

OPTIONS FOR A CANADA-UNITED STATES AIR QUALITY AGREEMENT

Notes for a presentation by Blair Seaborn

1990 Dartmouth Winter Seminar

"Humans and Their Environment: Acid Rain in North America"

I have been asked to speak in the final session this morning about an air quality agreement between Canada and the United States. Note that it is not just an acid rain agreement that is under discussion, though concern about acid rain is at its origin and dealing with acid rain will be a major component of it. What is envisaged is a much broader agreement which will permit our two countries to tackle this and other transboundary flows of deleterious air-borne toxic substances, as required, to meet international obligations.

Before I address the question of options for such an agreement, however, I would like to set the stage to help explain why an agreement is needed.

First, a bit of history.

In 1909, Canada and the United States entered into the Boundary Waters Treaty, surely one of the most notable and far-sighted examples of transboundary co-operation which exists anywhere. The Treaty, whose preamble refers to the desire to "prevent disputes" and to "settle all questions", sets forth orderly procedures for the two countries to deal with each other in respect of boundary waters and, by extension, of other transboundary environmental issues. It established a framework of principles and an institutional mechanism - the International Joint Commission - to bring about rational management of the waters flowing across or along the boundary.

While primarily focussed on water flows, the Treaty also contains a brief but very strong reference to water quality. Article IV reads in part:

"It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health and property on the other."

That is a very comprehensive statement. I draw to your attention the similarity with Principle 21 adopted in Stockholm in 1972, more than 60 years later, by the first United Nations Conference on the Human Environment. That Principle reads as follows:

"States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do