

Carbon Pricing in a Federal State: The Case of Canada

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INTRODUCTION

As of January 2020, Canada has broad-based emissions pricing in place across the country. The most interesting part of this implementation is the lack of uniformity, both in terms of policy design and policy implementation. The policy design differences include: one province with a broad-based carbon tax; two provinces with a cap and trade system; the remaining provinces and territories have a hybrid carbon tax plus large-emitters' output-based subsidy system; and numerous province-specific exemptions. The implementation differences are: six provinces and one territory designed and adopted their policies voluntarily; two territories adopted the federal policy voluntarily; one province had part voluntary adoption and part federally-imposed policy; and three provinces had the federal policy fully imposed.

The differences in policy design and implementation stem from Canada's institutions and recent political changes. The *Constitution Act, 1867* articulates the powers held by the federal government and provincial and territorial governments, and where there is shared jurisdiction. Residual power resides with the federal government (Brouillet 2017). While Canada typically operates under principles of cooperative federalism (Glover 2016), regional tensions frequently arise. Common sources of tension are federal-provincial/territorial disputes over areas of shared jurisdiction, over the relative importance (economic and political) of each order of government in Confederation, and over fiscal federalism.

The Constitution is silent on the environment, making it nominally federal but in practice an area of shared jurisdiction, in part due to clarifying Supreme Court of Canada decisions (Government of Canada n.d.-k). As a result, environmental policies are often contentious and political. Carbon pricing, while not initially a source of discord, has become so recently. Despite signing the Kyoto Protocol in 1997, the federal approach to emissions was sector-by-sector regulation (Hoberg 2016). Leadership came from provincial action, until a federal political change in 2015. Provincial leadership created the space for the federal government to push concerted pan-Canadian emissions pricing, with federal policy as a backstop.

While political change at the federal level enabled concerted and coordinated emissions pricing, subsequent political change in several provinces weakened the coalition of the willing and undermined the feasibility of pan-Canadian carbon pricing. The remainder of this paper outlines the evolution of emissions pricing and the political changes that led to implementation and political retreat from emission pricing, then comments on the lessons from the Canadian experience.

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THE EVOLUTION OF EMISSIONS PRICING IN CANADA

Canada signed the Kyoto Protocol in 1997, committing to a six percent reduction in emissions by 2012, relative to a 1990 baseline (Canada 2007). Despite this commitment, and signing the Copenhagen Accord in 2009, federal policy was slow-moving and focused on sector-by sector regulation (Hoberg 2016).¹ Table 1 outlines milestones in Canadian emissions pricing policy. Policy leadership on this file came from provinces: in 2007, Alberta was the first jurisdiction --- in Canada and North America --- to implement emissions pricing when it introduced a performance-based standard with a compliance charge for facilities with annual emissions greater than 100,000 tonnes of CO₂-equivalent (CO₂e). While a significant and important move, Alberta's climate policy goals still fell short of Kyoto Protocol commitments (Government of Alberta 2008). British Columbia followed in 2008 with a broad-based carbon tax on combustion emissions, which enjoyed broad support, in part due to its low initial tax rate (\$10 CAD per tonne of CO₂e) and revenue-neutrality.

In conjunction with several US states, provinces created the Western Climate Initiative (WCI) to support development of emissions trading programs (Western Climate Initiative 2007). This international cooperative approach allowed for policy transfer and led to some policy convergence (Boyd 2017). Membership in the WCI led Quebec to implement its cap and trade program in 2013, and link with California in 2014.

The year 2015 had two significant political² events, which changed the calculus of environmental policy in Canada. First, the election of the centre-left New Democratic Party (NDP) in Alberta in May 2015 ended almost 45 years of centre-right governance. Almost immediately after forming government, the NDP announced an expert panel tasked with developing a new climate change strategy for Alberta (Government of Alberta n.d.-d). In November 2015, the panel released its report and the government announced its ambitious Climate Leadership Plan, which would implement a carbon tax on households and small emitters, cap oil sands emissions, phase out coal-fired electricity generation, and migrate the large-emitter system to output-based pricing. The Climate Leadership Plan was a major policy shift in Alberta, the largest source of emissions in Canada (38 percent in 2015) and the largest source of industrial emissions (Environment and Climate Change Canada 2019). With Alberta's Climate Leadership Plan, three major provinces -- in terms of economic size (74 percent of Canada's GDP in 2015 (Statistics Canada n.d.) and emissions (71 percent in 2015 (Environment and Climate Change Canada 2019) --- had broad-based emissions pricing in place or planned.

