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Chair

Mr. Bob Mills

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● (1535)

[*English*]

The Chair (Mr. Bob Mills (Red Deer, CPC)): I call the meeting to order.

I would like to let you know that this coming Monday the department will be reporting on CPA, as we requested. Next Wednesday the industry will be reporting, and that will be the chemical producers and possibly the Chamber of Commerce—the industry group, anyway, will be reporting.

I suggest that on the Monday after the break we look at the approach—how we're going to use it. I think that was the indication from the last meeting. The following Monday after the break we would look at where we're going to go from there. Our time stays the same right until June—3:30 until 5:30.

Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Thank you, Mr. Chairman.

I would like to know if steps have been taken for us to meet with representatives of Treasury Board as well as offficials of Natural Resources and Environment Canada. If so, has a calendar been established ?

[*English*]

The Chair: Eugene, what other witnesses will we be hearing?

The Clerk of the Committee (Mr. Eugene Morawski): I've contacted....

[*Translation*]

Are you talking about budget cuts?

Mr. Bernard Bigras: Yes.

The Clerk: I got in touch with them and they will appear during the week following Victoria Day. They have told me that it would be better for us to have the two ministers to answer questions of a political nature. Bureaucrats cannot answer questions of a political nature. People from Treasury Board were ready to appear on Monday but we had already invited representatives of the department to talk about the Canadian Environmental Protection Act. They are all ready to appear.

If you only want to meet with the department officials to talk about program cuts, they are quite willing to come and testify but they think it would be better for you to hear the ministers.

Mr. Bernard Bigras: I know but I would be quite satisfied to hear the department officials since they have produced a report on the programs. It is that report that we want to review. It has been ready since the Fall and it would have been submitted to Cabinet. We would like them to appear to talk about that report. We do not intend to ask highly political questions but rather questions relating to programs. Which programs have survived ? Which have been cancelled ?

The Clerk: Natural Resources Canada is going to send us a list of of those programs that have been canceled or that have had budget cuts and you will be able to question them about that when they appear.

Should I tell them that you would be satisfied to hear the officials?

Mr. Bernard Bigras: Yes, for the time being.

[*English*]

The Chair: Mr. Warawa.

Mr. Mark Warawa (Langley, CPC): I have talked to Minister Ambrose and she is hoping to come in June, approximately a month from now.

The Chair: Does that schedule meet with everybody's approval? We'll just carry on. That gives us our next three meetings. We'll probably know by then when the others will be coming. Mr. Bigras will have more information on exactly when we'll have the senior civil servants.

I'd like to mention before we get started that tomorrow the natural resources committee will be having a visit from Azure Dynamics and their hybrid electric shuttle bus. They're going to be departing from the West Block main entrance at 12:45 tomorrow. They're going to have a 10- or 15-minute ride around. If anybody is interested in joining the natural resources committee at that time to ride on the bus, they will explain how the process works, and so on. That's in conjunction with their convention on renewable energy, which is going on here this week.

So if anybody is interested, the chair of the natural resources committee has extended an invitation to anybody from the environment committee. We can send a note around to everybody to remind them, but that's an invitation we've had extended to us. If you want to go it's there; if you don't want to go, that's fine as well.

I would like to welcome our two guests today. We're going to have their views on CPA and the kinds of areas they'd like us to look at. I think we'll start with Pollution Watch.

Mr. Khatter, please begin.

Dr. Kapil Khatter (Director, Health and Environment, Pollution Watch): Thank you, Chair, committee members. Thanks for having me present first at the CEPA review; I take that as a compliment.

My name is Kapil Khatter. I'm a family physician and I'm working with Pollution Watch, which is a joint project of Environmental Defence and the Canadian Environmental Law Association.

CEPA is the backbone of Canadian environmental legislation. The act brings to one place the powers that deal with most of Canada's significant environmental problems: air pollution that causes respiratory illnesses; persistent organic pollutants that are building up in our bodies; greenhouse gases that can lead to climate change; metals like mercury that are contaminating our fish, our wildlife, and ourselves. CEPA gives the federal government the powers to regulate any chemical, air pollutant, or greenhouse gas deemed to be endangering our health or the health of our environment. It offers the government a range of tools to reduce pollution and prevent harm.

I think the main questions before us today are how broken is CEPA and how much work will it take to repair? We would argue that CEPA is broken and in fact that it was never really built to work well. It was a good attempt and it doesn't need to be shelved, but there are some significant changes that need to be made if CEPA is to be protective of our environment and of our health.

For that reason, we believe the committee needs to undertake a comprehensive review, hearing from a diversity of sectors and traveling where needed. The committee should see this review as an inquiry into the state of pollution in Canada, into the state of our health, and an investigation of whether CEPA has done its job promoting clean air, clean water, and clean food.

There is ample evidence to suggest that Canada is failing to meet its environmental challenges, and falling behind internationally. According to a recent study of OECD data, Canada ranked 28th out of 29 OECD countries in emissions, 29th out of 29 in volatile organic compounds, 27th out of 28 in sulphur oxides, 26th out of 28 in nitrogen oxides, etc. According to the Ontario Medical Association, air pollution in Ontario now causes 1,900 premature deaths, 9,800 hospital admissions, and 13,000 emergency room visits, costing that province alone more than $1 billion per year in hospital admissions and worker absenteeism. More than 4 billion kilograms of air pollutant releases were reported by Canadian industrial facilities in 2003, a number that has been on the rise lately. Canada's aggregate greenhouse gas emissions have increased more than any other G-8 country in the past decade, up 19% since 1990, until 2001. A recent comparison of Canadian and U.S. industrial sites in the Great Lakes found that per facility we emit 93% more potentially cancer-causing air pollutants and almost four times the pollutants that can cause reproductive or developmental harm.

The United States has legally enforceable national ambient air quality standards and water quality criteria that are enforceable, whereas Canada does not. They have strong regulations and agreements with companies to phase out some of the most persistent and toxic chemicals, the most problematic chemicals right now, like PFOS flame retardants and stain repellents, while we are still trying to finalize our assessments. The United States has a comprehensive program to test for body chemical levels. We don't even know how much lead our children are being exposed to right now.

We have done a good job under CEPA of some things, of screening the substances in use in Canada to determine which are most persistent and bioaccumulative, in the hopes of doing something about them. But while we've been assessing chemicals, the Europeans have created REACH—the registration, evaluation, and authorization of chemicals—a program that will keep problem chemicals off the market by ensuring that everything in use has adequate safety data. Our present CEPA doesn't even dream of doing that. Since Europe is the largest chemicals market in the world, it is worth asking Canadian companies who are meeting the standard for the European market why they couldn't meet the standard here at home.

CEPA fails to require that problems get fixed once we find them. It lacks mandatory timelines to get the job done, with the result that even once we know that a chemical is a serious risk to the environment or to human health, government processes to regulate the chemical can be slow and ineffective. CEPA doesn't directly apply to the significant number of chemicals in consumer products. Many products, we are now learning, contain unacceptably high levels of toxins, and CEPA puts the burden on the government's shoulders to show that chemicals or products are harmful, rather than on manufacturers to assure us that what they are selling won't harm us.

The act allows us to virtually eliminate the worst actors, to do away with the toxic and persistent chemicals. But virtual elimination as written in the act doesn't work and the process needs to be streamlined. Only one substance has made it onto the virtual elimination list over the life of the act.

We need a CEPA that will eliminate the persistent organic pollutants that are accumulating in our breast milk, a CEPA that will stop air pollution from causing asthma attacks, a CEPA that will prevent metals like mercury from contaminating people and wildlife, and a CEPA that will rescue the Great Lakes and help to rebuild the ecosystems there.

● (1540)

To be fair, what we know about pollution has changed a lot since 1999. We know better now that children are more vulnerable, and have found that lower doses of chemicals are more dangerous than we thought. We know that the economic loss and health care costs due to air pollution are well above the costs of regulating air pollution through CEPA. We know that mercury and persistent chemicals are transporting to the north, contaminating country food and the bodies of our first nations.

It is now time to look at CEPA through these new eyes and to modernize it to meet these challenges. The question is not whether the processes started under CEPA 1999 have been going well, or whether we've done the categorization and assessments we intended to do. The question is has CEPA been successful in keeping us from polluting our country with persistent chemicals, toxic metals, and air particulates? Has CEPA protected large population areas, like the Great Lakes basin, from the risks from environmental contamination? For us, and for our asthmatics, our learning disabled, our cancer victims, the answer is no.

The act can be complex, as the problems are complicated, and we understand you will have many questions. There are many experts out there to help answer these questions—health organizations, industry associations, scientists, first nations groups, medical officers of health, children's advocates, and international experts knowledgeable about other jurisdictions. To do a comprehensive review, as both the legislation and the recent throne speech promises, you will need to hear from these sectors. It is the only way you can learn well what the problems are and what kinds of solutions are needed.

