

Excerpts from Ian Glen

Mr. Ian Glen: I'll be very brief. As I said, we believe it's circulated now around to people, a document that is titled "Clarification on Key Concerns."

We tried extrapolate from the presentations of the other witnesses you had certain of their concerns. A key one-devolution of federal authorities. I would again indicate to the committee that it is our view and certainly the view of the provinces that devolution is not a part of the harmonization approach. All jurisdictions will continue to maintain their legislative authorities and use them as they feel it necessary.

In terms of the approach to consensus based decision making under the accord, this is not an approach that will require unanimity. That's desired but it will be by consensus and if parties wish for certain elements not to be play then the authorities that are available to jurisdictions are fully applicable to them for the circumstances of the particular issue.

In terms of taking action where the government does not follow through on its obligations, as I said earlier in our appearance, there is a sensitivity to what is called stepping in where certain conduct has been agreed to for a particular jurisdiction and they're not able to do it there is an effort to insure that parties then come together to determine whether a different approach may be the way to insure that the results that we're seeking are achieved but it also allows-with a rough timeframe of six months-not an absolute but the other jurisdiction could come in and address the issue.

The major exception to that of course is in the area of emergencies where parties would be expected to come in with their authorities and act in proper fashion to address an environmental emergency.

Why do harmonization-I tried to indicate in writing again the advantages. I think the most practical way of answering that is we feel across jurisdictions that having a framework within which to work and develop the subagreements brings some greater public understanding of how the parties will work together.

It will, I think, encourage more directly what all jurisdictions are now trying to do and that is a partnership in insuring we're addressing environmental concerns in this country and we feel that the framework and the development of subagreements can also assist in insuring that we identify gaps in the overall environmental management for the country.

Why isn't enforcement part of harmonization? I believe I did speak to that when I was here last. The enforcement component of an environmental regime is identified in the workplan as an item to address.

Inspections quite naturally should lead in some cases to enforcement and it is expected that'll be addressed as part of the workplan.

I'm trying to be fairly brief so that we can permit questions, Mr. Caccia.

The Chairman: Yes, and that's very good of you because I am sure there are many members who want to start asking questions.

I was just noticing on item four that when it comes to enforcement not being part of harmonization, the second bullet on item four, recalling that when I asked the question you told me that it was a political decision. So we have to make a choice between your answer and what is printed here. There was a desire to start small. Which of the two?

Mr. Ian Glen: You can take it the way it's written. I thought I was consistent with that in my remarks.

The Chairman: There's a difference between starting small or a political decision, don't you think?

Mr. Ian Glen: The political direction-

The Chairman: Unless political decisions are small.

Mr. Ian Glen: No, no. I don't mean it that way. Good try. No what I mean is that in terms of stepping, what pieces would be done first, there was political direction that the standards and the inspection and the environmental assessment pieces would be done before the remaining items on the workplan, and enforcement was part of that.

There clearly is an intention to address enforcement.

The Chairman: Thank you, Mr. Glen. We then start as usual with Mr. Casson followed by Mr. Knutson.

Mr. Rick Casson (Lethbridge, Ref.): Thank you, Mr. Glen. The last time you were here I don't know, I must have got off on the wrong track or misunderstood because we went through the last week with overlap and duplication as being one of the issues that we were addressing here on harmonization.

A number of the witnesses commented on that, that they couldn't find o 1555 [English]

you were here. I don't know, I must have got off on the wrong track, or misunderstood, because we went through the last week with overlap and duplication as being one of the issues that we were addressing here on harmonization, and a number of the witnesses commented on that, that they could find overlap and duplication, and now you've come back and said it's to minimize gas.

So I'm kind of at a loss here, but maybe getting to another point, the whole idea of devolution of federal authority, a lot of the concern we've heard in the last week has to do with the fact that the federal government is going to be not in a position to override, I guess, other decisions and to keep a standard, a national standard. Do you have a comment on that? Is that indeed still a possibility, that the federal government is going to have national standards that all the provinces have to meet at least?

Mr. Ian Glen: If I may in answering, can I come back to the overlap and duplication?

Mr. Rick Casson: Sure, you bet.

Mr. Ian Glen: I'll start with the approach that is encouraged under the harmonization initiative is that all jurisdictions work together to set a national standard. There will be consistency of expectation, if I can put it that way, against which provinces, or the federal government, will use

their authorities to achieve that result. So "national" should not be interpreted narrowly as federal, it's one in fact which all jurisdictions will try to work to, and that's what the standard subagreement is trying to achieve.

