

Appendix G

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Version 1 December 2010

Increasing public awareness of hazardous substances and wastes means that decisions about their storage or processing are not left to officials and experts. As suggested by the acronym NIMBY (“not in my backyard”), awareness of the actual or prospective location of hazardous wastes and substances nearby provokes strong negative responses from individuals, households, and communities. Similar dread, expressed on behalf of others, also motivates participants in environmental justice movements insisting that no one should be exposed to those hazards and working to end or prevent the locating of hazardous materials processing or disposal near poor or otherwise politically marginalized communities.

At the same time, many business firms – ranging in size from massive multinational or national corporations to medium-sized firms to small local repair and cleaning shops – use one or more hazardous substances in their daily operations and need facilities for responsible recycling or disposal of residues left from their activity. Many farmers and gardeners – whose lands range in size from huge plantations to tiny urban garden spaces – use pesticides, fungicides and fumigants that are hazardous to people and other animals unless used carefully. Since in most cases their activity was well-established before public concern about hazardous substances arose, they are often reluctant to re-design their activity and are generally wary of anything that will increase their costs.

Thus, the stakeholders involved in debates about use and disposal of hazardous wastes are very diverse and the politics of setting policies relating to use of hazardous substances and treatment of hazardous waste intense. These dynamics can be understood better after examining the two distinct ways in which the term “stakeholder” has been defined and the debate about whether and how to include stakeholders in the various stages of public debate over hazardous substances and wastes.

Two Conceptions of Who is a Stakeholder

Two distinct conceptions of stakeholder have developed in recent decades. The first, existing in politics long before the word “stakeholder” became fashionable, refers to anyone likely to be affected by a decision

This case was created by the International Dimensions of Ethics Education in Science and Engineering (IDEESE) Project at the University of Massachusetts Amherst with support from the National Science Foundation under grant number 0734887. Any opinions, findings, conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the National Science Foundation. More information about the IDEESE and copies of its modules can be found at <http://www.umass.edu/sts/ethics>.

This case should be cited as: M.J. Peterson. 2010. “Transboundary Trade in Hazardous Substances and Wastes.” International Dimensions of Ethics Education in Science and Engineering. Available www.umass.edu/sts/ethics.



or activity occurring within the territorial domain ruled by a particular government. The government involved can be a national, provincial, or municipal government, but the basic notion that government has a responsibility for regulating dangerous activities is accepted by all but the most thorough-going advocates of laissez-faire market economics. Thus, the notion of stakeholder developed in the political realm derives from notions of government responsibility for the general safety and welfare of the population living within its domain or jurisdiction.

The second conception, which has used the word “stakeholder” since its inception in the 1960s, originated among analysts of business management who used it in tracing relations between a business firm (defined as the managers or owner-managers) and others on whom the firm depends for success.¹ This literature sometimes distinguishes between “stakeholders in the wider sense,” any individual or group that affects or is affected by the firm’s success, and “stakeholders in the narrow sense,” those on whom the firm depends for its very survival. The term “stakeholders in the narrow sense” is typically defined to include employees, financiers (lenders), shareholders, suppliers, customers, and people living in the immediate neighborhood of the business’s factories, stores, or workshop. The stakeholder groups covered by the term “stakeholders in the wider sense” include the government or governments of areas where the firm undertakes activity and the general population, and this overlap promotes considerable convergence of method and analysis in business and political studies of hazardous waste controversies. Yet, for some analysts the distinction between “stakeholders in the narrow sense” and “stakeholders in the wider sense” overlap because they treat the particular government agencies that directly regulated conduct of business in the areas of the firm’s activity among “stakeholders in the narrow sense” their activities can impinge significantly on business decisions. The executive branch generally, the legislature, and the courts figure as “stakeholders in the wider sense” to which both the firm’s managers and owners and its other immediate stakeholders can appeal.

