

Position Statement: Harmonization to Protect the Environment

November 1996

Since 1993, the Canadian Council of Ministers of the Environment (CCME) has worked on the project of the "harmonization" of Canada's environmental laws, regulations and policies. The project's stated goal is to achieve the "highest" standards in environmental protection in Canada. In fact, the project, now in its third attempt, is having less and less to do with environmental protection, and more and more with the politics of federalism.

The chief hallmark of the CCME harmonization project has always been the transfer of power over the environment from the federal government to the provinces. This transfer has now become a major theme of the federal government's "unity" agenda.

The harmonization project has consistently targeted "duplication and overlap" in federal and provincial programs as the primary problem which needs to be solved in the protection of Canada's environment. However, the only study completed for the CCME to examine duplication and overlap showed that it was not a serious problem at all.

It is increasingly apparent that the real problem which the project hopes to solve is the federal government's capacity to protect the environment by setting meaningful national standards and stepping in when provincial governments have failed to act.

A proposed National Harmonization Accord and Sub-Agreements on Standards and Inspections are scheduled to be signed by the Ministers of the Environment at the November 21, 1996 meeting of the CCME. If adopted, the current drafts would do away with the "failsafes" provided by the authority and capacity of the federal government to act to protect the environment, primarily by placing explicit bars against federal action without provincial consent.

The harmonization project also proposes to transfer the federal government's responsibilities for setting national environmental standards to the CCME. In the result, the CCME would be transformed from an informal forum for discussion into a national decision-making body.

However, the CCME, as an intergovernmental body, exists in a legal and constitutional vacuum. There are no mechanisms by which it might be held to account for its decisions by Parliament, the Legislatures, and the public. Furthermore, the Council's consensus-based decision-making structure is likely to lead to deadlock or lowest common denominator decisions. Finally, the CCME would have no means to ensure that even the minimum standards which it might set are actually adopted by its members.

For these reasons, the signatories to this document cannot support the harmonization proposal to be presented to the Ministers of the Environment for approval on November 21.

At the same time, the signatories recognize that new solutions are required to make the federation work, and to ensure environmental protection in a period of cut-backs and de-regulation. What is needed is an approach which genuinely seeks to address the challenge of ensuring the protection of the environment for the benefit of present and future generations of Canadians.

To address the problem of achieving better environmental protection, we ask that the provincial, territorial and federal governments work together, without unnecessary duplication and without surrendering their legitimate authority to administer and enforce their laws.

In this context, we make the following recommendations.

Recommendation One: Focus on Cooperative Government Action, No the Delegation Authority

No one level of government, acting alone, has ever had the capacity to effectively protect the environment. Now, more than ever, cooperative action is required. The fundamental assumption informing harmonization must be that both levels of government continue to share responsibility for environmental protection.

Recommendation Two: Governments Must Commit to Providing Adequate Funding to Protect the Environment

While we recognize that government resources are limited, it must also be acknowledged that it is a false economy to cut back on environmental protection. Weakening environmental laws and institutions will impose enormous costs for clean-up, remediation and health care on future generations of Canadians. The greatest economy can be achieved by governments working together.

Recommendation Three: The CCME Should be a Forum of Discussion, Not a Decision-Making Body

As a forum for discussion, the CCME can play an important role in facilitating cooperative government action. Transforming the CCME into a decision-making body, on the other hand, would be a fundamental change to Canada's constitutional structure, and move a large portion of environmental decision-making beyond the reach of Parliament, the Legislatures and the public.

Recommendation Four: Create a Public Advisory Committee to the CCME

As an intergovernmental forum for discussion, the CCME would benefit greatly from the creation of a Public Advisory Committee. Such a committee, composed of stakeholders from all sectors, could assist in the identification of priorities and other matters.

Recommendation Five: Power of the Public to Act: Environmental Bills of Rights

Harmonization should in no way restrict the few mechanisms presently available to the public to act to protect the environment. Recognizing that governments sometimes fail to perform their responsibilities to protect the environment, the public should be empowered, through environmental bills of rights in each jurisdiction, to help to address these failings.

Recommendation Six: Next Steps

The future of the harmonization initiative will be determined at the November 1996 CCME meeting. It is recommended that, in light of the foregoing recommendations, approval of the proposed National Accord and, in particular, the proposed sub-agreements on standards and inspections, be deferred until such time as a full consultation process, supported by appropriate background research, has been established.

Full consultation would entail broad-based stakeholder participation in the development and drafting of harmonization proposals, with appropriate support for non-governmental participants. It should also include case studies of how the proposed harmonized system would work in specific cases.