Thank you very much.

● (1545)

The Chair: Thank you very much.

Mr. Silva.

Mr. Mario Silva (Davenport, Lib.): Thank you very much, and thank you for coming before—

The Chair: I'm sorry. Let's hear from the other witness, and then we will go to questions.

Just to remind everyone, what was agreed on last time was that the first round would be ten minutes to each of the opposition parties, then the government party, and then we go through five minutes. Then we alternate back and forth.

Sorry, Mr. Stack; I just about forgot you. Welcome.

Mr. Derek Stack (Executive Director, Member of CEN, ENGO Delegate, Great Lakes United): Thank you. I guess I'm second-best.

The Chair: No, don't take it that way.

Mr. Derek Stack: Do you prefer to go through both presentations and then have questions?

The Chair: Yes, we'll do that.

Mr. Derek Stack: Very good.

[*Translation*]

I apologize, I did not have enough time to get my presentation translated.

[*English*]

I got the notice and invitation only yesterday. So I have provided it in English.

[*Translation*]

French-speaking MPs can ask their questions in French but I will answer in English.

[*English*]

Time today, unfortunately, is not sufficient for me to provide a detailed analysis of CEPA's strengths and weaknesses, but I hope a cursory review of some of the long-standing issues that the environmental community has had with the act will provide context to committee members who might otherwise be discouraged from undertaking a comprehensive and substantive review.

It is the broadly held view of Canada's environmental community, supported by pollution data, internal assessments at Environment Canada, and our nation's abysmal environmental performance ranking among OECD members, as Kapil recently shared with you, that implementation of CEPA is failing in key areas and is in need of a substantive, comprehensive review if it's to serve its purpose to protect the environment and human health. Pollution is up almost across the board in this country.

The following five key areas suggest the committee would be ill-advised to relegate the current review to a simple bureaucratic tinkering of the act's mechanics. A more substantive review is needed.

First of all, pollution prevention is defined in the act as the “use of processes, practices, materials, products, substances or energy that avoid or minimize the creation of pollutants and waste and reduce the overall risk to the environment or human health.” Pollution prevention is legally Canada's priority approach to environmental protection.

Unfortunately, application of the act to date has done little to avoid or minimize the creation of pollutants in favour of end-of-pipe controls to capture pollutants for storage, incineration, transfer, or landfill. Although the government has requested flexible rather than prescriptive pollution prevention plans for major industries, we are aware of only five plants that have plans in place, and none that has implemented its pollution prevention plan. In the absence of honest efforts to reduce the production of toxic pollutants, air and water transfers are on the rise based on data made available through the NPRI, the National Pollutant Release Inventory.

Monitoring and enforcement direction is needed to realize effective pollution prevention plans that will foster the reduced use and production of toxic substances rather than transferring them from one medium to another. Industrial engineering resulting from the application of pollution prevention plans will enhance Canada's long-term competitiveness and productivity in the continental context.

On the issue of international agreements, I'd like to point out that CEPA has the potential to significantly reduce the use and release of toxic substances if the progressive principles in the act are implemented. As Canada moves to reassert its international presence, it is important to understand where CEPA comes from and how the act relates to the global policy framework for regulating toxic substances generally.

Important concepts such as virtual elimination and the precautionary principle that eventually found their way into CEPA's lexicon originated, in the continental context, in large part in the Canada-U. S. Great Lakes Water Quality Agreement as part of a cooperative binational effort to protect the world's largest freshwater ecosystem. Despite having roots in the Great Lakes Water Quality Agreement, CEPA has failed to protect the Great Lakes from toxic emissions of all sorts across the Great Lakes basin.

Beyond the North American context, Canada has ratified important global agreements such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Stockholm Convention on Persistent Organic Pollutants, and the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

CEPA should include provisions for meeting international commitments for protecting the Great Lakes—i.e., the shared stewardship of more than 20% of the globe's accessible surface water—and other international agreements intended to regulate the trade and movement of hazardous substances. To date, it simply is not supporting those initiatives.

On the issue of toxics management, current management approaches for toxic substances have proven time-consuming and ineffective, and the act's focus on toxic substance use, manufacture, and release means the toxic substances contained in consumer products are ignored. Landfilling of light switches containing mercury, for example, would not be addressed. Other jurisdictions, such as Boston, have successfully implemented simplified approaches that are more comprehensive in reducing toxic emissions.

While CEPA prescribes timelines for categorization of substances, the act does not outline a timeframe for completion of the assessment nor what is considered adequate data to determine toxicity. Furthermore, the use of section 71, which requires data from industries, has not been fully utilized to assist the government's efforts in making a determination of toxicity. The government's voluntary approach to data collection and industries' confidentiality concerns have handicapped the government's ability to effectively determine toxicity.

● (1550)

This ambiguity critically undermines the development of management tools for toxic substances. We are unaware of any plan of action developed by Environment Canada and Health Canada to screen level risk assessments on substances found to meet criteria for categorization.

CEPA should capture consumer products and be amended to enhance the burden of proof on industry to demonstrate that commercial products are safe for use and disposal. It would seem that, as it stands, the bureaucracy is not equipped or is ill-equipped to do the full categorization on its own.

On the issue of the precautionary principle, once a substance has been declared toxic, it usually takes another three years to have a risk management strategy instrument in place. Further, waiver and time extensions may be granted. Timelines for development of management strategies are far too long to support a precautionary and preventative approach to environmental stewardship within CEPA.

Enforcement of the act has been its biggest failure. For years the Office of Pollution Prevention relied on voluntary programs to foster action, with the explicit commitment to use the act's regulatory backstop as needed. Despite the broad and accepted failure of those voluntary programs.... I'm thinking here of such programs as the accelerated reduction and elimination of toxics, known as ARET, some years ago; bilateral environmental performance agreements with industry; and the past environmental leaders program. Those programs have all failed and yet no appetite exists for regulation. CEPA implementation must include regulatory intervention where voluntary initiatives are known to have failed.

We understand that Environment Canada's current capacity to oversee a review is compromised by recent structural changes. However, a relatively small redirection of resources would allow the department to draw on its existing expertise to realize the review necessary to protect human health and the environment.

Members of CEN Toxics Caucus have been tracking this file and have been formally consulting with decision-makers over several years in the evolution of the domestic substances list, the priority substances list, the NPRI, and on several key delegations to international treaties, such as the POPs Treaty, the Basel Convention, and the Great Lakes Water Quality Agreement. I encourage the committee to use the CEN in its pursuit of expert testimony of a more substantive nature.

And I invite your questions.

The Chair: Thank you very much, gentlemen.

Mr. Silva.

Mr. Mario Silva: Thank you, Mr. Chair. I'll try to be brief so that I can split my time with my other colleagues.

First of all, I want to thank you for coming here on such very short notice.

Part of what we want to do with the exercise today is try to assess the timeframe for us as well in terms of looking at this very important and critical piece of legislation. CEPA really is the overarching environmental legislation we have for this country. We had some very brief discussion last time that maybe we could get this done in about two, three months. Given its regulatory nature and given what we want to do in terms of timetables and the effectiveness of the legislation, and given the fact that it is so comprehensive and deals with so many different issues, is it really realistic to have this thing done in basically two or three months? And is it really not doing justice to this particular piece of legislation? That's a question for both of you.

To Dr. Khatter, you mentioned the fact that it has been a failure. Which section do you believe has been a failure? Are we going to review every single piece of the legislation, or is there a specific section or two that you think we should be focusing on as a committee?

Dr. Kapil Khatter: To answer your first question, it's hard for us to imagine that you're going to be able to get through this very quickly, in the next month or two, although I don't have that much experience with how fast and efficient a committee can be.

The other part of it for us is that CEPA is really a backbone legislation, a piece that works in itself. There is a specific toxic substances section, part 5, but the other parts of CEPA are built onto that section. I think it would be difficult to find a way to divide CEPA up into, for instance, two parts and be able to deal with them separately.

My sense of it—and I'm a family physician rather than a legal expert—is that it's one piece of legislation that kind of needs to be dealt with in terms of the assessment and the management of substances.

● (1555)

Mr. Derek Stack: Do you want me to take that on?

Mr. Mario Silva: Sure.

Mr. Derek Stack: I agree with Kapil that to finish it in less than a couple of months would be aggressive and ambitious at the same time. I think a more substantive review is due. I was around for the CEPA 1999 review. That one took a considerable amount of time, and in my humble opinion, the changes were not adequate to address the needs. So I would encourage you to take that into consideration.

On the issue of which parts of CEPA need more attention, I think Kapil is quite right in that the changes to one section will inadvertently require reviews of other sections. That said, I think increased attention to the pollution prevention clauses and implementation of regulatory backstops would go a huge way to improving the way that CEPA, as it's currently written, is implemented. Similarly, provisions to make stronger ties to international agreements would help consolidate the Government of Canada's approach to toxics management, both domestically and internationally, with our allies.

