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Chair

Mrs. Joy Smith

Standing Committee on Health

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● (1530)

[*English*]

The Chair (Mrs. Joy Smith (Kildonan—St. Paul, CPC)): Good afternoon, everybody. Welcome to committee.

Today we're going to try to do things as tightly as we can. I understand there are members of Parliament who need to catch planes following our meeting, so their timelines are very tight.

Pursuant to the order of reference of Thursday, April 30, 2009, we are examining Bill C-6, an Act respecting the safety of consumer products. We have with us today from the Department of Health Paul Glover, Robert Ianiro, Charles Ethier, and Diane Labelle.

Welcome. We're so glad that you can join us in clause-by-clause for this very exciting event this afternoon.

Pursuant to Standing Order 75(1), consideration of the preamble and clause 1 is postponed.

(Clauses 2 and 3 agreed to)

(On clause 4—*Consumer products*)

The Chair: Clause 4 is where our first amendment comes.

Ms. Wasylycia-Leis, would you like to speak to clause 4?

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Yes.

Madam Chair, you will know that throughout the hearings on this bill we heard considerable testimony from a number of organizations and reputable experts, including the Cancer Society, Physicians for a Smoke-Free Society, and others. All of them were concerned that we were not including in this bill, as is the case in other bills, the standard prohibition around tobacco and tobacco products.

This is an attempt to ensure that there is no deliberate exclusion of tobacco vis-à-vis this bill, but rather that it is included, as one would expect is normally the case in other areas.

The Chair: Thank you, Ms. Wasylycia-Leis.

Is there any other discussion on this particular amendment?

(Amendment negatived [See *Minutes of Proceedings*])

Hon. Carolyn Bennett (St. Paul's, Lib.): Did you count my vote, Madam Chair?

Madam Chair, I had my hand up.

The Chair: We had everyone's vote. The clerk counted them.

We're now going on to a second amendment for clause 4.

Dr. Carrie, would you like to speak to this one?

Mr. Colin Carrie (Oshawa, CPC): Yes. It is that clause 4 be amended by adding, after line 5 on page 5, the following:

> (3) For greater certainty, this Act does not apply to natural health products as defined in subsection 1(1) of the Natural Health Products Regulations made under the Food and Drugs Act.

The Chair: Is there any discussion on this one?

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Madam Chair, I appreciate this amendment, which follows through on the government's commitment to ensure that Bill C-6 doesn't have implications for natural products. I did want to just raise a concern around the general field, because there are few opportunities to do so.

We've all been hearing recently from representatives of the Canadian Health Food Association expressing concern about the backlog. We had been told that the backlog was being dealt with. Our understanding, based on meetings today, is that this is not the case. In fact, if the backlog is being dealt with at all, it is because products are being denied that request and applications are being turned down. We understand that there has been little effort on the part of the department to ensure that industry and NHP are working together to make sure there are some common understandings about safety and efficacy standards and to expedite natural health products as much as possible.

So I would like, Madam Chair, some indication from the parliamentary secretary that we might have a report to the committee or some follow-up to those concerns. Even though we're passing this amendment and we appreciate the work that has been done to get us here, we know there are big concerns that should be dealt with. We've got to find a way, especially with the stated deadline of 2010, which is causing enormous concern in the industry. I think their feeling is that we need to actually get rid of that deadline, or find a process to accelerate the approval process, or find some way to begin to expedite things in a meaningful way. We need to deal with the very serious concerns that both the industry and the people who are using natural health products are raising.

● (1535)

The Chair: Thank you.

Ms. Davidson had a comment.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Yes, thank you, Madam Chair.

Further to what my colleague across is saying, I'm quite sure we all have been meeting with the industry people on a regular basis. I understand that there have been ongoing negotiations and I understand also that there are issues with the processing time and the list. I do think that industry and the department are working on that. I understand there's a proposal going forth this Friday that will be dealt with. The two groups have been working together to address this issue, so I think this amendment is fine.

The Chair: Thank you.

Are there any other comments?

(Amendment agreed to)

The Chair: Yes?

Ms. Judy Wasylycia-Leis: Madam Chair, I'm wondering if I could ask the indulgence of the committee to hold over clause 4, since I do have another amendment dealing with tobacco. It just hasn't arrived yet. We were waiting for the translation or for the clerk to deal with it. Not this clerk, but—

The Chair: Oh, I'm sorry, but I should have known about that a little earlier, because it has been passed.

Ms. Judy Wasylycia-Leis: Clause 4 has been passed?

The Chair: Clause 4 has been passed. I'm sorry, no, the amendment has, not the clause.

Can I have the indulgence of the committee to stand the clause and go back to it later?

(Clause 4 allowed to stand)

The Chair: Ms. Wasylycia-Leis, you just got the will of the committee in your favour.

Ms. Judy Wasylycia-Leis: I'll try to be good for the rest of the meeting.

Some hon. members: Oh, oh!

The Chair: I'll hold you to that.

Ms. Judy Wasylycia-Leis: Oh, don't.

The Chair: Okay, we'll move to clause 5.

(Clauses 5 and 6 agreed to)

(On clause 7—*Manufacturer and importer*)

The Chair: Shall clause 7 carry?

Hon. Carolyn Bennett: We have amendments—

The Chair: Oh, I'm sorry, which clause, Dr. Bennett?

Hon. Carolyn Bennett: We just handed them over to the clerk.

The Chair: Yes, the messenger is copying it now. It hasn't arrived back yet.

Hon. Carolyn Bennett: Then can we hold it until it comes back? I think, rather than reading it in, it would be better that they have it in front of them in writing, I think.

The Chair: Dr. Bennett, which clause is it, 6 or 7?

Hon. Carolyn Bennett: Clause 7.

The Chair: Dr. Bennett has asked that clause 7 be allowed to stand just for a few minutes until she gets the paperwork.

(Clause 7 allowed to stand)

● (1540)

Hon. Carolyn Bennett: I might as well just tell you the clauses for which we have other amendments, Madam Chair. It would be easier to give it to you: new clause 8.1, clause 14, and clause 30.

The Chair: Would you like those to stand until you get your paperwork? Is that what you're saying?

Hon. Carolyn Bennett: Yes.

The Chair: Is it the will of the committee that clause 8, clause 14, and clause 30 be allowed to stand until the paperwork comes back for the amendments?

(Clauses 8, 14, and 30 allowed to stand)

(Clauses 9 to 12 inclusive agreed to)

(On clause 13—*Requirement*)

The Chair: On clause 13 there is an amendment.

Dr. Carrie, would you like to speak to the government amendment, please?

Mr. Colin Carrie: Yes, through our consultations with our stakeholders, we learned that the industry is concerned about the bill's lack of clarity on a specific timeline for document retention.

What the government is proposing is that Bill C-6 in clause 13 be amended by adding, after line 20 on page 7, the following:

> (1.1) The person shall keep the documents until the expiry of six years after the end of the year to which they relate or for any other period that may be prescribed.

(Amendment agreed to)

(Clause 13 as amended agreed to)

The Chair: Clause 14 we have stood. Next is clause 15.

Mr. Colin Carrie: We have an amendment on clause 14. Do we want to do ours first? It might be the same amendment, I don't know.

The Chair: We'll do it at the same time. We have stood it, so we'll discuss it, if that's okay with you, Dr. Carrie.

Mr. Colin Carrie: Sure.

(Clauses 15 and 16 agreed to)

(On clause 17—*Confidential business information — serious and imminent danger*)

The Chair: There is an amendment here on clause 17. Who would like to speak?

Monsieur Dufour, there we go.

[*Translation*]

Mr. Nicolas Dufour (Repentigny, BQ): Thank you, Madam Chair.

I will stand in for Mr. Malo in his absence.

I would like to start by checking that everyone has the new Bloc Québécois amendment, reference number 3955168.

[*English*]

The Chair: Yes, everybody has the new amendment, Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you, Madam Chair.

[*English*]

The Chair: You could have got it in a little earlier, but we won't go through that.

Thank you.

[*Translation*]

Mr. Nicolas Dufour: We have continued to think about this. The amendment is very simple, Madam Chair.

After discussions with industry representatives and consumers' rights associations, we think that it would be useful to add that notification can be given to the person or business whose confidential documents have been disclosed by the minister not later than the next business day following the decision to disclose.

[*English*]

The Chair: All right, we're open for discussion on this amendment. This is called an amendment to the amendment, right, Monsieur Dufour?

Is there any discussion? Do we all agree that this is accepted?

Hon. Carolyn Bennett: For any of these, it would be helpful to hear from the officials.

