

Federalism *and* Multi-level Governance not Federalism *or* Multi-level Governance: A Framework for Thinking About Climate Governance in Federated Systems

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1. Introduction

The inherent complexity of climate change as a “wicked” problem poses a unique challenge for policy makers.⁷ At the international level, as a true collective-action problem (no country can solve its own climate-change problem by itself) it requires cooperation. Domestically, it requires policy to facilitate both emission reductions and adaptation to the associated impacts.⁸ For the former, policy must address a large number of energy sources, both traditional fossil fuels and a wide variety of potentially available renewable sources which can replace them, as well as many uses of energy, including various forms of transportation and related land-use planning, heating and cooling buildings, resource extraction, agriculture and manufacturing. Policy makers must juggle a number of disparate policy files, while at the same time coordinating with their counterparts in other countries. That challenge is compounded in the case of federated countries like Canada, Germany, and the federated system of the EU, due to the existence of sub-national (or member state) governments, often with some degree of jurisdictional authority and usually with a keen interest in the policy process because of the likelihood it will have significant economic implications.

During the past two decades, scholars studying policy making in federated countries or the EU have begun to supplement traditional federalism studies with a multi-level governance (MLG) approach.⁹ The former takes the two levels of government, working in greater or lesser degrees of coordination, as the primary actors developing and implementing policy, and therefore the focus of analysis, with other sub- and non-state actors limited to a lobbying role.¹⁰ An MLG approach, on the other hand, recognizes changes to public policy arising from globalization, the internationalization of many policy problems, creation of the European Union as a unique supra-national entity, followed by other trading blocs, and the emergence of new public-private entities for both policy development and implementation.¹¹ One might assume that because of the multi-faceted nature of the climate-change issue, policy responses, particularly in federated countries and systems, would be evolving increasingly toward an MLG-type approach.

We suggest two working hypotheses regarding the trends in governance initiatives to which we aim to respond:

1. Because of the nature of the issue, in all three cases, climate-change policy will be closer to an MLG than a federalism approach.
2. This will be found the most in the EU, the most multi-level jurisdiction, less so in Germany and the least in Canada.

If so, scholars studying climate change policy in federated systems would benefit by moving from federalism to a broader, MLG theoretical perspective. But what does it mean to have “federal” as

⁷ Wicked problem are those complex problems that are not amenable to technical solutions, since (among other reasons) the very act of defining a problem depends on how you think it should be solved (and vice versa), they cannot be “solved” but rather must be continually “managed,” and attempts to address them both cannot be reversed and tend to produce unintended consequences. On wicked problems the foundational work is Rittel & Webber 1973. Bernstein et al 2007 go so far as to characterize climate change as a “super wicked” problem due to the additional complications of an ever shortening time horizon for effectively addressing climate change, the lack of central global authority and resulting coordination problems, and the enormous scale and scope of transformative change required to effectively mitigate emissions. See also Lazarus 2009.

⁸ This paper, while recognizing the central importance of adaptation, focuses exclusively on climate change mitigation

⁹ Bache and Flinders 2004; Hooghe and Marks 2003

¹⁰ Fafard & Harrison 2000

¹¹ Hooghe & Marks 2001

opposed to “multilevel” policy responses? We suggest that there is a need to clarify these concepts, and to think about how they relate to one another. In response, we propose a simple conceptual framework that aims to capture the full variety of governance initiatives taking place. We recognize that such a simplification necessarily masks the complex, overlapping, and intersecting nature of actual governance initiatives. We also accept the pressing need to address the task of understanding whether, and how, various governance initiatives operating at different scales and by different sets of actors are being coordinated and to what effect when it comes to the mitigation and adaptation to climate change. However, we suggest that such efforts require a basic conceptual foundation from which to embark on this task, and offer this paper in all modesty as a possible starting point.

In this paper, we introduce and review federalism and MLG as conceptual models. Based on a review of the literature, we propose two foundational axes along which governance initiatives can be located: state-society and centre-periphery. The former captures the nature of non-state actor engagement in governance, with non-state actors either on the outside (lobbying) or on the inside (participating in rule-making and/or implementation). The latter captures the breadth and orientation of state-actor engagement as either concentrated at two-levels (as in federal systems) or diffused amongst a broader and more diverse set of governing bodies (including sub- and supra-state levels). These basic distinctions lead us to propose a four-fold set of categories within which climate policy initiatives can be located: (1) federalist; (2) MLG I; (3) MLG II; and, (4) Complex MLG (all terms defined below). In order to test the viability of this framework, we apply it to three case studies of climate change policy making: the first is Germany, a federation situated within the EU and whose climate policy is strongly influenced by EU policy; the second is the EU which, due to its institutional structure, one would expect to be the most likely to display MLG characteristics; the third is Canada, also a federation, but less embedded in a supra-national policy context, at least in institutional terms. For each of the three, we briefly examine the most significant climate-change policy initiatives developed to date, defined as those targeted at the largest portion of GHG emissions within the jurisdiction. We then classify each of these initiatives as falling into one of the four categories set out above in order to assess whether the conceptual framework is tenable.

The concluding section of the paper provides our analysis of the implications of the case-study findings for climate-change scholarship and suggests some possible paths forward.

2. Federalism and Multilevel Governance: Better Together?

The cases under examination in this paper are all, to varying degrees, federal polities.¹² They all exhibit varying levels of the “shared plus self rule” that is the central and defining feature of a federal system.¹³ But they are all, at the same time, increasingly conceptualized as multilevel polities, with all the attendant uncertainty that accompanies this vague term. When it comes to assessing climate governance in each, and thinking about how to engage in comparative analysis across cases, it is unclear as to whether a federalist or an MLG model provides a clearer picture of the actual governance dynamics in operation. This section suggests taking a step back, and proposes two more abstract axes along which governance initiatives can be located: state-society (capturing the nature of non-state actor engagement) and centre-periphery (capturing the breadth and orientation of state-actor engagement).

¹² A broad notion of what counts as a federal system allows for the comparative study of “emerging federations” or states that exhibit “federalness” such as the EU alongside the more traditional federal states like Canada, the US, and Australia. See Boardman 2009: 6; Borzel & Risse 2000; Watts 1998

¹³ Elazar 1987: 12

From this, we propose a simple two-by-two conceptual framework that consists of four categories or “types” of governance: Federal, MLG I, MLG II, and Complex MLG.¹⁴

Before embarking on this journey, some clarifying points regarding the concepts deployed in this paper need to be made. First is the distinction between governing and governance.¹⁵ These three concepts bear a great deal of familial resemblance, but they are distinct and are intended to signify different phenomena. Governing is the act undertaken by governments, those formal institutions endowed with legal authority and coercive power.¹⁶ Governance, on the other hand, is conceptualized as the construction and implementation of a system of rule that relies on the voluntary compliance of those towards whom it is directed.¹⁷ Governance as such features attempts to “steer” constituent elements of a society, where the authority to engage in such “steering” derives from less from “formal constitutional powers accorded the state but more from a capacity to wield and coordinate resources from public and private actors and interests.”¹⁸ Both governing and governance are processes of rule-making, conceived in the broadest sense as including efforts to influence interests, identities, and actions through norms, principles, and procedures.¹⁹ The former does so primarily through reliance on a foundation of formal authority and is most closely associated with federalism, while the latter does so primarily through reliance on coordinating capacity and persuasive reasoning and is most closely associated with MLG.²⁰

A second point must be made as regards the use of the concepts of MLG I, MLG II, and Complex MLG. The way in which we use the terms MLG I and II is slightly different than the way they are deployed in the literature, and we recognize and apologize for the potential confusion that may result. However, we feel that these labels capture some of the more basic distinctions drawn in the MLG literature and feel that the way we have used them conforms to their inherent orientation. To clarify, Hooghe & Marks refer to MLG I in terms of the degree of fixity and institutionalization of governance bodies and MLG II as an ephemeral form of governance that includes a variety of state and non-state actors coalescing around particular issues in order to fulfill functional needs.²¹ Our use of the terms does draw on these concepts, but abstracts back to a more simplified vision of the two dynamics at which they point in an attempt to clarify the empirical referents to which they point. We use MLG I to signify the devolution and diffusion of authority away from the central institutions of the federal state, thus capturing the governance activities (in concert with, or autonomous from) of a host of other “state”²² actors.²³ We use MLG II to denote the shifting role of non-state actors in governance processes, as they

¹⁴ Piattoni 2009a; 2009b . These papers represent a recent effort to clarify the theoretical foundations of MLG suggests three core elements, the blurring of three classical barriers of Westphalian state sovereignty, that combine to form the basis of MLG systems: domestic-international; state-society; centre-periphery. We have compressed this into a two dimensional framework by folding the domestic-international axis into the centre-periphery axis. This decision was made in order to simplify the analytical framework, and as a result of what we perceived to be the minimal loss of analytical clarity resultant from this move.

