



Submission by the Environmental Commissioners of Canada and Quebec to the United Nations Conference on Sustainable Development (Rio+20)

Lessons in Good Governance: Performance auditing and reporting from the Environmental and Sustainable Development agenda in Canada

For consideration at the Second Earth Summit 2012 Intersessional

Executive Summary

- This paper provides observations and lessons learned on good governance from the work of two independent Commissioners of the Environment and Sustainable Development in Canada.
- Environment and sustainable development (ESD) audits can play a critical role in providing practical, objective, and rigorous examinations of how environmental and sustainable development laws, regulations, policies and programs are managed and implemented, and how they achieve their intended objectives at the sub-national, national, and international levels. Audits support good governance by advancing accountability.
- Comparing observations made in ESD audits of the Canadian *Kyoto Protocol Implementation Act* and of Canada's implementation of its obligations under the *Montreal Protocol on Substances that Deplete the Ozone Layer* illustrates that good governance and accountability are critical factors in the success of domestic and international legal instruments.
- Existing and future multilateral environmental agreements should integrate implementation and accountability mechanisms, and a performance reporting framework.

Background

Since the United Nations (UN) Conference on the Human Environment, held in Stockholm in 1972, governments around the world have been working to address environmental issues through the creation of national and sub-national government departments, agencies, policies, programs, regulations, and expenditures, and through the creation or adaptation of international institutions, treaties, and soft law (for example, international declarations). A key step in this process was the 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro and its action plan Agenda 21. Although multilateral environmental agreements and institutions were established, current scientific assessments indicate that many ecosystems are worse off now than they were 20 years ago. These assessments also reveal that environmental degradation is proceeding at accelerated levels.

During this same period, people have formed growing expectations that organizations affecting the environment should be accountable for their actions. Many people now believe that representations that governments make in the field of environment and sustainable development should be subject to independent audit to assess how well these tools are implemented.



Purpose

This paper is submitted as a contribution to the discussion on the second theme of the Rio+20 conference, “the institutional framework for sustainable development”. It addresses the second objective on assessing progress to date and the remaining gaps in the implementation of sustainable development. This paper shares perspectives obtained from the work of the Environmental Commissioners of Canada and of Quebec, with a view to improving the implementation of environmental policies, programs, regulations, and partnerships. It is hoped that these lessons will be particularly useful to countries that are still developing their environmental governance frameworks and institutions.

Audit and good governance

Good governance is essential for ensuring that commitments to environmental protection and sustainable development produce credible results. National and sub-national (provincial) environment and sustainable development audits play a critical role in supporting good governance by advancing accountability and by providing practical, objective, and rigorous examinations of how environmental and sustainability laws, regulations, and programs are managed and implemented at the national and international level against their objectives and targets.

Audit and performance reporting provide a well established, internationally accepted, and respected means of finding out if governments have done what they said they would do. These tools can help hold governments to account for implementing policy commitments and program delivery, and can lead to improvements in the implementation of international and domestic agreements.

Issues Identified in Environmental Audits and Evaluations

The Commissioners of the Environment and Sustainable Development of Canada and of Quebec have been conducting their work for many years. The two Commissioners have identified a number of common issues in their audits of government programs and activities. A 2011 survey of the 71 nation states that are members of the International Organization of Supreme Audit Institutions (INTOSAI) Working Group on Environmental Auditing identified key issues observed in environmental audits. (See Appendix A for an overview of the work of the Commissioners and of INTOSAI.) Responses to the survey echo many of the issues that the Commissioners identified and can be summarized as follows:

- **Lack of coordination between sub-national levels and the national level.**
Through the audits conducted, it has been noted that since environmental problems occur at all levels, actions must involve municipal, regional, and national governments. There is a need to improve integration and coordination between governance institutions at different levels. When local entities are involved in implementing national policies, it is essential that credible and verifiable means exist for reporting on how these funds were spent and what results were achieved, in the interest of transparency and accountability for national funds and results.