Demands that stakeholders, whether defined narrowly or broadly, be included in firm-level and regulatory agency decision-making processes arise with particular intensity in three situations. The first arises when an activity is regarded as inherently hazardous by all or most of the public and political elite, as with operation of nuclear power plants or flying of aircraft. The second arises when an activity is regarded as crucial to social cohesion, in some variation this is the usual justification offered for government provision of universal elementary and secondary education and various welfare programs. The third arises when normal functioning of a competitive market appears likely to yield undesirable social consequences, such as production of unsafe goods or perpetuating hazardous conditions in workplaces. These are often the most controversial because staunch advocates laissez-faire or “free market” economics maintain that markets will be self-correcting in virtually all instances. Ronald Coase’s argument that when there are low transaction costs harms can be addressed through offering the harmer payment to desist² is widely invoked in these arguments, but Coase himself realized that the argument applied in limited conditions and others working in the same rational choice theoretical tradition have pointed out that if small amounts of harm are

¹The basic idea that firms operate in a web of relationships beyond owner-manager or shareholders-managers was first expressed clearly in Frank W. Brams. 1951. “Management’s responsibilities in a complex world,” *Harvard Business Review* 29 (3): 29-34. R. Edward Freeman and David L. Reed. 1983. “Stockholders and stakeholders: A new perspective on corporate governance,” *California Management Review* 25 (3) 89 say that the current conception of business “stakeholders” originated in memos circulated among members of the Stanford Research Institute in 1963.

² Ronald H. Coase. 1960. “The problem of social cost.” *Journal of Law and Economics* 3(1): 1-44.

suffered by large numbers of people they will have great difficulty coordinating sufficiently well to bargain effectively with the harmer.³

Whether addressing obvious danger, social cohesion, or undesirable consequences of market transactions, all three situations inspire demands that the individuals making decisions about regulating or actually carrying on the activity should make sure that those decisions and actions conform to laws and regulations established to protect the general public. In democratic countries, this demand is supplemented by another, that decisions and actions be open to public scrutiny through government-organized deliberative and administrative processes.

Much of the business management literature offers results-based reasons for paying attention to stakeholders and their concerns; they argue that a firm will not succeed at all or for long unless it does. A pragmatic and consequentialist ethics is implicit in these writings – since the firm depends on others it cannot thrive if it acts in ways that cause them to withdraw their cooperation by quitting the job, withholding loans, declining to sell the firm needed supplies, or not buying the firm’s products or services. Concern for shareholders’ interests is well-established in the legal definitions of a corporation and the business management literature: corporate executives are supposed to be fiduciaries for the shareholders, managing the firm in a way that provides them with a return on their investment. Even though the return is not clearly defined, and there are ample instances of shareholder interests being subordinated to those of current managers, shareholders have a distinct status from other stakeholders, particularly in Anglo-American capitalism.⁴ Yet, some writers do offer explicit ethical arguments for taking other stakeholders seriously. Some base paying attention to the full range of stakeholders on broad notions of fairness, that owners and managers of firms should act towards all stakeholders as they would like those stakeholders to act toward them.⁵ Others use contemporary conceptions of property rights to ground their arguments for paying attention to the full range of stakeholders. In their view, property rights entail more than exclusive use and right to keep others out; property rights are also bounded by obligations to respect others’ rights and to refrain from causing avoidable harm.⁶ Yet, other writers maintain that since firms accept benefits from their stakeholders – in the varying forms of work effort, loans, material inputs, income, and toleration of some degree of noise, traffic congestion, and other minor inconvenience created near the place of business – basic norms of equity and fair exchange require that firms take the welfare of those who provide the firm with benefits into account in making their business decisions.⁷

³ E.g., Mancur Olson, Jr. 1965. *The Logic of Collective Action*. Cambridge, MA: Harvard University Press or Russell Hardin. 1982. *Collective Action*. Baltimore: Johns Hopkins University Press.