¹⁵ Note that “governance” is itself a highly contested concept, and multiple definitions and understandings exist in the literature. On this point see Ba & Hoffman 2005: 8

¹⁶ Rosenau & Czempiel 1992: 4-5

¹⁷ Rosenau & Czempiel 1992: 4-5

¹⁸ Peters & Pierre 2001: 131

¹⁹ Ba & Hoffman 2005

²⁰ Rosenau 1997

²¹ Hooghe & Marks 2003

²² There are several instances throughout this paper where the term “state” is presented as such (in scare quotes). This is intended as a nod to the difficulty of presenting supra-national bodies such as the EU as “states” and signifies the conceptual gray zone in which such entities exist.

²³ Piattoni 2009b: 17. In this draw on Piattoni, who asserts that one of the tests of whether a given policy-making process is or is not an instance of MLG is to “check whether: 1) different levels of government are simultaneously involved in policy-making.” See also Hooghe & Marks 2001: 3

move from being on the outside and attempting to influence rule-making, to being on the inside and engaging directly in the process of rule-making and implementation.²⁴ Again, this may take place in concert with the central state, or it may take place independent of the state. The combination of these two dynamics, MLG I and II, produces what we have termed the phenomenon of Complex MLG. This is a term that is deployed in the literature, but often as a descriptor rather than a proper noun.²⁵ We use the term to capture a particular type of governance initiative, one that involves the direct engagement of non-state actors operating in concert with, or autonomous from, state actors at and across multiple locales. Such governance initiatives are complex and confusing, based as they are on the blurring of both state-society and centre-periphery boundaries that have long formed the basis of understandings of how governance works.

2.1 Federalism

The first governance type is federalism. Federalism is a concept, and a theoretical approach, that has been subjected to much criticism and questioning. While claims regarding its theoretical irrelevance²⁶ have been for the most part set aside, and authors have increasingly embraced federalism in theoretical and normative terms²⁷ the prevalence of adjectivized versions of federalism (cooperative, market-preserving, legislative, administrative, regulatory, and so on) point to an underlying uncertainty as to what federalism actually is.²⁸

For the purposes of this paper, there are two core elements that define federalist governance initiatives. The first is the concentration of governance activities at the intersection of two levels of government. At its core, federalism is a political arrangement that is intended to manage tensions within a single polity that consists of internal divisions, whether these run along linguistic, religious, ethnic, geographic, or other lines. This holds true whether the dynamic driving the creation of the federal state is one of previously sovereign entities “coming together” in the pursuit of common goals such as the U.S., the EU, and Canada, or one of “holding together” previously unitary states that threaten to break apart, as in Spain, Belgium, or India.²⁹ Federalism, as an attempt to address “the general problem of coordination among units which are at the same time interdependent and relatively autonomous,”³⁰ clearly focuses attention on an institutional arrangement in which authority is divided between two levels of government. This institutional arrangement may take a variety of forms in terms of the enumeration of competencies, and may or may not be entrenched in a written constitution.³¹ The division of authority and competences in a federal system are intended to manage internal tensions and produce a set of overlapping or concurrent powers when it comes to complex problems, such as climate

²⁴ Piattoni 2009b: 17. Again drawing from Piattoni’s work, this second dimension of MLG is premised on whether “non-governmental actors are also involved, at different governmental levels” and whether “the interrelationships that thus get created defy existing hierarchies and rather take the form of non-hierarchical networks.”

²⁵ Bache & Flinders 2004: 205; Bulkeley & Betsill 2005: 59; Backstrand 2008: 81; Selin & VanDeveer 2009: 319. Selin & VanDeveer using the term complex multilevel coordination to describe one of four possible relationships between top-down and bottom-up climate governance initiatives in North America

²⁶ Riker 1969

²⁷ Galligan 2006

²⁸ Erk 2006:105; Simeon 2008

²⁹ Stepan 1999. The UK is an interesting case in which both of these dynamics play out. Richard Simeon notes that federalism is perceived as the F-word (with obvious negative connotations) in two different ways in the UK. Relative to the EU, federalism involves a loss of sovereignty to Brussels. Relative to Scotland and Wales, federalism involves a loss of sovereignty and potential fragmentation of Britain. See Simeon 2008: 5.

³⁰ Simeon 2006: 298

³¹ It is also important to note the potential disconnect between jurisdictional authority and fiscal capacity to carry out those responsibilities, a topic that is the focal point of studies on fiscal federalism. See for example Bird & Vaillancourt 2006

change, that span jurisdictional borders.³² This suggests a need to focus on the manner in which the two levels of government respond to the need for increased levels of coordination. The federalism literature points to the possibility of competitive, collaborative, and centralizing coordination as conceptual categories, and recognizes that these different forms of coordination co-exist and overlap in reality.³³

The second is that federalist governance initiatives are premised on the notion of a two-level dynamic between federal government and sub-national government levels, with non-state actors of all stripes impacting on the process solely through interest group activities. On the state-society axis, federalist governance initiatives feature non-state actors distinctly on the outside, exerting influence through lobbying and interest group activities³⁴ or through stakeholder consultation and organized interaction.³⁵ The core proposition is that such initiatives maintain emphasis on the formal authority of the state, and render non-state actors outside the process of governance and rule-making.³⁶

While federalism is instructive in identifying the nature of, and impacts resulting from, relationships between “centre” (Federal actor) and “periphery” (primary sub-national actor) it lacks conceptual space for other state actor autonomy and action independent of the central government, and is blind to the possibility that rule-making and implementation are taking place outside of this context.³⁷

2.2 Multilevel Governance

From this starting point of federalist forms of governance it is possible to move in three distinct directions: along the state-society axis (shifting from non-state actors on the outside of the process to the inside and direct engagement with rule-making and implementation); along the centre-periphery axis (shifting from the federalist emphasis on two-actor interactions towards a broader and more diverse set of “state” actors); and along both simultaneously. Each of these movements can be characterized as moving into “multi-level” space.³⁸ This section explores each of these in turn. However, before undertaking this task it is worthwhile to first introduce MLG in more general terms.

In general terms, the conceptual model of MLG was developed as a way of thinking about, and understanding, the shifting patterns of authority that were evident in both the EU and beyond. The formulation of the conceptual model of MLG was motivated in part by the deepening of European integration in the 1980’s and the emergence and increased usage of co-decision and qualified majority decision-making procedures at the EU level, procedures that rendered the EU increasingly similar to domestic rather than international politics.³⁹ In general, the development of MLG was part of a broader effort across various sub-fields of political science to think about the shifts occurring in the Westphalian

³² Boardman 2009: 7; Painter 1998; Brown 2003

³³ Brown 2003; Painter 1998; Heinmiller 2002; Harrison 2006; Cameron & Simeon 2002

³⁴ Simeon 2006

³⁵ Fafard 2000: 81

³⁶ Kelemen 2000

³⁷ Kelemen 2000, 2004; Asare et al 2009. A quick look at recent automotive emissions regulation in Canada and the US illustrates the influence of autonomous actions taken by sub-state actors, as federal CAFÉ standards adopted in both countries have been strongly influenced by standards first developed in California and later adopted by a number of US states as well as the Canadian province of Quebec. Available at: <http://www.nytimes.com/2010/04/02/science/earth/02emit.html>; <http://www.cbc.ca/consumer/story/2010/04/01/vehicle-emissions-ottawa-washington.html> Accessed May 17, 2010. As a counter-point, the increased activity on federal regulation in the US, as developed by the US EPA in response to the 2007 US Supreme Court *Massachusetts v. EPA* ruling and subsequent endangerment finding released by the EPA in late 2009, illustrates the continued relevance of studies such as Kelemen’s which explore the type of regulation and form of implementation as related to federal structure.

³⁸ Piattoni 2009a: 173

³⁹ Bache & Flinders 2004: 2-3

system whereby the once infallible sovereignty of the state was beginning to be subject to empirical challenge and theoretical reconsideration.⁴⁰ One of the signal contributions of MLG, therefore, is the creation of a new conceptual language to capture the dispersion of authority upwards, downwards, and outwards – not necessarily pointing to the decline of the sovereign state, but rather to the increasing interdependence and sharing of functional competencies with, and between, a wider set of actors.⁴¹ Rather than stretching existing concepts such as federalism and international regimes to capture these dynamics, MLG provides a novel means of incorporating them within a distinct conceptual framework.⁴² Furthermore, MLG embodies a distinct approach to addressing secular trends leading towards increasing levels of interdependence. Benz & Zimmer make this point in relation to the politics of the EU, but it is one that could be extended to political dynamics more generally: “...the transfer of powers in the EU should no longer be considered a zero-sum game, rather it is about finding ways to deal with interdependent tasks cutting across boundaries of national governments.”⁴³

The strength of MLG lies in its capacity for “encompassing the broader scale and scope of current decision-making, the marked increase in numbers and types of decision-makers (including private sector actors such as corporations and unions, non-governmental organizations, members of social movements, and individuals in civil society), and the multiple levels and tiers of decision-making.”⁴⁴ But the extent to which actual decision-making processes adhere to this new, multilevel vision as opposed to a more traditional, central-state dominant one, is an empirical question that must be addressed on a policy issue by policy issue basis.⁴⁵

The following sections introduce each of the three categories introduced above (MLG I, MLG II, Complex MLG) and outline the manner in which they combine locations along the state-society and centre-periphery axes.

