

**SUSTAINABLE DEVELOPMENT IN THE FEDERAL GOVERNMENT I:
THE COMMISSIONER OF THE ENVIRONMENT
AND SUSTAINABLE DEVELOPMENT**

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INTRODUCTION

In general, sustainable development refers to the integration of environmental, economic and social goals in order to meet current and future needs.⁽¹⁾ The term sustainable development was first brought into common usage in the report of the World Commission on Environment and Development (the Brundtland Commission), *Our Common Future*, in 1987. Soon after, it entered into Canadian political discourse and has been, with varying degrees of emphasis, a part of government policy to this day.

One of the most important advances in implementing sustainable development in the federal government was the establishment of the Commissioner of the Environment and Sustainable Development within the Office of the Auditor General. The present paper briefly describes the history of this position and the role of the Commissioner.

A BRIEF HISTORY

In 1989, a coalition of environmental non-governmental organizations presented a “Greenprint for Canada” to the Environment Minister. In this document it was recommended that an auditor general for environmental issues be created.⁽²⁾

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- (1) See Tim Williams, *Sustainable Development: Key Concepts and Questions*, PRB 04-55E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, January 2005 (<http://pintrabp.parl.gc.ca/lopimages2/prbpubs/bp1000/prb0455-e.asp>).
 - (2) Glen Toner, Professor, School of Public Policy and Administration, Carleton University, *Evidence*, Standing Senate Committee on Energy, the Environment and Natural Resources, 2 December 2004.

The government's Green Plan of 1990 stated that in 1992, federal departments and agencies would implement policies and procedures for environmental auditing. The purpose of the proposed auditing was to evaluate organizational compliance with environmental standards and policies, as well as to measure performance against desired goals and objectives.⁽³⁾

In March 1994, the Minister of the Environment asked the House of Commons Standing Committee on Environment and Sustainable Development to examine ways to establish an environmental auditor general who would examine the government's actions in order to verify that they were being carried out in a sustainable manner. In May 1994, the Committee recommended the establishment of a Commissioner of the Environment and Sustainable Development.

In April 1995, the government responded to the Standing Committee's recommendation by proposing the creation of a Commissioner of the Environment and Sustainable Development within the Office of the Auditor General of Canada. This arrangement was proposed despite the fact that the Committee had recommended a separate agency and legislation for the Commissioner in order, in part, that the office would be free to comment and provide advice on policy, which an auditor is not.

In December 1995, amendments to the *Auditor General Act* establishing the position of Commissioner of the Environment and Sustainable Development received royal assent. Canada's first Commissioner was Brian Emmett (June 1996 to January 2000). Johanne Gélinas was appointed Commissioner in August 2000.

SUSTAINABLE DEVELOPMENT IN THE *AUDITOR GENERAL ACT*

The amended Act states that sustainable development is a continually evolving concept based on the integration of social, economic and environmental concerns, and which may be achieved by, among other things:

- (a) the integration of the environment and the economy;
- (b) protecting the health of Canadians;
- (c) protecting ecosystems;

(3) Government of Canada, *Canada's Green Plan*, 1990, p. 164.

- (d) meeting international obligations;
- (e) promoting equity;
- (f) an integrated approach to planning and making decisions that takes into account the environmental and natural resource costs of different economic options and the economic costs of different environmental and natural resource options;
- (g) preventing pollution; and
- (h) respect for nature and the needs of future generations.⁽⁴⁾

The Commissioner's role is to monitor sustainable development and report on the progress of category I departments⁽⁵⁾ in implementing sustainable development. The Commissioner does this through performance audits.

PERFORMANCE AUDITS

Performance audits (formerly known as value-for-money audits) attempt to answer these questions:

- Are programs being run with due regard for economy, efficiency, and environmental impact?
- Does the government have the means in place to measure their effectiveness?

Performance audits are not intended to make value judgments regarding the relative merits of government policies. Rather, they examine the government's management practices, controls, and reporting systems, based on the government's own public administration policies and on best practices. There has been some suggestion that the Commissioner's office should be separated from the Auditor General's office precisely to enable it to comment on policy direction.

(4) *Auditor General Act*, s. 21.1.

(5) A category I department is (a) any department named in Schedule I to the *Financial Administration Act*, (b) any department in respect of which a direction has been made under subsection 24(3) of the *Auditor General Act*, and (c) any department set out in the schedule to the *Auditor General Act*.

The amended *Auditor General Act* gives a broad mandate to the Commissioner, stating that he/she can report on anything that the Commissioner considers should be brought to the attention of the House in relation to environmental and other aspects of sustainable development.

To assist the Commissioner in evaluating departmental performance, the *Auditor General Act* was also amended to oblige departments to create strategies in order to implement sustainable development.