The Chair: Absolutely. Who would like to address this particular one?

Mr. Ethier.

[*Translation*]

Mr. Charles Ethier (Director General, Consumer Product Safety Directorate, Department of Health): Thank you, Madam Chair.

We are in favour of the amendment that Mr. Dufour is proposing. We think that a reasonable period...it would mean that the minister would have to tell the person or the business in question that the information has been disclosed no later than the next business day following the disclosure.

[*English*]

(Amendment agreed to)

● (1545)

The Chair: Now, Mr. Dufour, I understand you have yet another one.

[*Translation*]

Mr. Nicolas Dufour: Yes, I do, Madam Chair.

We think that it is essential to add, after the words “that is a serious and imminent danger to human health or safety”...

[*English*]

The Chair: Might I interrupt to make sure we're totally clear here? Is this reference number 3955302?

[*Translation*]

Mr. Nicolas Dufour: Yes.

[*English*]

The Chair: Perfect, you may proceed.

[*Translation*]

Mr. Nicolas Dufour: I move that Bill C-6 be amended by replacing line 31 on p. 9 with the following:

> or the environment, if the disclosure of the information is essential to address the danger.

After having discussed this with Option consommateurs and the industry, we think that this amendment is helpful in anticipating a danger of this kind and in making sure that the danger really is great.

[*English*]

The Chair: Thank you, Monsieur Dufour.

Can I have some comments from the officials?

Mr. Ethier, thank you.

[*Translation*]

Mr. Charles Ethier: Thank you, Madam Chair.

Once again, we are in favour of Mr. Dufour's amendment. We have no concerns with it.

[*English*]

(Amendment agreed to)

The Chair: Shall clause 17 carry as amended?

[*Translation*]

Mr. Nicolas Dufour: Madam Chair, I have one further amendment to make.

[*English*]

The Chair: I want to go through the next amendment, but first I want to go back to clause 17, because we also have new clause 17.1. Clause 17 is what we were just talking about, with all the amendments to the amendments.

Do you agree, everybody, that this clause should carry?

(Clause 17 as amended agreed to)

The Chair: Now we're going to a new clause 17.1.

Monsieur Dufour, I think your new one is reference number 3955149.

[*Translation*]

Mr. Nicolas Dufour: Exactly.

[*English*]

The Chair: Wonderful. Please proceed.

[*Translation*]

Mr. Nicolas Dufour: Madam Chair, it is useful to emphasize this. I move that Bill C-6 be amended by adding after line 31 on page 9 the following new clause:

> 17.1 For greater certainty, the minister may disclose to the public information about a danger to human health or safety that a consumer product poses.

The bill is clearer with the obvious statement that the minister may communicate the information to the public.

[*English*]

The Chair: Thank you.

Could I have comment from the officials on this one, please?

Mr. Ethier.

[*Translation*]

Mr. Charles Ethier: Thank you, Madam Chair.

Again, we are in favour of Mr. Dufour's amendment. We have no concerns with it.

[*English*]

The Chair: Will the committee agree with this amendment?

(Amendment agreed to [See *Minutes of Proceedings*])

(On clause 18—*Designation*)

The Chair: There's a Bloc amendment for clause 18.

Is there a new one there, Mr. Dufour?

[*Translation*]

Mr. Nicolas Dufour: No. They should be the same.

[*English*]

The Chair: Okay. Which one is that one?

[*Translation*]

Mr. Nicolas Dufour: The reference number for this amendment is 3936071.

[*English*]

The Chair: Could we have some comment from the officials, as well, after you're finished, Mr. Dufour?

[*Translation*]

Mr. Nicolas Dufour: Madam Chair, we had considerable discussion with representatives of the Professional Institute of the Public Service of Canada, with industry representatives and with Option consommateurs. They told us that the number of inspectors is a serious problem. Witnesses have often told us that there are not enough inspectors.

We all recognize the merits of Bill C-6, but there is a serious shortage of inspectors. This bill will become meaningless if there are insufficient inspectors. So it is extremely important that the bill provide for sufficient staff and inspectors.

● (1550)

[*English*]

The Chair: Thank you, Mr. Dufour.

Could I have some advice from the officials?

Mr. Ethier.

[*Translation*]

Mr. Charles Ethier: Thank you, Madam Chair. Thank you, Mr. Dufour. I have no objection to the amendment.

[*English*]

The Chair: Can we all agree with this amendment?

(Amendment agreed to)

(Clause 18 as amended agreed to)

(On clause 19—*Obstruction and false statements*)

The Chair: There's a government amendment.

Dr. Carrie, would you speak to that one, please?

Mr. Colin Carrie: Yes, thank you very much, Madam Chair.

There was a minor technical amendment, a typographic error in English version, where they unknowingly put “knowingly” twice. So it's just a matter of the language. If we could change it to “hinder or make false or misleading”, I think we would be in agreement with that.

The Chair: Could I have some comment from the officials? Is that fine?

Mr. Glover.

Mr. Paul Glover (Assistant Deputy Minister, Healthy Environments and Consumer Safety Branch, Department of Health): That's fine.

(Amendment agreed to)

(Clause 19 as amended agreed to)

(Clauses 20 to 29 inclusive agreed to)

(Clauses 31 to 36 inclusive agreed to)

The Chair: We have a new clause 36.1, with two proposed amendments from Madam Wasylycia-Leis.

Madam Wasylycia-Leis, we have your very important new clause 36.1. Can I ask you to favour us with your knowledge of this new amendment?

Ms. Judy Wasylycia-Leis: Madam Chair, you will be familiar with this proposal. It is somewhat along the lines of the motion that we passed to amend Bill C-11. It allows for parts of this bill that require regulations to come back to the House and to the Senate. So it gives a chance to the health committee, if the House so chooses, to further scrutinize the parts of this bill that are left for very specific drafting and regulatory efforts.

The Chair: Ms. Wasylycia-Leis, both of your motions are extremely similar. I've been advised that you probably would choose to have NDP-2.1, but could I ask—

Ms. Judy Wasylycia-Leis: I'm sorry, yes.

The Chair: So we'll just talk about NDP-2.1, then, Ms. Wasylycia-Leis?

Ms. Judy Wasylycia-Leis: Yes, that's correct. We changed NDP-2.1. That's the copy I'd like you to use.

The Chair: Right.

So can we have some comment from the officials, please?

● (1555)

Mr. Paul Glover: I'm not sure the officials have been provided with NDP-2.1.

The Chair: They are supposed to be in the package on pages 16 and 17.

Mr. Paul Glover: Thank you.

With respect to our comments on this, we understand and appreciate the objective of the amendment. The concern the department would have with this is with respect to paragraph 36.1 (3)(b), the 160 calendar days. The government has been criticized that it has been slow to move under the Hazardous Products Act, and to have 160 days for the committee to consider regulations when the House isn't sitting....

The Chair: Go ahead, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: With your help, Madam Chair, when we sent NDP-2 in for redrafting and to make some changes, we had also intended that proposed paragraph 36.1(4)(b), which talks about 160 calendar days, would be changed to 90 days.

The Chair: Oh, I see.

Ms. Judy Wasylycia-Leis: I would make that a friendly amendment to my own amendment.

Mr. Paul Glover: The department has no concerns and appreciates the consideration.

The Chair: Well, then, if the committee agrees, we could change 160 days to 90 days. Does everyone agree to that? Are we agreed?

(Subamendment agreed to [See *Minutes of Proceedings*])

The Chair: Now, is everybody in favour of this amendment as amended? It is the amendment as amended, as it were, Ms. Wasylycia-Leis. Is everyone in favour of that?

Go ahead, Dr. Bennett.

Hon. Carolyn Bennett: I just want to know from the officials the practicality of bringing every single regulation....

Mr. Paul Glover: Our understanding of the amended version of this regulation is that it's limited to a specific set of regulations that the committee would have interest in. Under the act, those would be regulations developed under proposed paragraphs 36.1(4)(a), (b), and (c), which are not all of the regulations. They would be the foundational regulations, the ones we believe the committee would have the most interest in. This approach would allow the department to move expeditiously on some of the more technical regulations, ones in which the committee might have less interest, and we could move more quickly to protect the health and safety of Canadians.

Hon. Carolyn Bennett: What would you do if you felt there was need for a regulation during the summer?

Mr. Paul Glover: With the reduction to 90 days, we think that such a situation will be manageable for us. Under *Canada Gazette* part I, our normal comment period is approximately 75 to 90 days anyway, so these are actually aligning, and we feel we could make that work.