2.2.1 *MLG I – Movements along the Centre-Periphery Axis:*

MLG, as originally developed, aimed to describe a “system of continuous negotiation among nested governments at several territorial tiers – supranational, national, regional, and local” in the realm of EU structural policy.⁴⁶ As such, it sought to broaden the conceptual focus to a broader set of governance actors than were previously considered, and to rethink the relationships occurring within this expanded constellation of actors – a motivation that remains relevant and that typifies the underlying characteristics of what we term Type I MLG (or MLG I).

There are four core characteristics of MLG I. First, the number of actors and levels of government is limited. Hooghe & Marks suggest that it is typical to distinguish between three different levels - local, intermediate, central - but others have posited up to five distinct levels - local, constituent sub-national, national, regional, supranational.⁴⁷ Second, each of these levels consists of a general-purpose jurisdiction

⁴⁰ Hooghe & Marks 2003; Ruggie 1993, 2004; Keohane & Nye 1977; Keck & Sikkink 1998; Rosenau 1997

⁴¹ Hooghe & Marks 2001: 4. To draw on other examples, Ruggie characterizes this as a process of the “unbundling of territoriality” and introduces the concept of the EU as a “multiperspectival polity” in Ruggie 1993: 165, 172. Rosenau addresses a similar dynamic by suggesting the concept of “fragmegration” to capture the effects of contradictory forces that create simultaneous pressure for increased coordination and increased devolution (integration, fragmentation) in Rosenau 1997.

⁴² Hooghe & Marks 2001: 4

⁴³ Benz & Zimmer 2008: 17

⁴⁴ Stein & Turkewitsch 2009:8; Peters & Pierre 2001

⁴⁵ Piattoni 2009b: 17 Jordan 2001

⁴⁶ Marks 1993: 392; Hooghe 1996

⁴⁷ Hooghe & Marks 2003: 237; Stein & Turkewitsch 2009: 9

that has multiple, bundled functions – “government” bodies in other words. Third, jurisdictions are typically territorially based and are defined by stable and durable boundaries. Lastly, these type I jurisdictions are institutionally entrenched leading to a high degree of durability over time – they tend to be “sticky” and “to outlive the conditions that brought them into being.”⁴⁸ The picture that emerges is one of territorially-rooted, institutionalized, and multi-purpose jurisdictions interacting across multiple levels in a relatively stable set of relationships across time.

The conceptual overlap with federalism is immediately apparent, but several important distinctions should be noted. First, MLG I broadens the conceptual scope regarding the number and type of actors included in the analysis.⁴⁹ Federalism typically involves interactions between two levels of government, organized around the division of formal jurisdictional authority and functional competence between central and sub-national (provincial/state) levels of government.⁵⁰ MLG I opens the door to exploration of the manner in which local, regional, and supranational actors and activities contribute to the broader phenomenon of governance, whether in direct interaction with sub-national and national actors, or in parallel or autonomous activities that skirt the traditional loci of power.⁵¹ This opens up the possibility that “challenges to jurisdictional integrity... may come from above or below, when super- or subordinate jurisdictions step forward to manage more effectively given policy issues (thus fanning integrative or devolutionary processes)...”⁵²

Shifts along the centre-periphery continuum allow for some interesting possibilities. One is an increased diffusion of authority and/or capacity from centre to periphery resulting in an increased level of interdependence between levels of government. The second is an increase in the number of sub-national (or supra-national) actors to which such authority and/or capacity is diffusing. As one moves along the continuum from centralized to increasingly diffused authority, a number of possible governance activities arise including autonomous sub-national initiatives operating in parallel with central government⁵³ as well as the emergence of vertical (relationships between levels of government) and horizontal (relationships across levels of government and with non-governmental actors) dimensions and processes of governance.⁵⁴

Yet while governance initiatives categorized as MLG I are characterized by an increased and more diverse constellation of “state” actors engaged in rule-making and implementation, non-state actors remain on the outside of the process, limited to lobbying and interest group activities. However, the expanded set of actors and institutions of governance embodied in the movement along the centre-periphery axis does open up new opportunities for forum-shifting and working around the central state.⁵⁵

2.2.2 *MLG II – Movements along the State-Society Axis:*

Movements along the state-society axis highlight the shifting relationship between state and society and the possible breakdown of traditional barriers between the two (wherein non-state actors exert influence on state actors through lobbying and pressure tactics as in pluralist modes of politics). This brings attention to the porousness of the state-society barrier, and the direct engagement of non-

⁴⁸ Hooghe & Marks 2003: 237

⁴⁹ Hooghe & Marks 2001: 3)

⁵⁰ Stein & Turkewitsch 2009: 13. Simeon’s book on Federal-Provincial diplomacy provides a classic example of this type of dynamic in the Canadian context. Simeon 2006

⁵¹ Hooghe & Marks 2001: 4; Peters & Pierre 2001: 132

⁵² Piattoni 2009b: 11; Skelcher 2005: 96; Selin & VanDeveer 2009

⁵³ Piattoni 2009a: 166; Rabe 2007; Selin & VanDeveer 2009

⁵⁴ Piattoni 2009b: 25; Alber & Kern 2008

⁵⁵ Fairbrass & Jordan 2001: 500; Bulkeley et al 2003: 238

state actors in decision-making institutions and fora.⁵⁶ We term this phenomenon MLG II. MLG II expands the constellation and type of actors engaged in the governance process to include non-state as well as state actors. Non-state actors shift from the outside to the inside of the rule-making and implementation process, and engage directly in processes of governance. This may involve the direct engagement of non-state actors such as community groups, corporations, trade associations, or NGO's with the state in the formulation of rules, in policy implementation or project delivery, or performance monitoring.⁵⁷ This form of governance remains, however, wedded to the traditional institutions of the federal state and non-state engagement is oriented towards the two-level institutions of centre-periphery rather than other actors located at sub- and supra-national scales.

2.2.3 Complex MLG – Shifts Along Both Axes:

Complex MLG consists of movements along both axes, thus consisting of an expanded set of “state” actors engaged in governance activities and consisting of the direct engagement of non-state actors in governance initiatives.⁵⁸ Such governance initiatives as are located in this category comprise the most chaotic and confusing forms of rule-making and implementation, and as such they are driven by functional needs and interests and tend to be flexible and ephemeral.⁵⁹ In this category of governance exist efforts undertaken by non-state actors interacting with “state” actors, those undertaken by non-state actors independent of “state” actors, and those undertaken by non-state actors in concert with a diverse set of sub- and supra-state actors.⁶⁰ These initiatives may exist within or across state borders. It should be noted that governance initiatives located in this category do not, *prima facie*, indicate impotence of the central state but instead point to shifting structural relationships between diverse sets of actors.⁶¹

2.3 Putting Together the Pieces:

There is, as noted above, significant overlap between federalism and type I MLG and the question arises, naturally, whether they should simply be folded into one another.⁶² In the literature on Canadian federalism it is increasingly common to see the term “multilevel governance” deployed in a descriptive manner, as a means of describing the nature of political dynamics in the Canadian federation that take place between multiple levels of government.⁶³ It has also been suggested that federalism could simply be expanded into “federalism plus” in order to take into account the expansion of federalism to “new and previously less important levels and units of governance” such as those illuminated by MLG.⁶⁴ This is evident in calls in the Canadian literature for a more inclusive form of federalism, one that takes into account both local and first nations levels of governance.⁶⁵ But any attempt to graft multilevel

⁵⁶ Piattoni 2009a: 167

⁵⁷ Such dynamics are evident in some of the literature on policy networks, whereby non-state actors are integrated into constellations of stakeholders organized typically around particular government departments. See for example Montpetit 2003

⁵⁸ This is an emerging phenomenon that is drawing increased levels of attention in the scholarly literature. See for example Betsill & Bulkeley 2003; Bulkeley et al 2009 on the role of cities in the governance of climate change; Jagers & Strippel 2003; Haufler 2003 on the role of insurance organizations and private actors more generally in the governance of climate change; Cashore 2002 on non-state market-driven governance in the forestry sector; Hoffman forthcoming, Andanova et al 2009 for attempts to address this phenomenon in more systematic ways.

