mackenzie Valley pipeline was supported by this public attention; indeed, industry was worried that the inquiry would scare away investors for its potential to cause unrest in native communities.[176] Berger's inquiry raised the profile of environmental concerns among the general public so much that industry took out counterattack ads in response, which argued that killing the pipeline would harm Canadian energy security.[177] Even as the hearings were still taking place, environment shot to the number one development issue related to the Mackenzie Valley pipeline, greater than energy security or self-sufficiency.[178] The Berger Report injected new ideas and voices into the Canadian public debate on northern development, energy security, and the environment. The public interest in these issues would form one part of public support for government intervention in energy markets based on broader political goals. The fact that public concern for the environment trumped energy security worries even during the scarcity mentality of the 1970s was a telling sign that economic nationalist concerns among the public were ideologically complex.

A final category of ideological changes important to understanding government intervention during this era is procedural, or relating to the proper operation and goals of good government. As I briefly alluded to before in reference to Alberta's anti-Ottawa tactics, the Trudeau government consciously operated according to ideas about rational management strategies as well as the superiority of reason over political passions. This "knowledge is power" policy movement originated in the sense that previous Canadian governments had stumbled between crises and made ineffective policies in reaction to short-term

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[173] Bregha, *Bob Blair's Pipeline,* 126-127.
[174] *Ibid.,* 108.
[175] *Ibid.,* 122.
[176] *Ibid.,* 120.
[177] *Ibid.,* 123.
[178] *Ibid.,* 118.

events. Instead, a well-designed state apparatus could take advantage of expert research, data analysis, and technical decision-making in order to solve social problems most logically and optimally. Significantly for oil policies during this period, this approach argued that the technical management role of the politician was more important than a partisan, support-gathering role.[179] Developing optimal policies was more important than getting political forces onside with the policies, which is one explanation for the fact that the NEP was so centrally-designed and relied little on input or support from other interests like business or the provinces. The importance of information-gathering and predictability was a clear motivation for the creation of Petro-Canada as a policy instrument as well. Still, political control of the bureaucratic apparatus was a persistent concern; this took the form of a strong and politicized Prime Minister's Office under Trudeau, thus contributing to the overall centralization of final government decision-making.[180]

The failure of this decision-making model was expressed through the failure of the NEP. The NEP attempted to do too much: it mixed too many worthy goals to the point of irresolvable conflicts, such as between conservation and speedy northern oil and gas development; it also interwove these politically-motivated goals with its financial support structure, making the overall package too inflexible to adapt to the changing external situation. Another source of inflexibility was that it relied too heavily on its founding technical assumptions, such as an indefinitely rising world oil price. Finally, it provided critics with an easy target, since it had so many potential, and interconnected, points for disagreement. Interestingly, Trudeau's response to the inability of this model to produce effective economic policies was to appoint the Macdonald Commission in 1982 on Canada's economic future.[181] This commission's report would change the future of Canadian government intervention as well as recommend the centerpiece of oil export policy in the next period I will examine: the Canada-US Free Trade Agreement.

Institutions

The place of the NEB in an interventionist environment was tenuous, considering the way the NEB had straddled implementation and policy roles within the previous non-interventionist political climate. The NEB's role depended on the definition of the public interest which it was to defend; when it was suddenly faced with the task of administering Canada's export restriction program in 1973, the inapplicability of its previous operating definitions became obvious. In order to implement export restrictions, the Board had to both administer an export tax based upon the differential between domestic and world

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[179] Bradford, *Commissioning Ideas* 91.

[180] Reg Whitaker, Reg, "Politics Versus Administration: Politicians and Bureaucrats," in *Canadian Politics in the 21st Century,* eds. Michael Whittington and Glen Williams (Toronto: Nelson, 2000), 62.

[181] *Ibid.,* 112.

prices, as well as grant export licenses based upon maintaining supply in the domestic market at that politically-determined Canadian price.[182] Thus, the NEB was dependent upon the deliberations of Cabinet over February-March 1974 regarding an oil-pricing system that would be acceptable to both Canadian consumers and producing provinces. During these meetings, Energy Minister Marc Lalonde suggested that it might even become necessary to nationalize the oil and gas industry "on the grounds of public interest" if the pricing problem became too intractable.[183] On the ground, the Board's dealings with industry—its former source of information as to the general interest—became increasingly negative as a result of its new role in administering export restrictions.[184] The Board was also confronted with the problem that it was well-informed when it came to the industry's interests, but had next-to-no contact with the *public's* public interest in oil (one definition of which, of course, formed the basis for the government's new policies). In order to rectify its own information deficit, the Board held unprecedented "exploratory" public hearings to inform new rules on the administration of oil exports, including definitions of what would be considered an exportable surplus given Canadian energy security concerns.[185] Despite the fact that public interest groups did intervene in the proceedings, most participation occurred on the behalf of the provinces, oil companies, and pipeline operators. The NEB thus remained cut off in the early 1970s from broader public input, and its procedures for administering oil export regulation reflected the basic precedents established within its natural gas mandate.[186]

The fact that the NEB interpreted the Trudeau government's new political direction according to its old standards of operation attests to the persistence of embedded industry power within the Board during this period. The level of friction between these embedded interests and the imposition of "anti-business" directives from government became so intense as to become near-comical. The chairman of the Board during the early 1970s was Dr. Robert Howland, its longest-standing member and a former member of the Borden Commission who had been largely responsible for the administration of oil markets under the NOP. Howland was opposed to economic nationalism in general, and continually found himself on the wrong side of not only EMR and the Energy Minister but even the Conservative members of the House Committee on National Resources and Public Works, which questioned the competence of NEB members in 1973 relating to the consistent underpricing of gas exports in American markets.[187] Howland's personal animosity against EMR's involvement even led him to call in favours with old business and political connections in order to starve EMR of

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[182] Gray, *Forty Years in the Public Interest*, 52-53.
[183] *Ibid.,* 53.
[184] *Ibid.,* 55.
[185] Alastair R. Lucas and Trevor Bell, *The National Energy Board: Policy, Procedure, and Practice* (Ottawa: Law Reform Commission of Canada, 1977), 27.
[186] *Ibid.*
[187] Gray, *Forty Years in the Public Interest*, 57.

funds and resources.[188] Howland retired in August 1973, two years before the end of his mandate, after realizing the government was unlikely to renew his contract.[189]

The Berger Inquiry raised this friction to a new level. The NEB was the final decision-making body on the Mackenzie Valley pipeline, and held its own hearings in determining its report. However, these hearings were delayed by attempts at manipulation from both government and industry. The federal government, in an attempt to smooth over relations with the Board, had appointed a friendly civil servant named Marshall Crowe to replace Howland as Chair. Crowe had previously worked in a high-profile position in the Privy Council Office and had overseen the government's policy planning on the Mackenzie pipeline.[190] The industry was worried about his links with government, as well as the threat that a conflict of interest objection could harm the Mackenzie approval process, and responded with a legal campaign to remove Crowe. They revealed that in his former position as Chairman of the Canada Development Corporation (a government-owned entity), Crowe had had formal ties to the Arctic Gas consortium, which was currently involved in the Mackenzie Valley project.[191] Appeals went as far as the Supreme Court, which ruled in 1976 that Crowe could not take part in the approval process; he subsequently resigned from the NEB.[192] Interestingly, this was a rare case where industry and environmental progressives agreed a step needed to be taken: a number of public interest groups raised formal objections to Crowe's appointment because he might be unfairly biased in favour of pipeline development due to his background.[193] In any case, the government's attempt to rein in the NEB through imposing influence from above was clearly unsuccessful. The fact that the government felt it had to take such a step reflects how the independence of the NEB could be problematic in a period of change, since mechanisms for political control depended upon the willingness of the NEB itself to interpret and endorse the government's political direction within its procedures and decisions.

The NEB report on the Mackenzie Valley line was thus publicized after Berger's report due to this delay. The Board had failed to anticipate his recommendations to hold off development, nor the public salience of environmental concerns, and rushed out a response that revealed a sudden concern for environmental assessment in its support for the Alaska pipeline alternative. The NEB also strongly asserted it was the only agency with the competence and experience to be the main environmental assessor in pipeline development.[194] As exemplified by this change of face on environment, the Berger Inquiry had publicly drawn attention to deficiencies in the NEB process regarding the

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[188] *Ibid.,* 57.
[189] Bregha, *Bob Blair's Pipeline,* 65.
[190] *Ibid.*
[191] Gray, *Forty Years in the Public Interest*, 69.
[192] Bregha, *Bob Blair's Pipeline,* 65.
[193] Gray, *Forty Years in the Public Interest*, 71.
[194] *Ibid.,* 71-72.

thoroughness of pipeline approval decisions, responsiveness to public input, and the ways in which its hearings uniformly favoured development and industry goals.[195] The fact that the government had not trusted the NEB to do a proper assessment of the pipeline and had wanted to sponsor an "independent" inquiry both revealed how government considered the NEB compromised in its independent role, and how it believed the NEB had failed as an information-gathering device for policy decision-making.[196] However, the government itself was embarrassed by the controversy and delay caused by the Berger Report, especially from the perspective of sending a positive signal to the Americans on gas exports. [197] Obviously, the government was not independent of power influences in a market-based or continentalist direction either.

During the formulation and implementation of the NEP, the NEB's relationship with government worsened even further. Despite how the NEP reflected a deepening of the same interventionist policy environment, the NEB continued to act based on the engrained interests of business rather than the political climate. Significantly, the NEP was drawn up in Ottawa by members of EMR with no input from the NEB or from industry. Due to the need for the federal government to fill policy vacuums in energy policy that could be occupied by the provinces, and the centralizing tendencies of the Trudeau government, EMR had increased in both stature and wealth in the years leading up to the NEP. A later Chair of the NEB would refer to the conflict between the NEB and EMR as a "guerilla war," in which EMR began as a weak institution and blamed the lack of policy capacity on NEB for making Ottawa dependent on industry.[198] EMR successfully captured most of the available funds and best minds on energy policy as the 1970s went on, leaving the NEB both reduced in capacity and resentful of ministerial control.[199] The Chair of the NEB at the time of the NEP's release, Geoffery Edge, argued that the government erred in judgment when it chose to ignore the experience and history of the Board, and that it also overstepped statutory boundaries in those parts of the program that mandated the construction of pipelines.[200] Edge also spoke of the frustration of being unable to warn colleagues and personal friends in the industry of the plan after the Board had received a last-minute briefing on it, revealing how much closer the Board was to industry than to Ottawa in practice.[201] The variety of new policies within the NEP package also created entirely new institutions whose powers overlapped those of the NEB, such as the Canada Oil and Gas Lands Administration

[195] Bregha, *Bob Blair's Pipeline,* 59.
[196] *Ibid.,* 84.
[197] *Ibid.,* 150.
[198] G. Bruce Doern and Monica Gattinger, *Power Switch: Energy Regulatory Governance in the Twenty-First Century* (Toronto: University of Toronto Press, 2003), 99; Roland Priddle, "Reflections on National Energy Board Regulation 1959-98: From Persuasion to Prescription and on to Partnership," *Alberta Law Review* 37, no. 2 (1999): 538.
[199] Doern and Toner, *The Politics of Energy,* 404.
[200] Gray, *Forty Years in the Public Interest*, 62-63.
[201] *Ibid.,* 61.

(COGLA) on northern land development, as well as enhanced roles for existing departments like Indian and Northern Affairs and Environment Canada. Finally, the NEB's administrative role was also usurped by new federal political tactics, such as federal-provincial conferences to negotiate pricing and market details.

This complicated, and politicized, context created numerous goal conflicts in the NEB's everyday business. For example, NEB pipeline approvals like Sarnia-Montreal or the Alaska gas pipeline became circular processes, since the government had already asserted that the line was in the "public interest." The federal government also used the threat of "regulatory delays" as a pressure tactic on the United States and on industry to get northern pipeline projects moving, ostensibly questioning the independence of the NEB review process. Another major conundrum related to independence was the way in which the NEB was to treat Petro-Canada in everyday hearings. Did its interests represent a broader "public interest" that should take precedence, or should it be treated like any other oil company, even though its interests differed greatly from those of the rest of the industry (to the point where it broke away from the Independent Petroleum Association of Canada over ideological differences)?[202] The apparent capture of the NEB by political entrapments led Alberta to be suspicious of the Board as a mouthpiece for Ottawa, which was a further blow to both its perceived independence and its former close associations with Alberta.[203]

These politicized debates were an uncomfortable contrast to the NEB's previous role as a depoliticizing institution; this is one explanation for why the NEB continued to assert its own goals against the power of EMR and the federal government to overrule it. Typically, these agency goals took the form of encouraging more market-based approaches. One example was the decision to formulate a comprehensive supply-demand report in 1980, based on industry and provincial data, that refuted the NEP's pessimistic assumptions and argued that oil supply outlook would be positive under a "corrected" market arrangement.[204] Another tactic was to promote market opportunities that meshed with the government's overall plan, such as removing regulatory delays for the Alaska gas pipeline export pre-build.[205] However, it is important to note how the NEB also asserted itself into new roles that reflected its own institutional interest beyond a simple translation of the interests of capital. One example of where the NEB exceeded even the government's willingness to intervene on behalf of "public interest" was the Sarnia-Montreal pipeline process. Because the NEB found itself without a role in judging the pipeline approval itself, it poured unprecedented effort into undertaking a major environmental assessment of the proposed route and construction plans when Environment Canada failed to do a competent assessment.[206] On the other hand, it showed little concern for the environment by 1983, when it approved the construction of a gas line from Norman Wells in

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[202] *Ibid.,* 427, 235.
[203] *Ibid.,* 403.
[204] Priddle, "Reflections on National Energy Board Regulation," 541.
[205] Gray, *Forty Years in the Public Interest*, 73.
[206] Lucas and Bell, *The National Energy Board,* 88, 94.

defiance of Berger's 10 year moratorium by using a streamlined environmental assessment procedure that separated approval of "public interest" from the approval of mitigative measures to address environmental concerns.[207] Overall, the embedded anti-interventionist bias within the NEB as an institution caused obvious friction between it and the interventionist federal government to the extent that the government simply overstepped the NEB or replaced its functions with other institutions in order to implement its program.

Why was government able to successfully override the NEB despite both its statutory powers in the area of energy policy and its enduring anti-interventionist interests? Obviously the NEB is a creature of the government with both prescribed statutory duties and a mandate that could be revoked at any time if necessary (though this obviously would have had had negative political consequences). Other significant factors were the same power shifts I described earlier that enabled the federal government to act in spite of similar limitations to intervention. The fact that the government felt comfortable enough with its own program to impose it on the NEB rather than create it through consultation, for example, is an indication that government no longer felt the industry's viewpoint was the most important factor in energy policymaking. The government's program also imposed greater operational pressures on the NEB during this period that simply forced some degree of adaptation. The introduction of oil export regulation in 1973 doubled the workload of the NEB overnight. Since oil contracts are negotiated on a short-term basis, the NEB had to approve and re-approve hundreds of export permits every month on top of determining and administering the export tax on these transactions.[208] Another complication that bogged down regulatory reviews was the ascendance of politically-inspired energy megaprojects like the Mackenzie Valley pipeline. Because these projects were typically not viable on pure market grounds but were explicitly justified on public interest grounds, the hearings and approval process were far more complicated and lengthy than previous projects.[209] Staffing pressures like the incorporation of additional Board members into existing hearings procedures, as well as minor irritants like the imposition of bilingualism on the NEB despite its detachment from the civil service, added to the impact of these stresses.[210] The fact that these stresses were rooted in government policy change is a somewhat circular argument, but the snowballing effects of these new requirements on the time and energy of the Board probably forced it to go along with further changes more often than it attempted to resist or transmute them. Indeed, the NEB retreated into its "independent" role when pressured by industry to do something about the government's interventionist program; even if Board members may have disagreed with the level of intervention, their statutory requirements to implement government policy also shielded them from getting involved

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[207] Gray, *Forty Years in the Public Interest*, 74.
[208] *Ibid.,* 81.
[209] Priddle, "Reflections on National Energy Board Regulation," 542.
[210] Gray, *Forty Years in the Public Interest*, 26, 84.

politically.[211] For this reason, the fact that EMR usurped the NEB's policymaking functions was not necessarily negative for the NEB as an institution.

External stresses also forced re-evaluations of the fairness of hearings procedures as well as of the legitimacy of NEB final decisions. The 1970s were a period of growing environmental concerns amongst the public, which demanded new competences and regulatory devices in terms of approval of major construction projects like pipelines. While the NEB attempted to adapt internally to these new claims to public interest, it did so under intense public and media scrutiny. Challenges from both lawyers and affected individuals forced the NEB to relinquish some of its discretionary power. One example was the forced clarification of what exactly defined a "public hearing." When Dow Chemical applied for a license to export the petrochemical product ethylene (a ground-breaking application for the NEB in terms of expanding its jurisdiction) Dow and NEB officials decided that a limited approval hearing would keep controversy and regulatory delays to a minimum. However, the cause of public intervenors who felt they would be unfairly excluded from the proceedings was taken up by successive critical editorials in *The Globe and Mail,* and a court challenge was launched. The resultant Federal Court decision argued that a "public hearing" must treat all participants on an equal footing and that such hearings must mirror the procedures of law trials, in terms of equal opportunities for presentation of evidence and cross-examination. The NEB declined to join in Dow's immediate appeal of the decision to avoid more adverse publicity and assertions of pro-industry bias, but the episode had already been publicly damaging.[212] In terms of informal restrictions on its freedom, the NEB received increasingly bad press during this period related to arguments of industry bias and privileged contact, the failure of enforcement and industry self-monitoring, openness to public intervenors like individual landowners and environmental groups, and financial obstacles to participation like the cost to intervenors of obtaining NEB reports.[213] A potent example was the frustration experienced by farm landowners attempting to intervene in the Sarnia-Montreal hearings process; part of one farmer's testimony involved pointing out their disadvantages in the process in terms of time, money, and legal experience.[214] Overall, a surge in "media watchdog" reporting, combined with the effort of individuals and public interest groups to intervene in NEB hearings, had significant effects on the procedures of the Board according to a 1977 study of the NEB.[215] The airing of the NEB's links to industry, as well as the penetration of outside social forces into the hearings process, are examples of how changes in ideas had demonstrable effects in changing institutional power structures that had reflected an embedded pro-industry bias.

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[211] *Ibid., 61.*
[212] Lucas and Bell, *The National Energy Board,* 101-111.
[213] C. Lloyd Brown-John, *Canadian Regulatory Agencies* (Toronto: Butterworths, 1981), 199, 201, 205-207; Lucas and Bell, *The National Energy Board,* 40, 67, 68, 100, 118.
[214] Lucas and Bell, *The National Energy Board,* 84-87.
[215] *Ibid.,* 116, 118.

Trends and Conclusions

Clearly, this period was a time of crisis and change within oil export policy compared to the stability of the 1960s. As one example, changes in NEB procedures related to public hearings can be traced through changes in ideas about who should participate in the formation of oil security and export policies, and ultimately to shifts in both international and national power relationships. The reorientation of economic and political control over international oil supplies away from the major multinational oil companies to OPEC producers produced major environmental effects that forced the Canadian government to act. It also produced changes in the global balance of power that shaped the way in which the Canadian state was able to assert strength. Established hegemonic structures were deeply challenged by this external threat of high oil prices and scarcity. The initial inability of these structures to mediate the crisis (for example, the failure of the multinationals to assert pricing control, or of the American government to lead a strong counterforce to OPEC) created openings for other sources of agency. The weakness of capital, for example, made it possible for the Canadian state to form and develop credible alternative policies, supported by the broader profile and public acceptance of counter-hegemonic forces in energy policy during the 1970s. These forces were also more inclusive than they had been in the 1960s; the sometimes-conflicting goals of labour, environmental groups, native groups, and economic nationalists formed both a counterpoint to the forces of capital and added to the diversity of public ideas even when they did not agree.

Government action took the form of a significant increase in interventionism in oil export policy, beginning with export limits and price controls set in 1973. The construction of infrastructure such as the Sarnia-Montreal pipeline, as well as the formation of Petro-Canada, reflected a parallel reorientation in government policy that sought to transform a segment of the Canadian staples economy from a continentalist basis to a nationally oriented alternative. This transition in policy was supported by aforementioned shifts in power away from the American state and multinational oil companies operating in Canada—the previous dominant influences over oil export policies—as well as a genuine assertion of Canadian state strength. The culmination of this strength, both in terms of intervention and Canadianization, was the 1980 NEP, which looked forward to the near future when Canada would no longer be an exporter of oil. This political will was rooted in changes in dominant ideas about national unity, the viability of NOCs, fears about scarcity, concerns raised by public interest groups, the place of provincial voices in federalism, and environmental and northern development issues. Other political forces pushed back on these developments as well. Those institutional structures that had solidified and supported the previous hegemony, such as the NEB, resisted the change. Similarly, new attempts to solidify changing power structures, such as the constitutionalization of Alberta's interests in energy policy or the mobilization of business organizations, occurred throughout the crisis. Although external events such as the political and economic agenda of the Reagan government contributed significantly to its downfall, the retreat of the NEP also indicates that engrained power of continentalist, staples-based capital in Canada had not been displaced. Why was the NEP package, and the paradigm it represented, too weak to do so?

According to Jenson's regulation theory approach, Canada's Fordist compromise was founded upon the negotiation of two fundamental cleavages of Canadian politics, namely federalism and national identity. During the 1970s, disputes over both national identity and federal-provincial relations fundamentally fractured this compromise.[216] The continentalist foundations of Canada's "permeable" economy were challenged by the changing position of the United States both politically and economically. As I have explained in this chapter, those power relationships that sustained a staples-dominated economy shifted as well. On the level of economic policy, stagflation, weak job growth, and deficit spending challenged the viability of the Keynesian economic management strategies that had supported a Fordist regime of accumulation.[217] The impact of these economic regime changes was magnified by the political interrelationships between identity, federalism, and economic distribution; these forces broke the stability of the existing societal paradigm. The Liberals' overall plan to stabilize this crisis situation, which included the NEP as well as constitutional reform, was a new "national policy" aimed at supplanting the Fordist model. It attempted to institute a new political and economic paradigm, focused on building "fairness" through economic intervention in a more collectivist and regionally-balanced manner.[218] According to many regulation theory analyses, this mode of development failed to become structurally institutionalized and was supplanted by a neoliberal paradigm that became hegemonic over the 1980s-1990s.[219]

Returning to oil export policy, I argue that regulation theory is valuable in terms of understanding how crisis and change occurred within this broader context of change, but that the interventionist interlude deserves more credit than simply being a failed attempt to negotiate a crisis. That there was reasonable consensus during the 1970s as to the viability of the interventionist option should not be understated. This was a period of "stability" for the fact the political and economic elite, including most of the major oil companies, accepted the principle of intervention in an environment where it appeared that power relationships had shifted significantly. Of course, the extent and form of intervention was very

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[216] Jane Jenson, "All The World's a Stage: Ideas, Spaces, and Times in Canadian Political Economy." *Studies in Political Economy* 36 (1991): 63.
[217] Jane Jenson, "'Different' But Not 'Exceptional': Canada's Permeable Fordism," *Canadian Review of Sociology and Anthropology* 26, no. 1 (1989): 84
[218] *Ibid.,* 87.
[219] For examples in different areas of policy, see Jane Jenson, "All The World's a Stage: Ideas, Spaces, and Times in Canadian Political Economy." *Studies in Political Economy* 36 (1991): 63-65; and Janine Brodie, "Putting Gender Back In: Women and Social Policy Reform in Canada," in *Critical Policy Studies,* eds. Michael Orsini and Miriam Smith (Vancouver: UBC Press, 2007), 169-170.

much subject to debate. The fact that the major oil companies' interests often countered those of the Alberta government during its battle with Ottawa, and that Alberta was the main opposing force to federal interventionism in oil (while intervening strongly in its provincial economic affairs), is an example of how complex this conflict was. Fundamentally, a staples-based economy must have some degree of intervention because of its susceptibility to such crises based on external events like price changes. The NOP could be called "interventionist" based on the demands of an economic elite to mediate such external variables, but it was not tied to political or social goals that would attempt to shape these broader effects. During this period, however, intervention tied to social and political goals took place, and there was reasonable consensus around the validity of this form of intervention in principle.

