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Chair

Mr. Chris Warkentin

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• (1535)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, we're going to call this 28th meeting of the Standing Committee on Aboriginal Affairs and Northern Development to order.

Today we continue our study on land use and sustainable economic development.

We have a full table of witnesses. We certainly want to express our thanks for your willingness to come. There are a number of you, and we're going to pick your brains a little bit today about an issue that we're trying to become more educated about in our effort to fully understand it, so that we can better make recommendations to the government with regard to this study topic.

I think what we'll do, colleagues, is have the Commissioner of the Environment and Sustainable Development testify first, if that would be appropriate, followed by the National Aboriginal Capital Corporations Associations and then the National Aboriginal Forestry Association.

Mr. Vaughan, we'll turn it over to you to begin with. We like to keep the opening submissions around 10 minutes, give or take. After we complete the opening statements, we'll begin the questioning.

We'll turn it over to you, Mr. Vaughan.

Mr. Scott Vaughan (Commissioner of the Environment and Sustainable Development, Office of the Auditor General of Canada): Mr. Chair, thank you very much for this opportunity to discuss our office's work related to aboriginal land use and sustainable development.

Related to this topic, in December 2011 my colleagues briefed this committee on chapter 6 of the Auditor General's fall 2009 report, "Land Management and Environmental Protection on Reserves". Today, I will be focusing most of my comments on chapter 4 of the Auditor General's spring 2010 report, "Sustaining Development in the Northwest Territories".

With me today is Frank Barrett, the principal responsible for the audit, and Kim Leach, the principal who also worked on this audit.

The federal government has a mandate to promote political and economic development in the Northwest Territories and to protect the environment. Our audit looked at whether responsible federal departments had laid the foundations for sustainable and balanced development in the Northwest Territories. Specifically, the audit focused on whether Aboriginal Affairs and Northern Development

Canada, Environment Canada, and Human Resources and Skills Development Canada had adequately implemented key measures to prepare for sustainable development.

[Translation]

These measures included settling comprehensive land claim agreements and self-government agreements; establishing and implementing a regulatory system that protects the environment; and supporting appropriate economic development and skills training programs for aboriginal peoples in the Northwest Territories.

Comprehensive land claim agreements and self-government agreements set out governance rights and the ownership of land and resource rights. These agreements are therefore important for economic development. They help to provide a level of certainty and predictability for business, industry, communities and governments. Almost all of the Northwest Territories either lies within settled land claim areas or is the subject of ongoing negotiations.

[English]

At the time of our audit, four land claim agreements had been finalized. Other land claim and self-government agreements were under negotiation. We found that Aboriginal Affairs and Northern Development Canada had made constructive efforts to negotiate these agreements and had followed the established processes for their negotiation. As well, the department had used alternative approaches when negotiations appeared to be stalled.

While much remains to be done, in our view the efforts to settle land claim agreements and self-government agreements represent a significant achievement and an important step towards sustainable development in the Northwest Territories.

[Translation]

We have also looked at the environmental regulatory system. Protecting the environment is important particularly because aboriginal communities in the Northwest Territories depend on wildlife, water, and land for subsistence and for economic development opportunities.

We examined whether Aboriginal Affairs and Northern Development Canada and Environment Canada had established and implemented an adequate regulatory system in the Northwest Territories. We found that, in regions with settled land claim agreements, there are systems and structures that support land use plans and provide a means of adequate consultation with communities.

[English]

In regions without comprehensive land claim agreements, however, there was uncertainty about aboriginal title to the land, how it might be used, and who should be consulted. Moreover, in those regions without land claim agreements, we noted a lack of specific mechanisms for developing land use plans. Without a formal land use plan, development decisions must be made on a case-by-case basis. Decisions related to project approvals may therefore take longer, because it has not been determined where different types of development should take place and what conditions should be applied.

AANDC also has specific responsibilities for monitoring the cumulative impacts of development. This information is important because it provides co-management boards with environmental information to support informed decision-making on development proposals. Our audit found that 11 years after receiving a mandate to do so, AANDC has not yet put in place a program to monitor cumulative environmental impacts. Similarly, funding for Environment Canada's program that would support cumulative impact monitoring ended in 2007. As a result, neither department has implemented this program.

[Translation]

Our audit also examined skills training and economic development programs for aboriginal communities. We found that Human Resources and Skills Development Canada had established clear objectives and targets for both of their programs that we examined but that Aboriginal Affairs and Northern Development Canada's economic development programs did not have clear objectives and that the department did not monitor its programs' performance or review information reported by funding recipients.

Overall, we concluded that Aboriginal Affairs and Northern Development Canada and Environment Canada had not adequately implemented key measures designed to prepare for sustainable and balanced development in the Northwest Territories.

• (1540)

[English]

We have done other audits that have addressed broad issues around environmental protection and sustainable development that affect aboriginal communities. One issue that we hear about from communities, particularly in the north, is the impact of climate change. In another 2010 audit we examined how the federal government was helping communities prepare for and adapt to climate change.

The federal government has confirmed that climate change is already under way, and its impacts will affect every major economic sector, every region, and many communities. Observed impacts are already under way in Canada's north. We found that while good work was under way in helping community leaders understand the localized impacts of climate change, the demand from across Canada was outstripping the ability of the federal government to keep up.

In another 2010 audit we looked at the capacity of the federal government to prepare for and respond to oil spills from ships. Last week the Auditor General was in Iqaluit and heard from their public accounts committee about their concerns around the possible

opening of the Northwest Passage and the implications of an oil spill in the north.

Finally, we have also audited different aspects of freshwater management. In 2005, and again in our 2011 follow-up audit of programs for first nations, we found that drinking water quality on reserves was significantly worse than what was found in most Canadian communities.

[Translation]

I should point out that these audits to which I refer are over two years old and we have not looked at these issues since then.

[English]

Mr. Chair, that concludes my opening statement. We'll be pleased to take questions from honourable members.

Thank you.

The Chair: Thank you so much, Mr. Vaughan.

We'll now turn to the National Aboriginal Capital Corporations Association. I believe Mr. Donald is bringing a submission.

Mr. Ian Donald (Acting Chief Executive Officer, National Aboriginal Capital Corporations Association): No, it's Ms. Pelletier.

The Chair: Ms. Pelletier will be bringing a submission.

Thank you so much for being here. We'll turn it over to you now, for about 10 minutes.

Ms. Lucy Pelletier (Chair, National Aboriginal Capital Corporations Association): Thank you.

Tansi, bonjour, bon après-midi, and good afternoon.

I would also like to honour and acknowledge that I have been invited to the traditional territory of the Algonquin people to make this submission.

Thank you for the opportunity you have extended to us to appear here today.

I am Lucy Pelletier, a member of the Cowessess First Nation within the Treaty 4 territory within the province of Saskatchewan. I serve as the chairperson of the board of directors of the National Aboriginal Capital Corporations Association, otherwise known as NACCA, in addition to serving as the chairperson of the Saskatchewan Indian Equity Foundation. Accompanying me today are Ian Donald, our interim CEO, and Kevin Schindelka, our director of corporate development.

Our first point is on the aboriginal economy. Many aboriginal communities are now beginning to capitalize on the emerging opportunities provided by court judgments, land settlements, new revenue sources, the new economy, resource development, and export markets. They are also adapting mainstream business practices to their own values and cultures in order to create jobs, grow incomes, and generate wealth for their community.

This is being reflected in the rapid growth of entrepreneurship and aboriginal businesses, which in turn is generating increased demand for both debt and equity capital. More varied types of financing are also being required as individual aboriginal businesses grow larger and progress through their life cycles. In addition to more traditional term financing, there is increasing demand for seed capital and youth entrepreneur loans, larger term loans, operating loans, surety services, quasi-equity or subordinated debt, and equity financing.

Our second point is on aboriginal business clients. However, the characteristics of many of these aboriginal businesses continue to present difficult challenges to most sources of capital. For example, they are predominantly small and medium-sized enterprises, or SMEs. Whether these are mainstream or aboriginal businesses, SMEs, for financial institutions, generally represent relatively higher transaction costs and the perception of higher risk resulting from their smaller size and their more limited management capacities. These factors are often accentuated by a relative lack of equity capital and an overreliance on debt financing.

Aboriginal businesses often present additional financing challenges resulting from social and economic development factors. These can include even more limited management capacities than their mainstream counterparts, less familiarity with commercially oriented debt management practices, and a greater proportion of early-stage businesses.

Finally, on-reserve businesses present further challenges related to section 89 of the Indian Act, which include differing commercial cultures, fewer incorporated businesses due to the tax-free status, a greater focus on the recurring natural resource sectors, and more limited market opportunities for remote locations.

In regard to aboriginal financial institutions, Canada's network of aboriginal financial institutions, or AFIs, is the primary source of developmental financing and management support services across Canada for those aboriginal businesses that cannot secure such financing from mainstream financing institutions. The network has evolved over time and currently comprises aboriginal capital corporations, aboriginal-controlled community futures development centres, aboriginal-controlled business development centres, and privately capitalized aboriginal developmental lenders. Of the 60 AFIs comprising the network, 53 are members of NACCA and represent first nations, Inuit, and Métis communities in each of Canada's provinces and territories.