- **Insufficient assessment of environmental impacts of government policies and programs.** Audits have noted that governments are not using policy tools to ensure more timely consideration of environmental outcomes or negative impacts before large sums are committed to a policy, program, or project. Many governments do not yet widely use high-level regulatory impact assessment or strategic environmental assessment, or they do not use them effectively to inform policy decision making.
- **Lack of analysis (economic, social, and environmental) supporting decisions.** In some audits, the findings have noted that policy makers are not taking into account the three pillars of sustainable development—economic, social, and environmental aspects—when making decisions. Several audits have found that full-cost accounting is rarely done. Sustainable development governance requires robust analysis and better integration of economic, social, and environmental policies, and recognition of tradeoffs, particularly within the broader development planning frameworks.
- **Lack of long-term planning to implement environmental policies and programs.** Audits have noted that issues requiring long-term planning to resolve, such as climate change adaptation, do not have corresponding planning processes or plans in place. This situation may lead to a planning and accountability gap that can increase the risk of not meeting long-range commitments.
- **Inadequate financial management of environmental policies and programs.** Audits have noted that financial management problems can be caused by several factors: insufficient planning, resulting in high, incorrectly anticipated costs of delivering environmental policies and programs that then require large amounts of additional unanticipated funds; lack of an appropriate financial management framework to support the implementation of environmental policies and programs; lack of financial management skills; and misuse of funds.
- **Lack of enforcement of domestic environmental legislation.** National and sub-national audits have indicated that environmental laws are not self-executing. Governments must ensure compliance with domestic environmental legislation by taking appropriate, effective, and proportionate policy measures. This approach requires administrative capacities and strong government commitments to implement and enforce the regulatory framework.
- **Deficient monitoring and reporting systems.** Audits have noted that high-quality accountability and reporting systems are often lacking. Evaluation of key policy choices, and of the effectiveness and efficiency of the instruments used to implement them, is not always in place. Without good evaluation, it is difficult for governments to report and measure their progress toward sustainable development and to identify where further policy action is needed.
- **Lack of environmental data for decision making.** Audits have noted that government bodies do not have sufficient and robust environmental data to support their policy and program decisions and to evaluate their performance



against objectives. There are problems with the availability, timeliness, quality, and accuracy of data. Overall, there is a lack of knowledge and information on ecosystems and their responses to pressures; and a failure to use the existing information adequately to support management decisions. Independent environmental audits can collect and report information for decision makers where information is lacking.

Lessons learned for good governance and accountability

Drawing from these identified issues, we can point to core lessons learned for effective implementation of environmental commitments. For years, the Commissioners of Environment and Sustainable Development in Canada have stressed the importance of applying the principles of good governance—effective accountability mechanisms, adequate transparency, credible reporting, and protection of the public interest—to federal programs, partnerships, and practices. More than ever, we believe these principles are key to future success of national and international law, policies, plans, and programs, and to determining whether commitments made by governments to address environmental and sustainable development objectives are being met. In practical terms, the design of these instruments and measures must:

1. Provide a plain language description of the commitment and what it means in terms of intended outcomes and results.
2. Identify the new actions that are needed, along with those already under way, complete with realistic timetables and milestones.
3. Assign clear and specific roles and responsibilities to the departments and agencies at all levels that are responsible for these actions.
4. Establish concrete performance expectations and indicators of progress.
5. Provide the necessary resources to implement the actions that have been identified.
6. Monitor and review progress that is made.
7. Report to the public regularly and in a transparent way.

Lessons in good governance – Comparing audit observations for the *Montreal Protocol* and the *Canadian Kyoto Protocol Implementation Act*

In 2011, the Canadian Federal Commissioner of the Environment and Sustainable Development conducted an audit of Canada's *Kyoto Protocol Implementation Act*. The Commissioner found that the federal government had not put in place the management systems and tools needed to achieve, measure, and report on reductions of greenhouse gas emissions. The report noted that key elements were missing, such as clear roles and responsibilities, goals and objectives, and effective performance measurement—including transparent financial reporting and quality assurance on greenhouse gas emissions reported. The report found that Canada's Climate Change Plans are not in compliance with the federal *Kyoto Protocol Implementation Act* and that Canada is not on track to meet its target for



greenhouse gas emissions under the Kyoto Protocol.

