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**CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY**

**L'INSTITUT CANADIEN DU DROIT ET DE LA POLITIQUE DE L'ENVIRONNEMENT**

**THE USE OF VOLUNTARY PROGRAMS IN ENVIRONMENTAL POLICY:**

**A Comparative Study of Selected Cases from Canada and the United States**

**Project Proposal to the Charles Stewart Mott Foundation**

CIELAP Shelf:  
Canadian Institute for Environmental Law and  
Policy  
The Use of Voluntary Programs in  
Environmental Policy : A Comparative Study of  
RN 27207

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# THE USE OF VOLUNTARY PROGRAMS IN ENVIRONMENTAL POLICY:

## A Comparative Study of Selected Cases from Canada and the United States

### I. INTRODUCTION AND OVERVIEW

Over the past few years, governments in Canada and the United States, and elsewhere within the Organization for Economic Cooperation and Development, have been placing an increasing emphasis on self-regulation and voluntary action by industry to prevent or control pollution and other forms of environmental degradation. These strategies are being pursued as alternatives to the establishment of regulatory requirements or the use of economic instruments by governments.

Governments and industry argue that voluntary approaches are more cost-effective and more accommodating of innovation, particularly with respect to the adoption of pollution prevention practices, than regulations. Non-industry stakeholders, on the other hand, have been highly critical of voluntary and self-regulatory models. Environmental and other non-governmental organizations in Canada, for example, contend that voluntary approaches represent a return to bilateral industry-government policy-making, are unenforceable, are unlikely to be cost-effective, and are being employed as substitutes for, rather than supplements to, regulatory frameworks for environmental protection.

Given the growing prevalence of voluntary initiatives in environmental protection in the Great Lakes region, and in other areas of public welfare regulation in Canada and the United States, an independent and comprehensive evaluation of the effectiveness of such approaches is urgently required.

The project being proposed by Canadian Institute for Environmental Law and Policy (CIELAP) would consist of seven detailed case studies of high profile "voluntary" and self-regulatory initiatives in Canada and the United States related to the protection of the environment. The cases for study would include:

- \* the Canadian federal government's Accelerated Reduction and Elimination of Toxics (ARET) program;
- \* the Memoranda of Understanding between the Governments of Ontario and Canada and selected Canadian industries in the Great Lakes Basin;
- \* the Canadian Voluntary Climate Change Registry program, which is the centrepiece of Canada's efforts to fulfil its obligations under the *United Nations Framework Convention on Climate Change*;

- \* the Canadian National Packaging Protocol, which was intended to fulfil Canadian governments' commitments to a 50% reduction in packaging waste by the year 2000;
- \* the Ontario Environmental Farm Plan Program, developed by Ontario agricultural organizations to improve environmental protection within the province's agricultural sector;
- \* the United States Environmental Protection Agency's "Common Sense Initiative" program; and
- \* the United States Environmental Protection Agency's "Project XL" program.

The case studies will be completed in partnership with organizations and individuals in Canada and the United States with appropriate expertise. Each initiative will be examined in terms of its effectiveness, efficiency and fairness, and the underlying causes of program outcomes identified. Placing the initiatives in a comparative context will permit the highlighting of common themes and problems. This will lead to recommendations regarding the appropriate use and structuring of voluntary initiatives by governments as instruments of environmental policy in the future.

The completion of the case studies will be followed by a workshop involving the project researchers and the Project Advisory Committee to examine their outcomes and to inform the development of project conclusions and recommendations. These will be presented with the case studies in a project final report. There also will be an outreach and education component to communicate the project findings to lay and professional audiences.

The proposed budget for this project is \$Cdn260,992 (US\$193,327).

The proposed project would support the objectives of the C.S. Mott Foundation's environmental program, especially in the area of the prevention of toxic pollution. In particular, voluntary programs of the type to be studied through the proposed project are being widely promoted by governments and industry as supplements or alternatives to regulatory frameworks in the promotion of the adoption pollution prevention practices by industry. Voluntary programs have also been promoted as means of reducing pesticide use in the agricultural sector.

Given the growing use of voluntary programs to reduce the release of toxic contaminants into the environment, the project would also support the Mott Foundation's objectives in the protection of the Great Lakes Ecosystem. It would be especially relevant to the elimination of contamination by toxic substances, as voluntary programs are widely proposed for this purpose. The project's conclusions

and recommendations could be applied in other regions of Canada and the United States as well.

Furthermore, by involving a number of other leading environmental policy research and education organizations from Canada and the United States, the project provides an opportunity to strengthen expertise within these institutions. The project may also provide the basis for partnerships among these organizations directed towards solving environmental problems in the future.

The Canadian Institute for Environmental Law and Policy is well-positioned to conduct a project of this nature. The Institute has undertaken extensive research projects on the structure and effectiveness of environmental law and policy, particularly in the Great Lakes basin, over the past two decades. The project will also form an important component of CIELAP's ongoing research program on the reform of environmental protection regulation.

## II. PROJECT BACKGROUND AND RATIONALE

Over the past few years, governments in Canada and the United States, and elsewhere within the Organization for Economic Cooperation and Development have been placing increasing emphasis on self-regulation and voluntary action by industry to prevent and control pollution and other forms of environmental degradation.<sup>1</sup> These strategies are being pursued as alternatives to the establishment of regulatory requirements or the use of economic instruments by governments.

Voluntary environmental programs may take a number of different forms. These include exemptions from regulatory requirements for commitments to action which go beyond regulatory standards, government-industry negotiated agreements or partnerships, challenge programs where governments seek industry commitments to meet specific goals, and industry self-audit programs.<sup>2</sup>

In Canada, the federal government has placed growing stress on non-regulatory approaches to the establishment of standards and guidelines, particularly in the environmental field. The federal Department of the Environment (Environment Canada), for example, has emphasized the role of voluntary industry initiatives, as opposed to regulatory action by governments, to reduce emissions of toxic substances. This has been particularly evident through the Accelerated Reduction/Elimination of Toxics (ARET) program, launched in 1994.<sup>3</sup>

Voluntary programs are also at the centre of the federal government's efforts to fulfil Canada's domestic and international commitments to reduce greenhouse gas emissions,<sup>4</sup> and to promote solid waste reduction, reuse and recycling.<sup>5</sup> Furthermore, the federal government's regulatory policy, adopted in December 1995, explicitly requires the consideration of alternatives to regulation, such as voluntary programs, before new environmental and other public welfare regulations can be adopted.<sup>6</sup>

For its part, the Government of Ontario has been a signatory to the Memoranda of Understanding entered into by the federal government and selected industrial sectors in the Great Lakes Region.<sup>7</sup> These agreements have been intended to facilitate and promote pollution prevention through voluntary action by industry. In addition, the province has relied on a voluntary program, the Environmental Farm Plan initiative, as its primary means of addressing the environmental impacts of agricultural operations.

