

Excerpts from Dave Bennet

Mr. Dave Bennet (National Director, Health, Safety and Environment, Canadian Labour Congress):

Thank you, Mr. Chair. I too am very pleased that the Canadian Labour Congress has been given the opportunity to talk with the committee on a matter of very central environmental concern and one which so far as I'm aware the committee has not directly addressed, if its addressed at all over the past three to four years. The issue in front of us, in fact, is crucial to the environmental health of the whole country. My name is Dave Bennet. I'm the National Director of Health, Safety and Environment for the Canadian Labour Congress and I'm giving the presentation on behalf of Dick Martin who is the secretary treasurer of the CLC and who is the officer responsible for health and safety and environmental protection.

I'm sure the committee will appreciate that we haven't had the time to prepare a proper submission, properly translated, so I'm giving you a verbal presentation but I'm also giving you a transcript of the verbal presentation for your records.

The process of environmental harmonization in Canada was legitimized by the agreement on internal trade, 1994, chapter 15. That chapter is concerned with environmental protection and it contains provisions that are stronger than or diametrically opposed to the equivalent provisions in the North American Free Trade Agreement.

On harmonization, the parties to the agreement shall not through harmonization lower the levels of environmental protection. Under article 1509,## while the Canadian Council of Ministers of the Environment, it empowered to facilitate the harmonization process. It was not given any mandate to act as the executive body for the generation of national environmental standards. In both these respects the harmonization process and the resulting draft agreements violate the spirit and quite possibly the letter of the agreement on internal trade.

The federal government's interest in environmental harmonization is twofold, the first is fiscal. Government funding and provision for environmental protection would drop as a result of harmonization. This was made explicit recently with the announcement that a further 200 jobs would be lost from Environment Canada. The deputy minister of environment stated that fewer resources would be needed as a result of harmonization.

The second factor is the government's policy of decentralization and the devolution of federal powers. Environmental protection was among several areas where the federal government would devolve as much power and authority as possible to the provinces and territories. This policy of devolution is perhaps less evident now than it was before the last election

but what impact this will have on the government's intentions over environmental harmonization is not clear.

We have to realize just how much the federal government is prepared to give away and give away is the operative term because there will be no strings attached in terms of the proper administration and enforcement of federal law, nor any federal standards of compliance beyond those negotiated under the CCME environmental inspections subagreement.

Under the CCME environmental standard subagreement, section 57, the jurisdiction and the authority of the federal government is not recognized. Its role is confined to the implementation of environmental measures and then only on federal lands or at international borders. The only area where the federal government will implement Canada-wide standards is over products and substances. For instance, the notification of new substances regulations under the Canadian Environmental Protection Act concern the testing requirements for new chemical products. The National Pollutants Release Inventory, the NPRI, is based on a list of substances. These two areas are virtually the only ones in which federal authority is not to be surrendered to CCME.

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This is confirmed when we look at the role of the provinces. The provinces are to implement measures requiring action from industrial sectors to attain an agreed-upon, Canada-wide standard. In other words, the CCME will generate the standards and the provinces will implement them.

In all this, the need for proper environmental protection measures across the country has never figured in the federal government's reasoning or motives.

The Environmental Harmonization Project ## has two distinct themes: The devolution of federal powers; and the harmonization or equivalency of federal, provincial and territorial environmental laws, regulations, standards and measures.

Under the first of these, devolution of federal powers, federal programs such as the Toxic Substances Management Plan ## will become interprovincial programs, at least in regard to their implementation and probably also in their development as well. The key effluent control regulations under the Fisheries Act, ## for instance, covering mines, pulp mills and refineries will also likely be handed over to the provinces under the terms of the standards and inspections subagreements.

From the draft Environmental Assessment Accord, ## federal environmental assessments will be confined to those on federal lands. Assessment of projects crossing provincial borders, those of national or international concern, will no longer be conducted by the federal government. The surrogate for a national standard of environmental assessment will be those

standards developed under the auspices of the Canadian Standards Association, the CSA.

I believe it is important that the committee understand the nature of CSA policy standards. These are formal and procedural only. They have no policy content. They do not set any tangible standard of environmental assessment that could, for instance, be compared with those of other countries. Once again, the formal and procedural rules developed by CSA will become a feeble substitute for environmental assessment policies with teeth.

Environmental assessment will be reduced to a formality, where the only concern is whether the procedures constitute a barrier to trade.

The second theme is harmonization itself. With federal powers suitably devolved, it will become the responsibility of the provinces to adopt and implement environmental rules through CCME. Many of the provinces are cutting their environmental protection departments, at least as deeply as Environment Canada, and they are busy eroding, destroying, or otherwise neutralizing their own environmental regulations. Manifestly, they are unwilling or unable to properly enforce their own rules, let alone the additional ones acquired from the federal government.

To put it bluntly, several provinces have no interest whatever in harmonization. They are interested only in the acquisition of federal powers, which they then have no intention of exercising.

With devolution and the bankruptcy of true harmonization, all pretence of national environmental standards will disappear and the Canadian environment will suffer, both from episodes of destruction and from gradual decay due to the de facto disappearance of environmental standards.

The Canadian Environmental Protection Act, ## when it comes up for renewal, will be a dead letter, a formal device for handing over the rules and their implementation to the provinces. All the work that this committee has put into pollution prevention will become void, a shell game in every sense of the term.

Instead, Canadian environmental protection will be in the form of a series of CCME agreements, which this committee does not scrutinize. Of the dozen or so proposals and draft agreements that CCME has produced over the past three years, I doubt whether any one member of this committee has seen all of them, and as far as I am aware, they have never been the subject of this committee's deliberations.

I hope, therefore, that this committee will recommend to the government that the harmonization accord and its subagreements will be scrapped and the whole process be started over again, according to the aspirations of the Agreement on Internal Trade. ##

I would, finally, like to suggest to the committee that there is indeed a way of securing effective environmental harmonization, in ways which respect the rights of the provinces as well as the federal environmental authority. This concerns pollution prevention, a topic of immediate as well as historical concern to this committee.

Currently, federal policy over pollution prevention is substance-driven.

The policy applies to a list of substances, which are to be the subject of pollution prevention measures and planning in the workplace. Instead, the CLC proposes that pollution prevention be workplace-driven, or jurisdiction-driven. By this I mean that the federal government would require pollution prevention planning for workplaces within its jurisdiction, roughly those federally regulated industries covered by the Canada Labour Code. Workers' health and the work environment would then be an explicit part of pollution prevention measures. Except that in Bill C-74, the old bill to revise CEPA, pollution prevention measures are to apply to a very limited number of substances.

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The provinces would each enact their own pollution prevention laws. A uniform national standard of pollution prevention is secured by a federal tax on toxic chemicals. An appropriate share of the revenue would be handed to those provinces and territories that had enacted a standard and produced a compliance plan at least as strong as the federal standard. This scheme cannot guarantee a standard like that of the federal notification of new substances regulations or the NPRI, but within the limits of the Canadian Constitution it does as much as possible to secure an effective national program of pollution prevention. The alternatives are not only inferior, but I hope the committee will agree likely to be disastrous for the Canadian environment.

The Chairman: Does that complete your presentation, Mr. Bennet?

Well, it was certainly thought provoking to put it mildly.