In 1997, the Office of the Auditor General of Canada conducted an audit of the federal government's implementation of the *Montreal Protocol on Substances that Deplete the Ozone Layer* and found that Canada had met—and, in some cases, exceeded—its obligations under the Montreal Protocol. The *Montreal Protocol* has been remarkably successful in achieving its objectives to date at the international and national levels. As a multilateral environmental agreement, it broke new ground in many areas and is often hailed as a model for solving environmental issues of a similar nature. Many factors have contributed to its success to date, including the following:

- **mandatory data reporting** facilitated tracking of countries' performance against their commitments and country-to-country comparisons;
- clear, measurable phase-out targets and schedules allowed for effective **measurement of progress**;
- the adoption and application of alternative technologies were greatly facilitated through **cooperation and collaboration** initiatives, including bilateral assistance projects, industry-led workshops and technical assistance, and government-to-government training;
- the establishment of the **Scientific Assessment Panel** provided an effective forum for obtaining and reporting consensus among international scientists and research institutions and for supporting policy decisions;
- special provisions for developing countries, based on the principle of mutual but differentiated responsibilities, such as a grace period for phase-out of Ozone Depleting Substances (ODS) and **direct financial assistance** through the Multilateral Fund.

These examples illustrate that good governance and accountability mechanisms are important factors in the success of international legal agreements and national governments' implementation of their respective obligations.

Aspirations for Rio+20 outcomes

We believe that more effective accountabilities and implementation mechanisms would ensure more effective agreements and outcomes. For this reason, we submit the following for consideration at the Rio +20 conference:

- Existing and future multilateral environmental agreements could include enhanced implementation and accountability mechanisms. These mechanisms could be built into the agreements and a performance reporting framework could be established. The UN Convention on Biological Diversity's Strategic Plan and its Aichi Biodiversity Targets may provide useful examples.
- International, national and sub-national audits and progress reporting can play a critical role in supporting good governance by advancing accountability, and providing practical, objective and rigorous examinations of how environmental and sustainability policy, programs, regulations, targets and laws are managed and implemented.
- Existing national and international mechanisms could be enhanced, or new ones designed to enhance accountability and transparency could be created.
- Capacity building and institutional development in developing countries should be enhanced in the field of environmental governance, and performance auditing and reporting.



Appendix A

Background on the Commissioners

The Commissioner of the Environment and Sustainable Development, within the Office of the Auditor General of Canada, and the Commissioner of Sustainable Development of Quebec are independent officers of democratic legislatures. During the course of their work over the last 20 years, they have studied, observed, audited, and verified the extent to which their governments have made and kept their commitments to protect the environment and to promote sustainable development through domestic and international commitments and agreements.

Since it was established in 1995, the federal **Commissioner of the Environment and Sustainable Development (CESD)** has produced over 100 performance audits and studies on environmental issues ranging from air and water quality to climate change, hazardous spills, and species at risk. The CESD has examined the implementation of federal regulations, programs, partnerships, and multilateral environmental agreements. Also, the CESD has played an important role in the oversight of the implementation of the federal government's climate change plans and the *Federal Sustainable Development Strategy*—the latter calling for the integration of environmental, economic, and social factors in all decisions governments make. The CESD also manages a transparency and accountability tool, known as the environmental petitions process, which raises environmental and sustainable development issues to the ministerial level within and, at times, between departments.

The **Commissioner of Sustainable Development in Quebec** makes comments and recommendations concerning the application of Quebec's *Sustainable Development Act*, which established a management framework within the provincial government to ensure that its powers and responsibilities are exercised in the pursuit of sustainable development. The Commissioner's objectives include raising awareness of sustainable development issues to parliamentarians, ensuring accountability of provincial departments in relation to their sustainable development action plans, and integrating the principles established by Quebec's *Sustainable Development Act* in the evaluation criteria used in value-for-money auditing.

The **International Organization for Supreme Audit Institutions (INTOSAI)** is the professional association of Supreme Audit Institutions (SAIs) in countries that belong to the United Nations or its specialized agencies. INTOSAI established the Working Group on Environmental Auditing (www.environmental-auditing.org) in 1992. At INTOSAI's most recent triennial International Congress of Supreme Audit Institutions, held in 2010 in Johannesburg, South Africa, the resulting Johannesburg Accords noted that “[by] exercising the highest values of professionalism, independence, objectivity and transparency, and through effective cooperation, Supreme Audit Institutions can make significant contributions toward addressing sustainable developments issues that are becoming increasingly regional, and even global, in nature.”