⁵⁹ Hooghe & Marks 2003: 238

⁶⁰ Andanova et al 2009: 52

⁶¹ Peters & Pierre 1998: 226

⁶² There are a number of authors who shift back and forth rather seamlessly between advocating for MLG federalism. See for example Benz & Zimmer 2008: 18-19; Piattoni 2009b: 33-35

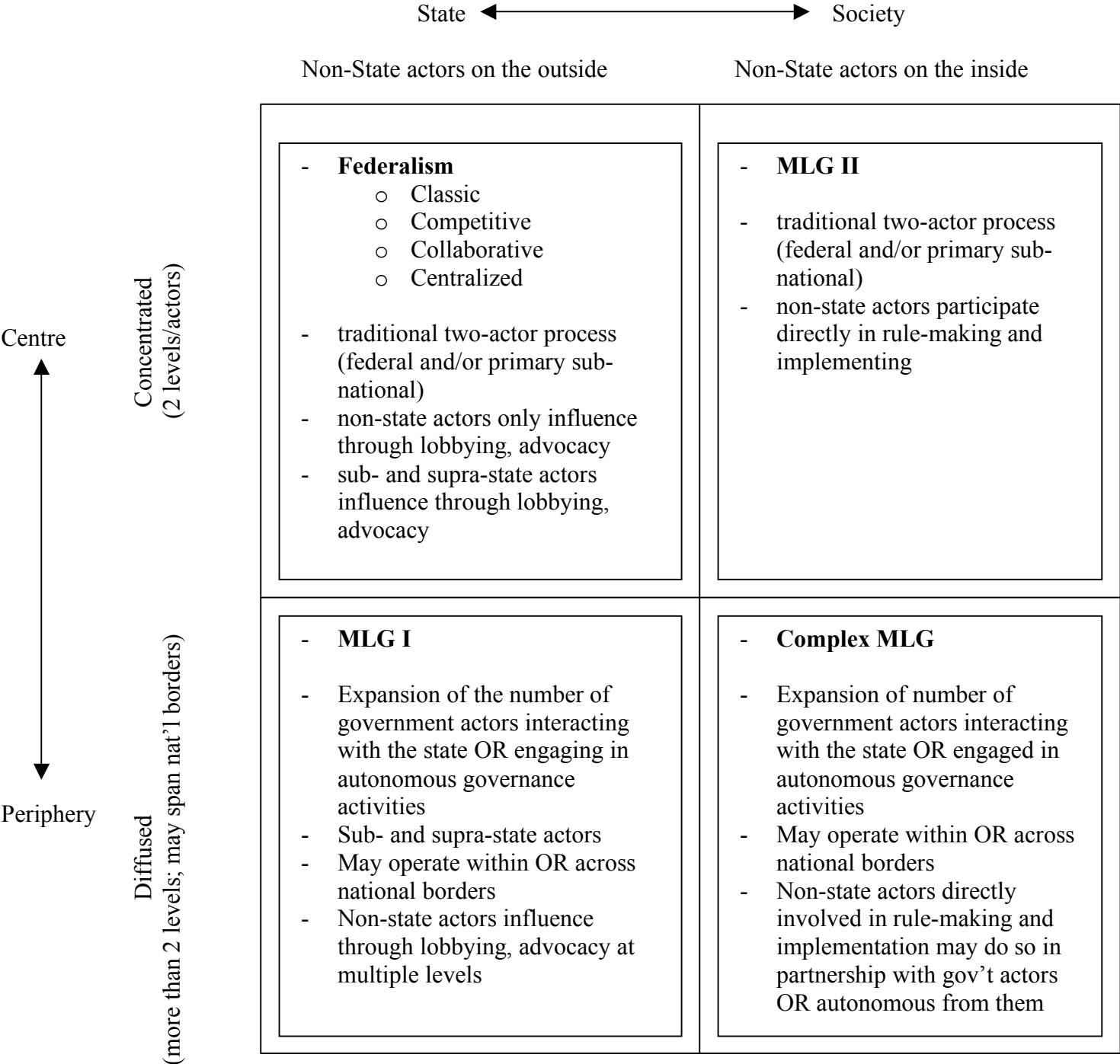
⁶³ Cameron & Simeon 2002; Simeon 2006; Banting & Corbett 2002; Brown 2003

⁶⁴ Stein & Turkewitsch 2009: 13 make this suggestion but do not endorse it

⁶⁵ Leo 2006; Bradford 2004,

governance onto federalism runs the risk of losing the conceptual benefits associate with each. Federal dynamics, premised on the division of sovereign jurisdiction and functional competence between (typically) two levels of government and as entrenched in a formal written document such as a Constitution, are a narrow subset of multilevel governance that allow, in particular instances or issue areas, for meaningful studies using a federalist framework.⁶⁶ This paper argues in favour of maintaining distinctions between federalism and MLG, and for arranging them in a broader conceptual as indicated below.

Table 1 – The Analytical Framework



⁶⁶ Galligan 2006: 263, 268

Thus we have a conceptual framework for categorizing, thinking about, and tracking shifts in the type of governance taking place in response to climate change in our cases. To recap the four main types of governance:

First are governance initiatives that conform to the expectations of *federalism*. These involve a limited number of government actors (state and primary sub-state) engaged in a process of decision-making that may be conflictual or collaborative depending on the particular institutional context, decision-making rules, and decision-making culture. Non-state actors participate in the process through participation in interest group activities such as lobbying.

Second are *MLG II* governance initiatives that extend beyond federalism in that they involve a blurring of the state-society divide. Non-state actors are integrated into the policy process as a result of increasing inability of the state to either develop (due to lack of expertise, knowledge, or legitimacy) or implement effective policy. Non-state actors may be involved directly in the rule-making process or may exert influence as a result of responsibility for implementing policy.

Third are *MLG I* governance initiatives that encompass an increased level of autonomy and assertiveness amongst sub-national and supra-national government actors. Whether as a result of official delegation of authority and jurisdiction, assertion of existing competencies, or attempts to address perceived illegitimate or ineffective policy fields, these governance initiatives involve the participation of an expanded set of government actors operating at various scales in rule-making and implementation activities. These may take place in unison (as in collaborative processes involving multiple levels of government) or autonomously (as in municipalities, regions, or provinces working alone or in horizontal networks) and may be bounded within domestic borders or may transcend them. Within this category, however, non-state actors are not directly engaged in governance processes and are relegated to asserting influence through traditional interest group mechanisms, although opportunities for forum-shifting now emerge.

Lastly are *Complex MLG* governance initiatives that encompass a broad range of state and non-state actors engaged in rule-making and implementation. This is the most dynamic and chaotic of the categories as it involves a diverse set of governance initiatives and experiments taking place at multiple scales (both within and across national borders), between state and non-state actors (including corporations, NGO's, universities, community groups, think tanks).⁶⁷ This dynamism, however, means that it is difficult to ascertain the impact and influence of the various initiatives, and the extent to which they challenge both state-society and centre-periphery barriers renders them highly challenging to existing governance institutions and ideational structures.

This points to a set of questions regarding characteristics of climate governance that can be applied to thinking about climate governance initiatives and dynamics. These include: the extent to which various levels of government are involved in policy-making, and the nature of involvement; the extent to which non-governmental actors are involved in the policy-making process, and the nature of their involvement, and; the extent to which the policy-networks that encompass these multiple governmental and non-governmental actors challenge existing hierarchies and form non-hierarchical networks.⁶⁸ Also of interest is the extent to which these relationships take place within or outside of existing formal institutions. Is climate change governance taking place primarily within extant institutions of inter- or intra-governmental relations (such as the Senate, joint-councils, or otherwise) or are those institutions

⁶⁷ For an interesting attempt to begin thinking about this phenomenon of experimentation in a systematic manner, see Hoffman forthcoming.

⁶⁸ Piattoni 2009b: 17

being circumvented and undermined as a result of the formation of new governance institutions operating in parallel (such as the Western Climate Initiative)? It also suggests the need to be sensitive to the power dynamics operating between governance actors both within existing institutions, and between new and nascent governance institutions, as actors draw upon and deploy legitimating narratives and ideas in an attempt to either gain, or protect, institutional status. And it suggests a need to be attentive to the manner in which governance actors engage in the processes of governance – are they acting primarily as interest groups engaging in pluralist lobbying efforts, or are they engaging in authoritative rule-making.

As a first attempt to assess the viability and value-added of this conceptual framework, we apply it to three case studies: Germany, the EU, and Canada. Our goal is to identify key policy initiatives related to climate change, to see where they fit into our four categories of governance. In addition, we are using the case studies as a preliminary probe to test the hypothesis that due to the complex nature of climate change as a policy problem, governance is moving towards an MLG response.⁶⁹

3. Case Study #1: Germany

Germany has a federal system with two closely interlocked political levels. The regional entities (Lander) are strongly involved in all federal legislation concerning their financial and administrative matters. Due to the fact that the regulatory implementation of related laws is almost completely under the control of the Lander, German policy-making is largely characterized by joint decision-making.⁷⁰ Consequently, climate change policy, as comprising a wide range of different policy areas, takes place in the context of cooperative federalism.

Since the mid 1980s, German Chancellors have proclaimed ambitious CO₂-reduction targets on an international level and have pushed for a progressive international climate protection regime.⁷¹ As entrenched in the Kyoto Protocol of 1997, Germany undertook a GHG reduction target of 21 % of 1990 levels by 2010, which was already achieved with a reduction of 22 % as of 2007.⁷² Due to this record of success relative to the aforementioned Kyoto target, a 40% reduction by 2020 is currently being discussed.