Second, the fall 2015 federal election changed the government from the centre-right Conservative Party to the centre-left Liberal Party. The Liberals' campaign platform included a commitment to carbon pricing (Liberal Party of Canada 2015).³ At the Conference of the Parties (COP) 21 in Paris, Prime Minister Justin Trudeau stated, "Canada is back" (Trudeau 2015), alluding that

¹ Provincial policy also generally focused on regulation and targeted subsidy programs, rather than broad-based policy.

² Canada has a Westminster-style parliamentary democracy.

³ In 2008, the Liberal Party also campaigned on carbon pricing, but were unsuccessful in forming government, and was relegated to third-party status from Official Opposition.

climate policy in Canada would no longer lag behind other countries. Canada signed the Paris Agreement, and ratified it in 2016, setting in place new targets (Canada n.d.-q).

The presence of emissions pricing in three provinces, plus the federal commitment to leadership on the file, created the conditions for broad agreement on a way forward. In March 2016, the first ministers released a joint communique, called the Vancouver Declaration on clean growth and climate change, which recognized provincial and territorial leadership and committed to “meeting or exceeding Canada’s 2030 target” (Canadian Intergovernmental Conference Secretariat 2016). The next major policy milestone was the joint release of the Pan-Canadian Framework on Clean Growth and Climate Change (PCF) in December 2016, which included a commitment to implement pan-Canadian emissions pricing (Environment and Climate Change Canada 2016, 2017). The PCF introduced minimum requirements for emissions pricing and coverage (proportion of emissions priced) and committed to flexibility in policy development at the provincial level, with a federal policy “backstop”.⁴ Notably, the three provinces with pricing in place --- Alberta, British Columbia and Quebec --- were examples of implementation options.

In 2017, Ontario joined the ranks of provinces with emissions pricing; at this point, all “major” provinces --- by economic size and emissions --- had pricing in place. However, as federal technical material on implementation of the PCF began to roll out and provincial governments began to develop their pricing policies, cracks developed in this fragile coalition. Combined with political changes in 2018 and 2019, consensus over what pan-Canadian emissions pricing would look like fell apart. Notably, elections in Ontario and New Brunswick led to changes of government, and renegeing on commitments to carbon pricing. Ontario cancelled its cap and trade system in July 2018, and by fall 2018, only six provinces were deemed compliant with the federal benchmark. Four provinces had the federal backstop imposed in whole or in part. The remainder would adopt the federal backstop voluntarily. In May 2019, Alberta’s NDP government lost power, and the new Alberta Conservative Party government repealed the carbon tax in its first bill. Alberta switched from being a voluntary participant --- and leader in developing carbon pricing in Canada --- to a jurisdiction with federal pricing imposed.

In a watershed moment for Canadian climate policy, it became a first-order policy issue in the 2019 federal election, pitting Liberal commitment to the PCF against federal Conservative policy supporting regulation over market-based policies. The Liberals were re-elected with a minority, cementing carbon-pricing policy for the near term, and perhaps indefinitely. The success of the Liberals led to recalcitrant province New Brunswick ending its opposition to the PCF, and developing a new pricing policy, accepted in late 2019 by Canada (Poitras 2019).

The next test of carbon pricing comes as three provinces --- Alberta, Saskatchewan and Ontario -- filed reference cases with their respective Courts of Appeal on the constitutionality of the *Greenhouse Gas Pollution Pricing Act*, the federal act implementing the PCF. The Ontario and Saskatchewan courts ruled in favour of the federal government (though both cases had split decisions), and the Alberta ruling is outstanding; Ontario and Saskatchewan have since referred

⁴ The PCF was a joint release of the federal government, and all provinces and territories except for the province of Saskatchewan.

the case to the Supreme Court of Canada. The outcome of this case will likely determine the future of coordinated emissions pricing in Canada.