The role of voluntary environmental programs in Ontario seems likely to expand over the next few years. In a document entitled Responsive Environmental Protection, released in July 1996, the Ontario Ministry Environment and Energy indicated that it expects voluntary initiatives by industry to be its primary means of strengthening environmental standards in the province. The document, which outlines the Ministry's proposals for the "reform" of environmental regulation, also indicates that it is willing to consider giving business "greater operational flexibility, more regulatory certainty,



and streamlined approvals"<sup>8</sup> in exchange for commitments to voluntary action.

Voluntary initiatives have not been pursued by the United States federal government to the same degree as its Canadian counterpart. Where they have been employed, initiatives such as the Environmental Protection Agency's 33/50 emission reduction program, initiated in 1991, have been used to supplement regulatory requirements, and have not involved commitments by governments to forego or relax regulatory requirements. However, more recently, the Clinton Administration's efforts to "reinvent" environmental regulation have included indications of a willingness to rely more heavily on voluntary measures.<sup>9</sup> This is particularly evident in the Common Sense Initiative<sup>10</sup> and Project XL<sup>11</sup> programs.

Governments and industry argue that voluntary programs are more cost-effective and more accommodating of innovation, particularly with respect to pollution prevention, than regulations.<sup>12</sup> However, non-industry stakeholders have been highly critical of governments' promotion of voluntary measures as alternatives to regulation, and of governments' participation in formal industry-government voluntary agreements. Environmental and labour organizations, in particular, have argued that, while they have no objections to voluntary industry initiatives, they are seriously concerned by the implications of governments formally incorporating such programs into public policy.

Critics of the use of voluntary programs as instruments of public policy argue that such arrangements represent a return to closed, bilateral industry-government policy-making practices, are unenforceable, are unlikely to be cost-effective, and are being employed as substitutes for, rather than supplements to, regulatory frameworks for environmental protection.<sup>13</sup> Similar concerns have been expressed by some industry representatives,<sup>14</sup> and were reflected in the Canadian House of Commons Standing Committee on Environment and Sustainable Development's June 1995 report on the review of the *Canadian Environmental Protection Act*.<sup>15</sup>

Given the growing prevalence of voluntary initiatives in environmental protection in the Great Lakes region, and in other areas of public welfare regulation in Canada and the United States,<sup>16</sup> an independent and comprehensive evaluation of the effectiveness of such approaches is urgently required.

The project being proposed by CIELAP would consist of a series of detailed case studies of high-profile "voluntary" and self-regulatory initiatives in Canada and the United States related to the protection of the environment. The cases have been selected in order to provide a reasonable cross-section of program types and structures, and of programs targeted at different sectors. Consideration was also given in the selection of programs to the environmental significance of the problem which they seek to address, and the availability of data on which the program can be assessed, or the availability of means by which that data can be obtained. This carried

with it a need to focus on programs which have been in existence long enough for sufficient data to exist for meaningful analysis. All of the programs selected have also involved some form of formal or informal government sanction or sponsorship. The cases proposed for study are:

1. *The Accelerated Reduction and Elimination of Toxic (ARET) Program.*

This program was initiated by the Canadian federal government in the spring of 1994. Described as "a bold experiment to determine whether voluntary commitments to reduce or eliminate emissions can achieve environmental goals faster and more flexibly than regulations alone,"<sup>17</sup> the program challenges private sector firms and federal government agencies to achieve specific targets and schedules for the reduction or elimination of emissions of a range of toxic substances. The program is the centrepiece of the Government of Canada's efforts to reduce emissions of toxic substances into the environment.

2. *Memoranda of Understanding between the governments of Ontario and Canada and selected Canadian industries in the Great Lakes Basin.*

Over the past three years, the governments of Canada and Ontario have entered into a series of Memoranda of Understanding (MOU's) with major Canadian industrial sectors in the Great Lakes region, including automobile assembly and automotive parts manufacturing.<sup>18</sup> Sometimes referred to as voluntary pollution prevention agreements, the MOU's commit governments to work with industry to promote pollution prevention. These agreements have been identified by the Ontario and federal governments as one of the primary means by which they intended to meet their commitments regarding priority toxic substances under the June 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem*. The *Canada-Ontario Agreement* outlines the responsibilities of the federal and Ontario governments in the implementation of Canada's obligations under the *Great Lakes Water Quality Agreement*. The study will focus on the MOU's in a limited number of key sectors, such as automobile assembly, chemicals or dry cleaning.

3. *Voluntary Climate Change Registry Program*

Canada's 1995 National Action Program on Climate Change established a Climate Change Voluntary Challenge and Registry (VCR) program. The VCR encourages businesses, industry, and institutions to voluntarily take action to reduce their greenhouse gas emissions and to report on these actions to a central registry. The program is the Government of Canada's primary policy instrument for the achievement of its domestic and international commitments

on climate change, particularly the stabilization of Canada's greenhouse gas emissions by the year 2000.

4. *National Packaging Protocol*

The National Packaging Protocol was endorsed by the Canadian Council of Ministers of the Environment (Federal, Provincial and Territorial Ministers) in March 1990. The protocol is intended to achieve the goals of a 20% reduction in packaging sent to disposal by the end of 1992 against a 1988 base year, 35% reduction by the end of 1996, and a 50% reduction by the end of 2000. The primary means of the achievement of these goals is to be the voluntary development and implementation of action plans to minimize environmental impacts and manage packaging through source reduction, re-use and recycling by industry.