German GHG emissions can be mainly attributed to three medium-contributing sectors (transport, industry and household) each with emissions in the range of 120-180 million tons of CO₂-equivalent (CO₂E) per year, and to one major-contributing sector (energy production) that has annual emissions of nearly 400 million tons.⁷³ In terms of emission sources, coal used in the power generation is the most important one as it contributes to 41 % of total national emissions, followed by petroleum products with a share of 36 %.⁷⁴

The success of climate mitigation policy in Germany mentioned above is the result of a variety of factors. First, the successful performance benefited significantly from “wall-fall” profits, resulting

⁶⁹ We recognize that the simple dichotomies suggested by our conceptual framework are a poor reflection of the overlapping, intersecting, and coeval nature of climate change governance initiatives. This framework would benefit from further refinement, shifting from categorization of governance initiatives as binaries to more accurate continuous variables. This would help to create a more dynamic two-dimensional space within which to map governance initiatives. See for example Ragin 2000

⁷⁰ Hrbek 2005

⁷¹ Weidner and Eberlein 2009: 314

⁷² Umweltbundesamt 2009: 47

⁷³ Weidner and Eberlein 2009: 325; Umweltbundesamt 2007

⁷⁴ BMWI 2009: 46

from unification in 1990 and the following restructuring of the former Eastern German industry and energy system, which account for at least 50 % of emissions reductions.⁷⁵ Secondly, climate change mitigation policy has occupied a relatively high importance on the public agenda since the mid 80s. Therefore, policy makers have been able to develop a high level of institutional and technological capacity to push climate change mitigation. Thirdly, climate change mitigation technologies have contributed to strengthening the export oriented German economy, which has facilitated the implementation of strong policy measures.⁷⁶

Two of the most significant policy measures induced by climate change mitigation politics are the Renewable Energy Law (EEG) and the EU Emissions Trading System (EU-ETS). The former is an “aggressive promotion of renewable energy sources”, while the latter established a market-oriented framework that covers roughly 55 % of total CO₂ emissions in Germany.⁷⁷ As an illustration of German climate change governance, the following outline of these two policies is meant to help understand where these policy initiatives fit in the conceptual framework established above.

3.1 Renewable Energy Policy

The EEG is a federal law dating from 2000, which replaced a scheme introduced in 1990 to promote renewable energy and, because of its funding mechanism, led to a vast expansion of renewable energy production in Germany. The legislative process leading to the introduction of the EEG was one of the few ones in Germany that the literature describes as clearly parliament-driven.⁷⁸ Parliamentarians of the federal Red-Green coalition were primarily responsible for the formulation of the law and pushed the act through against resistance from the ministry of economy (BMWi) and in the face of opposition from the major utilities.⁷⁹ Consequently, the formal legislative process took place mainly in the context of internal government and federal institutions. The most determining factors within this institutional context were the constitutionally strong position of the German parliament in the contribution to the formulation of laws⁸⁰ and the effective possibilities of the parliamentarians to take advantage of this strong position in the case of the EEG. In the case of the political process of the EEG, the involved parliamentarians were able to mobilise enough resources and expertise to push the law through without help from the ministries. The literature emphasizes the important role of the renewable energy industry and their associations in this context, in terms of their ability to influence the political process in formal and informal ways, and also to “help” the parliamentarians to compensate their chronic lack of resources in legislative processes.⁸¹ While important, the role of these non-state actors was limited to lobbying from outside the process.

In the end the EEG received the (informal) necessary approval from the federal government and passed the Bundestag in February 2000. Surprisingly, the law also quickly got the necessary approval from the second chamber without any problems, although the Conservative Party (CDU) showed a strict opposition to the EEG on federal level and the Lander governed by the conservatives had the majority in the Bundesrat. The literature offers no explanation of why some of the Lander with a conservative government agreed to the EEG⁸² but the crucial Lander are economically weak and it is possible that the

⁷⁵ Schleich et al. 2001: 378

⁷⁶ Weidner and Mez 2008: 374

⁷⁷ Weidner and Eberlein 2009: 328

⁷⁸ Bechberger 2000: 52; Hirschl 2008: 189

⁷⁹ Mez 2009: 386

⁸⁰ Beyme 1998

⁸¹ Suck 2008: 538; Bechberger 2000: 51f

⁸² Suck 2008: 343; Jacobsson and Lauber 2006: 267; Bechberger 2000: 50

growing interests in renewable energy policies fed by arguments of a structural regional development⁸³ may serve as an explanation.

From a historical point of view the federal institutions are essential to explain the success of renewable energy policy. As pointed out in the literature, the additional and continuous subsidy of the Lander guaranteed a moderate growth of the renewable energy segment in the 1980s and 1990s.⁸⁴ These circumstances helped to strengthen and broaden the advocacy-coalition for renewable energies and gain experience (regulatory and planning) from pilot projects at the sub-national level from which the driving actors in the EEG-process benefited.⁸⁵

3.2 Emission Trading System

To analyze the political process related to the introduction of the EU-ETS in Germany it is necessary to differentiate between the process on European level and the implementation of the resulting EU directive (RL-203/87/EG) at the national level.⁸⁶ In order to link the negotiations on European Level with the national discussions, the federal government established a joint working group of emissions trading (AGE), which was open to all interested actors. The German government intended to facilitate the negotiations on the EU-ETS, and avoid strong opposition by German industry, by discussing with all relevant stakeholders beforehand.⁸⁷ German industry and environmental organizations participated actively in the working group, but only a few Lander showed interest in participation. Due to the heterogeneous interests of the participants it was impossible to reach a consensus but in the public perception the sceptical views on the EU-ETS became dominant and brought pressure to bear on the German Government.⁸⁸

After the decision at the European level regarding the design of the EU-ETS, the Federal government continued trying to involve private actors in the political process and set up a closed circle with selected high-representatives of the industry (“Hochrangiger Gesprächskreis”) to prepare for implementation.⁸⁹ In contrast to the negotiations at the European level, the legislative process on national level was characterized by a strong engagement by the Lander. Some Lander opposed the EU-ETS and tried block it in the Bundesrat, and all Lander pushed for a classical enforcement with many competencies on the sub-national level. After the EU-ETS was introduced in German law (TEHG) some Lander successfully pushed to modify regulations for their domestic industry’s benefit.⁹⁰

Considering these two examples of climate policy in Germany, a differentiated answer to the above mentioned hypotheses must be given. The case of the EEG seems to be well understood as a case of federalist governance. The policy-making and decision-making primarily took place within the classical state institutions, and the role of non-state actors consisted of traditional lobbying activities and information inputs. Although the influence of the non-state actors should not be underestimated, the governance process was driven by the two levels of government and took place in federal institutions, with non-state actors exerting influence from outside the process.

⁸³ Hirschl 2008: 558

⁸⁴ Mez 2009: 377

⁸⁵ Suck 2008: 109, 174, 538

⁸⁶ Hartmann 2004

⁸⁷ Braun und Santarius 2005: 32

⁸⁸ Ibid: 28

⁸⁹ Lafeld 2007: 193

⁹⁰ Michaelowa 2004: 325

At a first glance the above statement can also be made for the introduction of the EU-ETS, as in Germany the most important decisions were made in internal government or federal institutions. But in contrast to the policy process of the EEG we can determine an entirely different orientation of the basic state actors towards the affected industry. At the time of the negotiations at European level, the Federal Government integrated the industry in the political process and tried to institutionalize this liaison in a joint working group also in order to strengthen the German position on European level. The willingness of the federal government to include the affected industry closely in the decision-making process can also be shown in the implementation of the “Hochrangiger Gesprächskreis,” which was the attempt to institutionalize a forum in which the most important actors concerning ETS congregated. As a result, it can be best categorized as an instance of MLG II.

4. Case Study #2: The EU

With a diversified economy that is the world’s largest, the European Union has a very wide range of emissions sources in energy supply (33.6% of total), energy use excluding transport (26.1%), transport (19.5%), agriculture (9.2%), and industrial processes (8.5%).⁹¹ Total GHG emissions differ considerably among member states, with Germany accounting for 19 percent of the EU total and Malta only 0.1 percent.⁹² However, on a per-capita basis, the EU faces less variation in emissions among member states than does Canada among its provinces,⁹³ and there is no high-emissions jurisdiction acting to veto climate policy. Nevertheless, the EU has faced challenges due to wide income differentials among member states. Divisions have been evident between “rich and green”⁹⁴ member states seeking relatively deep emissions reductions and “poor and less green”⁹⁵ states that fear that carbon constraints could impinge on future economic growth. Significant differences also exist in fossil-fuel endowments, renewable energy potential, and electricity sources—with, for example, 95 percent electricity coming from coal in Poland, 85 percent in France from nuclear, and 78 percent in Austria from renewables, primarily hydro-electricity.⁹⁶

Key factors influencing climate policy include the EU’s ambition to play a leadership role in global climate negotiations, part of a wider ambition to establish the EU as an influential global actor. Climate policy has also served to strengthen and legitimate the drive toward further EU integration, as EU leaders have argued that a successful response to climate change requires supra-national forms of governance.⁹⁷ Also important have been the widespread belief that emissions reductions can be reconciled with continued economic growth and enhanced competitiveness through an ecological modernization strategy, while growing energy security concerns have reinforced the drive to improve energy efficiency and develop new renewable sources.