Since the amendments that have been proposed limit the scope of this to regulations under paragraphs 36.1(4)(a), (b), and (c) and move the time period from 160 days to 90 days, the department is of the view that we can make this work.

The Chair: Thank you.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clauses 37 to 52 inclusive agreed to)

(On clause 53—*Review —with respect to facts)*

The Chair: I believe there's a government amendment on clause 53.

Go ahead, Dr. Carrie.

Mr. Colin Carrie: Thank you very much, Madam Chair.

This is a minor amendment that will ensure that subclause 53(5) is consistent with the rest of clause 53. The government is proposing that Bill C-6 in clause 53 be amended by replacing lines 15 to 17 on page 28 with the following:

> (5) The Minister is to consider only written evidence and written submissions in determining whether a person committed a violation or whether a penalty was established in accordance with the regulations.

● (1600)

The Chair: Could I have some comments from the officials on this particular amendment?

Mr. Paul Glover: We have no concerns.

The Chair: There are no concerns.

Will we agree to accept that amendment, or is that a question?

Ms. Joyce Murray (Vancouver Quadra, Lib.): It's a question.

The Chair: Go ahead, Ms. Murray.

Ms. Joyce Murray: Could the member opposite tell us the purpose of the amendment?

Mr. Colin Carrie: It is to keep the language consistent. I'll ask the officials to comment on specifics.

Mr. Robert Ianiro (Director, Consumer Product Safety, Department of Health): Madam Chair, this provision is related to the administrative and monetary penalties system. In a situation in which an inspector has determined that corrective action is required, an order would be issued for corrective action to be taken. In the event that the action isn't taken, they are subject to an administrative and monetary penalty.

That penalty is assessed through regulations. It is subject to review on two grounds: whether or not they actually violated the order—i. e., they did not take the action that was required—and how the monetary penalty was assessed. Both of those reviews are to be done solely through written submissions, not through oral hearings, because we had heard from stakeholders that they want these things to move quickly.

The clarification is simply to make it very clear that a review of whether they violated the order as well as a review of whether or not we calculated the fine properly are both subject to written submission. It was unclear that both of those aspects of the review are subject for review through written submission.

The Chair: Thank you, Mr. Ianiro.

Is there any other discussion?

(Amendment agreed to)

(Clause 53 as amended agreed to)

(Clauses 54 to 60 inclusive agreed to)

(On clause 61—*Forfeiture*)

The Chair: Clause 61 has a government amendment.

Dr. Carrie, would you like to speak to that one?

Mr. Colin Carrie: Thank you very much, Madam Chair.

It's a very simple amendment. It's a minor grammatical error. What we would suggest is the word "a" shall be replaced with the word "the", so that Bill C-6 in clause 61 be amended by replacing, in the English version, line 22 on page 30 with the following:

has committed the violation.

(Amendment agreed to)

(Clause 61 as amended agreed to)

(Clause 62 to 72 inclusive agreed to)

The Chair: We're going to go back to the stood clauses.

Dr. Bennett, you have all your paperwork there now?

Hon. Carolyn Bennett: I hope so.

The Chair: Okay.

(On clause 4—*Consumer products*)

The Chair: Ms. Wasylycia-Leis, are you ready to proceed now? Perhaps we'll start with yours.

Ms. Judy Wasylycia-Leis: Thank you.

I apologize. I don't have this in writing. May I please try it?

The Chair: You can.

Ms. Judy Wasylycia-Leis: It is that Bill C-6, in clause 4, be amended by inserting the following after line 5 on page 5:

(3) Subsection (2) is repealed on January 1, 2011.

The Chair: Ms. Wasylycia-Leis, I've been informed we do need it in writing.

Ms. Judy Wasylycia-Leis: I have it in writing here. I just have the one copy. Would that be okay?

The Chair: Yes. I'm trying. As long as you don't send it in smoke signals, we'll try to work it out somehow.

Can you read it out then? We will have the clerk read it out.

● (1605)

Mr. Marc Toupin (Procedural Clerk): The amendment would be as follows. It's an amendment to clause 4, that Bill C-6, in clause 4, be amended by adding the following after line 5 on page 5:

(3) Subsection (2) is repealed on January 1, 2011.

The Chair: Is it clear enough for the committee without having it in front of you in writing? That's pretty clear.

Could I have the officials make a comment on that, please?

Mr. Paul Glover: We appreciate the intent of the amendment. It is problematic for a number of reasons. It essentially puts an end date on the exemption. Tobacco is covered by another piece of legislation that does not have an end date to it. The government has a strict policy for dealing with tobacco. There are five million Canadians addicted to this substance. It does take a specific approach. We see this one as problematic.

The Chair: Ms. Wasylycia-Leis, do you have any more comments?

Ms. Judy Wasylycia-Leis: I appreciate the comments by the department, but I think we heard a very sound case being made to this committee by those in the field who are very concerned about trying to reduce the incidence of smoking. They make the very good argument that there's no reason why it shouldn't be in this act and the other act and every act we can find, because it's so important that we need to have it everywhere.

The Chair: I'm going to take it to the committee. Does the committee support Ms. Wasylycia-Leis' amendment?

(Amendment negatived)

The Chair: Thank you, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Madam Chair, it's just a question of where I should raise this. I have two amendments dealing with the schedule. Do you want to do it now or later?

The Chair: No, later please. We'll get to it in the schedule, as a matter of fact. Thank you so much.

(Clause 4 as amended agreed to)

(On clause 7—*Manufacturer and importer*)

The Chair: Clause 7 is one that we stood.

Dr. Bennett, are you prepared to address this one?

Hon. Carolyn Bennett: I think people will have it now in front of them.

The issue with the amendment is that we felt the complementary nature of CEPA and Bill C-6 is important and admirable, but it is important to be absolutely clear that any harmful substance is not just affecting immediate human health and safety. But if it was released into the environment, then over time it would be one of these exposures that would be bad for the environment and eventually bad for humans and animals. We explain that part in the various examples.

The Chair: Thank you. I don't mean to interrupt you. Are you finished, Dr. Bennett? Thank you.

Could I have comments from the officials on this, please? Mr. Glover.

Before the officials answer, there is a question. Dr. Bennett, there is a part here that has been blacked out.

● (1610)

Hon. Carolyn Bennett: That is correct.

The Chair: So I am assuming we are dealing with the part that is not blacked out, right?

Hon. Carolyn Bennett: That would be an excellent assumption.

The Chair: It's because I'm so clever, Dr. Bennett. Thank you.

Yes, that is what she is saying.

Okay, Mr. Glover.

Mr. Paul Glover: Thank you for the opportunity to have a moment to examine the amendment proposed.

This amendment does present the department with a number of concerns in that it does create some duplication of what already exists within CEPA, where these activities are already undertaken, and would therefore create some confusion about which act, how to administer, and when. More specifically, as an official I am obliged to indicate that this would create new obligations, and the current resourcing levels would not allow me to indicate that I would be able to deliver these amendments without additional resources.

The Chair: Thank you.

Are there any further comments on this? Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: We're now into a discussion that will apply not just to this amendment but to a number of amendments, and we need to get some clarification from the department about how the government actually feels about the general direction of the amendment and other amendments like it. How serious are the cost factors in terms of implementing this and others? To what extent will the government perhaps even hold up this bill if this amendment is passed and there are these kinds of cost implications?

We really need a frank chat here, because we've all heard from so many witnesses over the last little while about the need to move on some substantive changes that deal with hazardous products and deal with labelling. The witnesses, I think, were pretty clear generally. And the department has indicated there are some serious problems with going in this direction.

I would like some dialogue, some more emphasis and more discussion from department officials and government members about just what this means and how we could advance the agenda, with which I think everybody is in agreement.

The Chair: Could we have some additional comments from the committee or from the officials? Who would like to speak first?

Ms. Murray.

Ms. Joyce Murray: Thank you.

We're debating this bill because the government has had the good sense to recognize that there are concerns in the public about potential harm in consumer products and imported products. So it's taking measures to protect the public.

So here is my question. Is the concern that this amendment is bad public policy, or is it that resources may be required to further protect the public? I think the public might think that this is a normal part of additional protection and might be supportive of the fact that it would cost government.

The Chair: Would anyone like to comment on that?

Mr. Glover.

Mr. Paul Glover: The fundamental concern of the department is that the Canadian Environmental Protection Act already does this work. It has gone through an extensive exercise to prioritize all chemicals in use in Canada, at the direction of Parliament. It went through all 23,000 chemicals in use in this country and prioritized based on a number of specific criteria: the potential for exposure, and whether they are a hazard to human health, to the environment, and to that on which life depends on this planet. It is quickly and systematically working to move through all of those, not just from the point of view of consumer products but from the point of view of industrial uses in factories and releases to the environment. It considers cumulative exposures. It looks at exposures not just from consumer products but through all routes.