5. *Environmental Farm Plan Program*

This program was developed by the Ontario Farm Environmental Coalition (The Ontario Federation of Agriculture, Christian Farmers' Federation of Canada, AGCare, and the Ontario Farm Animal Council), with the support of the federal and Ontario governments. The program, which involves voluntary environmental audits of farm operations, is currently the primary initiative for the improvement environmental protection within the agricultural sector in the province.

6. *The Common Sense Initiative*

This program was initiated in the fall of 1994. The Initiative was the Clinton administration's first major effort at regulatory reform, and is intended to bring affected stakeholders together to find "cleaner, cheaper, smarter" environmental management solutions. It is lead by a multi-stakeholder advisory council with representation from industry, state environmental agencies, national and local environmental groups, and other stakeholders such as labour organizations, local regulatory agencies, environmental justice organizations, and the federal government. The Initiative is proceeding on a sectoral basis, with specialized sub-committees having been established for the automobile assembly, electronics and computers, iron and steel, metal finishing and plating, petroleum refining, and printing sectors.<sup>19</sup>

## 7. *Project XL*

Project XL was announced by the Clinton Administration in March 1995, as part of its "reinvention" of environmental regulation initiative. Under Project XL, a limited number of companies are to be given the flexibility to replace the requirements of the current regulatory system at specific facilities with an alternative strategy developed by the company if certain conditions are met.<sup>20</sup> As of May 1996, thirteen facility projects and one community project had been initiated under the project.<sup>21</sup>

Each initiative will be examined in terms of its effectiveness, efficiency and fairness, and the underlying causes of program outcomes identified. Particular attention will be given to the questions of how program goals were developed, whether the programs have met their stated goals, the means by which these goals have been achieved (e.g. pollution prevention or pollution control), and the degree to which any results achieved can be attributed to participation in the program as opposed to other factors. Consideration will also be given to the costs of programs to governments and participants in relation to program results, and whether programs have been associated with the imposition of disproportionate social, economic or environmental costs on particular sectors or communities.

Earlier studies or reports of varying levels of detail have been completed on some of the programs under study, most notably on Canada's Voluntary Climate Change<sup>22</sup> and National Packaging Programs.<sup>23</sup> Where appropriate, the authors of these studies have agreed to update and modify their work to follow the project research design. This will facilitate comparative analysis with other case studies. Researchers with appropriate expertise have been identified to completed studies of the programs which have not been the subject of any detailed analysis to date. The results of the 1995 INFORM study on the EPA's 33/50 program will also be considered throughout the project.<sup>24</sup>

The placing of the initiatives under study in a comparative context, presented in response to standardized research questions, and evaluated against common criteria, will permit the identification of cross-cutting themes and problems. A comprehensive analysis of this nature has not been possible with the few individual program studies which have been completed to date. The comparative assessment of the programs under study will be essential to the development of conclusions and recommendations regarding the appropriate use and structure of voluntary initiatives by governments as instruments of environmental policy in the future.

The completion of the case studies will be followed by a workshop with the project researchers and the Project Advisory Committee to examine their outcomes and to inform the development of conclusions and recommendations. These will be

presented, with the case studies, in a project final report. The result will be the most thorough examination of the use of voluntary programs in environmental policy in North America completed to date.

The presentation of the project final report will be followed by an outreach and education program to communicate the project findings to lay and professional audiences.

The project is linked to broader elements of the Institute's research program, particularly the promotion of pollution prevention and regulatory reform. This includes work on the review of the *Canadian Environmental Protection Act*, the ongoing analysis of regulatory "reform" initiatives by the government of Ontario, and the completion of a comparative study on recent regulatory reform activities by the Canadian federal government, Canadian provinces and the U.S. federal government.<sup>25</sup>

### **III. PROJECT STRUCTURE AND COMPONENTS**

The proposed project would proceed in six phases: research design, including a workshop with the project team to discuss approach and methodology; the development of individual case studies; a workshop to discuss the results of the case studies; the development of conclusions and recommendations; the publication of a project final report; and a program of education and outreach activities.

#### **Stage 1 Research Design and Development of Terms of Reference for Each Case Study**

One of the most significant challenges in this project will be the development of the research design and methodology for the case studies. The core of the proposed project is the comparative analysis of the programs under study. This is intended to permit the identification of common themes and problems, and to provide the foundation for project conclusions and recommendations.

This will require the development of an approach which permits the meaningful comparison of a series of programs which vary widely in terms of their structure, goals, and targeted participants and which are being implemented in different jurisdictions. Common parameters and research questions need to be identified in relation to the programs under study. This will ensure that the case studies are conducted using a common approach and evaluations of programs are employ standardized criteria. The research design must also balance the need for sufficient depth and detail for the development of meaningful conclusions, with the level of available resources.

The case studies will be structured to permit the development of conclusions regarding the effectiveness, efficiency and fairness of the programs under study. The development of conclusions against these criteria will be approached in the following manner:

#### **Effectiveness:**

Effectiveness will be the primary evaluative criteria for the case studies.

The most basic approach to the assessment of the effectiveness programs under study would be to measure their performance against their own stated goals. However, some programs may lack goals against which outcomes can be measured quantitatively. In addition, the goals of some of the programs under study have themselves been the subject of major controversy. In the case of ARET, for example, major debates occurred regarding whether the program should focus on reductions of emissions of toxic substances or seek to reduce

their use. The issue of the role of the program in relation to regulatory initiatives was also highly contentious.<sup>26</sup>

Contextual issues of this nature need to form part of the analysis of each program.<sup>27</sup> Consideration must also be given to the level of participation in programs within targeted sectors, the kinds of behavioural changes the program produces, particularly whether it results in the adoption of pollution prevention practices, and the degree to which action by participants can be attributed to program participation, as opposed to other factors.

**Efficiency:**

The question of program efficiency will be addressed primarily through the identification of program costs to governments and participants, where such data is available, and consideration of the level of these costs in relation to program results. Formal quantitative analyses of costs and benefit will not be possible due to the lack of adequate data and project resource limitations.