⁴ Analysts of contemporary market economies have identified at least two sub-types of capitalism: “Anglo-American” based on shareholders rights, financing firms through stock offerings, and light government regulation of market activity, and “German” based on management-labor union collaboration, financing firms through loans from investment banks, and greater government regulation of market activity. See Peter A. Hall and David Soskice, editors. 2001. *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. New York: Oxford University Press.

⁵ W.M. Evan and R.E. Freeman. 1988. “A stakeholder theory of the modern corporation: Kantian capitalism,” in T. Beauchamp and N. Bowie, eds., *Ethical Theory and Business*, 75-93. Englewood Cliffs, NJ: Prentice-Hall.

⁶ This line of argument is not confined to advocates of extensive government regulation; it also suffuses Coase’s 1960 paper on “The problem of social cost” (cited in note 2).

⁷ For example, Tolbert Phillips. 2003. *Stakeholder Theory and Organizational Ethics*. San Francisco: Berrett-Kohler Publishers.

Even management experts focusing primarily on relations between a firm and its direct stakeholders (“stakeholders in the narrow sense”) acknowledge that firms need to pay attention to other actors as well – particularly governments, journalists and social activists. These less directly involved actors can have serious effects on the firm’s business prospects; governments can wield their taxation and regulatory powers in ways that promote or inhibit firm activity while journalists and social activists provide information and evaluation of firm activity to broader publics. These broader publics may in turn demand new policies to eliminate some perceived abuse. Members of the public who are also direct stakeholders may also react by modifying their relations with the firm. Since most media reports and activist comment on hazardous substances and wastes is negative, firms involved in what journalists or activists regard as careless or even willfully negligent handling of hazardous materials are likely to be hurt by the activity. It is at moments of high public concern when both the general public and more immediate stakeholders are mobilized that it becomes clear even to the most job-focused manager that the firm needs a social context favorable to its continued activity, what has been called its “social license to operate.”⁸

Direct stakeholders of a firm producing hazardous substances for sale, typically a chemical company, but also a mine if the minerals involved, like uranium or mercury, are hazardous in themselves include the shareholders and lenders, employees making or mining the substance or packaging it for shipment, customers, and neighbors. Though such firms assume their customers understand the hazards of the products they buy, this is not always the case; controversies about pesticides, herbicides, and soil fumigants have revealed vast unevenness in user knowledge that persists despite decades of social activism and chemical company efforts to disseminate information that would promote safer use.

For a firm using hazardous substances, the direct stakeholders include the shareholders and lenders, the employees using or potentially exposed to the hazardous substance, providers of the substance if it is not made by the firm itself, and customers for the goods incorporating or the services employing the hazardous substance. People living in the area are direct stakeholders if the hazardous substance is explosive or reactive enough for it to escape the business premises and affect them as well as persons inside the plant. Involvement by government regulatory agencies varies considerably by substance. Radioactive items were highly regulated after 1945, even before many of them appeared in civilian uses like electricity generation or medical diagnosis and treatment; chemicals already in use came under increasing regulation after 1970 as particular hazards were identified; only in a few places is prior environmental impact assessment used to anticipate hazards and develop regulations before widespread use.

Firms collecting, treating, and disposing of hazardous substances face a somewhat wider set of stakeholders. They, too, have shareholders, financiers, employees, customers and neighbors. Their employees are likely to face more concentrated exposure to hazardous substances; they certainly face more extended contact with them. Though the substances are contained, neighbors may legitimately worry about leaky containers or such large accumulations that a problem at the site leads to explosions or leaks that affect people outside. Because they deal in concentrated shipments, their activities also raise concern for anyone living near the road, rail, or shipping routes by which the hazardous waste is transported from whoever has leftover hazards to the place where the processing/disposal firm will handle it.

⁸ N. Gunningham, R.A. Kagan, and D. Thornton. 2002. *Social Licence and Environmental Protection: why businesses go beyond compliance*, p. 6. London: Centre for Analysis of Risk and Regulation, London School of Economics and Political Science.