So this in fact is already being done through another piece of legislation, where the work has been done. We have been directed by the department through Parliament to do this work, and we are in fact busy doing that.

The other concern is that to just do consumer products when you're taking a more integrated approach, looking at all uses, would create some confusion within the industry and the marketplace about not wanting to do it in two separate places.

● (1615)

The Chair: Ms. Murray.

Ms. Joyce Murray: I'd like a further clarification of what you've just said, Mr. Glover.

There have been a number of groups concerned that CEPA isn't adequate protection. So when we're coming forward as a committee and the government is coming forward saying we want better protection to the public from harm or toxic elements in the products.... We've heard from groups that CEPA is not adequate. There is in fact a different approach, which mirrors the approach in this amendment, in countries in the European Union and in the United States.

So you're making a pitch that CEPA is adequate. These organizations are actually saying that it's not and that it hasn't protected consumers adequately. Are you saying they're wrong, or that we should hope that CEPA is going to do a better job in the future?

Mr. Paul Glover: Madam Chair, without having the list and knowing exactly which organizations, my response is limited.

I will say that with the chemicals management plan—which was the new approach to looking at chemicals, as a result of the prioritization and responding to the concerns about the environment and human health—the department and the government received significant accolades from around the world, from both industry and non-governmental organizations. They indicated that the plan was world-leading, that it is a first. It has set the new benchmark for both the prioritization of substances and the pace at which those substances are being assessed.

Furthermore, part of the reason it is so widely supported is that there is an onus on the chemicals that have been prioritized. There is a predisposition that they are problematic and they must be proven to be safe. If they cannot be proven to be safe, the government will risk-manage those substances.

The Chair: Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Would there be a problem if part of this proposed amendment were included? And that would be the (a) part, which talks about the environment.

The reason I'm asking that is that we were all the way through these hearings and we were trying to grapple with this notion of not just obvious poisons and old products that were a problem, but products that had dangerous substances that over a period of time could accumulate and cause health problems or leach into the environment and recirculate and cause more problems. And I think there was a general wish that we could somehow reference that. We're talking about chronic issues as well as toxic products. What would be the danger if we did that in terms of the resources you've talked about and the overextended nature of the department and the difficulties in terms of moving rapidly into the area of listing carcinogens and labelling them and so on?

You say we rely on CEPA. I don't know that CEPA has caused products to be removed from the market. And I would like to get some examples of when it comes into effect and how it has been used, because it seems to me that usually we're using the Hazardous Products Act when we're talking about consumer products.

So I'm just a little confused on the three avenues.

The Chair: Mr. Glover.

Mr. Paul Glover: Thank you, Madam Chair.

With respect to the first issue and leaving a part of it in, with respect, that would continue to be problematic from the point of view that it again would duplicate what already exists in CEPA and where CEPA goes beyond that to look at all uses of a particular substance and all their releases into the environment, not just from the product. Their assessments also consider all exposure pathways, not just from the product but all potential exposure pathways, to deal with it. So CEPA provides a more comprehensive set of protections.

The other challenge the department would face is the products. The way we work with products is post-market, not pre-market. How would we do this in a post-market world, where there are literally hundreds of thousands of products coming in every day, and verify this? The cost of that would be quite significant to us. I'm not able to suggest what those might be, but I would anticipate they would be quite large for us.

With respect to how CEPA responds to those risks, CEPA has quite a broad range of tools available to it whereby it can prohibit, call for the phase-out of a substance, and require pollution prevention plans to limit the amount that is released into the environment. These tools are precise, so they can allow for use in one environment and not in others. There are examples. It will get a little technical, and I apologize in advance, but polybrominated diphenyl ethers are flame retardants; they save 300 lives a year. We looked at those and found they were problematic for the environment. We asked that they be phased out of a number of product categories where they were not appropriate, but left in firefighter foams and others where there was not an available replacement that would provide the same protection to both the firefighters and the lives of those saved. We indicated we would be back to revisit that, which is essentially a signal to the industry to develop new replacement technologies as it moves forward.

So those are the sorts of things that happen under CEPA.

The other thing that happens under CEPA is that all new products must be approved. So there is a new product process that is not post-market, where those chemicals are assessed by the government. So it's not in a post-market, pre-market environment.

● (1620)

The Chair: Thank you.

Mrs. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair.

To me, when we talk about health and safety, those words are quite clear and concrete as it is. As we find out things about products and necessary action gets taken, I think it would not be appropriate for this committee to overlap into CEPA. If there are issues with how CEPA is dealing with things, they have to be dealt with in that particular mechanism and that legislation. So I appreciate the comments by our officials here in terms of not overlapping and duplicating with another piece of legislation on this issue.

The Chair: Thank you.

Ms. Murray.

Ms. Joyce Murray: I'll be passing my time to Dr. Duncan.

The Chair: Oh, Dr. Duncan, how refreshing, not that you're....

Some hon. members: Oh, oh!

Ms. Kirsty Duncan (Etobicoke North, Lib.): Thank you, Madam Chair.

I'm wondering how the bill differs significantly from CEPA. We're hearing a lot about duplicating its efforts, so how does it differ significantly?

Mr. Paul Glover: CEPA is quite a large piece of legislation. I'm not sure I'm in a position to fully answer that question. When you take a look at CEPA as a stand-alone piece of legislation compared with the page and a quarter that has been provided here—the range of tools and the breadth that CEPA covers, all uses of a particular chemical—it is a significantly broader piece of legislation in terms of protecting the health of the environment and that on which life depends.

Ms. Kirsty Duncan: It sounds like CEPA is broad legislation and this is narrow legislation. Does it fit within CEPA, and is there duplication of efforts?

Mr. Paul Glover: Yes, this would overlap with the assessments that are done under CEPA. It would create duplicate legislation.

Ms. Kirsty Duncan: How is that to administer, to have duplicate legislation?

Mr. Paul Glover: We would find that highly problematic, as industry, NGOs, and stakeholders would wonder which piece of legislation they're being held to report under, which legislation's penalties and fines we would be required to use and administer. We would probably find over time that they may lobby for one versus the other, given the level of protection that one would afford.

The other problem this would face is that under CEPA, when we do that assessment, we consider—and I know I'm repeating myself, and I apologize about time—

● (1625)

The Chair: That's okay.

Mr. Paul Glover: —all of the uses of that product, so whether it's used in a closed loop in a factory to make something, whether it ends up in a finished product, whether it's released out of a smoke stack; and we put, if appropriate, controls on all of those rather than only one.

One of the things we try to do under CEPA is look at the substance, and to dedicate management that looks at the full use of that substance rather than one slice, so we're not in effect squeezing a balloon and finding that it's popping out somewhere else. We want to deal with that substance, all of its uses through all of its industries, protect Canadians' health through all of the exposure pathways, to collapse that to protect the health and the environment.

Ms. Kirsty Duncan: I appreciate this. It really sounds like you're supporting CEPA. Would CEPA do everything we need? I think it's missing the product recalls, but have we duplicated our efforts here?

Mr. Paul Glover: You have duplicated efforts, with respect, and when CEPA does that more integrated assessment and finds there is a problem, it can then hand off that assessment to other pieces of legislation, to say there is a product problem and action needs to be taken.

There was a question earlier about bisphenol A, BPA, where the assessment was done under the chemicals management plan, and the baby bottles were recalled under the Hazardous Products Act. So the two pieces of legislation, given that the assessment is integrated and done once, and can then drive to the most appropriate tool to manage that risk.

My colleague would like to make an additional point.

The Chair: Yes, go ahead.

Ms. Diane Labelle (General Counsel, Legal Services Unit, Department of Health): Madam Chair, I'm Diane Labelle. I am from the Department of Justice, providing legal services to the Department of Health.

Madam Chair, I would like to draw the committee's attention to the fact that “a danger to human health or safety” is the defined term in the act that provides a certain level of legal certainty for manufacturers, importers, and advertisers, against whom clause 7 applies, so they can understand that it's a hazard posed by a consumer product during or as a result of its normal or foreseeable use.

The amendment before you, starting with “or”, goes beyond this and creates uncertainty, in my view, respectfully, that manufacturers would know what that exposure to a harmful substance released into the environment means with respect to their particular product, because now it goes beyond the scope of use. It could be a product that gets broken up and then gets released into the air, which is not an anticipated or foreseeable use, the structure upon which this bill was built.