**Fairness:**

The evaluation of the fairness of program outcomes presents significant challenges. The issue will be examined principally in terms of whether there is any evidence that programs have resulted in the imposition of disproportionate economic, social or environmental costs on particular sectors or communities. This is particularly important given the environmental justice concerns which have been raised in relation to some of the programs under study.<sup>28</sup> Consideration must also be given to the degree to which affected communities have been involved in the development and implementation of programs.

Fairness issues are also of concern in that the problem of "free-riders," (i.e. members of targeted sectors who do not participate in programs and thereby do not incur program costs) has been identified as a major weakness in voluntary programs.<sup>29</sup> Concerns over the possibility of "free riders" has also been highlighted as a barrier to program participation by members of targeted sectors.<sup>30</sup>

The initial research design will be developed by CIELAP. This will outline a general approach to the case studies, and include specific terms of reference for each study. These will be discussed at a workshop with the researchers contracted to conduct the individual program case studies and the Project Advisory Committee. The workshop will review and, if necessary, modify the design for the individual case studies to address any needs or concerns which might arise.

The final terms of reference for each study will be incorporated into agreements

between CIELAP and the study authors.

## **Stage 2      Completion of Case Studies**

The following organizations and individuals have agreed to participate in the development of the individual case studies:

<b>Case Study</b>	<b>Researcher/Writer</b>
Accelerated Reduction/Elimination of Toxics	Canadian Environmental Law Association
Canada/Ontario/Industry Memoranda of Understanding	Canadian Institute for Environmental Law and Policy
Voluntary Climate Change Registry	Pembina Institute for Appropriate Development
National Packaging Protocol	Sonia Labatt (University of Toronto)
Environmental Farm Plans	Canadian Institute for Environmental Law and Policy
Common Sense Initiative	To be determined
Project XL	Environmental Law Institute

In some cases, these organizations or individuals have completed studies or reports on the programs under study. Where it exists, such work will be updated and modified to follow the project research design. This will facilitate comparative analysis with other case studies. A number of the programs under study, including the Canada/Ontario/Industry MOU's, the Ontario Environmental Farm Plan Program, and the USEPA's Common Sense Initiative and Project XL programs, have not been the subject of any detailed study to date. In such cases, researchers with relevant expertise have been identified. CIELAP is involved in ongoing discussions with a number of potential researchers regarding the case study on the USEPA's Common Sense Initiative.

## **Case Study Methodology**

The proposed approach to the individual case studies would seek to provide information regarding the following aspects of the programs under study:



## **1) A Description of Origins and Structure of the Program**

- \* What were the origins of the program? Was it initiated by government, industry, non-governmental organizations or other actors? What were the circumstances surrounding the development of the program? Was it developed, for example, in parallel to a regulatory initiative, or as an alternative to a such an initiative?
- \* What is the scope and structure of the program. What are its stated goals, including any specific targets or timetables, reporting/verification requirements, and penalties/consequences for failure to achieve results?
- \* Have the program's goals, targets or other features been the subject of controversy? If so, what has been the nature of the debate and what has been its impact on program design and implementation?

In most cases this information is available in program literature and commentaries, possibly supplemented by key informant interviews.

## **2) An Assessment of Program Goals**

- \* Are the program's goals articulated or established in a manner against which performance can be measured meaningfully?
- \* Does the program contain mechanisms, such as registration and reporting requirements, which permit such measurements to be made?

This data should be available through program reports, where they exist. Some qualitative assessments may be required by researchers regarding the meaningfulness of program goals and their auditability.

## **3) The Achievement of Program Goals**

- \* What claims have program sponsors or participants made regarding the achievement of stated program goals?
- \* Is there any means by which these claims can be verified, such as third party auditing or reporting under such mechanisms as the National Pollutant Release Inventory or the Toxics Release Inventory?
- \* What evidence is available regarding the level of participation in programs by targeted sectors? (e.g. industry association membership vs. number of firms in a targeted sector participating in the project). Among non-participants, what are

the reasons for non-participation?

- \* Is there any evidence in program data, or gaps in program data, which indicates failures to meet stated program goals, targets or timetables?

This information may be available in program reports where such reports exist. Some additional investigation by researchers may also be required, and in cases where data is unavailable, researchers may need to provide an assessment of the reasons for this outcome. Contact will also be required with some non-participants to ascertain the reasons for their failure to participate in the program.

#### **4) The Means by which Program Results Have Been Achieved**

- \* Where positive program results are claimed, what kinds of behavioural changes have been undertaken by program participants? Have, for example, reductions in emissions been achieved through the use of end-of-process pollution control technologies, or the adoption of pollution prevention practices?

Information of this nature will be more difficult to obtain, as it is unlikely to be available in regular program reports. Interviews with key informants among program participants may be required.

#### **5) Program Impact on Participants.**

- \* To what degree can reported program results be attributed to factors other than program participation? Have there been, for example, changes in the regulatory or economic environment in which participants operate, that could account for reductions in emissions of pollutants?

As with the preceding issue, information in response to this question is unlikely to be available through program reports. Interviews involving key informants among program participants may be required.

#### **6. Program Cost and Cost-Effectiveness**

- \* What information is available regarding the costs of program administration by sponsoring governments or agencies?
- \* What information is available regarding the costs of program participation to

participants?

This may include information on program budgets or the number of staff assigned to program administration. Contact with sponsoring governments and agencies, and some participants will be required.

## **7. Fairness**

- \* Have affected communities been involved in program development and implementation, particularly at the local level?
- \* Is there any evidence that the program has resulted in the imposition of disproportionate environmental, economic or social costs on particular sectors or communities?
- \* Have concerns over program costs and the possibility of "free-riders" been barriers to program participation within targeted sectors?

The review of program commentaries from organizations in affected communities and some contact with key informants in those communities may be required. Contact with some non-participants in targeted sectors may also be required to address the extent of the "free-rider" problem.

## **8. Conclusions**

This will include an overview of program results in terms of effectiveness, efficiency and fairness, and the identification of key factors in the program outcome. Particular attention will be given to the questions of how program goals were developed, whether the programs have met their stated goals, the means by which these goals have been achieved (e.g. pollution prevention or pollution control), and the degree to which any results achieved can be attributed to participation in the program, as opposed to other factors. Consideration will also be given to the costs of programs to governments and participants in relation to the results achieved, and whether programs have resulted in the imposition of disproportionate economic or environmental costs on particular sectors or communities.