Table 1: Summary and Timeline of Emissions Pricing Policies in Canada

YEAR	POLICY	POLICY DESIGN AND COVERAGE
2007	Province of Alberta adopts <i>Specified Gas Emitters Regulation</i> (SGER).	<p>Performance standard on facility-specific historical emissions per unit of production, requiring 12 percent improvement in emissions intensity by ninth year of operations. Compliance via reducing emissions, purchasing offset credits, or paying \$15 per tonne to the Climate Change and Emissions Management Fund.</p> <p>Combustion and process emissions (24 specified gasses) from facilities emitting greater than 100,000 tonnes of CO₂-equivalent annually.</p>
2008	British Columbia implements carbon tax.	<p>Revenue-neutral, with rebates to lower-income households and reductions in other taxes. Initially \$10 per tonne CO₂e, rising by \$5 per tonne per year until it reached \$30 per tonne in 2012.</p> <p>Combustion emissions from fossil fuels.</p>
2013	Quebec implements cap and trade system.	<p>Declining annual emissions cap, with increasing floor price for emissions permits.</p> <p>Free allocation of permits to emissions-intensive and trade-exposed (EITE) designated industries.</p> <p>Covered facilities are industrial facilities and electricity producers and importers with annual emissions greater than 25,000 tonnes of CO₂e.</p>
2014	Quebec links cap and trade system with California.	Quebec system augmented with joint permit auctions with pre-determined auction exchange rate. Price floor is the higher of the two jurisdictions' price floor after currency conversion.
2015	Alberta increases stringency of <i>Specified Gas Emitters Regulation</i> .	<p>Emissions intensity limit changes from 12 percent improvement by ninth year of operations relative to facility baseline to a 15 percent improvement in 2016 and a 20 percent improvement in 2017.</p> <p>Charge for offset credits increases to \$20 per tonne in 2016 and \$30 per tonne in 2017.</p>
	Alberta announces Climate Leadership Plan.	Emissions pricing, phase out coal-fired electricity generation by 2030, generate 30 percent of electricity from renewables by 2030, cap oil sands emissions at 100,000 tonnes of CO ₂ e per year, and reduce methane emissions from upstream oil and gas by 45 percent by 2025, relative to 2014.
2016	Quebec adds fuel distributors to cap and trade system.	Coverage expands to include fuel distributors whose annual emissions are lower than 25,000 tonnes of CO ₂ e and who distribute 200 litres of fuel or more.
	Pan-Canadian Framework announced, endorsed by federal government and all provinces and territories	Commitment to implement Canada-wide emissions pricing, with complementary mitigation and adaptation measures. Flexibility for provinces and territories to design their own policies. Carbon pricing to be in place by 2018.

	except Manitoba and Saskatchewan.	<p>Introduces federal benchmark (minimum price and coverage), which provincial plans will have to meet. Canada will develop a “federal backstop”, an emissions pricing policy that will apply in jurisdictions with pricing plans deemed insufficient.</p> <p>Minimum coverage of substantively the same as British Columbia’s carbon tax.</p> <p>Provinces can opt for a BC-style carbon tax, an Alberta-style hybrid with carbon tax plus large-emitter output-based pricing system, or a Quebec-style cap and trade system.</p>
2017	Ontario implements cap and trade system.	<p>Declining annual cap and increasing annual minimum price.</p> <p>Free allocation of permits to facilities with specific criteria; declining annual cap of free allocations.</p> <p>Auction revenue directed to lower-income northern households and to supplementary projects/programs to reduce GHGs.</p> <p>Covered facilities include electricity importers, facilities or natural gas distributors with annual emissions greater than 25,000 tonnes of greenhouse gas emissions, and fuel suppliers that sells more than 200 litres of fuel per year.</p> <p>Voluntary participation for facilities with annual emissions between 10,000 and 25,000 tonnes</p>
	Alberta passes <i>Climate Leadership Act</i> (January).	<p>Levy applied to combustion emissions from fossil fuels, by households and small industrial emitters not regulated under SGER. Levy starts at \$20 per tonne in 2017 and rises to \$30 per tonne in 2018.</p> <p>Revenue used to provide means-tested rebate for lower-income households, reduce small business corporate tax rate, subsidise renewable energy deployment, fund “green infrastructure”, fund energy efficiency programs, and transition payments to coal-generation facilities.</p> <p>Exemptions for fossil fuel used in oil and gas production process, farm fuel, and fuel used as a non-energy input in a manufacturing process.</p>
2018	BC increases carbon tax rate (September).	<p>Increased to \$30 per tonne effective April 1, 2018, and will increase by \$5 per tonne until it reaches \$50 per tonne in 2021. Increased rebates to lower-income households and eliminates revenue neutrality requirement.</p> <p>Coverage remains the same.</p>
	Alberta replaces <i>Specified Gas Emitters Regulation</i> with <i>Carbon</i>	<p>Charge on facility emissions above product-specific benchmark, with sector-specific output-based allocations of emissions credits. Increasing benchmark stringency and declining output-based allocation rate.</p>