The challenges created by differences among member states have been successfully managed on more than one occasion. The 1997 EU burden-sharing agreement established differentiated national

⁹¹ EEA 2010b

⁹² EEA 2010a

⁹³ In Canada, there is a roughly 7 to 1 ratio in per-capita emissions between the highest and lowest emitting provinces, Alberta and Quebec (Environment Canada 2007). In the EU, the ratio is roughly 5 to 1 between Luxembourg and Latvia. Excluding Luxembourg, a very high-income state with a small population and low total emissions, the ratio is roughly 3 to 1 between the highest and lowest per-capita emitter (EEA, 2010a).

⁹⁴ In 1997-98, these included Austria, Denmark, Finland, Germany, the Netherlands, and Sweden (Ringius 1999), while in 2008, the UK was also a member of this grouping.

⁹⁵ In 1997-98, the cohesion countries (Spain, Portugal, Ireland, and Greece) fell into this category (Ringius 1999), while in 2008, the new member states from central and eastern Europe played a similar role.

⁹⁶ Buchan, 2009:12-13; Eurostat, 2010

⁹⁷ Buchan, 2009:110,113

emissions-reduction targets. The agreement was revised in 1998 in light of the EU's overall 8 % reduction target under the Kyoto Protocol. To meet these targets, the EU introduced the Emissions Trading Scheme (ETS), which came into effect in 2005. In 2008, the EU again dealt with the challenge of allocating emissions targets in its climate and energy package, which aims for a 20 percent cut in emissions below 1990 levels, a 20 percent reduction in primary energy use compared with projected levels through greater energy efficiency, and 20 percent of energy to come from renewable sources by 2020. The package included varied "effort-sharing" targets for emissions cuts in the non-ETS sectors, national renewable energy targets, EU-wide targets mandating the use of biofuels, vehicle emissions regulations, and measures to strengthen the ETS, among other measures.

These policy outputs are a product of three key EU institutions: the Commission (the executive body), the Council (the main decision-making body through which member state governments have their say), and the Parliament (directly elected by EU voters, with increasing influence over time). Member states holding the Council's rotating presidency have had additional influence at key moments (e.g. the Netherlands in 1997 and France in 2008). So, too, have states willing to take on large emissions reductions (the UK and especially Germany in 1997-98) and those resisting proposed targets (the cohesion countries of Spain, Portugal, Greece, and Ireland in 1997-98 and central/eastern European states such as Poland in 2008). Non-state actors also have played a role: some industries have lobbied to weaken stringent emissions targets, while some emerging "green" business sectors have sought stronger climate policy, as have environmental NGO's.

In the case of the climate and energy package, the Commission initiated the process and released the outlines of the package in January 2007. In March, the Council endorsed the direction outlined by the Commission and invited the latter to produce concrete proposals, including how emission-reduction efforts could be shared among member states. The Commission responded with detailed legislative proposals in January 2008. The multi-faceted package became the object of much debate and lobbying from industries fearing lost competitiveness, member-state governments resisting costs to their economies, and others—including the Parliament—seeking to maintain or enhance the package's environmental ambitions. In December 2008, the Council and Parliament approved the final package, which maintained the main objectives and architecture of the Commission's proposals, but included a number of concessions on issues such as a more gradual phase-in of auctioning in the ETS and additional measures to compensate central and eastern European states.

Although one could highlight similarities to federalism in the interaction between member states and EU-level institutions, a two-level federalist framework cannot account for the multiple levels relevant to climate governance. One reason is that the EU is neither a federal entity, nor an international organization, but a new type of supra-national political entity, which includes both federal and unitary states among its members. More importantly, EU action cannot be understood in isolation from efforts to influence governance at the global level, which is arguably the most important level for addressing the climate problem. Both the 1997 burden-sharing agreement and 2008 climate and energy package were motivated largely by the goal of presenting a common—and relatively ambitious—position ahead of key negotiations at Kyoto and Copenhagen, respectively.

As such, these three governance initiatives can be productively characterized as instances of MLG I. They all feature movements along the centre-periphery axis in that they include a broader and more diverse set of "state" actors including the EU Commission, the member states, sub-state actors, and the international climate change regime. In the case of the EU-ETS the set of rules agreed upon in the Kyoto Protocol provided the broad outlines that informed the design of the trading system, EU member states interacted with the Commission in making decisions regarding the design of the trading system,

and implementation was downloaded to member states albeit under the supervision of Commission oversight.⁹⁸ Non-state actors, however, have been relegated to exerting impact and influence through lobbying activities. Industrial groups and non-governmental organizations participated in the BSA, ESA, and EU ETS processes through active lobbying, carried out at both national and the EU-level.

An additional note regarding the nature of climate governance in the EU is worth mentioning. Much of the dynamism and innovation in European climate policy making has occurred “below” EU-level processes, including autonomous action by member states as well as sub-national and local governments. Most notably, leading member states such as the UK, Germany, and Sweden have set their own unilateral emissions-reduction targets that are more ambitious than EU-level objectives and requirements.⁹⁹ In the case of Britain, it became the first nation in the world to set long-term legally-binding emissions targets for itself through its 2008 Climate Change Act, driven by political demands within the UK to make an equitable contribution to global emissions reductions. When it later set its interim target for 2020 of a 34 percent reduction, on the way to 80 percent by 2050, the UK’s requirements under the EU climate and energy package were only one of the factors taken into account.¹⁰⁰

One must also consider climate action below the nation-state level. For example, drawing on its new powers through devolution within Britain, the Scottish Parliament passed its own Climate Change Act, which enshrines even deeper interim reduction targets than those proposed by Brussels or Westminster (at least 42 percent below 1990 by 2020). Moving further downward, leadership by UK cities such as London, with its own ambitious target of a 60 percent GHG reduction below 1990 levels by 2025, and Woking, a pioneer in decentralized renewable energy, have been important in driving climate action forward. Meanwhile, in Sweden, Stockholm’s ambitious climate action programs had already reduced per-capita emissions from electricity, heating, and transport by 25 percent below 1990 levels by 2005. Several German cities, including Freiburg, Heidelberg, and Hanover, have also been key innovators. Such action by pioneers working below the EU level has been important in enabling the EU to envisage the possibilities of a low-carbon transition and to commit to relatively ambitious emissions reductions. These instances of local government activity point to the dynamism of governance initiatives, but due to lack of data we have refrained from coding them and including them in Table 2 below.

5. Case Study #3: Canada

By signing the Kyoto Protocol in 1997 the Canadian government pledged to reduce its greenhouse gas emissions to 6 % below 1990 levels by 2012. Formal ratification came four years later in 2002. Between 1990 and 2008, Canadian greenhouse gas (GHG) emissions increased by 24%.¹⁰¹ In 2008, 73% of total GHG emissions resulted from the combustion of fossil fuels. Fugitive sources, Agriculture, Industrial Processes and Waste sectors account for 9%, 8.5%, 7.2% and 2.9% of total emissions respectively.¹⁰²

Canadian resources and resource-based industries are geographically concentrated and distribution of GHG emissions varies significantly among provinces. According to the Environment

⁹⁸ Driesen 2009: 392-393; Grubb et al 2005: 127-128

⁹⁹ Germany has committed to a 40 percent emissions reduction below 1990 levels by 2020, while Sweden has committed to a similar 40 percent decrease for activities outside the EU ETS.

¹⁰⁰ CCC 2008: 94, 96

¹⁰¹ Canada NIR-Part1 2010

¹⁰² Canada NIR-Part1 2010: 20

Canada, in 2008 Alberta and Ontario GHG emissions contributed almost 60% of total Canadian emissions and Quebec, British Columbia and Saskatchewan emissions totaled another 30%.¹⁰³ This leads to significant disparities in per capita emissions between Canadian Provinces, with Alberta and Saskatchewan (68 and 74 tonnes respectively as of 2008) nearly triple the per capita emissions of all other Canadian Provinces.¹⁰⁴

Canada is a federated state in which the Constitution has been interpreted by the courts as giving both levels of government jurisdiction with respect to environmental pollution.¹⁰⁵ Although not yet tested by the courts, this appears to also be the case for climate-change policy, and certainly is in a *de facto* sense, since both the federal government and provinces have been implementing greenhouse gas (GHG) emission reduction measures for at least fifteen years. The politics of Canadian climate-change policy are marked by two major facts, both related to economy rather than environment. First, as noted above, the provinces face vastly different economic incentives relative to climate change. The oil-producing provinces which generate GHG emissions both as a result of the energy used to extract oil and gas and because fossil fuels are used to generate electricity, most notably Alberta and Saskatchewan, have much higher GHG emissions per capita (as indicated above) than do the provinces which do not produce fossil fuels and which generate electricity from hydro-power, most notably British Columbia (B.C.), Manitoba and Quebec. Since achieving the Canadian Kyoto goal of a reduction of emissions to 6% below 1990 levels would impose much higher costs on the former than the latter, the two groups of provinces have taken very different approaches to climate policy. The carbon-intensive provinces have consistently worked to block national policy and have themselves adopted weak targets, while the hydro provinces have been neutral or supported national policy and have themselves adopted more aggressive policies.¹⁰⁶ This disparity of interest between the carbon and hydro provinces has been a major factor blocking development of national policy.¹⁰⁷