The Chair: Dr. Carrie.

Mr. Colin Carrie: Thank you very much, Madam Chair.

When I was reading it, “no manufacturer or importer shall manufacture, import, advertise or sell a consumer product that”, and the way it's written now, “is a danger to human health or safety”, and how it's changed, it adds, “is a danger to human health or safety”, and then goes into “either from direct exposure to the product”, and it goes on.

For me, it almost sounds as if by doing that you're watering down the definition of danger. From my reading, it would be better to keep it just the straight line, “is a danger to human health or safety”. That way you're not.... You could say, “either from direct or indirect exposure to the product, or from the exposure to a harmful substance released from the product into the environment”, or where it is. Do you know what I mean? What if somebody ingests it? It could be in the body or something.

I know the intent here is to be more specific, but I think maybe it would be better to just leave it general. It would cover more, wouldn't it?

Ms. Diane Labelle: Madam Chair, this is to say that what the member is speaking to is already provided for in the statute, in the proposed bill before you, through the definition of “consumer product”. This would be an unnecessary addition if you're looking at paragraph 7(a) as worded now.

The Chair: Ms. Murray.

● (1630)

Ms. Joyce Murray: Thank you, Madam Chair.

In our discussions about CEPA, one of the concerns is that CEPA takes a long time to actually finalize restrictions on a product. When we have consumer products and there's exposure to people who are vulnerable, CEPA simply isn't fast enough. We need something that can be used more quickly, so that's part of the rationale for this amendment.

Is there a way to address the concerns Dr. Carrie has about lack of clarity in paragraph 7(a) here, while maintaining the intent of this amendment and the benefits of a quicker response than we get through CEPA, which is frustrating to the public and also departments in government, I understand?

The Chair: Ms. Wasylycia-Leis, where did you go?

Ms. Judy Wasylycia-Leis: I'm here.

The Chair: Oh. You're unnerving me, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I'm in real trouble now.

I was going to disagree with Colin. I think, actually, there's nothing about this that weakens the definition; it goes in new directions that I think the officials are saying we can't do in this particular legislation. I think the amendment the Liberals have proposed is to take us in a direction that helps us deal with chronic issues and when you have substances in a product that, either through direct or indirect exposure, lead to health problems. Yes, as Diane Labelle said, it would be about a product breaking down and leaching into the environment and then back into the water supply and back into whatever. So I think that's really what is at the heart of this. How do you get at that broader issue?

Maybe we could take an example of bisphenol A, which has only been banned in terms of baby bottles but not anywhere else, yet we don't really know how much.... It's in so many different products and could leach in so many different ways that we don't know what that could mean in terms of human health, and we're not yet at the stage, I don't think, where the department is willing to say, let's ban all bisphenol A. However, given today's announcement in question period about banning lead and phthalates, I can see that it's possible eventually. What happens now when we know the dangers and we know there are problems, and how do we protect against that? I'd like a further discussion on that.

Secondly, I'd like an answer on the definition of human health and safety on page 3. It does talk about chronic adverse effects on human health. Would that in any way cover the words here around direct exposure or exposure through the environment?

The Chair: Mr. Glover.

Mr. Paul Glover: I'm attempting to respond to all of the members' comments.

Ms. Judy Wasylycia-Leis: It's impossible, I know.

Mr. Paul Glover: The general prohibition is very broad and would allow us to move quickly, with respect to the previous commenter's comments. And the definition on page 3 does speak to...so chronic is covered in the act in terms of the definitions as it has been laid out. So again it comes back to whether we are duplicating CEPA, and is that beneficial or not? For you as officials, does that create confusion, and is it not beneficial?

The other concern we would have with this is in respect of how we would enforce this, given the implications of some of the things that are implied with this.

The Chair: Dr. Bennett.

Hon. Carolyn Bennett: The science can move very quickly, and all of a sudden something can be determined to be pretty bad for you if you have some long-term exposure via the environment. I think our concern is that this would allow the government to deal with the new science very quickly, and I've not been reassured that CEPA could move that quickly in terms of getting a product off the market that, with the recent scientific evidence, has been shown to be harmful.

● (1635)

The Chair: Mr. Glover.

Mr. Paul Glover: With respect to the member's comments, I will try to be as direct as possible.

The general prohibition would allow us to move quickly to deal with that issue without creating the confusion, the overlap, and the duplication. We do agree and acknowledge that the science is constantly evolving, and we are constantly monitoring that and we are doing our own research as well. But in short summary, if new evidence came forward that indicated there was a problem, the general prohibition would apply and would allow us to take action.

The Chair: Ms. McLeod.

Mrs. Cathy McLeod: Actually, I think my question around the general prohibition was just answered, and whether it would meet the needs, so thank you.

The Chair: Good.

Dr. Carrie.

Mr. Colin Carrie: That was my question. I thought the general prohibition would allow us to act very quickly—

The Chair: Then we're going to go to a vote on this.

(Amendment negatived)

(Clause 7 agreed to)

The Chair: I understand we stood clause 8. I understand that we don't have an amendment, but we have new clause 8.1. Is that right, Dr. Bennett?

Hon. Carolyn Bennett: It is new clause 8.1, and Ms. Murray will speak to it.

The Chair: Okay, Ms. Murray.

Ms. Joyce Murray: Thank you, Madam Chair.

The idea here is that there is a particular subset of goods that creates greater vulnerability than general consumer products, and that's children's toys and children's products. We know that the impact of toxins on children is not in a ratio to weight. If the child has one-tenth the weight of an adult, that doesn't mean that one-tenth of the dose would have the same impact on the child. In fact, especially with babies, when their systems are still developing and their neurological development is still under way, products can have a much greater impact than the ratio to weight would suggest. We have to be more precautionary with babies.

We also know that there are conditions we don't yet have an explanation for, such as the explosion of incidents of childhood autism. I'm not suggesting that I know what the cause of that is, but this kind of situation causes us, the Liberal caucus members, to want to be more precautionary in how we approach Bill C-6.

So that's what the rewrite of the amendment is intended to do.

If you look at the schedules that cover which chemicals would no longer be allowed under Bill C-6, it's a pretty short list. If you go to the lists of chemicals that have been identified through cancer research and are listed as in new paragraph 8.1(1)(a), there's a larger list. What we're talking about is coming up with a broader list of chemicals that would place onus differently.

The onus in the general bill is that, other than for a very short list, the onus is on industry to figure out whether something is harmful in a toy or child's product, and they may not find that out. It may be affecting children for years, as some of the flame retardants and so on were. This is a more precautionary approach whereby we take the chemicals that have been identified as a problem for children and the onus changes. We say of them that unless it can be shown that it is necessary to use one or that it is not actually harmful, we consider these as being harmful, and they should be phased out over a defined time period. That's essentially what this amendment is about.

We have a printing or editing error in new subclause 8.1(4). I don't know whether this is the time to read the correction into the—

● (1640)

The Chair: I guess it is the time.

Ms. Joyce Murray: I apologize for this. New subclause 8.1(4) is confusing because of editing errors.

The way it should read is this:

> (4) A child's toy or child care article shall be considered to contain the substance on the list if the degree of concentration of that substance in the toy or article is so great that it would be reasonable to conclude that the substance was added to the product in the manufacturing or packaging process.

In other words, it's clarifying that we're not talking about background levels of lead or cadmium that may be in the air or in the soil; we are talking about concentrations that reasonably would be concluded to be added.

The Chair: Could we also have that in writing, Ms. Murray, please? Thank you so much.

Could we have some comments from the officials? Mr. Glover, just address this, and then I'll go to our next person.

Mr. Paul Glover: Thank you very much, Madam Chair, for the opportunity to comment on this amendment.

The first point I would make is that this amendment would cause the department problems with respect to the scope of the amendment, as it differs quite significantly from what is in the original Bill C-6. Therefore, the resource implications around this are such that I would not be able to certify—as currently resourced for Bill C-6 and the anticipation of it—that we would be able to deliver these. It is a very broad departure and would have significant resource implications.

With respect to some of the more specific comments, I've already spoken about CEPA, which again does much of this, including children's toys and products. It does take care of the most vulnerable populations and does specific assessments taking those into account, whether they be children, aboriginal, or unborn children. There are a number of ways in which the assessments are done that are designed to be extremely protective and very conservative when designed to assess the substance and be protective of health.

With respect to some of the specific comments, such as the International Agency for Research on Cancer, those are ones that have specific health points. I would like to inform the committee that CEPA looks at broader sets of health points beyond only cancer and is concerned about developmental and reproductive health end points. Therefore, it is in fact more protective of human health. So while we are also introducing duplication, it is on a narrower set of criteria than that which exists under CEPA.