In terms of the overlap and duplication, Mr. Casson, part of the material we sent you were the various studies, in one fashion ## or another, that identified some of those issues from the past.

I think the point we're trying to make in the document today, and in discussion with one of my provincial colleagues that was here last time as well, is that clearly the emphasis in the earlier initiative we called EMFA, the Environmental Management Framework Agreement, which this is not, had more to do with overlap and duplication. This initiative will certainly factor that in, but it's not a driver in the same way. It's trying to ensure a rationalization across systems and a common management approach dealing with it. The driver isn't so fundamentally overlap and duplication. There will be an expectation, particularly on duplication of activity, that where one level of government could address the issue on behalf of however jurisdictions would be there. That's desirable, but it's not by itself the single driver on this.

I'm not certain whether you had a third element to that.

Mr. Rick Casson: That's all right now, Mr. Chairman.

The Chair: Thank you, Mr. Casson.

Mr. Knutson, please.

Mr. Gar Knutson (Elgin-Middlesex-London, Lib.): Thanks very much, Mr. Chairman.

I just want to preface my comments by saying, I understand from an administrative level, we have a number of people working in environment department for the Government of Canada that, as your budgets are being cut, you want to maximize the value for dollar, and I understand how provincial administrators might feel the same way, that they want to maximize value for dollar, and as such, you might to come together and sign an agreement that sorts out what everybody does.

In a general sense, certainly the testimony we got from the majority of witnesses was that makes good sense in theory, but in practice it's not going to work that way, that historically for the last 30 years, the federal government has oftentimes taken a very aggressive lead role that has resulted in court conflicts, it has resulted in very public debates with the provinces and it has dragged them forward.

Just this week, we saw a minister from Alberta say if the federal government is going to agree to an international...sign on to an international agreement with legally binding targets, he is not going to implement them. I don't think that's verbatim, but I think that catches the essence of what the Minister ## said. That doesn't seem to me to set up a very good background.

Mr. Glen, you've said "all jurisdictions are trying for partnership". I think I've quoted you verbatim there. He doesn't seem to be trying for a

partnership with.... I didn't see that sense of co-operation, and I'm wondering if people feel that the provinces are going to use this sort of to kick the federal government out of what they thought should be more provincial jurisdiction that might be their agenda, more so than maximizing value for dollar, co-operation, working together, because there's some evidence to suggest.... I can give you other witnesses

o 1600 [English]

provincial jurisdiction that might be their agenda more so than maximizing value for dollar, co-operation, working together because there's some evidence to suggest, I can give you other witnesses, one witness from Alberta told us about an Alberta environmental official that said he wasn't going to give information to the feds until the day came that the province had jurisdiction over penalties and all that sort of thing. There was no way he was going to give-we heard about in the province of Ontario when they build a road even though that they might be implementing on fish habitat they don't alert the federal government. They figure building roads is their jurisdiction, and they're not about to involve the federal government in that.

I'm sure that at an administrative level there's a lot of people that want to work together, but at the big picture I'm not sure that it exists.

Consequently I don't think this agreement is going to achieve, I think that at the end of the day it may be used for other purposes other than enhancing value for dollar at an administrative level.

Mr. Ian Glen: Okay let's start at the administrative level if I may.

Certainly our efforts to work with our provincial colleagues to think through and develop under guidance administrators to develop this accord, the subagreements and what we anticipate everyone is acting very much in good faith. I don't question that, I see it, it's real.

In terms of the administrative advantages that we have a framework that allows us to come together and plan nationally we believe it's very much in the interest of all jurisdictions, the federal government and the provinces. So we work accordingly.

In terms of value for money you would expect that of us as well. We take that as a genuine expectation. My own view, I was reflecting on this last night, if we had a lot more money let's put it that way in that scenario, I would still embrace this approach because it would allow us again to work quite appropriately with our colleagues to ensure we're addressing the environmental concerns that are there to be addressed. Clearly they are there to be addressed.

In terms of the capacity of the process to be hijacked. I say that with care and I don't think you expect me to speak necessarily to where would I position myself as opposed to ## . The document does seek a common commitment. It does expect consensus decision making which is not unanimity and it does permit--

Mr. Gar Knutson: It's defined as unanimity here.

Mr. Ian Glen: I think you'll find the consensus still recognizes if a party

doesn't want to play authorities by retaining all of the legal authorities that we have the capacity to act. So if you had a situation in which a particular jurisdiction did not wish to be a part of whatever it is then quite frankly from the federal government perspective we would use our authorities to do what we felt was necessary, and this agreement supports that.