The Chair: Mr. Rodriguez.

[*Translation*]

Mr. Pablo Rodriguez (Honoré-Mercier, Lib.): Thank you, Mr. Chairman. I thank you both for being here on such short notice.

Generally speaking, would you say that the Act has reached its objectives?

M. Derek Stack: No, it has not.

[*English*]

It's not meeting its goals or objectives. But some of the biggest failures in the act, in my opinion—and we may differ on this—are not based solely in the text, but in its implementation and the opportunities within the act for decision-makers to opt out of regulatory action.

Dr. Kapil Khatter: I would agree, in the sense that part of what we're looking for in the act is more structure to make sure things get done. I think the ministries will tell you that they've often met the timelines in the act, and it's our sense that the lack of timelines and obligations within the act, to not only get the assessments done but manage the substances and the environmental problems we have, is what needs to be changed.

[*Translation*]

Mr. Pablo Rodriguez: More precisely, what would be the most important thing that should be in the Act but is not ?

[*English*]

Mr. Derek Stack: We certainly need closer ties to international agreements, and something that would force regulatory action when the voluntary measures have not worked. Right now the act allows for regulatory backstops, but I don't think any regulation—and I'd happily be corrected on this—has resulted from an assessment of the failure of CEPA's voluntary measures.

[*Translation*]

Mr. Pablo Rodriguez: You have a referred to international commitments and I think it is important. We could include as many amendments as we want in the Act but we all know that the environment has no borders. It does not need a visa or a passport to move from one country to the next. We have many challenges to face, in Canada and elsewhere. Some of the problems with be dealt with through international agreements. We could strengthen the Act and improve its implementation but that will not stop the wind to carry into Canada emissions from coalmining in the US. So, we agree that international agreements are important in addition to the Act.

I read somewhere that there seems to be a problem with access to information. Are there any provisions in the Act that limit the public's access to information?

[*English*]

Mr. Derek Stack: I think you might be referring to some of the confidentiality concerns that industry had with some of their data. In some industries that are consolidated or have very small sectors, it's easy to determine which plant is getting which data because there are only a few plants. I'm not sure what your question is to me directly, but you're right that there have been concerns about confidentiality in data.

● (1600)

Dr. Kapil Khatter: There are certainly other models that CEPA can look to, like the new pesticide act that has come into force that allows citizens to be able to look at test data on site. There's the U.S. pesticide legislation and other models in legislation related to the environment that provide better access to information, particularly around health and safety data. We know that Canada has agreed internationally to the idea that health and safety data should be publicly accessible.

The Chair: Thank you very much.

Mr. Godfrey.

Hon. John Godfrey (Don Valley West, Lib.): I think it would be helpful, as we look at the act, to have almost a colour-coded system that says, “This part of the act is great in theory, it's just that you haven't had enough regulation, applied enough resources to it, or put in the timelines”.

So if you could help us over time differentiate between things that work—in theory it's just terrific; it's just that we haven't done one of those three things—that would be very helpful to us. Then we would be able to devote appropriate...because that's not a reform of the act, except for small things—well, regulation or timelines.

I have another question that we may have to get back to, given the shortage of time. Perhaps you could make a distinction between flaws that were inherent at the time, which everybody said would be a problem—and I'm getting beyond the regulation and timelines—versus evolving or new evidence, where we now know a whole lot more about this thing, so this is a good reason to change things. You could actually point those things out.

But I've given you such a general question, I don't know whether you can find a way of dealing with it, at least in the future.

Dr. Kapil Khatter: My history doesn't go back to 1999, unfortunately.

One example of each, for instance, would be that when virtual elimination was put in the act, I think we would have said right at that time that the need for there to be what's called a level of quantification...that you can't do virtual elimination until you figure out what the lowest possible dose is that you can measure.

We knew right from the beginning that that was going to be a barrier to actually getting virtual elimination, and it turned out to be a barrier. We've only had one substance that's ever been listed, and it's only listed because we don't really produce or manufacture it any more in Canada.

Besides that, in terms of new information, I don't think there was the same push in 1999 to recognize vulnerable populations that there would be now. For instance, over the last years, when we've looked at studies of lead in children, since we've taken lead out of gasoline, what we have found is that each time someone does a study that looks at children and lead, they figure out that the dose of lead that causes problems in children is actually lower than what we thought it was; it keeps going down tenfold. What we know now is that we need to be regulating, based on vulnerable populations like children, like first nations, who are getting high exposures, for seniors rather than for adults, and the legislation needs to directly reflect that. To a certain degree, it has started to happen without the legislation changing, but the legislation needs to keep up with the kinds of changes that are happening in regulations.

The Chair: We'll go to Mr. Bigras.

Mr. Stack, if you have some comments, you can come back on the second round.

[*Translation*]

Mr. Bernard Bigras: Thank you, Mr. Chairman. I will share my time with my colleague, Mr. Lussier.

I have a feeling, this afternoon, that we are walking into a lion's den. We are asking our witnesses to come up with recommendations but, for us, CEPA is a somewhat distant memory. I believe it would have been useful to set up a preliminary information meeting with the officials. It could have avoided this situation.

I have a few questions for Mr. Khatter. The situation that you have summarized is quite clear : Canada is 29th out of 29 for volatile organic compounds, 27th out of 28 for sulfur dioxide, and 28th out of 28 for carbon monoxide.

However, we have legislation about this. Since I was first elected, in 1997, we keep passing all manner of legislation, whether it be the Species at Risk Act or the Canadian Environmental Assessment Act, but their implementation is often than hindered by a lack of resources and money.

If the government had provided the required budgets to implement the Act, what would be the results for Canada in the various categories you have mentioned today? As far as you're concerned, is funding the problem, or the Act itself or both?

● (1605)

[*English*]

Dr. Kapil Khatter: I think to a certain degree it's difficult for us to assess the level of funding. Certainly we get feedback from Environment Canada and Health Canada that they need more resources to get this job done. I think with most of these things, and in this case, it's really a combination; it's a combination of political will and of adequate resources. It's also having a structure to work with, a good act that allows you to get the job done and that pushes you to get the job done, that says, you need to do this in this period of time, and once you've decided that something is toxic, that something needs to be dealt with, there are targets, there are standards that need to be met in terms of dealing with those substances.

[*Translation*]

Mr. Bernard Bigras: I would like to know how you would like to see the Canadian Environmental Protection Act amended?

So far, you have given us some generalities with which it will be very difficult for us to start an amending process. For example, referring to your second point, you state that a special provision should be included in the Act to put more emphasis on pollution in the Great Lakes basin. How would you draft such a clause?

[*English*]

Mr. Derek Stack: I would suggest a stronger, tighter Great Lakes Water Quality Agreement. That is an international agreement that's been in place for years and it has roots in the Boundary Waters Treaty of 1909. So simply referencing within the act its commitment to realize those other international obligations would go a long way, I think.

Maybe I'll address your point, Monsieur Bigras, on the generalities of today's presentation. We understood the purpose of today's presentation was simply to provide a general view of whether or not we thought the act required a substantive review at this time. There simply hasn't been enough time to prepare for explicit, detailed recommendations on how the act should be amended.

That said, I'd like to address a question from Mr. Godfrey earlier, which was what specifically is needed. They're similar questions, and I would encourage the committee to review what the committee came up with in 1999. The Standing Committee on Environment and Sustainable Development came up with recommendations for a hugely amended act, most of which were not implemented. At the same time, I think it may serve to give you a good update on what some of the environmental priorities were at that time, because many of them haven't changed.

Looking back, if I may take this opportunity, at what we saw coming up the pipe in 1999 and we now know to be the case, I think endocrine disrupters would probably be at the top of the list. It was well known at that time they were impacting development. The World Wildlife Fund was leading a huge international campaign and tried to get this committee—well, different members, a different structure of this committee—to review endocrine disrupters. They did not make it into the act adequately and we now know them to be a major source of environmental concern.

[*Translation*]

Mr. Marcel Lussier (Brossard—La Prairie, BQ): Mr. Stack, you read very quickly your statement referring to maritime traffic on the Great Lakes and in the St. Lawrence River.

M. Derek Stack: No, I did not refer to that. You talking about ships, are you not?

[*English*]

I didn't raise the issue but I'm happy to address the question.

[*Translation*]

Mr. Marcel Lussier: All right. This is part of an international agreement between Canada and the United States.

[*English*]

Mr. Derek Stack: *Oui, mais* I don't think through the Great Lakes Water Quality Agreement. The water quality agreement is focused primarily on toxic pollutants, on sulphurs, for example, nitrates, that kind of thing.

[*Translation*]

Mr. Marcel Lussier: Does it not include ballast water?