This will require qualitative analysis and commentary by case study authors.

The foregoing outlines a general approach to the development of each case study. Specific research methodologies and goals will be developed for each individual

study in conjunction with the study authors. These elements will be incorporated into the terms of reference for each case study.

### **Resource Allocation for Case Studies**

\$15,000 has been budgeted for each case study. This is assumed, on the basis of CIELAP's experience to be sufficient to provide for 30 working days (@\$500/day) by each study author, with allowance for administrative support and some research assistance. The breakdown of the use of this time is estimated as follows:

- 1 Week: Gather and review available written materials on program in relation to research questions.
- .5 Week: Follow-up on information gaps in written materials, including contacts with sponsors and participants where appropriate. Development of outline for interviews with key informants if required.
- 1 Week: Conduct interviews where required. It is anticipated that it will be possible to complete up to 20 interviews with key informants in the available time.
- 2 Weeks: Writing case study report.
- 1 Week: Revisions to case study report in light of comments from Advisory Committee, other case study authors, and workshop discussions.
- .5 Week: Review/comment on other case studies and conclusions and recommendations.

A research expense budget of \$1,000 will be provided for each case study. Additional per diems have been provided for attendance by researchers at the project workshops.

This outline is a general guide. Terms of reference and time allocations may be adjusted to reflect the particular features of each program under study. In the case of ARET, for example, there is a significant body of data available, and fewer interviews may be required. On the other hand, there is very little formal data available regarding the Ontario Environmental Farm Plan program, and interviews will need to be the primary research tool.

Case study budgets may also be adjusted, within the overall budget for the completion of the case studies, to reflect circumstances where, on one hand, substantial bodies of material are already available regarding a program, and on the

other, where little or no material is available and a more extensive research effort is required.

### **Stage 3 Workshop on Case Study Results**

Project researchers and Project Advisory Committee will meet for a second workshop to review and discuss the case study findings, identify common themes and problems, and outline potential conclusions and recommendations. The results of the 1995 INFORM study on the EPA's 33/50 program will also be considered in these discussions.<sup>31</sup>

Opportunities for the expansion of participation in this workshop beyond the project team will be explored with potential partners. Environment Canada, for example, has indicated willingness to co-sponsor a broader workshop on the project case studies.

### **Stage 4 Development of Conclusions and Recommendations**

On the basis of the case studies and workshop with the project researchers and Advisory Committee, CIELAP will develop project conclusions and recommendations on the future use and structure of voluntary programs in environmental policy.

These will consider, in particular, the common themes, strengths and weaknesses identified through the comparative analysis of the case results. A matrix outlining the results of the each case study with respect to the seven study parameters outlined above will be developed to assist in this analysis.

### **Stage 5 Final Report**

The project findings and conclusion will be presented in a project final report. This will consist of an:

- \* Executive Summary, outlining research methodology, and major conclusions and recommendations;
- \* Introduction, including an explanation of the project context, structure, goals and methodology;
- \* the seven Case Studies; and
- \* Project Conclusions and Recommendations.

## **Stage 6 Follow-up/Outreach Activities**

The completion of the research and analysis phase of this project will be followed by a number of steps to ensure that the project results are acted upon. These will include:

- \* the development and implementation of a communications plan for the release of the project final report;
- \* the development and wide distribution of a brief document summarizing the project conclusions and recommendations to facilitate the communication of the project results to decision-makers, the media, and the public;
- \* follow-up meetings with federal and provincial decision-makers at the political and bureaucratic levels, and industry representatives; and
- \* the communication of the research results to other non-governmental organizations and community groups active in the Great Lakes basin through meetings, and at conferences and other events.

The proposed project will result in the most thorough examination of the use of voluntary programs in environmental policy in North America completed to date. It will be of critical importance given the growing reliance of governments on voluntary programs as one of their primary instruments of environmental policy.

#### **IV. PROJECT MANAGEMENT AND PARTNERS**

##### **1. Project Management**

###### **Anne Mitchell, M.A., Executive Director, CIELAP - Project Management**

As Executive Director of CIELAP, Ms. Mitchell, will be responsible for overall project management. Ms. Mitchell has a wealth of experience in organizational and project management. She has recently managed the writing and publication of the multi-authored volume Environment on Trial: A Guide to Ontario Environmental Law and Policy, and is currently managing a multi-stakeholder collaborative project on a CO2 reduction strategy for Ontario.

###### **Mark Winfield, Ph.D., Director of Research, CIELAP - Project Direction and Supervision**

Dr. Winfield holds a Ph.D. in Political Science from the University of Toronto. He will be responsible for supervising and coordinating the research and analysis for this project. Dr. Winfield has written papers and reports on a wide range of environmental law and policy issues, including environmental technologies, solid waste diversion, pollution prevention, and environmental liability. Dr. Winfield also has been an instructor in the Division of the Environment, Faculty of Arts and Science, University of Toronto.

Full Curriculum Vitae for Ms. Mitchell and Dr. Winfield are attached to this proposal.

##### **2. Project Partners**

The following organizations and individuals have agreed to participate in the development of the individual case studies:

###### *The Pembina Institute for Appropriate Development (Voluntary Climate Change and Registry Program)*

Founded in 1985, The Pembina Institute for Appropriate Development is an independent, not-for-profit research and education organization. It seeks to develop and promote public policy and educational programs which protect the environment and encourage environmentally sound resource management strategies. The Pembina Institute completed an independent first year review of the Canadian Voluntary Challenge and Registry Program on Climate Change in November 1995.

Mr. Robert Hornung, the author of the institute's review of the program, will be the principal researcher for the Institute's contribution to the proposed project. Mr. Hornung is Director of the Pembina Institute's climate change program.