Canadianization, and the challenge to continentalism it represented, was a form of intervention that encapsulated these debates: it was a project of political elites, highly popular amongst the public, and accepted with ambivalence by economic elites, which objected to its intrusiveness but favoured the political stability produced by Petro-Canada. Canadianization was also visibly successful. The Canadian economic elite was truly under pressure from new Canadian entrants; private Canadian companies like Dome Petroleum flourished under Canadianization measures, and Petro-Canada became a major industry player.[220] However, as private companies, the new Canadian entrants were unreliable partners when it came to intervention in terms of energy security. Most wanted to continue exports based on market profitability; the most nationalist of Canadian business, like Bob Blair of NOVA, realized how weak they were in comparison with other producer countries.[221] These kinds of goal conflicts between forms of intervention, as well as the weakness of economic nationalism among Canadian businesses in the staples sector, are both key to understanding the failure of the NEP and the prospects for intervention in oil export policy in general. It is important to note how Canadianization in oil was in practice confined to deepening the staples bias of the economy. Canadianization was publicly popular partially because it challenged overt continentalism, one of the most visible ways in which Canada is at the mercy of a staples-based economy; it would be far more difficult and unpopular to address the staples bias itself.[222] The problem with the Canadianization approach is that staples dependence has been tied throughout to foreign dependence (and, thus, continentalism in the post-Britain era), and therefore feeds it at a deeper level than can be addressed through Canadianization alone. Canadianization also failed to challenge informal components of continentalism, such as reliance on American technology and know-how, that are tied to the combined legacy of foreign-led staples dependence. This is one way of

[220] Fossum, *Oil, the State, and Federalism,* 142.
[221] *Ibid.,* 34; Bregha, *Bob Blair's Pipeline,* 12-13.
[222] The fact that Alberta perceived the NEP as a malicious attempt to do something similar—that is, collapse its own staples-based economy in the interests of other provinces through equalization measures—and that this has persisted as one of the most powerful milestones of Albertan political consciousness attests to the difficulty.

explaining the structural continentalism of Canadian businesses in the oil industry, which owed their success to Canadianization measures implemented under the NEP.

I argue that one of the weaknesses of regulation theory approaches to Canadian policy development is that they focus on permeability but fail to interrogate the staples bias of the Canadian economy as both a key component of permeability and a major structure in its own right. This is problematic due to the pernicious effects of the staples bias on other aspects of the overall societal paradigm, such as class structures, that are highly relevant to a regulation theory account. The staples bias is a major contributor to regional development imbalances and related problems of labour; it also creates double instability for the labour force, which faces threats from external price changes on top of its position related to capital. For example, oil exploration is a labour-intensive enterprise whereas production of proved resources is much less so.[223] Encouraging northern oil development from the perspective of energy security, then, perpetuated a division between the goals of labour and those of self-sufficiency that serves to benefit extraction companies in the long run. During this period, labour challenged continentalism but not the staples base on which livelihoods depended, which forced awkward and contradictory positions when these two were obviously intertwined: for example, the NDP supported the Alaska pipeline from the perspective of creating development and jobs, despite the fact there were major criticisms of the project from nationalist and environmentalist outlooks.[224] In sum, "permeability" in the Canadian context extends beyond foreign capital and power and to other forms of external events, such as oil prices, all of which can have major effects on internal development. As long as foreign companies dominate the Canadian oil industry there is an extra layer to those effects—one that is certainly worth challenging, especially given that the gains made from doing so can bolster the ability of the state to act in other areas—but even in a less continental economy issues related to staples dependence are perpetuated. The fact that overt continentalism was so easy to slip back into when scarcity was not an issue shows how the staples bias, rooted in the pattern of Canadian development, fuels the persistence of continentalism.

The ways in which the Liberals' new national policy attempted to change some established power structures (such as through the development of new constitutional identities within a revamped federalism, or a less continentalist economic orientation) were partially hampered by the endurance of others, as was exemplified by the NEP. In that it attempted to reshape the staples basis of the Canadian economy to some degree, however, the NEP was a landmark. To some extent, the high profile of energy issues during this period also publicly revealed how staples production was interwoven with Canadian political circumstances. In

[223] Wallace Clement, "Debates and Directions: A Political Economy of Resources," in *The New Canadian Political Economy,* eds. Wallace Clement and Glen Williams (Montreal: McGill-Queen's University Press, 1989), 46-48.
[224] Bregha, *Bob Blair's Pipeline,* 146.

regulation theory terms, staples dependence is one of the most powerful and enduring hegemonies within the history of the Canadian regime of accumulation, and one that has rarely been displaced by crisis (perhaps because the very susceptibility to crises is characteristic of the bias itself). The fact that, during this period of crisis, there was general support for intervention in the Canadian staples economy in order to reshape it based on broader social and political goals is of major significance.

Chapter 4: 1984-2002

Historical Overview

The 1984 federal election marked a retreat from interventionist economic policies, as both the Liberals and the Progressive Conservatives attempted to orient their platforms in favour of business and against government spending. The public strongly felt a change was needed, and PC Leader Brian Mulroney received the largest majority mandate in Canadian history as a result of the vote. Perhaps as a result of this landslide of public support, the PCs came to power with a broad market-oriented mandate but few specific policy proposals in that vein.[1] Beyond identifying overall priorities of deregulation, privatization, and spending reductions—together with a desire to improve federal-provincial relations—the Conservatives failed to develop an economic policy framework by the summer of 1985.[2] Fortuitously enough, the release of the Macdonald Commission's report, which had been initiated under the previous government, provided a credible issue upon which the Conservatives could build an effective strategy: free trade with the United States.

Even in 1984, before the release of his commission's final report, Donald Macdonald had publicly argued in favour of free trade as the best option available to Canada to sort out its growing economic frailties.[3] As a Liberal and former minister of EMR during the earlier years of the Trudeau government, Macdonald's voice was non-partisan. The credibility of his suggestions had already provided the impetus for internal government reviews of trade policy beginning in early 1985. A joint House of Commons-Senate committee reviewed these proposals in the summer of that year and, barring the dissenting voice of the NDP, recommended cautious exploratory negotiations with the United States.[4] However, when the Macdonald Report was released with a splash in September, Mulroney seized the initiative and announced support for free trade within the next month.[5] Within the report, Macdonald argued that free trade would have a multifold function as the centerpiece of a new Canadian economic policy. Ensuring and expanding Canadian access to markets would bolster overall

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[1] Neil Bradford, *Commissioning Ideas: Canadian National Policy Innovation in Comparative Perspective* (Toronto: Oxford University Press, 1998), 117.
[2] *Ibid.,* 119.
[3] G. Bruce Doern and Brian W. Tomlin, *Faith and Fear: The Free Trade Story* (Toronto: Stoddart, 1991), 24.
[4] *Ibid.,* 28.
[5] *Ibid.,* 30.

growth, while opening up Canadian industry to freer competition would eliminate underperformance and inefficiency.[6] Oil would be an ideal test case for both of these aspects of free trade, as well as how they would dovetail with the government's other domestic objectives.

The PC government may have come to power with little overall policy direction, but the same could not be said for the energy sector specifically. When Mulroney proclaimed that "Canada [was] open for business" to investors in New York soon after his election, he was referring to the dismantling of the NEP, among other interventionist measures like FIRA, which had made American business feel unwelcome in Canada as well as alienated Alberta.[7] In fact, the Conservative plan to dismantle the NEP had been planned in detail leading up to the 1984 election. Since 1983, Conservative Energy Critic Pat Carney had been consulting with oil companies, NEB officials, and bureaucrats in order to formulate a deregulation plan to serve as the Conservative energy platform. Immediately after being appointed energy minister, Carney set about imposing the plan upon a resistant EMR bureaucracy.[8] Reflecting the Mulroney government's desire to reassure and improve relationships with oil-producing provinces, the dismantling of the NEP in favour of a deregulated national oil market took place through a serious of federal-provincial accords. The first and most significant was the Western Accord between Canada, Alberta, British Columbia, and Saskatchewan, which was proclaimed on March 29, 1985. The accord's goal was to "modify the existing taxation and pricing regime in order to stimulate investment and job creation in the energy sector in Canada and to increase the degree of energy security in Canada," through market-based pricing methods.[9]

The Western Accord proclaimed the end to all NEP taxation measures, including the PGRT (phased out by 1989, but not to be imposed on new production following April 1985) and oil import and export taxes.[10] It also reduced rules on export licensing, phased out PIP grants and pipeline subsidies, removed links between tax incentives for the energy industry and Canadianization, and eliminated NEP-specific institutions like the Oil Import

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[6] *Ibid.,* 33.

[7] Ross H. Munro, Jamie Murphy, and Frederick Ungeheuer, "Canada: Hanging Out the Welcome Sign," *Time Magazine*, December 24, 1984, available http://www.time.com/time/magazine/article/0,9171,951396,00.html, accessed January 20, 2010.

[8] Earle Gray, *Forty Years in the Public Interest: A History of the National Energy Board* (Toronto: Douglas and McIntyre, 2000), 87-88.

[9] Quoted in Keith F. Miller, "Energy Regulation and the Role of the Market," *Alberta Law Review* 37, no. 2 (1999): 420.

[10] Gray, *Forty Years in the Public Interest*, 89; G.C. Watkins, "Deregulation and the Petroleum Industry: Adolescence or Maturity?," in *Breaking the Shackles: Deregulating Canadian Industry*, eds. Walter Block and George Lermer (Vancouver: Fraser Institute, 1991), 219.

Compensation Program.[11] Longer-term exports would continue to require NEB approval, and the government affirmed its right to limit exports to protect Canadians in case of major world price fluctuations, but the overall destruction of interventionist measures was thorough.[12] The Western Accord also stipulated that an agreement on natural gas deregulation be reached by November 1985, leading to the Agreement on Natural Gas Markets and Prices (Halloween Agreement) of October 31. Notably, this agreement endorsed an end to surplus tests for gas exports, as well as limiting the control the NEB had over gas export prices.[13] The Western Accord was followed by the Atlantic Accord (1985) and Northern Accord (1988), both of which re-affirmed the market principle on similar terms.[14] When world oil prices collapsed in 1986, some members of the Canadian industry pressured the government to re-regulate prices, but the Conservatives refused to do so and implemented tax breaks and new incentive programs to ease industry out of the slump instead.[15] New subsidies were also extended to northern and frontier projects despite the demise of the PIPs, such as the $1.06 billion in grants awarded to the Hibernia project in 1988.[16]

By the time that the Canada-U.S. Free Trade Agreement negotiations were underway in 1985-1987, the Canadian energy market was already in a state of general freedom. Regarding energy, the goals for Canadian negotiators were to consolidate and institutionalize these gains in a form inaccessible to political interference, as well as secure American market access for Canadian energy exports. In terms of conditions on oil exports, the finalized FTA prohibited government control over their pricing and volume but not over matters of transportation, such as pipeline approvals.[17] One of the most controversial terms of the agreement was the proportional access clause: taxation of exports or cuts to their volume (or to the volume of any energy good) would only be permissible if identical restrictions were imposed upon the domestic Canadian market. Industry incentives that would discriminate against the nationality of ownership, such as the PIPs had done, were also prohibited—though the right to implement nondiscriminatory incentives was protected.[18]

The overall achievement of the FTA in energy was to institutionalize oil as a normal, rather than a politicized, commodity. Indeed, the industry's goal had been to completely integrate energy into the overall deal without need for a separate chapter, although they had to concede the demand to American

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[11] John Eric Fossum, *Oil, the State, and Federalism: The Rise and Demise of Petro-Canada as a Statist Impulse* (Toronto: University of Toronto Press, 1997), 212; Watkins, "Deregulation and the Petroleum Industry," 219.
[12] G.C. Watkins, "Deregulation and the Petroleum Industry," 219.
[13] Gray, *Forty Years in the Public Interest*, 91.
[14] Fossum, *Oil, the State, and Federalism,* 206.
[15] G.C. Watkins, "Deregulation and the Petroleum Industry," 235.
[16] Fossum, *Oil, the State, and Federalism,* 213.
[17] John N. McDougall, "The Canada-US Free Trade Agreement and Canada's Energy Trade," *Canadian Public Policy* 17, no. 1 (1991): 6.
[18] Fossum, *Oil, the State, and Federalism,* 232-233.

negotiators.[19] In the ways that it reaffirmed and extended existing (and oft-ignored) GATT provisions on energy, the FTA was a landmark precedent of a functioning deregulated global energy market.[20] The overall agreement, signed in October 1988, was essentially vetted by the public through the November 1988 "free trade election," during which coalitions of pro-business and economic nationalist organizations fought a contentious battle over public opinion on the pact. The PCs won a majority of 170 seats, but a plurality of Canadians voted for parties (namely the Liberals and the NDP) that had campaigned against free trade.[21] While the extent to which the Conservative victory was a Canadian public decision on free trade is contested, it remains one of the most significant national electoral mobilizations in Canadian history.

The strategy linking together the Western Accord and the FTA energy chapter was outlined in a major policy report released by EMR in August 1988, just before the FTA was signed. Starting in April 1987, EMR Minister Marcel Masse announced a consultation project called "Energy Options—A Canadian Dialogue," which attempted to pool input from industry, academics, government officials, labour, and other interest groups on the future direction of Canadian energy policy.[22] Not surprisingly, the report on the Energy Options process, *Energy and Canadians Into the 21st Century*, largely followed the established Conservative direction on energy policy; however, it also fleshed out the political underpinnings of, and public justifications for, its energy policy. The Energy Options report argued that Canadian energy security was best served by the provision of a variety of "energy services" by the free market, rather than guaranteeing supplies of specific energy sources like oil at secure prices. In a literal duplication of the logic of 1960s oil policy, the report referred to such an approach as "hoarding."[23] Energy resources should be developed and traded in order to maximize their economic potential. Doing so would promote overall economic development as well as finance the development of more choice in energy services, contributing to national energy security as a whole. Failing to commit to internationalization trends in the oil market would leave Canada in a position of frittering away its natural economic advantages.[24] In the case of an extreme price disruption, the report affirmed a commitment to international energy security agreements like the IEA as well as legislation such as the Energy Supplies Emergency Act (which was modified, rather than scrapped along with the rest of the 1970s energy policy architecture, in 1985).[25]

[19] Doern and Tomlin, *Faith and Fear,* 82.
[20] *Ibid.,* 80.
[21] *Ibid.,* 238-240.
[22] Canada, *Energy and Canadians into the 21st Century: A Report on the Energy Options Process* (Ottawa: Minister of Supply and Services, 1988), A11-12.
[23] *Ibid.,* 5, 13.
[24] *Ibid.,* 20.
[25] Canada, *Energy and Canadians,* 13-14; "Energy Supplies Emergency Act," in *Revised Statues of Canada*, 1985, c. E-9, available http://laws.justice.gc.ca/en/E-9/index.html, accessed January 20, 2010.

These assertions about the necessity of trade to Canadian energy security supported the report's affirmation that, both internationally and among the Canadians the committee consulted, a "market consensus" regarding energy industries was being reached. Within such an environment of consensus, the role of government would be to maintain an open and level playing field for participants, and only intervene with regulation in cases of serious market failure or social costs.[26] Political instability, such as that caused by the sudden imposition of the NEP as well as the interprovincial conflict it spawned, created undesirable uncertainty for the industry and ought to be avoided.[27] Following these premises, the report asserted that governments should be adaptive and flexible to industry demands, and should avoid using it as a "cash cow" or a means to social or economic redistribution.[28] Much of the Energy Options report's criticism of the NEP was therefore based in those major flaws I identified in the last chapter—its inflexible links between price intervention, fiscal reliance, and social and redistributive goals.[29]

The privatization of Petro-Canada was a major milestone of the PC government's second term; it linked the government's privatization goals with the non-interventionist and continentalist energy policy outlined in the Energy Options report. Following Mulroney's electoral victory, Petro-Canada had quickly been given a new mandate "to operate in a commercial, private-sector fashion, with emphasis on profitability…."[30] The government had retained the right to direct the corporation in the national interest in its role as shareholder, but relinquished control of Petro-Canada as a policy instrument.[31] Considering the importance of privatization in general to the Conservatives' pro-market platform, Petro-Canada was also required in 1984 to submit to new measures on Crown corporations, such as to submit annual business plans and five-year audits, and to start paying taxes.[32] Interestingly, the government explicitly linked privatization with deregulation through the Office of Privatization and Regulatory Affairs, which centrally coordinated the government's plan.[33] Canadianization in some form was still supported by a number of nationalists within the Conservative government, however, and in 1985 it oversaw a major milestone of Canadianization: the takeover of Gulf Canada by Petro-Canada.[34] Nevertheless, in the 1985 budget the government began the process of privatization when it made a statement that Crown corporations would be sold unless they served a necessary policy purpose; obviously, according to its new mandate, Petro-Canada

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[26] Canada, *Energy and Canadians,* 6.
[27] *Ibid.,* 8, 15.
[28] *Ibid.,* 7.
[29] *Ibid.,* 15.
[30] Quoted in Fossum, *Oil, the State, and Federalism,* 246.
[31] Fossum, *Oil, the State, and Federalism,* 246.
[32] *Ibid.,* 243, 247.
[33] *Ibid.,* 244.
[34] *Ibid.,* 215.

did not.[35] By the time its actual privatization was announced in 1990, there was little surprise regarding the decision. Significantly, however, some restrictions remained within the private Petro-Canada's charter: it could not be split up as a corporation, and non-Canadians would not be permitted to hold more than 25% of its shares.[36]

Another policy development in 1990 significant to the Canadian oil industry was the Conservatives' Green Plan. The Green Plan was an attempt to respond to the Brundtland Commission's 1987 call for environmental protection through sustainable development policies, as well as to respond to the high public profile of environmental issues (like acid rain and ozone depletion) during the late 1980s. It allocated $3 billion in spending—a massive amount considering the government's policy of fiscal restraint—to finance a wide package of environmental initiatives.[37] Although the Mulroney government had overseen significant Canadian involvement in international environmental initiatives, such as the signing of the Montreal Protocol limiting ozone-depleting products and the Toronto Conference on global warming, the Green Plan was not backed up by a strong commitment beyond its political advantages. It was subject to repeated funding cuts and, despite receiving a boost as a result of Canada's ratified commitments at the Earth Conference in Rio de Janeiro in 1992, was abandoned in 1993.[38] This was primarily due to its potential to harm the electoral prospects of the Conservative Party, and its new leader Kim Campbell, during the recession of the early 1990s.[39] Moreover, the Green Plan had been left without a strong ministerial advocate following the resignation of Environment Minister Lucien Bouchard over the handling of the Meech Lake Accord.[40] The potential for environment and interprovincial conflict to combine into a potent political problem was clearly evident in the demise of the Green Plan.

Finally, the public service and organizational reforms initiated by the Conservative government during its second term also had implications for future Canadian energy policies. Ever since the early 1970s, Conservative MPs had proposed moving the NEB to Calgary on account of the fact that the majority of its regulatory business was concerned with Western Canada. Typically, the Liberal government and the Board itself had responded that it worked on national issues and had to be in constant contact with other departments in Ottawa to do so effectively.[41] In the 1991 budget speech, the government unexpectedly announced that the NEB would move to Calgary by September of that year. Complicating the move was the fact that only a week before the move

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[35] *Ibid.,* 244.
[36] *Ibid.,* 264.
[37] Glen Toner, "The Green Plan: From Great Expectations to Eco-Backtracking…to Revitalization?," in *How Ottawa Spends 1994-1995: Making Change,* ed. Susan D. Philips (Ottawa: Carleton University Press, 1994), 231.
[38] *Ibid.,* 231, 247.
[39] *Ibid.,* 248.
[40] *Ibid.,* 243.
[41] Gray, *Forty Years in the Public Interest*, 119-120.

announcement, the government had dissolved the Canada Oil and Gas Lands Administration, one of the last institutional remnants of the previous energy policy regime, and assigned its former staff to the NEB.[42] The justification for this rationalization was encapsulated within the Public Service 2000 program, a review of the civil service that had been initiated in 1990. It aimed to introduce streamlined management processes and a new service-oriented corporate culture into government divisions.[43] Another transformation in energy policymaking capacity occurred during Kim Campbell's short 1993 prime ministership. As part of a major reorganization of government departments, EMR and Forestry were merged into a new department called Natural Resources Canada (NRCan). This reorganization would be retained and institutionalized under the following Liberal government.[44]

The Liberal Party solidly won a majority government in the 1993 election, which also saw the election of members from the new Reform Party and the Bloc Québécois as well as the near-elimination of the Progressive Conservative Party in the House. The Liberals campaigned on a "Red Book" of promises that combined deficit reduction and spending reforms with more social welfare goals than the Conservatives had endorsed. One major pillar of the Red Book strategy was the concept of innovation: investment in science and technology would be a key factor in overall economic strategy as well as in attaining the government's sustainability goals. The Red Book also attempted to repair some of the image problems deficit reduction had developed under the Conservative government by emphasizing the fairness of proposed cuts.[45] Significantly, the Red Book also proposed a re-evaluation of the North American Free Trade Agreement (NAFTA), the planned extension of the existing FTA to include Mexico that had been negotiated during the last years of the Conservative government.[46] A significant part of this proposal was a promise to change the energy chapter of the FTA, along with provisions on subsidies and dumping, in order to ensure the U.S could not lay claim to Canadian energy supplies.[47] More specifically, Prime Minister Chrétien argued that Canada should receive the same treatment regarding

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[42] *Ibid.,* 120.
[43] Gene Swimmer, Michael Hicks, and Terry Milne, "Public Service 2000: Dead or Alive?," in *How Ottawa Spends 1994-1995: Making Change,* ed. Susan D. Philips (Ottawa: Carleton University Press, 1994), 166, 170.
[44] G. Bruce Doern and Monica Gattinger, "New Economy/Old Economy? Transforming Natural Resources Canada," in *How Ottawa Spends 2001-2002: Power in Transition*, ed. Leslie A. Pal (Toronto: Oxford University Press, 2001), 223.
[45] Susan D. Philips, "Making Change: The Potential for Innovation under the Liberals," in *How Ottawa Spends 1994-1995: Making Change,* ed. Susan D. Philips (Ottawa: Carleton University Press, 1994), 13-14.
[46] Claire Turenne Sjolander, "International Trade as Foreign Policy: 'Anything for a Buck'," in *How Ottawa Spends 1997-1998: Seeing Red: A Liberal Report Card,* ed. Gene Swimmer (Ottawa: Carleton University Press, 1997), 111.
[47] Jeff Sallot, "Chrétien hints at NAFTA waiting game," *The Globe and Mail*, October 28, 1993, A5.

national control over the Canadian oil industry and oil exports that Mexico, a country with significant national control over and pride in its oil resources, had obtained. Critics pointed out that Mexico had given up guaranteed access to the American energy market in exchange for these provisions—a victory that Canadian industry would be unlikely to relinquish.[48] Indeed, once in power the Liberals failed to make any significant impact on the NAFTA before it came into effect on January 1, 1994, owing to both the short time period and the unworkable scope of the changes proposed. NAFTA "working groups" would continue to discuss the issues of contention, but no concrete changes to the text were made.[49] In its final form, the NAFTA thus generally extended and clarified the Canada-U.S. FTA provisions on energy. Among the significant new additions were two commissions to oversee environmental and labour practices, and controversial provisions in Chapter 11 allowing foreign firms to sue governments if national laws or regulations deny them economic opportunities.[50]

Following the Liberal government's retreat from renegotiation of NAFTA's energy provisions, its energy policy followed the general pattern of depoliticization that the Conservatives had enshrined through the Western Accord and the FTA. Anne McLellan, an MP from Alberta, was the first Liberal minister of NRCan. McLellan balanced industry demands for deregulation, and NRCan's tendency to defend industry interests, with initiatives to create formal mechanisms of coordination with Environment Canada and government sustainability goals.[51] One of the key developments during her tenure was the 1993 establishment of the National Oil Sands Task Force, a joint committee of government and industry that produced a plan for jump-starting development in the Alberta tar sands. The 1995 NOSTF report argued that the tar sands represented one of the largest investment opportunities in Canada, as well as a potential source for Canadian self-sufficiency in oil. It endorsed the need for a generic 1% royalty regime from the province of Alberta as well as significant federal tax breaks in order to spur the development plan, which would give a major boost to Canadian oil exports in the future. That year, both the Alberta and federal governments endorsed the NOSTF plan, and within the next two years alone more that $10 billion in private investment flowed into the tar sands as the plan had predicted.[52] In the years following NAFTA, there was also an explosion in the development of export pipelines to serve the American market with both oil and natural gas, including the Express crude pipeline from central Alberta to Wyoming.[53] The fact that

[48] Giles Gherson, "NAFTA negotiations or not, why rock the energy boat?," *The Globe and Mail,* November 17, 1993, A18.
[49] Sjolander, "International Trade as Foreign Policy," 115-116.
[50] John N. McDougall, *Drifting Together: The Political Economy of Canada-US Integration* (Peterborough: Broadview Press, 2006), 167.
[51] G. Bruce Doern and Monica Gattinger, *Power Switch: Energy Regulatory Governance in the Twenty-First Century* (Toronto: University of Toronto Press, 2003), 51.
[52] Andrew Nikiforuk, *Tar Sands: Dirty Oil and the Future of a Continent* (Vancouver: Greystone Books, 2008), 26-27.
[53] Gray, *Forty Years in the Public Interest*, 122-123.

common ground had been found between a Liberal federal government and Alberta on oil development and export was a significant indication of change—to the Liberals, oil had become a commodity like any other, tied to beneficial economic growth and job creation. Cooperation between Ottawa and Alberta during the mid-'90s was also a welcome endorsement of the strength of federalism, in contrast to the divisive fallout of the 1995 Quebec referendum on sovereignty. Perhaps because NRCan's collaboration with industry had been so fruitful in promoting development, NRCan was also singled out for some of the largest cuts to a government department within Finance Minister Paul Martin's 1995 austerity budget. By 1998, NRCan's budget had been reduced by 49.8%, matched only by cuts to Regional Development and Transport.[54] Furthermore, a large proportion of that budget cut fell upon NRCan's Energy Policy Sector, which lost 75% of its budget as well as 25% of its staff.[55]

The NOSTF report, in its justification for endorsing investment in the tar sands, argued that they represented a "knowledge-based, technology-driven, resource."[56] Clearly, this meshed with the Liberals' Red Book strategy of promoting innovation, science, and technology as means to sustainable economic recovery and growth. The second Liberal minister of NRCan, Ralph Goodale, began his 1997 appointment by setting goals to position NRCan fully within this paradigm. The aim was to establish natural resources as part of the "new" technology and knowledge economy, rather than the "old" industrial and staples-based economy.[57] Much of the impetus to place NRCan, and energy in particular, at the forefront of policy was to develop a pre-emptive response to the 1997 Kyoto Protocol. Since the Conservative government had both hosted an international conference on climate in Toronto in 1988 as well as committed to (and failed to meet) carbon dioxide reductions targets at Rio, the Kyoto Protocol was not an unprecedented policy demand.[58] On the other hand, the fact that Canada's Kyoto commitments meshed with the Liberals' sustainable development goals meant that there was greater political commitment to meeting them than had existed under Mulroney. Furthermore, the Kyoto targets would require significant effort to attain: a 6% reduction in emissions from 1990 levels by the end of

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[54] Susan D. Philips, "The Liberals' Mid-Life Crises: Aspirations versus Achievements," in *How Ottawa Spends 1995-1996: Mid-Life Crises,* ed. Susan D. Philips (Ottawa: Carleton University Press, 1995), 16.
[55] Debora L. VanNijnatten, "Getting Greener in the Third Mandate? Renewable Energy, Innovation, and the Liberals' Sustainable Development Agenda," in *How Ottawa Spends 2002-2003: The Security Aftermath and National Priorities*, ed. G. Bruce Doern (Toronto: Oxford University Press, 2002), 227.
[56] Quoted in Nikiforuk, *Tar Sands,* 26.
[57] Doern and Gattinger, *Power Switch,* 52.
[58] Debora L. VanNijnatten and Douglas Macdonald, "Reconciling Energy and Climate Change: How Ottawa Blends," in *How Ottawa Spends 2003-2004: Regime Change and Policy Shift,* ed. G. Bruce Doern (Toronto: Oxford University Press, 2003), 77; Toner, "The Green Plan," 247.