[*English*]

Mr. Derek Stack: There are different statutes for that. I'd have to do a quick review to see if it deals with ballast water. Primarily, in the U.S., the ballast water is not addressed by the bilateral act but rather through domestic legislation. The coast guard in the United States—it's called "no ballast on board"—has recently reinterpreted that legislation to discourage boats with empty ballasts from declaring no ballast on board. The way it used to work was if they had no water in their ballast they could say, "We have no ballast", but of course there's always a little bit of water in the ballast and it's always full of invasive species.

So I think that issue is probably a little bit outside of CEPA at this point, but I'd be happy to make ties to it, if you'd like.

● (1610)

[*Translation*]

Mr. Marcel Lussier: Mr. Khatter, you have referred to the existence of a link between greenhouse gases, smog and human health, especially relating to asthma. You mentioned a 19% increase of greenhouse gases. Is that true?

Dr Kapil Khatter: I believe so, yes.

Mr. Marcel Lussier: Did you know that the minister recognized today that the targeted percentage is now 35%? We've learned in the House that there has been an increase of 29% until 2006 and that, taking into account a 6% deficit relating to Kyoto, we now have a total of 35%. Therefore, your concerns relating to greenhouse gases and human health must be even worse.

[*English*]

Dr. Kapil Khatter: *Oui.* I think air pollution is probably where we have the strongest evidence and where we're the most sure there are health problems occurring. In a sense, we should think it's inexcusable that where we have no debate whatsoever, no controversy over whether our air pollution and our greenhouse gases are causing problems, we're having so much difficulty doing anything about it.

[*Translation*]

Mr. Marcel Lussier: Are you going to suggest any solutions to reduce greenhouse gases?

[*English*]

Dr. Kapil Khatter: We can definitely help with coming up with solutions, yes.

The Chair: Thank you, gentlemen.

I have asked Tim if he could get us a copy of the 1999 recommendations of that committee and he said he could provide us with a copy of that. Perhaps that will help members to see what was recommended. The difficulty will be to know what was accepted by the government and what wasn't. In other words, we'll see the recommendations and we'll have to tie in what was changed and what wasn't. Anyway, Tim will provide us with a copy.

Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Mr. Chair, and thanks to our guests.

Today was meant to be part of our scoping out of how to go about studying this act, because we can go down many paths with such an important piece of legislation. From your presentations, it seems pretty clear that there's a certain condemnation, not just of what's in the act itself, but also of the application of the act.

I wouldn't mind some comments, and want to get specific, to figure out how this committee is going to divide its time between a review of the structure of the act and where there are faults, or things that work well, in it. But I think even more important is its application. This city knows that a bill can be perfect, but once the act is applied imperfectly the result is negated.

Dr. Khatter, I'll start with you. When looking at something like smog as an example, is it your view on the health effects that the act itself has the ability to address the issues of smog in our cities right now?

Dr. Kapil Khatter: The criteria air pollutants that are considered to be toxic and the greenhouse gases are now listed under CEPA. They're scheduled under CEPA, which gives the federal government the authority to regulate them under CEPA.

Again, I'm a physician and my expertise is more on the health side, but as much as air pollution can be a provincial jurisdiction, my sense is that because these pollutants are scheduled under CEPA, the federal government has the jurisdiction to do something about air pollution broadly and nationally across Canada.

Mr. Nathan Cullen: So you're suggesting that the fault we've seen from the dramatic increase in health effects due to air pollution, and just the air pollution itself, is not so much in the act itself, but the non-application of the act and the rules within it.

Dr. Kapil Khatter: Yes. I think we need mechanisms to get us from the point where we've scheduled nitrous oxide as toxic under CEPA and we need to do something about it. We need something that gets us to the point where we've done something about it, whether through national air quality standards or other management tools that can get that done—which we're open to discussing—and the sorts of things in the act we need to ensure that such management happens.

● (1615)

Mr. Nathan Cullen: I'm curious, Mr. Stack, with respect to the NPRI, which has been much lauded as the place where we could figure out what's happening in the toxic soup out there, but about which there has been some suggestion that it is is unable to keep pace with the cumulative impact of the chemicals being introduced.

As a place for this committee to go and study, is it an effective use of our time to bring in folks from the NPRI, but also from industry and other sectors, the health sector in particular?

Mr. Derek Stack: I think you would certainly benefit from at least one expert testimony on the NPRI.

The reality, though, is that starting about several years ago, the NPRI seems to have fallen apart a little bit; it seems to have lost its allure among environmental advocates in respect to its strength in collecting all the data, and it came under attack by several industry associations. I'm referring back to a previous question with respect to confidentiality agreements, because environmental advocates were able to tether out exactly which plants were cleared, and what....

I really can't say, as I have not been involved with the NPRI in the last three years, so I don't know if it's improved since that low point, but it's certainly worth at least a cursory investigation.

Mr. Nathan Cullen: In your testimony today, one of the many examples you gave was a comparison of Canada and the United States and the ability and capacity of the U.S. to list certain chemicals and then to act upon that listing.

Again, for the context of this study we're about to conduct, how valuable is it to bring in our American counterparts or those who are able to...? The frustration with many of those seeking to make Canada a cleaner place is that we have what seems to be a relatively solid act, but the application seems to have gone sideways. Yet our neighbours to the south, at whom we constantly point fingers, have been able to succeed where we have failed.

Mr. Derek Stack: Yes, I think that's true. Aside from policy, the reality is that our American cousins do a lot better than we do on most pollution issues. In particular, we see net increases in U.S. emissions tied more to their population base. Our plants are grossly inefficient, as Kapil referred to earlier.

That said, the TRI, the Toxics Release Inventory, the American counterpart to the NPRI, has also recently come under fire. They are looking to extend their reporting timeline for two years, instead of annually, and they're looking to reduce in other ways public access to the TRI. So you may want to call somebody from the EPA and get some advice on that, because it's not clear to me how the two will actually marry, if those changes fall apart. And for those who don't know, those two are in fact married, because with the CEC, the Commission for Environmental Cooperation, you're able to channel data stats up—not all data, but most data can be channelled up and consolidated to give us more basin.... Well, from my perspective at Great Lakes United, it gives us the basin-wide perspective on what's happening.

You guys did a lot of work on that.

Dr. Kapil Khatter: I wouldn't consider myself an expert on the U. S. regulation, but I think it would be important in terms of getting a sense of where it is that they have tools that we don't have, that we need, and where it is that they're simply using their tools better than we are, that they're actually moving forward on things in the places where we could.

Mr. Nathan Cullen: Mr. Chair, how much more time do I have?

The Chair: You have about four minutes.

Mr. Nathan Cullen: We'll be hearing from Environment Canada as well, obviously, in this study. One of the challenges and frustrations committee members have is hearing from the bureaucracy sometimes. One can be painted a picture that everything is absolutely fine.

I have two questions. One is with respect to the consultations that have been conducted to this point by Environment Canada. I'm reading that they've gone on the road a little bit. How exhaustive would you suggest those are? Were they enough?

The second question was on a comment that I think Mr. Stack made with respect to the structural changes that inhibit a proper Environment Canada review. I wonder if maybe you could start with that one and then we could talk about the consultations.

Mr. Derek Stack: Right.

I may be addressing a bit of a thorny issue, but there have been some huge changes in the structure of Environment Canada and the way its departments are aligned. Keeping in mind that the CEPA review was supposed to have started almost a year ago, I think the bureaucracy was encouraged to focus on simple tinkering, because they knew they would be consumed with other changes in the department.

And frankly, I'm not convinced that the act does not need a real review.

● (1620)

Mr. Nathan Cullen: I know you're being delicate, but I need to understand it a little better, because the challenge that we have, again, is that.... When we were reviewing climate change the last time—and committee members who were here will remember—official after official from the department came forward, especially prior to the numbers being released on how much we were breaking our levels of greenhouse gas, suggesting the reviews had been done. And it was only when we got auditors' reports and other things that we were actually able to break through that. I'm worried about facing the same challenge. CEPA looks like a great act; sounds great. Canadians don't know what it is, but they have some sort of idea that it's well in hand.

You're suggesting there's something else at play, and as best you can.... Is it simply a funding question? Is it a realignment of department heads?

Mr. Chair, I'll just indicate that the witness has nodded his head in affirmation.

Mr. Derek Stack: I think the bureaucracy was given some pretty clear speaking notes about a year ago on what was going to happen, and they continue to carry those through. That's my honest and humble opinion.

Mr. Nathan Cullen: Okay. I'm trying to respect your own life, and we're all trying to get things done.

Environment Canada has been going out and doing consultations. Are they thorough enough? Is that enough?

Dr. Kapil Khatter: I went to one of them. I have a little bit of a sense that they did go across the country. I'm not sure to what extent they reached the sectors that we would think they would need to reach; I can't tell you. The importance, of course, with consultation is always whether it's being done because it's an obligation or because what comes out of the consultation is going to be seriously considered and seriously input into their decisions on what needs to be changed.