Stakeholder Inclusion at Different Stages of the Policy Cycle

Descriptive accounts of stakeholder inclusion focus on whether and to what extent various stakeholders are actually included in decision, implementation, and/or activity review processes. These accounts reveal great variation in the extent of stakeholder involvement, not only across countries and decades, but also across issues at the same time in the same country. The actual patterns of stakeholder involvement observed in any public debate and policy process are the product of three factors: implications of the activity, stakeholder ability to organize, and the content of prevailing cultural or legal norms regarding stakeholder involvement.

Though political philosophers advocating “strong democracy” envision widespread citizen activity on a wide range of questions, actual demands for participation in decision-making processes and implementation review reflect individuals’ and groups’ decisions about how to allocate their available time, energy, and resources. Decisions or activities regarded as creating positive or neutral effects do not elicit much concern from others. Activities causing minor harms typically do not inspire demands for public debate or widespread stakeholder involvement, but anyone who is directly harmed will want to be able to secure redress. Some firms are attentive and provide a resolution quickly; others need the prod of negative publicity (such as letters to a newspaper’s consumer affairs reporters) or availability of redress through civil suits in a court. Demands for inclusion increase in both extent and intensity as the severity of harm and the number of people likely to be affected by the harm.

Securing inclusion and following up with actual participation requires stakeholders to organize themselves.⁹ Organizing efforts usually begin among a few individuals who feel keenly about the matter, realize that they will not have any significant influence in the policy process on their own, and take up the task of getting larger groups of people together. The individuals who initiate organizing may be members of the stakeholder group, but they can also come from outside if members of the stakeholder group accept them as mobilizers and sources of information who have the stakeholder group’s interests at heart.

The legal or cultural norms regarding stakeholder involvement prevailing in a particular place at a particular time also influence participation by suggesting whether it is possible and worthwhile. A society’s legal or cultural norms may promote or discourage stakeholder or citizen involvement in general. More specifically they help define which stakeholder groups will have an easier or harder time getting involved by defining who are more or less legitimate participants in public debate and the types of social role that can be invoked in policy discussions. Individuals and communities belonging to ethnic, religious, or racial minorities typically face greater obstacles to participation than individuals and communities from the social mainstream. Yet, the severity of these obstacles depends on the extent to which political or social elites are willing to incorporate minority persons or concerns into the policy process. Environmental justice movements began among people of relatively high social status, but the more successful have turned to helping the affected minorities organize and present their own view. Social roles can matter in unexpected ways. As the Madres de la Plaza demonstrated in Argentina during the early 1980s, women in highly sexist cultures can gain entrée into public debates about issues involving harm by invoking their position as mothers if their own children suffered the harm.

⁹ Although most such studies focus on situations in which groups of people move outside the usual channels of politics to engage in demonstrations, civil disobedience, and rebellion, the literature on contentious politics offers considerable insight into the requisites of group organization. A good overview is provided in Doug McAdam, Sidney Tarrow, and Charles Tilly. 2001. *Dynamics of Contention*. Cambridge, UK: Cambridge University Press

assessment can be very helpful to people demanding greater restrictions on use, transport, and disposal of hazardous substances in two ways. The first is the normal one of allowing advocacy of a particular demand. The second arises if the substance or the proposed use is new, by allowing public identification of negative consequences before use has become widespread and supported by entrenched interests.

Getting a demand on the public agenda, where it becomes the focus of public discussion and media commentary, is not the same as getting the demand on the agenda of the political institutions able to make decisions. Starting the decision-making phase involves persuading those with decision-making authority that they should adopt a policy meeting the demand. This requires being able to argue persuasively that adopting a decision that meets the demand would be better than making no change or adopting any of the other policy suggestions being offered on the matter at the same time. A group may fail at the decision-making phase because too few others support the demand, or because opponents are too influential, or because some other proposal attracts greater support. Thus, getting from demand as agenda item to demand as decision requires skilled interaction within the context of the rules governing how decisions are made. Often success does not come all at once; some portion of the demand is incorporated into policy while others are omitted.