Each AFI is unique with respect to its structure, capacities, performance, client focus, services, and the territories it serves. All AFIs are fiercely independent and accountable to their own community. Their community roots give them a unique ability to place more reliance on community-based creditworthiness assessment to supplement deficiencies in their clients' financial situations. This results in a very high acceptance rate for new accounts and relatively good loan performance. Through ownership of their AFIs, aboriginal communities have been able to exercise control over the decision-making process and thereby generate the culturally sensitive change that will have the greatest impact on their communities.

● (1545)

NACCA's national office is increasingly developing its capacity to enhance the institutional capacity of each member AFI to support its AFI membership, much like a credit union central works to support individual credit union members. In this context, it is providing an ever-expanding range of targeted and often customized support services, including program administration, customs training, best practices, loan management systems, new product development and testing, research and analysis, performance measurement systems, and communications strategies.

In terms of financial performance, each year AFIs provide approximately 500 new business start-up loans and 700 expansion or modernization loans, totalling \$100 million, to aboriginal small businesses. This financing assists these small businesses to create or support the equivalent of nearly 4,000 full-time jobs. Since 1985, AFIs have received a total of \$235 million from the federal government in contributed and repayable loan capital. During that period, they have provided over 36,000 loans, aggregating over \$1.5 billion dollars, and over \$1.2 billion of these loans have now been repaid. The overall AFI loan loss experience is approximately 6%, which compares very favourably to the 13% experienced by the Canada small business financing program. At March 31, 2011, the consolidated AFI loan portfolio comprised some 4,000 loans valued at \$238 million.

In terms of strategic priorities, NACCA's current strategic plan for the period of 2012 to 2014 is based on four priorities that are intended to enhance our service to our aboriginal business clients and, by extension, to the greater aboriginal economy. These are as follows: one, increasing the financial viability of AFIs; two, improving AFI access to loan capital; three, developing the capacity, skills, and professionalism of AFIs; and four, enhancing AFI services to respond effectively to the changing needs of our business clients.

In this context, NACCA AFIs are encouraged by AANDC's increased focus on aboriginal economic development issues, particularly the small business development component as expressed in the new federal framework. We believe this framework could greatly assist us in achieving our four strategic objectives and have been approaching these priorities through two complementary, parallel activity streams: one, the joint AANDC-NACCA program renovation working groups and committees developing new programming approaches, operating concepts, and implementation plans for consideration by ministers and central agencies; two, independent NACCA-led initiatives developing complementary programming. AANDC staff will participate where appropriate and when available.

I'd like to briefly summarize the approaches currently being undertaken within these two activity streams.

Number one is increasing the financial viability of AFIs. This priority focuses on ensuring the financial sustainability of AFIs engaging in pre-commercial developmental lending to a geographically dispersed clientele despite the challenges of higher operational, lending, and capital costs, and the provision of associated advisory and support services required.

The primary issue here is that the overall financial model for AFIs is unsustainable. AFI lending costs comprise 10% for administration, plus 6% for losses, for a total of 16%, versus loan portfolio revenue of 9%. This leaves an unfunded gap of 7%.

Discussions with AANDC officials to date have focused on addressing this shortfall by establishing a performance-based allocation program to offset the AFI lending cost shortfall as well as by restructuring current AANDC loan capitalization programs to better respond to the reduced liquidity of AFIs that has resulted from this flawed funding model.

Number two is improving AFI access to loan capital.

• (1550)

To date approximately 90% of the AFI loan capital has come from the federal government, with the remaining 10% coming from the private sector. However, based on the increase in demand for AFI loans over the past decade, AFIs will need to secure an additional \$100 million to \$150 million in loan capital over the next decade. Since the federal government cannot reasonably be expected to support this level of funding on an ongoing basis, new approaches targeting much greater participation by aboriginal sources and the private sector must be launched as soon as possible.

Initiatives currently being addressed with AANDC include enhancing AANDC's loan capital interest rate buy-down program, refining the loan loss reserve approach, and establishing and capitalizing a NACCA treasury function to attract wholesale capital.

Internally, NACCA will be examining the use of bonds, debentures, and other innovative financial instruments; structuring syndication frameworks; and developing methodologies for liquidity pools.

Number three is developing the capacity, skills, and professionalism of AFIs. This priority is intended to further the AFIs' strategic focus on sound operating standards and on building a capacity equivalent to the credit union central within the AFI network. NACCA member AFIs have already developed a number of tools to enhance AFI operations—for example, a risk-measurement tool for AFI loans, a performance-measurement database and related monitoring reports, and a number of custom on-site, distance, and accredited learning programs.

During the strategic planning period, collaboration between NACCA and AANDC should result in enhancement of the governance and capacity-building elements of AANDC's Access to Capital program and development of a comprehensive performance measurement framework for AFIs.

Internally, NACCA will be expanding its custom training products, enhancing its AFI loan management systems, developing a structured database for best practices and critical standards, and

developing generic personnel and financial administration manuals for its members.

The Chair: Ms. Pelletier, I'm sorry to interrupt, but we're running over time a fair ways, so could you briefly cover the final points? If there's additional stuff, we can maybe catch up with that in the question periods as well.

• (1555)

Ms. Lucy Pelletier: Sure. I'll do two minutes of closing remarks.

The Chair: Sure. If you want to jump to that, it would be helpful. Thank you.

Ms. Lucy Pelletier: The increasing professionalism of our membership is clearly being reflected in enhanced operating standards, improved financial performance, continuing portfolio growth, and stronger client success rates than those experienced by mainstream SMEs. NACCA's national office continues to build its skills and capacity while progressively providing broader and more effective capacity-building support services to the membership.

With AANDC's active engagement and the involvement of a wide range of knowledgeable aboriginal and government strategic partners, AANDC's program renovation initiative should finally provide a substantive opportunity to establish programming that offsets the risk and the cost of developmental lending and provides more comprehensive AFI financial and management support services for business clients. This renewed engagement and partnership reflects the comments made by former AANDC Minister Chuck Strahl at the Empire Club, when he said that "Aboriginal financial institutions are a prime way we as a government are using partnerships to help aboriginal entrepreneurs generate tangible economic results."

In closing, NACCA would greatly appreciate the support of the Standing Committee on Aboriginal Affairs and Northern Development for our strategic priorities with respect to financial viability, access to capital, capacity-building, and enhancing client services.

Thank you, merci, *meegwetch*.

The Chair: Thank you so much. I hate to cut people off, because there are important things to say. We certainly appreciate the submission.

We will now hear from the National Aboriginal Forestry Association. I believe, Mr. Bombay, you will be bringing the submission. Thanks.

I will turn it over to you, and we'd love to hear what you have to say as well.

Mr. Harry Bombay (Executive Director, National Aboriginal Forestry Association): Thank you very much.

I too would like to acknowledge the traditional territory of the Algonquin Nation, particularly the Pikwākanagān, whose traditional territory we are now meeting on. My thanks to them. I would also like to thank the standing committee for the invitation to be here.

With me is Brad Young. He is our senior policy adviser, and I am the executive director of NAFA, the National Aboriginal Forestry Association.

First I'll tell you a bit about NAFA.

We are a non-governmental first nation-controlled organization focused on research and advocacy activities in the forest sector. We advocate for policy frameworks that address aboriginal rights, values, and interests leading to a more equitable sharing of benefits from the forest resources of this vast land we call Canada.

We wish to contribute to the goal of building an aboriginal forest-based economy. We recognize that an aboriginal forest-based economy cannot be achieved in isolation from the broader forest sector or from the economic realities facing all forest industries in Canada; we do, however, have circumstances, challenges, and opportunities unique to the aboriginal forest sector.

The term "aboriginal forest sector" is probably one you have not heard frequently, or possibly ever before, yet it is probably one of the oldest economic sectors in North America, predating the arrival of Europeans and others. For multiple generations, aboriginal people have depended on forests for food, shelter, medicine, and a wide range of forest resources to produce goods and materials, thereby sustaining their livelihood and culture.

For aboriginal people, forests today are every bit as important as they were centuries ago. We have to recognize the significance of forests to future generations of aboriginal people and the potential they offer for the socio-economic advancement of aboriginal communities. It is important, therefore, that the aboriginal forest sector be considered a contemporary concept and an integral component of Canada's economy.

In our work at NAFA with first nations, we have found it necessary to differentiate the aboriginal forest sector from the broader forest sector in Canada. What is different about the aboriginal forest sector is that our forest values with respect to forest land and resource use does not mirror those of the dominant forest industries. Also, the form of business ownership and forest management governance is community-based rather than controlled by multinational corporations. Statutory and jurisdictional arrangements with respect to our forested lands, though largely inadequate from a management and development point of view, are specific to first nations. The focus of aboriginal forest-based development is on smaller-scale operations and value-added products and services rather than the mass production of commodities. Finally, there are niche markets for aboriginal-produced forest products that differ from those of large forest companies.