2012.[59] Following Canada's initial commitment to the Protocol the government initiated the National Climate Change Process in 1998, a collaboration between government officials, industry, academics, and environmental groups that aimed to develop a Kyoto implementation strategy. The National Implementation Strategy, released in 2000, called for a national framework with a phased implementation of both regulatory and non-regulatory approaches to emissions reductions. A major component of the strategy was increased research on environmental costs and accounting, climate change impacts and regional variations, and options for meeting reductions targets.[60] This strong emphasis on environmental policy would engulf what was left of the energy policy sphere following the institutionalized deregulation of energy policy within the FTA and NAFTA; oil would be a matter of trade and of environmental policy, but no longer a national policy sphere of its own.

NRCan's response to this changing political environment was a major policy report entitled *Energy in Canada 2000*, within which it attempted to mediate both the pro-export, pro-market energy strategy it had endorsed since NAFTA and the deepened government focus on sustainability, innovation, and climate change. Much of the plan re-affirmed directions that had been set by the Energy Options report under the previous government: energy security, for example, would be best secured by maintaining a good investment climate and a predictable regime for business in order to supply a range of energy products.[61] The report condemned non-market definitions of energy security as too narrow, not only for their focus on specific fuels but for their lack of attention to sustainability and other public interest goals.[62] While the Energy Options report focused its look at energy trade policy on the FTA, however, *Energy in Canada 2000* emphasized developing both international trade options for exports as well as international environmental commitments such as the Kyoto Protocol.[63] The report went beyond Energy Options by arguing that Canada's resource base, its technology and expertise in developing that base, and its proximity to the United States are all competitive advantages in the international marketplace that Canada must take advantage of.[64] In keeping with maintaining this competitive advantage, NRCan committed to deregulation of energy markets excepting cases

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[59] UNFCCC Secretariat, *Kyoto Protocol Reference Manual on Accounting of Emissions and Assigned Amounts*, February 2007, available http://unfccc.int/resource/docs/publications/08_unfccc_kp_ref_manual.pdf, accessed January 20, 2010, 8.

[60] G. Bruce Doern, "Canadian Energy Policy and the Struggle for Sustainable Development: Political-Economic Context," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 24-25.

[61] Natural Resources Canada, *Energy in Canada 2000* (Ottawa: Natural Resources Canada, 2000), 1.

[62] *Ibid.,* 7.

[63] *Ibid.,* 140.

[64] *Ibid.,* 33-35.

of market failure, environment, and health and safety.[65] It also affirmed a research focus, including efficiency programs and finding ways to turn environmentally-friendly energy projects into business opportunities.[66] Notably, the Energy Supplies Emergency Act continued to be maintained in its 1985 form as the government's recourse in extreme cases of supply disruption.[67]

The turn of the century would soon bring drastic changes to both Canadian oil exports to the United States and to the balance between development and environment that the Liberals had attempted to maintain through the 1990s; my historical analysis ends in the year 2002 in order to capture the starting point for both these changes. The starting point for these trends was not necessarily the September 11, 2001 attacks on the World Trade Center, but the new National Energy Policy released by the United States government in May 2001. I will discuss the content of the policy in the next section on Environment; however, it is important to note that the 2001 NEP provided Alberta with a significant opportunity to expand its oil exports into American markets. The year 2001 also marked a high point in Canadian oil exports: energy export revenues reached a peak of 15% of total Canadian export revenues. This spurred some limited attempts to coordinate further North American energy cooperation over the summer of 2001, but this process was suddenly disrupted by the 9/11 attacks. Instead, the government was suddenly faced with the policy challenge of opening the Canada-U.S. border and restoring trade flows. The best chance to convince the United States that Canadian borders were secure was to follow along with a "strategic bargain" in which Canadian trade interests were exchanged for cooperation on American security goals.[68] In an attempt to send a clear signal of cooperation, the December 2001 budget deepened spending on national defence, intelligence, and border policing and infrastructure.[69]

Perhaps to politically balance this extensive cooperation with American interests, the federal government chose to deepen its focus on ratification and implementation of the Kyoto Protocol in light of American refusal to do so. Following his summer 2002 announcement of his intention to retire, Prime Minister Chrétien announced a plan to ratify Kyoto that year.[70] On the other hand, Alberta foresaw that a national climate change strategy, implemented in a climate of rising oil prices, would have a disproportionate impact on Alberta's economy similar to that of the Trudeau NEP in the early 1980s. This was especially concerning considering the new export opportunities that the Bush NEP and a mobilized American military would open up for Alberta. Alberta, along

[65] *Ibid.,* 138.
[66] *Ibid.,* 150, 36.
[67] *Ibid.,* 139.
[68] McDougall, *Drifting Together,* 17-18.
[69] Michael Hart and Brian Tomlin, "Inside the Perimeter: The US Policy Agenda and Its Implications for Canada," in *How Ottawa Spends 2002-2003: The Security Aftermath and National Priorities*, ed. G. Bruce Doern (Toronto: Oxford University Press, 2002), 62.
[70] Doern and Gattinger, *Power Switch,* 9.

with the Canadian oil industry, began an advertising and advocacy campaign in the fall of 2002 in an attempt to reduce public support for Kyoto, based on predictions of implementation costs and lost jobs.[71] Alberta Premier Ralph Klein released a "made-in-Alberta" climate change plan that would reduce the intensity of Alberta's carbon emissions in relation to gross economic product, rather than meet the absolute percentage reductions of the Kyoto Protocol.[72] The federal government had previously agreed that meeting existing Kyoto targets when the United States refused to do so would be unworkable, but proceeded with its ratification of the Protocol despite a lack of an overall plan for implementation or for the Canadian oil sector during the transition period.[73] In December 2002, the federal government ratified the Kyoto Protocol, despite questions as to how to mediate political tensions between Alberta, the oil industry, its pro-market and pro-export oil policy orientation, and the difficult Kyoto target deadline.

Analysis

Environment

In its review of past energy policies, NRCan's *Energy in Canada 2000* report argued that new energy sources and the technologies to utilize them had emerged throughout history in order to replace scarcer forms of energy. Because of this "historical fact," energy security was best secured for Canadians by ensuring as much substitutability as possible in fuels.[74] As I have previously argued with regards to the character of oil as a staple, however, our society is uniquely dependent on oil and thus oil remains politically significant whatever its system of distribution. Furthermore, the nuclear accidents at Three Mile Island in 1979 and Chernobyl in 1986 cast general doubt upon the substitutability of nuclear energy for fossil fuels. Oil is also, compared to other fuels like natural gas, easy to store and transport, especially on an international scale by tanker. In Canada's case, these staple characteristics of oil—its necessity and its transportability—fed a process of deregulation given a depoliticized perception of its nature as a commodity, as well as the geography of the Canadian market. For example, transportation subsidies were phased out as part of the Western Accord reforms.[75] The maintenance of an east-west market in fuels, as was evidenced by nationalist debates on pipelines as far back as the Trans-Canada or Interprovincial debates, was historically dependent upon the subsidization of transportation networks that were not market-feasible without government support. The most

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[71] Keith Brownsey, "Alberta's Oil and Gas Industry in the Era of the Kyoto Protocol," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 215.
[72] *Ibid.*
[73] *Ibid.,* 217-218.
[74] Natural Resources Canada, *Energy in Canada 2000,* 31.
[75] Watkins, "Deregulation and the Petroleum Industry," 235.

efficient market solution to the Canadian fuel problem has always been a continental market, due to the great costs of transportation across Canada versus the alternative of supplying eastern and central Canada through imports by tanker. The attempt to treat oil as a purely substitutable commodity despite the implications of these trends was therefore one indication of depoliticization.

Compounding this tendency was the fact that Alberta in the early 1990s had begun shifting towards the production of non-conventional heavier crudes as its light crude production went into decline.[76] The fact that limited refinery capacity existed within Canada to handle heavy tar sands production, combined with the need for lighter crude to supply Canadian refineries in the east, added to the impetus to export the new supplies to American heavy refineries while importing light products as needed in central Canada.[77] By relinquishing political control over pricing as well as transportation, the government opened up Canadian markets to greater price volatility, considering the transportability of oil as a market commodity. This too had a deregulatory implication—as companies faced greater risks from market operations based upon price variability, political stability was one way to reduce overall risk. The easiest way for governments to ensure political stability (as well as maintain ideological consistency) was to simply retrench regulation altogether. Market mechanisms for reducing price volatility, namely the spot and futures market, also benefited from greater deregulation in order to maximize flexibility and profits; this further fed the deregulatory cycle.[78] The characteristics of oil as a staple itself thus combined with Canadian geographical and developmental realities in a way that supported increased continentalization and deregulation within a depoliticized context.

The politicization of oil within Canada during the 1970s had had its roots in both scarcity and international shifts in power; likewise, oversupply combined with international political changes spurred on a worldwide depoliticization starting in the mid-1980s. The roots of the change were in the oil glut of the early 1980s, which arose through attempts by importing countries to diversify into non-OPEC sources and implement conservation programs, as well as OPEC's failure to successfully manage its quota system within a low-price environment. Despite an attempt to reform the system in 1984, OPEC member countries continued to cheat on their quotas in order to maintain revenue levels as prices pressed downward. Saudi Arabia, the primary agent within OPEC of maintaining higher world prices through supply controls, decided in 1986 to cast away its burden as price leader and adopt a different tactic—essentially, depoliticized market pricing. OPEC would no longer control world prices under this scheme, but would compete for market share within a freely competitive market in a hope of squeezing out the new entrants through its supply capacity. The result of the

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[76] Brownsey, "Alberta's Oil and Gas Industry," 212.

[77] Natural Resources Canada, *Energy in Canada 2000,* 47-48

[78] André Plourde, "The Changing Nature of National and Continental Energy Markets," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 60.

strategy was the 1986 oil price crash.[79] Notably, the shift to full market pricing in oil was so disastrous to both producers and consumers that even the neoliberal Reagan government felt pressured to institute price controls in the interests of economic stability; instead, Reagan sent Vice President George Bush to talk politics with the Saudis. Faced with potential damage to its historical relationship with the United States, plus the newfound willingness of other OPEC nations to cooperate with a new system of controls, Saudi Arabia reinstated quotas as early as the summer of 1986.[80] While oil remained politicized and "true" free-market pricing of oil had failed, the United States had weathered the crisis without reneging on its free market principles—as did Canada, which refused to reinstate price controls following the implementation of the Western Accord. This apparent strength of the neoliberal paradigm to cope with economic crisis solidified its dominance over market interventionist options worldwide.

The end of the Cold War in 1989 strengthened this victory, both in terms of oil politicization and of global free markets as a whole. With the demise of the communist bloc there seemed to be few potential challenges to a depoliticized world oil market: OPEC's quotas had continued to hold over the late 1980s and worldwide demand was steadily rising.[81] However, the invasion of Kuwait by Iraq on August 2, 1990 once again demonstrated the ties between control of oil and political power. Saddam Hussein realized that adding Kuwait's reserves to its own would give Iraq significant control over world oil prices as the dominant world oil power, and used Iraq's interest in enforcing OPEC production quotas as a pretense for military mobilization.[82] As the remaining global superpower, the United States felt that Iraqi control over oil pricing would both harm world freedom as well as put Iraq in a position to take over the Soviet Union's place in a bipolar world.[83] After a waiting game lasting until January 1991, a UN coalition attacked Iraq and obtained a ceasefire by the end of February. Based on Carter Doctrine principles, the United States had already sent troops to Saudi Arabia in August, and continued a military buildup and patrol leading up to the coalition attack.[84] Furthermore, the United States was also willing to release oil from its strategic petroleum reserve in order to dampen the price spike that would occur when forces invaded. Clearly, the politicized manipulation of oil had not disappeared within an era of free markets—it became more a matter of international elite diplomacy tied to market operation, rather than of national policies.

The shift between national economic policies and stronger elite international economic institutions was in itself a broad environmental influence on Canadian policy. The seeds of international economic reorganization grew

[79] Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991), 745-750.
[80] *Ibid.,* 758.
[81] *Ibid.,* 769.
[82] *Ibid.,* 770, 772.
[83] *Ibid.,* 774.
[84] *Ibid.,* 774.

from the failure of the GATT architecture to produce results in the broadening global marketplace of the 1980s; for example, the fact that the FTA largely restated GATT provisions on energy yet was viewed as a milestone of free trade in oil shows how weak the GATT was in practice.[85] Like many other nations, Canada had simply ignored GATT rules on energy trade and investment during its interventionist interlude of the 1970s. The IEA had provided a second layer of international regulation on world oil trade, but it preferred to act as an informal coordinator of national energy policies rather than enforce its sharing provisions.[86] Indeed, the notion that the IEA and GATT already technically restricted Canadian energy policymaking a great deal was raised by supporters of the FTA in response to critics who argued it represented a significant blow to sovereignty over energy.[87] The decision to reaffirm and strengthen these arrangements in energy, however, was related to an overall international political climate favouring the entrenchment of free trade and market deregulation at supra-national levels.

By the mid-1990s, there was general consensus among the major industrial nations over a neoliberal approach to international trade and finance. One of the major accomplishments of this consensus was a long-awaited consolidation of the GATT into an institutional form, the World Trade Organization (WTO) in January 1995 following the Uruguay Round of high-level talks. Other pre-existing international financial institutions, such as the IMF and the World Bank, began to spread a neoliberal approach through the imposition of structural adjustment programs upon indebted third world countries. Another trend was an international rush to privatize major state assets like NOCs due to budgetary reasons; as more and more NOCs were privatized, the viability of state-to-state deals decreased, further increasing pressure on states to exit the oil industry.[88] Canadian preoccupation with these outside economic trends guided a number of economic and trade policy decisions. For example, Canada's enthusiasm for free trade as an economic solution, as well as its willingness to enshrine deregulatory trends in external agreements, was evidenced by its participation in the formation of the WTO. It was Canada that proposed the introduction of a more structured institution to manage the GATT during the Uruguay Round, believing that the failure of the FTA to protect Canadian rights to subsidies could be rectified through a stronger international dispute resolution apparatus.[89] As another example, the threat of international credit rating agencies

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[85] Fossum, *Oil, the State, and Federalism,* 231.
[86] Yergin, *The Prize,* 691, 775.
[87] Doern and Tomlin, *Faith and Fear,* 258.
[88] Fossum, *Oil, the State, and Federalism,* 202.
[89] Stephen Clarkson and Timothy Lewis, "The Contested State: Canada in the Post-Cold War, Post-Keynesian, Post-Fordist, Post-national Era," in *How Ottawa Spends 1999-2000: Shape Shifting: Canadian Governance Towards the 21st Century,* ed. Leslie A. Pal (Toronto: Oxford University Press, 1999), 299.

downgrading Canada's credit rating due to its debt problem was perhaps one of the most visible causes for the 1995 austerity budget.[90]

This new international economic order did not come about uncontested, however; numerous other oil-producing nations provided counter-examples on the international stage. Venezuela, a founding OPEC member and historically a nationalist producer of oil, made attempts to resist the trend. Venezuela had suffered under a structural adjustment program imposed by the IMF due to its large debt load, provoking violent rioting that led to Hugo Chavez's 1992 coup attempt.[91] In the 1990s, Venezuela attempted to challenge Saudi dominance of both world oil production and the American market by ramping up exports in defiance of its OPEC quota. Its motivation was largely based upon the profit demands of growing foreign ownership within its nationalized oil sector.[92] By early 1997, Venezuela became the main supplier of crude oil to the United States; however, Saudi Arabia retaliated by engineering a price drop in 1998 that pushed Venezuela out of the market and reinstated its dominance over American markets. Notably, this assertion of power had the side effect of convincing some non-OPEC producer nations with NOCs, such as Mexico and Norway, to be cooperative with OPEC's aims in their own national interests.[93] As a nationalist oil producer, Mexico had already affected Canadian energy politics by demanding concessions in NAFTA on energy policy that Prime Minister Chrétien had promised (and failed) to emulate. The economic chaos provoked by the private-led export increase also drove the election of Hugo Chavez to the Venezuelan presidency in 1998, leading to re-nationalizations within the oil industry and a renewed commitment to OPEC goals in defiance of American-led international neoliberalism.[94] Following this political transition, Venezuela would continue to provide a model of nationally-owned oil production in defiance of international trends. Another potential counterforce was Russia. The end of the Cold War and the privatization of state-owned oil companies had opened up Russia's massive oil reserves to the international market; by 2000, Russian oil production for export had reached levels with the potential to challenge Saudi dominance over pricing.[95] Under President Vladimir Putin, Russia would begin re-nationalizing segments of the energy industry, foreshadowing a new counterpoint to a depoliticized, free international oil market.

A final international variable of note to Canadian policy was the proliferation of international conferences and accords on environment starting in the early 1980s. The World Commission on Environment and Development, or

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[90] Philips, "The Liberals' Mid-Life Crises," 11.
[91] Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-States* (Berkeley: University of California Press, 1997), 140, 176, 182.
[92] Edward L. Morse and James Richard, "The Battle For Energy Dominance," *Foreign Affairs* 81, no. 2 (2002): 20; http://www.cfr.org/publication/12089/
[93] Morse and Richard, "The Battle For Energy Dominance," 20.
[94] Peg Mackey, "OPEC moves to bolster prices," *The Globe and Mail,* October 22, 2001, B10.
[95] Morse and Richard, "The Battle For Energy Dominance," 16-17, 23.

the UN's Brundtland Commission, reported in 1987 and introduced the concept of sustainable development to policymakers worldwide.[96] It provided a solution to governments seeking to reconcile environmental demands among their publics with economic development, by rejecting the "zero-growth" hypotheses advanced internationally by the Club of Rome in its 1972 *Limits to Growth* report. Instead, it advocated linking society, economy, and the environment as interdependent components of human life; environmental impacts of development thus needed to be evaluated and their costs mitigated within economic policies before implementation, in order to protect this interdependence.[97] The Brundtland Report was a direct contributor to the rationale of Mulroney's Green Plan, as well as to the focus on sustainability within the Liberals' Red Book platform. Mulroney led Canada into numerous international agreements on environment; at the 1992 Rio Earth Summit, Canada became the first industrialized nation to sign an international convention on biodiversity, among other commitments to sustainable development in the Agenda 21 package advanced at the summit.[98] The Agenda 21 package also formed a major part of both the Green Plan and the Red Book's environmental initiatives.[99] The fact that these international commitments provided a convenient and popular framework for policy without governments having to develop concrete plans themselves became evident by 1997, when Prime Minister Chrétien attended the Rio+5 Earth Summit in June. Canada was condemned for its inability to live up to both the Green Plan and various Liberal environmental initiatives like the failed Endangered Species Act. The pressure to save international face considering Canada's former leadership on the portfolio, especially with European nations, was a definite motivator for Canada's signing of the Kyoto Protocol that December. When, in March 2001, President George W. Bush announced that the United States would not ratify the Kyoto Protocol, Canada was forced to negotiate for measures permitting Canada's forests to be designated as carbon sinks in order to meet its Kyoto objectives.[100] The implementation and ratification of Kyoto would become both the centerpiece of domestic environmental policy as well as raise issues of energy policy and interprovincial fairness that had laid dormant since the Western Accord, thus having a major effect on Canadian oil politics in the early 2000s.

Clearly, American policies on trade, energy, and environment continued to be a significant external influence on Canadian policies. The reason why Canadian oil market policy shifted from a supply and pricing focus to a trade and export focus was not only due to the decline in both scarcity and prices of oil. As I argued in the last chapter, the NEP had been structured around an assumption

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[96] Toner, "The Green Plan," 234-235.
[97] *Ibid.,* 235.
[98] Lorna Stefanick and Kathleen Wells, "Staying the Course or Saving Face?: Federal Environmental Policy Post-Rio," in *How Ottawa Spends 1998-1999: Balancing Act: The Post-Deficit Mandate,* ed. Leslie A. Pal (Toronto: Oxford University Press, 1998), 249.
[99] *Ibid.,* 250.
[100] VanNijnatten and Macdonald, "Reconciling Energy and Climate Change," 78.

that Canada would phase out oil exports entirely by 1990; a political and economic climate in which such exports were needed to sustain the Canadian industry itself was a complete change of direction. Considering how the Western Accord had exorcised price regulation (which might have softened the blow of the price downturn to domestic industry), oil exports to the United States once again became a pressing problem—just like they had been to Albertan producers during the 1960s. Fears of growing American protectionism, plus the withdrawal of American investment capital from Canada during the recession of the early 1980s, were major influences upon this shift toward a greater export orientation.[101] American tendencies to protection as a result of recession conditions and a high American dollar were not a new phenomenon. However, it appeared clear from the sheer amount of trade-related proposals being floated in Congress in the early 1980s—21% of US imports were specially protected in 1985, up from 8% in 1975—that protectionism was deepening quickly.[102] Furthermore, the fact that specific measures had been introduced to limit Canadian exports showed that the threat would only continue to harm the Canadian economy.[103] The failure of the GATT to provide adequate recourse within trade disputes with the United States in this context meant that Canada would have to take the initiative in order to overcome these barriers. Notably, the fear of growing American protectionism was the major issue raised during Mulroney's first meeting with Reagan, in March 1985 in Quebec City. The result was a joint declaration proclaiming that both countries would study ways to mutually reduce trade barriers.[104] Since the negotiation of the FTA that would result from these preliminary directives was both a joint matter and significantly affected by power relationships, I will discuss the American role in the process in greater detail in the next section.