*Canadian Environmental Law Association (Accelerated Reduction and Elimination of Toxics)*

The Canadian Environmental Law Association is a community legal aid clinic under the Ontario Legal Aid Plan, established in 1970. CELA's objective are: to provide effective legal assistance on issues of environmental law to those otherwise unable to afford representation; to promote through legal channels standards and objectives that will ensure the maintenance of environmental quality in Ontario and throughout Canada; and to preserve our environmental heritage and to encourage the sustainable use of energy and resources through undertaking research into ways of preserving and improving the quality of the environment. CELA has followed the development of ARETs and other voluntary environmental programs closely over the past three years.

CELA's study of ARETs for this project will be conducted under the supervision of Mr. Paul Muldoon, Counsel with the Association. Mr. Muldoon was formerly Director of Programs with Pollution Probe, and was a participant in the multi-stakeholder discussions leading to the development of ARETs. Mr. Muldoon is also an Instructor at the Institute for Environmental Studies at the University of Toronto.

*Dr. Sonia Labatt (National Packaging Protocol)*

Dr. Labatt is an Associate and Instructor with the Institute for Environmental Studies at the University of Toronto. Dr. Labatt's 1995 Ph.D. dissertation was a detailed study of corporate response to the National Packaging Protocol of the Canadian Council of Ministers of the Environment. Dr. Labatt has also presented a number of papers on corporate responses to environmental issues, and the potential role of voluntary initiatives in environmental policy.

*Environmental Law Institute (EPA Project XL)*

The Environmental Law Institute, founded in 1971, is an internationally recognized independent environmental law research and education centre. Through its information services, training courses and seminars, research programs and policy recommendations, the Institute activates a broad constituency of environmental professionals in government, industry, the



private bar, public interest groups, and academia.

ELI's principle researcher for this project will be Suellen Keiner. She is a Senior Attorney with ELI, with 25 years experience in the practice and study of environmental law and policy. Ms. Keiner has followed the development of the Project XL program closely since its inception.

### **3. CIELAP Research Staff**

The studies on industry government memoranda of agreement (MOU's) in Ontario and the Ontario Environmental Farm Plan Program will be completed by the CIELAP staff and Research Associates.

#### **Karen Clark, LL.B., M.A. (Canada/Ontario/Industry Memoranda of Agreement)**

Ms. Clark is a lawyer and a Research Associate with CIELAP. She has completed a number of major research projects for the Institute in such fields as voluntary industry initiatives in environmental policy, biodiversity and the conservation of genetic resources, and federal-provincial relations and the environment. In 1995 Ms. Clark completed a preliminary analysis of four of the MOU's in place between industrial sectors, the province of Ontario and the Canadian federal government.<sup>32</sup>

#### **Jan Rabantek, M.Sc.(Agricultural Science) (Environmental Farm Plan)**

Mr. Rabantek is a Project Officer with the Institute, responsible for its activities in relation to sustainable agriculture. Mr. Rabantek was a co-author of CIELAP's 1995 study on the status and needs of the sustainable agriculture sector in Canada.<sup>33</sup>

Full Curriculum Vitae for all organizations and individuals participating in the project are available upon request.

V. **PROJECT BUDGET** (All amounts are in Canadian funds unless otherwise indicated)

**STAGE 1 - RESEARCH DESIGN AND THE DEVELOPMENT OF TERMS OF REFERENCE FOR CASE STUDIES**

i) **Research design and the development of preliminary terms of reference for case studies**

Research Director (R.D.) 20 days @ \$350/day	\$7,000
Executive Director (E.D.) 2 days @ \$400/day	\$800

ii) **Workshop on Research Methodology**

**Travel and Accommodation:**

11 x \$750	8,250
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**Organization:**

10 days @ \$100/day	\$1,000
R.D. 2 days @ \$350/day	\$700
E.D. 1 day @ \$400/day	\$400

**Per Diems for Participants:**

Researchers:

5 x 2 days @ \$250/day	
NGO Advisory Committee Members 6 x 2 days @ \$250/day	
(12 days Cdn Participants @ \$250/day)	\$3,000
(10 days U.S. Participants @ \$250/day @ 1.35)	\$3,375

**Room, Lunch:**

<b>Proceedings/modifications to research design:</b> R.D. 5 days @ \$350/day	\$1,000
	\$1,750

iii) **Communications:**

(L-D Phone, fax, e-mail)	\$1,000
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<b>Total Stage 1:</b>	<b>\$28,275</b>
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**STAGE 2 - CASE STUDIES**

i) **Case Studies**

**Each Case Study:**

Research and Writing	\$15,000
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Expenses (communications, photocopy, document purchase)	\$1,000
Total for Canadian Studies: C\$16,000 x 5	\$80,000
Total for U.S. Studies: U.S.\$16,000 x 2 @ 1.35	\$43,200
<b>ii) Supervision and coordination:</b>	
R.D. 20 days @ \$350/day	\$7,000
E.D. 5 days @ \$400/day	\$2,000
<b>iii) Communications</b>	
(L-D Phone, fax, e-mail)	\$1,000
<b>Total Stage 2:</b>	<b>\$133,200</b>

**STAGE 3: - WORKSHOP ON CASE STUDY RESULTS**

<b>Travel and Accommodation:</b>	
11 x \$750	\$8,250
<b>Organization:</b>	
10 days @ \$100/day	\$1,000
R.D. 2 days @ \$350/day	\$700
E.D. 1 day @ \$400/day	\$400
<b>Per Diems for Participants:</b>	
<b>Researchers:</b>	
5 x 2 days @ \$250/day	
<b>NGO Advisory Committee Members</b>	
6 x 2 days @ \$250/day	
(12 days Cdn Participants @ \$250/day)	\$3,000
(10 days U.S. Participants @ \$250/day @ 1.35)	\$3,375
<b>Room, Lunch:</b>	\$1,000
<b>Proceedings:</b>	
R.D. 5 days @ \$350/day	\$1,750
<b>Total Stage 3:</b>	<b>\$19,475</b>

**STAGE 4 - DEVELOPMENT OF CONCLUSIONS AND RECOMMENDATIONS**

<b>Research and Writing:</b>	
R.D. 30 days @ \$350/day	\$10,500
E.D. 5 days @ \$400/day	\$2,000