Even a decision that matches the demand exactly has impact only insofar as it is effectively implemented. Implementation may involve action by the government's own administrative agencies or it may involve instructing private actors and punishing the noncompliant. However done, it is subject to a variety of slippages analyzed in an extensive literature.¹¹

Even with effective implementation, the result stemming from a new policy may not match the expectations held by those who first demanded it or later adopted it. People whose activity is covered by the policy may ignore it (particularly if they believe enforcement will be lax) or find ways to get around it if they regard it as taking away choices they want to pursue. Conditions may change, making a policy that looked reasonable when adopted seem unreasonable. Proponents' assumptions about how the policy would affect behavior or conditions may have been erroneous. A good policy-making process thus includes policy review. In this stage, mismatches between expected and actual outcomes are identified, the causes identified, and the process of considering what to do in light of the information revealed during review begins.

Thus, the policy review phase is not a linear end-point. Rather, it is the point at which an effective political system becomes recursive, with outcomes feeding back into reconsiderations of implementation, decisions, or definitions of concerns meriting attention. However, policy review is not the only point at which the policy process loops back into earlier phases. Failure at the agenda-formation or decision-making stages also inspires reflection on what happened and whether and how the group should persist in raising its demand. The difference is that policy review potentially engages all interested actors, not just the backers of a particular demand, and is often institutionalized in explicit ways.

Stakeholders can involve themselves in desire-demand conversion and agenda-formation on their own, though how far they can get in agenda-formation depends on how far others are receptive to their concerns. Though city or regional planning and prior environmental impact assessment can be confined to experts, they open the possibility of stakeholder involvement setting agendas and terms of debate for

¹¹ Including Jeffrey Pressman and Aaron Wildavsky. 1984. *Implementation*. 3rd edition. Berkeley: University of California Press and Michael Hill and Peter Hupe. 2009. *Implementing Public Policy: An Introduction to the Study of Operational Governance*. 2nd edition. London: Sage Publications Ltd.

decision-making bodies by routinizing more elaborate discussions prior to decisions. Demands for broad stakeholder inclusion in planning and prior impact assessment processes are strong in many countries and strongly supported by political philosophers who advocate “strong,” “deliberative,” or “participatory” democracy. For them, participatory deliberative processes are another element in a program for supplementing governance through elected representatives, which they regard as woefully incomplete. They argue instead for taking literally Abraham Lincoln’s definition of democracy as “government of the people, by the people, and for the people”¹² and offer participatory deliberative processes together with older devices of referendums, citizen initiatives, term limits, and recall elections to keep government close to the people. A parallel discussion, focused on the social impacts and implications of science and technology also features calls for enhancing stakeholder participation. Advocates of including all stakeholders insist that while scientists and engineers can provide guidance on questions within their respective knowledge domains, they are too closely connected to political and economic elites and/or too caught up in technocratic styles of reasoning to provide adequate consideration of all the values at stake in policy choices about how to use science and technology in social life.¹³

When assessing opportunities for stakeholder inclusion it is important to distinguish between formal inclusion and actual inclusion. Formal inclusion – the procedures established in laws, administrative regulations, or general practices for securing and considering stakeholder views – is necessary for, but is no guarantee of, actual inclusion. Actual inclusion requires that the stakeholder comments can be submitted before decisions are made and in a way that ensures they will be considered. A comment or deliberation process that requires individual, household, or small organization stakeholders to travel to a distant city for presenting their concerns or allows such a short period for public comment that it is over before many of the stakeholders knew it was open limits actual inclusion to those who have the money and time off to travel or have constant access to information sources indicating when comment periods open and close.