Mr. Gar Knutson: Let me pick up on that because I think you've said that the minister has said to the environmental groups, I don't know that she said it in the media but I think she said it enough, that it's public, but that it's not devolution and yet all of the environmental advocacies say it is devolution. I guess I can ask you the question if we were to agree that inspection would be done by the provinces, and the federal government takes the money that we now spend for inspection, and we layoff inspectors or we train them to do other things, or they take cash outs or whatever, but we get rid of our inspections, that to me seems to be one of the things we're anticipating might happen five years down the road. Well legally or constitutionally we may be able to do an inspection as an extension of the criminal law power. If we don't have the expertise and we don't have the human resources to do it we have in fact devolved in a real sense, maybe not in a legal sense, but in a real sense we've devolved our power to do inspection to the provinces.

I'm wondering is that going to make a difference if a PCB case comes up at Quebec Hydro or a provincial hydro and the provinces don't want us putting our federal noses into their jurisdiction. I guess my question is do you see that if five years down the road we don't have inspectors and we're relying on the province

o 1605 [English]

putting our federal noses into their jurisdiction. My question is do you see that as, if five years down the road we don't have inspectors because we're relying on the provinces to do inspection, is that a devolution of power?

Mr. Ian Glen: First of all, it is not a devolution. I know what you're worried about and I've heard environmental groups say that as well which is you're going to abandon certain of your capacities for efficiency reasons-

Mr. Gar Knutson: Well, then, they overlap and duplicate.

Mr. Ian Glen: -and then trust the provinces to do it for you. First of all, from an Environment Canada point of view, there will be a management challenge to deal with the resource base we have and that applies for my provincial colleagues as well. We're not denying, because it's public record, that environmental budgets have been reduced for virtually...I think only two jurisdictions can show it's gone up in the last bit and quite frankly that increase is minimal, so, overall we're lost-

Mr. Gar Knutson: They've been slashed.

Mr. Ian Glen: That's your word. I would say they've been reduced.

In terms of our capacity to do our work, that is a challenge for our organization and this is a challenge for provinces as well and we feel this

will assist.

On the inspection area, I will have to ensure we have an inspection capacity and we will. The degree to which we have to maintain it against trying to effectively engage partnerships will mean we'll involve ourselves with jurisdictions in common training, a common understanding and appreciation of the standards we'll apply for our laws and how to inspect. Also, I don't rule out at all situations in which we will be the lead inspectors for provinces as well. In essence, we will have a particular technical capacity that would make us the more appropriate level to do the inspections. So, it's not a one-way street to the provinces. It could work either way.

Yes, we'll have to be smart on our resources, but at the same time we'll continue to ensure we have a capacity to act when necessary and we will not be devolving legal authorities because of that.

Mr. Gar Knutson: I have to take the chair. Mr. Caccia goes to the House of Commons. How much time do I have left?

The Clerk: I'm afraid we've missed that, Mr. Vice-Chair.

Mr. Gar Knutson: Who's next on the list?

The Clerk: Mr. Charbonneau.

[Français]

M. Yvon Charbonneau (Anjou-Rivière-des-Prairies, Lib.): Monsieur le président, j'ai essayé de prendre connaissance des documents et des clarifications qui nous ont été apportés aujourd'hui. Peut-être que mes questions ont des réponses dans ces documents. Je n'ai pas eu le temps de les lire ligne par ligne. Alors, on voudra bien m'apporter l'éclairage nécessaire.

Toutefois, j'aimerais qu'on m'explique d'une manière un peu plus convaincante pourquoi il est opportun de ne pas avoir de mesures d'application. Comment on peut convaincre le public et convaincre les groupes intéressés à l'environnement, les entreprises que c'est bien qu'il n'y ait pas de mesures d'application dans des accords. Que c'est correct comme ça.

Deuxième question: Les aspects internationaux. Des témoins nous ont dit que le gouvernement fédéral, Environnement Canada, ne serait plus en mesure de respecter certains engagements internationaux si ce sont les provinces qui assument ces nouvelles responsabilités.

Vous avez certainement pris connaissance de ces arguments-là. Je ne fais que les mentionner. Il y a des gens qui nous ont dit que ce type d'accord sur l'harmonisation s'éloignait de beaucoup des principes de l'Accord sur le commerce intérieur qui a été signé en 1994, semble-t-il. Je n'ai pas de pièce sous les yeux, mais on a demandé de nous produire des sections de cet accord relatif à l'environnement

o 1610 [Français]

en 1994, semble-t-il. Je n'ai pas de pièce encore sous les yeux. On a demandé de nous produire des sections de cet accord relatif à l'environnement, mais d'après notre témoin, qui avait l'air à s'y

connaître, dans l'Accord sur le commerce intérieur, il y a, semble-t-il des dispositions qui insistent beaucoup sur la nécessité de mettre la préoccupation de l'environnement au premier plan. D'après ce témoin, ce type d'accord sur l'harmonisation auquel les parties en sont arrivées irait à contre-sens ou serait en contradiction avec les principes de l'Accord sur le commerce intérieur.