My purpose in emphasizing that the aboriginal forest sector is different is to point out the need for specially focused programming, policy, and institutional support to advance the aboriginal forest sector. The federal and provincial governments provide access to forest resources for the broader forest sector and have helped to support the forest industries in many ways. Programs like the pulp and paper green transformation program, the Canada wood export program, and others have been a means by which the federal government has invested hundreds of millions of dollars over the past few years in forest products development and in the industries

that produce them. The aboriginal forest sector, however, receives no such recognition and support.

Considering that the federal government has constitutional responsibility for Indians and lands reserved for Indians and that 80% of first nations communities are located in forest-producing areas of the country, creating the conditions for aboriginal forest development should be a priority. The new federal framework for aboriginal economic development does not reflect this as a priority.

Despite the lack of attention to the aboriginal forest sector as an important segment of the economy, aboriginal people are gaining prominence in forest sector activity. Through court decisions, land claim settlements, and increased access to provincial forest tenures, aboriginal people in some parts of the country now have access to resources in significant volume, warranting new approaches to support the diversification of the aboriginal forest sector.

• (1600)

To advance the aboriginal forest sector and its diversification, policy and program support is needed in the following areas: capacity development support to first nations governance to enable effective, sustainable forest management at the community level; human resource development in professional and technical skill areas related to forest-based development; investment capital, of course; forest research and research and development support with respect to forest land management and forest product development; marketing and market development support for existing businesses and new entrants to the sector, which would advance the aboriginal causes in the sector; and institutional arrangements with respect to management of the forested land base, which would enable forest resource access and effective land use consistent with community values.

Now, concerning the aboriginal land base that is potentially available to aboriginal people for forest sector activity, there are basically three categories of land: provincial crown lands, treaty settlement lands, and Indian reserves. These three categories of land each come with different jurisdictional arrangements.

Right now, the vast majority of first nations and aboriginal people and companies involved in forest sector activity operate on crown land. Stated another way, aboriginal forest resources development occurs in the traditional territories of first nations in accordance with provincial tenure systems or through contracting with forest companies.

Though reluctantly, some provinces are engaging first nations through consultation processes, resulting in an increased number of aboriginal-held forest tenures. Forest tenure is becoming an acceptable interim measure to aboriginal and treaty rights recognition for some first nations.

Currently first nations collectively hold across the country approximately 13 million cubic metres of timber. In some parts of the country, the issue is becoming market access for aboriginal producers, considering that the forest industries in Canada are experiencing a long-term downturn as a result of their decreased competitiveness at the global level.

With respect to forested land under the jurisdiction of first nations that have settled land claims or have entered into modern-day treaties, land management regimes addressing forest management are being implemented. There are, however, only a handful of such cases, and where this is occurring, it is normally the practice to adopt provincial standards. As you know, most land claim settlements have occurred in the northern regions of the country, where commercial forestry is not prevalent. Thus, we don't have a great deal of experience in terms of forest management through land claims and treaty land settlement agreements.

The reserve land base falls under federal jurisdiction, specifically under sections 93 and 57 of the Indian Act and the Indian timber regulations made pursuant to those sections. The inadequacy of this management regime has been described in numerous studies and reports, including the Royal Commission on Aboriginal Peoples in 1996, and by the Auditor General on at least three occasions since 1986.

The forest management regime provides authority not to first nations but to the Minister of AANDC, and only for the cutting of timber. The forest management regime does not address environmental or sustainability issues, nor does it call for forest management planning on the part of first nations. The result has been overharvesting, lack of reforestation, inadequate site tending, and overall mismanagement on Indian reserve lands.

In 1996 NAFA proposed a first nation forest resources management act as optional and alternative legislation to the Indian Act. This is much like the First Nations Land Management Act. Our legislative proposal, however, encountered major stumbling blocks, particularly those centred around federal liability for the past mismanagement of reserve forests and also the cost of forest land rehabilitation.

The primary reason Indian reserve forests have not garnered much attention lately has been the reduced demand for timber by the large forest industries. It has been said by certain parties that on their own, Indian reserve forests are small, and the majority do not contain merchantable timber in volumes sufficient to support any notion of a viable forestry operation.

This is not our view at NAFA. Our view is that Indian reserve forests should be models of sustainable forest management practices in Canada, despite their small size. This should begin with forest management regimes that value uses other than timber and enable first nations to innovate and combine reserve land resources with those acquired otherwise, such as forest tenure from the provinces.

●(1605)

To conclude, we feel it is important for the federal government to acknowledge the aboriginal forest sector, its needs and potential. The federal government could play a key role in implementing measures to support the aboriginal forest sector. In the broader forest sector, the federal government is responsible for issues of importance to the national economy, including trade and international relations as well as federal lands and parks, and it has constitutional, treaty, political, and legal responsibilities for aboriginal peoples and their interests.

The federal government has jurisdictional responsibility for "Indians, and lands reserved for Indians", a fiduciary obligation for the good management of first nations interests, and a constitutional duty to protect aboriginal treaty rights and in some circumstances to accommodate aboriginal treaty rights. Despite this responsibility, the federal government has been quite silent on the relationship between aboriginal rights and interests and forest management in Canada. Supporting the aboriginal forest sector would be thinking outside the box and would be considered a proactive approach to many of the aforementioned issues.

Thank you very much.

The Chair: Thank you, sir.

Ms. Duncan, we'll turn to you for the first round of questioning. You have the first seven minutes.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Thanks, Mr. Chair. I'm sitting here feeling very frustrated that we have all three of you at once, because I'm sure I could spend my seven minutes asking questions of any one of you.

I particularly want to thank Mr. Bombay for that presentation. I look forward to being able to look at that again on the record. It was very informative. Thank you very much.

My question is first to the commissioner for sustainable development. Welcome to the committee. I miss your good company from when I was on the environment committee, so it's nice to have you and your crew here.

I note, of course, your portfolio is environment and sustainable development, and of course, for our mandate, it's aboriginal affairs and northern development, so I find your comments very interesting. I think in many ways we have to look between the lines of a lot of the reports that your office has done and the Auditor General has done. I am aware of the report in which you identify problems with the lack of attention by Aboriginal Affairs and Northern Development to cumulative impact assessment and monitoring in the Northwest Territories.

I'm wondering if you could speak in a broader way to your feelings of the adequacy of the sustainable development reports by Aboriginal Affairs and Northern Development and whether or not you feel that they have adequately identified, assessed, and addressed the variety of responsibilities they have under their mandate for ensuring the sustainable development of resources on first nations lands and by first nations peoples.

• (1610)

Mr. Scott Vaughan: Thank you very much for the question.

First of all, yes, the mandate related to what I and my colleagues do, which is in the Auditor General Act, touches both on environmental protection and, as you said, on sustainable development, which is how you get economic, social, and environmental issues to be working together in a balanced way.

Specifically on the member's question on the federal sustainable development strategy, the government introduced a new strategy in 2008. The timetable, then, for each department to put forward its contribution to the overarching strategy is in motion as we speak, so none of the departments are yet on track to be able to say how they're going to be interpreting it. When they come forward, we have a legal obligation to inform Parliament on the progress. We have specific requirements within the act to follow the progress, but to date, those are still pending and they're not behind schedule.

That's the timetable that has been laid out by Parliament; it's too early to say how each department will interpret this.

Ms. Linda Duncan: Okay, thanks.

Mr. Commissioner, you mentioned that you did the report on delivery by this department on cumulative impact assessment and monitoring in the Northwest Territories. I'm aware that you've also done reports on the adequacy around the oil sands. I wonder if you could share here. What we're looking at are incentives and encouragement and ability and capacity of first nations to benefit from their lands and resources so that they can have economic development and build their own societies.

We've had a number of witnesses here, including the Mohawks, the congress of Atlantic first nations, and the director of ECO Canada. They were all raising concerns that while it's fine to have the ability to have new tools to develop, where they have a shortfall is in environmental management. A lot of them identified the gap federally. There really are not any federal laws regulating first nation lands.

I wonder if you could speak a bit to that.

Mr. Scott Vaughan: Thank you very much for the question.

We said in the report of 2010 that one of the requirements of what was then INAC, in cooperation and support with Environment Canada, was to provide particularly the co-management boards and the entire Northwest Territories with an ongoing cumulative environmental assessment, meaning that in addition to doing a project-by-project assessment of the impacts of this mining project—another oil and gas development project—there would be an overview of the combined impacts on air, water, migratory species, and biodiversity.

We said in the report that the requirements were there, but both departments did not deliver on what they were required to do. They've acknowledged that. They've said that if funding were available, they would try to put in place those monitoring systems. We've said that with the lack of those monitoring systems, people are making decisions without sufficient information.