Furthermore, IARC, the International Agency for Research on Cancer, is very clear in their own preamble that this is a list of substances that are known may cause cancer in humans or in animals and they do not suggest this is a proxy for individual jurisdictions, but that each jurisdiction should do their own assessment. This would be using that list for a purpose which the authors acknowledge right upfront in their preamble to not use that list for.

Reviewing the list every 12 months goes back to the comment I made with respect to the workload on establishing all these limits, exemptions, and processes. This would be incredibly resource-intensive for literally hundreds of thousands of consumer products.

The Chair: Thank you, Mr. Glover.

Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you, Madam Chair. You read my mind. I wanted to know what the officials thought of the amendment.

[*English*]

The Chair: Are there any other questions?

Is that okay, Monsieur Dufour?

Mr. Nicolas Dufour: That's okay.

The Chair: I only wanted to check. Thank you.

Is there more debate? Ms. Murray.

● (1645)

Ms. Joyce Murray: I understand that the key concern here is resource implications, that it would cost more to adopt this clause than not.

We have schedule 2, which has 14 types of products that are prohibited. Item 14 is lawn darts with elongated tips. I think we're concerned about carcinogens and reproductive toxins—I certainly am—more than lawn darts.

Mr. Glover, you were saying that each jurisdiction is expected to create its own list and not go based on the IARC list. Are there jurisdictions that have essentially adopted that list, or a revised subset of that list, in their legislation to reduce these kinds of toxins and goods?

Mr. Paul Glover: We are not aware of any other jurisdictions that have gone quite this far with respect to this particular approach, that would be comparable in terms of the regulatory framework the Government of Canada would have to operate under.

Ms. Joyce Murray: I was actually asking if any other jurisdictions have based their list of substances on agents or groups of agents on the IARC list.

Mr. Paul Glover: There are none that I am aware of at this time.

We are aware of what is going on in California with respect to their approach to labelling. They have a very different regulatory regime. There is no enforcement; that aspect is left to the civil court. It's a completely different framework. It essentially leaves the industry to label or not, and then citizens who are concerned about it turn to the courts to deal with it. They have a framework that doesn't seem to.... There are some differences.

We would acknowledge your point about other jurisdictions doing this, but they are not comparable in terms of the obligations that this would create for the Department of Health with respect to enforcement.

Ms. Joyce Murray: They are going to a list of substances, as opposed to a short list of product types, to protect the public from carcinogens and reproductive toxins and other toxins.

Mr. Paul Glover: We acknowledge what California is doing; the enforcement is radically different.

Ms. Joyce Murray: Mr. Glover made another comment when talking about CEPA. It was to the effect that CEPA can deal with this, but we know that it can take years to pull something out of general use under CEPA, especially substances of concern like carcinogens, to which cumulative exposure is the problem. As with tobacco, it really takes years to overcome some of the pressure to continue using those substances. This is a more precautionary approach, particularly with children. It seems to us that the reputation CEPA has of being a very slow, arduous process of addressing chemicals, just as a sidebar—

The Chair: Is there a question, Ms. Murray?

Ms. Joyce Murray: I'm making the comment that CEPA isn't good enough when it comes to babies being exposed to carcinogens.

The Chair: Is there a question related to this point?

Ms. Joyce Murray: How quickly will CEPA act in the case of micro amounts of toxins in the breast milk and in the baby? People are concerned about that. In Vancouver we've had a survey of what's in women's breast milk; there is an unbelievable scope and level of toxicity from the various kinds of cumulative exposures that people have, and it goes directly into babies.

The Chair: Okay, Mr. Glover—

Ms. Joyce Murray: We're just trying to address that and not wait for the onerous—

The Chair: Could you try to answer that question? Thank you.

● (1650)

Mr. Paul Glover: There are two elements.

First, we understand the reputation that CEPA had. The reputation that CEPA is developing is one of being much more nimble and much quicker.

I would also return to the chemicals management plan. As a result of a parliamentary committee's direction to the Department of Health and the Department of the Environment to prioritize 23,000 substances, the departments did that. Now there is a set of priorities on concerns for health and the environment on a broad range of health end points.

In the past it would have taken the department between five and ten years to do an assessment, the average being seven, and we acknowledge that. They were doing about a handful of assessments a year. Since the chemicals management plan was launched, we've been doing 15 substances every quarter—

Ms. Joyce Murray: That's out of 80,000 compounds that are—

Mr. Paul Glover: We are looking at all the exposure pathways, with the onus on industry. It has rapidly accelerated the pace at which we are able to move through those substances. We will be through the top 500 priority substances very quickly, so CEPA is moving more quickly to do these assessments as it moves forward.

The Chair: Ms. Murray, would you allow Mr. Dufour to ask some questions now, or do you want to carry on?

Ms. Joyce Murray: Go ahead, please, Mr. Dufour; it's your turn.

The Chair: Go ahead, Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you very much, Madam Chair.

I have listened with great interest. I would like to check with the officials to see if there is already something that does the same job as the amendment, or whether there is another way to solve the problem other than with the amendment.

Mr. Paul Glover: Madam Chair, it is generally accepted and it is already in CEPA. This is a duplication of something that already exists.

[*English*]

The Chair: Ms. Wasylycia-Leis is next.

Ms. Judy Wasylycia-Leis: Thank you, Madam Chair.

I know the chemicals management plan has had a lot of work, but has it actually led to many products being moved off the market or off the shelves?

Mr. Paul Glover: Has it led to full bans of products? No, we would acknowledge that. It did lead, for example, through the assessment of BPA, to the action taken to say that BPA does not belong in baby bottles and to the move to do that very quickly.

There is an acknowledgement here that without the general prohibition in Bill C-6, we will always be required to move through the standard *Canada Gazette* part 1 and part 2 process and the time constraints around them. In the absence of Bill C-6 and the general prohibition, the department, through the Hazardous Products Act and CEPA, will always be required to do *Gazette* part 1 and *Gazette* part 2, and the consultation times.

Ms. Judy Wasylycia-Leis: Today in the House the minister announced that the government is moving on a complete ban, except for trace levels, of lead and phthalates, which was great. We fought for that for a long time and we're really pleased to see it happen.

My concern is that it happened because of a lot of pressure over many years, and I don't think there's anything in Bill C-6 that would force the government to take action on other products unless there was that kind of pressure or goodwill. Is that not the case, and isn't that what we're trying to do here—make sure there's something built into Bill C-6 that would require the government of the day, regardless of political stripe and regardless of political pressure and public outcry, to take action when the science is in?

The Chair: Go ahead, Mr. Glover.

Mr. Paul Glover: Thank you, Madam Chair.

With respect to the member's comments, I would respectfully suggest that Bill C-6 does create those incentives. It significantly changes the Hazardous Products Act. The penalties that we had were really not very significant, and the onus was on the government to prove that a product was hazardous and to go through all the steps to do that.

This new Bill C-6 creates a general prohibition. All industry must know the products that they make and how they will be used. If they're not good for the health of Canadians, they will break that general prohibition, and the government will be able to move, and move quickly, through a range of actions if they do not follow the instructions of departmental officials. Then we have significant penalties that we can impose on them.

We are quite significantly changing the rules of the game for industry, for importers, and for manufacturers through the general prohibition and the penalties to make sure they are acting responsibly and in the interests of the health and safety of Canadians.

● (1655)

Ms. Judy Wasylycia-Leis: I'm sorry; my question is really about how you get to the point of applying this act if there is something that should be prohibited, but it's not listed in the act. Yes, they're listed in other acts, but it doesn't always come together.

There's science in on a number of other things besides lead and phthalates and bisphenol A. There must be science in on mercury and cadmium and other products that have been demonstrated to be pretty serious in terms of children. What does it take, if it's not in the bill and it's not on a hot list? What does it take to move action in those areas, action other than your statements that you're working on it or that the government or the minister...?

Mr. Robert Ianiro: Perhaps I can help clarify this issue.

Schedule 2 lists prohibited items. We will continue to add substances to that list. In addition to those prohibitions and in addition to the regulations that exist, the general prohibition is always there as that safety net and catch-all to deal with the dangers and the hazards that you're talking about. That's the whole purpose of the general prohibition: to allow the government to take that timely action if and when there is a substance of concern that is posing a danger to human health and safety. That is how it is structured.

Ms. Judy Wasylycia-Leis: Here's an example. I could argue that a response on lead and phthalates would have been timely 10 years ago, but it took till now to get some action, so wouldn't it be better to have something in a bill like this that forces some movement on a timely basis?