Mexican and American politics surrounding trade issues were also a notable influence on the viability of Chrétien's promise to renegotiate NAFTA. As mentioned earlier, Mexico's nationally-owned oil industry received significant protection for "strategic activities" in energy under an annex to the energy chapter of NAFTA, guaranteeing the Mexican state control over oil exploration, development, refining, exports, and trade, and protecting those domains from unwanted private investment.[105] This example of an alternative approach to energy trade with the United States (especially considering Mexico was in an even weaker position politically and economically than Canada was) provided some credence to the argument that Canada had given away too much control over its domestic resources in exchange for guaranteed access to the American energy market. On the other hand, the attempt to translate this sentiment into

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[101] William G. Watson, "Canada-US Free Trade: Why Now?," *Canadian Public Pol*icy 13, no. 3 (1987): 339.
[102] *Ibid.,* 339-340.
[103] Doern and Tomlin, *Faith and Fear,* 25.
[104] *Ibid.,* 25-26.
[105] "The North American Free Trade Agreement," ch. 6, annex 602.3, available http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/texte/chap06.aspx?lang=en, accessed January 20, 2010.

concrete renegotiations was difficult; modifying the energy chapter as it applied to Canada would involve re-opening the entire agreement, which would be politically unworkable in the United States. This was because of the transfer in power between the Republican Party to the Democratic Party, under President Bill Clinton; NAFTA had been negotiated during Republican rule, but its signing would depend upon whether or not enough Democrats would support it. Clinton had campaigned hard on NAFTA during the 1992 presidential campaign, promising to ensure that environmental standards would be enforced on Mexico's side and that the wages and jobs of American workers would be protected against low-cost imports.[106] American public opinion was split on the agreement, although Democratic-leaning groups like blue-collar workers and union members typically opposed the deal.[107] As a result of these political conditions, the United States was preoccupied with getting NAFTA passed and forgotten with the least amount of political fallout—something that would not be possible if entire sections of the agreement were re-opened for Canada's benefit. The United States got its side agreements on labour and environment to assuage domestic political concerns, but little progress was made on Canada's renegotiation objectives beyond the establishment of "working groups" to study key areas.[108]

Perhaps the most overt examples of American policies as external influences on Canadian politics within this period occurred over 2001-2002 during the Presidency of George W. Bush. As mentioned earlier, the March 2001 announcement by the President that the United States would not ratify the Kyoto Accord due to economic competitiveness concerns had major repercussions for Canadian environmental policy. The American opposition to Kyoto had grown out of a political environment that seemed to be withdrawing in an isolationist direction. The Bush Administration had focused on spending and tax cuts, as well as domestic policy issues like education and welfare reform; in the energy arena, the American government focused on domestic energy security and distribution, such as a proposal to drill for oil in the Arctic National Wildlife Refuge in the interests of reducing dependence on foreign oil. It had maintained a suspicion of international agreements such as Kyoto, although remained committed to the development of hemispheric trade agreements.[109] Considering the depth of ties between the Canadian and American economies following the implementation of the FTA and NAFTA, as well as the threat that the United States might be more interested in expanding trade with other countries than Canada within its Free Trade Area of the Americas (FTAA) initiative, Canada seemingly had little freedom to ignore the American rejection of Kyoto. It was this rejection that led Canada to request new provisions, like the inclusion of forests as carbon sinks, at international implementation conferences in order to allow Canada to implement Kyoto without harming its competitiveness in American markets. Another key

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[106] "Save Nafta. But Don't Roll Over," *The New York Times,* March 17, 1993, A20.
[107] Gwen Ifill, "The Free Trade Accord: The Mood; Americans Split on Free Trade Pact, Survey Finds," *The New York Times,* November 16, 1993, A1.
[108] Sjolander, "International Trade as Foreign Policy," 115.
[109] Hart and Tomlin, "Inside the Perimeter," 53, 55.

influence was the US National Energy Policy, released in May 2001. Considering the administration was staffed with numerous former energy executives, it was not surprising that the policy contained domestic proposals such as the loosening of drilling restrictions and environmental regulatory barriers.[110] Most importantly for Canada, the Bush NEP contained explicit references to the value of North American energy security, as well as to the development of the tar sands as a pillar of such an energy security strategy.[111] The North American Energy Working Group was formed as a result of this policy, with the cooperation of Canada and Mexico, to facilitate greater energy interdependence.[112] The Bush NEP represented a major opportunity for Alberta to expand oil exports, which would provide the basis for its domestic campaign against the ratification of Kyoto over 2002. The pressure to respond to these unilateral declarations of American policy—which would have significant effects on the Canadian economy if no action were taken—was a major policy influence during the 2000s.

The Bush NEP would also affect the ways in which the Canadian government responded to the terrorist attacks of September 2001. The revelation that 15 of the 19 terrorists responsible for the terror attacks were from Saudi Arabia further strained American diplomatic relationships with its traditional oil supplier. This opened up greater potential opportunities for Canadian oil exports—especially considering that American military responses to the terrorist crisis would push oil prices up in the near future. The American government was increasingly concerned with the political problems of "foreign" oil, and was already prepared to treat North American energy as a domestic source.[113] Canadian policymakers, faced with the loss of billions of dollars worth of trade during the period within which movement across the border had been stopped or limited due to security restrictions, paid special heed to a developing American policy trinity of security, prosperity, and trade. The passage of the Patriot Act in the United States, which included massive spending on customs and immigration on the Canadian border, as well as a Presidential initiative to begin harmonization of customs and immigration policies, led the Canadian business community to pressure the Canadian government to support a North American security perimeter in order to simplify the trade situation.[114] The security package passed in the December 2001 budget was a direct response to these linked security and trade concerns, showing the influence of American security policies over Canadian economic prosperity.

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[110] Doern, "Canadian Energy Policy and the Struggle for Sustainable Development," 19.
[111] National Energy Policy Development Group, *National Energy Policy: Report of the National Energy Policy Development Group,* May 2001, available http://www.pppl.gov/common_pages/national_energy_policy.html, accessed January 20, 2010, 8-8.
[112] Nikiforuk, *Tar Sands,* 31.
[113] "Official: 15 of 19 Sept. 11 Hijackers were Saudi," *Associated Press,* July 2, 2002, available http://www.usatoday.com/news/world/2002/02/06/saudi.htm, accessed January 20, 2010.
[114] Hart and Tomlin, "Inside the Perimeter," 60-61.

Power

In the period leading up to the Reagan era, international power shifts had contributed to the weakening of American power over Canadian affairs, as well as to greater Canadian political freedom to assert control over oil pricing, development, and trade. The depoliticization of oil, both internationally and within Canada, had reverse effects upon the effective power of the United States vis-à-vis Canada as well as upon the viability of non-interventionist versus interventionist policy options in oil. This relative weakening of Canadian power was expressed through, and compounded, by a return to historical patterns of submission to American interests even in advance of overt demands, as was a major characteristic of the 1960s. Another facet of weakening Canadian sovereignty within North America began with the FTA: the use of supranational agreements to embed and institutionalize power relationships in a form beyond the political control of signatory countries. The power of the Canadian state within the federal-provincial relationship was one contributor to this trend; as the state became less willing to assert itself over the voices of the provinces, international agreements became a new tool to manage federalism, albeit one with significant power drawbacks in other political spheres.

The election of President Ronald Reagan in the United States marked the beginning of a major shift in power relationships between the United States and Canada. The American economic recovery of the 1980s depended to a great extent upon the willingness of the international community to cooperate; Canada was ready and willing to do so following the election of the Progressive Conservatives, who wanted to assuage the political frictions that had arisen between the Liberal government and the Reagan Administration. Indeed, FIRA and the NEP had been such irritants that the United States was willing to openly threaten Canada into withdrawing its discriminatory measures in investment based on the obvious weakness of Canadian trade dependence. Increasing American protectionism and trade actions directed at imports from Canada in particular were a direct expression of this political sentiment.[115] The fact that Mulroney's post-election announcement that Canada was "open for business" took place in front of a New York financial audience rather than a Toronto one made it clear that Canadian economic policies were to be directed as much towards American investors as they were Albertans resentful of the NEP and Canadian voters in general. This was a clear expression of the fact that power relationships were beginning to shift towards greater continental cooperation—and dependency. This change was made easier for the fact that the PC government and the Republican administration were allies on a personal level. Prime Minister Mulroney and President Reagan were publicly close friends; their joint "Shamrock Summit" meetings became a spectacle of Canada-U.S. amity and comity. Remarkably, it was this close personal friendship that allowed Mulroney

[115] Doern and Tomlin, *Faith and Fear,* 17.

to overcome some of the structural and power obstacles Canadian negotiators faced during the negotiation of the FTA. When American negotiators refused to budge on items significant to Canada, Mulroney would threaten a friendly call to the President—whose geniality and willingness to help out a friend would often result in a reversal of negotiation position, much to the chagrin of American negotiators.[116] It is significant to note, however, that Canadian demands within FTA process represented the entrenchment of American economic and political dominance over Canada.

To the PC government, freezing Canada-US relations within the FTA was politically expedient; it would potentially assure Canada's most important diplomatic and trade relationship was "taken care of," leaving the government free to pursue other economic and social reforms.[117] The idea that foreign relations are primarily a question of good trading relationships, and therefore that trade agreements would solve problems in those relationships, is problematic on multiple levels. It both ignores the influence of unbalanced power relationships between the United States and Canada, and assumes that a depoliticized world market exists as an inevitable norm of international relations. Such assumptions were rooted in a political climate characterized by neoliberal understandings of boundaries between the state and economies. International agreements like the FTA can thus be viewed as an attempt to solidify those boundaries in such a condition. As I have argued in the case of the NEB, institutions reflect and embed the power relationships that influenced their creation, and continue to perpetuate them despite shifts in these power relationships in the real world. The FTA was likewise an institutional crystallization of the power relationships in Canadian oil policy during a particularly turbulent period of change between intervention and non-intervention. Certainly, a consensus over a continentalist and market-oriented approach to managing the oil industry was developing; however, the fact that the FTA institutionalized its main tenets before this consensus was reached both affected the viability of counterarguments as well as constrained the scope of future Canadian debate on the issue. According to Brodie and Smith, such attempts at "new constitutionalism," like the FTA or the MAI, are part of a broader trend towards enlarging the relative place of an internationalized market, insulating this market from political interference and control, and thus releasing government from political and regulatory accountabilities.[118] Because the FTA prohibited pricing controls, trade restrictions, and investment discrimination within a quasi-constitutional agreement, a future government could not intervene in the oil industry through policy change; it would have to renegotiate or renege on the entire international treaty in order to do so. As I will argue later, this motivation is particularly potent in Canada, where provincial-federal conflict is inherent in most areas where the federal government can assert regulatory power,

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[116] Doern and Tomlin, *Faith and Fear,* 196.
[117] Doern and Tomlin, *Faith and Fear,* 250.
[118] Janine Brodie and Malinda Smith, "Regulating the Economic Union," in *How Ottawa Spends 1998-1999: Balancing Act: The Post-Deficit Mandate,* ed. Leslie A. Pal (Toronto: Oxford University Press, 1998), 94-95.

and where the idea that markets can even out power differences between the United States and Canada is economically tempting.

From the beginning, the way in which the Canadian government approached free trade as a policy initiative resulted in it giving away numerous bargaining chips even before negotiations commenced; this certainly did not have a positive effect on the power differential between the United States and Canada in energy. The Western Accord and related provincial accords had already dismantled nearly all artifices of protection and control in the oil industry, leaving little room for Canadian negotiators to extract concessions from the United States based on increasing freedom of energy trade. For this reason, the self-conscious presentation of the Western Accord in New York echoes events in the 1960s, when Canada had made energy policy decisions based upon the desire for future American goodwill without paying attention to the harmful effects doing so would have on Canada's power to negotiate in its own interests. The Americans clearly needed little convincing that the energy deal within the FTA was in their interests; indeed, the energy chapter was viewed as such a boon for energy security (with the political fallout helpfully confined to Canada) that it was a centerpiece of the political effort to get approval for the FTA from the legislative branch in the United States.[119] As we have seen, this was in defiance of Canada's position: based on the wishes of the energy industry to maintain a low profile, the Canadian desire was to insert energy trade in the FTA as a general commodity. Clearly, oil and security of supply still had a political value in the United States. By taking the complete opposite position with regards to its own domestic supply, Canada was therefore relinquishing a great deal of power in exchange for guaranteed oil exports.

Because the quasi-constitutional arrangements of the FTA and NAFTA glossed over imbalanced power relations between Canada and the United States, they deepened Canadian dependency in both overt and covert ways in the years following their implementation. One recurrent symptom has been the ability of the United States to assert different standards for its own conduct within these agreements than those reserved for Canada. Subsidies, for example, have long been a tool to balance regional development within Canada for both economic and social reasons. However, much of the countervailing action taken against Canadian exports to the United States in the 1980s focused on the claim that Canadian government subsidies gave an unfair advantage to those exporters.[120] The right to subsidize development was so key to getting the provinces and many industries to support the FTA that Canada would likely have backed out of the agreement if the United States had not agreed to leave subsidies out of the FTA pending future negotiations.[121] On the other hand, it was obvious to Canadian negotiators that the United States subsidized many of its own industries and regions—indeed, most of the domestic opposition to the pact came from

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[119] Doern and Tomlin, *Faith and Fear,* 160, 82.
[120] *Ibid.,* 252.
[121] *Ibid.,* 253.

subsidized industry interests. The fact that American exports are not nearly as dependent on the Canadian market as Canadian exports are on the American, however, provided the United States with greater power of definition over what constitutes an unfair subsidy within North America.[122] The subsidy problem continued to be an irritant even into the 2000s, and American protectionist opposition to industries like softwood lumber was hardly tempered by NAFTA dispute resolution devices (which ostensibly were attempts to resolve the power imbalance on subsidies).

The subsidy example is also relevant to a deeper understanding of power issues and continental energy security. Like many other American industrial sectors opposed to the FTA, the American domestic oil and gas industry argued that Canadian energy exports were unfairly subsidized, despite the demise of the NEP. Regardless, the American government chose to ignore the energy lobby's opposition because of the political value of the energy security Americans were obtaining through the FTA.[123] This was clearly a shift from the 1960s, when American domestic energy interests were protected under import quotas in order to sustain an industry already in decline; however, at that time, a strong domestic industry was viewed as indispensable to energy security as well. American desire for energy security has thus remained a consistent political motivation, regardless of the domestic industry's position. In contrast, there was a far greater willingness within Canada to frame energy as a trade instead of a security issue. In the Energy Options report, for example, Canadian energy development was framed as an outcome of Canada's competitive advantage, which consisted of a geographical proximity to the United States and solid energy infrastructure and technology. This advantage had historically been nurtured through the funding that export sales had provided.[124] That is, Canada has always benefited from having a close and high-demand export partner in terms of its ability to continue to sell energy exports. The reasons why the United States values Canadian exports politically (namely the energy security benefit of having a close and friendly supplier) were not viewed as significant political factors within the Canadian case. Instead, Canadian energy security would come from diversification to other sources of energy or from a greater variety of importing countries. Again, the United States was subject to a different standard. The Energy Options report made full note of the "understandable" American desire for reliability and security, but why such a concept would not be similarly viable within Canada itself was not examined. Instead, the report argued that it was in Canada's interest to be a reliable supplier of energy security to the United States.[125] The fact that Canada had become a net exporter, and thus supposedly had obtained a position of market security, through the exploration and development programs of the previous government was also not examined.

[122] *Ibid.*
[123] *Ibid.,*123.
[124] Canada, *Energy and Canadians,* 26-27.
[125] *Ibid.,* 49.

In its justification of the proportionality clause (which essentially guaranteed the security of exports to the United States at a potential cost to Canadian consumers) the Energy Options report argued that provisions within the IEA would protect Canada against short-term shortages, and that Canadians would be free to pay for as much long-term security as they desired.[126] However, the United States was clearly unwilling to rely on the IEA—its own creation—for its energy security based on its FTA negotiating position. It also continued to maintain a strategic petroleum reserve to shield its consumers from short-term shortages and price spikes, of which Canada had no equivalent. Canada also did not attempt to secure special exemption for Petro-Canada, potentially another tool to bolster Canadian energy security over the long term, from the FTA. One explanation for this oversight, apart from government plans to privatize the company, was because it would have been difficult to convince American negotiators (whose country had no tradition of state enterprise) to agree.[127] Canadian negotiators instead bowed to the strongest American negotiating demands, namely for non-discrimination in investment, which would prohibit future Canadianization programs in the energy industry.[128] Existing discriminatory benefits related to development on Canada Lands were grandfathered into the FTA, but this had more to do with keeping industry content with the deal rather than continuing to support northern oil development.[129] These contradictory positions on the value of energy security to Canada versus to the United States again exemplify how market-based approaches to energy security in Canada were a function of a double standard rooted in Canadian economic dependency. The government thus permitted the Canadian industry to form the definition of Canadian energy security based on their desire to expand exports, unlike the United States, which put a higher value on domestic security rather than the interests of the domestic industry. Of course, part of the differential is accounted for by the multinational dominance of the major American oil companies, many of which stood to gain from increased Canadian exports combined with imports in central and eastern Canada regardless—just as they had in the 1950s and 1960s. Another gloss on the situation offered by the government was that future political will could prevent any of the worst case scenarios—like a catastrophic fuel shortage—that critics of the FTA feared might eventually occur.[130] The claim that any future government who failed to act in national interests in such a situation would be at fault, not the regulations the current government had signed onto within the FTA, was clearly negligent of the permanent effects such an institutionalization of quasi-constitutional power could have on future sovereignty.

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[126] Canada, *Energy and Canadians,* 50.
[127] Fossum, *Oil, the State, and Federalism,* 232.
[128] André Plourde, "The NEP Meets the FTA," *Canadian Public Policy* 17, no. 1 (1991): 19-20; Doern and Tomlin, *Faith and Fear,* 93.
[129] Canada, *Energy and Canadians,* 86.
[130] Doern and Tomlin, *Faith and Fear,* 260, 264.

The new constitutionalist trend started by the FTA was extended and deepened in later extra-national, binding agreements pursued by both the PC and Liberal governments. The fact that Prime Minister Chrétien reneged within a month of his election on a platform to renegotiate NAFTA shows how powerful the political inertia of such agreements was. While NAFTA largely re-stated the FTA's provisions on energy (at least when it came to Canada), additions such as Chapter 11 further weakened state control over foreign investment as well as the ability to regulate foreign companies, even on environmental or public safety grounds. Considering that freedom of investment was an American objective for NAFTA, Canada thus became subject to further American power in the form of American capital without securing any gains of its own. Soon after the signing of NAFTA, negotiations began on the Multilateral Agreement on Investment, an initiative to implement investment rules similar to those enshrined in NAFTA among OECD countries. Notably, the MAI collapsed under significant public opposition worldwide, led by a worldwide coalition of NGOs including a prominent presence of Canadian groups. The fact that Canadian counter-hegemonic forces were able to use their experience to aid a successful worldwide mobilization against the MAI, despite their failure to counter the FTA within Canada, is one indication of how the strongly the Canada-US power relationship affected the political position of the FTA.

In the years following the NAFTA, Canada remained a secure and stable supplier of oil to the United States; indeed, the stability of export growth combined with political silence at the national level is historically remarkable. Part of the reason for this stability was the acceptance of multilateral free trade as the basis of American foreign policy by the Democratic Party under President Bill Clinton. Much like Chrétien had abandoned economic nationalist oppositions to NAFTA soon after he came into power, so did Clinton sign on to support international agreements and monetary institutions as a pillar of American foreign policy even though he had run a platform to reform NAFTA based on domestic industry and labour demands.[131] The fall of the Berlin Wall had necessitated an adjustment in the direction of American foreign policy, and in his first speech on international affairs to the UN General Assembly following his 1993 election, President Clinton announced the United States would support "enlarging the world's community of market democracies," as its core goal.[132] Given this political climate, Canada developed a foreign policy role on trade in the mid-late 1990s that mimicked its "traditional" role as intermediate between the United States and Europe. The United States was typically trapped between the President's desire to quickly secure fast-track negotiating authority for broader international trade agreements and opposition within Congress to such agreements. On the other side, South and Central America (during talks on a

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[131] McDougall, *Drifting Together,* 303.
[132] Quoted in *Ibid.*

hemispheric trade deal) and Europe became impatient with the slow and inconsistent American approach.[133]

Canada thus proposed a scheme to negotiate "clusters" of sectors, such as investment, as an attainable compromise. Since the MAI had failed as an initiative within the OECD, the Canadian Trade Minister proposed moving a similar agreement under the umbrella of the WTO, where it would apply to a much broader group of participating nations.[134] Liberal government policy had attempted to politically distance itself from NAFTA through the pursuit of multilateral trade options, as evidenced by the advent of "Team Canada" trade missions. However, the effect of pursuing such options was to strengthen the overall web of agreements that both supported the continued existence of NAFTA, as well as to relinquish further access to tools such as control over investment that might have future significance in the Canadian context considering Canada's unique economic dependency on the United States. International agreements could provide a power resource to use within NAFTA disputes, such as the softwood lumber debate, that seemed intractable due to the structural power of the United States in dispute resolution. Again, however, this would be in compensation for the imbalances that had already been established in a quasi-constitutional agreement; new international agreements would deepen this trend in the long run.

In the area of energy policy, the 1990s were so unremarkable that the Liberal government had to set up a new Cabinet reference committee on energy policy in 2000 order to develop policy recommendations, since little policy research or planning had been done at all in the past 15 years.[135] The impetus for re-examining the viability of the familiar and stable deregulated approach was the election of President Bush in that year. The administration was staffed with a number of former oil and gas executives and had campaigned on energy security worries (the California electricity crisis, involving price spikes combined with blackouts, had begun the summer of Bush's 2000 campaign), and the 2001 Bush NEP further raised the profile of energy policy. Within Canada, its suggestions for deepening North American energy security led to some discussion within Canada about the possibility of a continental energy pact. Alberta Premier Ralph Klein even paid a visit to Vice President Dick Cheney, author of the NEP, in an attempt to advance Alberta's interest in energy trade.[136] The fact that the Americans were not interested in Klein's offer was some indication that the United States no longer felt like it needed further deregulation in order to assert a claim on secure Canadian supplies. Canada was clearly willing to go along with whatever the Americans needed (as Klein's enthusiastic visit had visibly demonstrated), and therefore the unilateral assertion of American rights to North

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[133] Heather Scoffield, "Marchi urges 'fast track' for Clinton," *The Globe and Mail*, May 19, 1998, B3.
[134] *Ibid.*
[135] Doern and Gattinger, *Power Switch,* 4.
[136] Barrie McKenna, "Klein wants to deal on energy, but what's left to deal?," *The Globe and Mail,* June 15, 2001, B9.

American energy would likely not be challenged. Another interesting note about the episode was the fact that a provincial premier essentially served as Canada's policy representative on the North American energy question, demonstrating how far provincial power relative to federal power in the area had shifted since the 1970s.

After the September 11 attacks, however, the United States would use its positional advantage to obtain border security and anti-terrorism commitments from the Canadian government in exchange for relief from the border shutdown. Years of continental goodwill mattered little in this changed political environment. For example, in 1999, Ahmed Ressam had been arrested while entering the United States across the Canadian border with a car trunk full of explosives, intended to be used in a planned terror attack in the Los Angeles airport; Ressam had been convicted only months before the September 11 attacks, and the freshness of the incident led many Americans to suspect that the 9/11 terrorists had entered through Canada.[137] As opening the border to Canadian exporters became the government's top priority, the Liberal government abandoned potential worries about Canadian sovereignty in continental defence coordination. Instead, it mobilized a significant force in support of the Afghanistan mission as well as announcing new spending on border and airport security, intelligence-gathering, and Canadian domestic security legislation to re-establish continental goodwill.[138] In some ways, these events mirrored patterns established during the 1960s, within which Canadian dependency on US markets was used as a bargaining chip in defence relations.

With regards to domestic power relationships, the provinces continued to gain voice during this period; keeping harmonious relationships with provinces and their premiers became a top policy priority for both the Conservative and Liberal governments. Albertan discontent regarding the NEP, and the unwillingness of Quebec to sign on to the 1982 Constitution Act, were two negative legacies of the Trudeau government that the Mulroney Conservatives were determined to rectify. This was especially important politically because the government owed its electoral victory to a coalition between power bases in the west and Quebec. Unlike the contentious amendment negotiations it would take to attempt to bring Quebec back into the constitution, oil deregulation was a quick and near-painless step: low oil prices provided little reason for consuming provinces to object, while Alberta and other producers achieved the relief from the NEP they had been looking for.[139] As was the case with the United States, however, the government sought to repair relations with Alberta by providing further reassurances that there would never again be a similar federal program. Tellingly, this formed a type of "anticipatory" approach that mimicked Canadian responses to American power on the continental stage, and which resulted in similar self-imposed constraints on the Canadian state.

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[137] Hart and Tomlin, "Inside the Perimeter," 58, 62.
[138] *Ibid.,* 61.
[139] Plourde, "The Changing Nature of National and Continental Energy Markets," 57.