Troisièmement, nous avons reçu ici des groupes représentant les autochtones. L'Assemblée des Premières nations et les Cris du Québec nous ont dit qu'ils avaient été à peu près exclus ou absents des consultations, surtout les Cris. Ils nous ont laissé savoir qu'ils ne se sentaient pas engagés dans des accords qui allaient disposer de la manière de gérer l'environnement sur leur territoire, alors qu'ils n'ont pas été consultés suffisamment ou pas du tout dans la mise au point de ces accords.

Enfin, j'ai une dernière question. Il y a des gens qui nous ont soutenus ici, des gens qui avaient l'air à s'y connaître pas mal dans l'environnement. Ils nous ont dit que ce processus d'harmonisation, au fond, était conduit surtout par des préoccupations d'unité canadienne et de rendre le fédéralisme plus flexible, mais beaucoup plus que par des préoccupations environnementales. Alors, j'aimerais avoir votre commentaire sur ce genre d'affirmation que nous avons entendue.

[English]

Mr. Ian Glen: First of all, two enforcements. Again, I return as part of the documentation we now use around the harmonization issue, the work plan does identify enforcement. It is bracketed at the moment only as a question of whether it should be one of the sub-agreements worked on within the next 18 months or the next 3 years, and that is clearly an indication that we are planning to deal with enforcement.

Going back to Mr. Caccia's point earlier, the sub-agreements that were being developed were being developed under political direction. This is what ministers wanted us to first deal with. Enforcement will be factored in and will be part of the completed framework when we are finished.

So, to those who are concerned why is enforcement not there? Enforcement will be there as part of the development of the further sub-agreements. Yes. In terms of international commitments, on two levels, again the work plan identifies that international agreement will be one of the aspects of the further work that will be done. It is a concern for the provinces as well.

They feel, and this perhaps goes to the comment that Mr. ## is connected to and that is a concern in provinces. The federal government does make commitments internationally that we are left to deal with and the truth of it is we expect provinces to be part of implementing international commitments. In many cases they have aspects of their responsibilities. Their authorities are what are needed on some of it, and we try to engage provinces in the consultation mechanisms as we lead to what Canada's positions will be internationally.

In terms, then, of outcomes, yes, we have international commitments now that require both responsibilities for the federal government,

responsibilities for provinces. So they have an interest, and that will be recognized in the work plan here.

In terms of the internal trade, I apologize. I do not understand the point well enough, but I am quite prepared to take from whichever witness it was their transcript, and we will try to provide an answer back, perhaps, under the circumstances, to you, the clerk, and we will try to understand that issue.

In terms of the concerns for aboriginal people, the accord does recognize in the principle section that jurisdictions will work co-operatively with aboriginal people and their structures of government

o 1615 for aboriginal people. The accord does recognize in the principal section that jurisdictions will work co-operatively with aboriginal people and their structures of government and it is necessary for an effective environmental management regime.

The accord recognizes that aboriginal people and their management regimes must be factored into the future. It also recognizes that this accord will not affect aboriginal or treaty rights, so where those rights exist, the jurisdictions will respect this. This agreement is between the federal government and the provinces at this point in time and we're factoring in accordingly. There was clear acknowledgement that advances in aboriginal self-government initiatives in the future will be accommodated under the accord.

In terms of the consultation, there was input from the aboriginal community. One can, quite legitimately from their perspective, question whether it was adequate. I think the same criticism has come to this process from environmental groups. Both in forums that I chaired or ones collectively under the COME rubric, aboriginal interests were sought out. In certain instances, they chose not to respond or wished not to be a part of the process. We're sensitive to them being a part of our future and we'll continue to find ways of consulting with them as we develop the sub-agreements.

The process was led by Canadian Unity ## . The initiative was given its greatest impetus from direction of first ministers meeting, so we had both the Prime Minister and his provincial premiers wanting work done in this area. Is it for Canadian unity? I would hope much of what governments do these days is trying to address Canadian unity, but more critically for our purposes and the work we're doing, I draw your attention again to the vision for this document, governments working in partnership to achieve the highest level of environmental quality for all Canadians.

The efforts of officials working on this material now is entirely focused on as good and positive environmental results as we can achieve.