The second major influence upon Canadian climate-change politics is the extent to which the Canadian economy is integrated with that of the US, and the associated importance of exports to that market (accounting for nearly 80% of total Canadian exports). Canadian business has consistently and loudly stated that Canadian climate policy must be harmonized with American policy, for competitiveness reasons.¹⁰⁸ The federal and provincial governments, until recently, were more reticent but their actions since development of the first national program in 1995 have shown clearly that they intended to move in lock-step with US policy.¹⁰⁹ Since the election of the Obama administration, that policy has become explicit, at both levels of government. The federal government proposed a Canada-US climate-change treaty the day after the US election and while that was rebuffed, they have consistently said they would harmonize policy with that of the US federal government. On April 1, 2010, the two governments announced they would each introduce similar, coordinated new standards for motor-vehicle efficiency.¹¹⁰ As discussed below, Canadian provinces and American states on both coasts and the centre of the continent have been working together to develop coordinated, cross-border climate-change policies to be implemented at the sub-national level.¹¹¹

Within these parameters of shared jurisdiction, varying provincial interest and dependence on US

¹⁰³ Canada NIR-Part1 2010

¹⁰⁴ Canada NIR-Part1 2010

¹⁰⁵ Valiante 2009

¹⁰⁶ Macdonald 2009; Stoett 2009

¹⁰⁷ Weibust 2003; Macdonald 2009

¹⁰⁸ Macdonald 2007

¹⁰⁹ Macdonald and VanNijnatten forthcoming

¹¹⁰ Keenan, Chase and Vanderklippe 2010

¹¹¹ VanNijnatten 2009

policy, and despite the recent dip in emissions due to the economic downturn, Canadian policy to date has been unable to bring about any real reduction in emissions.¹¹² Given this over-all policy failure, it is difficult to select the "most important climate-change policy outputs" for comparison with those of the other case studies, since most analysts argue there have been basically *no* important policy measures. We suggest, however, that three might be considered the most significant, using our criteria of measures targeting the largest portion of total Canadian emissions: (1) the Voluntary Challenge Registry and EcoGEst programs put in place by both levels of government and industry in 1995, intended to reduce emissions from both industry and other institutions; (2) programs for unilateral federal government policy announced in 2002, 2005 and 2007; and, (3) in aggregate, provincial programs, also unilateral and uncoordinated, which have now been put in place by all Canadian provinces, in a number of cases working in co-ordination with US states.

The first is important because it is the *only* policy output generated to date by coordinated federal-provincial policy making and might, had it been continued, have resulted in at least some reductions in industrial emissions. The second group of policy initiatives is important for the same reason – not because they have proven effective, but because they have been the only programs intended to address the majority of Canadian emissions (in 2002 and for some time afterward few provinces had announced programs and targets). Thirdly, the provincial plans should be considered, because again they are the only programs in place (the federal government has halted all climate-change policy development while it waits for US federal government action) and also because in some instances, such as the BC carbon tax, it is the only policy measure implemented by any Canadian jurisdiction which puts a specific price on carbon emissions - and is the policy instrument recommended by most analysts as being the most effective and efficient.¹¹³ Each is briefly discussed.

VCR Inc. was a non-profit corporation established and directed by the federal and provincial governments and major industrial sectors. Firms were invited to develop plans for GHG reduction through increased energy efficiency and then post (or "register") those plans, and subsequent progress reports on the VCR website. Quebec, at the time governed by the separatist Parti Québécois and thus not participating in any federal-provincial initiatives, developed a comparable program, albeit it one managed completely by the Quebec government, rather than jointly with industry.¹¹⁴ The program operated from 2002 to 2006 in its original incarnation, and still exists on a much smaller scale.¹¹⁵ Industry points to emission reductions that have been achieved through their own, voluntary action. Between 1990 and 2007, the intensity of industry emissions (ratio of emissions to production) declined by 11.7%, or 36.2 Mts.¹¹⁶ The chemicals industry claims emissions reductions of 63% between 1992 and 2007¹¹⁷ and the forest products industry reductions of 57% since 1990.¹¹⁸ It is unlikely these reductions can be attributed to the VCR and EcoGEst programs alone, but they suggest it may have been of some value. More importantly, we argue, it is the *only* national program put in place since 1992 and is thus worthy of consideration.

The most prominent actors involved with development of the program were the province of Alberta, the federal department Natural Resources Canada (NRCan) and trade associations such as the

¹¹² Simpson, Jaccard and Rivers 2007; Harrison 2008

¹¹³ Snoddon & Wigle 2009

¹¹⁴ Macdonald, Houle and Patterson forthcoming

¹¹⁵ In its current iteration, the VCR applies only to small-scale sources and is a program of the Canadian National Standards Association.

¹¹⁶ CIPEC 2009: 9

¹¹⁷ Ibid: 41

¹¹⁸ Forest Product Association of Canada (FPAC). Available at: <http://www.fpac.ca/index.php/en/sustainable-solutions/> Accessed May 2010.

Canadian Association of Petroleum Producers.¹¹⁹ The institutional context was a combination of federal-provincial policy-making intended to develop a national program as required by the United Nations Convention on Climate Change (and so the international regime must be considered part of that context, since without that external impetus it is unlikely the program would have been developed), combined with simultaneous government-industry negotiations. The parallel but separate Quebec program, something witnessed in a number of other national policy files, was also part of the institutional context. The major impetus was a desire by industry and the NRCan Minister, who represented an Alberta riding, to put in place a voluntary program to pre-empt the regulatory measures being advocated by environmentalists and the federal Environment Minister.¹²⁰ Since it involved a number of governments located at the Provincial and Federal levels, working as equal partners in program delivery with industry, we classify the program as MLG II.

The second initiative examined is the period of unilateral federal policy making undertaken in the first decade of the 2000's. This process has been influenced by industry lobbying, for instance by means of a reduction of the industry share of total targeted reductions in federal plans between the 2002 and 2005 federal government plans.¹²¹ The 2007 Harper government plan, which was in effect a re-regulation of industry after an initial relaxation of targeted reductions and deadlines, was clearly the result of strong public pressure, since polling data showed the issue of climate change had become the most significant unprompted issue mentioned by those polled.¹²² It is also probable that the provinces, even in the absence of any formal mechanisms for policy coordination, were making their preferences known privately to the successive federal governments. Using our definitions above, it seems reasonable to classify this group of policy initiatives as federalism – the federal government developing and implementing (or saying it would) policy alone, with virtually no participation in program delivery by other levels of government or non-state actors. It is a very different model from the VCR.

The third group of policy initiatives, unilateral provincial action, is more recent. In 2002, seeking to pre-empt federal regulation of its oil and gas industry, Alberta introduced legislation for regulating industrial emissions (albeit with very forgiving standards). In 2003, with the election of a new Liberal government, Ontario announced it would cease coal-fired electricity generation and that has been the main plank in its climate-change platform ever since. The Quebec plans of 2000 and 2006 have set out a number of measures, including public spending to increase industrial energy efficiency and a weak form of a carbon tax. Two distinct initiatives are highlighted.

In the Throne Speech of spring 2007, the Liberal government of B.C. led by Premier Gordon Campbell, announced that province would reduce its GHG emissions by 33% relative to 2005 levels by 2020. In 2008, the province put in place a number of new laws and associated regulations intended to reduce emissions from a number of sources and a broad-based tax on fossil fuels such as gasoline, diesel and coal, which became effective July 1, 2008.¹²³ The initial tax was set at \$10 per tonne of associated carbon-equivalent emissions and was scheduled to increase by \$5 a year for four years, reaching \$30 per tonne by 2010. The tax is described as "revenue-neutral" since all associated revenues flowing to the BC government are offset by equivalent reductions in other taxes. The primary actor involved with this initiative, and all the other climate-change policies developed by the province since the 2007 Throne Speech, was Premier Campbell. He had participated vigorously with Alberta in opposing federal government ratification of the Kyoto Protocol in 2002 but then changed that policy stance, both because

¹¹⁹ Macdonald and Smith 1999-2000; Macdonald, Houle and Patterson forthcoming

¹²⁰ Macdonald, Houle and Patterson forthcoming

¹²¹ Juillet and Paterson 2009

¹²² Macdonald 2008

¹²³ Marshall 2008

of a change in his personal convictions respecting the immediacy of the climate problem and because of BC electoral politics. Prior to the 2008 election, his Liberal Party faced no significant threat from the right, but was threatened by the left-leaning provincial New Democratic Party (NDP). For that reason, he shifted his electoral platform to the left. This initiative is categorized as federalism, in that it embodies the characteristics of competitive federalist dynamics whereby unilateral policy experimentation is undertaken in response to domestic interests and demands and exerts influence through emulation or learning by other federal actors.¹²⁴

B.C. has also, however, been a leader in Canada, along with Alberta, in implementing legislation for an emissions cap-and-trade system. Alberta enacted law to pre-empt federal government regulation of its industry and so that initiative can be classified as federalism. B.C., however, enacted its cap-and-trade law within the institutional context of the Western Climate Initiative (WCI).¹²⁵ The WCI is a cross-border institutional arrangement that consists of 11 U.S. states and 4 Canadian provinces,¹²⁶ and is currently working to develop a cap-and-trade regulatory program. The design process of the WCI has included significant engagement with non-state actors including industry and environmental organizations through a series of working groups. As a result of the cross-border interaction operating autonomously from the federal state in both Canada and the U.S., and the extent and nature of non-state actor integration, the WCI is categorized as Complex MLG.