This approach involved backing away from forms of interventionism that might overlap provincial jurisdiction, as well as committing to consultation on provincial matters of concern to ease concerns of federal unilateralism.[140] Export controls were condemned as "provincialist," thus casting aside a legitimate constitutional power of the federal government over trade.[141] The redistribution of energy wealth (which could be implemented in order mediate some of the provincial unfairness of export controls) was also ruled out as a policy option.[142] While the producer provinces were more concerned about deregulation than privatization, the privatization of Petro-Canada also represented a blow to the ability of the federal government to use energy development for regional redistributive purposes.[143] Finally, provincial demands to be consulted on matters concerning them (especially on energy) were also expressed within their desire for constitutional and senate reform. The government attempted to address this issue by nurturing a cooperative, elite-based federalism that would allow provincial leaders to have significant input into Ottawa's policy process.[144] Notably, this put Ottawa in a position of being one partner among equals on energy issues, rather than being in a position to coordinate overall national policies.

The FTA was another way of relaxing interprovincial tensions. As I discussed earlier, international quasi-constitutional agreements could provide a power resource for the Canadian state allowing it to assert indirect control over the provinces. The FTA, however, was generally used to deepen the government's conciliatory and anticipatory approach to provincial relationships. The western provinces obviously wanted an agreement that would secure access for oil and gas exports to the American market, while enshrining principles of deregulation that would provide binding constraints upon any future federal government tempted to implement controls over oil markets. Furthermore, the FTA was a boon to provinces seeking greater jurisdictional freedom because it allowed provinces greater latitude to act as self-promoting regions within the continental sphere. Considering how federal control over trade is a constitutional power, an extra-constitutional agreement was the only manner in which a federal government could truly relinquish its own power in the area. Ottawa obviously retained the right to back out of such agreements; still, the economic and political consequences of doing so would be highly unpalatable, providing somewhat of a guarantee of stability.

For this second reason, Quebec was thus a surprisingly strong supporter of the FTA (given the retention of federal subsidy power as well as exceptions for communications and culture).[145] Free trade would allow Quebec to further develop its independent entrepreneurial capacities; considering how tempting

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[140] Fossum, *Oil, the State, and Federalism,* 205.
[141] Canada, *Energy and Canadians,* 68.
[142] *Ibid.,* 88.
[143] Fossum, *Oil, the State, and Federalism,* 262.
[144] Fossum, *Oil, the State, and Federalism,* 208.
[145] Doern and Tomlin, *Faith and Fear,* 141.

such a proposition was to the Parti Québécois, it provided a rare issue on which the Quebec Liberals and their PQ opposition stood fairly united.[146] The Conservative government thus seized upon Quebec's support, especially considering it had given up the traditional tool of equalization spending to keep Quebec in Canada as a result of its fiscal conservatism. Both Quebec and Alberta demanded a seat at the negotiating table; while this was not possible, the government ensured that the provinces were even better informed on proceedings than Cabinet, providing a clear example of provincial power within federal circles at the time.[147] While Quebec and Alberta took leadership roles, Ontario was shut out of the process in its opposition to the FTA and argued its interests were being sacrificed to a provincialist agenda.[148] The fact that the provinces themselves were not united around the provincialist direction of the federal government is notable, since it indicates much of the loss of federal power that resulted was self-inflicted rather than a necessary outcome of concerted pressure.

Despite the failure of elite cooperative federalism to secure the passage of the Meech Lake Accord and solve the constitutional quandary, a modified form of this power arrangement continued to persist over the 1990s. Except for Quebec, which continued to endorse its distinctiveness, the provinces settled into a position of federal co-management based on flexibility and efficiency rather than hard constitutional guidelines (which increasingly seemed impenetrable to reform attempts). The signing and ratification of the Kyoto Accord, on the other hand, reflected a break in this arrangement both in terms of jurisdictional issues and the federal commitment to consultation on major policy matters. Prior to the signing of the Accord, provincial energy and environment ministers had met with their federal counterparts and settled on a plan to bargain at the Kyoto conference for a carbon emissions target set at 1990 levels. However, at the summit the Prime Minister consented to a deal for Canada at 6% below 1990 levels.[149] Alberta accused the federal government of being inattentive to the economic effects of such a target, and a group of other provinces from Manitoba to Quebec condemned it as a blow to federal-provincial cooperation.[150]

In response, the federal government planned further consultation plus spending on energy efficiency initiatives to "sell" the package to the provinces. The fact that a Kyoto implementation program had political echoes of the NEP, and that the Liberal party had only just made back seats in the western provinces that had been lost in the early 1980s, were a major influence on this decision to placate provincial worries.[151] To further complicate the issue, Kyoto represented

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[146] Reg Whitaker, "The National Unity Portfolio," in *How Ottawa Spends 1995-1996: Mid-Life Crises,* ed. Susan D. Philips (Ottawa: Carleton University Press, 1995), 67, 74.
[147] Doern and Tomlin, *Faith and Fear,* 140, 131-132.
[148] Doern and Tomlin, *Faith and Fear,* 146; Fossum, *Oil, the State, and Federalism,* 230.
[149] Edward Greenspon, "Provinces let down at Kyoto, Klein says," *The Globe and Mail,* December 12, 1997, A1.
[150] Edward Greenspon, "Officials give Kyoto deal positive spin," *The Globe and Mail,* December 12, 1997, A17.
[151] *Ibid.*

a decisive shift away from oil as an energy resource (and a staple commodity) towards renewables as a matter of general policy. This new development blurred the division between producer and consumer provinces that had previously been crucial to federal energy policy. As one example, provinces like Manitoba and Quebec demanded subsidization of their hydroelectricity industries equal to the level of subsidy to the oil and gas industry as a response to the consultation incident.[152] Thus in 2002, when Alberta proposed a NAFTA-based solution to implementation of climate change targets and threatened a court challenge to block federal ratification of the Kyoto Protocol, it had few provincial allies due to this "new" energy producer split.[153] Regardless of how the promised Kyoto consultation with the provinces had not happened by 2002, the majority of provinces supported ratification by this time—even Ontario, which stood to take a blow to its manufacturing industries.[154] New divisions between provinces on energy policy, based on a transition away from the producer-consumer split in oil, thus served to benefit the federal government in its power relationships with the provinces.

Within the social domain, the 1980s marked a high point in the politicization and mobilization of business interests. While these interests reflected some diversity in the business community, there was enough unity around core principles that business could sustain a major campaign in support of the FTA far stronger than counter-forces could provide. The recessionary environment of the early 1980s had deeply culled the Canadian oil and gas industry; from the government's perspective, the efficiency and competitiveness gains were as an overall benefit to energy security in terms of Canada's ability to weather price crises.[155] As mentioned earlier, the price crisis of 1986 certainly divided the Canadian industry, and not all companies were happy with deregulation during the recession. However, once these "weak performers" had been weeded out, the industry as a whole accepted the inevitability of deregulation and began to search for competitive opportunities in the recovery. From this perspective, then, the Canadian oil industry was in a much stronger position to the rest of Canadian business when it came to planning for and endorsing the FTA, since it had already gone through an adjustment period.[156] Indeed, this form of "cold shower" competitiveness strategy was quite similar to what Macdonald had envisioned regarding continental free trade as a Canadian economic and industrial policy.[157]

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[152] *Ibid.*

[153] John Ibbitson, "Alberta lacks provincial allies to fight climate proposal," *The Globe and Mail,* September 3, 2002, A6.

[154] Steven Chase, "Alberta threatens court fight over plan for pact," *The Globe and Mail,* September 3, 2002, A6.

[155] Natural Resources Canada, *Energy in Canada 2000,* 19.

[156] Roland Priddle, "Reflections on National Energy Board Regulation 1959-98: From Persuasion to Prescription and on to Partnership," *Alberta Law Review* 37, no. 2 (1999): 546.

[157] McDougall, *Drifting Together,* 149-150.

The Canadian Manufacturers Association, a historical supporter of protection, also provided a turning point in the position of Canadian business on free trade when it abandoned its historical opposition to free trade with the United States.[158] The combined might of the CMA and the BCNI established enough unity among Canadian business to mount a public campaign in support of free trade leading up to the 1988 election.[159] Considering both the power of pro-market (and thus pro-business) strategies within the federal government as well as the financial and strategic resources business access to, the pro-trade position both closely mirrored business interests and had high public exposure. On the government side, Ottawa gave business organizations exclusive access to both its negotiators and the Prime Minister himself. The specifics of the FTA were worked out through massive sectoral consultation process, structured according to a CMA proposal: sectoral advisory groups (SAGITs) in 15 business and industrial sectors provided a standardized method of gathering information and opinions from industry.[160] Another business power resource was the capability to meet with American counterparts and engage in lobbying Congress and individual senators, in order to guide the progress of the FTA on the American side.[161] Reports and articles by supportive think tanks, like the C.D. Howe Institute, and the public campaign of former Alberta Premier Lougheed, were also sources of legitimacy among the general Canadian public. As I will discuss in more detail in the next section, the fact that business could draw on econometric forecasting in its arguments also provided a source of expert credibility to the public that counter-forces could not match.[162] Considering the transparency of its interests in a free trade agreement, however, the BCNI attempted to mount as non-partisan and bottom-up a public campaign as possible; clearly, it was aware of the political implications of its structural power.

Considering its leadership position on deregulation and free trade, it is no surprise that the energy sector was a major participant in the overall FTA process. Three oil and gas industry CEOs, for example, were members of the BCNI.[163] However, its power and its interests were so transparent that the energy industry maintained a policy of keeping a very low profile despite its deep involvement. This concern was rooted in the perceived fragility of the depoliticization of oil: if energy nationalists were to find enough ammunition during the debate based on the industry position, then public opinion might shift back towards the consensus of the late 1970s and deregulatory gains made under the Conservative government might be reversed.[164] On the one hand, the fact that the industry continued to fear the power of economic nationalist ideas is a testament to the real change that had occurred during the 1970s in terms of government-business power relationships.

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158 Doern and Tomlin, *Faith and Fear,* 20.
159 *Ibid.,* 117, 119, 46.
160 *Ibid.,* 105, 113.
161 *Ibid.,* 106.
162 *Ibid.,* 112.
163 *Ibid.,* 120.
164 *Ibid.,* 121.

On the other hand, these worries drove the industry "underground;" since it still demanded full consultation with negotiators, but declined to join the national BCNI campaign, public knowledge about and mobilization around industry positions was minimal.[165] The desire to integrate energy into the agreement in general rather than within a specific chapter was a direct result of industry's political interests. However, the fact that a separate chapter did not end up harming the industry's goals demonstrates how much power the energy industry had over political outcomes related to its sector.

Throughout the 1990s, organizations like the BCNI as well as the Canadian Association of Petroleum Producers (CAPP) continued to act as political advocates of industry interests. Reflecting the political calm over energy over the decade, their next major mobilization only occurred in 2002, surrounding the ratification of the Kyoto Accord. Mirroring how the FTA energy chapter had been based on industry demands, the Alberta government's proposed NAFTA-based climate plan was strongly based upon CAPP's own policy suggestions. The proposal for a NAFTA-based solution, in which Canada would participate as a "junior partner" within whatever "made-in-America" climate change policies the United States instituted, was based upon the entrenchment of energy continentalism and the affirmed unwillingness of the United States to ratify the Protocol.[166] Notably, this proposal avoided re-opening NAFTA by utilizing its existing environmental annex; this was a defensive political response aimed at protecting those sections of NAFTA beneficial to the deregulated industry that might be contravened by Kyoto-based regulation. Like in the FTA debate, CAPP was able to rely on allied think tanks and extensive funding when bringing its message to the public. Significantly, the goal of industry public lobbying was confined to swaying the Albertan public strongly against Kyoto as a potential threat to their prosperity.[167] This exemplifies the continuing willingness of the industry to play on federal-provincial power politics as a tactic to reinforce its position, which had been a key strategy in the 1970s. As early as the 1997 federal commitment to Kyoto, however, divisions within the industry on climate change policies had already begun to materialize. Some companies, like Petro-Canada and Suncor, viewed the environmental trend as a permanent change and were willing to begin mitigation research as part of a long-term business plan.[168] Like those emerging divisions between provinces as producers of different forms of energy, divisions within the industry based upon commitments to renewable energy technologies and mitigative measures began to limit the extent to which business could exercise a common front of power on the Kyoto issue.

The free trade election of 1988 was notable in Canadian political history for the extent to which the public debate polarized along lines of left and right.[169]

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[165] *Ibid.,* 122.
[166] VanNijnatten and Macdonald, "Reconciling Energy and Climate Change," 81-82.
[167] *Ibid.*
[168] Brian Laghi, "Climate change deal may reduce public apathy," *The Globe and Mail,* December 12, 1997, A17.
[169] Doern and Tomlin, *Faith and Fear,* 206.

In opposition to the PCs and business forces, which supported a deregulatory and continentalist approach, was a coalition of left progressive forces. The Liberals and the NDP also campaigned against free trade, but they sought to distance themselves from this polarization in order to attract undecided centrist voters and thus partially alienated the support of left societal forces. The Council of Canadians, formed in 1985 to support the left Canadian nationalist cause, had been organizing rallies and conventions against continentalism throughout the Mulroney years. Leading up to the 1988 battle, the COC joined forces with a variety of labour, environmental, native, church, and women's organizations to form the Pro Canada Network in an attempt to publicly match the BCNI coalition.[170] Despite growing public support for the movement, there were clearly numerous power disadvantages facing the coalition that did not apply to the opposing side. Many of the member groups relied on federal funding to support their advocacy in general; considering the Mulroney government had already demonstrated willingness to criticize and cut funding to "special interest groups," these organizations worried that visibility on the free trade issue might harm them financially. Obviously, the business lobby had significantly more funds to spend on research and advertising. The source of this financial power was essentially business profit, the acquisition of which formed the basic goal of all business interests participating in the campaign for free trade; they may have had fundamental differences based on sectoral concerns but nevertheless had a unifying capitalist motive. The anti-free trade forces, on the other hand, were directed towards social advocacy and therefore suffered from greater political, regional, and ideological divisions.[171] What they lacked in financial resources the PCN attempted to make up through human resources. However, considering many members had other volunteer, advocacy, and partisan responsibilities (especially compared to the business community), the time commitment to the free trade issue became more and more difficult for its members.[172] It did not help that formal avenues of consultation organized by the government were, as we have seen, structured based upon industry preferences. The major labour unions were invited to participate in these consultations, but the Canadian Labour Congress refused to participate based on fears of business domination of the entire process.[173] This introduced further splits within the labour community around free trade, since other unions thought working within the process would yield better outcomes for members.

Another disadvantage facing anti-free trade campaigners was the fact that their partisan counterparts, the Liberals and the NDP, failed to provide effective leadership for their position.. The Liberals had been caught off guard by the sudden political ascendance of the trade issue; during the Trudeau government, trade policy had been an obscure matter encompassed within the GATT

[170] *Ibid.,* 209-210.
[171] *Ibid.,* 214.
[172] *Ibid.,* 216.
[173] *Ibid.,* 110.

framework. To be certain, one of its own had authored the Macdonald Report in support of free trade, and there was a developing bloc of fiscal Liberals who supported freer trade and deregulation. However, the inertia of social liberalism and Canadian economic nationalism provided a significant force for division within the party. As a result, the Liberal policy alternative to the Conservatives' FTA was pulled between these two directions; it endorsed a tepid and uninspiring interventionism that avoided popular but contentious programs like Canadianization.[174] The NDP chose to downplay the free trade issue and its links to the PCN for political reasons as well. It had been the typical partisan ally of left-nationalist forces during the 1970s, when it held the balance of power for the Trudeau government on matters of Canadian energy nationalism. However, during the mid-1980s the NDP had been pulling in unprecedented polling numbers, and, noting that Canadians remained split on the free trade issue, chose to avoid a strong ideological commitment in order to avoid hurting its chances at electoral victory.[175] The ways in which the Canadian electoral system favours centrist brokerage parties over ideological parties thus had some effect on the ways in which polarized issues such as free trade were debated on the national stage. Considering the extent to which the Canadian energy sector feared the effects of economic nationalism when choosing its political strategy, this fear of polarization might have been overstated; in any case, it definitely hampered the political viability of alternatives.

Putting together all these factors, it is not surprising to find that energy policy during this period followed along with industry interests. Furthermore, the Canadian industry is dominated by the major multinationals, and that particular imbalance also continued to develop as one pillar of the state-business relationship. As I discussed earlier, when the PCs were first elected one of the few economic policy points on which they had a clearly-developed plan was oil deregulation, owing to the fact that they had engaged in significant pre-election consultations with industry. Many of the representatives involved in that consultation process were later directly involved with the FTA energy chapter through the energy SAGIT, thus blurring the independent consultative nature of its role (as well as squeezing out the role of smaller independents within the consultation process—the SAGIT format had been designed to avoid appearances of backroom dealing and favouritism, but in energy this goal was also clearly blurred). The result was that government explicitly put the industry first in its policy. One example was the new perspective on rent collection in a continental free market: if the industry was not satisfied with its overall take of profits due to federal and provincial rent collection, the industry would be free to discontinue operations and leave both levels of government with nothing, meaning rents needed to be kept low.[176] The acknowledgement that industry's economic power had considerable financial and political implications for government was not new,

[174] *Ibid.,* 237.
[175] *Ibid.,* 234.
[176] Canada, *Energy and Canadians,* 89.

but the uncritical acceptance of this order of interests (as opposed to the 1960s, when the "national interest" was understood as reflecting company interests) was a remarkable reflection of a power shift back towards industry.

The endorsement of tax breaks to the industry in lieu of price supports as a policy response to the 1986 price crisis also exemplifies the government's pro-market orientation. On the surface, the choice of instrument might seem to be an outcome of ideology rather than being significantly affected by the interests of companies. Significantly, however, it shifted the balance of power within this rationalization period by benefiting the larger multinationals with economies of scale and accounting resources to take the best advantage of tax cuts. The oil price crash therefore hurt smaller Canadian companies the worst.[177] This blow to Canadianization (and thus the project of rebalancing power in the Canadian oil sector) was deepened by the fact that Petro-Canada no longer operated as a counterweight to the foreign-dominated industry in political matters, as it had during the NEP. The private Petro-Canada was in an even worse position during the recession than most of the industry due to its large stake in expensive northern operations. It was thus forced to become even more conservative and expand into international holdings while eliminating Canadian assets.[178] Thus, the pro-market orientation of the government within the energy sector had major implications for the reorganization of power relationships that had been shifted during the previous period.

While the Liberals were somewhat more bureaucratic and distanced in their dealings with the energy industry than the Conservatives had been, these trends continued to deepen over the 1990s.[179] Again, the combination of industry goals (namely greater reductions to regulatory barriers, and greater harmonization with American regulators) with government political objectives (a singular focus on deficit reduction) produced outcomes that favoured large industry players. Retrenchment was the easiest and quickest solution to both problems, and these cuts had unbalancing effects. For example, cutbacks to the NEB's funding precipitated an internal reorganization in 1996 that reformed a division-based structure into a series of firm-centered teams; clearly, larger firms would benefit more from such a reconstruction and the added facility of close contact.[180] As I will discuss in more detail later on in this chapter, the Liberal government chose to follow up its deficit-cutting phase with a reintroduction of spending that partially meshed with neoliberal governance. Many of the new spending programs were termed "social investment" initiatives because they stressed how social spending would pay economic dividends to Canadians in the future. In the energy arena, a similar trend emerged within NRCan through a proliferation of innovation and sustainable development partnerships with the industry. To refer to a previous example, a major part of the government's initial attempt to "sell"

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[177] Fossum, *Oil, the State, and Federalism,* 216.
[178] *Ibid.,* 253.
[179] Bradford, *Commissioning Ideas,* 128.
[180] Doern and Gattinger, *Power Switch,* 104.

Kyoto to the reluctant provinces was such industry-directed science and technology funding. The fact that provincial hydro utilities realized the trend and demanded greater access to such programs, like the oil and gas industry enjoyed, shows how lucrative and well-received they were by the industry in general. The payment of federal subsidy money to industry in order to smooth over federal-provincial relations in energy and environmental disputes thus continued in this period.

On the other hand, the retention of federal power through spending power (even if in a more limited form than earlier years) is one notable example of how the federal government still attempted to assert power over the provinces and business during this period. The unambiguous retention of subsidy power in the FTA was certainly important to both the provinces, who wished to retain the ability to support their own industrial development, as well as companies who benefited financially from that subsidy power. However, Canada's strong negotiation position on subsidies also stemmed from the fact that they were one of the few tools for social and regional development that remained politically viable to the federal government. During a recession, it would be politically suicidal to relinquish subsidization in the area of job creation: thus in its justification of the FTA in energy, the government stressed that subsidization of the industry could still take place to create jobs.[181] Oil deregulation also had to be balanced with political pressure to maintain some kind of basic public interest regulation; thus, another tactic employed by the Conservative government in energy policy was to shift from economic and social regulation to health and environmental regulation. The FTA proportionality clause, for example, was to be subject to exemptions based on the necessity of these two types of regulation. Arguably, such exemption power would probably never be strongly tested within the contemporary political environment of oil deregulation. However, focusing on limited regulatory goals as safety valves within the "ratchet" mechanism of proportionality was one way of mitigating opposition as well as maintaining last-ditch controls on the clause. As I will discuss in the next section, this implementation of health and environmental regulatory goals also contained ideological content that made them more compatible with a neoliberal, deregulatory political framework than other forms of regulation.

Under the Liberal government, the assertion of spending power and environmental regulatory capacity continued to be major aspects of federal energy policy strategy. One complex example of the former was the "downloading" of responsibilities through spending cuts to provinces.[182] Certainly, by giving provinces more responsibility through changes to the grant system, the federal government visibly lost some of its control over policy areas from health to environment and development. However, combined with spending reductions, it also meant that the provinces and not the federal government were subject to the political fallout from having to make hard spending decisions. This left room for

[181] Canada, *Energy and Canadians,* 49.

[182] Philips, "The Liberals' Mid-Life Crises," 12.

the government to later institute funding for "horizontal" initiatives, such as its implementation plan for Kyoto, and use its spending power to force provinces to cooperate.[183] Environmental regulation is a good example of a horizontal regime because, depending on the political will to do so, it can penetrate and influence many other policy sectors (especially energy policy). This is a more indirect method of asserting spending power than unilateral programs, but it still allowed significant room for federal initiative to guide policy. Interestingly, some of these initiatives came from "traditional" sources of Canadian state sovereignty; Chrétien's commitment to a stronger Kyoto target than originally planned with the provinces, for example, was based on a desire to best the United States in a cutting-edge policy area.[184] Still, the fact that many of these environmental initiatives were political bluffs rather than serious regulatory commitments undermined them as assertions of state strength. The Bush NEP, which blatantly disregarded international environmental trends by stressing energy security and development of domestic resources like coal, essentially called the Canadian government on the gaping disconnect between its Kyoto goals and its deregulated energy export sector.[185] The resultant inability to formulate hard targets that would also please Alberta and the industry contributed to the acrimony over ratification in 2002. On the other hand, the fact that the government was willing to ratify Kyoto despite Alberta's economic concerns showed some federal strength (even if the decision turned out to be symbolic).

Despite these contrary examples, the overall tendency during this period was toward a loss of federal government power over energy policymaking versus the provinces. As I discussed earlier, a major part of this trend was the commitment to quasi-constitutional international agreements as a politically useful way to assert "national" policies and get a handle on the provinces without using direct federal power. Certainly, other methods of dealing with this problem were attempted. For example, the Conservative government attempted to break down internal trade barriers by inserting deregulatory market principles within the Charlottetown Accord; however, the failure of the Accord put an end to the viability of solving major national problems through constitutional reform.[186] Instead, the NAFTA was used as a device for deepening free-market principles from without, in a way that continued to allow the government to meet the demands of both Alberta and Quebec. One of the shortcomings of this approach to solving Canadian internal problems was that American power obviously entered into the equation, further reducing the room for the federal government to manouever without necessarily allowing the full implementation of its internal goals. In terms of preventing "NEP-style" policies, for example, the energy chapter of the FTA strongly prohibited policies like investment discrimination that had angered the United States the most, while many federal powers that had

[183] Doern and Gattinger, *Power Switch,* 5.
[184] Stefanick and Kathleen Wells, "Staying the Course or Saving Face?," 263.
[185] Doern, "Canadian Energy Policy and the Struggle for Sustainable Development," 26.
[186] Brodie and Smith, "Regulating the Economic Union," 85.

upset producing provinces were not necessarily outlawed.[187] Despite this fact, the federal government could credibly argue to the provinces that accepting its power to negotiate international agreements, in order to assert Canadian interests on an international scale, was a viable compromise considering federal willingness to devolve powers to the provinces and deregulate contentious areas.[188]

Reliance upon international negotiation and trade powers as a recourse for failing national state strength operated as a self-perpetuating process during the Liberal years, which further weakened potential government control over energy trade. While the Liberals campaigned on a promise to renegotiate NAFTA, the difficulty of opening up the agreement—especially the energy chapter—rapidly became an insurmountable political obstacle. In 1995, the Liberals also made another attempt to break down internal trade barriers through an interprovincial agreement, but it failed to shake the dominance of continental rather than Canadian trade relationships. As a result of these trends, the Liberals shifted focus towards international rather than continental agreements, such as the deepening of the GATT, and attempted to use these international agreements to shape internal economic relationships. The MAI, for example, was arguably a further attempt to use the WTO as an institutional mechanism to change both internal and external Canadian trade relationships.[189] The MAI would have had even deeper limiting effects upon federal regulatory powers than NAFTA; it would have limited not only preferential national treatment but subsidy power, resource ownership and development, and any export restrictions, among other stipulations.[190] Another policy innovation of the Liberal government was the advent of Team Canada trade missions, led by the Prime Minister in an attempt to develop trade and investment links with new foreign partners. While this idea was not a large departure from the Third Option plan devised during the Trudeau years, one major difference was that these missions generally had a “service to clients” orientation. Government officials facilitated the development and promotion of trade connections for industry clients, who stood to gain private benefit.[191] This type of service-oriented policy had its roots in the Public Service 2000 reforms as well as successive reorganizations under the Liberal government’s rationalization budgets.