	<i>Competitiveness Incentive Regulation (CCIR).</i>	<p>Compliance via reducing emissions, purchasing offset credits, or paying \$30 per tonne to the Climate Change and Emissions Management Fund.</p> <p>Combustion and process emissions (24 specified gasses) from facilities emitting greater than 100,000 tonnes of CO₂-equivalent annually.</p> <p>Opt-in provisions for (1) facilities competing against CCIR-regulated facilities, or (2) facilities with annual emissions greater than 50,000 tonnes of CO₂-equivalent and designated as emissions-intensive and trade-exposed.</p>
	Ontario links cap and trade system with Quebec and California (January).	Ontario system augmented with joint permit auctions with pre-determined auction exchange rate. Price floor is the higher of the three jurisdictions' price floor after currency conversion.
	Ontario cancels cap and trade system (July).	Removes all emissions pricing. Compensation available for participants. Cancels programs funded via cap and trade revenue.
	Canada passes <i>Greenhouse Gas Pollution Pricing Act</i> (GHGPPA).	<p>Implements a fuel charge on 21 types of fuel and combustible waste, and an output-based pricing system for large industrial emitters. Listed provinces (where provincial pricing systems are deemed insufficient in whole or in part) are subject to the <i>GHGPPA</i>.</p> <p>Fuel charge exemptions for agriculture, fishing, greenhouses and power plant operators for remote communities.</p> <p>Revenues from fuel charge used for household rebates, supplementary rebate for households in remote communities and support for specific sectors.</p> <p>Output-based pricing system applies to facilities with annual emissions of 50,000 tonnes of CO₂e or more in 2014 or later.</p> <p>Opt-in provision for facilities with emissions greater than 10,000 tonnes annually and (1) are in an industry with a federal output-based standard, or (2) are designated as emissions-intensive and trade-exposed.</p>
	Canada announces how emissions pricing will occur across Canada (November).	<p>Provincial/territorial systems approved and apply in Alberta, British Columbia, Quebec, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, and Northwest Territories.</p> <p>Federal fuel charge applies in Saskatchewan, Ontario, Manitoba and New Brunswick, effective April 1, 2019.</p> <p>Federal output-based pricing system applies in Ontario, Manitoba, New Brunswick, and partially in Saskatchewan, effective January 1, 2019. Federal output-based pricing system voluntarily adopted by Prince Edward Island.</p>

		Territories of Nunavut and Yukon voluntarily adopt federal backstop (full <i>GHGPPA</i>).
2019	Quebec introduces voluntary registration in cap and trade system.	Expands to include industrial facilities with annual emissions greater than 10,000 tonnes of CO ₂ e and less than 25,000 CO ₂ e.
	Alberta repeals carbon levy (June).	Removes emissions pricing from fossil fuel combustion and facilities not regulated under CCIR.
	Canada announces Alberta will become a listed province (June).	Canada implements federal fuel charge in Alberta effective January 1, 2020.
	Canada approves New Brunswick carbon tax plan (December).	New Brunswick plan uses revenues for adaptation and mitigation.
2020	Alberta replaces CCIR with <i>Technology Innovation and Emissions Reduction (TIER) Regulation</i> .	<p>Combustion and process emissions from facilities emitting 100,000 tonnes CO₂e or more per year in 2016 or a subsequent year.</p> <p>Opt-in provisions for (1) facilities competing against TIER-regulated facilities, or (2) facilities with annual emissions greater than 10,000 tonnes of CO₂-equivalent and designated as emissions-intensive and trade-exposed.</p> <p>TIER approved by Canada in December 2019.</p>

Note: all emissions prices denominated in nominal Canadian dollars.