THE UNDERSIGNED ORGANIZATIONS ENDORSE THIS STATEMENT:

Action Environment (NF)

Alberta League For Environmentally Responsible Tourism (AB)

Alberta Wilderness Association (AB)

Banff Environmental Action And Research Society (AB)

Blue-Green Society (NB)

Bow Valley Naturalists (AB)

Bruce Trail Association (ON)

Canadian Auto Workers Windsor Regional Environment Council (ON)

Canadian Environmental Defence Fund (ON)

Canadian Environmental Law Association (ON)

Canadian Labour Congress (ON)

Canadian Nature Federation

Canadian Organic Growers (ON)

Canadian Parks and Wilderness Society (AB)

Canadian Union of Public Employees (ON)

Centre For International Studies (NS)

Choices: A Coalition For Social Justice (MB)

Citizens Action Group On The Environment (AB)

Citizens Coalition for Clean Air (NB)

Citizens Environment Alliance Of Southwestern Ontario (ON)

Clean North (ON)

Clearinghouse Group (NB)

Comité de l'environnement de Mathieu-Martin (NB)

Concerned Citizens Of Manitoba (MB)

Conservation Council Of New Brunswick (NB)

Coopérative O Naturel (NB)

Council Of Canadians (ON)

Crossroads Resource Group (MB)

Earth Concerns of St. Paul's United (NB)

EcoAction (NB)

Ecology Action Centre (NS)

Ecoversité (NB)

Environmental Coalition of Prince Edward Island (PE)

Environmental Resource Centre Of Alberta (AB)

Falls Brook Centre (NB)

Ford Alward Naturalist Association (NB)

Forest Protection Allies (BC)

Fort McMurray Environmental Association (AB)

Friends Of The Christmas Mountains (NB)

Friends of the Cortes Island (BC)

Friends of the Gatineau River (QC)

Friends Of The Oldman River (AB)

Friends Of The Stikine (BC)

Friends Of The West Country (AB)

Fundy Environmental Action Group (NB)

Galiano Conservancy Association (BC)

Georgia Strait Alliance (BC)

Grand Lake Action Committee (NB)

Grand Lake Meadows Action Committee (NB)

Grand Manan Whale & Seabird Research Station (NB)

Green Group (BC)

Guideposts For A Sustainable Future (ON)

Humane Society Of Canada & Humane Society International (ON)

Humber Environmental Action Group (NF)

Irishtown Nature Park (NB)

Jeunes étudiant.e.s pour l'environnement de l'univers

Kindness Club (NB)

Les Ami(e)s de la Nature (NB)

Manitoba Federation Of Labour (MB)

Manitoba's Future Forest Alliance (MB)

Manitoba Naturalists Society (MB)

National Union Of Public And General Employees (ON)

New Brunswick Farm Women's Organization (NB)

New Brunswick Federation of Naturalists (NB)

Northwatch (ON)

Nuclear Awareness Project (ON)

Okanagan Similkameen Parks Society (BC)

Ontario Health Advocacy Association (ON)

People Against Lepreau 2 (NB)

People Against Nuclear Energy (NB)

Pictou Harbour Environmental Protection Project (NS)

Poetical Asylum (PE)

Prairie Acid Rain Coalition (AB)

Reach For Unbleached (BC)

Red Deer River Naturalists (AB)

Regroupement écologiste Val d'Or et environs (QC)

River Road ActionTeam (NB)

Rural Dignity of Canada (QC)

Sagkeeg First Nation (MB)

Saskatchewan Waste Reduction Council (SK)

Sierra Club Agassiz Group In Winnipeg (MB)

Sierra Club Of B.C. (BC)

Sierra Club Praire Chapter (MB)

Sierra Legal Defence Fund (BC)

Sierra Legal Defence Fund (ON)

Stop and Tell Our Politicians (AB)

Sustainable Agriculture Association (AB)

Sustainable Agriculture For The Valley Ecosystem (NB)

Toxics Watch Society Of Alberta (AB)

Turtle Island Earth Stewards (BC)

Tusket River Environmental Protection (NS)

United Steel Workers Of America (ON)

Vegetarians of Alberta (AB)

Washademoak Environmentalists (NB)

Waterloo Public Interest Research Group (ON)

West Isles Clean Environment Association (NB)

Windsor & Area Coalition For Social Justice (ON)

Windsor & District Labour Council Environment Committee (ON)

Youth Environment Network Of Southwestern Ontario (ON)