**Total Stage 4: \$12,500**

**STAGE 5 - FINAL REPORT**

**i) Introduction:**  
R.D. 10 days @ \$350/day \$3,500

**ii) Editing:**  
R.D. 20 days @ \$350/day \$7,000  
E.D. 5 days @ \$400/day \$2,000

**iii) Desktopping:**  
10 days @ \$100/day \$1,000

**iv) Printing:**  
500 @ \$10 Copy \$5,000

**Total Stage 5: \$18,500**

**STAGE 6 - FOLLOW-UP/OUTREACH ACTIVITIES**

**i) Production, printing and distribution of outreach materials:** \$5,000

**ii) Outreach Activities:**  
20 days @ \$400/day \$8,000

**Communications:** \$2,000

**Total Stage 6: \$15,000**

**Project Sub-Total: \$226,950**

**Overhead and Administration (15% of Total Budget) \$34,042**

**Total: \$260,992**  
**(\$US193,327 @ 1.35)**

## **VI. PROJECT TIME LINE**

January 1997:	Secure Funding, Initiate Research Design
February 1997:	Complete Preliminary Research Design.
March 1997:	Research Design Workshop (Stage 1).
November 1997:	Complete Case Studies (Stage 2).
January 1998:	Workshop to Review Case Studies (Stage 3).
March 1998:	Complete Conclusions and Recommendations (Stage 4).
April 1998:	Editing and Desktopting final Report (Stage 5).
May 1998:	Publish Final Report.
May 1998:-	Outreach and Education Activities (Stage 6).
October 1998:	Project Final Report to Mott Foundation.

## VII. PROJECT ADVISORY COMMITTEE

As is the case with all major CIELAP research projects a Project Advisory Committee will be established. The Advisory Committee will be composed of individuals with appropriate expertise from a variety of sectors. The committee will be asked to provide advice and support for the project through the review of drafts of project reports, and participation in the workshops on project design and the case studies. Advisory committee members may also provide assistance in obtaining access to information or individuals necessary for the successful completion of the project.

Provision has been made in the budget to provide honoraria and travel and accommodation costs for non-governmental members of the Advisory Committee attending the workshop sessions.

### The Advisory Committee will include:

- Marc Beauchemin - President, Quebec Environmental Law Centre.
- Dave Bennett - Director, Health, Safety and Environment, Canadian Labour Congress.
- Stewart Forbes - Executive Director, Great Lakes Pollution Prevention Centre. Members, Board of Director, CIELAP.
- Gary Gallon - President, Canadian Institute for Business and the Environment. Member, Board of Directors, CIELAP
- Charles Griffiths - Ecology Action Centre of Ann Arbor.
- Isobel Heathcote - President, CIELAP, Professor of Environmental Engineering, University of Guelph.
- Kevin Mills - Director, Pollution Prevention Alliance, Environmental Defense Fund.
- Carolyn Nunley/Mark Dorfman - Researchers, INFORM.
- John Jackson - President, Great Lakes United.
- Ron Shimizu - Regional Director-General, Environmental Protection Service, Environment Canada.
- David Vanderzwagg - Professor, Faculty of Law, Dalhousie University. Member, Board of Directors, CIELAP.

Representation from the Ontario Ministry of Environment and Energy is to be confirmed.

Additional individuals may be added to the Advisory Committee as appropriate. Particular emphasis will be placed on strengthening the representation of affected sectors of business and industry.

## VIII. PROJECT EVALUATION

The project will include the delivery of a project report and evaluation to the project sponsors upon completion. This will include a report on the delivery of the major project components in relation to the proposed budget and time line. A description of any unforeseen events which have required variations in the structure of the project, and the manner in which these changes have been dealt with, will also be provided. In addition, an overview of the outreach and education activities undertaken following the publication of the project final report will be provided. Comments on project structure, management and outcomes will be sought from the project researchers and members of the Project Advisory Committee and included in the project report as well.

The evaluation of the long-term impact of the project on public policy will be more difficult. Given the nature of the project, this assessment will have to be qualitative in nature. It is hoped that the workshop on the case studies and the release of the project final report will prompt significant debate within the governments, industry and environmental and other non-governmental and community organizations regarding the use and structure of environmental voluntary programs in the future. Coverage of these debates in the wider media as a result of the program would also be an important indicator of the impact of the project.

In the longer term, it is hoped that the project may result in modifications, if appropriate, to the voluntary environmental programs under study. In addition, it is expected that the project conclusions and recommendations will be reflected in the use and structure of voluntary environmental programs by Canadian and U.S. governments in the future.

The project report to the Mott Foundation will be delivered six months after the publication of the project final report. This will allow sufficient time for a preliminary assessment of the long-term impact of the project.



## IX. CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

The Canadian Institute for Environmental Law and Policy (CIELAP) was established in 1970 as the Canadian Environmental Law Research Foundation (CELRF), in response to the growing need for objective analysis of environmental law and policy

Independent of both government and industry, CIELAP is a national, charitable, not-for-profit research and educational organization committed to the reform of environmental law and public policy in Canada. CIELAP's charitable registration number with Revenue Canada is 0380584-59.

CIELAP's mission is to provide leadership in the development of environmental law and policy that promotes the public interest and the principles of sustainability, including the protection of the health and well-being of present and future generations, and of the natural environment.

Pollution prevention in the Great Lakes basin has been a major focus of the Institute's work. The 1989-1992 Program for Zero Discharge, completed in partnership with the National Wildlife Federation with the sponsorship of the C.S. Mott Foundation, resulted in a series of policy and technical reports focused on toxics pollution prevention in the Great Lakes Basin. In addition, the CIELAP has published texts directed at professional and lay audiences related to environmental law and policy including Environment on Trial: A Guide to Ontario Environmental Law and Policy, and the Key to Environmental Compliance.

More recently, the reform of environmental regulation has become a major focus on the Institute's work. The Institute has recently completed detailed reviews and analyses of the environmental regulatory reform initiatives of the Ontario government. It has also prepared a study comparing recent reforms in the regulatory and policy-making process in the Canadian and U.S. federal governments, and a number of Canadian provinces, including Ontario.

The proposed project on voluntary environmental initiatives will complement and extend this work on regulatory reform. The proposed project will result in the most thorough examination of the use of voluntary programs in environmental policy in North America completed to date. It will be of critical importance given the growing reliance of governments on voluntary programs as one of their primary instruments of environmental policy, particularly in relation to the adoption of pollution prevention practices.