The honourable member has mentioned the oil sands monitoring. We said last October that the government's announcement of the environmental monitoring program, which Minister Kent elaborated on in more detail a couple of weeks ago in Alberta, is a world-class model. I know many countries are looking now at what Canada is doing. They've set out quite clearly to look today at baseline conditions of key environmental drivers and some impacts of projects as well as at the combined or cumulative impacts of multiple projects. As well, they will look at traditional knowledge as one of the components of the program in Alberta.

That's something Canadians don't know enough about. It's a good-news story, and it may also inform other areas of Canada. For example, Environment Canada has identified the Mackenzie Valley basin as a primary ecosystem area, and they've identified many other areas. There may be some lessons from that cumulative assessment project to be applied elsewhere.

Ms. Linda Duncan: I'll put the question to both the NACCA and Mr. Vaughan, if you have time.

Thanks for that, Mr. Vaughan.

It is important to assess, but it's also important to follow up and regulate. It's important to assess the risk, because you can incur liabilities if you don't have the knowledge in advance and you then develop.

One of my questions—and I'd like to hear from our financial people—is when the AiPs are loaning the money, do they also require the first nation to do a risk assessment and look at whether contaminated lands are being developed, and so on? It's environmental impact assessment at a different level. Do you feel they have the capacity to do that, and are they undertaking that work?

• (1615)

Mr. Kevin Schindelka (Director, Corporate Development, National Aboriginal Capital Corporations Association): That would apply to certain applications, but not all loan applications would affect the environment. Where there is an application for a convenience store and gas bar, it would require an environmental assessment report.

The Chair: Thank you very much.

I apologize. We had to keep that short because Ms. Duncan has used most of her time in asking the question.

Mr. Payne, you have seven minutes.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Chair.

I'd like to thank all the witnesses for coming today. It's important, particularly given the study we're doing.

I'll try to focus my questions to the Aboriginal Capital Corporations.

We know that the aboriginal financial institutions are uniquely positioned in that they are community owned and controlled, and widely dispersed across the country. I believe that in most cases they have something like 20 years of experience on record in risk assessment and debt financing to aboriginals, both on and off reserve.

In our study here we want to focus on the particular point of reserve land management and sustainable development. Given there are more first nations using more progressive land management—for example, the FNLMA—does this affect the community's ability to access commercial capital?

Mr. Kevin Schindelka: In some respects it's beginning to affect it. We have one AFI at the moment that, as Lucy mentioned, has issued bonds. The proceeds of those bonds have been used to finance infrastructure, and I think they've done some housing.

Does that answer your question?

Mr. LaVar Payne: I didn't know if there was anything more than that. I think it's also around potential new entrants to maximize the assets. Has NACCA considered that as well?

Mr. Kevin Schindelka: Yes. In terms of increasing the capital base, it's going to be particularly important to attract private capital. We have working groups established that are made up of general managers of AFIs and representatives of AANDC who are in the process of dealing with that issue. We would like to lever private capital somewhere in the range of five to one.

Ms. Lucy Pelletier: Additionally, I think part of the focus is leveraging based on their land base, because the original land base is reserve status. Some of the communities have that ability through specific claims and land claims for fee simple land to leverage. Based on that, they're practising the environmental considerations as well as the debt financing in ratio for the first nations bands.

To me, the instruments they are using through FNLMA are becoming more of a new tool for us as aboriginal lenders, because there are very few who are using it. If they are using it, they are going to a mainstream bank for major resource development. We basically take care of loans of \$250,000 or less.

Mr. LaVar Payne: Okay.

In your presentation you talked about the varied types of financing required. I believe you talked about seed capital, term loans, and entrepreneurial capital. We know from experience that home ownership is the largest single source of equity for new entrepreneurs. I'm wondering if you can elaborate on what you

have learned and comment on whether that prospect for private ownership of lands on reserve has been discussed as a possible solution.

● (1620)

Ms. Lucy Pelletier: Actually, in terms of private ownership, as I noted in my presentation, the communities are very territorial in respect to how they use their land base.

For example, the B.C. region is more susceptible to that private ownership idea than is Saskatchewan, which is very treaty-based. The collective land ownership philosophies are a little bit more difficult to penetrate in respect to individual ownership in that region compared to the B.C. region. Nationally, across the country, we don't really lend to individuals for private home ownership. We just basically lend for business development. Part of it is that if they are using their own home to leverage business loans, the home is off-reserve.

Mr. LaVar Payne: The other point that you talked a bit about was section 89.

Certainly we've heard that the fundamental difficulty for aboriginal entrepreneurs located on reserves is being able to collateralize on-reserve assets, including land, to allow them to access capital and debt financing for businesses. I understand NACCA has been doing some research on some of the member institutions that have developed innovative approaches to lending on reserves, with possible workarounds of section 89 of the Indian Act. Can you expand on what is going with NACCA in those terms?

Ms. Lucy Pelletier: I can share what individual regions do in respect to getting around section 89.

Some of the AFIs have direct community relationships, and some of the community members have a stake in all of the AFIs as well. What we basically do is—and some of the mainstream banks do it as well—is based on reputation. If they have a good reputation, we'll lend. However, we do go to the chief and council and ask for a waiver. They waive that individual right and allow us access to that asset that we have securities on, etc.

The Chair: Your time is up. Thank you, Mr. Payne.

We'll go to Ms. Fry for seven minutes.

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much.

We're talking about access to private capital. Mr. Schindelka was talking about trying to improve and encourage access to private capital. To what extent does the Indian Act itself stand in the way of that? What are the challenges posed by the Indian Act, given that most private capital ventures would like to see equity either in land or in homes, and we know that this isn't so?

What other guarantees can be put forward, other than that kind of equity—land or homes—that could maybe help with access to larger loans and to private venture capital in businesses here? How do you see us getting around some of the challenges presented by the Indian Act? That's the first question I'd like to ask.

Mr. Kevin Schindelka: Some of the discussion we've had in the working groups I referred to earlier with the AFI GMs and AANDC staff deal with that issue. We're looking at revamping some existing programming that is available now to assist, in that regard, in leveraging capital.

In respect of some of the loan loss reserve programming that has been in place, perhaps that might be modified to substitute for land ownership or real asset ownership. There is room for the government to bridge a gap.

Hon. Hedy Fry: Yes, but government would have to put in those sorts of circumventions to make it happen. Is that what you're suggesting?

Mr. Kevin Schindelka: I think we've progressed far enough that they're sharing the concept right now and are trying to work through it.

•(1625)

Mr. Ian Donald: I think a fundamental characteristic of the lending we do is that it's character-based rather than asset-based lending. In fact, give or take, we look for about 10% equity from the business owners. We operate with a much lower threshold in that area than the commercial financial institutions do.

Hon. Hedy Fry: Do you know, or can you tell me, how many loans have been advanced to aboriginal businesses using, as you have suggested, the loan loss guarantee?

Mr. Kevin Schindelka: The loan loss reserve that has been set up hasn't been used by AFIs. It has been used, to some extent, by the mainstream.

Hon. Hedy Fry: The AFIs can only do \$250,000, but no more.

Mr. Ian Donald: I think that is in syndication generally.

Hon. Hedy Fry: You have given about \$18 million in loan loss guarantees to other institutions; how many of them have actually been actively involved in giving loans?

Mr. Kevin Schindelka: I don't have precise information. It's hard to get. One of the AFIs did some research about a year ago and determined that it was about \$5 million at that stage.

Hon. Hedy Fry: Is there some way you think you can change the basic structure and criteria for which AFIs loan?

One of the things an aboriginal community might have to do is go in partnership with a non-aboriginal group to be able to access more than that amount. That really almost deprives the aboriginal community of having any kind of autonomy and of being able to go out and do their own thing, because once you take partners from

outside of the community, you have to abide by whatever it is the partners want to put in there as their own criteria. To an extent it takes away that entrepreneurial spirit, that ability to go out there and do your thing, as most of us are able to do.

How do you suggest we deal with that conundrum?

Mr. Ian Donald: As Ms. Pelletier mentioned, during the program renovation process that we're undertaking with AANDC, we're actually looking at what we call a capital attraction tool, and that is essentially for NACCA to operate a treasury supported by liquid assets—whether those are loan portfolios from the AFIs, cash in the hands of NACCA, or possibly some government financial support for those liquid assets—that pays a guaranteed interest rate to private sector institutions or private sector individuals. Those can be either aboriginal or non-aboriginal.

In fact, we have been undertaking some exploratory discussions with financial institutions. We are currently in discussions with two mainstream commercial financial institutions and one aboriginal trust. There is strong interest in participating in this concept, because the interest rate they could secure when they have fallow assets, such as in an aboriginal trust, is much more than they can earn on those assets in a GIC at the bank. As a result, we're getting a lot of interest both from the aboriginal and the non-aboriginal sector.

Hon. Hedy Fry: I don't know what I can ask you to elaborate on in under one minute, but what kind of expansion do you see if you use this new model? How do you expand your part, and by what? Will you double it, triple it? What will you do?

Mr. Ian Donald: Will we expand our part? Well, yes.

Kevin, the current pool is approximately...?

Mr. Kevin Schindelka: The gross loan portfolio is \$238 million, and we feel we can take it up by \$100 million.