That, I think, we're going to see—whether what's presented reflects what they have heard across the country.

The Chair: You have one more question.

Mr. Nathan Cullen: This is actually through you to Tim.

With respect to the last report that a committee did on CEPA, the report went to the government. The government makes a report back, suggesting what they did or did not do. That's correct, right?

Mr. Tim Williams (Committee Researcher): There are two reports that I think you have to take into consideration. One is the initial examination review of the 1988 act. That was done in 1995. In that case, yes, there would have been a government response to it.

The second report is a large package of amendments to their tabled bill, Bill C-33 I think it was at the time. Then that goes back to the House, and the government makes changes and it goes to third reading.

So I'm not exactly sure whether there's an official report back to the committee per se.

Mr. Nathan Cullen: So, to the chair's recommendation, I guess one of the things we'll be looking for is the ability to understand what was done last time, what recommendations were made, but then what the government chose to accept and to ignore. It sounds like those reports might be a bit of a challenge for us to understand.

The Chair: You'd have to examine the bill, I think, to see just what was in the changes that has been incorporated.

Mr. Nathan Cullen: Maybe what I'm suggesting is that part of Tim's report back to us be the initial shot at that, because for committee members, particularly those not familiar with the act at all —especially the original configuration of the act—this is going to be tough to do, and Tim is much smarter than we are.

The Chair: Again, you'd be looking at report stage to see what amendments had been voted and accepted in report stage. That would be a pretty big job.

Mr. Nathan Cullen: Yes. So again, for the purposes of our study, which is trying to understand, whatever analysis we can get from Tim—a little chart saying this is what we started with, and this is recommended—and on some key pieces.... I know there are parts that are more significant for us to look at than others, and there are some niggly piggly bits that we don't need to look at at all.

Thank you.

The Chair: Thank you.

Mr. Warawa.

Mr. Mark Warawa: Thank you, Mr. Chair. I too would like to thank the witnesses for being with us today. As has been mentioned by, I believe, two different members, the main purpose today is to get some advice from you on the procedure of the CEPA review. As a government, we recognize that we have a responsibility and a requirement to have a CEPA review. We are over a year late in doing it. The last Parliament, unfortunately, did not do it. It was supposed to have been done effective March of last year.

So there is that requirement. I also want to begin with correcting a comment made, I believe by Mr. Silva, that it could be done in two to three months. Mr. Stack, you commented with respect to that—actually, both of you did—that you did not think that was feasible. I'm not sure where that two-to-three-month idea came from; it did not come from this committee. That's just a clarification.

It is a priority of this government to have as its first order of business the hope that there will be a CEPA review, and I'm very pleased that we are as a committee going down that road to do this CEPA review—for a number of reasons: number one, that it is a requirement; number two, that it's the right thing to do.

As I start off my comments, we're looking for your guidance and recommendation in doing a CEPA review that is effective, thorough, and timely. We have one year to do it. We have to make recommendations within a year now.

Dr. Khatter, you made some comments in the brief you provided to each of us—I think it was during the recommendations—in which you recommended that the committee should travel. I'd like you to comment on that, as to what extent. You made comments that we should inquire into the state of pollution during that travel, I believe, so that we get a complete picture of the situation.

So what is your advice on travel? Where should we be travelling? How much should we be travelling? Again, in the timing of this, if we think we have to have recommendations forwarded to the House in a year, then thinking back, when should the travel happen? What are you recommending?

You also made recommendations, I believe in bullet point number three, that CEPA should mandate virtual elimination of substances meeting the...(PBT) criteria and clarify and strengthen the definition of virtual elimination. As a starting point, Canada should achieve virtual elimination of all releases of carcinogens to the air and water by 2008.

So if we have recommendations that are presented to the House within a year from now, and then the House has 120 days to deal with them, that would give us approximately a year to incorporate those recommended changes. Is one year realistic, or do you believe that in that timeline you'd like to stay with that 2008 date?

● (1625)

Dr. Kapil Khatter: I've gotten confused now.

I think we're looking for the committee to do the job they feel they need to do, in terms of how long it takes. As you said, there is a one-year legislative timeline.

We think the travelling is important; we think a comprehensive and thorough review is important. But at the same time, we as well want to see a report come out of this Parliament and we want to see you be able to make your timelines and get the job done.

In terms of travel, I think part of travel is being able to go to the people and not have to always bring the people to Ottawa. As well, it is being able to see in this vast geography the kinds of realities that are out there, such as by looking at first nations communities both in the south and in the north, because they are a particularly vulnerable group, and northern first nation communities have very different issues from those some of the southern first nation communities have.

Regionally, going out to Sydney in the Maritimes is going to be an interesting fact-finding exercise—or to Alberta, with the oil and gas industry.

So I think partly it's getting to see the reality on the ground, and part of it is being able to go to the people in various areas to get a sense of how pollution is impacting them, both in terms of their environment and in terms of their health.

Could you go back again to talking about the timeline and the virtual elimination...?

Mr. Mark Warawa: Right. You had recommended that as a starting point Canada should achieve virtual elimination of all releases of carcinogens to the air and water by 2008.

Dr. Kapil Khatter: Well, in terms of that being a quick timeline because of how long it's going to take to get CEPA amended, I think in addition to strengthening CEPA, what we're looking for, for a lot of the chemicals that are going to be coming out of the categorization process that ends this September, and that up until now we already know are persistent or biocumulative, or both, and toxic...I think we're looking for what we might call some quick start moves as well. The minister has discretion under the act to put things on the list and get moving on them. We know for some chemicals, like the flame retardants and the stain repellants, that movement has happened in the U.S., and we already know that in Canada they're a problem; we just have to get something done with them.

The other part of it is that as of September 2006, Health Canada and Environment Canada will be coming out with a list that says these are all the persistent and biocumulative and toxic chemicals that are in use or have been in use in Canada over the last 50 years. I think they will have some suggestions. They would even suggest to you that these are things that we can get rid of quickly if we choose to do that.

● (1630)

Mr. Mark Warawa: Mr. Stack, could you make comments on the timeline, because you did comment...?

Mr. Derek Stack: I probably wouldn't differ from what Kapil has said. I think the road show is important, in terms of optics and the opportunity to reach out to various communities. I certainly wouldn't subjugate progress to the road show. Real change is needed and real attention from this committee is needed. You can find expertise here in Ottawa or bring expertise in, but as far as the more public communication piece is concerned, a road show is a good idea.

Mr. Mark Warawa: The last committee discussed a possible visit to Fort McMurray to see the oil sands. Doctor, you mentioned visiting Sydney.

Mr. Stack, could you recommend, if we were to do a road trip, where we would visit?

Mr. Derek Stack: Hamilton Harbour would be a good place to start. There are lots of sites all around the Great Lakes. The Great Lakes basin has been North America's industrial home base for probably a couple of hundred years. It's waning now, but the legacy of pollution is all around the shores.

I'd have to give some further thought to exactly where I would recommend you go. It's a big geography in the basin, but certainly the areas of concern identified by the international joint commission would be a good place to start.

Mr. Mark Warawa: Thank you to both of you.

I have two minutes, I believe, Mr. Chair, if I could share that with one of my members.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you.

Thank you both for your presentation today. I find it very informative.

It seems to me that we keep coming back to one common theme under CEPA, which seems to me a complacency of enforcement more so than the act itself. The act may need revision, but I think what we're really talking about is getting rid of the complacency on behalf of government. That may well involve more investment; it may well involve some structuring. But this seems to be what we keep coming back to.

I would like to ask a more pointed question about the act, and hopefully you can help me understand this. How do you consider that CEPA could work with other legislation? I speak to things like the Pest Control Products Act, the Fertilizers Act, the Feeds Act, the Seeds Act, the Health of Animals Act, the Fisheries Act, the Species at Risk Act, the waters act, and so on. Since this seems to be like a backbone act, how do you think it can work with these other acts that kind of tie in with it, if it was properly enforced?

Mr. Derek Stack: I think quite well. The way CEPA is written, it explicitly defers to existing legislation with a focus on those other areas, such as the examples you gave. I'm not an expert on at least half of those that you mentioned, and probably all of them. I know CEPA quite well, but I can't see why they wouldn't work well together because the language in CEPA is intended to allow for that to happen.

Dr. Kapil Khatter: In terms of your first question, I don't know if enforcement is quite the.... What we are talking about beyond the assessments, beyond discovering what the problems are, is what we are doing about them. We should think of the act as the directions to the bureaucracy and our departmental officials that tell them what they need to do. We can ask them why they haven't done more on pollution or on this chemical, but we really need to look as well at what the act is telling them to do.

There are many other models we need to look at. There's the REACH model in Europe. We could bring in an expert from Europe who would be able to show us a model of how to do this, a model that does move things forward because it says what you have to do—by this date, by this year, manufacturers need to submit safety data so we know that what they have on the market is safe.