In energy, this trend supported NRCan’s deepening identification with the industry as a client. The reciprocal sharing of information and research with industry became a top priority, especially considering the erosion to in-house research capacity—developed at great difficulty through the previous period—that had occurred due to budget cuts. This lack of research capacity, combined with the fact that NRCan was responsible for implementation of climate change programs designed by Environment Canada, led to some of the incongruities discussed earlier encountered by the government when setting tangible national

[187] Plourde, “The NEP Meets the FTA,” 22.
[188] Canada, *Energy and Canadians,* 27.
[189] Brodie and Malinda Smith, “Regulating the Economic Union,” 82.
[190] *Ibid.,* 91.
[191] Sjolander, “International Trade as Foreign Policy,” 123.

reduction targets.[192] The fact that support for science and technology research on climate was the main form of government action on climate change up to the 2000s was partially because pure data on meeting the commitments themselves was weak compared to the applied, technological partnerships on specific pollution-reducing projects. Retrenchments to energy policy capacity were therefore yet another blow to Canadian state power in the area—a situation which, in many ways, mirrored the 1960s in terms of dependence on industry.

Ideas

In attempting to understand the ideological content of power shifts within oil and energy policy during this period, especially those between government and industry, a good starting point is the substantive change in ideas regarding oil and energy security in general. As I have described, during the 1970s-early 1980s the politicization of oil on the international stage contributed to politicization within the Canadian context. This situation began to reverse internationally as world oil prices dropped during the early-mid 1980s; neither OPEC (which was suffering from internal tension and losing the power that came with price control) nor consumer countries (which lost financial and strategic motivation to secure oil supplies, or to negotiate state-to-state deals to do so) had the capacity or need to sustain such a politicization. Even during the final Trudeau years, the speed with which components of the NEP were rolled back within the NEP Update and other adjustments within an unexpected climate of low prices was remarkable. However, the supporting ideological changes did not occur overnight; instead, they became more developed and institutionalized over the 1980s-1990s, to the point where the superiority of a market-based, depoliticized approach to oil seemingly became hegemonic. As mentioned previously, the approach became so engrained by 2000 that the government needed to establish a reference committee on energy, to provide the first comprehensive policy and performance review of the market-based approach over the previous 15 years.[193]

According to this approach, oil and energy in general were no longer "special" commodities deserving of political protection in the public interest. Instead, like many other necessity goods, energy was best distributed to meet people's needs through as free a market system as possible. This perspective thus completely reversed the previous theoretical relationship between exports and energy security. Exports had been problematic in an era where security and self-sufficiency were guaranteed by Canadian resources in the ground, since development for export would provide short-term profit at the expense of long-term security. However, if exports paid for the development of more oil or other energy sources within Canada (as well as allowing for continued imports), then exports and security were not incompatible. If energy commodities were no longer specialized (and thus politicized), then substitutability would ensure energy

[192] VanNijnatten, "Getting Greener in the Third Mandate?," 219.
[193] Doern, "Canadian Energy Policy and the Struggle for Sustainable Development," 43.

security in general to Canadians, since if one source were to become scarce or too expensive price signals would spur the development of another.[194] The fact that Canadian oil development had always been export-led to some extent due to the cost of exploration and infrastructure also fit smoothly with the new definition of energy security; the state would no longer have to subsidize the industry in order to avoid the need for exports, and could encourage them instead. Still, there was some appreciation by the PC government that oil remained a "strategic" commodity, due to society's great dependence upon it in particular. However, during the Chrétien years even this concession seemed forgotten. One contributing factor was that the Liberals' environmental initiatives stressed technological development of new energy sources, efficiency, and reductions to fossil fuel emissions like carbon, which shifted the spotlight off oil.[195] As long as oil was no longer the "most important" energy source, other sectors and concerns began to have greater and greater intrusion into oil policy, rather than it leading the way.[196] As a result of both this new orientation to market-based security combined with the leading power of environmental policy, oil export policy essentially become subsumed as a functional constitution of these sectors.

Part of the ideological power of the market-based approach to oil was its apparent foundation in hard economic theories and thus its operation according to fixed rules; in this way, the "depoliticization" of oil had as much hidden ideological content as "politicization" had had in the previous period. Any political interference would disrupt the system in negative ways, which provided both a justification for the federal government to stay out of oil regulation and a reason to institutionalize the free oil market in agreements designed to isolate it from national political interference. According to this argument, government would actually harm energy security by interfering with the market price signal system, because no government could predict the future of supply and demand accurately enough.[197] Instead, in a system where government does not interfere, supply and demand gaps—like those forecast by the NEP—simply "do not occur."[198] The FTA was therefore a success for Canadian energy security insofar as it institutionalized and reinforced the market principle in continental energy trade against government distortion.[199] The tempting inviolability of these rules led to some questionably excessive policy reasoning—for example, the Energy Options report condemned one of the most successful efficiency initiatives of the NEP, the home insulation subsidy program, because even interfering with the market signals that would induce homeowners to insulate their homes was

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[194] Bill Jarvis, "Accounting for the Unaccountable: Valuing the Environment in Energy Policy," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 115.
[195] Natural Resources Canada, *Energy in Canada 2000,* 138.
[196] Fossum, *Oil, the State, and Federalism,* 235.
[197] Canada, *Energy and Canadians,* 68.
[198] *Ibid.,* 66.
[199] *Ibid.,* 50.

potentially problematic.[200] On the other hand, the NEP had plainly faltered based on an inflexible system of market predictions as well as a few questionably excessive policies. Overall, the idea that home insulation and heating were "lifestyle choices" that Canadians could make for themselves exemplified a changed perspective upon what government should be expected to guarantee for its citizens versus where the market was allowed to operate.[201]

Why was the adoption of this new paradigm publicly successful? The politicization in oil in Canada, as well as around the world, had been supported by understandings of scarcity; in part, depoliticization occurred as this scarcity mentality was portrayed in a negative light. In Canada, the most powerful symbol of this process was the visible failure of the NEP, and its flaws became tied into an overall critique of government interventionism that provided visible evidence to support a non-interventionist, neoliberal approach. According to one such argument, the previous government had deceived Canadians: the scarcity mentality had been constructed as an illusory political device, and when the predicted shortages did not actually occur, the falsity of the idea had been proven.[202] Instead of protecting Canadians against scarcity, the NEP had had economic and social costs that had harmed Canada's overall economic future. Drawing on similar language to its fiscal retrenchment policy, the PC government argued that Canadians should not be "entitled" to stable or predictable prices, and that it was "realistic" for them to expect less of governments—especially if they wanted them to reduce spending deficits.[203] Another perceptive tactic was to draw on some of the publicly popular values that had sustained the NEP—independence from American economic power and fair redistribution of costs and benefits—and reformat them in a way that condemned the NEP for its failure to uphold these goals. The subsidization of megaprojects was an obvious example of the former. While megaprojects had been intended to contribute to Canadian energy security, they had instead had the result of subsidizing American consumers who now had access to Canadian frontier and unconventional oil at low prices.[204] The NEP was also condemned as an example of a "hoarding" approach to energy security, which had both divided the nation and harmed overall Canadian energy security by keeping Canadian resources off the global market. Not only had this harmed Canadian living standards (and thus ability to buy needed energy on the market), but the hoarding of a particular type of energy also risked market substitution by another form of energy on the world market, which would make it worthless as an asset.[205] The negative political and social connotations of "hoarding," combined with the internal consistency of the argument regarding substitutability of energy sources, powerfully portrayed markets as the best approach.

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[200] *Ibid.,* 68.
[201] *Ibid.,* 24.
[202] *Ibid.,* 42.
[203] *Ibid.,* 67, 72.
[204] *Ibid.,* 47.
[205] *Ibid.,* 25.

This public ideological shift was supported by a number of ideological and political trends. In general, the Canadian public had already been exposed and conditioned to neoliberal reforms through international news; the Mulroney government was a latecomer to the trend, considering the election of Britain's Prime Minister Margaret Thatcher had been in 1979 and President Ronald Reagan in the United States in 1981.[206] The paradigm was also "fit" to the Canadian context through the public lobbying of business-supported groups before and during the FTA election. For example, the C.D. Howe Institute released a comprehensive report on continental free trade in 1985, including an argument for how free trade was historically continuous with Canadian history and had been economically beneficial throughout it.[207] Again, the market-based approach to energy was presented as a factual reality, was supported with strong causal arguments that appeared to explain the failures of the NEP, and was strongly founded in (neoclassical) economic theory.[208] The fact that the Macdonald Commission had been led by not only a former Liberal minister, but the minister of EMR during the first oil crisis, also added significant weight towards convincing central and eastern Canada that a free trade energy approach was best for security. Indeed, by the privatization of Petro-Canada in 1990, the public had been so conditioned to the deregulation of energy and a market-based approach to energy security that there was surprisingly little public outcry despite its immense popularity through the 1970s and early 1980s.[209]

The public adoption of this new paradigm was not inevitable, however, and was subject to ideological challenges. Even within the Conservative government, there was considerable political inertia holding the ideological change back. For example, many of its first term deficit-cutting reforms, like Public Service 2000, reforms were largely ineffectual, both due to a lack of real government interest and internal opposition from the bureaucracy.[210] While the privatization of Petro-Canada did not create much of a public political splash, within the Conservative Party there were still some devotees of Canadian nationalist state enterprise, which had historically been associated with the Conservatives. Furthermore, the public was not ready for as deep a neoliberal turn as had occurred in Britain and the United States. The fact that Kim Campbell "went public" with the potential depth of the Conservatives' neoliberal retrenchment during the 1993 election made a significant contribution to the massive defeat of the Conservative party.[211] During that election, the Liberal party presented a more viable public face to structurally similar policies (one that included a role for government in funding social programs and boosting employment) in a way would further entrench their dominance over the 1990s.

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[206] Peter Aucoin, *The New Public Management: Canada in Comparative Perspective* (Montreal: Institute for Research on Public Policy, 1995), 12.
[207] Doern and Tomlin, *Faith and Fear,* 27.
[208] *Ibid.,* 223-224.
[209] Fossum, *Oil, the State, and Federalism,* 242.
[210] Aucoin, *The New Public Management,* 13, 15.
[211] Bradford, *Commissioning Ideas,* 123.

Neither were the Liberals entirely consistent or forthright with their level of support for intervention versus retrenchment: while the Red Book contained a number of social policy promises, Liberal campaign speeches tended to focus on similar attitudes to the PCs with regards to the inevitability of a free market governing agenda.[212] Once in government, a clear split in Cabinet among the future direction of core Liberal values became visible: social liberals like Lloyd Axworthy faced off against fiscal liberals like Paul Martin in an effort to decide which Red Book vision would prevail.[213]

Because of growing public support for deficit reduction, and the political fairness of the way the 1995 budget implemented its cuts, public attitudes were generally positive towards Liberal retrenchment programs.[214] This general public preoccupation with deficits was one reason why the passage of NAFTA attracted considerably less political and emotional debate than the FTA had.[215] Public attitudes by 1992 were by no means warm towards NAFTA; over half of Canadians polled believed the FTA had harmed Canadian jobs and economic sovereignty, and that NAFTA would continue to do so.[216] On the other hand, Canadians continued to support deficit reduction in huge numbers (90% of Canadians agreed it should be a government priority in 1995) despite worrying about the impact of job losses and social program cuts.[217] As the economy began to recover, however, the government received strong levels of support, and the idea that free trade had sped along the recovery began to gain traction.[218] The fact that the Liberals held seats across the country, and could claim the ideological center-left position on deficit reduction and other economic reform issues, contributed towards such shifts.[219] By the 2000s, Canadians were widely supportive of free trade; as an example, a poll during the 2000 WTO protests in Seattle reported only 12% of Canadians were against international free trade agreements, and that 93% wanted Canada to take a leading role in deepening them.[220] On the other hand, Canadians were also far less informed about trade

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[212] *Ibid.,* 12.
[213] Philips, "The Liberals' Mid-Life Crises," 11
[214] *Ibid.,* 13-14.
[215] Sjolander, "International Trade as Foreign Policy," 115.
[216] Kirk Lapointe, "Canadians feel like losers on free trade, poll shows; two-thirds indicate U.S. pact hurt Canada," *The Ottawa Citizen*, June 21, 1993, C10.
[217] Eric Beauchesne, "Canadians confused about how deficit should be cut, poll suggests; Majority backs cuts but opposes attack on tax benefits," *The Ottawa Citizen*, February 17, 1995, A5.
[218] Eric Beauchesne, "Liberals on the right track with budget, poll suggests; Government retains wide lead over opposition parties," *Edmonton Journal,* February 27, 1997, A3; Earl Fry, "In spite of trade frictions, NAFTA's been a success; Free trade has paid huge dividends for Canada's business and labor communities," *Financial Post,* March 23, 1996, 21.
[219] Philips, "The Liberals' Mid-Life Crises," 27.
[220] Stewart Bell, "WTO protests fail to sway Canadians: Most support free trade talks, federal poll finds: Survey suggests activists involved in violent Seattle clashes are tiny minority," *National Post,* April 20, 2000, A1.

issues than at any time in the previous decades: following September 11, only 25% of Canadians had any idea that over 80% of Canadian exports went to the United States.[221] Considering this environment of opinion, it is clear how concerns about economic dependency and Canadian sovereignty would be of lesser priority when government formulated policy on the border issue.

Another facet of this ideological shift towards market-based policies was a debate over understandings of Canadian nationalism. Left nationalist forces, which had swayed the federal government towards energy market intervention in the 1970s, were challenged by a type of economic nationalism originating in the business community. This was not the traditional form of Red Tory nationalism that still persisted, albeit increasingly weakly, in small pockets of the Progressive Conservative party. Neither was it an entirely new phenomenon. As described in the previous chapter, Bob Blair was a representative of nationally-oriented Canadian business during the 1970s, and worked in his business dealings (with Petro-Canada, for example) to aggressively promote Canadian-owned businesses in the energy sector in order to directly challenge the power of the majors.[222] However, the pro-free trade forces brought a form of this view into mainstream Canadian politics. They argued that Canadians had the entrepreneurial skill and confidence to succeed in a freer continental market, and that free trade would therefore be a success—to claim otherwise was timid and protectionist.[223] The BCNI was interested in developing a "bottom-up" coalition to increase public credibility, and this nationalist message was powerful at encouraging small Canadian businesses to take the risk of supporting free trade. This blend of nationalism with continentalism also benefited from its compatibility with econometric arguments, which made it appear to be a more "rational" form of nationalism than endorsed by the emotional anti-free traders. The emotional content of the nationalist debate also led parties like the NDP to avoid overtly discussing the issue and adding to the political controversy; this benefited players like the energy industry, which stood to benefit from a lack of nationalist opposition.[224] It also contributed to the frustration of left-nationalist popular forces with the inability of their partisan counterparts to mount effective opposition.[225] To further complicate the issue, the Macdonald Report had by no means been simply a "free trade" report—there were economic nationalist voices on the board, and the report spent many pages detailing the social programs and adjustment plans that would be necessary to support Canadian society during the free trade transition. However, the fact that the experts in charge of formulating the report were typically from hard economics backgrounds meant that these

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[221] Michael Campbell, "Trade poll shows shocking ignorance: Survey reveals Canadians have a free-trade knowledge deficit," *The Vancouver Sun,* September 17, 2002, C3.
[222] François Bregha, *Bob Blair's Pipeline: The Business and Politics of Northern Energy Development Projects* (Toronto: James Lorimer and Company, 1979), 12.
[223] Doern and Tomlin, *Faith and Fear,* 206.
[224] Bradford, *Commissioning Ideas,* 121.
[225] Doern and Tomlin, *Faith and Fear,* 208.

dissenting parts of the Macdonald Report were downplayed in the final draft.[226] The desire of the government to avoid overcomplicating the issue while using it to partisan advantage was certainly made easier by ignoring the nationalist and social aspects of the report during the FTA process.

Overall, these pro-market ideological changes resulted in a number of shifts in procedural ideas related to the best implementation of free market policies in energy. Within the NEP, interventionism had been tied to the implementation of broader political and social goals, from the redistribution of energy wealth to Canadianization. According to the PC government, this had weakened overall government capacity to achieve social and political goals, due to the inflexibility and divisiveness of broad national economic intervention.[227] On the other hand, complete oil deregulation (meaning the isolation of that market from political and social concerns) would probably be politically impossible considering the continued importance of these goals to Canadians. The political need to retain some limited and non-economic regulatory power thus emerged in commitments to health and safety and environmental regulation. Ideologically, this development reflected a broader political adaptation that attempted to incorporate demands to regulate in the public interest with a neoliberal governing strategy. The solution that triumphed, namely the promotion of "investment" strategies in both human resources and science and technology, was primarily an innovation of the Red Book and its attempt to reconcile different Liberal values. Job creation and social programs, as well as environment, remained important issues to Canadians despite general acceptance of a neoliberal financial philosophy. If government took on supportive or investment roles that would pay dividends in the future, it was possible to reconcile spending with a neoliberal strategy, since it was a logical "business decision" that paid off in future economic development.

In the energy sphere, the objectives of innovation and sustainable development exemplified this investment approach. The fact that NRCan had been left without a major policy role due to the depoliticization of oil policy provided a special impetus to develop supportive roles in these areas. Indeed, the perception that oil policy was an outdated phenomenon led NRCan to stress how the industry was a cutting-edge, knowledge-based sector; investment in the energy sector would thus pay future economic dividends for Canada.[228] Major export-based initiatives like those developed within the NOSTF also followed the same "re-branding" template for the oil industry. This new economy approach can also be seen as a pre-emptive policy strike against the conflict between environmental policy and the inherent "dirtiness" of the oil and gas industry. In order to serve its clientele, NRCan thus prepared to mediate between regulatory

[226] *Ibid.,* 54-56.
[227] Canada, *Energy and Canadians,* 69.
[228] Doern and Monica Gattinger, "New Economy/Old Economy?," 223.

goals set by Environment Canada and actual implementation of these regulations, which fell under NRCan's jurisdiction.[229]

The ideological and power implications of such an approach imply that old methods of interventionist management are both environmentally and technologically outdated. Instead, the connotation of a "supportive" role is that government cannot solve economic or environmental problems on its own, but can intervene in a limited way to support the market in cases of failure. Many of the initiatives of this type introduced under the Liberal government thus indirectly mirrored the patterns of the Conservative government's energy policy. For example, instead of developing grants for home insulation and energy efficiency, NRCan supplied research funding and capacity for developing such products as well as consumer education on energy efficiency.[230] Science and technology grants to the industry to increase efficiency of refinery processes or reduce pollution were also a common funding target.[231] Another example of a supportive role relevant to oil exports in particular was the reduction of regulatory barriers, both economic and environmental. This ideological gloss—that technology can always find win-win outcomes—was the solution the Liberal government found to the apparent incompatibility between Albertan and industry demands, a pro-market and pro-export oil policy, and its environmental goals.

Institutions

The innovation and sustainable development paradigm was also relevant to the NEB, which was well-suited to participate in the deregulation of Canadian oil markets but also needed to remain relevant afterwards. The NEB was given the task of implementing the Western Accord as well as beginning the process of trimming regulation in the gas sector, which, as we have seen, was structurally more dependent upon regulation. Compared to gas deregulation, oil was a "quick and easy" process; the NEB had been studying the potential benefits of a deregulated market even during the NEP period and was well placed to begin the process as soon as the PC Government came to power.[232] The NEB continued to support deregulation within the FTA, which on the surface reduced the scope of the NEB's mandate but also granted it new oversight roles such as the monitoring of proportionality. The FTA also provided the NEB with a new impetus to increase continental energy deregulation through closer contact with its American regulator counterparts.[233] Following the Western Accord reforms, the oil industry also received breaks in the form of pipeline toll deregulation. The NEB moved to

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[229] VanNijnatten and Macdonald, "Reconciling Energy and Climate Change," 73.
[230] Natural Resources Canada, *Energy in Canada 2000,* 8, 150.
[231] G. Bruce Doern, "Conclusions and Related Challenges for a Martin Liberal Government," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 327.
[232] Watkins, "Deregulation and the Petroleum Industry," 232; Priddle, "Reflections on National Energy Board Regulation," 541.
[233] Canada, *Energy and Canadians,* 52.

a market-based toll procedure, wherein buyers and sellers privately agreed to a shipping rate that would be accepted automatically by the NEB so long as no protests or public interest concerns were raised.[234] Since oil prices, exports, and transportation were all largely deregulated by the close of the 1990s, a continentalist and market-based approach to oil export policy had essentially been institutionalized.

Considering how this institutionalization had taken place through the extra-constitutional constraints of the FTA and NAFTA, the NEB was compromised in terms of its independent role just as the government itself lost sovereignty over oil export and market policies. While the NEB statutorily has decision-making independence from government but also follows its policy guidelines, the imposition of external restrictions was a new variable that required some modifications to the NEB Act. In order to be compliant with the FTA and NAFTA, a statutory provision to "give effect to" the requirement of NAFTA was written in to the Act, which is similar to the requirement to implement government policy.[235] Notably, ever since the original passing of the NEB Act in 1959, it has rarely been modified or amended because of how broad and flexible the initial legislation was. Each modification that has taken place, such as when it gained export licensing powers in the 1970s or lost some of its more intrusive regulatory functions in 1985, thus serves to mark a milestone in Canadian energy export policies. The fact that the most extensive revisions to date occurred over 1985-1995 reflects both the depth of deregulation and its historical significance. Another relevant example of the depth of this change in energy policy is in how certain provisions of NAFTA were "doubly institutionalized" through the NEB. For example, the NEB is statutorily bound to consider Article 605 of NAFTA—the proportionality clause—whenever it plans to refuse an export permit for energy goods.[236] The specificity of this amendment is notable; clearly, adherence to proportionality was one of the most important new roles of the NEB under the FTA/NAFTA regime, and constitutes one of the strongest pillars of oil export regulation within the current deregulated regime. Finally, sections of the FTA/NAFTA also compose a horizontal regime of new restrictions on the NEB, including provisions on environment and Chapter 11 on investment.