Mr. Ian Donald: That's right, so we're looking at growing it by \$100 million to \$150 million over the next decade.

The Chair: Thank you, Ms. Fry.

Mr. Seeback is next, for seven minutes.

Mr. Kyle Seeback (Brampton West, CPC): Thank you, Mr. Chair.

I want to just quickly talk about something I saw in your report and your discussions with respect to the financial viabilities of AFIs. You're talking about 10% for administration, 6% for losses, so there's this 7% gap. Are you saying that most AFIs are operating at a loss and have a 7% loss on an annualized basis? If so, what's the basis for that loss? Is it unrepaid loans, higher overhead, interest rates that aren't market rate?

What would be the reason for that?

•(1630)

Mr. Kevin Schindelka: The AFIs essentially lend to pre-bankable clients; they're high-risk clients located lots of times in remote communities where it's expensive to service, and doing those kinds of loans was the intent of AFIs when they were set up.

The numbers Lucy quoted, and that you reflected back, are correct. The administration cost associated with these loans are higher for a number of reasons. One is the geographic size of the area covered, and another is because the risk is higher.

Conventional institutions will receive an application, do a risk measurement, and determine that it's beyond their risk tolerance level for whatever reason, and they're valid reasons. The philosophy in AFIs, and the intended purpose, was to work with developmental clients who couldn't obtain loans from banks, so when they measure risk, AFIs don't use a probability-of-default tool. The tool emphasizes where the risk lies, whether it's in marketing, management, or wherever. They then know where to devote their human resources, whether it's marketing or...

Mr. Kyle Seeback: I hear what you're saying, but I'm looking at the report here, and it says you keep the losses to about 6.2%, which seems fairly reasonable and low. Realistically, is the problem with just the cost of servicing these loans?

Mr. Kevin Schindelka: The original model contemplated administration costs of 6% and a loan loss cost of 5%. You would charge 12% and would make a 1% profit. The administration cost is what's off base.

Mr. Kyle Seeback: Thank you.

Scott, with respect to your presentation, in your 2010 audit you talk about land use plans being important for developing consistent regulatory regimes. The department officials came to our committee and talked about needing strong land use planning to develop commercial and industrial on-reserve lands.

In that context, what's the extent of the authority provided to first nations under the Indian Act to design, develop, and implement effective land use plans?

Mr. Scott Vaughan: If I may, Mr. Chair, I will turn this over to my colleague, Mr. Barrett.

The Chair: Absolutely.

Mr. Frank Barrett (Principal, Office of the Auditor General of Canada): I know land use plans under the Indian Act are more restrictive because first nations don't have full control of them. Certainly, and as we've talked about previously, under the First Nations Land Management Act, first nations would have far more control of them.

I'm sorry I don't have a more specific answer for you.

Mr. Kyle Seeback: Does this differ not just necessarily from FNLMA, but from planning authority under the Comprehensive Land Claims Agreements? Is that significantly different as well, and what are those differences?

Mr. Frank Barrett: Thank you for the question, Mr. Chair.

If you take the spectrum, you have the Indian Act at one end of it, whereby the flexibility of the first nation—

Mr. Kyle Seeback: It's the most restrictive.

Mr. Frank Barrett: It's the most restrictive. They can only do the pieces that INAC isn't doing and delegates to them, because INAC is responsible for everything that goes on in that first nation. As we move to the FNLMA, it's much more flexible. If you move to a comprehensive land claims situation, now the first nation has full responsibility and autonomy over developing what should be on that land.

As an example, under the Indian Act, in many situations you have what they call certificates of possession. They may have been granted by the crown perhaps quite a long time ago, to the extent that often it's very difficult for the first nation to even design where roads or commercial establishments would be on the first nation. The certificates of possession effectively say that the crown still owns the land but that an individual has full rights to it, and sometimes those rights of the individual get passed on to numerous descendants, for example.

Certainly we've been told of situations of a plot of land notionally being divided among dozens of descendants of the original CP holder to the point that it's virtually impossible to know who everyone is who owns it, let alone how to gather it.

The comprehensive land claims are the way to have most use of the land.

•(1635)

Mr. Kyle Seeback: Then as you move along that spectrum from operating under sections 53 and 60 of the Indian Act to the FNLMA and then to a comprehensive land claims agreement, the ability for land use planning increases and becomes much more...not easy, but simplified and flexible. Is that...?

Mr. Frank Barrett: I would say, certainly, that the flexibility become more so. It also means the capacity becomes that much more important.

Mr. Kyle Seeback: The ability to turn around decisions and those things would improve significantly as well.

Mr. Frank Barrett: Potentially, if you have the capacity there, yes, certainly.

The Chair: You have 10 seconds, if you can ask something in that short period of time.

Mr. Kyle Seeback: Thank you very much.

The Chair: Thank you, Mr. Seeback.

Go ahead, Mr. Genest-Jourdain, for five minutes.

[Translation]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Good afternoon, Ms. Pelletier. To begin, I would like to point out that it was an enterprise development corporation in my home community that enabled me to open my own law office a few years ago.

[English]

The Chair: We'll double-check translation and make sure your time's accommodated. I think we should try that again.

We'll turn it over to you, Mr. Genest-Jourdain.

[Translation]

Mr. Jonathan Genest-Jourdain: So, I was saying that it was an enterprise development corporation in my community that enabled me to open my own law office a few years ago.

My question deals with the training provided to people in the communities, particularly with respect to understanding banking fees and understanding the banking compensation process. Does your organization offer training to people in the community?

[English]

Mr. Kevin Schindelka: The training that's provided to community members comes from the AFI located in the community. Maybe in Sept-Îles it would be CDEM.

[Translation]

Mr. Jonathan Genest-Jourdain: Yes, there it is.

[English]

Mr. Kevin Schindelka: In Quebec City or other parts of the province it would be SOCCA. They would have specialized staff to assist with business plan development and training with respect to entrepreneurship.

[Translation]

Mr. Jonathan Genest-Jourdain: Thank you.

I now have some questions for Mr. Vaughan.

Mr. Vaughan, during your presentation, you said that the department had used other methods when the negotiations seemed to be at a standstill. We are still dealing with negotiations and land claims.

Would you be able to tell us about the other methods used by Aboriginal Affairs and Northern Development Canada?

Would you also be able to expand a bit on your comments? You know, the First Nations could simply refuse to negotiate or to agree. It's still an option available to one of the speakers. Could you go over these concepts?

Mr. Scott Vaughan: Yes. Mr. Barrett could also give you an answer on the topic. However, we noted in a certain chapter for example that, from time to time, there are delays in the negotiations. There are more formal procedures.

We noted that, in circumstances where there are delays, the managers at Indian and Northern Affairs Canada, INAC, as it was previously known, used other approaches and informal approaches to advance negotiations between the first nations and the department.

Mr. Barrett, do you have more concrete examples?

• (1640)

Mr. Frank Barrett: Perhaps I could ask Kimberley Leach to answer your question.

[English]

Ms. Kimberley Leach (Principal, Office of the Auditor General of Canada): In our audit in 2010, we noted in paragraph 4.23 that INAC had used alternative approaches at negotiation tables when negotiation appeared to be stalled. We noted, for example, the then INAC proposed steps the aboriginal group could take to better outline its position to enhance a better understanding, and that this particular group had accepted this proposal to present its work to the department for response in the coming months.

Another example is that the department negotiated interim agreements with groups in unsettled regions. One of these was in the Dehcho region, where an interim land use plan was proposed. Here, where they did not have an official land use plan in place because there was no comprehensive land claim, they did negotiate an interim land use plan, and I believe that's still ongoing.

[Translation]

Mr. Jonathan Genest-Jourdain: Thank you.

Here's another question for one of you three, particularly the one of you that has the information to answer.

With respect to the coming into force of the First Nations Land Management Act, I see in one of the documents I have in front of me that there must be an agreement on environmental management and that this was not done for any of the communities.

Could you indicate which aspects prevented the ratification of which agreements? This isn't recent. I see here that it was in 1999. So it's been 13 years. Which aspects ultimately prevented the signing of these agreements?

[English]

Mr. Frank Barrett: Mr. Chair, I'd be happy to take a stab at addressing that question.

With first nations lands, one of the conditions for entering into a land management act is to have an environmental management agreement in place, but we were finding that in order to do so, the first nation would have to assume all environmental responsibilities on the reserve, and in fact often it wasn't clear what the condition of the land was prior to entering into that. For example, if there was contaminated soil on the land or if there were other issues, it would be important for the federal government to clean the land first, so to speak, but if that wasn't done, then entering into an environmental management agreement could become very problematic. Often that would become a stumbling block to entering into the FNLMA.

The Chair: Thank you for that answer.

Thank you, Mr. Genest-Jourdain.

Mr. Wilks, we'll turn it over to you for five minutes.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Mr. Chair.

My questions will be directed to NAFA. Thank you very much for coming.

We know that the forestry sector has been struggling for a number of years. What are aboriginal communities and businesses that have historically relied on timber harvesting now looking to do in regard to diversity in their forestry strategy?