Once again it's a combination of the directions given and how well we're fulfilling them. I think there are lots of people. We should go back to 1999 and invite the ex-chair of the committee, Charles Caccia, who's now at the University of Ottawa. There are people we can go back to, to ask what it is about the act—how much of it is the act, and how much of it just using the act properly?

● (1635)

The Chair: We will go to our five-minute segments, then, starting with Mr. Godfrey.

Hon. John Godfrey: What we're trying to do is scope things out here. What I'm getting so far, just to repeat a bit, is there's the act versus the enforcement resources, the timelines. It would be very helpful if you would parse that out for us.

There's another set of issues. They are we-told-you-so issues; that is to say, they are things we were told about back in 1999, and without getting into a complete revisitation of second reading and all the rest of it, they are things that, although rejected for a variety of reasons, are either still true or even more true. That's a set of issues; that's different from enforcement. We need to know what those guys are, because we're not actually revising the act as such. We're not doing clause-by-clause study; we're coming up with a general set of directions for the government.

Then there are major issues, as you outline, on which to some degree you suggest—this is in the nature of a question, and I'm thinking particularly of Dr. Khatter—that we look to other jurisdictions. Examples are flame retardants or the REACH provisions of the European Union. In this third category there are presumably well-developed international best practices, so you don't even have to reinvent this thing. These are big markets; they've already done it, and we're behind. For those, again, we need to know which parts of the act apply. I think that'll help us because it'll also give us a level of comfort that we're not sailing off into the great beyond.

Here are my questions. First of all, I know you're interested in our having a Great Lakes focus, but how can a Canada-wide act get geographically specific when the issues raised, whether they have to do with water or air or anything else, really could be found anywhere? That would be my first question.

Mr. Derek Stack: I'll take that one on. The Great Lakes are different in that they are effectively a border; they require a cooperative stewardship, and in that spirit there are existing international agreements between the two countries. That's why I strategically tried to cast that issue as being part of the international agreements discussion—because those agreements do exist—and if we want to meet those agreements beyond just the Great Lakes, including some of the other agreements in place to regulate toxics, I think that would be the place to do it.

I quite agree with you that no particular region of the country should have a better environmental stewardship than any other region, and certainly that wasn't the intent of trying to address the Great Lakes. Simply put, the Great Lakes are not the canary in the coal mine, if you'll excuse the metaphor—they are the coal mine. We're quickly moving toward a water-short world; to have effective legislation in place to prevent the toxification of that resource is critical to our future.

The Chair: One last question.

Hon. John Godfrey: Okay. Are there less important things in the act that could be tweaked or groomed? I'm thinking, for example, of animate products, of biotechnology, of nutrients, or something to that effect. In other words, are there things we can just take off the table? We might want to change them a bit, but are there various parts where we can just say let's not waste our firepower on the little stuff or the less important stuff? Have you gone through it from that point of view, establishing what not to bother with, and where we should focus?

The Chair: I wonder if that's something our witnesses could come back on in order to give them a chance to think about it, rather than get into specifics now. I think it's fairly significant that we deal with that.

Mr. Derek Stack: My suspicion is yes, and I would certainly volunteer to try to come back.

The Chair: Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: Thank you, Mr. Chairman.

In your presentation, you've referred to the CEPA review and to two models : the American model and the European model. You said that the European model seems to be more open about the availability of data on safety. Industry is required to demonstrate that its products are safe and there are some obligations relating to the disposal and substitution of certain substances.

Which model do you think Canada should try to emulate as we are reviewing CEPA? Do you believe we should use some parts of the American model — which was announced in 2005 — or the European model?

● (1640)

[*English*]

Dr. Kapil Khatter: As environmental and health groups in Canada, we would dream of a REACH-type system. I don't think we could come here and necessarily say we want REACH, because it's taken the Europeans a bit to get there. We want to move us towards REACH.

If you guys are willing to go all the way to REACH, we'd be totally happy with that. It would give us a way of dealing with the whole project of pollution in terms of chemicals especially, and in terms of knowing that everything is out there. REACH doesn't necessarily apply to some parts of CEPA, so we'd still need frameworks in terms of air pollution and greenhouse gases.

In terms of bringing in testimony, looking to where the Europeans have gotten and how we've fallen behind would be a good approach.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I have a couple of things. You talked earlier about indicators and vulnerable populations: children, first nations, or those with ill health. How strong is CEPA on that right now? Is this a place where we need greater expansion in the use of indicator populations for determining what it is we do with certain chemicals?

Dr. Kapil Khatter: One of the things that the health and environment communities, and even industry, have been pushing for in Canada over the last while has been better biomonitoring, or better testing of populations. What we're doing a lot more of is measuring emissions, and what we're doing a lot less of is actually figuring out how much people are being exposed.

Although body testing isn't perfect, it still gives us an indication. The U.S. is miles ahead of us in terms of having comprehensive testing programs that they do regularly and where they're getting a sense of whether chemicals are going up or down. We're big proponents of that as part of a general environmental health surveillance system that will allow us not only to look at where the emissions are happening, but also to get a sense of how contaminated our house dust, the air we're breathing, and our soil are in terms of people being exposed, and what kinds of chemicals people are being exposed to through food, measured by the way they're accumulating in their bodies.

Mr. Nathan Cullen: It seems there are a few reasons one can imagine why we're doing this review. One of them is to improve the act. Another is to kick-start government, so that they actually follow through on some of the things that are based on this act. And then there's the public aspect: the public information, public pressure.

It seems the body testing.... Because the NPRI and other listing mechanisms with respect to the public in particular are an abstract thing—there's a list that happens—you folks or other people try to draw attention to what's going on, but it doesn't mean much. Building this into our review and study, in terms of the effectiveness of what the U.S. or the Europeans have been able to do regarding the development of better and more effective law, seems important.

I'm wondering if I could move to industry for a moment, because I imagine we'll be having a panel from industry as well. They often cite confidentiality, competitiveness, and other factors as barriers to potentially listing or doing something about restricting a chemical. In the terms of the scope of this study, is there anything either of you would suggest in the way we approach the industrial side of how CEPA is used and applied, or not applied, that would make sense?

● (1645)

Dr. Kapil Khatter: Offhand, I would say we need to realize that industry is not just one thing. The industries and companies in this country come from many different perspectives, and we need to hear from a range of them, because I think you'll find that they'll have different views.

The comment I made earlier when talking about REACH—and someone else mentioned it as well—is that Canadian companies or companies that are importing into Canada are dealing with other markets as well, fulfilling obligations in other markets, and as harmonization is increasing and improving, we need to be able to say, if you're doing this for Europe and you're doing this for the U.S., it makes sense that you could do it for here, doesn't it?

Mr. Nathan Cullen: The reason I raise this is a bit of presupposing what industry is going to say in those same seats. We often get the coalitions or lobbyists who defer to the lowest common denominator, not the exceptional ones in their field—whatever field they come from, not just industry.

I'll leave it at that, but that presupposition is important for us to consider before we hear from industry and they say you can't make CEPA stronger, or you can't do a proper enforcement regime that the environmentalists are talking about because you'll kill our business, or some of our businesses, or threaten jobs in Canada, and so on.

Mr. Derek Stack: Prior to CEPA in 1999, there was a strong lobby to ensure that data was consolidated, that emissions data was not made available on a per facility—

Mr. Nathan Cullen: It's not company-specific.

Mr. Derek Stack: That's right, not company-specific, not plant-specific, that CEPA depend wholeheartedly on voluntary approaches to pollution prevention.

What individual industry representatives might tell you over lunch at those meetings, however, is that regulation would have been a lot easier, that it would have saved the department a tremendous amount of resources and they would have known what they were dealing with. Constantly coming back and trying these new voluntary approaches that didn't work was frustrating to them as well as to environmental advocates, who of course wanted to see progress.

You won't get a trade association to say that, because you're quite right: it's the highest common denominator, not the lowest. So that's a reality for you, and there's really not much I can do to help you wade through that. It's just the reality of the situation.

Mr. Nathan Cullen: Thank you.

The Chair: Thank you, Mr. Cullen.

I will blame Eugene here, but of course on the second round we should be alternating back and forth. We discussed that briefly. Anyway, I'm sure that didn't cause any terrible hardship—I hope.

Mr. Blaney.

[*Translation*]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you, Mr. Chairman. It is a pleasure to talk with the witnesses today. This is the first time I sit on a committee. In my previous life, I worked a lot on environmental issues, especially relating to the disposal of organic matter at the municipal and farm levels.

However, I have the feeling that this is not one of your concerns, especially relating to the Great Lakes where there is a lot of pollution caused by organic matter. Do you believe that the present legislation is adequate to deal with the pollution of the Great Lakes caused by organic matter? That would be my first question.