In summary, the three cases give us a mixed picture. The VCR and EcoGESTe should clearly be classified as MLG II, and the subsequent unilateral federal actions as federalism. The current period of provincial policy with a strong element of cross-border co-ordination displays elements of both federalism and Complex MLG.

6. Findings

In response to our hypothesis, that the nature of climate change as a complex and cross-cutting problem should be expected to drive policy responses towards MLG, the evidence presented in our case studies appears to disconfirm this notion. There does not appear to be a direct relationship between the nature of the policy problem and the dominant or most significant governance initiatives that have been developed and implemented in our case studies. If there were, we would have seen the federalism response *first* in Canada, rather than an MLG II response in the form of the 1995 VCR. Germany displayed the trend over time one would expect if the nature of the climate-change policy problem was the primary determinant of a federalist or MLG policy response. However, the fact that the EU has been constant in MLG I policy and Canada reversed the expected order means we must reject this hypothesis. This is a very tentative conclusion, as the empirical research carried out for this project is at the preliminary stage.

The findings from our case studies are displayed in Table 2 (below) in terms of where the various initiatives are plotted in our analytical framework.

¹²⁴ This competitive dynamic can be seen in the development of Provincial climate policies across the Canadian provinces. Alberta has attempted to get out in front of national policy by implementing a comprehensive domestic framework built on a foundation of emissions-intensity reductions, relatively weak compliance measures, and investment in carbon capture. B.C. and Ontario have recently been engaged in competitive dynamics over the pursuit of “green” technology investments in the Renewable Energy sector.

¹²⁵ Comparable cross-border action is being taken by the Atlantic provinces, working in the context of the New England Governors-Atlantic Premiers Climate Action Plan.

¹²⁶ Western Climate Initiative. Available at: <http://www.westernclimateinitiative.org/designing-the-program>. Members include B.C., Manitoba, Ontario, Quebec, California, Washington State, New Mexico, Arizona, Oregon, Montana, and Utah.

Table 2 – Climate Governance Initiatives from Case Studies

State ←————→ Society

		Non-State actors on the outside	Non-State actors on the inside
Centre ↑ ↓ Periphery	Concentrated (2 levels/actors)	<ul style="list-style-type: none"> - Federalism - Canada: Unilateral Federal Plans 2002, 2005, 2007 - Canada: Autonomous Provincial Initiatives (B.C. Carbon Tax, ON Feed-in-Tariff) - Germany: EEG 2000 Legislation 	<ul style="list-style-type: none"> - MLG II - Canada: VCR Program 1995 - Germany: EU-ETS National Implementation
	Diffused (more than 2 levels; may span nat'l borders)	<ul style="list-style-type: none"> - MLG I - EU: ETS 2005 - EU: Burden Sharing Agreement 1998 - EU: Effort Sharing Agreement 2008 	<ul style="list-style-type: none"> - Complex MLG - Western Climate Initiative

Again bearing in mind the preliminary nature of our empirical research, there are several points worth noting. First, there does appear to be some support for the utility of the framework itself. The classification of initiatives along our two axes has allowed us to make some distinctions in terms of how governance in our cases has taken place, how it is unfolding, and seems like a viable tool to utilize in terms of identifying trends and beginning to think about the overall governance response to climate change in federated system.

Second, there are a couple of trends that emerge from the analysis. In Canada, there appears to have been a trend from MLG II, to a federalist approach, and now to a mixture of federalism and Complex MLG. In Germany, the trend that appears is that of a shift from federalism to MLG I. In our cases we see interesting evidence of both status quo maintenance and emerging and increasing challenges to the dominant institutions and ideas. In Canada and Germany the most significant governance initiatives appear to be a mix of federalism and MLG. In the EU the most significant governance initiatives are MLG. In all cases the evidence for such trends is thin, but we propose some possible factors that may help to account for them nonetheless, and that may be worth investigating through further empirical research. One is to look to the impact of institutional path dependence. The dominant governance institutions in Canada and Germany are federal. These institutions empower particular actors (federal, Provinces/Lander) and exclude or marginalize others (cities, regional governments, non-state actors) and it is to be expected that those actors who benefit most from the existing institutions will work hard to keep governance initiatives located within those existing institutions. Absent a major exogenous shock that throws the system out of equilibrium, or the emergence of a major endogenous rift, the tendency is for maintenance of the status quo.¹²⁷ This suggests a need to explore further the institutional contexts in Germany, the EU, and Canada in order to identify internal tensions and/or exogenous pressures that may account for institutional changes regarding the governance of climate change. A second factor impacting on the nature of governance initiatives, and the location of those activities, may be industry power. This may help explain the VCR initiative in Canada, and may to some extent explain the German ETS initiative. Depending on the perceptions of industry regarding where it feels it can exert the most influence, they may be a force for conservative status quo preservation or transformational change. This points to the need to explore the strategies employed by industry groups, and the corresponding activities of other non-state actors. A third possibility, the impact of political parties, may also be contributory as shifts in party control of federal and sub-national institutions may open up space for new ideas regarding climate governance.

7. Concluding Thoughts

As a final thought, the results of our preliminary case studies suggest two interesting phenomena. First, in spite of the lack of a coherent trend towards increased use of multi-level governance initiatives regarding climate change, there is evidence of a significant degree of experimentation taking place in all of our case studies. This can be seen in the mixture of federal and multilevel initiatives, and in the co-existence of federal and multilevel initiatives in our cases. This suggests a process of contestation and experimentation as institutional entrenched actors work to respond to the functional demands of the policy challenge, and as new or previously marginalized actors locate the political space to contest or challenge those existing institutions by pushing for reform or by developing new governance institutions and initiatives on their own. Second, these new governance institutions, actors, and initiatives are for the most part not significant as regards their contribution to the attainment of national emissions reduction targets. This points to the difficulty of evaluating their contribution to the governance process. In

¹²⁷ Pierson 2000; Broschek 2010

Canada, for example, the province of BC developed and implemented a carbon tax in 2008 and in so doing became one of the first jurisdictions in North America to undertake such an effort. Substantively, this initiative cannot be considered significant, as it applies to a relatively small fraction of total emissions produced in BC, which themselves are a relatively small fraction of total Canadian emissions. Additionally, the actual emissions reducing potential of the initiative is questionable, due to the weak initial price allocated to a ton of carbon. However, when considered in terms of its symbolic impact on climate governance in Canada and beyond, the BC carbon tax takes on a whole different tenor. In essence, it may just depend on what is considered to be significant, which is a tricky evaluation to make in such a fluid and complex policy field. We have focused on only those initiatives that have targeted a significant proportion of national emissions reductions. This leads inevitably to the emphasis on initiatives that involve federal actors, since they possess jurisdictional authority to commit to reduction targets and over regulation of large segments of national emissions. Thus we have not considered the impact on governance initiatives of such MLG dynamics as are taking place around the calculation of emissions profiles, the development of methodologies for counting and trading carbon in the emerging marketplace, the development of building and transportation standards, and so on. Also, we have not looked at adaptation initiatives at all, which may open up space for consideration of a whole other set of governance initiatives.

The analysis carried out in this paper points above all else to the need to situate governance initiatives in a broad context. Doing so helps to bring out the possible interactions between different initiatives, and to highlight areas of overlap and of possible convergence or contestation.¹²⁸ This points to the need to think more systematically about the interaction between the four different forms of governance that are indicated in our conceptual framework. Each of these categories needs to be considered in terms of the extent to which they challenge or draw upon existing institutions.¹²⁹ They also need to be considered in terms of the extent to which the challenge or draw upon existing ideational foundations regarding how governance is most appropriately, and effectively, carried out.¹³⁰ Lastly, they need to be considered in regards to how the combination of different governance initiatives may combine or aggregate and with what effect on actual emissions. However, in order to do so it is essential to establish a foundation upon which to carry out such a project. This paper, we hope, represents a small yet positive step in that direction.

¹²⁸ On the need to consider governance processes unfolding simultaneously, see Stubbs 2005: 70

¹²⁹ Broschek 2010

¹³⁰ Peters & Pierre 2004: 76, 85; Bache & Flinders 2004

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