Maybe a related question is this: what other products are you looking at right now that are in the category of being possibly dangerous, and you're looking to ban them?

The Chair: Go ahead, Mr. Glover.

Mr. Paul Glover: I have two comments.

As other members have said, one of the concerns about establishing lists is that the science is constantly evolving. Our interest is not in maintaining the list but in dealing with unsafe products, so rather than coming back and adding to lists and having to prove and establish thresholds, we will follow the science. If the science indicates that something is a problem, we'll say that it's breaking the general prohibition and begin to take the appropriate action as we move forward.

With respect to products we are concerned about, the department intends to use mandatory reporting to identify trends in problems through cyclical enforcement, which is our history in working with this, and not just deal with the substances. For example, we have issues at times with poorly designed baby cribs; it's not only the ingredients we are focused on in substances, but also how a product is put together. We go in and test those cribs to make sure they are safe for the young children, who often stand and jump up and down in them. We want to know if they will withstand those sorts of tests. We have cyclical enforcement strategies to go out and test a broad range of products as we move forward. An example is children's jewellery at the Christmas season. The department undertakes action over a broad range with respect to the inspection of products.

With respect to chemicals on that list, the list has been established through the chemicals management plan and is available on the chemicals management plan website. There are 4,000 that have been prioritized for assessment, and we are dealing with those very rapidly. The highest 500 priorities will be dealt with within two years.

The Chair: I just want you to keep in mind that we're at five o'clock now, and we're going to continue. The committee might go overtime tonight for a little while to get things done.

Go ahead, Ms. McLeod.

Mrs. Cathy McLeod: Madam Chair, this is about consumer product safety. It's about magnets in toys. It's about ladders that might fall down. It is about chemicals too, but we can't try to fix any gaps in CEPA through this piece of legislation. If there are issues in terms of CEPA, that's where it needs to be dealt with.

I would suggest that we call the question at this point.

The Chair: We have two more speakers, and then I'll call the question.

Dr. Bennett is next.

Hon. Carolyn Bennett: The chemical product program has been going for a couple of years now, and I'm not sure there's been real regulation. I'm not sure that it has dealt with one toy in its time.

My concern is that when you're dealing with products for children, the science might tell you that a small amount on its own would be okay, but if there's also this, and also that, and also something else, it could be that two and two makes five or that there's a tilt in terms of the way those chemicals act together. Surely it has to be done product by product.

I'm having trouble, because if this is about resources, which we keep coming back to, then I think Canadians would want to spend their money to get rid of the backlogs, but we also want to have this extra tool to use if we find out that a combination of substances and chemicals coming together in a certain product may actually be a catalyst for more adverse effects.

● (1700)

Mr. Paul Glover: Madam Chair, the member raises an excellent point with respect to mixtures. The reality is that the science on that is evolving. Dealing with the potential number of mixtures with literally hundreds of thousands of chemicals is new and evolving science. The tools to do that are really just being developed.

When we spoke earlier about how the science is evolving, we completely agree. We are watching and evaluating that, but those tools are not yet fully developed or robust enough to deal with all the potential scenarios. It is new science that we acknowledge needs to be dealt with, and we are working with international partners to develop those tools to deal with the literally billions and trillions of potential combinations that are possible.

The Chair: Dr. Bennett.

Hon. Carolyn Bennett: How will CEPA deal with mixtures, and until that happens, wouldn't it be better to be able to do this product by product?

Mr. Paul Glover: Madam Chair, there is no jurisdiction that yet has the tool to deal with all the potential mixtures. We continue to assess individual substances. We can look at the cumulative exposures of that substance through all its potential uses, but when you look at mixtures in one product and another product and how they all come together, there is new science that is required to be able to do that. We think we're close to that, but we're not there yet—Canada or any other jurisdiction.

The Chair: Dr. Carrie.

Mr. Colin Carrie: Thanks.

I'm just going to make an observation, because I think when we talk about the chemical management plan we're talking about CEPA. But I think the government handles the environment differently. This is about the consumer products. I think we're getting off track here. My understanding is that the general prohibition allows you to keep exactly the problem the opposition brings up. It allows you to deal with the science quickly as you know more. You don't have to go through the other way. It moves incredibly fast because you have this general prohibition. As soon as you find out the danger, you can move. Is that right?

Mr. Paul Glover: As the science evolves, with the general prohibition, we will be able to move, and move quickly.

Mr. Colin Carrie: And move a lot faster. Okay, well, I'm comfortable, Madam Chair, moving the question.

The Chair: Yes. I am. Thank you.

Let's go to the question on proposed new clause 8.1.

(Amendment negatived)

The Chair: We have to go back to clause 8.

There are no amendments to clause 8. New clause 8.1 is a totally new clause; we had to treat that differently. Let's go back to clause 8.

(Clause 8 agreed to)

(On clause 14—*Definition of "incident"*)

The Chair: We have two amendments to clause 14. The first one is G-3 on page 6 of the package. That's a government one by Dr. Carrie.

Dr. Carrie, would you like to speak to that one?

● (1705)

Mr. Colin Carrie: Yes. Thank you very much, Madam Chair.

Various groups raised concerns with respect to the incident reporting timelines proposed. This would allow industry participants to have adequate time to provide a written report for health or safety reasons.

What we're suggesting here is that Bill C-6, in clause 14, be amended by replacing line 45 on page 8 with the following:

> within 10 days after the day on which

The Chair: Thank you.

Do we want some comments from the officials? Okay.

(Amendment agreed to)

The Chair: We'll now go to Dr. Bennett's amendment.

Would you like to make a comment on that amendment, Doctor?

Hon. Carolyn Bennett: I think this just clarifies the timelines from the time the minister hears it, stating what is required in terms of the public notice, including how specific the public notice must be in terms of the nature of the effects that could happen from the incident, and also actually using the marketed names of the products, such that it's very clear to Canadians.

The Chair: Could we have comment from the officials on this one?

Mr. Paul Glover: With respect, Madam Chair, the government believes that meaningful information is most important to Canadians. We have some concerns that this will lead to information that might be hard for Canadians to interpret. A wealth of information is useful, we acknowledge, but sifting through it to find out what is relevant could be problematic. We receive a broad range of complaints, some of which are upheld, but some are not. We do, right now, publish all recalls on a database on our website. We anticipate looking at trends and providing consumers with more meaningful information and analysis of these that would be helpful to them, rather than just a raw "here's everything we've received" with no analysis of trends of the results of investigations.

We are committed to transparency. We are committed to meaningful information and are concerned that this will actually not lead to meaningful information.

(Amendment negatived)

(Clause 14 as amended carried)

(On clause 30—*Recall*)

The Chair: Dr. Bennett, could you speak to this one, please? We'll start with the amendment by Dr. Bennett.

Hon. Carolyn Bennett: This is very much in keeping with the amendment that we had to Bill C-11. We believe that the people of Canada deserve to know that the minister is getting the best possible advice, but also what that advice is. We are hoping that we will be able to do the same thing again. This is a bill that is expected to reflect the most recent science, and we want the minister to have very good advice, but the people of Canada need to know what advice the minister gets. Sometimes ministers can't do exactly what the science says, but at least the politics stays separate from the science.

I understand from the briefing last night that because this bill is housed in Health Canada instead of in the Public Health Agency of Canada, which already has an advisory committee policy, the officials may want to add some language concerning reimbursement and these kinds of things, because that doesn't exist right now at Health Canada. But the gist of the bill is the same as that of Bill C-11. The implementation of the amendment may need to be enhanced a little bit based on making sure that it happens.

● (1710)

The Chair: Are there any comments from the committee?

Dr. Carrie.

Mr. Colin Carrie: Thank you very much, Madam Chair.

In principle, we're supportive of that, but there may be a technicality that requires royal recommendation. I wonder if we could get the officials to actually speak to that.

The Chair: Yes.

Mr. Glover.

Mr. Paul Glover: Thank you, Madam Chair.

The department is aware that under other pieces of legislation there is a requirement for advisory committees. We have consulted with them and understand that these advisory committees provide great advice and benefit to the officials responsible for running those pieces of legislation, so we would not have specific concerns with the concept of an advisory committee.

We appreciate the member's comments. We do, however, feel that the ability to reimburse members is important if we are going to have a diverse membership that reflects all aspects of civil society, some of whom may not be able to volunteer their time, pay for their travel expenses, and other things like that. The quality of advice and the diversity of members on that committee are enriched when we have the ability to provide some reimbursement. That unfortunately creates a new spending authority, which is what would require the royal recommendation, but we appreciate the intent here and the members' willingness to consider that.