It would seem that toxic substances are your main concern and that you want the Canadian Environmental Protection Act to deal mainly with toxic substances. You have underlined four major deficiencies of the Act. First, it does not deal with chemicals. Then, there is the issue of the Great Lakes. And, finally, you regret that we do not try to eliminate toxic substances and that industry is not being made responsible for that.

As was mentioned by Mr. Bigras, there is more advanced legislation in Europe and in the United States. Do you think we should try to move in the same direction?

Those are my two questions : the issue of organic compounds in relation to the Canadian Environmental Protection Act, and the issue of toxic substances. Would you recommend that we move squarely towards systems or programs such as REACH?

Mr. Derek Stack: I am sorry, I did not understand your comments about organic matter. I did not hear the translation.

[*English*]

Mr. Steven Blaney: It's about BOD, biological oxygen demand. It's all related.

You talk about heavy loads in the Great Lakes. This is not only toxic substances. This is organic matter. This is phosphorous, nitrogen, all those things.

● (1650)

Mr. Derek Stack: As I understand it, your question is whether CEPA deals with those. The answer is it probably doesn't have to. The Great Lakes Water Quality Agreement explicitly deals with nitrates and other biological load issues.

I'm just not equipped to answer that question more broadly in terms of other water bodies.

[*Translation*]

Mr. Steven Blaney: All right.

My other question dealt with the way toxic substances are dealt with in the Act. Do you believe we should move towards a system similar to the European or American ones?

[*English*]

Dr. Kapil Khatter: I think we're looking for an act that brings consumer products into CEPA. Right now, consumer products are in the Hazardous Products Act under Health Canada, which means that the environmental and also human health impacts of anything that's in a consumer product isn't necessarily regulated by CEPA. This is a disconnect, because something may be scheduled under CEPA as being something we need to restrict, yet that doesn't necessarily give the authority for it. Substances like a flame retardant, for instance, which is a consumer product, are actually under a different piece of legislation. That's one part of it.

The other part is the move toward the REACH model, where we're looking at the burden of proof. For instance, even the pesticide legislation that is coming out has a new clause that says the burden of proof, in terms of registering a pesticide and showing it is safe, is on the manufacturer. We would be looking for something like that, which at its base is kind of core to the European model.

The third part that's very key is this idea of the substitution principle with the European model. When something exists that can get the same job done safer, we should be moving towards substituting for that, as long as it's cost-effective and doable. We should be thinking about getting the worst actors off the market and fulfilling our purposes using the safest stuff possible.

[*Translation*]

Mr. Steven Blaney: According to you, if the Act was clearly focused on controlling toxic substances, would it reach its objective?

Mr. Derek Stack: More or less.

[*English*]

The Chair: Mr. Rodriguez, and then Mr. Del Mastro.

[*Translation*]

Mr. Pablo Rodriguez: Thank you, Mr. Chairman.

I have been made aware of a letter from the Canadian Consumer Specialty Products Association. it is an industry organization that you are probably familiar with, representing companies such as Procter & Gamble, Johnson & Johnson, Unilever, etc. In that letter, they state their disagreement with the definition of "toxic" in the Act, as if that definition was incorrect.

Is the definition of what should be included or not, or of what should be considered as a toxic substance, an important issue for environmentalists, industry or even the department?

M. Derek Stack: I believe that the criteria in the Act are sufficient to establish if a substance is toxic.

Mr. Pablo Rodriguez: All right.

[*English*]

Dr. Kapil Khatter: When we think of something that's toxic, we think of something that's poisonous, that if someone is exposed to it, it can cause a problem. For us, the definition under CEPA is already watered down by the fact that it's only considered toxic if we know people are being exposed to it at a high enough level to cause a problem. We would consider that it's a term that's applicable, and in fact we would think that it needs to be even stronger. We should be dealing with something that is a poison as a toxic substance before we have to find out that people are being exposed to it in high enough levels that it's causing attention.

[*Translation*]

Mr. Pablo Rodriguez: CO_2 would be a good example, wouldn't it?

[*English*]

Mr. Derek Stack: I might personally disagree with Kapil on this. The benefit of the criteria for defining toxic as currently exists in the act is that things we might not normally consider to be toxic, such as CO_2 and other greenhouse gases, can get captured because their concentration levels do impact on the environment. Recently the act was amended to include greenhouse gases. It is my professional and personal opinion that CEPA could have already captured those issues using the existing criteria.

● (1655)

[*Translation*]

Mr. Pablo Rodriguez: All right.

Do you think Environment Canada and the other federal departments have enough money to be effective in the promotion and protection of the environment? Has the department received enough attention from the government?

[*English*]

Mr. Derek Stack: I don't think funding levels in Environment Canada ever came back up to where they were before the late 1990s, whereas other departments enjoyed increases. That said, if the department's approach to CEPA is to continue avoiding regulation and to focus on ineffective programs, then yes, it is going to need a whole lot more money. If it chooses to streamline and just get the job done with a more prescriptive and directive approach to the act, then they could realize their gains with less money.

[*Translation*]

Mr. Pablo Rodriguez: Since it is a shared responsibility, do you think the cooperation with the provinces relating to CEPA is satisfactory? Are there good federal-provincial relations?

[*English*]

Mr. Derek Stack: That's a tough one. A lot of the federal-provincial dynamic has taken place with the CCME, the Canadian Council of Ministers of the Environment. That has not been particularly productive at giving us environmental gains. It has probably led to better provincial-federal cooperation, but not to real environmental improvement. Unfortunately, a lot of the necessary cooperation to realize CEPA between the feds and the provinces has been focused in the CCME and not in CEPA.

Dr. Kapil Khatter: We've been clear from the beginning that we thought CCME would be a distraction from getting the job done, my understanding being that anything scheduled under CEPA to be acted upon, whether it's a greenhouse gas or an air pollutant or a chemical, gives the federal government the jurisdiction to do something about it.

The Chair: Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you.

Under the heading of a more prescriptive or directed approach—you actually led me into my question quite well, and I thank you for that—I'm a big believer in setting priorities, and I think we can get weighed down by looking at this in an aggregate nature. If we look at where our standing is right now on various indicators, we could really become overwhelmed with how to approach things.

My question to you is, as a priority, is there a single biggest or most important contributor to air pollution that we could really address? How could CEPA be used to combat or address it? Why haven't we done it in the past?

I guess the first two would be most important. Is there a single biggest contributor, or could we narrow the approach down to a single contaminant or pollutant or a couple of contaminants or pollutants that we could really dig in on to make some real, significant gains on pollution and contamination?

Dr. Kapil Khatter: I feel a little lost at sort of being an expert on the regulatory side of things, but one example we can look to is the ambient air quality standards they have in the U.S. They have standards for six air pollutants. We'd be looking at those same air pollutants and having similar or stronger standards in Canada.

You need to bring in some people who know more about how that is done and how that is related to how we do things in Canada.

Mr. Derek Stack: I'm not sure you'll like my answer.

Mr. Dean Del Mastro: Is it no?

Mr. Derek Stack: If you want to tackle climate change, smog—with its asthma—and the host of other pollutants, like mercury, we need cleaner power production, and CEPA doesn't deal with that explicitly.

That doesn't really answer your question in a fair way, but in a practical way, if CEPA did a better job, or if the federal government were able to do something about the way power is produced in this country, we'd have a huge reduction.

Mr. Dean Del Mastro: You are speaking of hydro-electricity. Correct?

Mr. Derek Stack: No, actually I'm speaking of almost everything else.

Are you asking me if I'm speaking in favour of hydro?

● (1700)

Mr. Dean Del Mastro: No, I'm asking if you're indicating that hydro production.... When you say power, are you speaking of all—

Mr. Derek Stack: I'm thinking more of plants like Nanticoke, which have coal-fired power production.

Mr. Dean Del Mastro: Okay, that's fair.

Mr. Derek Stack: To be fair, that's not necessarily CEPA's domain, but anything that could be done in CEPA to encourage a shift away from our dirty energy sources to cleaner sources—

Mr. Dean Del Mastro: Such as....

Mr. Derek Stack: Even natural gas is better than coal. I would much prefer to see—

Mr. Dean Del Mastro: Nuclear?

Mr. Derek Stack: I'm not going to support nuclear, no. That would be political suicide for me.

Mr. Dean Del Mastro: That's fine. I'm just asking, because you were going there, and I wanted to know if that was what you were heading toward.

Thank you.

The Chair: Thank you.

Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: Mr. Chairman, I forgot to ask a question about the various models, especially the American and European models.

If I am not mistaken, the US Senate amended the American model in July 2005. In your brief, you say that Democrat senators brought measures which tend to bring the American model closer to the European one. They have not yet completely adopted the European model but they want to make their system more and more similar to the European system. You also stated, Mr. Khatter, that we should study closely the European model and, if possible, amend our legislation according to that model.