LESSONS FROM A FEDERAL STATE

As discussed above, provincial action in Alberta, British Columbia and Quebec (and later, Ontario) created space and opportunity for federal action. It also shows that federal policy is not necessary for action, though the result can be less consistency in policy formulation. Moreover, it is no accident that when Canada announced the minimum standard in emissions pricing, the systems in these three provinces (carbon tax in British Columbia, cap-and-trade in Quebec, and hybrid carbon-tax and output-based pricing in Alberta) were explicitly identified as options for implementation. Alberta was also a lynchpin in this policy system --- as Canada's largest sub-national emitter, its progressive policies on emissions created a clear example for other provinces. Alberta's output-based pricing system (the *Carbon Competitiveness Incentive Regulation*) formed the building blocks for the federal output-based pricing system.

A key commitment of the federal government was allowing for flexibility in policy design amongst provinces, recognizing each had unique situations and unique challenges. These differences lead to clear efficiency losses when viewed with the lens of economic theory. However, policy to mitigate climate change is a clear collective action problem, even within a country. As a result, the political calculus in implementing a specific policy with 13 subnational jurisdictions means that while cliché, the perfect is the enemy of the good. The federal government faced the trade-off of allowing flexibility and differences in policy within a given system, against a policy environment with 13 disparate systems (many of which involved little to no substantive action). Building on

existing provincial plans allowed for greater buy-in amongst provinces. Moreover, this type of flexibility has precedent in other Canadian policy areas, such as health care.⁵

However, the policy convergence between 2016 and 2018/19 was fleeting, and subsequent divergence is attributable to four factors. First, political preferences for regulation and subsequent rhetoric describing carbon taxes as a “tax on everything”; second, growing tension and public debate over resource development, emissions and the public interest vis-a-vis oil sands growth and pipelines; third, federal-provincial negotiations over whether provincial plans would meet the minimum benchmark; and fourth, natural political shifts from electoral cycles. Combined, the broad cooperation on emissions pricing largely disappeared. As a result, only six of ten provinces had provincial systems approved by Canada. Others had the federal backstop imposed in part or in whole. (Two territories voluntarily adopted the federal backstop). Notably, visibly cooperative provinces secured exemptions in provincial policies that made the policies technically noncompliant with the federal benchmark, whereas non-cooperative provinces had the federal policy imposed (Dobson et al. 2019). A stark example is that Alberta secured an exemption for emissions from conventional oil and gas production (13 percent of provincial emissions (Dobson et al. 2019)). In contrast, Manitoba’s plan called for a \$25 CAD per tonne price on emissions, with no increases, instead of the federal price path. Manitoba’s plan was not approved, and the federal backstop was imposed in full. The lesson here is that in implementing its policy, Canada chose to both “reward” cooperative provinces and “punish” non-cooperative ones.

The constitutional challenges of the *Greenhouse Gas Pollution Pricing Act* by recalcitrant provinces is an interesting example of the tensions of federal-provincial relations in an area of joint jurisdiction, and is relevant for this discussion. MacLean (2019) argues that these challenges have “very little to do with constitutional law doctrine” and are instead about climate politics in Canada. However, Newman (2019) notes that the justices in Saskatchewan and Ontario deciding in favour of federal jurisdiction had differing legal rationales for their decisions, making carbon pricing in Canadian federalism more complex than at first glance.

Despite the court challenges of federal power, carbon pricing is moving forward. New Brunswick had planned a constitutional challenge, but dropped those plans once the Liberals were re-elected in fall 2019 and has since had its provincial plan approved. Moreover, even Alberta, one of the most vocal opponents to the federal carbon tax, is keeping its large-emitter pricing system, which is in some instances more stringent than the federal large-emitter system. However, one can expect that if the Supreme Court of Canada ruled against federal jurisdiction, emissions pricing in Canada would substantially change. The lesson for other federal states is clear: in areas of shared jurisdiction, substantive policy action from the federal government requires support from sub-national jurisdiction, although the reverse is not true.

CONCLUSIONS

Emissions pricing in Canada is complex and politically contentious. Electoral cycles in Canada created a policy window for coordinated and substantive policy development on emissions pricing.

⁵ Canada has set a minimum standard and provides a per-capita transfer to provinces, and slows provinces to make independent spending decisions.

This policy window, however, relied on pre-existing provincial policies as building blocks for federal policy. A key feature of implementation was preserving provincial independence in design, which meant a lack of uniformity across the country, both in terms of policy design and policy implementation. The policy window has closed, again due to electoral cycles. Permanence of pan-Canadian emissions pricing depends on whether Canada's Supreme Court rules in favour of federal jurisdiction (in the immediate term) and electoral cycles in the longer term.

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