Despite the urgings of those advocating “strong” or “participatory” democracy, modern politics even in democratic countries remains based on delegating decision-making authority to particular bodies of officeholders: the members of a planning board, regulatory commission, municipal council, or legislature. However, the deliberations that precede decisions can be open to others in various ways even if they do not involve formal planning or prior impact assessment. A decision-making body might convene public hearings, issue requests for comments on proposed regulations or projects, engage in public opinion polling, or seek input from focus groups or citizen juries. Yet, even these processes will amount to scant inclusion if the basic features of a decision have been worked out among the politically well-connected before the hearings are held, the comments received and read, or the opinions solicited.

Direct involvement in implementation requires that a stakeholder is able to undertake actions that foster or hinder attainment of the desired outcome. Particular stakeholders’ ability to do so varies considerably.

¹² Abraham Lincoln. 1863. Gettysburg Address. 19 November 1863. Text available at http://avalon.law.yale.edu/19th_century/gettyb.asp

¹³ Examples offering detailed suggestions for institutionalizing inclusive deliberation include Daniel Kleinmann, ed. 2000. *Science, Technology and Democracy*. Albany: State University of New York Press; John Durant. 1999. “Participatory Technology Assessment and the Democratic Model of the Public Understanding of Science,” *Science and Public Policy* 26 (5): 313–319; Frank Fischer. 2003. *Reframing Public Policy: Discursive Politics and Deliberative Practices* Oxford and New York: Oxford University Press.

Each individual can marginally increase or decrease the use of hazardous substances and the generation of hazardous wastes if they are aware of less hazardous substitutes and have access to them. However, most of the stakeholders in the construction of a hazardous wastes treatment plant cannot contribute to its design or construction by their own actions because they lack the materials and skills to build it. Environmentally-conscious individuals seeking to lower their pollution footprint need a conducive context. They need access to environmental infrastructure like recycling centers, bicycle paths, public transit, or “smart” electric grids capable of drawing power from as well as supplying power to customers possessing small scale solar or wind generators. They also need knowledge of and access to less-hazardous alternatives. Companies producing hazardous substances or collecting and handling hazardous wastes have the greatest ability to affect implementation. Their ability so dwarfs that of other stakeholders that they often become targets of communities and social movements seeking to abate hazards.

Demands for stakeholder inclusion in policy review – whether prospectively, as in planning and prior impact assessment, or retrospectively, as in compliance monitoring, performance evaluation, and outcome assessment – frequently arise because of mismatches between ability to shape activity and exposure to its effects. Corporate CEOs have the final word in decisions about how their factories, plants, or other production facilities are built, even if they rely on subordinate executives and engineers for the details. Yet, they generally work and live far enough away that they are not physically affected by whatever occurs at the plant.¹⁴ Thus, a decision to use a process involving high-volume storage of toxic chemicals can be taken on the basis of financial calculations and partial familiarity with plant conditions that seem to make sense back at corporate headquarters. Yet, an explosion or leak can mean death or severe injury to workers at the plant or – if the explosion or leak is large enough – to neighbors as well. Similarly, unless they use it themselves, CEOs will not be exposed to risks created by an unsafe product that their firm produces.¹⁵

Maintaining the involvement of multiple stakeholder groups in review stages is also another way to counter the tendency of human social life towards oligarchy. Adam Smith argued that “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.”¹⁶ Robert Michels argued that every sort of human associations is subject to an “iron law of oligarchy” by which a small group takes over leadership and acts for the whole.¹⁷ Studies of public administration in the USA have examined the development and continuation of “iron triangles” of mutually-supporting members of Congress, regulatory agency officials, and leaders of firms in the regulated industry¹⁸ and identified many instances of “regulatory capture” in

¹⁴ Physical separation was less prevalent in the 19th century. Two members of the owning family, Alexis Du Pont (1816-1857) and Lamot Du Pont (1831-1884) died in explosions at their gunpowder works.