The other question we would have is with respect to the exact placement of this amendment at clause 30, which seems to apply to inspectors and inspectors' orders. We suspect that it's intended to be somewhat more broad, so we could work to....

The Chair: Did you have something else, continuing in the same vein?

Mr. Colin Carrie: I was just going to say that we would work with the opposition to get something together for report stage.

The Chair: Okay.

Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: I was wondering whether this amendment would not slow down the work of the inspectors.

Mr. Charles Ethier: Thank you, Mr. Dufour.

Madam Chair, we do not feel that an advisory committee would slow the inspectors' work down. Depending on the questions it was asked to consider, the committee could provide very useful advice to our department and to the government. In fact, it would help us to determine the most appropriate corrective measures to take when faced with specific problems. But, with a pressing problem, we would not necessarily ask the committee for its advice.

[*English*]

The Chair: Dr. Bennett.

Hon. Carolyn Bennett: I was just asking the officials whether the reimbursement could be in the regulations, because it's monetary.

Mr. Paul Glover: We appreciate the intent here. The department is aware of other acts that do this. But there is a technicality here: this would create new spending authorities and would as a result require royal recommendations.

Hon. Carolyn Bennett: Bill C-11—

Ms. Diane Labelle: Bill C-11 was a different situation. Bill C-11 could refer back to the Public Health Agency of Canada Act . In this case, the advice we have received is that it would incur a royal recommendation. The Speaker's ruling in 2005 with respect to amendments of this type at committee is that they need to be made at report stage by government with a royal recommendation.

● (1715)

The Chair: I'm going to call the question now on the amendment to clause 30.

Hon. Carolyn Bennett: Wait a second. If it's not placed properly, did you have advice for us? If this passes, where would you want it in the bill?

Mr. Paul Glover: There are a few problems. If I'm looking at the right piece of paper, it refers to the Public Health Agency of Canada Act, which my colleague has spoken to.

The Chair: It does, yes.

Mr. Paul Glover: In my branch, we're under the Canada Health Act, where that language doesn't exist. So it's somewhat problematic for us.

The Chair: Mr. Carrie.

Mr. Colin Carrie: We won't be able to vote for this because, as the officials have just said, it would require a royal recommendation. But we can be supportive at report stage.

The Chair: Yes.

Mr. Colin Carrie: I was wondering if we could take that into account before we voted. Maybe you could explain the implications of it.

The Chair: Dr. Bennett, I don't want to rule it out of order. What I'd like to do is address it at report stage.

Hon. Carolyn Bennett: Okay.

The Chair: Thank you for this advice, because we have to deal with this issue.

We will not be voting on this today.

(Amendment withdrawn)

(Clause 30 agreed to)

The Chair: Thank you.

Ms. Wasylycia-Leis, you have brought forth yet another amendment.

Ms. Judy Wasylycia-Leis: You don't have to say it that way. I have four more.

The Chair: You have four more. So you don't intend to finish clause-by-clause today.

Ms. Judy Wasylycia-Leis: Sure.

The Chair: Well, we really won't have time to do that.

Ms. Judy Wasylycia-Leis: Sure, we can do it fast.

The Chair: All right, go for it.

Ms. Judy Wasylycia-Leis: Which one are you looking at first?

The Chair: I'm looking at your first one. It's right in front of me.

It's new clause 67.1.

Ms. Judy Wasylycia-Leis: Do you want to do that one first? Okay.

We drafted this in the hope that if we lost everything else, we might get this through the committee.

If what we're dealing with in terms of the labelling and listing of toxic substances is a problem from the point of view of budget, we don't want to lose what's in this bill just because the government might dig in its heels and say that we don't have the budget to do the amendments we would have gotten through.

The Chair: Could we have some comment from the officials?

Ms. Judy Wasylycia-Leis: My point is that if that's the case, it surely means that the government is committed to moving forward in terms of identifying a labelling system and implementing it to deal with the whole question of listing and eliminating hazardous products. Therefore, this amendment is a way to keep that before Parliament, to hold the government to its commitment, to get regular reports on those two issues, to show how the international community is moving and how we're working in concert with the international community, and to show what we're doing to advance these very important issues.

● (1720)

The Chair: Thank you.

Could we have some comment from the officials on this?

Mr. Paul Glover: We appreciate the member's proposal, Madam Chair, with respect to transparency. While the government supports transparency, the amendments as tabled present some problems. Most specifically, they impose certain obligations that again we are not resourced for with respect to a broad labelling system under this act. We would be using the general prohibition to use the labelling provisions in the act when appropriate and where appropriate and not to establish a broad labelling system. There are other efforts within government to do that, but specifically, under the act, that is problematic.

With respect to paragraph 67.1(b), it also creates new policy obligations with respect to the establishment of that list of hazardous substances, which was also dealt with earlier.

The Chair: Go ahead, Dr. Carrie.

Mr. Colin Carrie: Thank you very much, Madam Chair.

I think we understand the spirit of where Ms. Wasylycia-Leis is coming from. We have agreed to have an advisory committee, and I was wondering if we could have a commitment from the officials that maybe the first thing the advisory committee would do is look at this issue.

Mr. Paul Glover: Madam Chair, if that were a recommendation, and an advisory committee were created and the bill supported, we could ensure that the first pieces of work the advisory committee was asked to deal with would be the issues of labelling and substances in products. They could provide recommendations back to the department and the minister.

The Chair: I'm going to call the question.

(Amendment negatived)

The Chair: Now we're going to go to the schedule.

On page 21 of the package we have another amendment to deal with.

Ms. Wasylycia-Leis, do you want to speak to this one, please, on schedule 1? Yes, we're now on the schedule.

Ms. Judy Wasylycia-Leis: I have two on tobacco and one on noisy toys.

The one on tobacco is amendment NDP-3. It is an attempt to exempt existing and future tobacco products and to place tobacco on the same plane as other hazardous products listed in the schedule. That's it. That's what it does.

The Chair: There's nothing more. Okay.

Ms. Judy Wasylycia-Leis: It does something we've tried to do in other ways, which didn't work, so here I'm trying again.

The Chair: Mr. Glover, you wanted to comment.

Go ahead, please.

Mr. Paul Glover: If the committee does not need my comments, Madam Chair, I'd be happy to.... As the member pointed out in attempting again, my response would be the same. The government manages tobacco products through tobacco legislation. So as she tries again, so do I.

Some hon. members: Oh, oh!

(Amendment negatived)

The Chair: Shall schedule 1 carry?

Ms. Judy Wasylycia-Leis: No, wait, I have one more.

The Chair: We don't have a copy of that.

Ms. Judy Wasylycia-Leis: Well, this one says that.... It's the same as the last one, but it says:

> Tobacco products within the meaning of section 2 of the Tobacco Act, or brands or sub-brands of tobacco products, except in respect of their ignition propensity, that were available to consumers in Canada on January 29, 2009.

The Chair: Ms. Wasylycia-Leis, I'm sorry. We do need it in writing.

Ms. Judy Wasylycia-Leis: I have it.

The Chair: Do you want to make a comment on that, Mr. Glover?

Mr. Paul Glover: Madam Chair, comments have been made. They are the same.

(Amendment negatived)

(Schedule 1 agreed to)

The Chair: On schedule 2, there's an NDP amendment, NDP-4.

● (1725)

Ms. Judy Wasylycia-Leis: Madam Chair, I will hold this amendment and will withdraw the amendment if I hear from the department officials as to what plans they have to deal with the issue of noisy toys. I think it's recognized to be a critical issue and I'd just like to hear the plan of action.

The Chair: Thank you.

Mr. Glover.

Mr. Paul Glover: Thank you, Madam Chair.

With respect to our plans for toys, the department takes noise from toys very seriously and in fact is committed this summer to launch a series of consultations to deal with establishing regulations on a broad range of children's toys issues that would include magnets in toys and deal with the sound emitting from them. In fact, it would be at times more protective than the 75 decibels that is proposed by this amendment. The department is committed to moving forward with that consultation this summer.

The Chair: Are you satisfied with that, Ms. Wasylycia-Leis, and will you withdraw NDP-4?

Ms. Judy Wasylycia-Leis: Yes, I'll withdraw.

The Chair: Amendment NDP-4 is withdrawn.

(Schedule 2 agreed to)

The Chair: Shall the preamble carry?

Some hon. members: Agreed.

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: I'll report the bill on Monday to the House.

Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: We did it, folks. I congratulate the committee.

Committee dismissed.

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