Mr. Harry Bombay: Thank you for that question.

We have a situation in Canada whereby our traditional role had been to harvest wood and to supply wood to large forest companies. The situation now is shifting, because we now hold forest tenure on our own through provincial forest tenure systems, in amounts that are greater than some of the volumes available in certain provinces.

What we're trying to do is shift a lot of our focus toward the marketing of forest products by aboriginal forest companies. We wish to see a situation whereby aboriginal people will begin to develop, for their forest companies, markets for their products. They include a range of products, including lumber, commodity products, value-added forest products, and some products in the new areas with respect to bioenergy and other uses of forest products and materials.

Mr. David Wilks: When the forest sector rebounds, as I believe it will at some point in time, how can NAFA help aboriginal communities be ready to seize new market opportunities? As well, do the communities have the skilled labourers? If not, how can NAFA help aboriginal youth enter the forest industry workforce?

• (1645)

Mr. Harry Bombay: At the present time, getting youth to come into the forest sector is very difficult, and this is true of both aboriginal and non-aboriginal youth. We have a challenge before us, and it is one that should be addressed by governments throughout the country and certainly by us. We are prepared to work on those kinds of issues. Focused human resource development strategies are needed to deal with forest management in Indian reserve land forestry and in tenures held through provincial systems, as well as in areas that we see the forest sector going into—biotechnology, biomaterials science, and a whole range of new areas that are being explored.

We think it's an exciting prospect as the forest sector shifts and changes in Canada, but it's not going to be of great value to aboriginal communities unless we get out front in terms of human resource development strategies.

Brad, if you would like to add anything on that, go ahead.

Mr. Brad Young (Senior Policy Analyst, National Aboriginal Forestry Association): Thank you for that question.

I guess I'm a bit younger than Harry, as any of you can see. When I went to university, I went into the governance path, but many of the colleagues I went to school with were going to school to be RPFs. In the forest sector, because of the political tug and pull over the forest provincial agreements and land claims, a lot of my colleagues went into the "chief" business instead of going into the RPF business, and overall we're winning some of these arguments.

Now, as Harry says, we have millions of cubic metres of annual allowable cut a year on a national basis. We have done some forecasting on large niche markets that first nations could participate in. One market we're analyzing right now, certified wood products, is in the range of about \$24 billion a year. Canada's percentage of that is about \$7.8 billion. There's a really good opportunity to grow that \$7.8 billion by about 50% if we could just get some capital into first nations businesses and get our RPFs, our technically savvy business-oriented youth, out of the political brinkmanship game and into the economic development nation-building game.

I think that is a great challenge. Harry was quite diplomatic in presenting the facts on what goes into the non-first nations forest sector. We did a quick analysis of that. Harry mentioned a figure of hundreds of millions, but we zeroed in on a more accurate number: about \$1.1 billion of government funding went directly into forest products such as the FPAC system, FPInnovations, and controlled wood. That's great for that segment of the forest sector, but on the other side, while we have land claims being negotiated and economic development that could be happening in the first nations hinterland, there's very little policy support and governmental support for that side of development. I think that's a great waste of economic effort and human talent.

I think that would be an area of focus, and we're ready to play a role there. There's a new generation coming on board, and we are looking for partnership from the Government of Canada.

The Chair: Thank you, Mr. Young.

Mr. Bevington is next.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair, and I want to thank the witnesses as well.

When we hit phase two of our study, which is traditional lands, we would like to see you back here. I'm trying to focus my questions around phase one, which is reserve land.

What percentage of the 13 million cubic metres of available forest product is on reserve land?

• (1650)

Mr. Harry Bombay: It's very little. Most of the wood available to us is through the forest provincial tenure system, the surrounding crown land. Reserve land harvest might equal at the most 300,000 or 400,000 cubic metres of wood a year. It's quite small.

Mr. Dennis Bevington: Are traditional lands where your crown land acquisitions are mostly coming from?

Mr. Harry Bombay: The traditional lands?

Mr. Dennis Bevington: Traditional territory.

Mr. Harry Bombay: Traditional territories are crown lands, in some people's view. It's the land surrounding the territories the first nations traditionally use, regardless of jurisdiction.

Mr. Dennis Bevington: Are the provinces negotiating these leases with you on the basis of inherent right to traditional territory?

Mr. Harry Bombay: We're quite certain that is what's driving it, yes. It's a recognition of the aboriginal rights on those lands, of the duty of the governments to consult and accommodate our interests and to move towards a recognition of rights. What is offered by governments often is forest tenure as an interim measure towards the actualization of our rights.

However, first nations don't view it as the end. It's an interim measure, as many of the measures are, dealing with resource use in Canada today.

Mr. Dennis Bevington: Many of the first nations communities are remote and isolated, off the conventional gas delivery systems. They're fueled, in many cases, by fuel oil. What about the bioenergy potential within the aboriginal communities across northern Canada? Is that something you are actively engaged in?

Mr. Harry Bombay: Brad has just authored a paper on that, so I'll turn it over to him.

Mr. Brad Young: It's been of critical interest for a lot of remote first nations communities.

There's some very good work out of Confederation College here in Ontario, looking at a template-type operation of a one-megawatt bioenergy wood pellet cogeneration system, which they're actually building right now. It's under construction there at Confederation College.

One of the things they want to do is pull in these remote first nations and say, "Look, feel, see, touch. Look at our financials. Look at the metrics. Look at our supply chain. Copy it. Go to a financial institution. Get the trades people in place, and build it in your communities, if the metrics work out."

When you start looking at the possibility there, you look at the critical role of the preliminary front-end research and analysis, and then the gentle hand of government playing a supporting role, so it's of critical interest. It's an overall national strategic consideration as well.

We've also received requests from, of all places, remote first nations indigenous people in Russia, as a part of some of our international work, saying, "We know that you Canadians have a lot of really good technology. We know that your remote first nations are starting to take a look at bioenergy. We know that some"—I think it's six first nations tenures in Ontario, the larger ones—"will be first nations pellet plants in the bioenergy complex." Other countries are looking at us.

It's a matter of imagination and of will coming out of committees like this, and through the government, to start activating some of these initiatives. We look for your support to follow up on it.

Thank you for the question.

• (1655)

The Chair: Thank you, Mr. Young.

Mr. Clarke, you have five minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chairman.

I'd like to thank the witnesses for meeting here this afternoon.

My question is for the National Aboriginal Forestry Association, and then I'll probably segue to all of you near the end.

I come from northern Saskatchewan, where timber harvesting is very prominent. We're seeing that the market is fluctuating through some very tough times and is trying to make ends meet. In northern Saskatchewan we have a large aboriginal population of Métis and first nations. We have a couple of examples of forest industries; NorSask is one, owned by Meadow Lake Tribal Council.

In that area, forestry is really almost the driving economic hub, and we see development also taking place in natural resources for oil sands. We see other opportunities up north in rare earths and a number of other things. However, I'll basically focus on forestry.

Patuanak, a small and remote first nations community with not a very good road going in or coming out, has developed a bridge into some very pristine virgin timber. It hasn't been accessed before. We've seen the first nation community actually take the initiative to harvest the resource there.

Now I'm wondering about economic development. We see the woodland caribou strategy coming forward, and I see how the opposition is pushing for that woodland caribou strategy. We see how the David Suzuki Foundation is utilizing the website by inappropriate means through the submission process.

What I'm really getting at is that under the woodland caribou strategy that's being finalized here—I think the submission deadline was February 22 or 23 of this year—I wonder how the strategy for your area will be affected. We see northern Saskatchewan being focused on by the woodland caribou strategy as the incubator for the recovery process—just northern Saskatchewan—but it's going to affect Alberta, Manitoba, Quebec, and areas over into Newfoundland and Labrador as well. Right now, it's Saskatchewan that's going to be facing the test, I should say.

Looking at this and wildlife habitat protection initiatives, I'm wondering how the aboriginal communities are going to derive an economic benefit from the forest resources that surround them. What type of consultation are you doing with the aboriginal and first nations communities to promote economic development?

Mr. Harry Bombay: This is going to have to be a long answer.

Voices: Oh, oh!

Mr. Harry Bombay: I think this goes more to the land use planning issue than the forest-based-development approach. We know that many first nations in Canada are engaged in comprehensive land use planning processes, both on their own and jointly with provincial governments and other players in the forest conservation area of activity, broadly defined.

Certainly first nations are interested in preserving wildlife values. Many are engaged specifically in caribou management issues across the country. In the forest management guidelines that we developed through our association and that we've put forth to first nations across the country, we certainly address major wildlife management issues as a matter of process.

Specifically, we as an association are not really engaged in any of the specific wildlife management issues, such as woodland caribou, but we know that first nations are, and we're hoping that the processes they engage in, particularly comprehensive land use planning processes, will address the wildlife issues on their behalf through that process.

• (1700)

Mr. Rob Clarke: Now, for all of you as organizations, just in regard to—

The Chair: Sorry, Mr. Clarke, I need to jump in. Your time is up. I should have jumped in before you started that.