¹⁵ In a discussion of Ford Motor Company’s stubborn unwillingness to admit that designers were aware of the risks involved in placement of the gas tank in the Pinto model, Robert Hoyk and Paul Hersey. 2009. *The Ethical Executive*. Stanford, CA: Stanford University Press wonder whether the attitude of top executives would have been the same if the owners killed in fiery crashes had been their spouses and children rather than strangers.

¹⁶ Adam Smith. 1776. *The Wealth of Nations* Book I, chapter X, part II, 28th paragraph.

¹⁷ Robert Michels. 1911/1966. *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*. Trans. Seymour Martin Lipset. New York: Free Press.

¹⁸ Hugh Hecla. 1978. “Issue networks and the executive establishment,” in Anthony King, ed., *The New American Political System*, pp. 87-124. Washington DC; American Enterprise Institute.

which the private entities being regulated gain effective control over the government agency's activities through political connections with legislators or top political leaders.¹⁹

The phases of policy process model treats every government's decisions as independent of other government's decisions. In some areas this is a reasonable first approximation; issues left to subnational governments typically remain vested at that level even in unitary states and on many issues there is room for coexistence of different policies. On others, however, interconnection between economies and societies requires acknowledging connections between political systems. Whenever production and distribution chains cross territorial boundaries, there will be demands for standardization of policy, both from people worried about importing hazards from elsewhere and from companies wanting all their competitors to face the same costs of obeying regulations. On issues like hazardous substances and hazardous wastes there is ample opportunity for what US-based students of regulation call bootlegger and baptist (or preacher and bootlegger) coalitions: momentary alliances between actors motivated primarily by normative arguments and actors motivated primarily by calculations of net material benefit.²⁰

The existence of several large economic units – the European Union, the USA, Japan, and China – opens up possibilities for transnational policy dynamics. These may involve efforts to secure common regulations in the leading economies which can then be transferred to others, as in demands that companies not be allowed to export chemicals banned in their home country to others. They may involve international agreements that transfer some of the administrative burden of implementing agreed regulations from developing countries to industrial countries exporting those substances or products, such as the Basel Convention on international trade in hazardous wastes and the Rotterdam Convention on trade in hazardous chemicals. Firms can take advantage of the coexistence of multiple countries to locate activity based on the level of regulation they prefer, even if that triggers the regulatory “race to the bottom” that environmentalists worry about as others react by lowering their own regulations. Yet, environmentalists and others can sometimes take advantage of the coexistence of multiple governments. One way is economic: if the government regulating transactions in one of the larger economies decides to adopt stronger regulations, those regulations will spread informally to other countries as firms wanting access to the more strictly regulated market conform to them on their own. Thus, the existence of multiple jurisdictions may weaken regulations as companies relocate to laxer jurisdictions, or they may strengthen regulations as companies seek to maintain market access.²¹ Another is political: mechanisms for stakeholder inclusion proven to work in one country can be transferred to others as policy analysts pay attention to developments in other countries. Stakeholders need to be aware of these dynamics and develop their own transnational connections to address or take advantage of them.

¹⁹ One of the first discussions was George J. Stigler. 1971. "The Theory of Economic Regulation." *Bell Journal of Economics and Management Science*, 2(1): 3-18.

²⁰ The name comes from a later discussion of prohibiting sale of alcoholic beverages in the USA between 1919 and 1933. By the late 1920s, when many citizens doubted the wisdom of continuing the policy, religious leaders with moral objections to alcohol consumption and criminal groups with material interests in keeping sale illegal so they could continue their highly profitable illegal operations were providing the most determined support for its continuance. See Bruce Yandle. 1982. "Bootleggers and Baptists: The Education of a Regulatory Economist." *Regulation* 7 (3): 12.

²¹ An early exposition of race to the bottom was Adolf A. Berle and Gardner C. Means. 1933. *The Modern Corporation and Private Property*. New York: Macmillan for spread of tighter regulations through market access see David Vogel. 1995. *Trading Up: Consumer and Environmental Regulation in a Global Economy*. Cambridge, MA: Harvard University Press.