SUSTAINABLE DEVELOPMENT STRATEGIES

In addition to creating the position of Commissioner, the amendments to the *Auditor General Act* also made it mandatory for departments to prepare sustainable development strategies that must be tabled in the House of Commons and updated every three years.

While the Act gives the government the power to create regulations describing what should be in the strategies, this power has not been used. Instead, general directions for the content of sustainable development strategies are to be found in the document *A Guide to Green Government*.⁽⁶⁾

One of the Commissioner's roles is to monitor these strategies. In general, the Commissioner has been quite critical of the manner in which departments are fulfilling this obligation, although there have been some exceptions. The 2004 report attributed part of the responsibility to a lack of direction from the centre (the Prime Minister's Office). Consequently, the creation of an overarching federal sustainable development strategy was recommended – a recommendation that has been made on several occasions.

PETITIONS

Another powerful tool that was added to the *Auditor General Act* in 1995 was that of public petitions. Any resident of Canada may send a petition to the Commissioner about an environmental matter in the context of sustainable development that is the responsibility of a category I department. The Commissioner must send the petition to the minister of the appropriate department within 15 days of receipt, and the minister then has 120 days to respond to the petition.

(6) http://www.sdinfo.gc.ca/reports/en/ggg/guide_III.cfm.

Through the petition process, for example, citizens and organizations can ask federal ministers to explain federal policy, investigate an environmental problem, or examine their enforcement of environmental legislation. There are currently 150 petitions listed in the petitions catalogue on the Office of the Auditor General of Canada's Web site.⁽⁷⁾

DUTIES OF THE COMMISSIONER

The Commissioner monitors both the extent to which departments meet the objectives of their sustainable development strategies and the responses of the ministers to petitions.

The Commissioner must report annually to the House of Commons regarding any matter that the Commissioner considers should be brought to the attention of the House in relation to environmental and other aspects of sustainable development. Each report includes subject matter of the Commissioner's choosing, as well as the Commissioner's conclusions with respect to the monitoring of sustainable development strategies and petitions. While considerable weight is put on these reports, by parliamentarians and the media in particular, there are no mechanisms to ensure compliance with recommendations.

Currently, the Commissioner's reports are tabled in the fall of each year and provide a good deal of information by which parliamentarians can hold the government accountable. A common theme among the reports is a call for greater leadership from the government. The press release accompanying the 2004 report concluded:

Why is progress so slow? After all, the mandates and commitments are there, the knowledge of what to do and how to do it is there, and we know it can be done – some of our findings show that. I am left to conclude that the reasons are lack of leadership, lack of priority, and lack of will.

The Commissioner's recommendations have apparently had some impact on government policy. The 2002 report included an audit of the management of federal contaminated sites that concluded:

(7) <http://www.oag-bvg.gc.ca/domino/petitions.nsf/viewE1.0?openview&count=1000>.

The federal government has so far failed to address the issue of federal contaminated sites adequately. Thirteen years after it started to deal with this issue, it still

- does not know how many of its sites are contaminated;
- does not have a full picture of the risks to human health and the environment and the likely cost of dealing with (cleaning up or managing) the sites;
- does not have a ranking of the worst sites in order of risks;
- does not have long-term, stable funding to manage the problem effectively; and most important,
- does not have firm central commitment and leadership, including an action plan for dealing with the higher-risk sites in a timely manner.⁽⁸⁾

In the 2003 Budget, money was announced to address some of these issues:

In order to address existing contamination, the Government will commit funding of \$175 million over two years. This will establish a centrally managed fund making ongoing resources available to address the highest-risk federal sites.

The 2004 Budget expanded significantly on the 2003 Budget, announcing “new funding of \$4 billion over 10 years to clean up federal contaminated sites and sites for which the Government has partial responsibility” (\$500 million of this money was designated for the clean-up of the Sydney Tar Ponds).

CONCLUSION

The position of Commissioner of the Environment and Sustainable Development is a novel approach to implementing sustainable development in government, and is being watched by other nations. The Commissioner’s reports are often highly critical of the government, but they also include recommendations by which the government can improve, as well as responses from the targeted departments.

(8) Commissioner of the Environment and Sustainable Development, *2002 Report*, Ch. 2, “The Legacy of Federal Contaminated Sites,” Ottawa, October 2002.

The Commissioner and departmental sustainable development strategies are cornerstones of the government's efforts to implement sustainable development. According to the Commissioner, however, "the government is not doing enough to ensure the growing or even the continued relevance of the strategies."⁽⁹⁾ Parliamentarians can play a valuable role in supporting the continued relevance of the strategies and the Commissioner's work by following up on the recommendations of the Commissioner to ensure that they are implemented.

(9) Commissioner of the Environment and Sustainable Development, *2004 Report*, "The Commissioner's Perspective," Ottawa, 2004.