Generally speaking, we tend to adopt standards that are closer to what they do in the US. Therefore, if we were to adopt the European model, would that be a constraint or an obstacle to better harmonisation with the US? Would it not be better for us to emulate the amendments passed in July 2005 by the american Senate? Usually, we tend to harmonize our standards and practices with those of the US.

I ask this question because we would not want to be in conflict with the Americans on such an issue since, in Canada, we have always tried to harmonize our standards with those of the US.

[*English*]

Dr. Kapil Khatter: I think our goal or our recommendation would be—you know, the term "best practice" was used—to try to harmonize with the highest common denominator in any of our major trading markets. In terms of chemicals regulation, the European market is the biggest chemicals market and they're ahead of the game in terms of regulating processed chemicals, so it would make sense for us to harmonize with them.

There are other places—like where we're harmonizing with the U. S.—that would still make sense for us and where we're still lagging, like the emission stats that we've talked about where the U.S. facilities are doing a better job of keeping toxic air pollutants out of our environment. Even if we were only harmonizing with where the U.S. is at, we would still see a lot of benefit in Canada.

[*Translation*]

Mr. Bernard Bigras: In the case of the Great Lakes, since they are at the border between Canada and US, do you think that the European model could create problems?

[*English*]

Mr. Derek Stack: In dealing with the way American law evolves, it does not make sense to go and talk about Europe. Policy-makers in the U.S. are not interested in hearing what's happening in Europe, for the most part. So what some in the environmental community have done is extract pieces out of each of the principles and presented it to lawmakers in the U.S. as the Louisville Charter.

So that would be the way to deal with it. Find out how it's being contextualized in the U.S., because they're not talking about reach, they're talking about the Louisville Charter, which pulls on some of the basic principles and hasn't been widely adopted, but it has been promoted by the environmental community across the U.S. basin of the Great Lakes as a means of a stronger approach to regulating toxins.

I am sympathetic to the worry that we would be alienating trading partners. That being said, I have no worries that that concern will be adequately addressed in the corridors of power.

The Chair: Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to the guests. It is good to see you again, Mr. Khatter.

I want to return to the Great Lakes a bit here. Being the southernmost MP in Canada from down in the Windsor area, just outside of Windsor, we've had a number of reports down there. The Gilbertson-Brophy report—I don't know if either of you are familiar with that at all, but certainly they're beginning to document a number of the links between our air pollution and our cancer rates, our respiratory problems. We have some of the highest rates down there. Even within our own family we've seen non-Hodgkins lymphoma, a number of those things there.

Windsor happens to have one of the highest miscarriage rates in all of Canada as well. My wife works on the birth side of things. High-end fertility among couples, you name it, it's happening in our region.

You've made the comment that CEPA has not protected the Great Lakes basin sufficiently. I think that was perhaps in your opening comments, or your opening comments, Mr. Stack, but one of you will be able to address that.

I want you to expand on that a little bit more, but before expanding on that I want to ask the flip side of it: have there been any CEPA-related success stories in the Great Lakes area that you can talk about?

● (1705)

Mr. Derek Stack: I'd be hard-pressed to find them, honestly.

Mr. Jeff Watson: You'd be hard-pressed to find one.

That's fine. It's a fair question, and I simply wanted to probe the other side of it: has CEPA produced any or been able to help in producing any success stories—

Mr. Derek Stack: I anticipated the question earlier. I gave it some thought earlier and I wasn't able to come up with anything. Sorry.

Mr. Jeff Watson: Okay, that's fine.

Failures related to gaps in CEPA, what are some of the shortcomings? Why are you making the recommendation? Why is it not protected sufficiently, the Great Lakes basin? Can you expand on that? What's missing? What has to be explored?

Mr. Derek Stack: In that specific case, I think it's more the implementation side than the text of the act relating to the problems in the Great Lakes. A lot of the problems in the Great Lakes relate to deposition and their indirect pollution channels.

Dr. Kapil Khatter: At the same time, when we think about the Great Lakes, we think about it as a basin in an area where there is a large population and where 45% of our air emissions that are toxic air pollutants are happening. We need to think about how CEPA can deal with those, the other parts of dealing with a large population area with lots of urban centres. It isn't just the water quality.

Mr. Jeff Watson: One of the reports I was reading here, the *Partners in Pollution* report, provided a lot of discussion about the different impacts, releases to air, water, underground landfill. The majority of those are on the U.S. side. Obviously if we make some improvements with respect to CEPA for the Great Lakes, for our side, we are only making some amount of impact. Is there any possible way to bring in the international component? Obviously we'd do some work on our side of the boundary, but in order to truly strike the blow on this one we have to get some amount of improvement from the U.S. side.

Mr. Derek Stack: I think it's only fair to start by responding that most of the plants in the U.S. are actually far more efficient than our plants. They have increased net pollution levels simply because there are that many more of them. They are hugely more efficient than most of our plants. Then the rest of the answer is simply that there are lots of things that I think we can do. I'm not sure that CEPA is the place to deal with some of those other ways of dealing with the Great Lakes.

The EPA had overseen, over the course of 2005, the Great Lakes regional collaboration, where they consulted with hundreds of people of all stakeholder kinds to come up with plans for restoring the lakes and priorities, but I don't think that's within the context of today's current discussion.

Mr. Jeff Watson: What should be added to CEPA with respect to the Great Lakes?

Mr. Derek Stack: I think commitments to the existing international agreements would suffice. I certainly wasn't trying to suggest that all sorts of mechanisms need to be built into CEPA in order to deal with the Great Lakes differently from the rest of the country. That wasn't my intent.

Mr. Jeff Watson: But you want those recognized within CEPA?

Mr. Derek Stack: I want international commitments recognized within CEPA.

The Chair: Thank you, Mr. Watson.

Mr. Silva.

Mr. Mario Silva: Doctor Khatter had talked about the REACH program in Europe and the fact that the big deficiency he sees with the present legislation is that the onus is on the government as opposed to the manufacturers. I'm wondering what the REACH program.... I'm not sure, and I think you were going to check into this, but is it already in force? Has there been any type of feedback from the European Union as to how it's being implemented and whether it's been successful thus far, if it is in fact in force?

Dr. Kapil Khatter: There is a political agreement. I was going to check on it, and I did put in a couple of e-mails and haven't got a good response in terms of an estimation in terms of what the timeline is in terms of finalizing and implementing REACH. I will continue to search for that information, but they have agreed on REACH as a model.

Mr. Mario Silva: Part of that discussion we had was that this could be something we should in fact be emulating in Canada. Therefore, I think that's another thing we need to.... I find that very important. That piece of legislation needs to be looked at while doing the review of CEPA. Is it fair to say that was the case?

● (1710)

Dr. Kapil Khatter: Yes.

The Chair: The last question, Mr. Godfrey.

Hon. John Godfrey: I have one question. During your presentation you said that one of the things that had changed since CEPA was first brought in was a greater sensitivity in measurement of toxins to the point you could do trace elements and you could find things that you couldn't find before. Has there been a corresponding increase in understanding of exactly what the risk factors are? In other words, do we have a better sense, for example, of respiratory disease, and what causes what, than we do of carcinogens? Is our knowledge of what causes what on the human health side keeping pace with our ability to measure increasingly small particles of noxious things?

Dr. Kapil Khatter: I don't think it's actually a question of us being able to.... I'm sure the technical ability to measure smaller amounts is there. I guess I meant we're finding that low doses are potentially more harmful or more significant than we thought they were. There are “windows of vulnerability”, and when a pregnant woman, for instance, is exposed to something is as important as the amount she is exposed to, or almost as important.

What some of the new studies are seeing is something called a U-curve. You would think the lower the dose, the less the problem, and the higher the dose, the more the problem, but we're actually seeing sometimes that low doses can cause problems at the molecular level that aren't caused by higher doses...and then cause it again. It's very confusing for people.

We already know that with cancer-causing things there is what we call “no threshold” for a carcinogen. Small doses of cancer-causing things at the wrong time can kick off a cancer. So we need to do what we can to get anything that's carcinogenic out of the system.

For a lot of the other things that are developmental or reproductive, part of the difficulty in being able to do the cause and effect sometimes is the lag time between exposure and when the effects happen. That is why we tend to support the precautionary approach that says we shouldn't be exposing people to these things when we don't need to.

As much as air pollution is clear and easy for us now, if someone has an asthma attack, it's harder for us to make the link to cancer, learning disabilities, an increase in autism, and those kinds of things further down the road. So we need to act in a preventative manner to make sure that those problems aren't related to environmental contamination.

The Chair: Thank you.

Mr. Rodriguez, do you have a question?

Mr. Pablo Rodriguez: No.

The Chair: I'd certainly like to thank our guests. I think you've done a good job of kicking off some of the areas we need to look at.

As you are probably aware, we're now going to listen to what the bureaucrats tell us and what industry tells us. Then we'll have a meeting to set a path as to how exactly we're going to proceed. So thank you very much for kicking this off.

The meeting is adjourned.

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