Despite the fact that the NEB was comfortable fulfilling deregulatory roles within a pro-market political climate, its goal of staying relevant to government and therefore protecting its continued existence remained important.[237] The ideologically based policy and procedural reforms discussed in the previous section greatly influenced how NEB found new methods of defining and defending its public interest mandate. Canadians were told to expect fewer economic rights as citizens, such as fewer government guarantees of energy security or regulatory protection from market monopolies. Within such a political

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[234] Miller, "Energy Regulation and the Role of the Market," 430.
[235] "National Energy Board Act," in *Revised Statues of Canada*, 1985, c. N-7, s. 120.1 (1), available http://laws.justice.gc.ca/eng/N-7/index.html, accessed November 23, 2009
[236] *Ibid.,* s. 120.4 (1).
[237] Gray, *Forty Years in the Public Interest*, 116.

context, encouraging competition was the best public interest role the NEB could play; it was also a strategy that meshed perfectly with economic deregulation. An example where natural monopoly regulation yielded to "competition regulation" was in the pipeline industry. Previously, political concerns arose from the ability of individual companies, especially American companies, to dominate sections of the Canadian energy market based on their ownership of pipeline infrastructure. From a competition perspective, the solution was not to regulate pipeline tolls to protect consumers, but to encourage the construction of more pipelines to compete with the monopoly and drive prices down. This would "regulate" the monopoly problem without the NEB actually having to intervene.[238] The role of the NEB in this transaction, apart from speeding up the regulatory approval process to ease the entry of competitors into the market, would be to ensure the "public interest" by making sure each new pipeline could be filled to capacity and therefore be market viable.[239] Another example of a market-based public interest niche was for the NEB to provide an expert, depoliticized source of information on current market signals. Such information would be a necessity for any Canadian consumer seeking energy security in the marketplace. This information was itself gathered on a market basis: the NEB's responsibility to assess long-term crude oil supplies, for example, was also moved to a market-based surplus determination procedure.[240]

A second type of "new" public interest concerns was environmental (that is, these concerns and issues were not new, but the enthusiasm of the NEB to pursue a regulatory role was). The NEB became a responsible authority under the Canadian Environmental Assessment Act, and was thus required to devote a greater amount of its hearing time to environmental public interest concerns.[241] The downsizing of NRCan as a result of federal budget cuts also deepened reliance upon the NEB as the instrument of environmental regulation for industry.[242] Environmental regulation, in fact, requires so many links with other departments and regimes that this synthesis creates a unique situation: the NEB is one of the few arenas where the public can intervene and participate in the rules-based and opaque process of environmental bureaucracy. The NEB generally approached environmental regulation problems with the objective of limiting regulatory lag and overlap as much as possible in order to speed approvals for industry, a strategy which emerged in part because the economic costs of denying an application on environmental grounds were so high. This led to a focus on mitigative and reclamation measures, which could be worked out after approvals

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[238] *Ibid.,* 125.
[239] Miller, "Energy Regulation and the Role of the Market," 424, 429.
[240] National Energy Board, "Memorandum of Guidance – Implementation of the Fair Market Access Procedure for the Licensing of Long-term Exports of Crude Oil and Equivalent," memorandum, December 17, 1997, available http://www.neb.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/xprtsndmprt/mmrndmfgdnc-eng.html, accessed January 20, 2010.
[241] Gray, *Forty Years in the Public Interest*, 106, 83.
[242] Doern and Gattinger, *Power Switch,* 96.

for a pipeline or an export license were passed; clearly, the limits of regulation worked in industry interests. The Board also extended its public interest mandate to encompass public safety concerns. Pipeline safety is an extremely technical and specialized area, which supported the self-definition of the NEB as an expert technical authority. Picking up on the government's focus on "innovation," the NEB developed a research and development role in pipeline safety and became a world-leader on inspection procedures and structural failure research, for example.[243] When they had to be imposed, both environmental and safety regulations were implemented through an incentive- or goal-based procedure, meaning that rules were developed through negotiation with companies and implemented through streamlining of the regulatory process.[244] Finally, the NEB was forced in this period to come to terms with landowner disputes, both from individual landowners and native groups. In keeping with its non-interventionist, market-based focus however, the NEB developed procedures to facilitate confidential negotiations between landowners and companies in a mediator role.[245]

In some ways, these interpretations of the public interest mandate hearken back to the earliest period of the NEB, in which the interests of companies were equated with the general public interest. In the 1960s, the major companies dominated information and thus policy capacity. During this period, on the other hand, the overall political environment equated industry goals with public interest goals. The government also stepped away from asserting control over policy capacity, and turned its information-gathering capacities to support industry rather than develop its own data resources. Despite the fact that the NEB made greater efforts to support non-industry intervenors in public hearings during this period, the political environment underpinning the process worked to the advantage of companies rather than the public. For example, mediation procedures with landowners were developed as a "fair" alternative to dealing with landowner issues within public hearings. Considering the delays that individual landowner intervenors had caused in hearings in the previous period (such as in the Sarnia-Montreal case), the new procedure also represented a financial incentive for companies willing to cooperate. However, in practice the demands of industry made the process manifestly unfair. Since industry required these negotiations to be private due to competition concerns, there was no statutory-based power to enforce the agreements, since the NEB kept its hands off the process as an impartial mediator. These settlements were also invisible to both public scrutiny

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243 Gray, *Forty Years in the Public Interest*, 98-100.

244 Deborah Emes, "The New Balancing Act: Reconciling Markets and Regulation," presentation notes, May 26, 2004, available http://www.neb.gc.ca/clf-nsi/rpblctn/spchsndprsnttn/2004/nwblncngct/nwblncngct-eng.html, accessed January 20, 2010.

245 Monica Gattinger, "Alternative Dispute Resolution in Energy Regulation: Opportunities, Experiences, and Prospects," in *Canadian Energy Policy and the Struggle for Sustainable Development,* ed. G. Bruce Doern (Toronto: University of Toronto Press, 2005), 275.

and to future Board members as examples of precedent. For these reasons, market-based regulatory procedures reduced transparency and fairness for the public.[246]

The close integration of the NEB and the FTA/NAFTA has also introduced challenges to the very idea of a public interest mandate. In 1990, for example, Midland Cogeneration Venture successfully appealed and struck down the NEB's cost-benefit analysis procedures, arguing they imposed an unfair regulatory intrusion.[247] This decision led the NEB to reduce the number of economists on staff, since in-depth economic analysis of pipeline projects was no longer a public interest concern during approval hearings.[248] Companies have therefore had great power to influence the Board as to which intervenors or concerns were actual public interests. The fact that the industry and not the public is the NEB's clientele also became more obvious in the wake of the 1995 budget cuts. The NEB was forced by downsizing to restructure into streamlined firm-based teams, which made the regulatory process both less hierarchical (and thus friendlier to constant contact with business) as well as more shaped to the interests of the larger industry companies (which tended to favour the multinationals over smaller Canadian companies).[249] This reorganization process was surprisingly easy for the Board, however, due to staff losses incurred because of the move to Calgary. The loss of employees with public service backgrounds plus the influx of new employees from Calgary—most of whom came from industry backgrounds—completely changed the corporate culture of the Board in a way that further entrenched its pro-market orientation. Furthermore, a great deal of those staff who agreed to make the move returned to Ottawa or left public service altogether once their contracts expired, which moved the NEB even farther away from politics.[250] Additionally, the deregulatory environment combined with budget cuts had an even more fundamental effect on the Board's independence vis-à-vis business interests: the NEB was forced to switch to a cost-recovery basis for its funding. By the year 2000, 90% of the NEB's funds came from charges on regulated companies, which tied the Board's fiscal position directly to the well-being of industry as well as introduced biases into rule-making and enforcement.[251] This situation deepened aforementioned problems like the economic costs of denying applications on environmental grounds. Another pressure to approve additional export or pipeline licenses was the new statutory requirement to consider the proportional access clause in all disapprovals, which introduced further requirements for negative decisions. With these combined

[246] *Ibid.,* 275, 282, 283-286.
[247] Watkins, "Deregulation and the Petroleum Industry," 227.
[248] Doern and Gattinger, *Power Switch,* 103
[249] *Ibid.,* 103-104.
[250] Gray, *Forty Years in the Public Interest*, 121.
[251] Gray, *Forty Years in the Public Interest*, 82; shock 103, 106

factors structurally favouring industry in licensing decisions, it is no wonder that the 1990s were a boom for both pipeline and export approvals.[252]

Considering both the NEB and the PC government were operating on a parallel ideological track, it is no surprise that government-agency relations were extremely positive during the first part of this period. The new Chairman of the Board appointed in 1985, Roland Priddle, had participated in the dismantling of the NEP in EMR, as well as worked on the negotiation team for the Western Accord. In fact, the relationship between Priddle and the government was so positive that he would become the longest-serving Chairman of the Board, leaving in 1997 after managing the NAFTA transition.[253] This stability in leadership enabled close coordination between the Board and government deregulatory objectives. The Mulroney government used the NEB as previous governments had often done: to provide an expert, depoliticizing voice on contentious energy issues. One example of this tactic in action was the Board's new statutory requirement to monitor whether Canadian exports continued to meet the proportional access requirement of the FTA. As the government argued in the Energy Options report, the NEB would warn government if a problem were ever to arise, at which point politics could take over and negotiations begin.[254] On the other hand, the way in which government handled the Board's sudden move to Calgary was a major point of friction. Staff hardly expected such a move would take place, since the Board itself had shot down similar proposals by western MPs numerous times since the 1960s.[255] Therefore, when it was announced without warning in the February 1991 budget (due to budget secrecy, not even the Chairman received advance notice) that the Board would move to Calgary by September, few employees were prepared to do so. The government estimated that 40% of staff would need to make the trip, and after additional benefits packages and return options were presented to staff members, 39% eventually agreed to make the move. However, extremely low employee morale slowed down Board business for some time afterward. The general sentiment was inflamed by dismissive comments made by members of government that reflected its negative attitude towards government employees in general: if staff weren't dedicated enough to move wherever their employer wished, then perhaps the government was better off without them.[256] The attitudes that underlay neoliberal reforms were thus not entirely welcomed by the NEB.

As the 1990s went on, the NEB continued to deregulate within the sphere of its mandate with little direct interest from the Liberal administration. Only in

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[252] National Energy Board, *1999 Annual Report*, March 17, 2000, available http://www.one.gc.ca/clf-nsi/rpblctn/rprt/nnlrprt/1999/nnlrprt1999-eng.pdf, accessed January 20, 2010, 1, 8.
[253] National Energy Board, "Chairmen of the National Energy Board," January 27, 2010, available http://www.one.gc.ca/clf-nsi/rthnb/50yrs/chrfthntnlnrgybrd-eng.html, accessed February 15, 2010.
[254] Canada, *Energy and Canadians,* 51.
[255] Gray, *Forty Years in the Public Interest*, 119.
[256] *Ibid.,* 121.

the early 2000s, as mentioned previously, did the government attempt to reassess the viability of a pro-market approach to oil export policy. One of the motivations for doing so was to develop increased regulation of and continental cooperation on energy infrastructure security. The new interest was therefore rooted in a conception of the strategic value of oil, namely the potential threat of pipeline terrorism. The NEB was given a new role as liaison in intergovernmental energy infrastructure meetings, most of which were completely inaccessible to the public.[257] In fact, within the package of laws passed immediately after 9/11 was a provision rendering certain information on pipeline infrastructure classified for security reasons.[258] Clearly, these new roles further hampered the public accessibility and transparency of NEB decisions, this time in order to secure political and economic cooperation from the United States. The NEB was also used as a political pawn in the Kyoto ratification game. The 2002 Speech from the Throne made conspicuous reference to "smart regulation," a plan for the NEB to implement an even more incentive-based and voluntary regulatory framework, in order to temper Albertan opposition to increased environmental regulation under Kyoto.[259] In an environment where oil deregulation had become the norm, the threat of regulatory delay thus became an even more politicized concept than it had been in the 1970s; instead of being used as a bargaining chip with the United States, however, it was a peace offering to Alberta.

Conclusions and Trends

Like the 1970s, this period began with rapid changes in oil export policy. Eventually, consensus settled on a market-based, continentalist approach that fit smoothly with the type of neoliberal governing paradigm that came to dominate politics in general by the mid-1990s. Unlike during the 1970s, however, this consensus reached the stability of hegemony (and, thus, near-invisibility) by the 2000s. There were no longer "national" oil policies; instead, national environmental and trade policies (institutionalized within international agreements), operating on top of a deregulated market, formed the outline of an approach. In some ways, this phenomenon was not unlike when the export issue was interwoven with political debates like Canadianization, energy security, and regional redistribution in the 1970s. However, the deregulated and continentalist approach to oil exports was essentially a "do nothing" policy, rather than a far-reaching one; it became interwoven with other debates not because it was important, but because it had lost policy significance. Still, when government

[257] Doern, "Conclusions and Related Challenges," 314-315.
[258] Doern and Gattinger, *Power Switch,* 112.
[259] National Energy Board, *2002 Annual Report*, March 14, 2003, available http://www.one.gc.ca/clf-nsi/rpblctn/rprt/nnlrprt/2002/nnlrprt2002-eng.pdf, accessed January 20, 2010, 6-7.

makes a decision to refrain from policymaking, it is just as significant as actually making a policy—although much more difficult to study.

Again, by unraveling interconnected variables at different levels of analysis, I have attempted to come to a broader understanding of how oil policy trends shifted in favour of continentalism and non-intervention. Changes in actual regulatory practices (for example, the introduction of incentive-based environmental regulation) can be traced to ideological changes about the superiority of market-based approaches to energy security, the depoliticization of oil, and approaches to regulation that could coexist with a neoliberal governing orientation. In turn, ideological changes were both catalysts for and evidence of power shifts. Federal power was weakened through externally-imposed quasi-constitutional constraints and internal pressures from the provinces. The state itself was also complicit in the withdrawal and active limitation of the scope of its own power. This change, as well as the resurgence of the power of capital in relation to federal power, was rooted in neoliberal ideas about governance and market-based approaches to government. International power shifts also supported both the depoliticization of oil and the strengthening of American power in the continental relationship, two influences which deepened these trends within Canada. Finally, environmental pressures (for one, the dropping price of oil) spurred on these power and ideological shifts by providing a sudden shock to the fragile Canadian consensus over interventionist policies in oil of the early 1980s. The overall result was the destruction of structures that had begun to institutionalize that paradigm. Instead, those groups of forces most prepared to take advantage of the chaos advocated a neoliberal alternative, a mode of regulation that had already begun an institutionalization process as early as the NEP Update. Economic nationalist counter-forces, in contrast, were left scrambling to formulate forward-looking alternatives to the failed Liberal paradigm.

The failure of the NEP provided both a political and ideological starting point for the new neoliberal approach to energy. Beginning with the Western Accord, the PC government began a speedy process of deregulation rooted in a desire to shift more power towards both industry and the provinces over national oil policy. The rapid inculcation of this non-interventionist approach took place through its incorporation into the Canada-U.S. FTA, which intentionally institutionalized deregulation and continentalism within a framework outside of Canadian political control. Again, this was essentially an assertion of state strength in order to forcibly limit future state power; notably, it was also implemented in a way that sought to solidify consensus around the new approach and avoid confrontation and debate with counter-forces like left economic nationalists and progressive social groups. The FTA bargain also obtained guaranteed access to the American market for Canadian exports in exchange for a permanent role as supplier of energy security to the United States. The fact that this deepened instead of challenged the staples-based foundations of the Canadian economy, as well as signed away economic policy tools that could be used to mitigate the effects of the staples bias, decisively moved away from the tentative steps of the 1970s to control it. Further international agreements, as well as domestic institutional developments implemented through the NEB, thus deepened the institutionalization of the continentalist, non-interventionist approach until it became essentially hegemonic by the 2000s.

Why was this approach able to reach such a level of dominance, in contrast to the interventionist alternative of the 1970s? In short, the pieces of the puzzle—from environmental variables to regulatory processes—"evolved" together smoothly in a way that negotiated the main cleavages and contradictions of the Canadian political economy. According to Jenson's formulation of "permeable Fordism," the Canadian Fordist compromise rose and fell based on its ability to negotiate the fundamental cleavages of federalism and national identity.[260] Part of the reason this paradigm was in crisis by the 1970s was the disruption to the staples-based, continentalist regime of accumulation that had sustained the compromise. The NEP had attempted and failed to resolve the crisis by renegotiating how this regime of accumulation was interconnected to other aspects of the political and social paradigm (including federalism, in the form of redistribution, and national identity, in the form of Canadianization). On the other hand, the neoliberal approach attempted to reconstruct a viable mode of development by "unbundling" these interdependent economic, social, and political issues, and allowing the market to take a leading role. The withdrawal of the state from negotiating the barriers between the economic and the political, in favour of letting the market make a broader range of political decisions, was characteristic of the neoliberal strategy in many policy areas such as social welfare. Indeed, much of the Canadian literature from the regulation perspective focuses on this change in social welfare policies, and it is worth using some concepts from that literature to explore changes in oil export policy.

According to Brodie in her analysis of neoliberalism and gendered social policy, the aforementioned withdrawal of the state from setting barriers for the market can be understood as an "economization of the social." Neoliberalism, as a governing philosophy, stresses the primacy of market logics as being the best arbiter for state decisions, meaning that areas previously understood as "social" or "political" are actually best served by market-based principles.[261] Thus the shift in the societal paradigm was not just a result of the power of capital, but is a deeper ideological shift related to the roles capital ought to play in an ideal society. I argued previously that an uneasy consensus formed around government intervention in oil in the previous period, based upon the idea that some Canadianization could create political stability and thus was beneficial in the end to industry. Fundamentally, it is economic stability in terms of making a profit that matters to capital, rather than the ideological content of a stable mode of regulation. Indeed, the advent of neoliberalism created its own economic

[260] Jane Jenson, "All The World's a Stage: Ideas, Spaces, and Times in Canadian Political Economy." *Studies in Political Economy* 36 (1991): 63.

[261] Janine Brodie, "Putting Gender Back In: Women and Social Policy Reform in Canada," in *Critical Policy Studies,* eds. Michael Orsini and Miriam Smith (Vancouver: UBC Press, 2007), 170.

instabilities, including the rationalizations in the oil industry in 1986 that made some companies demand to be re-regulated. I also argued that, fundamentally, a staples-based economy must have some kind of regulation to prevent it from going off the rails altogether. Regulation during this period did not cease to exist, but was instituted in a manner that supported neoliberal ideological goals rather than interventionist or social ones. As the boundaries between states, markets, and the social were shifted in this way, the scope of challenges that could be raised from a political or social perspective against the market was foreshortened. In both oil export policy, and Canadian governance in general, the hegemony of this approach thus developed because ideologically consistent solutions to contradictions were found and implemented in order to support this mode of development.

Major points of conflict and cleavage—not only federalism and national identity, but also continentalism and staples dependence—appeared to be successfully resolvable within this paradigm of regulation. One of the most successful tools employed in oil policy to this effect was the retrenchment of federal power, which was the simplest way of negotiating contradiction and overlap. Based upon the failure of government intervention to achieve both energy security and economic-social goals like wealth redistribution, for example, the argument could be made that energy security was best guaranteed from a market perspective. From this viewpoint, retrenchment was the only way to ensure operation of a market-based security solution since any interference from government risked jeopardizing the effectiveness of the whole process. One immediate contradiction—namely the willingness of the government to relinquish power in the form of devolution and international agreements—was therefore justified for the benefits it would provide to the institutionalization of a market system in oil. Federal-provincial issues were also solved through the devolution of powers to provinces. The fact that economic devolution was the simplest solution to these issues as well paved a path for future retrenchment on the provincial level (fuelled, of course, by provinces like Alberta and Ontario that had already embraced the neoliberal trend). International agreements, as I have argued, were another combination of federal retrenchment and provincial devolution—one that Quebec in particular was happy with. The acceptance of this paradigm as a solution to federal unity conflicts began at an elite level and was not necessarily embraced by the public, as was evidenced by national rejection of Mulroney's constitutional reforms and eventually his entire government in 1993. However, the Liberals' success at holding Canada together during the 1995 referendum, and the major defeat to Quebec separatism this represented, was a major milestone in putting these concerns to rest. From a regulation theory perspective, this is a good example of the "blind co-evolution" of regimes that develop hegemony. The combination of the passage of NAFTA, the resolution of tensions after the referendum, and the acceptance of the 1995 austerity budget fit together as mutually-supporting pieces by the mid-1990s in order to resolve tensions within federalism.

National identity was also consciously politically separated from economic issues in a way that made contradictions effectively disappear. Returning to the previous chapter, I argued that Canadianization programs were publicly popular because they challenged overt continentalism, which was one of the most visible ways in which Canada was subject to the mercy of a staples-based economy, in a way linked to national identity. However, Canadianization failed on a macro level because it deepened economic dependence, as well as the interconnection of identity and redistributive issues with that dependence, upon staples. The privatization of Crown corporations, which was one of the PC government's strongest goals, thus had significant symbolic and power implications in this regard. The policy strongly indicated that economic nationalism was too complex a concept for government to endorse without contradiction, as well as demonstrated that national identity and continentalism belonged to different domains. Supporting privatization was the idea that inwardly-directed national economic policies like the NEP, which linked identity with economy, were actually pernicious to economic outcomes. This argument was tied to the "inevitability" of an increasingly globalized market, a development that was circularly constituted through international agreements like the FTA. The attempt to find acceptance for a "pro-business" Canadian nationalism, which would support Canadian competitiveness in the global economy, can also be seen as attempt to resolve national identity within a neoliberal societal paradigm. Such a form of nationalism would be viable if there were no structural biases at work in the Canadian economy; after all, this kind of orientation had worked well for the United States, as Bob Blair had personally admitted when explicating the basis of his nationalist philosophy.[262] The neoliberal orientation to national identity was thus a major step backward from the NEP, which had tentatively recognized the staples bias and sought to counter American economic dependency. Instead, it argued that identity could not be tied to economic nationalism by governments, and that the Canadian economy was not subject to power imbalances necessitating a nationalist approach. Essentially, it resolved these problems by painting over the overlap of identity issues with the economic policy domain. This approach, however, was again possible due to its consistency within the overall mode of development. Because market decisions were fundamentally understood as individual decisions, state policies reflected a pro-individual as well as a pro-market bias.[263] In practice, this meant an apparent incompatibility between collective understanding of politics, such as national identity, and economic policies.

The denial of structural economic imbalances just described also had implications for the staples bias of the Canadian economy. In the previous chapter, I discussed how the staples bias could have effects within the social and political domain based in regional development and labour issues. Oil, like many of Canada's natural resources, is distributed unevenly across the country,

[262] Bregha, *Bob Blair's Pipeline,* 12-13.
[263] Brodie, "Putting Gender Back In," 179.

especially related to the supply of labour; the oil industry is also unevenly dependent upon labour, since exploration and construction are more labour-intensive than oil production. Resource-dependent labour is thus uniquely vulnerable to changes in labour demand based on region or season, as well as being subject to a boom-and-bust economy that destabilizes resource employment. From a neoliberal perspective, however, labour markets are most efficient when supply and demand rather than social concerns dictate when and how people work. The social implications of such an understanding of labour have made poverty and employment policies one of the most studied subjects in the Canadian regulation theory literature. The neoliberal understanding of poverty, for example, is of a short-term and individual status that workers enter and exit based upon their own circumstances.[264] Not only does this perspective discount the influence of social structures of disadvantage upon poverty (like gender and race, for example), but it disregards economic structures such as the staples bias. Canadian economic history is full of labour displacements due to declining and ascending staples: Newfoundlanders who have abandoned the fishery staple for jobs in the tar sands or offshore oil platforms are one contemporary example. The fact that such a harsh understanding of labour policy was undesirable to most Canadians was the impetus for the social investment strategy in welfare policy. Despite the fact that it continued to perpetuate the staples bias in labour (the best investment from a market perspective in a staples-biased economy will typically fuel further reliance on staples labour; grants to education in the construction trades fuelled by overheated construction of projects in the tar sands is such an unsustainable example), social investment is yet another example of how policies were able to evolve within the neoliberal paradigm to resolve potentially destabilizing political contradictions.

I argue that these different pieces of the overall political puzzle fit together without major contradictions because they took advantage of engrained characteristics of the Canadian staples economy upon which previous Canadian compromises had been founded. The answer to Canada's economic troubles was to stop trying to resist these structural forces, since doing so created economic distortions that took away from these "natural" economic advantages, and instead embrace them as fully as political will could allow. The embrace of continentalism within this paradigm, for example, acted to glue together the entire approach by undermining the basis of so many problematic political-economic contradictions. Continentalism provided an antidote to tensions within federalism, and encouraged new market-based conceptions of identity. Furthermore, once liberated from the baggage of economic nationalist objections, continentalism provided an ideal way to encourage Canada's competitive advantage in staples exports in order to maximize economic growth. However, this path of least resistance ignored the potential to perpetuate the power of American-dominated capital over Canadian resource industries, or of the pernicious effects of the staples bias on Canadian labour and economic

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[264] *Ibid.*

sovereignty. In the process of developing hegemony, the paradigm was self-perpetuating and deepening, which has strengthened these major structural biases of the Canadian economy. Obviously, this was not even simply just a process of blind evolution: state power was used to attempt to encourage the new paradigm along through institutionalization. In sum, the combination of structural compatibility, evolved hegemony, and the active role of the state made the neoliberal paradigm dominant by the 2000s.

Chapter 5: Conclusions and Future Directions

In this thesis, I have attempted to analyze how and why Canadian oil export policies from 1949-2002 have evolved to be more or less interventionist and continentalist. I have argued that analyzing changes in power relationships rooted in fundamental Canadian economic biases of staples dependence is a good method of explaining this evolution. I have also explained how environmental, ideological, and institutional factors have contributed to and exemplified shifts in these power relationships over time. Finally, I have argued that the fundamental structural determinants of these power shifts have been the staples bias of the Canadian economy and the interdependent continentalist bias. Politically, the staples and continentalist biases represent significant points of cleavage in the Canadian political economy, similar to engrained social-economic cleavages like federalism and national identity. The negotiation of these interrelated cleavages, and the extent to which cross-pressures and power conflicts between them can be resolved successfully, have been two major predicates for successful paradigms in Canadian oil policy. Like federalism and national identity, the staples and continentalist biases are of such deep importance to the Canadian political economy that they have had repercussive effects upon the Canadian societal paradigm and mode of regulation, making them highly relevant to regulation theory analyses. Not only is the staples bias a major constituent of "permeability" or continentalism within the regulation analysis, but it is a significant causal variable in its own right. I have argued that staples dependence can have significant power implications for a number of social-political analyses that are central to regulation theory such as labour-capital relations.