Ms. Duncan, we'll turn it over to you for five minutes.

Ms. Linda Duncan: Thank you. You share the frustration, right? There are too many people, too many good questions. We'll have to have some of them back again.

I want to commend the forest association. You definitely sound like the wave of the future. I have to speak for my colleague Mr. Bevington; his number one interest is in looking for cleaner sources of local-sourced fuels for the north, such as wood pellets. He is the member for the Northwest Territories. It's very interesting. It certainly is something that sounds like it's well worth pursuing, and not necessarily just in the form of what we're doing here. I am hoping that soon we'll be able to move to the second phase, where we're going to be looking at the potential for development and benefit to first nations communities from developments on their "traditional lands".

I share some of the concerns of Mr. Clarke, although possibly not for the same reasons, about the level of engagement of first nations peoples in discussions about conservation areas and the setting aside of areas. Definitely when we're setting aside large tracts of forest land—and I've mentioned this previously in committee meetings—negotiations between certain industry sectors and the environmental community, or with other levels of government, are not complete unless they've also included the first nations' interest at that table. I know there have been some issues expressed by some of the first nations, particularly in northern Ontario, that the agreement for setting aside the area for the protection of the boreal forest didn't necessarily include them adequately.

On the other hand, we have to look at how we can't end up with development scenarios where we're serving the needs of one first nation or the preservation of a species at the risk to another first nation, and that's certainly what's happening with the woodland

caribou, where essentially both federal and provincial governments appear to be writing off the herds in Alberta to enable the oil sands development, which is potentially putting at risk developments for first nations in northern Saskatchewan and over to Manitoba and so forth. It's very important that when we're talking about economic development into the future and conservation strategies, we make sure that first nations' interests are at the table. I'm finding it very helpful to discover your association and to learn more about it. I hope that we can follow up more and I look forward to any further information you can provide.

Certainly one of the waves of economic benefits for first nations for the future is getting into the alternative energy future. One previous witness said they've been frustrated that they haven't been able to process the addition of lands to their reserve. They had an agreement with a company to put in place a solar farm, so we need to be making sure that our government institutions are actually supporting the innovative initiatives of the sector moving forward.

I don't know if you wanted to elaborate a bit more on whether you're finding that government agencies and so forth are seeing that your entity is an economic opportunity for first nations.

Mr. Harry Bombay: I don't think we get the recognition we need as a sector, and consequently one of the reasons I entitled our presentation "Thinking Outside the Box-The Aboriginal Forest Sector Acknowledged" is we don't think of aboriginal people in the forestry business as a sector on its own. However, it is unique. It does have real challenges. It does have differences, in a lot of ways, from the broad forest sector.

If we're going to address it, we have to recognize that and design solutions that are tailored to meet the special challenges that the aboriginal forest sector has. There are a lot of specific things around jurisdiction and the investment side—how we work with the bigger industry, how those partnerships are shaped.

Right now we've probably exhausted a lot of the potential partnerships with the big industry and we have to go out on our own and do a lot of our own development work, both on the product side and the market side, and we don't get recognition of the need to have to do that. The tenures that we have should be driving us that way, but no one seems to recognize that. We've made this argument in many different ways to the federal government, to provincial governments, and we've worked with first nations organizations across the country to do that.

The point is to gain that recognition for the sector and its potential. Brad pointed out the declining labour force in the forest industries right now, and the fact that our communities have youth with little prospects unless we fundamentally change how we do certain things. We have to seriously look at the forest sector in that regard, and there is potential. I'd love to talk to you more about it too.

• (1705)

The Chair: Thank you, Mr. Bombay.

Go ahead, Mr. Armstrong, for five minutes.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, and I want to thank our witnesses for being here today.

First of all, I have a couple of questions for NACCA.

The AFI network has proven to be successful—we've seen a lot of evidence of that in developmental lending—but while some AFIs are high performers, there are some that are weaker. I think you would acknowledge that. Do you have a plan in place as to how you're going to support the weaker-performing AFIs?

Mr. Kevin Schindelka: Yes, actually, there is a plan in place at the moment. In the past year, we introduced an extensive business services officer guide, almost like a manual, to assist them. About two or three years ago we had developed a business services officer training course, or an analyzing a business plan course, that was subsequently accredited by the University of Regina. In the last 12 months, we've contracted with the same professor who did the business services officer course to develop a board of directors training course. It's been rolled out to at least three AFIs so far. The first three rated it an average 9.4 out of a possible 10, so it's received a good rating so far. It's in those kinds of things that we see we can have an effect in that way.

Mr. Scott Armstrong: Right now, then, your focus is going to be in the area of professional development.

Ms. Pelletier, you talked about four priorities that you have as you move into the future. Your fourth priority is the one I want to focus on, and that was the enhanced services you might be able to offer. Is a part of those enhanced services going to be in the area of home mortgages, infrastructure, financing on reserves, things like that? What type of enhanced services are you looking at?

Ms. Lucy Pelletier: Ian can talk to that.

Mr. Ian Donald: A prime example of the sort of initiatives we're trying to take, in terms of expanding client services, is an initiative we've got going in the Northwest Territories and Nunavut right now.

Essentially, a lot of aboriginal construction contractors have difficulty satisfying the requirements of bid bonds and security bonds, for a variety of reasons that relate to the same difficulties they have getting loans. We're running a pilot program right now. We've got \$4 million of security sitting in our organization. We're using eight AFIs to deliver these letters of credit. Our national office is backing 75% of the risk, and the local office, because we need the local office to keep monitoring the situation, is taking 25% of the risk. We've got the territorial governments on side. The Comptroller General of the NWT is authorizing individual AFIs in the NWT to back letters of credit up to specific amounts, depending on their capabilities. In Nunavut, the deputy minister of industry has basically given the same approval to the three AFIs in Nunavut.

We've done one deal at the moment. We expect about six deals to mature in the next six months, and we fully expect to have about \$1.5 million in letters of credit out in the next year.

• (1710)

Mr. Scott Armstrong: Great.

You discussed a loan framework that you've put in place. In it you focus more on character loans than on asset loans. Could you discuss

the importance of that, and why that's particularly needed in the first nations community?

Mr. Kevin Schindelka: For the character types of loans that AFIs most often provide, there isn't adequate equity to secure the loans, or else it's very questionable or arguable. The level of experience in managing and operating a business is lacking. We compensate for it in that way: we'll take extra risk, identify where the risk is, and try to train and manage the client to a successful business.

Mr. Scott Armstrong: What you're saying is you actually take an active role in working with the client to put forward a successful business. You don't just make the loan and walk away. You're actually a partner in the operation itself.

Mr. Kevin Schindelka: Yes, and that's what drives the administrative costs up to 10%, which Kyle zeroed in on.

The Chair: Thank you so much.

Go ahead, Mr. Bevington, for five minutes.

Mr. Dennis Bevington: Thank you, Mr. Chair, for the opportunity to have two shots at it today. I'm pleased with that.

I have a couple of questions, one for the commissioner and then one for the others.

For the commissioner, I have a couple of questions on cumulative impact monitoring. We've waited a long time for this. Is there a plan for cumulative impact assessment and regulation?

The other thing is this: within the Mackenzie Valley Resource Management Act, the provisions for the consideration of future induced development are considerably weaker than under Canadian environmental assessment regulation. How do you see those elements playing out in the future?

To you, I'd just like you to give me an idea of how a band on a reserve would deal with the infrastructure requirements. Let's say you have a development coming on the reserve that needs expanded sewer and water, needs roadways, and needs all the infrastructure. How would this band get the money to do the work so that they could attract the business or so that their planning process could go ahead in a good fashion?

Those are the two questions I have. Thanks.

Mr. Scott Vaughan: Mr. Chair, thank you.

On the oil sands environmental monitoring—

Mr. Dennis Bevington: No; I meant the cumulative impact monitoring for the Northwest Territories.

Mr. Scott Vaughan: Correct. On that, we don't comment on policies. We follow the recommendations of the JRP. They came out with 176 recommendations; the National Energy Board had responded to some for which they had jurisdiction.

My understanding now is that since the response of the government, we haven't seen anything formally, so it may be useful, sir, to ask the departments where they are in putting in place those components of the recommendation. I don't know what....

It certainly hasn't received the attention in the Mackenzie Valley basin that it has in the oil sands, obviously. In the oil sands, as you know, they've put out an assessment process, and as I understand it, the current federal regulatory process as well as the provincial regulatory process would then be applied to whatever the results of those monitoring systems would reveal.

Mr. Kevin Schindelka: With respect to infrastructure financing, very few AFIs have even looked at it at this point. As far as I know, only one or two have, and one has done some.

The problem is that AFI capital is stretched to the limit without getting into capital-intensive infrastructure loans. As Lucy indicated in her presentation, the model needs a correction so that the cost of providing the loans can be recovered.

Mr. Dennis Bevington: Then where is the mechanism for first nations to do this work?