## ENDNOTES

1. See, for example, M. Mathieu Glachant, "Voluntary Agreements in Environmental Policy" (Paris, Environment Directorate, OECD, 1994) and, Proceedings and Final Report: OECD Workshop on Non-Regulatory Initiatives for Chemical Risk Reduction (Crystal City: OECD Risk Reduction Program, September 1996). For an overview of the use of voluntary measures in North America see Voluntary Compliance Measures in North America: Workshop Report (Montreal: North American Commission for Environmental Cooperation, August 1996).

2. J. Moffet and F. Bregha, "Voluntary Environmental Measures: What Are They? What Makes Them work?" (Ottawa: Resource Futures International, September 1996).

3. On ARET see Environmental Leaders 1: Voluntary Commitments to Action on Toxics through ARET (Ottawa: ARET Secretariat, March 1995).

4. See Canada's National Action Plan on Climate Change, (Canadian Council of Ministers of the Environment, and Council of Energy Ministers, 1995).

5. See National Packaging Protocol (Winnipeg: Canadian Council of Ministers of the Environment, 1990).

6. Government of Canada Regulatory Policy (Ottawa: Treasury Board Secretariat, December 1995).

7. See, for example, The Automotive Manufacturing Pollution Prevention Project (June 1993) and the Automotive Parts Manufacturing Pollution Prevention Project (December 1993).

8. Responsive Environmental Protection (Toronto: Ontario Ministry of Environment and Energy, July 1996), p.58.

9. Reinventing Environmental Regulation (Washington, D.C.: Executive Office of the President, March 1995).

10. United States Environmental Protection Agency, Advisory Committee Charter: Common Sense Initiative Council (Washington, D.C.: 1994).

11. Ibid.

12. See, for example, Karen L. Clark, The Use of Voluntary Pollution Prevention Agreements in Canada: An Analysis and Commentary (Toronto: Canadian Institute for Environmental Law and Policy, April 1995).

13. See, for example, P. Muldoon, "Drawbacks to voluntary pollution prevention agreements in Canada," The Great Lakes United, Vol. 9., No. 2, Fall 1994.
14. See, for example, Gary T. Gallon, "Voluntary Programs and Regulation: How to make environmental initiatives more effective and fair," Hazardous Materials Management, August/September 1995.
15. House of Commons Standing Committee on Environment and Sustainable Development, It's About Our Health! Towards Pollution Prevention: CEPA Revisited (Ottawa: House of Commons, June 1995), Recommendation 36.
16. In Canada, for example, a voluntary code of practice has been established by tobacco manufacturers as an alternative to the regulation of tobacco advertising by the federal government. See, for example, B. McKenna, "New tobacco limits urged," The Globe and Mail, July 1, 1996.
17. Environmental Leaders 1: Voluntary Commitments to Action on Toxics Through ARET (Ottawa: ARET Secretariat, March 1995), p. i.
18. The Automotive Manufacturing Pollution Prevention Project (June 1993) and the Automotive Parts Manufacturing Pollution Prevention Project (December 1993). Other agreements have involved the Chemicals and Dry Cleaning sectors.
19. United States Environmental Protection Agency, Advisory Committee Charter: Common Sense Initiative Council (Washington, D.C.: 1994).
20. Ibid.
21. Project XL Information Package (Washington D.C.: May 1996).
22. Canada's Voluntary Challenge and Registry Program: An Independent Review (Drayton Valley, (AB): Pembina Institute for Appropriate Development, November 1995).
23. S. Labatt, Corporate Response Toward Environmental Issues: A Case Study of Packaging (Toronto: Ph.D. Thesis, Department of Geography/Institute for Environmental Studies, University of Toronto, 1995).
24. See "Tracking Industrial Toxic Waste Through Voluntary Action: EPA's 33/50 Program and Preliminary Findings of INFORM's Research," in Toxics Watch 1995 (New York: INFORM Inc., 1995).
25. M. Winfield, J. Castrilli, et. al., The Ontario Environmental Regulation and Policy Process in a Comparative Context: An Exploration of the Possibilities for Reform (Toronto: Office of the

Environmental Commissioner for Ontario, forthcoming).

26. See, for example, A. Socha, "Stakeholders' Perspectives on Regulatory Reform - ARETs" in M.D. Mehta, ed., Regulatory Efficiency and the Role of Risk Assessment: Proceedings from the First Annual Policy Forum of the Eco-Research Program in Environmental Policy and the School of Policy Studies (Kingston: Queen's University Eco-Research Program in Environmental Policy, February 1996)

27. The failure to consider issues of this nature has been a source of major criticism of a study of ARETs completed at Queen's University earlier this year. See W. Liess et. al., Lessons Learned from ARET: A Qualitative Survey of Perceptions of Stakeholders (Kingston: Environmental Policy Unit, School of Policy Studies, Queen's University, 1996). For a commentary on the Queen's study see G. Gallon, "ARET, Canada's Environmental Voluntary Initiative Needs Work" (Montreal: Canadian Institute for Business and the Environment, September 1996).

28. See, for example, Pollution Prevention Alliance Newsletter Vol. 6/No1, February/March 1996, on USEPA's Project XL.

29. See, for example, Clark, The Use of Voluntary Pollution Prevention Agreements in Canada, and Moffet and Bregha, "Voluntary Environmental Measures."

30. For a case study of this problem regarding the voluntary financing scheme for curbside recycling in Ontario established through Ontario Multi-Materials Recycling Incorporated (OMMRI) see M. Winfield and Z. Makuch, Who Pays For Blue? Financing Residential Waste Diversion in Ontario (Toronto: Canadian Institute for Environmental Law and Policy, October 1993).

31. See INFORM, "Tracking Industrial Toxic Waste Through Voluntary Action," Toxics Watch 1995.

32. Clark, The Use of Voluntary Pollution Prevention Agreements in Canada.

33. M. Winfield and J. Rabantek Sustainable Agriculture in Canada: An Overview and Assessment of Critical Needs (Toronto: CIELAP, July 1995).