In the first period of Canadian oil policy, "new" policies that were developed to manage the growth of an emerging staples industry reflected existing patterns of structural bias. Such policies arose given the relative dominance of foreign staples capital over the state, and thus actively perpetuated and institutionalized both staples dependence and continentalism. They were also a harmonious part of the Canadian Fordist compromise, the stability of which was rooted in a growing staples-led mode of accumulation. In turn, this mode of accumulation supported a cohesive societal paradigm based upon the state's role in mediating identity, labour, and regional development issues. Overall, while the Canadian government maintained a "non-interventionist" orientation to the oil market, it did engage in a form of regulation that managed the potentially pernicious effects of the staples bias (such as economic instability) in a manner consistent with the overall paradigm.

However, the hegemony of this paradigm began to fragment during the 1970s; in oil policy, the catalyst for change was the 1973 oil price crisis and related international power changes. Hegemonic conceptions of federalism and national identity were also challenged by the emergence of greater provincial voice, new collective identities and counter-hegemonic forces, and the rise of Quebec separatism. Based upon power shifts rooted in these crises, the state acted to institutionalize a more interventionist and less continentalist form of oil export policy. More broadly, these policies were part of a new paradigm that attempted to resolve interrelated cleavages of the Canadian political economy by challenging their foundations. In oil policy, Petro-Canada exemplified the complexity of this approach: it combated the power of foreign capital over Canadian resources, attempted to develop energy security for the Canadian market in defiance of the export economy, publicly linked Canadian resources with national goals (including a challenge to Quebec separatism), and provided a financial and information power resource that increased state capacity to act.

However, while I have argued that this interventionist paradigm was on the path to acceptance, it was defeated by a combination of world events that again changed the power implications of oil and crashed world prices. The weakness of the approach was thus rooted in its reliance upon the staples basis of the Canadian economy for its transformative power. In its place emerged a more continentalist, hands-off approach to management of the oil market that on the surface seemed to repeat earlier patterns from the 1960s. This approach attempted to resolve major structural contradictions, however, by shifting the borders of state regulatory power in favour of a wider role for the market sphere and greater isolation of social and political issues from the market domain. Oil policy issues were subsumed into a general neoliberal economic policy, which favoured the operation of those existing structural biases in the Canadian economy that characterize its "natural" market. The active retrenchment of state power through devolution to the provinces, budget cutting, quasi-constitutional international trade agreements, and shifts in the Canada-US power relationship effectively institutionalized these changes. Furthermore, the combination of state retrenchment and a powerful neoliberal ideology muted counter-hegemonic forces by foreshortening the spaces for political action (including, for example, actively tying alternative proposals to the failures of the previous paradigm). By limiting room for social concerns as the basis for political action to control markets, the links between federalism, national identity, and economic policy were seemingly broken down and rendered unproblematic to the new hegemony. As I have argued, this does not mean that all regulation ceased to exist. New forms of regulation, such as environment, health and safety, and international investment agreements, became a horizontal system of regulation that could be implemented in a manner consistent with the neoliberal paradigm.

While the neoliberal approach to oil export policy may have been hegemonic through the early 2000s, cracks in the consistency of the paradigm (in terms of its ability to negotiate fundamental contradictions) have become more obvious by 2010. Some of these inconsistencies were already starting to fester in the latter years of the Chrétien government—for example, the ratification of Kyoto in 2002 despite the lack of a federal plan to accommodate Albertan discontent, or to reconcile emissions cuts with higher oil prices and the growing profitability of increasing oil exports. The Martin government continued to deepen support for increased continentalism in the form of "deep integration" initiatives, including the formation of the Security and Prosperity Partnership with the United States and Mexico as an elite forum for the development of a North American security parameter and greater economic integration. The link between American energy security, Canadian oil exports, and national identity was a matter of concern for left economic nationalists, who raised a critique of the SPP and the threat it proposed to both democratic transparency and an independent Canada in general.[1] The fact that the Liberals' minority government rested upon the support of the NDP, but failed to appreciably swing to the left as the Trudeau minority had during the early 1970s, was an indication of the inflexibility of the neoliberal continentalist paradigm to hear such concerns.[2] The Martin government also attempted and failed to return to a more interventionist regulatory approach in the form of the Kyoto implementation strategy it had inherited from Chrétien. Industry pressure—such as Canadian Natural Resources Limited's threat to delay a planned $8.5 billion dollar tar sands project—had previously forced Chrétien to promise industry that Kyoto targets would not hurt the industry's "competitive export position."[3] Martin promised in the 2004 Throne Speech that his implementation of Kyoto would be national but "equitable," which immediately raised questions of provincial and regional redistribution, competitive advantage with the United States, and the preference of "clean" staples and energy industries at the expense of "dirty" ones.[4] It became increasingly obvious that continentalism, staples, federalism, and national identity issues were coming into greater conflict as a result of the shift towards environmental and continental regulation strategies under neoliberalism.

The difficulty in reconciling these key cleavages within a neoliberal paradigm would continue to mount following the 2006 election of a minority Conservative government under Prime Minister Stephen Harper. Despite its overt commitment to the further entrenchment of neoliberal governing principles, major fractures started to arise following the first year of the new government in office. For example, its decision to develop a "made-in-Canada" carbon emissions plan in lieu of meeting Kyoto targets demonstrated an inability to resolve federalist and national identity concerns through environmental policy. Alberta remained

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[1] Michael Hart and Brian Tomlin, "The Emerging Policy Shift in Canada-US Relations," in *How Ottawa Spends 2004-2005: Mandate Change in the Paul Martin Era*, ed. G. Bruce Doern (Montreal: McGill-Queen's University Press, 2004), 55.

[2] G. Bruce Doern, "Martin in Power: From Coronation to Contest," in *How Ottawa Spends 2004-2005: Mandate Change in the Paul Martin Era*, ed. G. Bruce Doern (Montreal: McGill-Queen's University Press, 2004), 15.

[3] Douglas Macdonald, Debora VanNijnatten, and Andrew Bjorn, "Implementing Kyoto: When Spending is Not Enough," in *How Ottawa Spends 2004-2005: Mandate Change in the Paul Martin Era*, ed. G. Bruce Doern (Montreal: McGill-Queen's University Press, 2004), 187.

[4] *Ibid.,* 176.

suspicious that Ottawa would attempt to harm its resource export economic base during the implementation of a national environmental strategy, especially through a financial grab at Alberta's windfall oil and gas revenues. Quebec, on the other hand, became increasingly frustrated with the lack of strong federal action on the climate issue and announced it would implement Kyoto targets regardless of the Conservatives' plan.[5] The inability to find a middle ground between provincial opinions on environment and energy also began to affect issues of energy continentalism. The Conservative government pursued an explicitly market-based and continentalist energy policy that operated in lockstep with American demands for a secure and deregulated energy supply.[6] At the root of this policy was an attempt to position Canada as a 21st century "energy superpower" on the world stage.[7] However, the immediate willingness to follow an export-oriented policy without expanding into other markets, significantly funding alternative energy research, or paying heed to international pro-environment trends has led to overt criticism of the "superpower" ambitions of an obviously dependent energy satellite of the United States. Reports from both other negotiation teams at the U.N. Copenhagen climate conference of 2009 and international journalists provided an extremely negative assessment of this position: Canadian preoccupation with protecting tar sands exports, and resulting uncooperativeness in climate talks, had harmed Canada's international reputation as well as showed a clear move away from its traditional and respected "independent" diplomatic role.[8] Notably, this approach was not just a reflection of the Conservative government position, but had developed across the neoliberal period as a whole. Observers argued this uncooperative trend had begun with the Chrétien Liberals' tactic of negotiating for loopholes at Kyoto conferences in order to allow Canada to meet reduction requirements without harming competitiveness in oil exports.[9] The fact that the United States itself is no longer opposed in principle to Kyoto reductions has further highlighted the contradictory foundations of a continentalist approach to climate.

The "energy superpower" approach is dangerously ignorant of the real power relationships mediated by Canadian continental and staples dependency; it reflects a problematic tactic of pushing aside political and social tension in the economic sphere as a tactic for dismissing its relevance. I argue that this neoliberal approach to management of oil export policy needs to be challenged in order to resolve such tensions instead of ignoring them and their deleterious effects on social and political life. Instead, an interventionist paradigm that also

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[5] Peter Graefe and Rachel Laforest, "La Grande Seduction: Wooing Quebec," in *How Ottawa Spends 2007-2008: The Harper Conservatives – Climate of Change,* ed. G. Bruce Doern (Montreal: McGill-Queen's University Press, 2007), 57.
[6] *Ibid.,* 156.
[7] *Ibid.,* 156-157.
[8] Jonathon Gatehouse, "Suddenly the world hates Canada," *Macleans*, December 15, 2009, available http://www2.macleans.ca/2009/12/15/suddenly-the-world-hates-canada/, accessed March 8, 2010.
[9] *Ibid.*

attempts to challenge the engrained biases of the Canadian economy in favour of developing greater economic and political sovereignty would be the best option. As I have documented in this thesis, the ways in which successive modes of development have perpetuated both continentalism and staples dependence have served to deepen the distortionary effects of these biases on the economy at large, as well as upon the political and social spheres with which the market is irreversibly interconnected. History has also demonstrated that the inflammation of political-economic crises linking federalism, national identity, staples dependence, and continentalism can catalyze major power struggles over Canadian oil policy. External influences, such as a spike or drop in the price of oil, combined with international power shifts have in the past combined with internal Canadian cleavages to provoke decisive changes to oil export policies. While it remains too early to pass judgment, the worldwide economic crisis combined with the election of President Barack Obama in the United States are a series of external events that have potentially weakened the relative power of the United States in relation to Canada. International environmental pressures, such as the aforementioned international criticism of Canada's lack of commitment to carbon reductions, could also play an external catalyst role. Previous paradigms have risen and fallen based upon similar international power shifts: the NEP was made possible by a politicized global oil market as well as weakened American power, while its failure was rooted in American criticism and political pressure as well as the collapse of worldwide oil prices.

Throughout my thesis, I have also argued that the mediation of external influences within Canada depends upon internal power relationships—for example, the capacity and willingness of the state to act, the power of counter-hegemonic forces and their balance with the power of capital, the ascendance of different ideas, and the ability to overcome institutional inertia. The ability of any alternative paradigm to negotiate these cleavages will be crucial to its success. Although suggesting the mechanics of such alternatives is well beyond the scope of this thesis, I want to use one potential avenue of change to exemplify how my conclusions fit together with my critique. To return to an example I have used throughout this thesis as an example of the social-economic implications of the staples bias, I argue that labour is a potential key to forming a transformative project that can challenge both the staples bias and continentalism in a way that is consistent with the mediation of federal and identity differences.

Countering continentalism, as the example of the NEP showed, is in practice an easier starting point for change than attempting to challenge the staples bias, typically because continentalism is a more publicly visible bias in the Canadian economy. The institutionalization of constitutionalization in visible contracts such as the NAFTA is thus an obvious starting point. Cross party anti-NAFTA sentiment has been on the rise in the United States due to its perceived influence upon a lack of jobs available to American workers, meaning that Canada's exit from the agreement could be much more politically viable than in the previous decade.[10] Considering that Canadian unions made up an important part of the mobilization against the FTA and NAFTA, they retain the resources and expertise for getting involved in such a debate. Another possibility would be to elect a government with the support of labour to oversee Canada's economic recovery.[11] The relative economic stability Canada has been enjoying versus the rest of the world—based on historically strong bank and investment regulation—could provide the political basis for the development of Crown corporations to oversee economic diversification programs or the introduction of Canadianization plans in technological industries. Despite Canada's fortunate economic position, Canadian energy firms have engaged in downsizing that could also become a catalyst for labour mobilization. The recent merger between Petro-Canada and Suncor to create a Canadian energy major is one such example that could provide a linkage point between labour, energy, and challenging continentalism.

In June 2009 the "biggest deal in Canadian oil patch history" was announced when Petro-Canada and Suncor shareholders approved a merger that would create one of the highest worth publicly-traded companies in Canada. Suncor chairman John Ferguson described the new entity, which retained the Suncor name, as a Canadian champion in a foreign-dominated industry.[12] However, the business decisions of the new Suncor have reflected the weakness of such "private nationalism" as I have discussed it in this thesis: while staples companies may be Canadian-owned, they are no less devoted to promoting staples-based continentalism than a foreign owned major (and are often even more so). For example, the new company emphasized it would focus on homegrown tar sands projects and liquidate most international holdings. This is an obvious contradiction to the neoliberal nationalist ideology that Canadian business are ready and willing to succeed on the international market just like multinationals of any other country. Such a business decision, however, made profit sense because of the continentalist bias in favour of increasing export volumes and a political environment that holds that promotion of staples development (even at the cost of relinquishing increased royalty revenues or

[10] Sheldon Alberts, "Protectionism on rise again as anti-NAFTA bill introduced," *Edmonton Journal*, March 10, 2010, available http://www.edmontonjournal.com/business/Protectionism+rise+again+anti+NAFTA+bill+introduced/2665244/story.html, accessed March 10, 2010.

[11] Considering this in itself would represent a break with the staples-based brokerage party politics that formed the political structure of Canadian permeable Fordism (according to Jenson) such a step would likely be revolutionary within itself as a fundamental challenge to staples dependence. The unencouraging fact that that the NDP chose to back down upon its anti-FTA position as well as turn its back on labour at the precise time when it had the best chance of winning power during the free trade election reflected the enduring effects of the brokerage institution on left politics. However, Canadian brokerage parties as a hegemonic construct have themselves been challenged within the neoliberal period, potentially meaning that their reconstruction could provide a basis of stability for a post-neoliberal paradigm.

[12] Shaun Polczer, "'Historic' day in the oilpatch," *Edmonton Journal*, June 5, 2009, A4.

government control of resources) is uniformly good. In other words, the biased Canadian economic and political environment has led to the deepening of existing staples-based continentalism cast as competitive advantage; the best way to make profit during a downturn is to retreat further into this competitive advantage. The Suncor merger thus presents a contemporary example of the staples trap at work even in the largest of Canadian companies.

Suncor's single-minded focus on the tar sands led to successive announcements by the company in September 2009 and January 2010 each slashing 1000 jobs.[13] Many of these jobs came from the natural gas sector, within which Suncor has sold off many of its assets.[14] For labour, the immediate implication of this merger is greater job instability, especially as Canadian gas production shifts into new provinces like BC and new extraction techniques like shale gas. Instead, Canadian oil production is becoming increasingly tar sands specialized, creating further instability due to uneven labour requirements within construction and production phases. Furthermore, the new Suncor has no plans to upgrade bitumen from its new planned expansions within Canada, but will continue to export raw bitumen to the United States for upgrading and refining. Such exports have recently reached the highest volumes ever since the U.S. Department of Energy began keeping track in 1973.[15] The combination of job losses, staples-based labour instability, and the export of refining jobs might provide a basis for labour mobilization and raising awareness of continentalist and staples issues; it might even contribute to a resurgence of support for public enterprise in energy, to fill gaps such as refinery capacity that the new Canadian private major is unwilling to fill. Historically, heightened public awareness of energy issues was critical to the introduction of the NEP after the 1981 energy election, the significance of the Berger inquiry, and the success of Petro-Canada.

The multinationals, on the other hand, have already begun a search for other markets for Canadian exports. Shell, for example, has criticized the federal government for failing to promote Canadian oil exports to China and instead relying upon deepening North American trade.[16] Notably, the increasingly lucrative Asian market has contributed to greater Canadian oil exports to the United States, as Saudi Arabia has moved to take advantage of a more profitable market than the United States can offer in a time of economic downturn.[17] The fact that foreign capital—even staples capital—and not government is leading the way on trade diversification is concerning and reflects a clear opportunity for

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[13] Shaun Polczer, "Merger eliminates 1,000 jobs at Suncor," *Edmonton Journal*, September 4, 2009, E1; Dan Healing, "Suncor to lay off 1,000 more," *Edmonton Journal*, January 13, 2010, F1.

[14] Dan Healing, "Suncor to slash gas assets," *Edmonton Journal,* September 16, 2009, F1.

[15] Gil McGowan, "Bitumen upgrading likely will never be a big employer in Alberta," *Edmonton Journal*, July 28, 2009, A14; Lisa Schmidt, "Oil exports to U.S. to set record," *Edmonton Journal*, September 30, 2009, F1.

[16] Dina O'Meara, "Shell urges oilsands support," *Edmonton Journal*, September 12, 2009, E1.

[17] Schmidt, "Oil exports to U.S. to set record."

government to intervene. Part of this situation reflects planning capacity; as has been evidenced since the beginning of market organization reflected in the NOP, the major oil companies have operated for decades on a long-term planning basis and benefit from greater data and forecasting resources than governments. A state-owned energy enterprise, based upon developing resources for the benefit of Canadians, could again be used to correct the government information deficit and establish links with other producer and consumer governments useful in order to diversify Canadian energy trade. The majors are also engaged in long-term planning based upon the deepening of international climate regulation and consumer preferences for environmentally-friendly energy. A state-owned enterprise might provide a central mechanism for resolving Canadian energy and environmental policy through serious investment in alternative energy technologies and emissions reduction technologies.

Of course, one potential pitfall of state energy enterprise is the potential for its goals to be accomplished through excessive reliance upon (and therefore deepening of) the staples bias, as Petro-Canada did in order to survive in a declining price environment. Indeed, much of the reason why challenging the staples bias is so difficult is that so many major Canadian companies depend upon staples extraction; staples and related industries are the main sources of employment for many Canadian workers and voters. Furthermore, the linkage effects of the staples bias tie many other jobs—from luxury items to food service to car dealerships—to the spread effects of extractive industries, making them subject to the same boom-and-bust instabilities as well. Examples of government interventions that have had deepening effects on economic biases litter the history of intervention in the Canadian oil sector: diversification megaprojects like the tar sands, for example, ended up as feeders of export product to the United States that are now the root of increased continentalism today. The Lougheed government in Alberta made a decisive attempt to diversify the Albertan economy, through the use of oil revenues to promote a variety of industries from cellular technology to petrochemicals, over the late 1970s-1980s. However, many of these projects remained dependent upon the original extractive industry or linkages from it and failed as a result. Petrochemicals is an obvious example due to its inherent reliance on fossil fuel feedstocks. A more complex example was the acquisition and failure of Pacific Western Airlines; demand for expensive services and travel is problematically elastic in a boom-and-bust economy. It is unavoidable that diversification of energy staples begins with energy-related projects, but one key to avoiding the pitfalls of economic bias might be to ensure that projects are truly national in scope and thus distribute costs and benefits across a variety of provincial economies. Government-owned energy megaprojects in the form of wind and solar power facilities, or alternative vehicle development, could take advantage of pockets of expertise across Canada. A national electricity market could link these projects and attempt to create an east-west flow of energy in defiance of continentalism. While electricity exports to the United States might continue, they could be strongly regulated on an "exportable surplus" basis based upon demand in the national energy market. This export regulation could provide a stepping-stone to re-regulation of other energy exports.

The dilemma over how to balance provincial demands, international environmental policies, and economic dependency upon extractive industries is another problem interrelated with labour issues. Alberta and Saskatchewan are focusing on tar sands development as the future anchor of their provincial economies, even though such production is manifestly environmentally harmful and energy intensive. British Columbia benefits from its access to clean hydro power, but is also becoming a major player in the national natural gas industry; the environmental effects of sour gas drilling have recently spurred a pipeline bombing controversy. Quebec is in a similar situation with respect to its established hydro capacity and the development of newly-discovered shale gas reserves.[18] Along with Quebec, Ontario relies on clean hydro power but is also heavily involved in refining and auto manufacturing industries related to staples production. As these few examples illustrate, the provinces have different stakes in environmental-staples issues; at the same time, jurisdiction over environmental issues remains uncomfortably shared between the federal government and the provinces. Challenging the staples bias must be linked to environmental reform, but likewise environmental policy is mired in the same divisive biases as oil issues. This interrelated conflict is the reason that labour unions and environmental groups can often be at odds; as an example, the NDP has in the past been divided between its environmental and labour goals (such as in the Mackenzie Pipeline debate).

Building more refineries in Canada instead of pipelining unrefined bitumen en masse to the United States may be one way of developing Canadian value-added manufacturing jobs and challenging continentalism. It is hardly an environmentally friendly solution, however, and it does not break the linkage with staples dependency. However, the campaign against raw export pipelines is an example of where unions and environmentalists can work together to challenge continentalism and staples dependency on some level. Not only have recent export pipeline approvals like Enbridge's Alberta Clipper deepened continentalism and threatened Canadian refinery development, but they have attracted significant criticism from environmental groups within both Canada and the United States.[19] Unions and environmental groups can find grounds for cooperation on such issues through joint NEB intervention or through court challenges to NEB approval decisions. Such an intervention and subsequent challenge was brought against the Keystone Pipeline, a similar bitumen export line sought by TransCanada, by the Communications, Energy and Paperworkers

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[18] Nathan VanderKlippe, "Quebec shale gas find could redraw Canada's energy map," *The Globe and Mail,* February 23, 2010, available http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/quebec-shale-gas-find-could-redraw-canadas-energy-map/article1478900/, accessed March 10, 2010.

[19] Lisa Schmidt, "Cross-border pipeline earns U.S. approval," *Edmonton Journal*, August 21, 2009, A1.

Union of Canada in an attempt to argue that public interest concerns needed to be wider in scope. The CEB argued that the NEB was negligent in considering environmental and social impacts of the pipeline, in addition to severely constraining its definition of energy security and failing to consider job creation and manufacturing potential as significant economic variables.[20] American environmental groups and landowners similarly mounted a court challenge to the American approval of the pipeline.[21] The possibility for export pipelines to be blocked by cooperation from both Canadian and American interested groups might be one way of challenging continental dependency from an unlikely angle. Unfortunately, the fact that public interest intervention in both Canada and the United States through institutional channels failed to make a difference in the Keystone example suggests this may be a difficult prospect.

Labour also represents a point where differences within federalism related to staples exports and continentalism could be resolved. The Alberta Federation of Labour has maintained an advocacy position against the export of upgrading and refining jobs from Alberta due to government policies that have supported unchecked construction of export pipelines.[22] The AFL's argument that ideological free-market policies pursued to an extreme have harmed the Albertan economy reflects how unions have been active in an overall critique of neoliberal policies, especially in Alberta where public sector unions led opposition on the social policy front. Although division exists within the union movement—the splits between major unions on the FTA being a notable historical example—the possibility of cooperation between workers in energy and in other sectors is one way of broadening public awareness of economic development issues. In recognizing the dependence of their jobs upon the linkages of staples development, other sectors could increase the pressure on government to implement state enterprise programs to diversify and Canadianize the economy.

Finally, building upon how labour is an intersection point between stables dependency as an economic bias and labour relations as a social matter, I want to suggest some further avenues of research based upon the formulation of Canadian regulation theory I have developed in this thesis. I have mentioned the role of public sector unions in formulating a critique of neoliberal social policies that might be relevant to a critique of economic dependency. Further study of the social implications of the staples bias could provide a picture of what kinds of social policy would best support the transition to a less staples-based economy. The intersectionality approach to political economy, which investigates how multiple structural biases or disadvantages converge to affect the role of actors, is one very interesting possibility in this regard. Specific social groups may be

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[20] Dave Coles, "Transcanada Keystone Pipeline GP LTD., Keystone Pipeline Application: Written Direct Evidence of Witnesses for Communications, Energy and Paperworkers Union of Canada (CEP)," available https://www.neb-one.gc.ca/ll-eng/livelink.exe?func=ll&objId=463395&objAction=Open, accessed March 5, 2010.

[21] Dina O'Meara, "Court dismisses challenge to Keystone pipeline," *Calgary Herald*, October 1, 2009, D4.

[22] Gil McGowan, "Bitumen upgrading likely will never be a big employer in Alberta."

subject to multiplied disadvantage in a staples-based economy—for example, women working in prostitution operations in Fort McMurray, aboriginal bands dependent upon relinquishing land rights to exploration companies for funds, or foreign workers flown in as unregulated construction labourers at development sites. Perhaps the combination of an intersectionality approach with an economic nationalist approach to Canadian political economy and a staples-based regulation theory could break down one of the main criticisms of the left nationalist project within Canada as a source of identity: its lack of diversity. A formulation of national identity that welcomes an increasingly foreign-born workforce while supporting an economic nationalist and interventionist program will be necessary if the challenge to the neoliberal paradigm is to succeed.

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