Mr. Kevin Schindelka: Right now—and correct me if I'm wrong, Lucy—they end up going to the chartered banks, the conventional banks that they deal with. If they are able to get infrastructure loans, it's usually provided over a short term—five or seven years—versus the 30 years that you might get as a municipality.

AANDC has some human resources looking into that situation right now. First Nations Finance Authority is in place trying to meet that need, and they've established a fairly high threshold for first nations to be able to access those resources. They're looking at trying to do something below that high-jump bar.

• (1715)

Mr. Dennis Bevington: Do you have anything to add?

Ms. Lucy Pelletier: In Saskatchewan we created the First Nations Bank.

Mr. Dennis Bevington: Has that done some of that work? Has it accomplished—

Ms. Linda Duncan: It's in Alberta, too, right?

Ms. Lucy Pelletier: They do the capital for major infrastructure.

The Chair: Thank you, Mr. Bevington.

I'm going to jump in now and ask a couple of questions before Ms. Fry does. I'll make sure that you get five minutes. You'll be the final questioner.

I have a couple of questions in regard to two things.

First, Commissioner, one of the reserves I represent in my constituency has had a real issue trying to enforce compliance with rules set out for people dumping in landfills within their jurisdiction. They tell me that under the Indian Act, they really have no provision for enforceable rules. Clearly, this is a problem. They're saying that people are breaking down the gates and dumping stuff that shouldn't be dumped into a landfill to begin with.

Obviously, if it is a fact that there's no ability to enforce compliance, there have to be some recommendations floating around out there for those who remain under the provisions of the Indian Act. Have you made recommendations with regard to this, or do you have thoughts with regard to what might be done?

Mr. Scott Vaughan: Thank you.

First of all, you're quite right. We said in the 2009 audit, on which my colleagues were here before Christmas, that because of regulatory gaps on reserves, there's a considerable amount of confusion. We quoted a first nation chief from Ontario who said that for dumping, landfill, incineration of garbage, waste water, sewage, and other areas it was vague and uncertain which regulations applied and which ones did not.

We also said, in the 2010 audit, that there were responsibilities of the government in enforcing the regulations they knew to be in place, including in the Indian Act and others. They were supposed to have a compliance rate of 60% of inspections for regulations that were in place. We pointed out in our audit that it was 13%. That's what the average rate was. We asked the department if they knew their compliance rates, and they said that they did not.

We pointed that out. We issued a report in the fall of 2011, just about two months ago, looking at enforcement at Environment Canada, NEB, and Transport Canada.

This is just to say that this is an issue that is not unique to first nations reserves or to the Indian Act application of that law. We pointed out that enforcement issues across the board are difficult. We made recommendations on a number of areas. If inspectors find a problem, they should go back and make sure that it's fixed.

We've pointed out in numerous audits the problem of enforcement of the laws that are there.

The Chair: Then you're saying that there are laws that would be enforceable and could be enforceable. There simply isn't the provision of....

Mr. Scott Vaughan: That's correct. Particularly on reserves, where the Department of Aboriginal Affairs and Northern Development knew the laws they were required to enforce, we pointed out that the difference between what they said they would do in terms of enforcement and what they actually achieved in enforcement was actually a huge order of magnitude.

The Chair: Mr. Barrett, did you have something to add?

Mr. Frank Barrett: Yes, I'd like to add a little bit to that. First of all, the Indian Act has very minimal provisions. In effect, it's meaningless, basically, to enforce them. It's a \$100 fine or something.

• (1720)

The Chair: Right.

Mr. Frank Barrett: That's not a very strong provision. I should also add that we pointed out in our 2009 chapter that, in fact, we have lots of these regulatory gaps.

I think the third element that needs to be understood is that if first nations that could and might and want to be under the First Nations Land Management Act sign an environmental management agreement with the department, they then become responsible for developing their legislation—applying the federal legislation and their own—and enforcing it. That too becomes an inhibitor for them.

Right now we have a gap that really isn't being filled in a lot of respects.

The Chair: Thank you.

I'm going to run out of time, so I have to enforce myself here.

Mr. Bombay, you talked about your members. It seemed to me that you were indicating that your members were somehow inhibited from accessing the information that FPInnovations and organizations like that have brought forward, but I can reference many independent sawmills, even in my own community, that have accessed these provisions, and some of them are aboriginal.

Do you have a sense that there's something inhibiting your members from accessing professional services and information from FPInnovations? Was that what you were saying, or is it that you would like to run a parallel organization?

Mr. Harry Bombay: FPInnovations is a research and development organization that is primarily controlled by its members. It's a membership-based structure, and the members are the large forest products companies.

Now, there are ways in which you can access some of the information, some of the R and D, but some of the leading-edge stuff coming out of FPInnovations is very proprietary, in the sense that for the companies involved with the research, there's no requirement that they share their research and development with any other party for a certain period of time.

Not only that: the members of FPInnovations pay fees, and first nations don't really have the money to take out similar types of memberships. We could become members provided we had the resources, but it is a membership base.

The Chair: Yes. It seems to me that many of my members that are first nation are members of that organization, so that must be how they're getting that information.

My time is up, and I—

Mr. Harry Bombay: Well, I don't know of many first nation forest companies that are members of FPInnovations. I know of one or two.

The Chair: Wonderful. Thank you.

Go ahead, Ms. Fry, for five minutes.

Hon. Hedy Fry: Thank you very much.

Commissioner, in your 2010 audit you talked about land use plans. You also mentioned that there was very little in the Indian Act that provided authority for first nations to begin to plan the use of their lands in terms of commercial, residential, etc.,

We also found that the First Nations Land Management Act came into effect in 1999, yet none—not a single one—of the environ-

mental management agreements have been concluded with first nations.

My question to you is this: what are the challenges? Why has that not been concluded with first nations? What is there preventing this from occurring?

Then you have this double standard. You have modern treaties, such as those we are having in B.C. now, that are comprehensive and that give a lot of authority for management of resources, land, governance, and land management regimes, etc., to those modern treaty holders.

In fact, I would love to go into the issue of the Enbridge pipeline; I won't, because it's not valid here, but there you go.

As well, first nations are talking about the use of their land, etc., so you have these two sets of existing standards. What prevented any first nations under the old regime, under the Indian Act, to be able to effectively get themselves an EMA, and why is it that we have these two standards when you have people who have full authority over the use of their land? What can we do to rectify that? It sounds to me as though it puts one group of aboriginal communities at a total disadvantage.

Mr. Scott Vaughan: Let me ask Frank to....

• (1725)

Mr. Frank Barrett: I'd be happy to address that question.

I think there are a couple of things to appreciate. First of all, if the first nation is strictly under the Indian Act, then in effect they don't have the option of creating an environmental management agreement under the formal EMA process. That's INAC's responsibility to enforce.

Keep in mind that outside of reserves, it's generally the municipalities, and in some respects the provinces, that will enforce dumping rules or anti-dumping rules, etc. On reserves, that's federal.

INAC doesn't do a lot of inspections. They would basically handle it through a permitting system, where they give permits to hold the landfill on a reserve. We saw in our 2009 audit that over 200 reserves didn't even have a permit and didn't have agreements with outside municipalities. Obviously the garbage is going somewhere, but it clearly is not being enforced.

That was one issue. In terms—

Hon. Hedy Fry: I'm not just talking about garbage.

Mr. Frank Barrett: Fair enough.

Then, when we go broader and ask why there aren't more environmental management agreements under the FNLMA being entered into—

Hon. Hedy Fry: I understand there are none.

Mr. Frank Barrett: That's right. There are land codes, which is the first step, but at the end of our audit, you're right, there were not any, and I imagine that's still the case.

The issue is that once they do that, they now have to have their own enforcement regime. They have to pass their own laws and regulations over and above the federal laws, and they have to be enforcing what already is there.

In other words, it's asking the first nation to fill a gap, one that the federal government has not itself filled, to meet what would have been provincial standards. Then to have their own enforcement regime around it is not necessarily an easy thing to just turn on.

How would it work? It hasn't really been.... At the conclusion of our audit, that hadn't really been worked out.

Hon. Hedy Fry: But I'm talking about the disadvantage between that system and the ones with modern treaty negotiations that are going on, because that has a double standard: it puts one group at a total disadvantage vis-à-vis another group.

I'm just asking how you can rectify that, because it's not appropriate to have one set of aboriginal communities with one set of

rules while the other ones can have better management options and a better ability to.... What do you do?

Mr. Frank Barrett: Right now we do have a whole series of different regimes that people are under. With comprehensive land claims, if the capacity is there and the resources are there, then they can be developing their land in very different ways, but if you're under the Indian Act, it's a lot harder.

Hon. Hedy Fry: I just wondered if anybody had a suggestion, that's all: a response, a solution...?

The Chair: Thank you, Ms. Fry.

Thank you to our witnesses. We now are out of time. I certainly want to thank you for your detailed answers. We certainly appreciate your making your time available to us.

We look forward to continuing our work and to possibly seeing some of you again. Thanks so much.

The meeting is adjourned.

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